

A G E N D A
PIQUA CITY COMMISSION
MONDAY, MAY 18, 2009
7:30 P.M.
201 WEST WATER STREET
PIQUA, OHIO 45356

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

REGULAR CITY COMMISSION MEETING

1. **APPROVAL OF MINUTES** Approval of the minutes from the May 4, 2009
 Regular City Commission Meeting
2. **ORD. NO. 3-09** An Ordinance enacting and adopting a supplement to
 (3rd Reading) the Code of Ordinances for the City of Piqua
3. **ORD. NO. 5-09** An Ordinance amending Section 154.005 and
 (1st Reading) Section 154.126 of the Piqua Code, relating
 to the temporary use of land, a building, or a
 premises
4. **RES. NO. R-40-09** A Resolution approving a contract extension with
 Miami County to maintain certain radios and
 computer equipment
5. **RES. NO. R-41-09** A Resolution appointing a member to the Board
 of Zoning Appeals as the Planning Commission
 Representative
6. **RES. NO. R-42-09** A Resolution entering into a programmatic agreement
 with the Ohio Historic Preservation Office for the
 administration of programs funded by the United States
 Department of Housing and Urban Development
7. **RES. NO. R-43-09** A Resolution authorizing the City Manager to enter into
 an agreement with the Regional Air Pollution Control
 Agency (RAPCA) for Air Pollution Control Services: to
 adopt Air Pollution Control Regulations; to adopt
 Schedule A – uniform system of fees

EXECUTIVE SESSION

Move into Executive Session to prepare for and review negotiations on compensation or other terms and conditions of employment for City personnel

ADJOURN

**MINUTES
PIQUA CITY COMMISSION
May 4, 2009
7:30 P.M.**

Piqua City Commission met at 7:30 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Hudson called the meeting to order. Also present were Commissioners Martin, Vogt, Fess, and Terry. Absent: None.

REGULAR CITY COMMISSION MEETING

Residence Pride Awards - May 2009

- | | |
|---|--------------------|
| • Don & Norma Emery | 726 Caldwell |
| • Hartzell Propeller/Jim & Connie Brown | 1 Propeller Place |
| • Salon Marchi/Charles & Tecla Powell | 1115 Park Avenue |
| • James & Sharon Lyons | 105 Clifton Drive |
| • Robert & Virginia Potter | 200 Levering Drive |

Proclamation: Peace Officers Memorial Day – May 2009

Mayor Hudson read the proclamation.

APPROVAL OF MINUTES

Moved by Commissioner Fess, seconded by Commissioner Terry, that the minutes of the April 20, 2009 Regular City Commission Meeting be approved. Voice vote, Aye: Terry, Vogt, Martin, Hudson, and Fess. Nay: None. Motion carried unanimously.

ORD. NO. 3-09
(2d Reading)

An Ordinance enacting and adopting a supplement to the Code of Ordinances for the City of Piqua

Public Comment

No one came forward to speak for or against Ordinance No. 3-09.

Moved by Commissioner Vogt, seconded by Commissioner Terry, to give Ordinance No. 3-09 a second reading. Mayor Hudson then declared Ordinance No. 3-09 be given a second reading.

RES. NO. R-36-09

A Resolution of Appreciation for the Public Service of William J. Sommer as a City Employee

Mayor Hudson read the proclamation and presented it to Mr. Sommer.

Mr. Sommer thanked the City and the Commission, and further stated it has been a privilege and an honor to have worked for the City of Piqua the past twenty-two years.

Public Comment

No one came forward to speak for or against Resolution No. 34-09.

Moved by Commissioner Terry, seconded by Commissioner Vogt, that Resolution No. R-36-09 be adopted. Voice vote, Aye: Martin, Terry, Hudson, Vogt, and Fess. Nay: None. Motion carried unanimously. Mayor Hudson then declared Resolution No. R-36-09 adopted.

RES. NO. 37-09

A Resolution requesting authorization to issue a purchase order to Camp Dresser & McKee, Inc. for; Engineering and Services for the West Interceptor Sewer and Siphon Inspection and Rehabilitation

Dave Davis, Assistant Wastewater Superintendent, stated bids were sent out to three different companies but only received one bid back, the other two companies that were sent bid packets stated they were to busy at this time to bid on the project.

There was discussion concerning the bids and the location of the project, and it was stated the current system was installed in 1938.

Commissioner Fess asked if Mr. Davis was comfortable with the bid that was received. Mr. Davis stated yes, he was very comfortable with the bid they had received from Camp Dresser & McKee, Inc. City Manager Enderle stated other local communities have had a very good experience with this company.

Public Comment

No one came forward to speak for or against Resolution No. R-37-09.

Moved by Commissioner Fess, seconded by Commissioner Terry, that Resolution No. R-37-09 be adopted. Roll call, Aye: Fess, Vogt, Martin, Terry, and Hudson. Nay: None. Motion carried unanimously. Mayor Hudson then declared Resolution No. R-37-09 adopted.

RES. No. R-38-09

A Resolution nominating Ed Krieger to the Governing Board of the Piqua Improvement Corporation

Public Comment

No one came forward to speak for or against Resolution No. R-38-09.

Moved by Commissioner Vogt, seconded by Commissioner Martin, that Resolution No. R-38-09 be adopted. Voice vote, Aye: Hudson, Vogt, Martin, Fess, and Terry. Nay: None. Motion carried unanimously. Mayor Hudson declared Resolution No. R-38-09 adopted.

RES. NO. R-39-09

A Resolution authorizing the City Manager to enter into an agreement with Tritium Inc. to provide professional hydrogeological services for the Piqua Wellfield Exploration project

Todd Brandenburg, Assistant Water System Superintendent, gave a brief overview of the process that would be followed in the exploration of the well fields.

There was discussion on the number of areas to be tested and the locations of the areas, what the \$95,130 amount covers in the project, and how the information would be gathered.

City Manager Enderle stated that the City of Troy was holding a meeting the same evening as the Piqua City Commission meeting to consider the proposal from their Public Works Committee. It was known the recommendation to the Committee was to sell water to the City of Piqua, but the Committee did not indicate any interest in partnering with the City of Piqua at this time. Whether we buy water from Troy, or go forward with our own water, we recommend going forward with this exploration project, said City Manager Enderle.

Public Comment

No one came forward to speak for or against Resolution No. R-39-09.

Moved by Commissioner Fess, seconded by Commissioner Terry, that Resolution No. R-39-09 be adopted. Roll call, Aye: Terry, Hudson, Fess, Vogt, and Martin. Nay, None. Motion carried unanimously. Mayor Hudson then declared Resolution No. R-39-09 adopted.

OTHER

Monthly Reports – March 2009

Monthly Reports for March 2009 were accepted.

Public Comment

Mayor Hudson recognized a group of Boy Scouts in the audience and asked the Troop Master to come forward to explain the reason they were in attendance. Jody Malone, Troop Master of Troup #344, sponsored by the Knights of St. John, introduced the Boy Scouts and stated they are working on their Citizenship and Community Merit Badges at this time.

Chuck Starrett, Demming Road, voiced his opinion on an incident that was shown recently on Channel 2 concerning a wheelchair ramp located on N. Downing Street that was removed per direction of the City he stated.

Commissioner Fess stated there was no need for the wheelchair ramp to be removed by May 1st. Channel 2 jumped the gun on this story by not confirming the correct information from the involved parties before airing their story.

Commissioner Vogt read an email he received stating the City had not issued any written orders or letters to remove the wheelchair ramp by May 1, 2009 as stated.

Email Quote:

From: Chris Schmiesing
Sent: Monday, May 04, 2009 4:18 PM
To: City Commissioners; Fred Enderle
Subject: FW: Piqua City Call for investigation!

Some pertinent information related to the wheelchair ramp issue...

- • The ramp was constructed with untreated lumber, and consisted of a wafer board decking that rested on concrete masonry units wedged under the decking and had 2 x 4's scabbed to the sides of the ramp to prop it up.
- • The building inspector first advised the property owner of the concerns related to the workmanship of the ramp construction on the first of April. The property owner (Mrs. Frances Yantis) contacted me following the building inspector's visit and we discussed the applicable code requirements and she shared with me the reason for the ramps existence. During the conversation Mrs. Yantis indicated the ramp may be a temporary need and could possibly be gone in a few weeks. To that comment I suggested we shoot for May 1 as a target date to either have the ramp brought up to code or to have it removed if it is no longer needed, and in the meantime search for code compliant options for the construction/placement of a permanent ramp if it turns out to be necessary. Mrs. Yantis was agreeable to this approach and we subsequently met on-site to explore placement options. The conversation was very pleasant and we identified two possible solutions, both

of which required follow up. I advised I would call her back with my findings and we could proceed from there.

- Within a couple days after I had spoke with Mrs. Yantis we received a call from Turn To 2. After I spoke with the reporter he didn't feel as though it was much of a story and he wasn't sure they we're even going to run it. The person who reported this item on the news was not the person I spoke to.
- When the property owner and I last spoke the week before last, I told her that I would contact the neighboring property owner on her behalf (we need their cooperation for one possible solution) and that I would get back to her. I have consulted with the neighbor and plan to follow through with providing Mrs. Yantis with a response as I stated I would. With the neighbor indicating no willingness to be supportive of the proposed solution, the next step will be to have the property owner apply for a variance and to help them through that process in addition to connecting them with the necessary labor and financial resources to build the ramp properly.

Despite the spin the Turn To 2 folks want to put on it, the ramp was never ordered down, I was working towards and will continue to work towards finding the property owners a solution that satisfies both the adopted community standards and the property owner's needs, and above all, I am confident that I have been nothing short of courteous, empathetic, and respectful to the property owner throughout this dialogue. It is disheartening to me that I have worked diligently to assist the property owner with finding a solution to the set of circumstances with which we are confronted, only to have Turn To 2 feel compelled to attempt to make it into a more newsworthy story by reporting it as an us versus them issue.

Sincerely,

Chris

Chris Schmiesing
City Planner
City of Piqua
201 W. Water Street
Piqua, OH 45356
Phone 937.778.2049
Fax 937.778.0809
Email cschmiesing@piquaoh.org
Webpage www.piquaoh.org/zoning.htm

From: help us [mailto:mgrn52@yahoo.com]

Sent: Friday, May 01, 2009 10:51 PM

To: Chris Schmiesing; John Martin; Andy Burner; Harry Bumgarner; Bill Vogt; Fred Enderle; Lucy Fess; Judy Terry; Tom Hudson

Subject: Piqua City Call for investigation!

I think you should check for relatives and friends on the street for your city employee who traps a man in his house, as this seems from the interview on tv to be personal. How can you let a city employee trap a man in

his house and remove his ramp that is his access to safety in case of an emergency? Seeing the men on TV 2 using major tools to tear the ramp down shows it was a solid structure. I believe you may also be in violation of federal equal access laws and you are certainly liable for anything that happens to this man by creating a unsafe living arrangement for him.

I am asking your city to investigate this at a higher level than the man who was smirking into the camera explaining the obvious solid structure was unsafe and in a lower voice at the end talking about an eyesore and property values. Property values as an excuse especially in this economy! You should be ashamed!

cc:
cschmiesing@piquaoh.org;
ward1comm@piquaoh.org;
aburner@piquaoh.org;
hbumgarner@piquaoh.org;
ward2comm@piquaoh.org;
fenderle@piquaoh.org;
ward5comm@piquaoh.org;
ward4comm@piquaoh.org;
ward3comm@piquaoh.org
OhioAttorneyGeneral RichardCordray@ohio.gov

End Quote

Joe Drapp, Park Avenue, came forward and voiced his opinion on the wheelchair ramp situation, and stated he felt the Neighborhood Associations should step up and help citizens in this type of situation. Mr. Drapp further stated he personally would pay to have a new wheelchair ramp installed that would meet the City's code requirements.

City Manager Enderle stated the ramp was not going to be taken down by the City until a new ramp was installed that would meet the code requirements. We would not leave any handicapped resident without access to their home, stated City Manager Enderle.

Commissioner Fess feels the situation was certainly blown out of proportion to make the City look bad, we need to work together to make the community a better place to live. Commissioner Fess further stated she would like to know who contacted Channel 2, and who was in the background taking the wheelchair ramp down when the story was aired.

Roy Howard, Spiker Road, voiced his opinion on the wheelchair situation.

Don Emery, Caldwell Street, stated he was very humbled by the Residents Pride Award he received, and regrets deeply what was said previously about the situation with the wheelchair ramp.

Mike Perando, Third Street, stated the Shawnee Neighborhood Association is planning a meeting with the Piqua Youth Baseball Association on May 28th at 7:00 P.M. in the Staunton Street School, and is open to all city residents to come and hear the plans for the new baseball diamonds. Mr. Perando inquired if it would be possible to have electric service installed at the community garden area. City Manager Enderle stated he would check on it. Mr. Perando also stated he would be more than happy to help build a wheelchair ramp for the individual who was in need of it.

Commissioner Vogt, stated the Southwest Neighborhood Association was planning a garage sale to be held on May 16, at Pitsenbarger Park from 9:00 A.M. - 1:00 P.M. Items can be dropped off from 7:00A.M - 9:00 A.M.

The annual Car Show will be held on August 1, 2009 at the Roadside Park on Rt. 66, and the grand prize this year is \$500 cash, said Commissioner Vogt.

Commissioner Martin inquired what the plans are for alley paving this year. City Manager Enderle stated we do not have a five-year plan in place, but we had some problem alleys we had to do first so that changed some of our plans. We are in the process of assessing the alleys at this time with the new Assistant Street Superintendent, and hope to have a plan in place soon.

Commissioner Martin also stated he wanted to commend all the Neighborhood Associations for all the hard work they do.

Commissioner Fess stated she attended the 50' Fest at the Miami Valley Centre Mall. Commissioner Fess also congratulated Bill Sommer on his retirement and wished him well in his new endeavors.

Commissioner Terry stated the Northpark Neighborhood Association's next meeting will be held on May 14, 2009 at 7:00 P.M. at Wilder School and invited all residents to attend. Commissioner Terry also congratulated Bill Sommer on his retirement, and all of the Resident Pride Award winners as they are helping to make improvements in the City of Piqua.

City Manager Enderle announced there are two openings on the Golf Control Board, one opening on the Energy Board. Applications can be picked up in the City Manager's Office and on line at WWW.Piquaoh.org.

Mayor Hudson inquired as to the results of the Water Study. City Manager Enderle stated he has a conflict of interest with the project and has turned it over to the Finance Director Cynthia Holtzapple. Ms. Holtzapple was not in attendance at the meeting, and asked Todd Brandenburg, Project Manager to give a brief overview of the results at this time. Mr. Brandenburg gave a brief review of the project at this time.

Mayor Hudson stated he and Jeff Lange, President of POW attended a Miami Erie Canal Association (MECA) Meeting in Sidney. Mayor Hudson stated the Bike Path from Piqua to Peterson Road should be completed by Memorial Day, and Piqua/Troy bike path connection should be completed by the end of the fall this year.

Mayor Hudson announced this is his last term in office as Commissioner. The Third Ward Commission seat will be open this fall to any residents in the Third Ward that wish to apply and run for the position.

Moved by Commissioner Vogt, seconded by Commissioner Martin, to adjourn from the Piqua City Commission Meeting at 8:25 P.M. Voice vote, Aye: Vogt, Martin, Hudson, Terry, and Fess. Nay: None. Motion carried unanimously.

THOMAS D. HUDSON, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

ORDINANCE NO. 3-09

**AN ORDINANCE ENACTING AND ADOPTING A
SUPPLEMENT TO THE CODE OF ORDINANCES
FOR THE CITY OF PIQUA**

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2008 supplement to the Code of Ordinances of the City of Piqua, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of this City of Piqua; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to the Ohio Code; and

WHEREAS, it is the intent of the Piqua City Commission to accept these updated sections in accordance with the changes of the law of the State of Ohio; and

WHEREAS, it is necessary to provide for the usual daily operation of the City of Piqua and for the immediate preservation of the public peace, health, safety and general welfare of the City of Piqua that this ordinance take effect at an early date.

NOW, THEREFORE, BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC 1: That the 2008 supplement to the Code of Ordinances of the City of Piqua as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, is hereby adopted by reference as if set out in its entirety.

SEC. 2: Such supplement shall be deemed published as of the day of its adoption and approval by the Piqua City Commission and the Clerk of Commission is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk of Commission.

SEC. 3: This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

1st Reading 4-20-2009
2nd Reading 5-4-2009

THOMAS D. HUDSON, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

ORDINANCE 5-09

AN ORDINANCE AMENDING SECTION 154.005 AND SECTION 154.126 OF THE PIQUA CODE, RELATING TO THE TEMPORARY USE OF LAND, A BUILDING, OR A PREMISES

BE IT ORDAINED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC 1: Sections 154.005 (Definitions) and 154.126 (Temporary Uses) of the Piqua Code are hereby amended to read as follows (with deletions lined out and additions underlined):

§ 154.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. An open or enclosed accessory structure with a roof system supported by columns or walls.

ACCESSORY STRUCTURE. Any structure detached from the principal building on the same lot and serving a purpose incidental and subordinate to the principle building or use. See Exhibit C at the end of this section.

ACCESSORY USE. Any use of land or of a building or portion thereof serving a purpose incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

AGRICULTURE. The use of land for the purpose of raising and harvesting crops; or for raising, breeding or management of livestock, poultry or honeybees; or for dairying, truck farming, forestry, nurseries or orchards; for the noncommercial, on-farm storage or processing of agricultural products or for any other similar agricultural or horticultural use.

ALLEY. Any dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATION. Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as altered or reconstructed.

ANIMAL GROOMING. An activity where the principal business is domestic pet hygiene, including washing, brushing, shearing and nail cutting.

ANIMAL HOSPITAL. Any building or structure used for treatment and care of injured or ailing animals administered by a Doctor of Veterinary Medicine licensed to practice in the state.

ARCHITECTURAL PROJECTION. A building facade feature that is not intended for occupancy and extends beyond the face of the exterior wall of a building.

AUTO SERVICE STATION. A place where gasoline or any other automobile engine fuel, stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of motor vehicles, are retailed directly to the public on the premises, including the sale of minor accessories and the servicing of and minor repair of automobiles, not including storage of inoperable vehicles.

AUTOMOBILE REPAIR, PAINTING AND BODY SHOPS. The repair or maintenance of automobiles or any part thereof, including engine or transmission rebuilding or overhauls, rebuilding or reconditioning of parts, body, frame or fender straightening, painting or undercoating, and the minor repair or maintenance of automobiles or any part thereof, including the changing of oil, adding fluids, replacing wiper blades, and any other activities similar in nature to those described which can be performed by the average automobile owner in his or her own driveway, and be completed on the same calendar day as the calendar date upon which the work commenced. This shall not include the storage of any junk or abandoned vehicles as defined in § 91.01 through § 91.10 of the City of Piqua Ohio Code of Ordinances.

AUTOMOBILE WASHING FACILITIES. Area of land and/or a structure with machine or hand-operated facilities used principally for cleaning, washing, polishing, or waxing of automobiles.

AUTOMOTIVE APPEARANCE AND RUST PROTECTION SERVICES. Rust protection, paint protection (except painting), fabric protection, trim sales/installation, accessory sales and installation.

AVERAGE LOT WIDTH. The width determined by dividing the total lot area by the depth of the lot from the street right-of-way line to the furthest rear lot line. If the rear lot line and right-of-way lines are not parallel, an average depth dimension shall be used.

AWNING. An architectural projection of shelter projecting from and supported by the exterior wall of a building and composed of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

BARS, TAVERNS AND NIGHTCLUBS. Establishments primarily engaged in the retail sale of drinks, such as beer, ale, wine, liquor and other alcoholic beverages for consumption on the premises. The sale of food may also be a part of the operation.

BASEMENT. That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A **BASEMENT** shall not be counted as a story, except as provided in the definition of story.

BED AND BREAKFAST INN. A residential structure, which is owner-occupied, that has, as a secondary use of the structure, one to five guestrooms for rent. Development standards shall be as follows.

- (1) Maximum number of guests per day shall be ten.
- (2) Only breakfast shall be served, and the kitchen shall not be remodeled into a commercial kitchen.
- (3) Only one non-illuminated sign of four square feet may be erected on the property.
- (4) Parking shall be in conformance with §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations.
- (5) Guests shall not stay longer than 15 consecutive days.
- (6) Facility shall be located in an existing structure and a structure cannot be built for this purpose.

(7) Tandem parking is permitted, but the area shall be screened from adjacent uses.

(8) The operator of the inn shall live on the premises or in adjacent premises.

BLOCK. Property abutting one side of a street and lying between the two nearest intersecting streets, crossing or terminating, or between the nearest street and railroad right-of-way, unsubdivided acreage, river or live stream, or between any of the foregoing and any other barrier to the continuity of development or corporate lines of the municipality.

BOARDING OR LODGING HOUSES. A building other than a hotel, not exceeding ten sleeping rooms, where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided.

BUILDING. A structure designed, intended, or used for shelter, enclosure, or protection of persons, animals, chattels, or property.

BUILDING SERVICES. Building supply and services facilities, including facilities for plumbing and heating equipment, sheet metal shops, glass repair shops and similar uses.

BUSINESS, PROFESSIONAL AND ADMINISTRATIVE OFFICES. Uses that include but are not limited to corporate offices; insurance; real estate; law; engineering; architecture; management and consulting; accounting; bookkeeping and investment; data processing services; advertising, commercial art and public relations; news syndicates; travel agencies; personnel and employment services; and detective and protective services. Development standards for professional offices in R-3 District are as follows.

(1) The building, including accessory buildings and uses, shall occupy no more than 25% of the lot area.

(2) A new building shall not exceed two stories in height.

CANOPY. A multisided overhead structure or architectural projection, including the following types:

(1) **CANOPY (ATTACHED).** A canopy with a flat or low slope roof that is supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. A marquee.

(2) **CANOPY (DETACHED).** A canopy with a flat or low slope roof that is supported by columns, but not enclosed by walls.

CAR WASH. See **AUTOMOBILE WASHING FACILITIES**, as defined in this section.

CARRY-OUT. A place of business where food and beverages are purchased for consumption on or off the premises. These can include photo kiosks and freestanding automatic teller machines, but do not include drive-in windows.

CEMETERIES. Land used or intended to be used for the disposition of deceased persons and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of a cemetery. Cemeteries may be allowed by special use permit subject to the following conditions.

(1) Cemeteries shall be permitted only if they are adjoining or an extension of existing cemeteries and if they have access to an arterial street.

- (2) All structures shall be located no closer than 25 feet away from any property line.

CHILD DAY CARE CENTER. A place in which child day care is provided, with or without compensation, for 13 or more children at any one time; or any place that is not the permanent residence of the licensee or administrator in which child day care is provided, with or without compensation, for seven to 12 children at any one time. In counting children for the purposes of this definition, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted. Development standards for a day care center in any approved business or industrial district shall be in compliance with the minimum standards as established by the State of Ohio. When said districts abut a residential district, the development shall be subject to the screening requirements described for the given district. Development standards in any approved residential district shall be as follows.

(1) Child day care centers for seven or more children shall have a minimum lot area of 500 square feet per child.

(2) There shall be provided a minimum of 100 square feet of fenced outdoor play area per child for the maximum number of children in the play area at any one time.

(3) Access, loading and unloading requirements shall be as follows.

(a) The Public Works Director may require an on-site drop-off area be provided sufficient to accommodate automobiles for facilities.

(b) The Public Works Director may require sites adjoin and have access from an arterial or collector street.

(4) All outdoor play areas shall be enclosed by a six-foot high wall, solid wood fence, or chain link fence planted with a continuous evergreen screening.

(5) Use of outdoor play areas shall be limited to between the hours of 8:00 a.m. and 8:00 p.m.

(6) When the child day care center is the principal use, the exterior appearance shall be similar to that of the eight most proximate residential structures on the same street in regard to height, bulk, width, setback landscaping, and off-street parking visible from the street.

(7) Child day care centers shall not include overnight accommodations.

CLINIC. See *MEDICAL OFFICES AND CLINICS* as defined in this section.

CLUB. A building or facility owned or operated by an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

COMMERCIAL ENTERTAINMENT, OUTDOOR. These facilities include drive-in theaters, amusement parks, fairgrounds, golf driving ranges, miniature golf courses, race tracks, skating rinks and sports arenas.

COMMERCIAL RECREATION FACILITIES, INDOOR. Include skating rinks and tennis, racquetball and handball courts and health clubs operated for profit as distinguished from public indoor recreation facilities and community recreation centers.

COMMUNITY-ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITY or GROUP HOME.

A state licensed or authorized home for children or adults which is operated by the state or a political subdivision, or pursuant to a license issued by or to a contract with the state or a political subdivision. **COMMUNITY-ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITIES** include agency group homes for children or adults; residential homes for children or adults; residential homes for children or adolescents 18 years of age or under, dependent or neglected, who have not been adjudged delinquent, and who for various reasons cannot reside with their natural family.

COMPREHENSIVE PLAN. The long-range growth and development plan, and any amendments and supplements thereto, for the city and its environs, as approved by the City Commission.

CONSTRUCTION TRADES AND CONTRACTOR OFFICES AND SHOPS. These activities include heavy construction, building, cement, electrical, heating and air conditioning, masonry, plumbing, painting and wallpapering, roofing, glazing, but does not include salvage materials or debris.

CONVALESCENT HOME. See **NURSING HOME** as defined in this section.

CONVENIENCE STORE. Retail store that caters to the motoring public where the sale of food items such as hot or cold drinks, pre-packaged foods and tobacco, road maps, magazines and other publications, automotive maintenance items such as brake fluid, oil, polishes, anti-freeze and similar products and other retail items that may be readily purchased. A convenience store may also sell gasoline. This does not include drive-in or drive-through windows.

CORNER LOT. A lot abutting two or more streets at their intersection. See Exhibit B at the end of this section.

DAY CARE CENTER. See **CHILD DAY CARE CENTER** as defined in this section.

DEPTH OF LOT. An average horizontal distance between the front and rear lot lines. See Exhibit C at the end of this section.

DISTRICT. A portion of the incorporated area of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DORMITORIES, CONVENTS AND MONASTERIES. Buildings used as group living quarters for a student body or religious order or as an accessory use to a university, boarding school, orphanage, hospital, church or other similar institutional use.

DRIVEWAY. Private access to a premises, the use of which is limited to the persons residing, employed, or otherwise authorized to use or visit the parcel on which it is located and designed to serve.

DRIVE-IN. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, or within a building or structure on the same premises and devoted to the same purpose as the **DRIVE-IN** service.

DWELLING.

- (1) Dwelling types shall be as follows.

(a) *MULTI-FAMILY DWELLING*. A building, or a portion thereof, designed exclusively for occupancy by three or more families independently of each other.

(b) *ONE-FAMILY ATTACHED DWELLING (ROW OR TOWNHOUSES)*. One of two or more single-family residential dwellings having a common wall separating dwelling units. The building may also include an attached garage.

(c) *ONE-FAMILY DETACHED DWELLING*. A building designed exclusively for and occupied exclusively by one family.

(d) *TWO-FAMILY DWELLING*. A building designed exclusively for occupancy by two families living independently of each other.

(2) Development standards for dwellings in the B Business District and the CBD Central Business District shall be as follows.

(a) Dwellings may be permitted on the first story of a building.

(b) A portion of the first story shall be used for a non-dwelling use permitted in the district.

(c) The non-dwelling use shall not be accessory to the residential use or be a parking lot or garage.

(d) Parking requirements shall be the same as those for multi-family dwellings, except in the CBD Central Business District all or part of the parking requirements may be provided on a separate and non-adjoining lot determined by the Planning Commission to be suitable therefor and convenient thereto. Parking requirements shall not be considered provided unless they are readily available without charge to the residents of the dwelling.

(e) Prior to the granting of a special use permit, an inspection of the dwelling unit and the structure within which it is to be located shall be made by qualified personnel to determine that the dwelling unit and structure conform to all applicable fire and safety codes.

(3) Height and area requirements shall be as follows.

(a) Minimum lot area: 2,000 square feet per unit.

(b) Minimum lot frontage: None.

(c) Minimum front yard setback: None, except abutting or across the street from a Residential District, then same as Residential District front yard setback.

(d) Minimum side yard setback: 10 feet of abutting Residential District.

(e) Minimum rear yard setback: Less of 30 feet or 20% of lot depth.

(f) Maximum height: 35 feet.

DWELLING UNIT. A building, or a portion thereof, designed for occupancy of one family for residential purposes and having living, cooking, sleeping and sanitation facilities.

ELDERLY HOUSING FACILITIES. Residential developments specially designed to house retired and elderly persons, and which may include a mixture of living options, including apartments, group quarters and nursing care facilities.

ELEMENTARY, JUNIOR HIGH AND HIGH SCHOOLS. Public, private and/or religious schools including grades K through 12. Development standards shall be as follows.

- (1) Parking shall be in conformance with §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations.
- (2) Access shall be provided by an arterial or collector street.
- (3) Side yard requirements shall be 20 feet.
- (4) An educational institution shall have a minimum lot area of 20,000 square feet.

EMPLOYEE. A person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business, or any form of remuneration, tips of any kind or gratuities from the operator or customers of said business.

ERECTED. Includes the terms built or constructed, altered, or reconstructed. *ERECTED* also includes the moving of a building or structure onto a lot or any physical operations on the premises which are required for construction. Excavation, fill drainage, and the like shall be considered an operation of erection.

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, telephone, telegraph, steam, fuel, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not including buildings which are necessary for the furnishing of adequate service by the utilities or municipal departments for the general health, safety, or welfare. *ESSENTIAL SERVICES* shall be allowed in the district insofar as permitted, authorized, or regulated by law or other ordinance. Buildings required in conjunction with an *ESSENTIAL SERVICE* may be permitted in the district when approved by the Planning Commission. In granting this permission the Planning Commission shall take into consideration the location, size, use, and effect the building will have on adjacent land and buildings.

ESTABLISHED includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
- (3) The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or
- (4) The relocation of any such sexually oriented business.

FACADE. See *BUILDING ELEVATION*.

FAMILY. An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person who are domiciled together as a single domestic housekeeping unit in a dwelling unit; or a collective number of individuals domiciled together in one dwelling unit, whose relationship is of a continuing non-transient domestic character, and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature, or for an anticipated limited duration of a school term or terms, or other similar determinable period.

FENCE. Any structure, other than part of a building, of sufficient strength and dimension to prevent straying from within or intrusion from without.

FINANCIAL ESTABLISHMENTS. These facilities include banks, savings and loan associations, credit unions, finance companies, loan offices and safe deposit companies.

FLOODPLAIN. Those lands designated by the U.S. Department of Housing and Urban Development and Miami Conservancy District which are subject to a 1% or greater chance of flooding in any given year.

FLOOR AREA. For the purpose of computing parking, that area used for or intended for the sale of merchandise or services, or the use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage of processing of merchandise, such as hallways, stairways, and elevator shafts, or for utilities or sanitary facilities shall be excluded from this computation of **FLOOR AREA**. Measurements of usable **FLOOR AREA** shall be the sum of the horizontal areas of the several floors or the building measured from the interior faces of exterior walls.

FLOOR AREA, GROSS. See **GROSS FLOOR AREA** as defined in this section.

FRATERNAL AND SOCIAL ASSOCIATION FACILITY. A meeting place for people formally organized for a common interest, usually public service, cultural, religious or entertainment, with regular meetings, rituals and formal, written membership requirements, and where food and alcohol may be served.

FRONT LOT LINE. See **LOT LINE** as defined in this section.

FRONT SETBACK LINE. A line formed by the face of the building. For the purposes of this chapter, a **FRONT SETBACK LINE** is the same as a building line. See Exhibit C at the end of this section.

FRONT YARD. See **YARD** as defined in this section.

FUNERAL HOME. A building or part thereof used for human funeral services. The building may contain space and facilities for embalming, refrigeration, cremation, and the performance of other services used in preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; and the storage of funeral vehicles. Where a funeral home is permitted, a funeral chapel shall also be permitted.

GARAGE, PRIVATE. An accessory building or portion of a main building with a connecting driveway providing access to or from a street or alley improvement, designed or used for the storage or minor repair or maintenance of motor driven vehicles, boats, and similar vehicles or

other personal property owned by, licensed to, or used by the owner of the lot or the occupants of the building to which it is accessory.

GARAGE SALE, YARD SALE, AND PORCH SALE. A temporary accessory use of a lot or premises for the sale of new or used goods and/or secondhand materials.

GARAGE, SERVICE. Any premises used for the storage or care of motor-driven vehicles, or where any vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

GAS STATION. See **AUTO SERVICE STATION** as defined in this section.

GENERAL MERCHANDISE STORES. These facilities include department stores, variety stores, discount stores, grocery stores and drug stores.

GRADE or GROUND LEVEL. The average of the finished **GROUND LEVEL** at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the above **GROUND LEVEL** shall be measured at the sidewalk, unless otherwise defined herein.

GROSS FLOOR AREA. The sum of the gross horizontal areas of all the several floors of a building or buildings, including interior balconies and mezzanines. All horizontal measurements are to be made between the exterior faces of walls including the walls of roofed porches having more than one wall. The **GROSS FLOOR AREA** of a building shall include the floor area of accessory buildings, on the same lot, measured the same way.

GROUP HOME. See **COMMUNITY-ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITY** or **GROUP HOME** as defined in this section.

HEAVY EQUIPMENT RENTAL, SALES, SERVICE AND STORAGE. These facilities include rental, sales, service and storage of semi-tractor trailers, agricultural equipment, and construction equipment.

HEAVY INDUSTRY. A use engaged in the basic processing of and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes that produce commonly recognized offensive conditions.

HOME FURNISHINGS, HOME IMPROVEMENTS AND MISCELLANEOUS MATERIALS AND EQUIPMENT STORES. These facilities include appliance and appliance sales and repair stores; auto accessory stores with no on-premises installation; bicycle shops; business machine shops; carpeting and floor covering stores; curtain and drapery stores; fabric stores; furniture stores; hardware stores; lawnmower and snow blower sales; music, record and musical instrument; paint, glass and wallpaper stores; sporting goods stores; stereo, radio and television stores. This category does not include lumberyards or building materials sales.

HOME OCCUPATION. A lawful activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling provided the development standards are adhered to as follows.

(1) No 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 the floor area of the dwelling unit 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 one foot in area, non-illuminated and mounted flat against the wall of the principal building.

(4) There shall be no alteration or construction except that which is customarily found in a dwelling.

(5) There shall be no home occupation conducted in any accessory building.

(6) No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood.

(7) No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors 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 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.

HOSPITAL. An institution licensed by the State Department of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured, and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the facility, provided the institution is operated by, or treatment is given under direct supervision of a licensed physician. Development standards shall be as follows.

(1) Parking requirements in addition to those stated in §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations, may be imposed. Traffic may be required to discharge onto an arterial or collector street.

(2) Whenever a facility abuts a Residential District, the yard requirements shall be ten feet greater than those of the abutting Residential District, plus an additional one foot for each foot of building height over 20 feet.

(3) Buildings shall not occupy over 35% of the total land area upon which they are located.

HOTEL. A building occupied as the temporary abode of individuals who are lodged with or without meals, in which there are ten or more sleeping rooms, and which shall have no provision made for cooking in any individual room or apartment. A *HOTEL* may include a restaurant or cocktail lounge, public banquet halls, ballrooms, meeting rooms, or other commercial uses.

INDEPENDENT CONTRACTOR. A person who contracts with a sexually oriented business establishment to provide services on behalf of the sexually oriented business to the patrons of such business whether or not the individual receives any remuneration, gratuity or tips of any kind, or pays the owner or operator for the right to perform or entertain in the sexually oriented business. The intention of this definition is to exclude those persons who are not employees and who are not reasonably expected to have contact with customers or patrons of the sexually oriented business, including, but not limited to, persons on the premises of a sexually oriented business performing repair or maintenance services or delivering goods to the premises of a sexually oriented business.

INDUSTRIAL CRAFT SHOPS. These facilities include carpentry, cabinet making and furniture making, refinishing and upholstering.

INTERIOR LOT. Any lot other than a corner lot. See Exhibit B at the end of this section.

JUNK YARD or SALVAGE YARD. An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packaged, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A *JUNK YARD* includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings. An open area containing two or more inoperative or unlicensed vehicles shall be construed to be a *JUNK YARD*.

KENNEL. Any lot or premises used for the sale, boarding, or breeding of dogs, cats, or other household pets. *KENNEL* shall also mean the keeping on or in any lot or building of three or more dogs, cats, or other household pets which are over the age of six months.

LANDSCAPING. The design and arrangement of natural scenery, including trees, flowers, shrubs, and grass, or of non-living materials or objects, over a tract of land, taking into account the use to which the land is to be put.

LAUNDRIES AND DRY CLEANING PLANTS. A building or premises that serves more than one laundry and/or dry cleaning outlet, including linen supply and diaper services.

LIBRARY. A public or private repository for literary and artistic materials, such as books, periodicals, newspapers, pamphlets, and prints, kept for reading or reference. Development standards shall be as follows.

- (1) Parking shall be in conformance with §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations.
- (2) Access shall be provided by an arterial or collector street.
- (3) Side yard requirements shall be 20 feet.
- (4) The minimum lot area shall be 20,000 square feet.

LIGHT MANUFACTURING. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of those products, but excluding basic industrial processing.

LOADING SPACE. An off-street space on the same lot with a building or group of buildings, used for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOT. A parcel of land, occupied or to be occupied by a main building or a group of buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with any open spaces as are required under provisions of this chapter. Every *LOT* shall abut upon and have permanent access to a public street.

(1) *CORNER LOT.* A lot abutting two or more streets at their intersection. See Exhibit B at the end of this section.

(2) *INTERIOR LOT.* Any lot other than a corner lot. See Exhibit B at the end of this section.

(3) *THROUGH LOT*. An interior lot having a frontage on two non-intersecting streets, as distinguished from a corner lot. See Exhibit B at the end of this section.

LOT AREA. The total horizontal area within the lot lines of the lot.

LOT COVERAGE. The part or percentage of the lot occupied by buildings, including accessory buildings.

LOT DEPTH. The average horizontal distance between the front and rear lot lines.

LOT LINE. Shall be as follows:

(1) *FRONT LOT LINE*. In the case of an interior lot, that line separating the lot from the street. In the case of a corner lot or through lot, that line separating the lot from either street. In the case of a lot with alley frontage and no street frontage, that line separating the lot from the alley. See Exhibit C at the end of this section.

(2) *REAR LOT LINE*. That lot line opposite the front lot line. In the case of a lot pointed at the rear, the *REAR LOT LINE* shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying furthest from the front lot line and wholly within the lot. In the case of a corner lot, the *REAR LOT LINE* is established based upon the orientation of the house. See Exhibit C at the end of this section.

(3) *SIDE LOT LINE*. Any lot line other than the front lot line or rear lot line. A *SIDE LOT LINE* separating a lot from a street is a side street lot line. A *SIDE LOT LINE* separating a lot from another lot or lots is an interior *SIDE LOT LINE*. See Exhibit C at the end of this section.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the County Recorder or in common use by city or county officials, and which actually exists as so shown, or any part of that parcel held in a record ownership separate from that of the remainder thereof.

LOT WIDTH, AVERAGE. The width determined by dividing the total lot area by the depth of the lot from the street right-of-way line to the furthest rear lot line. If the rear lot line and right-of-way lines are not parallel, an average depth dimension shall be used.

LUMBERYARDS and BUILDING MATERIALS SALE AND STORAGE. Buildings or premises used for the storage and sale of lumber and building materials.

MEDICAL OFFICES AND CLINICS. Include the offices of physicians, dentists and other health practitioners and medical and dental laboratories. Establishments primarily engaged in out-patient care with permanent facilities and with medical staff to provide diagnosis and/or treatment for patients who are ambulatory and do not require in-patient care.

MEMBERSHIP SPORTS AND RECREATION USES. Country clubs and neighborhood swim clubs, but not including health spas, fraternal associations, or commercial recreation facilities as specified elsewhere. Development standards shall be as follows.

(1) The principal recreational building or use is a minimum of 200 feet from any land in residential use.

(2) The recreational use shall have a minimum lot area of one acre.

(3) The recreational use shall be used only for the enjoyment of members and their families and guests of members of the association or club under whose ownership or jurisdiction the facility is operated.

(4) Accessory facilities such as snack bars, restaurants and bars may be permitted only if they occupy integral parts of the principal building, and there is no display of goods or advertising visible, off the premises.

(5) Loudspeakers, public address systems and electric amplifiers may be permitted in recreation areas only if their use is solely for the members of the facility and does not create a public nuisance for nearby persons or properties.

(6) Any outdoor pool area, including the area used by bathers, shall be walled or fenced with a security fence or wall at least six feet in height and maintained in good condition to prevent uncontrolled access by children.

(7) Exterior lighting shall be shaded whenever necessary to avoid casting direct light upon any adjacent property or upon any adjacent public street.

(8) Access to the recreation use shall be only from an arterial or collector street.

MEZZANINE. An intermediate floor in any story occupying not more than two-thirds of the floor area of the story.

MINI-WAREHOUSE. See **SELF-SERVICE STORAGE FACILITY** as defined in this section.

MOBILE HOME. Any detached single-family living quarters to be located on foundation supports, designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment to outside systems, and designed to be transported after fabrication on its own wheels, or detachable wheels.

MOBILE HOME COURT. Any plot of ground upon which two or more trailer coaches or mobile homes occupied for dwelling or sleeping purposes may be located. Development standards shall be as follows.

(1) The mobile home court shall have a minimum site area of five acres.

(2) The average area per mobile home space within the court shall not be less than the lot area per dwelling unit in the district in which the mobile home court is located.

(3) No mobile home shall be located closer than 50 feet to any exterior lot line, except when the mobile home is adjacent to another mobile home court. A distance of 25 feet shall be maintained between mobile home and buildings, in all horizontal directions.

(4) A detailed landscaping and screening plan shall be approved by the Planning Commission.

MOBILE SERVICE AND RETAIL OPERATIONS. A self contained service or retail operation that is operated from a movable vehicle or portable structure that routinely changes location, and is operated as a temporary use, including mobile food service operations and mobile retail food establishments as defined by section 3717-1-01 of the Ohio Administrative Code, and also including mobile operations and entities exempted from the food license requirements by Ohio Revised Code 3717.22.

MOTEL. A building or group of buildings for the accommodation of transient guests, chiefly motorists, containing guest rooms for rent. It may include all facilities specified under the definition of hotel.

MULTI-FAMILY DWELLING. A building, or a portion thereof, designed exclusively for occupancy by three or more families independently of each other.

NEIGHBORHOOD BUSINESS. These facilities include barber and beauty shops, pharmacies, grocery stores, bakeries, specialty food stores, laundry and dry cleaning pick-up service and self-service washing and dry-cleaning facilities, florists and bait and tackle shops. Neighborhood businesses may be permitted only in the R-1, R-2, and R-3 Residential Districts upon issuance of a special use permit. Development standards shall be as follows.

(1) No structure or use qualifying as a neighborhood business may exceed 3,000 square feet of gross floor area.

(2) Hours of business operation shall be between the hours of 7:00 a.m. and 10:00 p.m.

(3) The maximum number of employees during business hours may not exceed five employees.

(4) Minimum lot area shall be 5,000 square feet.

(5) Minimum lot frontage shall be 50 feet.

(6) Minimum front yard setback shall be 25 feet.

(7) Minimum side yard setback shall be 10 feet if abutting a residential district.

(8) Minimum rear yard setback shall be the less of 30 feet or 20% of lot depth if abutting a Residential District.

(9) Maximum height shall be 35 feet.

(10) A plot plan shall be submitted indicating the location and type of screening to be used.

(11) A finding shall be made that the proposed screening will do the following.

(a) Provide a visual barrier of no less than six feet in height to partially or completely block out the view of unattractive structures or activities.

(b) Provide an acoustic screen, of no less than 15 feet, of dense plantings or a solid masonry wall in combination with decorative plantings, to aid in absorbing and deflecting noise.

(c) Provide for the containment of litter and debris.

(12) Screening may be one or more of the following or other similar materials.

(a) A solid masonry wall.

(b) A solidly constructed decorative fence.

- (c) Louvered fence.
- (d) Dense evergreen plantings.
- (e) Deciduous trees and shrubs.

NIGHTCLUB. See *BARS, TAVERNS AND NIGHTCLUBS* as defined in this section.

NONCONFORMING USE. The use of any dwelling, building, structure, lot, land, or premises, or part thereof, which was existing and lawful immediately prior to the effective date of this chapter and which does not conform with the provisions of this chapter, as set forth in §§ 154.060 through 154.066, Nonconforming and Nonstandard Uses.

NONSTANDARD USE. Those lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this chapter which fail to comply with minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set forth in §§154.060 through 154.066, Nonconforming and Nonstandard Uses.

NUDE, NUDITY or STATE OF NUDITY. A live person exhibiting: (1) the anus, male genitals, female genitals, or the areola or nipple of the female breast; or (2) a state of dress which fails to opaquely and fully cover the anus, male or female genitals, pubic region or areola or nipple of the female breast.

NURSERIES and GARDEN SUPPLY STORES. A space, including accessory building or structure, for the growing and storage of live trees, shrubs, or plant materials offered for retail sale on the premises, including products used for gardening or landscaping.

NURSING HOME. An establishment which specializes in providing necessary health and related services to those unable to care for themselves. Development standards shall be as follows.

(1) Parking requirements in addition to those stated in §§ 154.080 through 154.083, Parking and Off-street Loading Regulations, may be imposed. Traffic may be required to discharge onto an arterial or collector street.

(2) Whenever a facility abuts a residential district, the yard requirements shall be ten feet greater than those of the abutting residential district, plus an additional one foot for each foot of building height over 20 feet.

(3) Buildings shall not occupy over 35% of the total land area upon which they are located.

OFF-STREET PARKING. The provision of parking facilities for a specified use, to be provided on the same lot or lots as the use they are intended to serve, and not on any public street or public right-of-way.

OFFICES OF BUSINESS AND PROFESSIONAL ASSOCIATIONS. These uses include labor unions and civic, political, religious and social service organizations, but not including social and fraternal associations.

ONE-FAMILY DWELLING. A building designed exclusively for and occupied exclusively by one family.

OPEN SPACE. That part of a lot, including courts or yards, which is open and unobstructed by structures from its lowest level to the sky, accessible to all tenants upon the lot.

OUTDOOR FESTIVAL, EXHIBITION, OR GATHERING. *An assembly or crowd attending a celebration, event, fair, circus, carnival, public display of items of special interest or demonstration of a particular skill or craft at an open air or tented location.*

PARAPET. The extension of the building facade above the line of the structural roof.

PARKING LOT. An area providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than five vehicles.

PARKING SPACE. A minimum area as defined in § 154.081(O), other than on a street or alley, exclusive of drives, aisles, or entrances giving access thereto, and fully accessible for the storage of parking of one motor vehicle.

PERSONAL SERVICES. Services of a personal nature, including beauty and barber shops and massage therapy; individual laundry and dry-cleaning establishments; laundromats; photo studios and photo finishing; shoe repair; tailoring; watch, clock and jewelry repair; clothing rental; and other services performed for persons or their apparel.

PET SHOPS. Any building or structure used for the sale, other than casual sale, of domestic pets and pet supplies.

PLACES OF WORSHIP. Establishments of recognized religious organizations operated for worship or for promotion of religious activities. Development standards shall be as follows.

- (1) Parking shall be in conformance with §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations.
- (2) Access is provided by primary collector streets.
- (3) Side yard requirements shall be 20 feet.
- (4) The minimum lot area shall be one acre.

PLANNED UNIT DEVELOPMENT. Land under unified control, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots, or building sites, site plans and design principles for all buildings intended to be located, constructed, used and related to each other, and for other uses and improvements on the land as related to buildings. Development may be a single operation or a definitely programmed series of development operations, including all lands and buildings, with a program for provision, operation, and maintenance of the areas, improvements, and facilities necessary for common use by the occupants of the development. Further provisions are as set forth in §§ 154.040 through 154.047, Planned Unit Development.

PLANNING COMMISSION. The Planning Commission of the city.

POOL, SWIMMING. See *SWIMMING POOL* as defined in this section.

PORTABLE STORAGE UNIT. *Any enclosed unit constructed of metal or other durable material that is designed to be transported by vehicle and used to provide storage.*

PREEXISTING USE. An existing use of the type listed as a special use in the zoning district that was lawfully established on the effective date of this chapter, without the prior issuance of a special use permit, as set forth in § 154.140(C).

PRINCIPAL USE. The primary or predominant use of any land or improvement on it.

PRIVATE CLUBS. Private, civic, cultural, educational, labor, professional, and trade membership organizations, fraternities, sororities, and lodges, except those the primary activity of which is a service customarily carried on as a business.

PRIVATE SCHOOLS. Private schools, including but not limited to business or commercial schools, dance or music academies, kindergarten, nursery, play and special schools, when not otherwise permitted, may be allowed by the issuance of a special use permit.

PROFESSIONAL OFFICES. See *BUSINESS, PROFESSIONAL AND ADMINISTRATIVE OFFICES* as defined in this section.

PUBLIC OFFICES and *PUBLIC BUILDINGS.* Establishments housing activities of local, county, regional, state or federal government agencies, but not including public service garages.

PUBLIC PARK. A public land which has been designated for park or recreational activities including, but not limited to, a park, playground, swimming pool, reservoir, athletic field, basketball or tennis courts, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of any governmental entity.

PUBLIC RECREATION FACILITIES. Parks, playgrounds, golf courses, sports arenas, gymnasiums, swimming pools, skating rinks, tennis, racquetball and handball courts, senior citizen and youth centers, arboretums, hiking and jogging trails, ice skating rinks, nature areas, picnic areas, out lots, and wildlife sanctuaries, but not including commercial recreation and entertainment facilities listed elsewhere in this chapter.

PUBLIC SERVICE YARDS AND GARAGE. Premises used for the storage, service and repair of publicly-owned vehicle fleets.

PUBLIC UTILITIES. Publicly-owned or leased buildings, public utility buildings, telephone exchanges, and transformer stations may be allowed upon issuance of a special use permit.

REAR LOT LINE. See *LOT LINE* as defined in this section.

REAR YARD. See *YARD* as defined in this section.

RECONSTRUCTED. Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as altered.

RECREATION VEHICLE. Includes travel trailers, campers, camp car, truck campers, boats, and boat trailers.

RESIDENTIAL DISTRICT OR USE. Any zoning district set forth in Chapter 154 that contains the word "residential" in its title, or any individual residential dwelling located within the city.

RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption within the restaurant building,

with a motor vehicle parked on the premises, or off the premises, as a carry-out order, and whose principal method of operation includes food and/or beverages usually served in edible containers or in paper, plastic or other disposable containers.

RESTAURANT, STANDARD. An establishment whose primary business is serving food and beverages to patrons for consumption inside the building.

ROOMING HOUSE. A building other than a hotel, not exceeding ten sleeping rooms, where, for compensation and by pre-arrangement for definite periods, meals or lodging and meals, are provided for three or more persons.

SALVAGE YARD. See **JUNK YARD** or **SALVAGE YARD** as defined in this section.

SCREENING. The placement of landscaping or fencing on a lot in a manner to reduce any negative effects resulting from the location of two or more dissimilar uses next to one another.

SEASONAL/TEMPORARY SERVICE AND RETAIL ESTABLISHMENTS. **A self contained service or retail operation, other than a mobile service or retail operation, that temporarily or routinely operates at a set location from a portable structure or an area with a defined boundary delineated by a fence, tent, or other similar feature, and is operated as a temporary use, including seasonal and temporary food service operations, and seasonal and temporary retail food establishments as defined by section 3717-1-01 of the Ohio Administrative Code, and also including seasonal and temporary operations and entities exempted from the food license requirements by Ohio Revised Code 3717.22.**

SELF-SERVICE STORAGE FACILITY. A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers goods or materials, the gross floor area of each unit not to exceed 500 square feet.

SERVICE GARAGE. Any premises used for the storage or care of motor-driven vehicles, or where any vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

SERVICE STATION. See **AUTO SERVICE STATION** as defined in this section.

SETBACK. The minimum required distance between the property line and the structure line.

SEXUALLY ORIENTED BUSINESSES. Those businesses defined as follows:

(1) **ADULT ARCADE.** An establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, or other visual representations, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(2) **ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE.** A commercial establishment which has as a significant or substantial (such as 50% or more) portion of its stock-in-trade or derives a significant or substantial (such as 50% or more) portion of revenues or devotes a significant or substantial (such as 50% or more) portion of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, digital video discs, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;"

(b) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas," and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as the definition above is met.

(3) *ADULT CABARET.* A nightclub, bar, restaurant, private club, bottle club, juice bar or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear nude or semi-nude or in a state of nudity or semi-nudity; (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or, (c) films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." "Private club" means an establishment where patrons may bring in their own bottle or other container of alcohol (including beer, wine or liquor) and purchase a mixture for the same or use of a glass from the club or business.

(4) *ADULT MOTEL.* A motel, hotel or similar commercial establishment which offers public accommodation, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures with closed-circuit television transmissions, films, motion pictures, video cassettes, digital video discs, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television.

(5) *ADULT MOTION PICTURE THEATER.* A commercial establishment where films, motion pictures, video cassettes, digital video discs, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

(6) *ADULT THEATER.* A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities" which is not customarily open to the general public during such features because it excludes minors by reason of age.

(7) *ESCORT AGENCY.* A person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person or to privately appear in the state of nudity or semi-nudity for another person.

(8) *MASSAGE PARLOR*. Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with "specified sexual activities" is offered, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder, nor by any other individual licensed by the state to perform massages.

(9) *SEMI-NUDE MODEL STUDIO*. Any place where a person regularly appears in a state of nudity or semi-nudity or displays "specified anatomical areas" for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Reference above to nudity should not be construed or interpreted to permit nudity or a state of nudity in a SEMI-NUDE MODEL STUDIO. SEMI-NUDE MODEL STUDIO shall not include any school, college, or university licensed by the state.

(10) *SEXUAL ENCOUNTER ESTABLISHMENT*. A business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration: (1) a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas;" or (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

SIDE LOT LINE. See *LOT LINE* as defined in this section.

SIDE YARD. See *YARD* as defined in this section.

SIGN. See § 154.096.

SIMULATED. To assume the mere appearance of something, without the reality; to imitate or pretend.

SINGLE-FAMILY DWELLING. See *ONE-FAMILY DWELLING* as defined in this section.

SPECIAL USE. A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the Planning Commission, and subject to special requirements, different from those usual requirements for the district in which the special use may be located. Further set forth in § 154.140, Special Use Permits.

SPECIALTY FOOD STORES. These include stores specializing in a specific type or class of food, including but not limited to bakeries; candy, nut and cheese shops; confectionery stores; coffee and tea shops; dairy and ice cream stores; delicatessens; fruit and vegetable stores; international food stores; liquor stores; meat and fish markets; and wine shops. These uses do not include restaurants or carry-outs or convenience food stores.

SPECIALTY RETAIL COMMERCIAL ESTABLISHMENTS and *BOUTIQUES*. These include antique stores; apparel stores; art galleries; art supplies; book and magazine stores; card and

stationery shops; cosmetics stores; craft and hobby shops; camera and photo supply stores; florists; gift shops; interior decorating accessories; leather goods stores; jewelry stores; kitchen, bath and bedroom accessory stores; office supply stores; picture framing shops; tobacco shops and toy stores. These uses do not include stores with drive-in or drive-through facilities or general merchandise stores.

SPECIFIED ANATOMICAL AREAS. Includes any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, anus, or areolas or nipple of female breasts; or
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following:

- (1) The fondling or other intentional touching of human genitals, pubic region, anus, or female breast;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Human genitals in a state of sexual stimulations, arousal or tumescence; or
- (5) Excretory functions as part of or in connection with any of the following activities set forth in subsections (1) through (4).

STORY. That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. If the floor level directly above a basement is more than six feet above grade, the basement shall be considered a story.

STORY, HALF. An uppermost story lying under a sloping roof, having an area of at least 190 square feet with a clear height of seven feet, six inches. For the purposes of this chapter, the usable floor area is only that area having at least four feet clear height between floor and ceiling

STREET. A public thoroughfare which affords the principal means of access to abutting property.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURE ELEVATION. The entire side of a structure, from ground level to the roofline, as viewed perpendicular to that side of the structure.

STRUCTURE FACE. That portion of the exterior surface of a structure on a common plane.

STRUCTURE HEIGHT. The vertical dimension measured from the average grade to the highest point of the structure, or in the case of a building, the mid-point of the roof system (see § 154.005 Exhibit A). The height of a stepped or terraced structure shall be the maximum height of any segment of the structure.

STRUCTURE LINE. The perimeter of that portion of a structure nearest a property line, but excluding open steps, terraces, cornices, and other ornamental feature projecting from the structure face of the structure.

STRUCTURE WIDTH. The dimension measured along an exterior structure elevation, or structure face, from the outermost exterior surfaces that are opposite and parallel to one another, and perpendicular to the structure face being measured.

SWIMMING POOL. A structure constructed or placed below ground or above ground, which contains water in excess of 24 inches of depth and is suitable or utilized for swimming or wading.

TAVERN. See *BARS, TAVERNS AND NIGHTCLUBS* as defined in this section.

TEMPORARY USE OF BUILDING. The temporary use of land, or a building, or a premises for a duration not exceeding 180 consecutive days and permitted by the building inspector ~~during periods of construction, or for special events, as~~ provisions set forth in § 154.126.

TENT. Any structure used for living or sleeping purposes, or for sheltering a public gathering constructed wholly or in part from canvas, tarpaulin, or other similar materials and which shall include shelter provided for circuses, carnivals, side shows, revival meetings, camp meetings, and all similar meetings or exhibitions in temporary structures.

THOROUGHFARE. An arterial street which is intended to serve as a large volume trafficway for both the immediate city area and the region beyond, and which may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term in order to identify those streets comprising the basic structure of the street plan. Any street with a width, existing or proposed, of 80 feet, shall be considered a major thoroughfare.

THOROUGHFARE PLAN. That part of the comprehensive plan of the city which includes the major highway and street plan for the city, including any amendments or supplements thereto.

THROUGH LOT. An interior lot having a frontage on two non-intersecting streets, as distinguished from a corner lot. See Exhibit B at the end of this section.

TOWNHOUSE. One of a group or row of no less than three single-family dwellings having common walls and built as a single structure.

TRAILER PARK. See *MOBILE HOME COURT* as defined in this section.

TRANSPORTATION TERMINALS. Trucking and motor freight terminals, express and hauling establishments, rail terminals, landing strips and heliports.

TWO-FAMILY DWELLING. A building designed exclusively for occupancy by two families living independently of each other.

USE. The purpose for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.

USE, CATEGORIES. The heading under which a particular principal use, special use, or nonconforming use type is listed within this chapter, said use categories including the following:

- (1) Agricultural uses.

- (2) Residential uses.
- (3) Institutional and public recreation uses.
- (4) Business and professional office uses.
- (5) Retail commercial and service uses.
- (6) Road service and commercial entertainment uses.
- (7) Light industrial uses.
- (8) Heavy industrial uses.
- (9) Transportation and utility uses.
- (10) Other uses.

USE, CHANGE OF. The conversion of an existing principal use, accessory use or special use to a use in a different use category, or when the change necessitates improvements to the structure or premises to support the intended use in accordance with the provisions set forth in Chapter 150 (Building Regulations) and Chapter 154 (Zoning).

VARIANCE. The relaxation of strict and literal enforcement of any of the provisions of this chapter to allow the reasonable use of property and land, provided the use is in the best public interest and does not jeopardize the general health, safety, and welfare of the city, as set forth in § 154.142(D)(2).

VEHICLE SALES, RENTAL AND SERVICE. The sales, service and rental of new and used cars, trucks, trailers, motorcycles, mobile homes, recreational vehicles, snowmobiles and boats. This does not include semi-tractor trailers, farm equipment and construction equipment.

VETERINARY CLINIC. See *ANIMAL HOSPITAL* as defined in this section.

WAREHOUSE. A building used principally for the storage of goods and materials.

WHEELCHAIR RAMP. A fabricated or constructed sloping surface designed and installed to provide access from one level to a higher or lower level.

YARD. An open space on the same lot with a main building, unoccupied, and unobstructed by structures from the ground upward, except as otherwise provided in this chapter. See Exhibit C at the end of this section.

(1) **FRONT YARD.** An open space extending in full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

(2) **REAR YARD.** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. See Exhibit C at the end of this section.

(3) **SIDE YARD.** An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from

the nearest point of the side lot line to the nearest point of the main building. See Exhibit C at the end of this section.

('97 Code, § 150.103) (Ord. 42-96, passed 9-17-96; Am. Ord. 3-99, passed 2-1-99; Am. Ord. 17-99, passed 7-6-99; Am. Ord. 14-01, passed 7-23-01; Am. Ord. 7-02, passed 4-1-02; Am. Ord. 8-03, passed 6-2-03; Am. Ord. 9-05, passed 7-5-05; Am. Ord. 25-06, passed 10-17-06; Am. Ord. 05-07, passed 3-19-07; Am. Ord. 14-07, passed 10-1-07; Am. Ord. 24-07, passed 11-19-07; Am. Ord. 17-08, passed 7-21-08; Am. Ord. 31-08, passed 12-1-08)

§ 154.126 TEMPORARY USES.

(A) Intent.

The intent of this section is to establish standards that allow common temporary use types in accordance with other applicable code sections and to insure the temporary uses permitted will be compatible with surrounding land uses.

(B) General Provisions.

The provisions contained in this section shall apply to all temporary uses.

(1) Land use compatibility. The proposed temporary use must be compatible with the established development, and purpose and intent, of the zoning district in which the temporary use is to be located. The temporary use shall not impair the normal, safe, and effective operation of a permanent use on the same property or any adjacent property. The temporary use shall not endanger or be materially detrimental to the public health safety and welfare, or injurious to the property or improvements in the immediate vicinity of the temporary use, given the nature of the activity, its location on the property, and its relationship to parking and points of ingress/egress.

(2) Compliance with other regulations. The temporary use and all structures associated with the temporary use shall conform to all applicable Zoning, Building, Fire, Food Safety, and Health Code standards, except that Zoning Code height and area and parking regulations may be modified by the enforcing official when deemed appropriate to permit a temporary use that otherwise conforms to the provisions of this code section.

(3) Hours of operation. The hours of operation of the temporary use shall be consistent and compatible with the surrounding land uses.

(4) Duration and frequency. The temporary use and all structures associated with the temporary use shall be of a limited duration and frequency that conforms to the definition of a temporary use and all other duration and frequency standards established within this section. The temporary use may operate or exist as continuous or recurring use for the duration and frequency authorized in accordance with this section and the conditions of the permit issued, provided that anytime the temporary use and any structure, equipment, material, or other item incidental to the temporary use will cease to operate or be in use for a period of more than 48 consecutive hours, the temporary use and any structure, equipment, material, or other item incidental to the temporary use will be removed from the lot, premises, or location occupied and will not reoccupy the lot, premises, or location occupied until the temporary use will resume operating and remain in use.

By the expiration date of the permit issued, and not later than 180 days following the date the temporary use existence commences or any structure, equipment, material, or

other item incidental to the temporary use first occupies the property, whichever occurs first, the temporary use and any structure, equipment, material, or other item incidental to the temporary use shall be removed from the property, and the property occupied by the temporary use shall be restored to the conditions that existed prior to the temporary use occurrence.

The enforcing official may authorize an extension to the expiration date of the temporary use upon receipt of a written request from the property owner or the responsible party, and provided the enforcing official determines reasonable circumstances exist to justify the request, the enforcing official may authorize an extension of the expiration date or provide a renewal of the permit to allow the temporary use to continue to exist until such time the circumstances no longer justify the continuance of the temporary use.

(5) Traffic circulation. The temporary use shall not introduce undue traffic congestion or accident potential with reference to the anticipated traffic to and from the temporary use, the design of the adjacent streets, intersections, and traffic control devices.

(6) Off-street parking. The temporary use shall be supported by the availability of adequate off-street parking and shall not create a shortage of off-street parking or in any other way adversely affect the availability of off-street parking for any of the surrounding land uses.

(7) Appearance and nuisances. The temporary use and any structure, equipment, material, or other item incidental to the temporary use shall be compatible in intensity, appearance and operation with surrounding land uses, and it shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, dust, smoke, glare, spillover lighting, or other forms of environmental or visual pollution. All structures, equipment, materials, or other items incidental to the temporary use shall be self contained in a single structure, vehicle, or enclosure.

(8) Signs and attention-attracting devices. All signage shall conform to section 154.100 of this chapter.

(9) Other conditions. The enforcing official may establish any conditions deemed necessary to ensure the temporary use will conform to the applicable general and detailed provision of this section, in particular with regards to land use compatibility, and to minimize potential adverse impacts on nearby uses, including, but not limited to: time and frequency of operation, temporary arrangements for parking and traffic circulation, requirements for screening/buffering, and guarantees for property restoration and cleanup following the temporary use. These conditions may include, but shall not be limited to:

(a) Modifications or restrictions to the hours of operation, duration of the temporary use, size of the use or other operational characteristics.

(b) The posting of a performance bond to help ensure that the operation and maintenance of the temporary use and the subsequent restoration of the property are conducted and completed in accordance with this section and any other conditions required by the enforcing official.

(c) Obtaining liability and personal injury insurance in such form and amount as the enforcing official deems necessary to protect the safety and general welfare of the community.

~~—In any district, subject to the conditions stated below, the enforcing officer may issue a permit for the following temporary uses, except for division (E).~~

~~—(A) Temporary building or yard for construction office, material, or equipment, provided the use is adjacent to the construction site and removed when construction is completed. Each permit shall be valid for the duration of the construction period, and shall be removed when construction is completed or discontinued for more than 30 days.~~

~~—(B) Temporary office incidental and necessary to real estate sales and rentals. Each permit shall be valid for one year and may be renewed for each additional year if conditions warrant the renewal.~~

~~—(C) Building and yard locations shall be subject to any conditions and safeguards the enforcing officer may deem necessary to preserve the character of the surrounding area.~~

~~—(D) Gathering under canvas or in open for religious service, show meeting, exhibition bazaar, carnival or circus, except that if located within 400 feet of any residential area, no permit will be issued unless there is first filed with the enforcing officer the written consent of the residents of 60% of all property in residential use within 400 feet of the place of the meeting.~~

~~(E) A garage sale, yard sale, or porch sale, provided it meets the following criteria:~~

(B) Detailed Provisions.

In addition to the general provisions, the regulations contained in this section shall apply to the specific temporary use type identified.

Garage Sale, Yard Sale, Porch Sale.

(1) The garage sale, yard sale, or porch sale shall be conducted as an accessory temporary use accessory to a principal permitted residential use found on the same lot or premises.

(2) The garage sale, yard sale, or porch sale shall not be conducted on any lot or premises upon which four garage sales, yard sales, porch sales or any combination thereof have occurred in the 12 month period immediately preceding the planned sale date.

(3) The garage sale, yard sale, or porch sale shall not be conducted on any lot or premises upon which a garage sale, yard sale, or porch sale, or any combination thereof has occurred within the past six weeks.

(4) The garage sale, yard sale, or porch sale shall not last more than three consecutive days.

(5) The garage sale, yard sale, or porch sale hours of operation shall be limited to between the hours of 8:00 a.m. and 8:00 p.m.

~~(6) The garage sale, yard sale, or porch sale signage shall be in accordance with § 154.100 of this code.~~

~~(7)~~ (6) The garage sale, yard sale, or porch sale accessory temporary use shall be subject to the same setbacks applicable to the principal permitted ~~residential~~ use found on the same lot or premises.

Portable Storage Unit; Residential.

(1) Not more than one (1) portable storage unit may occupy a lot or premises as a temporary use accessory to a residential principal permitted use.

(2) A portable storage unit may occupy a lot or premise as a temporary use accessory to a residential principal permitted use for not more than thirty (30) consecutive days, except for when the portable storage unit is being used to store personal property as the result of a calamity (e.g. fire, flood or other event where there is significant property damage) or other extenuating circumstances, in which case the enforcing official may extend the time period in accordance with the duration and frequency item of the general provisions stated within this section.

(3) Portable storage units shall be located on a paved surface, shall not be located within public right-of-way, shall not be located nearer than ten (10) feet to any adjacent public right of way, and shall not be located in a manner that creates a sight distance hazard or otherwise obstructs vehicular or pedestrian use of a public facility.

(4) A portable storage unit shall not exceed eight (8) feet in height or eight (8) feet in width or sixteen (16) feet in length.

(5) Portable storage units shall be securely locked at all times other than during actual loading or unloading of items being stored in the unit.

(C) Permit Required.

(1) No person shall locate or maintain any temporary use, or cause a temporary use to be located or maintained, unless all provisions of this subchapter have been met. Pursuant to this chapter the enforcing official may issue a permit for the following temporary use types:

(a) Business office, real estate sales.

(b) Mobile service or retail operation.

(c) Seasonal/temporary service or retail establishment.

(d) Portable storage unit; residential.

(e) Wheelchair ramp.

(2) When applying for a permit for a temporary use the following materials shall be provided:

(a) A completed permit application and the applicable permit fee for each requested temporary use.

(b) Written consent of the owner(s) or an authorized representative of the subject property.

(c) A dimensioned site plan, drawn to scale, showing all existing buildings and other improvements, and the proposed temporary use location on the subject property, the adjacent private properties and public right-of-way.

(d) A drawing or drawings of the sufficient clarity and detail showing all temporary structures to be utilized incidental to the temporary use.

(e) Any additional information deemed necessary by the enforcing official to verify the proposed temporary use will satisfy the requirements of this section.

(3) Exceptions. The following temporary uses shall be permitted subject to the provisions of this section and shall not require a permit. Exemptions from the permit requirement shall not be construed to relieve the owner of the temporary use from the responsibility to insure the temporary use conforms with all applicable provisions of this or any other applicable code.

(a) Garage sale, yard sale, or porch sale.

(b) Outdoor festival, exhibition, or gathering.

(c) Automobile washing.

(d) Swimming pools, above ground.

(e) Construction trades and contractor offices or shops.

(f) Portable Storage Unit; Business or Industrial

('97 Code, § 150.806) (Ord. 42-96, passed 9-17-96; Am. Ord. 24-07, passed 11-19-07)
Penalty, see § 154.999

SEC 2: Sections 154.005 (Definitions) and 154.126 (Temporary Uses) of the Piqua Code previously enacted, are hereby amended;

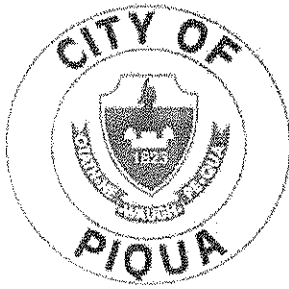
SEC 3: This Ordinance shall take effect and be in full force from and after the earliest period allowed by law.

1st Reading 5-18-09

THOMAS D. HUDSON MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



PLANNING AND ZONING

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May 13, 2009

MEMORANDUM

TO: Frederick E. Enderle, City Manager

RE: **Request for Legislation to Adopt Proposed Amendment to Sections 154.005 (Definitions) and 154.126 (Temporary Uses) of the Piqua Code, Relating to the Temporary Use of Land, a Building, or a Premises**

At the May 12, 2009 meeting of the Planning Commission, with all members present, the Planning Commission unanimously recommended approval of the above referenced proposed code amendment. Therefore, in accordance with §154.141 of the codified ordinances I am forwarding this amendment request for the City Commissions' consideration.

The primary purpose of this amendment request is to bring the code up to speed with temporary use types found within the community. In doing so the proposed amendment recognizes the temporary use types permissible and details the minimum standards applicable. The minimum standards are geared towards mitigating any potential negative effects a temporary use may have on nearby permanent land use improvements. Except for standards applicable to garage sales, the code is currently silent regarding compatibility, hours of operation, duration and frequency, traffic, parking, and appearance concerns that often come along with a temporary use. The proposed code amendment aims to identify the potentially undesirable effects of a temporary use and address those concerns before they come into existence. For longer lasting and or more intense temporary uses a permit requirement is suggested. The purpose of the permit will be to ask the applicant to identify a start date and end date, and to clearly define the proposed location and scope of the temporary use, before the use commences. Not only does this provide the opportunity to identify and address potential concerns before they occur, it also declares the intended end date of the temporary use before hand. The fee for a temporary use permit is zero dollars. Other temporary uses of shorter durations or minimal intensity have been exempted from the permitting requirement altogether.

The proposed code amendment text has been formatted into an ordinance document that will accompany this request. Included with this memo for reference is a copy of the acted upon Planning Commission resolution concerning this item. Please let me know if there is any additional information pertaining to this matter that I may provide.

Sincerely,

Chris Schmiesing

Christopher W. Schmiesing
City Planner

Enc.

RESOLUTION No. PC 11-09

WHEREAS, the City Commission, has submitted a request to amend the zoning chapter of the codified ordinances to modify code provisions pertaining to temporary uses; and,

WHEREAS, sections 154.141 of the City of Piqua Code of Ordinances provides the procedure for considering an amendment to the zoning code; and,

WHEREAS, the Planning Commission has studied the request and conducted a public hearing on the matter;

NOW THEREFORE BE IT RESOLVED, board member Mr. Oda hereby moves to Approve as amended the request made, as described by this resolution, the testimony provided, and the documents attached hereto as Exhibit 'A', the motion is seconded by board member Mr. Bubp, and the voting record on this motion is hereby recorded as follows.

	AYE	NAY	ABSTAIN	ABSENT
Mr. Jim Oda	☒			
Mr. Brad Bubp	☒			
Mr. Mike Taylor	☒			
Mrs. Jean Franz	☒			
Mr. Mark Spoltman	☒			

Amendments to the exhibit are as follows:

Page 18 of 30: Portable Storage Unit. Delete the last three words of the explanation "for personal property"

Page 19 of 30: Seasonal/Temporary Service and Retail Establishments. End of the third line after the word area add "with a defined boundary delineated" and delete the word "defined" and after the word or add "other" delete the word "enclosure" and add the word "feature".

Page 25 of 30: Wheelchair Ramp. Change the word "slopping" to "sloping"

Page 26 of 30: General Provisions (1) In the second line insert after the word the "established development and"

Page 29 of 30: Portable Storage Unit. Add ": Residential"

Page 29 of 30: (2) In line four after the word damage) add "or other extenuating circumstances"

Page 29 of 30: (3) In line two add the word "be" after shall not, and delete the word "not" after the word located.

Page 29 of 30: C Permit Required. Under (d) Portable storage unit, add ";Residential."

Page 30 of 30: (3) Exceptions add "(f) Portable Storage Units: Business or industrial"

RESOLUTION NO. R-40-09

**A RESOLUTION APPROVING A CONTRACT EXTENSION
WITH MIAMI COUNTY TO MAINTAIN CERTAIN RADIOS
AND COMPUTER EQUIPMENT**

WHEREAS, the City owns certain radios and computer equipment which must be maintained and serviced; and

WHEREAS, Miami County can provide such services at reasonable cost;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: A one-year extension of said services contract is hereby approved and the City Manager is hereby authorized to execute said contract extension agreement (expiring 2/9/10) on behalf of this Commission and the City;

SEC. 2: The Finance Director is hereby authorized to draw her warrants on the appropriate account of the City treasury in payment according to this Resolution not exceeding a total of \$40,000.00 per year;

SEC. 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

THOMAS D. HUDSON, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



INTEROFFICE MEMORANDUM

TO: CITY MANAGER FRED ENDERLE
FROM: CAPTAIN BRENT POHLSCHNEIDER
SUBJECT: RADIO MAINTENANCE AGREEMENT/CONTRACT EXTENSION
DATE: 5/13/2009
CC: ACTING CHIEF RICK MAGGERT

The resolution concerning the Radio Maintenance Agreement is a continuation of an agreement that was originally accepted in 1991 when the Miami County Communications Center was established. Miami County legislation contracted with Ericson GE for the supply, installation, and maintenance of the radio and computer equipment used by the Miami County Communications Center. All of the county police, fire, and EMS services use this same radio equipment. The City of Piqua extended the use by purchasing the same radios for our city departments.

Ericson GE/WS Electronics has been willing to extend the original agreement each year that it came due without raising their prices (1994, 1997, 2000, 2003, & 2006).

As for Piqua, we currently have three departments that are still utilizing the radio/computer equipment related to this maintenance agreement extension, Fire, Police, and Electric. These Departments budget each year for the costs of the radio maintenance agreement.

This legislation before the commission allows Piqua to continue to receive this same benefit for the next year through February 9, 2010. The Miami County Communications Center is currently working on a new system for radio maintenance and that is why the contract is only being extended for one year.

05/13/2009 08:03 9373395775

MCCC

PAGE 01/03

MIAMI COUNTY COMMUNICATION CENTER
210 MARYBILL DRIVE
TROY, OHIO 45373
(937) 339-6400 • FAX (937) 339-5775

April 15, 2009

To: Miami County Board of Commissioners

From: Barbara L. Temple 
Director
Miami County Communication Center

Subject: Tyco Electronics –Maintenance Agreement

Attached is an Agreement to Extend Contract, submitted by Michael Wolf (WS Electronics), on behalf of Tyco Electronics, for maintenance on our radio system.

The Miami County Communication Center (MCCC) has been provided radio communication support services by Tyco Electronics (aka M/A-Com) (WS Electronics) since 1991. In 1991, during the establishment of the MCCC, WS Electronics and M/A-Com (then known as Ericsson GE Mobile Communications, Inc.) and the Board of Miami County Commissioners entered into an agreement for the supply, installation and maintenance of the radio system. This extension was previously renewed in the years 1994, 1997, 2000, 2003 and 2006.

This extension provides an additional year of support services and no increase in service costs. The annual cost is **\$257,767.64**, some of which is billed back to subscribers.

It is requested that this proposal be approved after the appropriate contractual review by the Prosecutor's Office.

Thank you for your consideration.

attachments

RESOLUTION NO. 09-04-557

AUTHORIZE/SIGN AGREEMENT TO EXTEND CONTRACT
M/A-COM, INC.
COMMUNICATION CENTER

Mr. Widener introduced the following resolution and moved for its adoption:

WHEREAS, the Miami County Communication Center (MCCC) has been provided radio communication support services by M/A Com, Inc. (aka Tyco Electronics) (WS Electronics) since 1991; and

WHEREAS, in 1991 during the establishment of the MCCC, WS Electronics and M/A Com, Inc. (then known as Ericsson GE Mobile Communications, Inc.) and the Board of Miami County Commissioners entered into an agreement for the supply, installation and maintenance of the radio system; and

WHEREAS, an extension to the contract was renewed in the years 1994, 1997, 2000, 2003, and 2006; and

WHEREAS, Barbara Temple, Director of the Miami County Communication Center, requests the Board's authorization/execution of the attached Contract to extend M/A-Com, Inc.'s support services for an additional year (February 10, 2009 – February 9, 2010) at no increase in service cost, annual cost being \$257,767.64 (some of which is billed back to subscribers).

NOW, THEREFORE BE IT RESOLVED, by the Board of Miami County Commissioners, to authorize and sign an Agreement to Extend Contract with M/A Com, Inc.

Mr. Evans seconded the motion and the Board voted as follows upon roll call:

Mr. Widener, Yea;

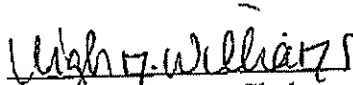
Mr. Evans, Yea;

Mr. O'Brien, Yea;

DATED: April 28, 2009

CERTIFICATION

I, Leigh M. Williams, Clerk to the Board of Miami County Commissioners, do hereby certify that this is a true and correct transcript of action taken by the board under the date of April 28, 2009.


Leigh M. Williams, Clerk

Cc: Journal
Files
Communication Center

05/13/2009 08:03 9373395775

MCCC

PAGE 02/03

AGREEMENT TO EXTEND CONTRACT

WHEREAS, on or about April 10, 1991, Ericsson GE Mobile Communications, Inc. later known as Ericsson, Inc. (Ericsson), and the Board of County Commissioners of Miami County, Ohio (the "County") entered into a Contract (the "Contract") for the supply, installation, and maintenance of an Ericsson-General Electric (GE) computer controlled multi-channel simulcast repeater system and associated radio equipment, which Contract was to expire on or about February 9, 2009;

And WHEREAS, on February 17, 1994; January 13, 1997; February 24, 2000, January 28, 2003, and February 21, 2006, the parties aforesaid entered into Agreements to Extend the Contract:

And WHEREAS, M/A-COM, Inc. (M/A-COM), successor in interest to Ericsson GE Mobile Telecommunications, Inc. and Ericsson, Inc. and the County, for their mutual benefit, desire to continue their business relationship in accordance with the terms and conditions set forth in said Contract for an additional term of three (3) years;

NOW, THEREFORE, M/A-COM and the County do hereby AGREE as follows:

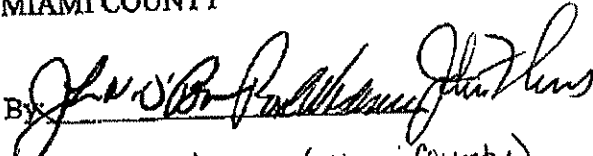
1. **Term of Agreement.** That the term of their previous Contract shall be and is hereby extended and continued for an additional period of one (1) year, commencing on February 10, 2009 and continuing until February 9, 2010. Notwithstanding the foregoing language, M/A-COM, Inc. or the County may terminate this Agreement upon 90 days written notice to the other parts.

2. **CONDITIONS of Agreement.** That the Contract shall be and is hereby extended and continued upon the same terms and conditions previously set forth therein unless otherwise mutually limited, modified, or extended in writing by both parties hereto.

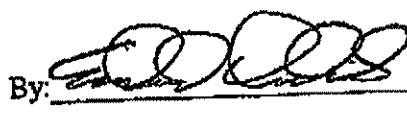
3. **EXHIBITS.** That Exhibits "A" and "B" as referenced in the Contract of the parties dated April 10, 1991, and superseded by Exhibits "A" and "B" referenced in the Agreements to Extend Contract, dated February 17, 1994; January 13, 1997; February 24, 2000, January 28, 2003, and February 21, 2006 are hereby superseded and replaced by Exhibits "A" and "B" attached hereto.

IN WITNESS WHEREOF, the parties have hereunto set their hands to duplicate originals, this 17th day of April 2009.

MIAMI COUNTY

By: 
Title: Commissioners (Miami County)

M/A-COM, Inc.

By: 
Title: CONTROLLER / ASST. SECRETARY

Approved As To Form Only

By: 
Miami County Prosecutor's Office

RESOLUTION NO. R-41-09

**A RESOLUTION APPOINTING A MEMBER TO THE BOARD
OF ZONING APPEALS AS THE PLANNING COMMISSION
REPRESENTATIVE**

BE IT RESOLVED by the Commission of the City of Piqua, Miami County,
Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: Mark Spoltman is hereby appointed as a member of the Board
of Zoning Appeals as the Planning Commission representative to fill the unexpired
term of Jean Franz. This term will expire on January 1, 2010 or until his successor is
confirmed and qualified;

SEC. 2: This Resolution shall take effect and be in force from and after
the earliest period allowed by law.

THOMAS D. HUDSON, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-42-09

**A RESOLUTION ENTERING INTO A PROGRAMMATIC AGREEMENT WITH THE
OHIO HISTORIC PRESERVATION OFFICE FOR THE ADMINISTRATION OF
PROGRAMS FUNDED BY THE UNITED STATES DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

WHEREAS, the United States Department of Housing and Urban Development has allocated Community Development Block Grant and other funds to the State of Ohio, through the Ohio Department of Development, and

WHEREAS, the Ohio Department of Development has awarded Community Development Block Grant and other funds to the City of Piqua, and

WHEREAS, in accordance with 24 CFR Part 58, the City of Piqua, assumes responsibility for environmental review, decision making and actions that would otherwise apply to the United States Department of Housing and Urban Development under the National Environment Policy Act and other provisions of law and agreement coordinating the analysis and review of projects under 36 CFR Part 800, regulating the implementation of Section 106 of the National Historic Preservation Act (16 U.S.C. 470) in order to meet the purposes and requirements of both statutes in a timely and efficient manner is desired, and

WHEREAS, the City of Piqua has consulted with the Ohio State Historic Preservation Officer regarding the development of this agreement pursuant to 36 CFR Part 800 dealing with the regulations of implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470).

NOW, THEREFORE BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring that:

SEC. 1. The Programmatic Agreement between the State Historic Preservation Office and the City of Piqua is hereby approved and the City Manager is hereby authorized and directed to submit the Programmatic Agreement to the Ohio Historic Preservation Office.

SEC. 2. This Resolution shall take effect and be in force from and after the earliest period allowed by law.

THOMAS D. HUDSON, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



DEVELOPMENT OFFICE

William Lutz – Development Program Manager
201 West Water Street • Piqua, Ohio 45356
(937) 778-2062 • FAX (937) 778-0809
E-Mail: blutz@piquaoh.org
Web: <http://www.piquaoh.org>

To: Fred Enderle, City Manager

From: Bill Lutz, Development Program Manager

Date: May 11, 2009

Subj.: New Programmatic Agreement with State Historic Preservation Office

Fred:

Attached please find a resolution and programmatic agreement between the State Historic Preservation Office and the City of Piqua for the deliberation of the City Commission at their May 18th Meeting.

The State Historic Preservation Office has offered guidance that changes the current process in which historic properties are reviewed for participation in the City's Community Development Block Grant and/or Community Housing Improvement Programs. In the past, the City of Piqua has provided basic background information to the State Historic Preservation Office in regards to some projects to determine whether historical properties are at risk during the administration of our programs. Under the new guidance, the State Historic Preservation Office is now requiring the City of Piqua, along with other communities to provide other information, such as goals of the rehabilitation project, alternative treatments considered for the project, life cycle of maintenance measures and proposed measures to be taken to mitigate or minimize adverse effects. In order to ask for more information from our community, the State Historic Preservation Office is required to re-execute our programmatic agreement with the State Historic Preservation Office. This agreement will expire on December 31, 2011, at which time a new agreement will be made.

Generally, the projects in which the community undertakes do not involve structures of such historical value that special measures must be taken. However, there are isolated incidents in where the consultation of the State Historic Preservation Office does provide alternative methods to undertake a project. By providing more information, it is expected that the State Historic Preservation Office with more detailed information, it can be expected that a determination of historical impact and the offering of alternative methods can be made by the State Historic Preservation Office in a more time-sensitive fashion, allowing the community to move ahead with projects more quickly.

If you have any comments or questions, please do not hesitate to contact me.

Thanks.

Bill

**PROGRAMMATIC AGREEMENT
for coordination
between
The City of Piqua
and the
Ohio Historic Preservation Office
for the
Administration of Programs Using HUD Allocated Funds with Delegated Review
Responsibilities Authorized Under 24 CFR Part 58**

WHEREAS, the U.S. Department of Housing and Urban Development ("HUD") has allocated Community Development Block Grant (CDBG) and other funds to the State of Ohio Department of Development ("State"); and

WHEREAS, the State has awarded CDBG and other funds to The City of Piqua (hereinafter referred to as "grantee"); and

WHEREAS, the funding sources covered by this Programmatic Agreement may include, but are not limited to CDBG, Home Investment Partnership (HOME), Economic Development Initiative (EDI), Emergency Shelter Grants, Supportive Housing, Housing Opportunities for Persons with AIDS (HOPWA), and Neighborhood Stabilization Program (NSP) Grants; and

WHEREAS, in accordance with 24 CFR Part 58, the grantee assumes responsibility for environmental review, decision-making, and actions that would otherwise apply to HUD under the National Environmental Policy Act (NEPA) and other provisions of law and this agreement coordinates the analysis and review of projects as provided under 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470), in order to meet the purposes and requirements of both statutes in a timely and efficient manner; and

WHEREAS, the grantee has determined that the undertakings it carries out using the above-listed HUD funding sources may affect properties that are listed in or eligible for listing in the National Register of Historic Places ("National Register"); and

WHEREAS, the grantee has consulted with the Ohio State Historic Preservation Officer (SHPO) regarding the development of this agreement pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act ("NHPA")(16 U.S.C. 470); and

WHEREAS, the grantee and the SHPO agree that by following the procedures outlined in this agreement, the grantee will be able to meet its obligations pursuant to 36 CFR Part 800 to take into account the effects of federally assisted projects on historic properties and provide the ACHP with an opportunity to comment.

NOW, THEREFORE, the grantee and the SHPO have agreed to carry out their respective responsibilities pursuant to Section 106 and Section 110(f) of the NHPA and the regulations at 36 CFR Part 800, in accordance with the following stipulations:

STIPULATIONS

I. Archaeology

In the event the grantee plans any ground disturbance as part of a rehabilitation, new construction, site improvement, or other undertaking, the grantee will consult with the SHPO to determine whether the undertaking will affect an archaeological property eligible for or listed in the National Register. This shall not be interpreted to include a limited subset of ground-disturbing activities that are exempt from review, as described in Stipulation II.B.2.

II. Exempt Activities

- A. If the grantee determines that an undertaking only involves buildings that are less than fifty years old, or if the undertaking includes only exempt activities (as defined by Stipulations II. B., II. C., and II. D), then the undertaking shall be deemed exempt from further review. Such undertakings will require no review under the terms of this agreement because these activities will generally not affect historic properties.
 - 1. This stipulation may include the demolition of buildings less than fifty years old, so long as the building has not previously been determined to be eligible for listing or listed in the National Register of Historic Places.
 - 2. The grantee will keep documentation of this decision to exempt specific undertakings in its files and compile a complete list of exempt undertakings annually, as required in Stipulation VIII.
- B. If the proposed undertaking falls within one of the following categories, the activities shall be deemed exempt:
 - 1. Non-Construction Work and Development
 - a. Public service program that does not physically impact buildings or sites.
 - b. Architectural and engineering design fees and other non-construction fees and costs.
 - c. Rental or purchase of equipment that does not physically impact buildings or sites.
 - d. Temporary board-up, bracing, or shoring of a property, provided that it is installed without permanent damage to the building or site.

- e. Mortgage refinancing where no change in use, new construction, or rehabilitation will occur.
- f. Acquisition of vacant land when no subsequent redevelopment of the property is anticipated (including land banking).
- g. Acquisition of land with demolition or rehabilitation of buildings that are less than fifty years old (including land banking).
- h. Loans used to fund rehabilitations of buildings less than fifty years old.

2. Site Work

- a. Repair, line painting, paving, resurfacing, and maintenance of existing streets, roads, alleys, parking lots, sidewalks, curbs, ramps, and driveways where no change in width, surfaces, or vertical alignment to drainage is to occur.
- b. Maintenance and repair of existing landscape features, including planting, fences, retaining walls, and walkways.
- c. Installation of exterior lighting for individual properties, including parking lots, sidewalks, and freestanding yard lights, but excluding lighting types that are to be attached to a historic building greater than fifty years old. This exemption is not meant to include street lighting that will serve multiple properties.
- d. Repair, maintenance, or direct replacement of existing residential water and sanitary sewer service connections within the previously excavated trench.

3. Exterior Rehabilitation

- a. Rebuilding of existing wheelchair ramps, or installation of new ramps on secondary building elevations where the building is not located on a corner lot.
- b. Repair of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim as long as any new material matches existing features in composition, design, color, texture, and other visual and physical qualities.
- c. Foundation repair.
- d. Exterior scraping with non-destructive means and painting of wood siding, features, and trim; exterior painting of masonry, if existing surfaces are already painted. This does not apply to the use of lead encapsulant paint. No abrasive cleaning is permitted for any materials.
- e. Caulking, reglazing, and weather-stripping.
- f. Installation of screens and storm windows, provided that they:
 - i. Completely fill the original window opening.
 - ii. Match the meeting rail or other major divisions.
 - iii. Interior storms must not cause damage to the original interior trim.

- iv. Interior storms must be designed to seal completely so as to protect the primary window from condensation.
- g. Installation of storm doors, if they are undecorated and have a painted finish to match existing trim or the existing door.
- h. Repair or replacement of asphalt, fiberglass, and asbestos shingle roof covering with the same materials as long as the shape of the roof is not changed.
- i. Replacement of a flat roof not visible from a public right-of-way as long as the shape of the roof is not changed.
- j. Repair or replacement of metal gutters and downspouts; and relining, repainting, and repair of box gutters. This does not apply to the replacement of box gutters.

4. Interior Rehabilitation

- a. Repair or installation of new basement floors.
 - b. Installation of attic insulation.
 - c. Repair of existing interior walls, floors, ceilings, decorative plaster, or woodwork, provided the work is limited to repainting, in-kind patching, refinishing, or repapering.
 - d. Kitchen and bathroom remodeling if no walls, windows, or doors are removed or relocated so as to alter the floor plan.
 - e. Installation of new furnace, boiler or water heater; furnace cleaning or repair.
 - f. Installation or repair of all electrical, plumbing, heating, ventilation, and air conditioning systems as long as no alteration is made to structural or decorative features.
 - g. Asbestos abatement activities that do not involve removal or alteration of structural or decorative features.
 - h. Lead paint hazard abatement such as HEPA cleaning and HUD approved paint removal or stabilization. Any decorative features shall be treated with care and retained for re-installation after treatment.
- C. Activities defined in 24 CFR Section 58.34 of the "Environmental Review Procedures for Entities Assuming HUD Environmental Review Responsibilities, as amended" are exempt from review under this agreement.
- D. Activities defined in 24 CFR Section 58.35(b) of the "Environmental Review Procedures for Entities Assuming HUD Environmental Review Responsibilities, as amended" are exempt from review under this agreement.

III. Project Review

- A. If the grantee determines that an undertaking will involve any activities that are not exempt under Stipulation II, the grantee will, in accordance with 36 CFR Part

800, consult with the SHPO before starting the undertaking by submitting the following documentation to the SHPO: (1) project location, including a map; (2) project description, including work write-ups, plans, or specifications, as appropriate; (3) color photographs of all elevations of the building or site; (4) date any buildings in the project area were built; (5) a statement of whether any properties in the project area are listed in or eligible for listing in the National Register; (6) if there are listed or eligible properties, a statement of whether and how the undertaking will affect the historic properties.

- B. This submission should include, and the SHPO will consider, the following information if it explains the [grantee's] decisions regarding National Register eligibility and effect:
1. Condition assessments for various historic elements;
 2. An explanation of the goals of the undertaking;
 3. Alternative treatments considered and cost estimates for each;
 4. Life cycle maintenance costs related to each alternative;
 5. Proposed measures to mitigate or minimize adverse effects;
 6. Available marketing studies; and
 7. Any other information that warrants consideration.
- C. At the discretion of the grantee, SHPO's Project Summary Form can be used to satisfy Stipulation III A & B.
- D. The SHPO will respond, in accordance with 36 CFR Part 800, to the grantee within 30 days after receiving the project documentation by stating that (1) the SHPO concurs with the [grantee's] decision about eligibility and effect; (2) the SHPO disagrees with the [grantee's] decision about eligibility and effect; or (3) the SHPO needs more information in order to concur or disagree with the [grantee's] decision about eligibility or effect.
- E. If the SHPO and the grantee agree that the undertaking will have no effect on properties that are listed in or eligible for listing in the National Register, the grantee will retain the SHPO's letter in its project file and the review process, in accordance with 36 CFR Part 800, will be complete.
- F. If the SHPO and the grantee agree that the undertaking will have an effect on properties that are listed in or eligible for listing in the National Register, the grantee will follow the standard process described in 36 CFR Part 800.5 to complete consultation.
- G. Any disagreements regarding historic properties or project effects shall be resolved as described in 36 CFR Part 800.6. The grantee or SHPO may elect to invite the ACHP to participate or provide its opinion, if they determine it to be appropriate.

IV. Technical Assistance and Educational Activities

Staff in the SHPO's Resource Protection and Reviews Department will provide technical assistance, consultation, and training of grantee staff as required by the

grantee or as proposed by the SHPO in order to assist the grantee in carrying out the terms of this agreement. SHPO may also request that appropriate members of the [grantee's] staff should attend training specifically in the use and interpretation of this agreement, or the overall regulatory process described in 36 CFR Part 800.

V. Public Involvement and Participation

- A. In accordance with citizen participation requirements for State-administered HUD programs (24 CFR Section 570.486), the grantee will seek public input and notify the public of proposed actions.
 - 1. The grantee will, at a minimum, hold two public hearings to seek public comment regarding the planning and implementation of State-administered HUD programs. The first public hearing will address basic program parameters, and the second public hearing will provide specific information regarding proposed activities. Notice of both hearings will be published 10 days in advance in a newspaper of general circulation.
 - 2. The grantee will hold an additional public hearing if a State-administered HUD program is amended. The Amendment Public Hearing provides citizens with an opportunity to review and comment on a substantial change in the program. Notice of an Amendment Public Hearing will be published 10 days in advance in a newspaper of general circulation.
- B. The public notification procedures outlined in 24 CFR Part 58 for a Notice of Intent to Request Release of Funds (NOI/RROF) and Finding of No Significant Impact (FONSI) require the grantee to make information about individual projects available for public inspection, and to consider the views of the public and consulting parties in decision-making about individual projects
- C. For individual projects located in locally designated districts or those that may affect locally listed properties, the appropriate local review board will be presented with information regarding the proposed project for consideration as part of their regularly scheduled hearing, along with any project alternatives considered.

VI. Post Review Discovery

- A. In the event that historic properties are discovered or unanticipated effects on historic properties found after completion of the Section 106 process, the grantee will follow the process established at 36 CFR Section 800.13. In all cases of discovery or unanticipated effects, the grantee will contact SHPO as soon as practicable and provide sufficient information so that SHPO can make meaningful comments and recommendations.
- B. In the event that human remains are discovered during the development or construction of any project subject to this agreement, construction will cease in the area of the discovery. The grantee will contact OHPO and the County Sheriff and/or County Coroner within 48 hours. The grantee will also consult with OHPO, HUD and the County Sheriff and/or Coroner to develop and carry out a treatment plan for the care and disposition of human remains.

- C. When the human remains are determined to be of Native American Indian origin, the treatment plan will also be developed in consultation with appropriate federally recognized Native American Indian Tribes. The grantee may call upon representatives of HUD for assistance in conducting meaningful and respectful discussions with tribal representatives.

VII. Dispute Resolution

Should any party to this agreement object at any time to any actions proposed or the manner in which the terms of this agreement are implemented, the grantee shall consult with such party to resolve the objection. If the grantee determines that such objection cannot be resolved, the grantee will:

- A. Forward all documentation relevant to the dispute, including the grantee's proposed resolution, to the ACHP. The ACHP shall provide the grantee with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the grantee shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The grantee will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the grantee may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the grantee shall prepare a written response that takes into account any timely comments regarding the dispute, and provide them and the ACHP with a copy of such written response.
- C. The grantee's responsibility to carry out all other actions subject to the terms of this agreement that are not the subject of the dispute remain unchanged.

VIII. Monitoring

- A. Within 30 days after the end of each calendar year that this agreement is in force, the grantee will submit to the SHPO a list of undertakings exempted from review under Stipulation II of this agreement.
- B. For each exempted undertaking the list will include the building address, the age of the building or its date of construction, and a brief description of each activity undertaken. A brief description shall include a list of the work done as well as how the work was done, such as: window sash repaired and repainting.
- C. The grantee should also include in their submission three (3) random samples of individual projects, with copies of the information that was available to support the project's consideration under the terms of this agreement.

IX. Definitions

The definitions provided in the National Historic Preservation Act and the regulations at 36 CFR Part 800 apply to terms used throughout this agreement, such as “historic property” and “effect.”

X. Amendment & Duration

This agreement will continue in full force until December 31, 2011 and will be reviewed for modifications, termination, or renewal before this date has passed. At the request of either party, this agreement may be reviewed for modifications at any time. This PA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

Execution of this PA by the grantee and SHPO and implementation of its terms evidence that the grantee has taken into account the effects of its undertakings on historic properties and afforded the ACHP an opportunity to comment.

SIGNATORIES:

[name and title of the head of the jurisdiction—such as mayor or county commissioner—
or authorized representative—such as city manager or planning director], [grantee]

Date

Mark J. Epstein, Department Head, Resource Protection and Review
Ohio State Historic Preservation Office

Date

Concurring party (parties):

[name and title of head of local historical society or historic preservation organization]

Date

RESOLUTION NO. R-43-09

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE REGIONAL AIR POLLUTION CONTROL AGENCY (RAPCA) FOR AIR POLLUTION CONTROL SERVICES; TO ADOPT AIR POLLUTION CONTROL REGULATIONS; TO ADOPT SCHEDULE A – UNIFORM SYSTEM OF FEES

WHEREAS, Section 3709.085(A) of the Ohio Revised Code states that a board of health may contract with any political subdivision to obtain or provide any services for the prevention, control, and abatement of air pollution, and

WHEREAS, the Board of Health of the City of Piqua and the Regional Air Pollution Control Agency (RAPCA) of Public Health – Dayton & Montgomery County entered into a contract effective January 1, 2009, whereby RAPCA agreed to provide management, technical, engineering and field enforcement services (including the enforcement of local air pollution control regulations) to the Board of Health of the City of Piqua relating to a local air pollution control program, and

WHEREAS, RAPCA shall be paid any funds available "from any other source for the purpose of establishing, expanding, or maintaining the air pollution control program."

WHEREAS, the Board of Health of the City of Piqua hereby adopts Schedule A - Uniform System of Fees for the purpose of helping to pay for the costs of the local air pollution control program in excess of those costs currently covered by the payments received for the City of Piqua.

WHEREAS, the Board of Health of the City of Piqua finds it necessary to adopt local air pollution control regulations, and used oil regulations, consistent with those of the State of Ohio and the United States Environmental Protection Agency, and

WHEREAS, complete copies of the Ohio Administrative Code (OAC) 3745 Chapters pertaining to AIR STANDARDS, PERMITS, and AIR POLLUTION CONTROL are available for viewing or download at the Ohio EPA website <http://www.epa.state.oh.us/dapc/regs/regs.html>; and OAC 3745 Chapters pertaining to USED OIL SPECIFICATIONS are available for viewing or download at the Ohio EPA website http://www.epa.state.oh.us/dhwm/l_ruom.html. The Ohio EPA web site contains regulations in their current effective form, as well as, draft rules that may be proposed or may be available for comment.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: The City Manager is hereby authorized to enter into an agreement with RAPCA for professional services related to air pollution control.

SEC. 2: That OAC 3745 Chapters pertaining to AIR STANDARDS, PERMITS, AIR POLLUTION CONTROL and USED OIL SPECIFICATIONS and the applicable federal regulations are hereby incorporated by reference (including future amendments) as the City of Piqua Board of Health Air Pollution Control Regulations

SEC. 3: That Schedule A – Uniform System of Fees is hereby adopted.

SEC. 4: This resolution shall take effect and be in force from and after the earliest period allowed by law.

THOMAS D. HUDSON, MAYOR

PASSED: _____

ATTEST: _____

REBECCA J. COOL
CLERK OF COMMISSION

SCHEDULE A - UNIFORM SYSTEM OF FEES

Any person who owns and/or operates a facility containing one or more sources of air contaminant emissions shall pay an annual fee in accordance with the following schedule. The annual fee assessed shall be based on the facility status (as described in 1-7 below) of the previous calendar year. Fees based on fuel burning at a hazardous waste fuel burning facility or used oil burning facility (as described in 8 below) are also based on the previous calendar year. Annual fees shall be invoiced and paid annually. Retest fees for emissions tests conducted at facilities or GDFs (as described in 9 below) are billed following the successful completion of the testing program. All fees are due within 30 days of receipt of invoice.

1. Title V facility with allowable yearly emissions of:

a. Up to 50 tons	\$750
b. More than 50 tons	\$1500

2. Synthetic Minor facility with allowable yearly emissions of:

a. Up to 25 tons	\$200
b. More than 25 tons through 50 tons	\$400
c. More than 50 tons	\$800

3. Hazardous facility \$600

4. Incinerator \$200

5. Gasoline Dispensing Facility (GDF) fee per each dispensing position \$15

6. Dry Cleaning Facility \$100

7. Other Facilities with allowable yearly emissions of:

a. More than 1 ton through 5 tons	\$100
b. More than 5 tons through 25 tons	\$200
c. More than 25 tons through 75 tons	\$400
d. More than 75 tons through 100 tons	\$750

8. Hazardous Waste Fuel Burning Facility or Used Oil Burning Facility \$0.01
Per gallon burned

9. Retest fee for emissions tests conducted at facilities or GDFs \$200

In the event a facility is shutdown, idled, the facility status changes, or the fee would cause undue hardship, adjustments to the fees may be made at the discretion of the RAPCA Administrator. Any such reduction or waiver of the fee requirement shall be reviewed annually.

MEMORANDUM

May 10, 2009

To: Frederick E. Enderle, City Manager

From: Amy Welker, Director of Health & Sanitation

Re: Request for City Commission resolution to authorize an agreement with RAPCA for air pollution control.

The City of Piqua has utilized the Regional Air Pollution Control Agency (RAPCA) for management, technical, and field enforcement of air pollution control regulations since 1983. Pursuant to this agreement, RAPCA provides the regulatory expertise in air pollution monitoring, prevention, and control. For the last twenty-five years, the City of Piqua has paid the full cost of these services in the amount of \$5,000 per year.

Upon researching this agreement, it was discovered that Miami County also has a similar agreement in place with RAPCA. However, in 2001 Miami County amended their agreement to include a uniform fee schedule. If adopted by Piqua, this schedule would alter the collection of fees from a single source (the city) to a user fee system. The actual entities that have air pollution permits and the capacity to emit air pollutants are assessed a fee. In essence, the users of the service pay the cost to run the program under this system.

All of the entities that would be affected by this change have been notified and were invited to a meeting on April 28, 2009 to discuss the issue.

Also included in this legislation is a language update to the air pollution regulations. The city of Piqua currently has air pollution regulations in place as part of the current agreement with RAPCA. The language change would state that any time the State of Ohio changes or updates these regulations; they would automatically incorporate those changes into the City of Piqua air pollution regulations. This will save the city from having to continually update our local regulation every time the state changes a regulation.

If authorized by the City Commission, a new updated agreement would need to be enacted between the City and RAPCA to reflect the language changes and the uniform fee system.