

ARTICLE 3 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

3.01 CONSTRUCTION OF LANGUAGE

For the purposes of this Resolution, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual; the present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular; the word "shall" is mandatory and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied"; the word "building" includes the word "structure", the word "dwelling" includes the word "residence" and the word "lot" includes the words "plot" or "parcel". In case of any difference of meaning or implication between the text of this Resolution and any caption or illustration, the text shall control.

Terms not herein defined shall have the meaning customarily assigned to them.

3.02 DEFINITIONS

Accessory Use or Building. Is a use or building on the same lot with, and of a nature customarily incident and subordinate to, those of the main use or building.

Adult Entertainment Facility. See Sexually Oriented Business definition.

Agriculture. includes farming; ranching; aquaculture; apiculture; horticulture; viticulture; animal husbandry, including but not limited to, the care and raising of livestock, equine, and fur bearing animals; poultry husbandry and the production of poultry and poultry products; dairy production; the production of field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, sod, or mushrooms; timber; pasturage; any combination of the foregoing; the processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with, but secondary to, such husbandry or production. (per ORC Section 303.01)

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

Alteration. Is any change, addition, or modification in construction or type of occupancy, or 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".

Apartment. A suite of rooms or a room in a multi-family building arranged and intended as a place of residence for a single family or for a group of individuals living together as a single housekeeping unit herein defined.

Apartment Hotel. A building designed for or containing both dwelling units and individual guest rooms or suites of rooms, which building may include accessory uses such as a cigar store, coffee shop, etc. when such uses are accessible only from the lobby.

Auto Service Station. Is a place where gasoline or any other automobile engine fuel (stored only in underground tanks), kerosene, motor oil and lubricants or grease (for the 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.

Auto Repair Station. Is a place where, along with the sale of engine fuels, the following services may be carried out: General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame, or fender straightening and repair; and/or the over-all painting and under-coating of automobiles.

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 paragraph 90.

Block. Is the property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such 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 limits of a municipality.

Board of Appeals. Means the Board of Zoning Appeals of Miami County, Ohio.

Boarding House (Rooming House). A building, other than a hotel, where for compensation and by prearrangement for definite periods, meals or lodging and meals are provided for three or more persons but not exceeding ten sleeping rooms. A rooming house shall be deemed a boarding house for the purposes of this Resolution.

Breezeway. A permanent structure consisting of a floor, one wall and a roof typically connecting a main building and an accessory building.

Building. Any structure, either temporary or permanent, having a roof supported by columns or walls, and intended for the shelter or enclosure of persons, animals, chattel or property of any kind.

Building Height. Is the vertical distance measured from the established grade to the highest point of the roof surface. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

Building Setback Line. Is a line formed by the face of the building and, for the purposes of this Resolution, a building setback line is the same as a front setback line.

Carry-Out. A place of business where food and beverages are purchased for consumption on or off the premises.

Clinic. An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or other licensed medical practitioners.

Club. Is a non-profit organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics or the like.

Conditional Use. A conditional use is a use permitted only after review of an application by the Board of Appeals, such review being necessary because the provisions of this Resolution covering conditions precedent or subsequent, are not precise enough to apply without interpretation, and such review is required by this Resolution. A conditional use does not require “undue hardship” in order to be allowable. The conditional uses that are found in this Resolution appear as a “special approval, by the Board of Appeals. These land uses could not be logically allocated to one zone or another, or the effects of such uses could not be definitely foreseen as of a given time.

Conditional Use Permit. This is a permit issued by the Board of Appeals to allow certain specific developments that would not otherwise be allowed in that particular zoning district where the land is located. These permits are issued only after the applicant has followed the procedures as stated in this Resolution. Development under a Conditional Use Permit differs from a zoning change in that it is much more specific. The applicant submits plans and if approved, he must follow those plans exactly or reapply for a permit before deviating from that plan.

Constructed. See Erected.

Convalescent or Nursing Home. An establishment which specializes in providing necessary services to those unable to care for themselves.

County Commission. Means the Board of County Commissioners of Miami County, Ohio.

District. Is a portion of the unincorporated area of the County within which certain regulations and requirements, or various combinations thereof, apply under the provisions of this Resolution.

Domestic Sale. A sale conducted on any portion of the property which offers more than two items of personal property for sale to the general public, to include but not be limited to, garage sales, patio sales, yard sales, carport sales, basement sales, porch sales, driveway sales, rummage sales and the like.

Drive-In. Is 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 Unit. Is a building or portion thereof, designed for occupancy by one (1) family for residential purposes and having or intended to have cooking facilities.

Dwelling, One-Family. Is a building designed exclusively for and occupied exclusively by one (1) family.

Dwelling, Two-Family. Is a building designed exclusively for occupancy by two (2) families living independently of each other.

Dwelling, Multiple-Family. Is a building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independently of each other.

Electronic Message Center: A sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Erected. Includes built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for the construction. Excavation, fill, drainage, and the like shall be considered a part of erection.

Essential Services. Is the erection, construction, alteration or maintenance of public utilities or units of government of underground, surface, or overhead gas, electrical, telephone, telegraph, steam, fuel or water transmission or distribution systems, collection, 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, including only governmental buildings which are necessary for the furnishing of adequate service for the general health, safety or welfare.

Established. Includes any of the following:

- A. The opening or commencement of any business as a new business.
- B. The conversion of an existing business to any other business.
- C. The addition of any business to any other existing business; or
- D. The relocation of any business.

Excavation. Is any breaking of ground except tilling, common household gardening, and ground care.

Family. Is one or two persons or parents with their direct lineal descendants and adopted children together with not more than two persons not so related or a group of not more than three persons who need not be related living together as a single housekeeping unit in a dwelling unit.

Farm. All of the contiguous neighboring or associated land operated as a single unit on which bona fide farming is carried on directly by the owner-operator, manager, or tenant farmer by his own labor or with the assistance of members of his household or hired employees; provided, however, that land to be considered a farm hereunder shall include a continuous parcel of more than five (5) acres in area; provided further, farms may be considered as including establishments operated as bona fide greenhouses, nurseries, vineyards, orchards, chicken hatcheries, poultry farms, and apiaries. No farm shall be operated for the disposal of garbage, sewage or sewage by-product, rubbish, offal, or rendering plants.

Farm Market. A building located on a farm, which building is used by the owner-operator, or lessee operator of such farm, for the sale of (1) produce and plants raised on such farm, (2) produce and plants raised on other farms operated by such owner or lessee, and (3) produce and plants raised elsewhere, but which produce and plants are offered for sale as a replacement of and to the extent of a crop shortage, due to natural causes such as weather, lack of plant development and disease, on such farm or other farms operated by such owner or lessee.

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

Filling. Is the depositing or dumping of any matter onto or into the ground except common household gardening and ground care.

Floor Area. For the purposes of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls. This floor area measurement is exclusive of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches, except finished basements areas designed and used for dwelling or business purposes.

Floor Area, Gross. 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.

Floor Area. (For the purpose of computing parking) That area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients, or customers. Such floor area which is used or intended to be used principally for the storage or 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 useable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

Frontage. Horizontal distance between side lot lines parallel to the front lot line, measured at the depth of the minimum front yard required for the zoning district in which it is located.

Garage Parking. A space, structure or series of structures for the temporary storage or parking of motor vehicles.

Garage, Private. An accessory building or portion of a main building designed or used solely for the storage of motor driven vehicles, boats and similar vehicles owned or used by the occupants of the building to which it is accessory.

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

Grade, Ground Level. The average of the finished ground level at the center of all walls of a building.

Home Occupation. An accessory use which is a service, craft or revenue enhancing hobby intended for financial gain that is clearly incidental and subordinate to the use of the premises as a dwelling, and is conducted entirely within the dwelling unit or elsewhere on the premises by Conditional Use Permit and which shall not change the residential and/or agricultural character of the property or area.

Hospital or Sanitarium. A public or semi-public facility that provides accommodations and continuous service for the sick and injured including obstetrical, medical, and surgical care.

Hotel. A building occupied as the more-or-less temporary abiding place of individuals who are lodged with or without meals, and in which there are ten (10) or more sleeping rooms with no provision made for cooking in any individual room or apartment. A hotel may include a restaurant or cocktail lounge, public banquet halls, ballrooms, or meeting rooms.

Junk Yard (Salvage Yard). Is an open area where waste, used or second hand 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 areas for storage, keeping, or abandonment of junk, unless established entirely within enclosed buildings. Two (2) or more unhoused, inoperative or unlicensed (if applicable) vehicles shall be construed to be a junk yard.

Kennel. The keeping of dogs, cats or other household pets whether for sale, boarding, or breeding, on any lot, premises or contiguous lots under common ownership. Kennel shall also mean the keeping on or in any lot, group of commonly owned contiguous lots, or building, of 3 or more dogs, cats or other household pets, which are over the age of six months.

Loading Space. Is an off-street space on the same lot with a building or group of buildings, for the temporary parking of a commercial vehicle, while loading and unloading merchandise or materials.

Lot. Is a parcel of land occupied or to be occupied by a main building or a group of such buildings, or utilized for the principal use and uses accessory thereto together with such open spaces as are required under the provisions of this Resolution. Every lot shall abut upon and have permanent access to a public street and have a minimum frontage of forty (40) feet thereon. Ownership of more than 1 lot contiguous to or adjoining the principal lot, shall be considered as one lot for the purpose of computing square footage for accessory buildings and other uses stating per lot.

Lot Area. Is the total horizontal area within the lot lines of the lot.

Lot, Corner. A lot which has at least two contiguous sides, each abutting upon a street for its full length.

Lot, Interior. Is any lot other than a corner lot.

Lot, Through. Is any interior lot having frontages on two more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, each side of each lot adjacent to a street shall be considered frontage, and front yards shall be provided as required.

Lot Coverage. Is the part or percent of the lot occupied by buildings, including accessory buildings.

Lot Lines. The lines bounding a lot as defined herein:

A. Front Lot Lines: In the case of an interior lot, is that line separating said lot from the right-of-way side line of a street or roadway. In the case of a corner lot, or double frontage lot, is that line separating said lot from either right-of-way side line.

B. Rear Lot Lines: Is 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 front lot line, not less than ten (10) feet long, lying farthest from the front lot line, and wholly within the lot. In the case of a corner lot, the rear lot line is opposite the front lot line.

C. Side Lot Lines: Is 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.

Lot of Record. Is a parcel of lands, the dimensions of which are shown on a document or map on file with the County Recorder.

Lot Width. Is the horizontal distance between the side lot lines measured at the two points where the building setback line intersects the side lot lines.

Main Building. Is a building in which is conducted the principal use of the lot upon which it is situated.

Main Use. Is the principal use to which the premises are devoted and the principal purpose for which the premises exist.

Major Thoroughfares. Is an arterial street which is intended to serve as a large volume traffic-way and which has an existing or proposed right-of-way width of at least eighty feet (80 feet as shown in the official Thoroughfare Plan of Miami County).

Major Thoroughfare Plan. The official Thoroughfare Plan of the Village of Miami County, as adopted by the Planning Commission, of the major highways and streets on file in the office of the County Recorder, including all amendments and supplements subsequently adopted.

Master Plan. Is the Miami Comprehensive Plan (land use plan, development plan or other similar titled document), as approved by the Planning Commission, including graphic and written proposals indicating the general location for streets, parks, schools, public buildings, and all physical developments of the Village, and includes any unit or part of such plan and any amendment to such plan or parts thereof.

Mezzanine. Is an intermediate floor in any story occupying not more than two-thirds (2/3) of the floor area of such story.

Mobile Home. Is a detached single-family dwelling 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.

Motel. Is a series of attached, semi-detached, or detached rental units containing a bedroom, bathroom, and closet space. Units shall provide for overnight lodging, are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle. It may include all facilities specified under the definition of Hotel.

Non-Conforming Building. Is a building or portion thereof lawfully existing at the effective date of this Resolution or amendments thereto, that does not conform to the provisions of the Resolution in the district in which it is located.

Non-Conforming Use. Is a use which lawfully occupied a building or land at the effective date of this Resolution or amendments thereto, that does not conform to the use regulations of the district in which it is located.

Nude, Nudity or State of Nudity. A live person exhibiting: (1) specified anatomical areas, or (2) a state of dress which fails to opaquely and fully cover specified anatomical areas.

Nursery. Is defined as follows:

A. Wholesale: Is a space including accessory buildings or structures for the growing or storage of live trees, shrubs or plant materials not offered for retail sale on the premises, including products used for gardening or landscaping.

B. Retail: Is a space, including accessory building or structure or combination thereof, for the storage of live trees, shrubs, or plants used for gardening or landscaping.

Off Street Parking Lot. Is a facility providing vehicular parking spaces for more than two (2) vehicles including adequate drives and aisles for maneuvering and proper access for entrance and exit.

Open Space. That part of a lot, including courts or yards, which is open and unobstructed from its lowest level to the sky and which is accessible to all tenants living on the lot.

Open Space, Common. An area dedicated to the public, or commonly owned and/or available to all the residents of a development.

Parking Space. Is hereby determined to be a minimum area of two hundred (200) square feet. Said area shall be exclusive of drives, aisles, or entrances giving access thereto and shall be fully accessible for the storage or parking of permitted vehicles.

Planned Unit Development. Land under unified control which is 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 as 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 such areas, improvements, and facilities necessary for common use by the occupants of the development.

Planning Commission. Means the Planning Commission of Miami County, Ohio.

Pool, Swimming. A structure constructed or placed below ground or above ground which is designed to contain water in excess of twenty-four (24) inches in depth and is suitable or utilized for swimming or wading.

Public Utility. Is any person, firm or corporation, governmental department, board or commission duly authorized to furnish under federal, state, or local regulations to the public: gas, steam electricity, sewage disposal, telegraph, telephone, transportation or water.

Recreational Vehicle. Includes travel trailers, campers, motor homes, truck campers, boats, boat trailers, snowmobiles, wet bikes, etc.

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

Row House or Town House. A two (2) story row of three (3) or more attached one (1) family dwellings, each unit of which extends from the basement to the roof.

Sexually Oriented Business. Any business defined as follows:

A. **Adult Arcade.** An establishment where, for any form of consideration, one or more still or motion picture projectors, side 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.”

B. **Adult Bookstore, Adult Novelty Store or Adult Video Store.** A commercial establishment which has at least 50% of its stock-in-trade or derives at least 50% of revenues or devotes at least 50% of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:

1. Books, magazine, 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.”
2. 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 if the above definition is met.

C. **Adult Cabaret.** A nightclub, bar, restaurant, bottle club, juice bar or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) a person or 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 area” or by “specified sexual activities;” or, (c) films, motion pictures, video cassettes, digital video discs, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

D. **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 of description of “specified sexual activities” or “specified anatomical areas” and which advertises the availability of this sexually oriented 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.

E. 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 of description of “specified sexual activities” or “specified anatomical areas” are regularly shown for any form of consideration.

F. Adult Theater. A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features a person or 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” and which is not customarily open to the general public during such features because it excludes minors by reason of age.

G. 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 massage parlor 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 shoulder, nor by any other individual licensed by the state to perform massages.

H. Semi-nude Model Studio. Any place where a person or persons regularly appear 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 for other reasons. 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.

I. Sexual Encounter Establishment. A business or commercial establishment, that as one of its principal business purposes, offers for any form of consideration: (1) a place where two or more persons may congregate, associate, or consort for the purpose of “specified sexual activities” or the exposure of “specified anatomical areas;” or (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. A sexual encounter establishment 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.

J. Striptease Parlor/Escort Agency. A person or business association that furnishes, offers to furnish, or advertises to furnish, for hire, striptease performances, or the appearance of a person or persons in a state of nudity or semi-nudity for another person or persons.

Seed Dealer, Home. A portion of a residence located upon a farm from which the owner-operator, tenant, or manager of such farm sells farm crop seed, operated as and subject to the limitations of a home occupation, except that such farm crop seed and the equipment utilizing the same is not normally used for purely domestic or household purposes, and such seed may be stored in other buildings on such farm.

Sign. A name, identification, description, display or illustration which is affixed to, painted, or represented directly or indirectly upon a building, structure, parcel, or lot, and which directs attention to an object, product, place, activity, person, institution, organization or business.

Sign, Ground. A detached sign which is solely supported by one or more poles, uprights, or braces in or upon the ground.

Sign, Wall. A sign which is attached directly to the wall of a building and which extends nor more than twelve (12) inches from the wall.

Sign, Window. A sign either painted on or attached to the interior surface of a window.

Specified Anatomical Areas. Includes any of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, anus, or areolas or nipple of female breast; or
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities. Includes any of the following:

- A. The fondling or other intentional touching of human genitals, pubic region, anus, or female breast;
- B. Sex acts, normal or perverted, whether actual or simulated, including: vaginal intercourse, fellatio, cunnilingus, bestiality, anal intercourse, oral copulation, or sodomy;
- C. Masturbation, or the masturbation of another, whether actual or simulated;

D. Human genitals in a state of sexual stimulation, arousal or tumescence; or

E. Excretory functions as part of or in connection with any of the activities set forth in the above subsections (1) through (4).

Story. Is that part of a building, except a mezzanine as defined herein, 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 (6) feet above grade, such basement shall be considered a story.

Story, Half. Is an uppermost story lying under a sloping roof having an area of at least one hundred ninety (190) square feet with a clear height of seven feet six inches (7'6"). For the purposes of this Resolution, the useable floor area is only that area having at least four feet (4') clear height between floor and ceiling.

Street. Is a dedicated public thoroughfare or roadway which affords the principal means of access to abutting property.

Structure. Is anything constructed or erected, the use of which requires location on or in the ground, or attachment to something having location on or in the ground. However, for the purposes of this Resolution,

A. The following structures shall be deemed accessory to permitted uses and shall be exempted from provisions specified in Section 19.12 and 21.05 of this Resolution:

1. Basketball, tennis, or other sport courts.
2. Concrete patio slabs unless they are constructed or intended to be sheltered by an above-ground structure.
3. Decorative yard ornaments.
4. Dog and bird houses.
5. Driveways.
6. Fences.
7. Flag poles.
8. Flower planters.
9. Sidewalks.
10. Tents used for play purposes.
11. Yard lights.

12. Other uses, which in the opinion of the Enforcing officer, are similar to the above.

B. The following structures shall be deemed accessory to permitted uses and shall be exempt from provisions specified in Section 21.05 of this Resolution:

1. Back yard fireplaces or barbecue pits.
2. Children's play sets
3. Children's tree or play houses not exceeding sixty-four (64') feet in area.
4. Non-commercial television and radio dishes and discs.
5. Non-commercial television and amateur radio antenna towers.
6. Storage bins for wood.
7. Other uses, which in the opinion of the Enforcing officer, are similar to the above.

Temporary Mobile Homes. A mobile home when its intended use is of a temporary nature as interim living quarters until such time as construction or reconstruction of a detached one-family dwelling is completed

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

Trailer Court (Mobile Home Park). Any plot of ground upon which two or more mobile homes occupied for dwelling or sleeping purposes may be located.

Use. Is 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.

Variance. Is a modification of the literal provisions of the Zoning Resolution granted when strict enforcement of the Zoning Resolution would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

Vehicle. Any kind of carriage or conveyance; anything by means of which something else is transported.

Vehicle, Collectors. Any motor vehicle, agricultural tractor, traction engine or special interest having a fair market value or one hundred dollars or more, whether operable or not, that is owned, operated, collected, preserved, restored, maintained, or used essentially as a collector's item, leisure pursuit, or investment, but not as the owner's

principal means of transportation, and that displays current, valid collector's vehicle license tags where applicable.

Winery. A building located upon a farm, which building is used for the sale of and production of wine made from grapes grown in a vineyard located upon such farm. In addition, there shall be permitted:

A. The sale of cheese, crackers, bread and soft drinks produced elsewhere but consumed on the premises and sold in connection with a wine tasting room located in such building.

B. For each acre of vineyard which has been planted and cultivated on such farm, for at least three (3) growing seasons, there shall be permitted:

1. The use, for blending purposes, of grapes or grape juice, not grown in such vineyard, not to exceed four and one-half (4-1/2) tons of grapes or its equivalent in grape juice, for each of such acre.
2. The use of grapes or grape juice, not grown in such vineyard, to replace the crop in the extent of a crop shortage due to natural causes such as weather, lack of plant development and disease, in such vineyard, provided that the actual grape crop grown in such vineyard plus the grape crop and/or grape juice not grown in such vineyard, shall not together exceed four and one-half (4-1/2) tons of grapes, or the equivalent thereof in grape juice, for each such acre.

Yards. The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Resolution as defined herein:

A. Front Yard: Is an open space extending the 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.

B. Rear Yard: Is 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.

C. Side Yard: Is 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 main building.