



PLANNING AND ZONING

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To: Planning Commission Members

TRANSMITTAL

Item No.	Description
1	Updated Resolution PC 11-09 Exhibit 'A'

Please find enclosed the final draft of the temporary use proposed code amendment item. This is to replace the PC 11-09 Exhibit 'A' previously included in the packet.

Thank you.

Chris Schmiesing
City Planner



**PC RESOLUTION 11-09
EXHIBIT 'A'**

Revision	Date	Description
1	May 4, 2009	Added wheelchair ramp to section C. Deleted above ground swimming pools from section C. Added above ground swimming pools to section D. Added end date extension provision under B(4)
2	May 6, 2009	Removed public conveniences and litter control sections. Added self contained text to section B(9) Revised use type descriptions and added definitions

Code Amendments

The following is a draft of a proposed a code amendment for the consideration of the Planning Commission. It is expected that revisions will continue to be made as comments are received, and that the document will continue to be updated until such time it takes its final format and is presented to the Planning Commission for a recommendation. Proposed **insertions** to the existing code text presented are shown as bold and underlined. ~~Deletions~~ are shown as plain lined out text.

§ 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.

PC RESOLUTION 11-09
EXHIBIT 'A'

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

- (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:

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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 tht 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.

PC RESOLUTION 11-09
EXHIBIT 'A'

(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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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-adjointing 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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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

**PC RESOLUTION 11-09
EXHIBIT 'A'**

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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

**PC RESOLUTION 11-09
EXHIBIT 'A'**

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.

PC RESOLUTION 11-09
EXHIBIT 'A'

- (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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

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 to provide storage for personal property.

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

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 defined by a fence, tent, or similar enclosure, 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.

PC RESOLUTION 11-09
EXHIBIT 'A'

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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

PC RESOLUTION 11-09
EXHIBIT 'A'

"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;

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

~~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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

- (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 slopping 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)

PC RESOLUTION 11-09
EXHIBIT 'A'

§ 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 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

PC RESOLUTION 11-09
EXHIBIT 'A'

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.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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.~~

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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) 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.

(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 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) 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 not 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.

(e) Wheelchair ramp.

**PC RESOLUTION 11-09
EXHIBIT 'A'**

(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.

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