

SECTION 2 - RULES OF INTERPRETATION AND DEFINITIONS

2.1 Interpretation. For the purpose of this Ordinance, certain words and terms used herein shall be defined as set forth in this section. If not specifically defined herein, words and terms shall be defined as in Webster's Encyclopedic Unabridged Dictionary of the English Language, (1994). Unless the context clearly indicates to the contrary:

- A. words used in the present tense include the future tense;
- B. words in the singular number include the plural and, words in the plural number include the singular;
- C. the word "shall" or the word "must" is mandatory and not directory
- D. the word "herein" means the UDO;
- E. gender specific words, such as his or hers, shall include the opposite gender;
- F. the word "person" includes an individual, corporation, partnership or an incorporated association of persons, such as a club;
- G. the word "building" includes the word "structure";
- H. a "building" includes any part thereof;
- I. the words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

2.2 Terms Defined. The following words and terms as used herein are defined to mean the following:

ACCESSORY BUILDING OR USE: A subordinate building having a use customarily incident to and located on the lot occupied by the main building or a use customarily incident to the main use of the property. A building housing an accessory use is considered an integral part of the main building when it has any part of a wall in common with the main building, or is under an extension of the main roof and designed as an integral part of the main building.

ADEQUATE PUBLIC FACILITIES: Storm water, water, wastewater, street, electric and telecommunications facilities at minimum acceptable levels of service.

ADMINISTRATIVE AND BUSINESS OFFICES: Offices of private firms or organizations which are primarily used for the provision of executive, management, or administrative services. Typical uses include administrative offices, and services including real estate, insurance, property management, investment, personnel, travel, secretarial services,

telephone answering, photocopy and reproduction, and business offices of public utilities, organizations and associations, or other use classifications when the service rendered is that customarily associated with administrative office services.

ADULT BUSINESS: Any business:

- a. that has as a substantial or significant purpose the sale or rental of merchandise that is intended for use in connection with specified sexual activities, or that emphasizes matters depicting, describing or relating to specified sexual activities or specified anatomical areas; or
- b. that has as one of its regular and substantial business purposes:
 - 1) the providing of entertainment where the emphasis is on performances, live or otherwise, that depict, portray, exhibit or display specified anatomical areas or specified sexual activities; or
 - 2) the providing of services that are intended to provide sexual arousal or excitement or that allow observation of specified sexual activities or specified anatomical areas ancillary to other pursuits, or allow participation in specified sexual activities ancillary to other pursuits.
- c. The definition of "adult business" also includes but is not limited to any and all of the following specific adult businesses, as defined herein:
 - 1) Businesses that offer merchandise for sale or rent.
 - (a) "Adult media outlet" means a business engaging in the sale or rental of merchandise where a substantial or significant portion of the business is devoted to the sale or rental of "adult media." For purposes of this subsection, it shall be presumed that a "substantial or significant" portion of a business is devoted to the sale or rental of "adult media" if any one or more of the following criteria are satisfied:
 - (1) Forty percent (40%) or more of the sales (including rentals), measured in dollars over any consecutive ninety (90) day period is derived from "adult media";
 - (2) Forty percent (40%) or more of the number of transactions, measured over any consecutive ninety (90) day period, relate to "adult media";
 - (3) Forty percent (40%) or more of the dollar value of all merchandise displayed at any time is attributable to "adult media";
 - (4) Forty percent (40%) or more of all inventory consists of "adult media" at any time;

- (5) Forty percent (40%) or more of the merchandise displayed for sale or rental consists of “adult media” at any time; or
- (6) Forty percent (40%) or more of the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) is devoted to “adult media” at any time.

The presumption that a “substantial or significant” portion of a business is devoted to the sale or rental of “adult media”, based upon the above guidelines, shall be rebuttable.

(b) "Adult news rack" means any coin- or card-operated device that offers for sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(c) “Adult Retail Establishment” means a business that displays or offers goods for sale or rent and that meets any of the following tests:

(1) It displays or offers for sale or rent items from any two (2) of the following categories: “sexually-oriented toys or novelties”; lingerie; clothing that graphically depicts “specified anatomical areas”; leather goods designed or marketed for use for sexual bondage or sadomasochistic practices; and the combination of such items constitutes

(A) ten percent (10%) or more of the sales (including rentals), measured in dollars over any consecutive ninety (90) day period; or

(B) ten percent (10%) or more of the number of sales transactions, measured over any consecutive ninety (90) day period; or

(C) ten percent (10%) or more of the dollar value of all merchandise displayed at any time; or

(D) ten percent (10%) or more of all inventory at any time, or

(E) ten percent (10%) or more of the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) at any time; or

(2) Five percent (5%) or more of the sales (including rentals), measured in dollars over any consecutive ninety-day period is derived from “sexually-oriented toys or novelties”; or

(3) Five percent (5%) or more of the number of sales transactions, measured over any consecutive ninety (90) day period, relate to “sexually-oriented toys or novelties; or

(4) Five percent (5%) or more of the dollar value of all merchandise displayed at any time is attributable to “sexually-oriented toys or novelties”; or

(5) Five percent (5%) or more of all inventory consists of “sexually-oriented toys or novelties” at any time; or

(6) Five percent (5%) or more of merchandise displayed for sale consists of “sexually-oriented toys or novelties” at any time; or

(7) Five percent (5%) or more of the sales floor area of the business (not including storerooms, stock areas, bathrooms, or any portion of the business not open to the public) is devoted to “sexually-oriented toys or novelties” at any time.

2) Businesses that provide entertainment.

(a) "Adult entertainment business" means any business to which the public, patrons or members are invited or admitted, and where providing "adult entertainment," as defined herein, as a regular and substantial portion of its business.

(b) The definition of "adult entertainment business" also includes, but is not limited to, any and all of the following specific adult entertainment businesses, as defined herein:

(1) "Adult motion picture theater" means an establishment with a screen or projection areas, where a regular and substantial portion of its business is the exhibition to patrons of films, videotapes or motion pictures which are intended to provide sexual arousal or sexual excitement to the patrons and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(2) "Adult theater" means an establishment where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas of live performers, for observation by patrons.

(3) "Adult entertainment cabaret" means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, or live performances, or material which depict, portray, exhibit or display specified anatomical areas or specified sexual activities or are intended to arouse or excite the sexual desires of the entertainer, other entertainer or patron.

- (4) "Adult entertainment studio" (includes the terms "rap studio," "exotic dance studio," "sensitivity studio" or "encounter studio") means an establishment whose premises are physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.
 - (5) "Adult encounter parlor" means an establishment where a regular and substantial portion of its business is the provision of premises where patrons congregate, associate, or consort with employees, performers, and/or other patrons or private contractors who display specified anatomical areas in the presence of such patrons, with the intent of providing sexual arousal or excitement to such patrons.
 - (6) "Body Painting Studio" means an establishment where a regular and substantial portion of its business is the application of paint or other substance to or on the human body by any means of application, technique or process when the subject's body displays for the patron's view specified anatomical areas.
- 3) Businesses that provide services.
- (a) "Bath House" means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.
 - (b) "Adult Motel" means an enterprise where a regular and substantial portion of its business is offering public accommodations, containing more than 150 square feet of gross floor area, for the purpose of viewing motion pictures or viewing publications which are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical area" by any photographic, electronic, magnetic tape, digital or other medium (including but not limited to film, video, magnetic tape, laser disc, CD-ROM, books, magazines or periodicals) for observation by patrons therein and which rents room accommodations for less than six (6) hours at a time.

ADULT ENTERTAINMENT: Any exhibition, performance, display or dance of any type, including, but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered on a premises where such exhibition, performance, display or dance is intended to arouse or excite the sexual desires of the entertainer, other

entertainers or patrons, or if the entertainment depicts, portrays, exhibits or displays specified anatomical areas or specified sexual activities.

ADULT MEDIA: Books, magazines, periodicals, other printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films, CD-ROMS or other devices used to record computer images, or other media which are distinguished or characterized by an emphasis on matters depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

ADULT VIDEO VIEWING BOOTHS: Any booth, cubicle, stall or compartment which is designed, constructed or used to hold or seat patrons and is used for presenting or viewing motion pictures or viewing publications which are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas” by any photographic, electronic, magnetic tape, digital or other medium (including but not limited to, film, video, magnetic tape, laser disc, CD-ROM, books magazines or periodicals) for observation by patrons therein. “Adult video viewing booths” are sometimes referred to as “peep shows”, “adult video arcades”, “panorams” and “adult mini-motion picture theaters”. An “adult video viewing booth” shall not mean a theater, movie house, playhouse, or a room or enclosure or a portion thereof which contains more than 150 square feet of gross floor area. Note: as of the date of the adoption of this definition, there are no known “adult video viewing booths” within the City and Ordinance No. 122 specifically does not list this as a permitted use in any existing zoning district.

AGRICULTURAL SALES AND SERVICES: Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, pesticides and similar goods or in the provision of agriculturally related services with incidental storage on lots other than where the service is rendered. Typical uses include hay, feed and grain stores, and tree service firms.

ANIMAL SERVICES: Veterinary services and hospitals for animals. Typical uses include small animal clinics and veterinary hospitals for livestock and large animals.

ART AND CRAFT STUDIO (Limited): A use involving the production of works of art by individuals and assistants and the incidental sale to consumers of those works produced, limited to the use of hand tools or domestic mechanical equipment not exceeding two horsepower or a single kiln not exceeding 8 kilowatts. The use shall not produce external noise, vibration, smoke, dust, odor, heat, glare, fumes, electrical interference or waste runoff.

ART AND CRAFT STUDIO (Industrial): A use involving the production of works of art which require mechanical equipment exceeding two horsepower or a single kiln of 8 kilowatts. This use shall include the incidental sale to consumers of those works produced on site.

AUTOMOBILE WRECKING YARD: Any area of land where two (2) or more motor vehicles, not in operating condition, or parts thereof, are stored in the open; or any land, building or structure used for the wrecking or storing of such motor vehicles, or parts thereof, not in operating condition.

AUTOMOTIVE AND EQUIPMENT SERVICES: Establishments or places of business primarily engaged in automotive related or heavy equipment sales or services. The following are automotive and equipment use types:

- a. **Automotive Washing.** Washing and cleaning of automobiles and related light equipment. Typical uses include auto laundries or car washes.
- b. **Commercial Off-Street Parking.** Parking of motor vehicles on a temporary basis within a privately owned off-street parking facility, other than accessory to a principal use. Typical uses include commercial parking lots or parking garages.
- c. **Automotive Sales or Rentals.** Sales or rental of automobiles, noncommercial trucks, trailers, and recreational vehicles, including incidental parking and servicing of vehicles available to sell, rent or lease. Typical uses include auto dealerships, used car lots, rental agencies, trailer rental agencies, and taxicab parking and dispatching.
- d. **Equipment Sales.** Sale or rental of trucks of one ton or greater capacity, tractors, construction equipment, agricultural implements, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships and construction equipment dealerships.
- e. **Automotive Repair Services.** Repair of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include muffler shops, auto repair garages, tire sales and installation, wheel and brake shops, body and fender shops, and similar repair and service activities, but excluding dismantling or salvage.
- f. **Equipment Repair Services.** Repair of trucks of one ton or greater capacity, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but excluding dismantling or salvage.
- g. **Gasoline stations.** Typical uses include convenience stores with fuel pumps, full service fuel stations, with or without car washes, and bays for minor mechanical work on vehicles.

BOARD: Board of Aldermen of the City of Lone Jack.

BUILDING: A structure which is permanently affixed to the ground, as provided by the building code, has a roof supported by columns or walls, and is used for housing or enclosure of people, animals or personal property. When a portion thereof is completely separated from every other portion by a dividing wall (or firewall when applicable) without openings or an enclosed breezeway, then each such portion shall be deemed to be a separate building.

BUILDING, PRINCIPAL: A building in which is conducted the principal use of the lot on which it is situated. In a residential district, the largest dwelling shall be deemed to be a principal building.

BUILDING SETBACK LINE: A line specifically established which generally is parallel to and set back from a property line and which identifies an area into which no part of a building shall project.

BUILDING AND GROUNDS MAINTENANCE SERVICES: Establishments primarily engaged in the provision of maintenance and custodial services to firms rather than individuals. Typical uses include janitorial, mowing, landscape maintenance, or window cleaning services.

BUSINESS OR TRADE SCHOOL: A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

BUSINESS SUPPORT SERVICES: Establishments primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to the firms themselves rather than to individuals, but excludes automotive, construction and farm equipment. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms.

COCKTAIL LOUNGE: A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

COMMERCIAL EMBALMING SERVICES: A use providing undertaking services for other funeral service establishments.

COMMERCIAL RECREATION: Establishments or places of business primarily engaged in the provision of sports, entertainment, or recreation for participants or spectators. The following are commercial recreation use types:

- a. **Indoor Entertainment.** Predominantly spectator uses conducted within an enclosed building. Typical uses include motion picture theaters, meeting halls, and dance halls.
- b. **Indoor Sports and Recreation.** Uses conducted within an enclosed building. Typical uses include bowling alleys, billiard parlors, ice and roller skating rinks, penny arcades, electronic video games, and indoor racquetball, handball, volleyball, soccer, badminton, and basketball courts.

COMMISSION: The Planning and Zoning Commission of the City of Lone Jack.

COMMUNICATIONS SERVICES: Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Typical uses include television studios, telecommunication service centers or telegraph service offices. Film and sound recording shall be included.

CONSTRUCTION SALES AND SERVICES (GENERAL): Establishments or places of business primarily engaged in the retail or wholesale sale of materials used in the construction

of buildings or other structures, as well as construction activities and the outdoor storage of construction equipment or materials on lots other than construction sites. Excluded are those classified as one of the Automotive and Equipment Services use types or Construction Sales and Services (Limited). Typical uses may include lumber yards, building materials stores, tool and equipment rental or sales, and building contractors.

CONSTRUCTION SALES AND SERVICES (LIMITED): Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials (such as paint, fixtures, hardware, wall coverings, and floor coverings) used in the construction and maintenance of buildings or other structures as well as limited outdoor storage of materials. Excluded are those classified as Construction Sales and Services (General). Typical uses may include building materials stores and lawn and garden supply stores. For the purposes of this definition, limited open air storage shall be screened and shall be ancillary to the primary use and may not exceed fifteen percent of the main building floor area.

CONSUMER CONVENIENCE SERVICES: Establishments which provide services, primarily to individuals, of a convenient and limited nature, often in access-controlled facilities which make twenty-four hour operation possible. Typical uses include the renting of private postal and safety deposit boxes to individuals and automated banking machines.

CONSUMER REPAIR SERVICES: Establishments primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding Automotive and Equipment Services use types. Typical uses include appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

CUSTOM MANUFACTURING: Establishments primarily engaged in the on-site production of goods by hand manufacturing which involves only the use of hand tools or domestic mechanical equipment not exceeding two horsepower or a single kiln not exceeding 8 kilowatts and the incidental direct sale to consumers of only those goods produced on-site. Typical uses include ceramic studios, candle-making shops or custom jewelry manufacturing.

COURT: An unoccupied open space other than a yard on the same lot with a building which is bounded on two or more sides by the walls of such building.

DAY CARE FACILITIES:

- a. **Family Day Care Home:** Family home, occupied by the day care provider, in which family-like care is given to four (4) persons or less, not related to the day care provider, for any part of the twenty-four (24) hour day.
- b. **Day Care Center:** Any facility, other than a family home occupied by the day care provider, which receives persons for care for any part of the twenty-four (24) hour day.

DAY CARE SERVICES (LIMITED): A facility, or use of a building or portion thereof, for daytime care of ten (10) or fewer individuals. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses, but excludes public and private primary and/or secondary educational facilities.

DAY CARE SERVICES (COMMERCIAL): A facility designed or readapted for the care of more than ten (10) individuals, whether children or adults. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses, but excludes public and private primary and/or secondary educational facilities.

DWELLING: A building or portion thereof, designed exclusively for residential occupancy, including one-family, two-family, and multiple dwellings, boarding and lodging houses, apartment houses and apartment hotels, but not hotels, house trailers, mobile homes or manufactured homes.

DWELLING - ONE-FAMILY: A detached building arranged, intended or designed for occupancy by one family in one dwelling unit.

DWELLING - TWO-FAMILY: A building arranged, intended or designed for occupancy by two families in two dwelling units.

DWELLING - MULTIPLE: A building or portion thereof, arranged, intended, or designed for occupancy by three or more families living independently of each other, including apartment houses, row houses, tenements and apartment hotels.

EXTERMINATING SERVICES: Services related to the eradication and control of rodents, insects, and other pests with incidental storage on lots other than where the service is rendered.

FAMILY: One (1) or more persons who are related by blood or marriage, including not more than two (2) lodgers or boarders, living together and occupying a single housekeeping unit with single kitchen facilities, or a group of not more than four (4) (excluding servants) living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities.

FINANCIAL SERVICES: Establishments primarily engaged in the provision of financial and banking services. Typical uses include banks, savings and loan institutions, stock and bond brokers, loan and lending activities, and similar services.

FLOOR AREA RATIO (FAR): The ratio of gross floor area to gross site area.

FOOD SALES (CONVENIENCE): Establishments less than 10,000 square feet of gross floor area primarily engaged in the retail sale of food or household products for home consumption. Typical uses include large grocery stores (including the sale of beer and wine in unopened containers for off-premise consumption where revenue from the sale of groceries comprises at least 51% of the gross income of the establishment, and where at least 51% of the total display or shelf space is devoted to groceries other than beer and wine), delicatessens, meat markets, retail bakeries, and candy shops.

FOOD SALES (GENERAL): Establishments with 10,000 square feet of gross floor area or more primarily engaged in the retail sale of food or household products for home consumption. Typical uses include large grocery stores (including the sale of beer and wine in unopened containers for off-premise consumption where revenue from the sale of groceries

comprises at least 51% of the gross income of the establishment, and where at least 51% of the total display or shelf space is devoted to groceries other than beer and wine), delicatessens, meat markets, retail bakeries, and candy shops.

FUNERAL SERVICES: Establishments engaged in undertaking services such as preparing the human dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries, excluding commercial embalming services.

GROSS FLOOR AREA (GFA): The total enclosed area of all floors of a building measured from the outside faces of the exterior walls, including halls, lobbies, stairways, elevator shafts, enclosed porches and balconies, and below-grade areas used for habitation, work, or access. Excluded from gross floor area calculations are parking facilities and airspace above the atria ground floor.

GROSS SITE AREA: An area defined as the total site area including easements, floodplains, waterways, ponds, and any other area for preservation.

HEIGHT OF BUILDINGS: The vertical distance measured from the highest of the following three levels:

- A. From the street curb level.
- B. From the established or mean street grade in case the curb has not been constructed.
- C. From the average finished ground level adjoining the building where it sits back from the street line.

To:

- A. The level of the highest point of the roof beams of flat roofs or roofs inclining not more than one inch to the foot.
- B. The mean height level of the top of the highest ridge for other roofs.

HOME OCCUPATION: An accessory use of a dwelling unit or its accessory structure for gainful employment.

HOTEL: A building occupied or used as a more or less temporary abiding place of individuals or groups of individuals who are lodged, with or without meals, and in which there are more than twelve (12) sleeping rooms.

HOTEL-MOTEL: Lodging services involving the provision of room and/or board.

IMPERVIOUS COVERAGE: The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements or structures contributing to run-off greater than would occur on the site in its natural state.

JUNK YARD OR SALVAGE YARD: An area or fenced enclosure used primarily for the collection, storage and/or sale of waste paper, rags, scrap metal or discarded material or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in operating conditions and/or for the sale of parts therefrom.

LAUNDRY SERVICES: Establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, or linen supply services.

LIQUOR SALES: Establishments or places of business engaged in retail sale for consumption off the premises of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

LOADING AREA: An area used for loading or unloading of goods from a vehicle in connection with the use of the site on which a loading space is located.

LOT: A parcel of land that is defined on a subdivision plat of record, which is intended to be occupied by a principal building(s) or building(s) and open space. Streets are not included in this definition.

LOT AREA: The area of the lot shall be the next horizontal area of the lot and shall not include portions of streets, alleys and water bodies.

LOT CORNER: A lot abutting upon two (2) or more intersecting streets.

LOT COVERAGE: Measures the percentage of the lot that is covered by the building. The area of a site covered by buildings or roofed areas, excluding allowed projecting eaves, balconies, and similar features.

LOT DEPTH: The horizontal distance from the front property line to the rear property line. If front and rear property lines are not parallel, the lot depth is the shortest distance between the front and rear property lines.

LOT FRONTAGE: The distance for which a lot abuts on a street.

LOT INTERIOR: A lot whose side lines do not abut on any street.

LOT LINE: A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

LOT - THROUGH: An interior lot having frontage on two streets.

LOT WIDTH: The mean horizontal distance between side lines measured at right angles to the depth of the lot. The mean lot width need only be calculated on that portion of the lot required to meet the minimum lot area.

MANSARD ROOF: A vertical plane which extends above the roof line.

MANUFACTURED HOME: Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. sec. 5401, 1978 as amended) commonly known as HUD (U.S. Department of Housing and Urban Development Code) and are permanently affixed to a permanent foundation in a subdivision of record.

MEDICAL OFFICES: A use providing consultation, diagnosis, therapeutic, preventative, or corrective personal treatment services by doctors, dentists, medical and dental laboratories, and similar practitioners of medical and healing arts for humans licensed for such practice by the State of Missouri.

MOBILE HOME: A single-family dwelling, factory-built and factory assembled residence which does not comply with the National Manufactured Homes Construction Safety and Standards Act.

MODULAR HOME: A residential dwelling unit constructed in components at a factory and which meets the City's residential building code for traditional "stick-built" homes.

MOTEL: A motorist's hotel having the following characteristics: (a) complete furnishings and bath facilities in each unit; (b) available services as normally provided by hotels; (c) at least one parking space provided in adjacent private roadways or courts for each guest room with either direct or convenient access from parking space to guest room. The provision for restaurant facilities appurtenant to motels is optional.

NON-CONFORMING USE - BUILDING OR YARD: A use, building or yard which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated. It is a legal, non-conforming use if established prior to the effective date of this Ordinance and an illegal, non-conforming use if established after the effective date of this Ordinance and not otherwise approved as provided herein.

PAWN SHOP SERVICES: A use engaged in the loaning of money on the security of property pledged in the keeping of the pawnbroker, and the incidental sale of such property.

PERSONAL IMPROVEMENT SERVICES: Establishments primarily engaged in the provision of informational, instructional, personal improvement, and similar services of a non-professional nature. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

PERSONAL SERVICES: Establishments or places of business primarily engaged in the provision of frequently or recurrently needed services of a personal nature. Typical uses include beauty and barber shops, seamstress, tailor, shoe repair shops, or dry cleaning pick-up station services.

PLAT, FINAL: The map or plat of a subdivision and any supplementary documents and information as described in these regulations.

PLAT, PRELIMINARY: The preliminary drawing prepared in accordance with these regulations indicating the proposed manner or layout of the subdivision.

PROFESSIONAL OFFICE: A use providing professional or consulting services in the fields of law, architecture, design, engineering, accounting, and similar professions.

RESEARCH SERVICES: Establishments primarily engaged in research of an industrial or scientific nature but excludes final product testing. Typical uses include electronics research laboratories, space research and development firms, medical laboratories, or pharmaceutical research labs.

RESTAURANT (CONVENIENCE): A use engaged in the preparation and retail sale of food that generates more traffic than the uses listed as restaurant (limited). Typical uses include "fast food" restaurants.

RESTAURANT (LIMITED): A use engaged in the preparation and retail sale of food and beverages, excluding alcoholic beverages. Typical uses include soda fountains, ice cream parlors, and coffee shops.

RESTAURANT (GENERAL): An establishment primarily engaged in preparation of full course meals served on premise, with complete kitchen facilities for preparation of the food sold, and where alcoholic beverages may be sold only in conjunction with meals.

RETAIL SALES OR RENTAL (CONVENIENCE): Sale or rental of commonly used goods and merchandise for personal or household use but excludes those defined separately and more specifically in this ordinance. Typical uses include apparel stores, or establishments providing the following products or services: household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; apparel, jewelry, fabrics, and like items; cameras, photography services; household electronic equipment, records, sporting equipment, kitchen utensils, small home appliances, art supplies and framing, arts and antiques, paint, interior decorating services, office supplies, and bicycles.

RETAIL SALES OR RENTAL (GENERAL): Sale or rental of commonly used goods and merchandise for personal or household use, but excludes those defined separately and more specifically in this ordinance. Typical uses include department stores, furniture stores, or establishments providing the following products or services: home furnishing and appliances, wallpaper, carpeting and floor-covering; and automotive parts and accessories (excluding service and installation).

SEWAGE, SANITARY: Those wastes which are comparable to wastes which originate in residential units and contain only human excrement and wastes from kitchen, laundry, bathing and other household facilities.

SEXUALLY-ORIENTED TOYS OR NOVELTIES: Instruments, devices or paraphernalia which either depict "specified anatomical areas" or are designed or marketed for use in connection with "specified sexual activities." In determining whether an item is "designed or marketed for use" in connection with "specified sexual activities," the following guidelines may be considered:

- a. Expert testimony as to the principal use of the item;

- b. Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;
- c. National and local advertising concerning the use of the item;
- d. Evidence of advertising concerning the nature of the business establishment;
- e. instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
- f. the physical or structural characteristics of the item; or
- g. the manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

Any person may request an interpretive ruling from the Chief of Police, or his or her designee, as to whether a particular item is considered by the City to be “designed or marketed for use” in connection with “specified sexual activities.” An application for an interpretive ruling shall be made in writing on a form provided by the Chief of Police, and shall be accompanied by such other information as may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. The Chief of Police shall issue a written interpretive ruling within ten (10) business days following submission of a completed application. The decision of the Chief of Police may be appealed to the Board of Aldermen within fifteen (15) days following the date of the interpretive ruling by submitting a written notice of appeal to the City Clerk.

SMALL ANIMAL SERVICES: Retail sales, veterinary services, grooming, and boarding when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily kept as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops but exclude uses for livestock and large animals.

SPECIFIED ANATOMICAL AREAS: Uncovered or exposed human genitals, pubic region or pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or human male genitals in a discernibly erect state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: mean any of the following acts of intended sexual arousal or excitement:

- a. Sexual conduct including, but not limited to, actual or simulated acts of sexual intercourse, masturbation, oral copulation or sodomy;
- b. Fondling or other intentional touching of a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female;
- c. Sadomasochistic acts; or

- d. Acts involving animals or latent objects.

STORAGE: Keeping of a product for a period of time exceeding seventy-two (72) hours.

STORY: That part of a building including between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the next highest floor thereof. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four (4) feet above the curb level, established or mean street grade, or average ground level.

STREET: The entire width between the boundary lines of every publicly maintained thoroughfare or right-of-way when any part of that thoroughfare or right-of-way is used by the public for vehicular travel, including public streets, avenues, boulevards, parkways, roads and alleys.

STREET LINE: A property line marking the boundary between a street and a lot.

STRUCTURE: Anything constructed or erected, which requires location on the ground, or attached to something having a location on the ground; including, but not limited to buildings, advertising signs, billboards, and poster panels, but exclusive of customary fences or boundary or retaining walls.

SUBDIVISION: Any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, sites, units or plats for the purpose of offer, sale, lease or development, either on the installment plan or any and all other plans, terms and conditions including re-subdivision.

SUBDIVISION OF RECORD: A subdivision which has been recorded by the County Recorder of Deeds.

VARIANCE: A modification or variation of the provisions of this Ordinance, as applied to a specific piece of property, as distinct from rezoning.

YARD: An open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the main building shall be used.

YARD, FRONT: An open space unoccupied by buildings or structures (except as hereafter provided) across the full width of the lot extending from the front line of the building to the front property line of the lot or parcel.

YARD REAR: An open space, unoccupied (except as hereafter provided) between the rear lot line and rear line of the principal building and the side property lines.

YARD, SIDE: An open unoccupied space on the same lot with the building between the main building and the adjacent side line of the lot, and extending from the front yard to the rear yard.

(Ordinance No. 297, § 1; 12-19-06; Ordinance No. 353, § 1, 2-19-09).