

AGENDA ITEM 4B

**Public Hearing for Zoning Ordinance Text
Amendments – Sections 2.02 (Definitions: A) and
5.10 (C-1 Shopping Center Commercial District) –
City of La Vista**

Memorandum



To: Planning Commission
From: Christopher Solberg, City Planner
Date: 8/9/2018
Re: Public Hearing regarding text amendments to the Zoning Ordinance – Sections 2.02 (Definitions - A) and 5.10 (C-1 Shopping Center Commercial District).

“Adult Day Care Services” is a land use category that has grown in demand over the years but has not been identified specifically within the City’s Zoning Ordinance. Staff has been contacted regarding a potential project which would have a need for this use, and staff concluded that adult day care services should be assigned to a zoning district as a permitted use.

The proposed changes to the Zoning Ordinance provide for a definition of “Adult Day Care Services” and to allow it as a Permitted Use in the C-1 Shopping Center Commercial District.

A redline copy of the proposed amendments is attached.

STAFF RECOMMENDATION:

Staff recommends approval of the proposed amendments.

Section 2.02 – Definitions: A

ABANDONMENT shall mean to cease or discontinue a use or activity without intent to resume as distinguished from short term interruptions such as during periods of remodeling, maintenance, or normal periods of vacation or seasonal closure.

ABUT, ABUTTING shall mean to border on, being contiguous with or have property or district lines in common, including property separated by an alley.

ACCESS OR ACCESS WAY shall mean the place, means, or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this Regulation.

ACCESSORY BUILDING (see Building, accessory)

ACCESSORY STRUCTURE shall mean a detached subordinate structure located on the same lot with the principal structure, the use of which is incidental and accessory to that of the principal structure.

ACCESSORY USE shall mean a use incidental, related, appropriate and clearly subordinate to the main use of the lot or building, which accessory use does not alter the principal use of the subject lot or affect other properties in the district.

ADJACENT shall mean near, close, or abutting; for example, an Industrial District across the street or highway from a Residential District shall be considered as "Adjacent".

ADULT BOOKSTORE shall mean any premises from which minors are excluded and in which the retail sale of books, magazines, newspapers, movie films, devices, slides, or other photographic or written reproductions is conducted as a principal use of the premises, if such services are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas." (**Ordinance No. 1083, 2-17-09**)

ADULT COMPANIONSHIP ESTABLISHMENT shall mean an establishment which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT DAY CARE SERVICES shall mean Non-resident day care, regulated as required by the State of Nebraska, for four or more unrelated adults.

ADULT ENTERTAINMENT ESTABLISHMENT shall mean any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas," including, but without limitation, adult bookstores, adult motion picture theaters, adult saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, adult internet industries, and adult massage parlor / health club. (**Ordinance No. 1083, 2-17-09**)

ADULT HOTEL OR MOTEL shall mean a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

ADULT INTERNET INDUSTRIES shall mean any business within an enclosed building or outdoors that is producing materials for distribution on the Internet, including live video streaming, tape delayed video broadcasts, live simulcasting, still photographs, audio broadcasts, animated video or hard copy, wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." Said uses are intended for viewing by other parties while on-line and for a specified charge. (**Ordinance No. 891, 2-04-03**); (**Ordinance No. 1083, 2-17-09**)

ADULT MASSAGE PARLOR, HEALTH CLUB shall mean a massage parlor or health club, which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT MINI-MOTION PICTURE THEATER shall mean a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT MOTION PICTURE ARCADE shall mean any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

ADULT MOTION PICTURE THEATERS shall mean a business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT NOVELTY BUSINESS shall mean a business which has as a principal activity of the sale of devices which simulate human genitals or devices which are designed for sexual stimulation.

ADULT SAUNA shall mean a sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADVERTISING STRUCTURE shall mean any notice or advertisement, pictorial or otherwise, and all such structures used as an outdoor display, regardless of size and shape, for the purposes of making anything known, the origin or place of sale of which is not on the property with such Advertising Structure.

AGRICULTURAL AND FARM BUILDINGS AND STRUCTURES shall mean any building or structure which is necessary or incidental to the normal conduct of a farm including but not limited to residence of the operator, residence of hired men, barns, buildings and sheds for housing livestock, poultry and farm machinery, buildings for the storage or shelter of grain, hay and other crops, silos, windmills and water storage tanks.

AGRICULTURE shall mean the use of land for agricultural purposes, of obtaining a profit by raising, harvesting, and selling crops or by the feeding, breeding, management, and sale of, or the produce of, livestock, poultry, fur-bearing animals, or honeybees, or for dairying and the sale of dairy products, or any other agricultural or horticultural use. Agricultural use shall not be construed to include any parcel of land of less than twenty acres or any non-agricultural commercial or industrial development.

AIRPORT shall mean any area which is used or is intended to be used for the taking off and landing of aircraft, including helicopters, and any appurtenant areas which are used or are intended to be used for airport buildings or facilities, including open spaces, taxiways, and tie-down areas.

ALLEY shall mean a minor public service street or public thoroughfare 20 feet or less in width, through a block of lots primarily for vehicular service access to the rear or side of properties otherwise abutting on another street. Buildings facing an alley shall not be construed as satisfying the requirements of this regulation related to frontage on a dedicated street.

ALTERATION shall mean any change, addition or modification in construction or occupancy of an existing structure.

AMENDMENT shall mean a change in the wording, context, or substance of this Regulation, an addition or deletion or a change in the district boundaries or classifications upon the zoning map.

AMUSEMENT ARCADE shall mean a building or a part of a building where five or more pinball machines, video games, or other similar player-orientated amusement devices are available and are maintained for use.

ANIMAL HOSPITAL (see Hospital, animal)

ANIMAL SPECIALTY SERVICES shall refer to establishments primarily engaged in pet grooming, clipping, bathing, daycare, training courses, obedience classes, and similar services. Does not include veterinary services, but may include overnight boarding of animals, excluding exotic animals and farm animals such as horses, cattle, goats, sheep and poultry. (Ordinance No. 1251, 6-16-15)

ANTENNA shall mean any attached or external system of wires, poles, rods, reflecting disks or similar devices used for the transmission or reception of electromagnetic waves. (Also, see Satellite Dish Antenna.)

ANTIQUE STORE shall mean a place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work of art, piece of furniture, decorative object, or the like, belonging to the past, at least 30 years old. (Ordinance No. 1083, 2-17-09)

APARTMENT shall mean a room or a suite of rooms within an apartment house or multiple family dwelling arranged, intended or designed for a place of residence of a single family or group of individuals living together. (Also, see Dwelling Unit)

APPAREL SHOP shall mean retail stores where clothing is sold, such as department stores, shoe stores, and dress, hosiery, and millinery shops. (Ordinance No. 1083, 2-17-09)

APPLIANCE STORE shall refer to retail shops selling equipment used for domestic functions. A store may include heavy appliances such as refrigerators, washers, dryers, ovens, dishwashers, or other similar domestic equipment. The store may also include smaller appliances such as televisions, computers, radios, microwaves, and other similar domestic equipment. (Ordinance No. 1083, 2-17-09)

APPEARANCE shall mean the outward aspect visible to the public.

APPROPRIATE shall mean the sympathetic, or fitting, to the context of the site and the whole community.

APPURTENANCES shall mean the visible, functional objects accessory to and part of buildings.

ARCHITECTURAL CANOPY SIGN (see Sign, architectural canopy)

ARCHITECTURAL CHARACTER (see Architectural Concept)

ARCHITECTURAL CONCEPT shall mean the basic aesthetic idea of a building, or group of buildings or structures, including the site and landscape development. (Ordinance No. 1083, 2-17-09)

ARCHITECTURAL FEATURE shall mean a prominent or significant part or element of a building, structure, or site. Architectural features may include special lines, massing, and/or texture.

LINES shall mean visual elements of the building, either within the façade or on the building edge, which are in a linear form either horizontally or vertically and may be composed of masonry, glass, or other related materials.

MASS shall pertain to the volume or bulk of a building or structure.

TEXTURE shall mean the quality of a surface, ranging from mirror finish, smooth, to coarse and unfinished.

ARCHITECTURAL STYLE shall mean the characteristic form and detail, as of buildings of a particular historic period.

ART GALLERY shall mean an establishment engaged in the sale, loan, or display of art books, paintings, sculpture, or other works of art. This clarification does not include libraries, museums, or non-commercial art galleries. (Ordinance No. 1083, 2-17-09)

ARTIST LIVE-WORK SPACE shall mean dwelling unit that is also used for work purposes, provided that the 'work' component is restricted to the uses of artist's workshop, studio, or other similar uses and is located on the street level and constructed as separate units under a condominium regime or as a single unit. The 'live' component may be located on the street level (behind the work component) or any other level of the building. Live-work unit is distinguished from a home occupation otherwise defined by this ordinance in that the work use is not required to be incidental to the dwelling unit, non-resident employees may be present on the premises and customers may be served on site.

ASSISTED LIVING FACILITIES shall mean a type of long-term care facility for elderly or disabled people needing assistance with daily activities such as eating, bathing, dressing, laundry, housekeeping, and medicating. These facilities typically have a central cafeteria and nursing staff on call.

ATTACHED shall mean attached to real estate in such a way as to require dismantling, cutting away, unbolting from a permanent foundation or structural change in such structure in order to relocate it to another site. (Ordinance No. 1083, 2-17-09)

AUCTION SALES shall mean a building or structure or lands used for the storage of goods, materials or livestock which are to be sold on the premises by public auction and for the sale of the said goods, materials or livestock by public auction and on an occasional basis. Auction sales also includes motor vehicle wholesale sales, including trailers, trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. (Ordinance No. 891, 2-04-03)

AUTOMATED TELLER MACHINE (ATM) shall mean an automated device that performs banking or financial functions at a location remote from the controlling financial institution. (Ordinance No. 1083, 2-17-09)

AUTOMOBILE SALES shall mean the storage and display for sale or lease of more than two motor vehicles or any type of trailer (provided the trailer is unoccupied) at any one time and/or a total of ten or more sold or leased during the course of a calendar year, and where repair or body work is incidental to the operation of the new or used vehicle sales or leasing. Automobile sales includes all motor vehicle retail sales and leases including trucks, vans, recreational vehicles, boats or motorcycles or other similar motorized transportation vehicles. (Also, see Auction Sales) (Ordinance No. 891, 2-04-03)

AUTOMOTIVE REPAIR SERVICES shall refer to any building, structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work; oil change and lubrication; major painting services; collision services; and tire service and sales. (Ordinance No. 1053, 1-15-08)

AUTOMOTIVE SERVICES shall refer to any building, structure, improvements or land used for the general maintenance of automobiles, motorcycles, trucks, trailers or similar vehicles including but not limited to washing, cleaning, and/or detailing; installation of car stereos, accessories, or other light equipment; and minor painting. (Ordinance No. 1053, 1-15-08)

Section 5.10 C-1 Shopping Center Commercial.

5.10.1 Intent: *The purpose and intent of the City of La Vista in establishing the C-1 Shopping Center Commercial District is to provide convenient local retail shopping and service areas within the city for all residents and to provide for the development of new local commercial districts where so designated. This includes uses such as retail stores, banks, theaters, business offices, restaurants, and taverns. (Ordinance No. 1253, 6-15-15)*

This district prohibits all exterior storage by a primary use unless a separate Conditional Use Permit is requested for the use and granted by the City.

5.10.2 Permitted uses:

5.10.02.01 *Medical/dental offices and business services including: attorneys, banks, insurance, real estate offices, postal stations, credit services, security brokers, dealers and exchange, title abstracting, finance services and investment services; but not including uses defined in Adult Establishment. (Ordinance No. 950, 3-1-05)*

5.10.02.02 Child care center.

5.10.02.03 Dance studio, not including uses defined in Adult Establishment.

5.10.02.04 Meeting hall, not including uses defined in Adult Establishment.

5.10.02.05 Museum, art gallery.

5.10.02.06 Retail business or service establishment supplying commodities or performing services, such as, or in compatibility with and including the following:

1. Apparel shop.
2. Appliance store.
3. Antique store.
4. Automobile parts and supply store.
5. Bakery shop (retail).
6. Barber and Beauty shop.
7. Bicycle shop.
8. Book store, not including uses defined in Adult Establishment.
9. Brew-on premises store.
10. Camera store.
11. Communication services.
12. Computer store.
13. Confectionery.
14. Dairy products sales.
15. Drug store.
16. Dry cleaning and laundry pickup.
17. Exercise, fitness and tanning spa, not including uses defined in Adult Establishment.
18. Food Sales (Limited).
19. Food Sales (General).
20. Floral shop.
21. Mortuary.
22. Furniture store or showroom.
23. Gift and curio shop.
24. Gunsmith.
25. Hardware store.
26. Hobby, craft, toy store.
27. Jewelry store.
28. Liquor store.
29. Locksmith.
30. Meat market, retail.
31. Music retail store.
32. Newsstands, not including uses defined in Adult Establishment.
33. Paint store.
34. Photographer.
35. Picture framing shop.
36. Reservation center.
37. Restaurants, cafes and fast food establishments.

38. Second hand stores.
39. Shoe store.
40. Sporting goods.
41. Stamp and coin stores.
42. Tailors and dressmakers.
43. Tanning salon.
44. Travel agencies.
45. Video store, not including uses defined in Adult Establishment.
46. Social club and fraternal organizations, not including uses defined in Adult Establishment.
47. Telephone exchange.
48. Telephone answering service.
49. Public overhead and underground local distribution utilities.
50. Publicly owned and operated facilities. (**Ordinance No. 950,3-1-05**)
- ~~50.~~51. Adult Day Care Services

5.10.3 Permitted Conditional Uses:

- 5.10.03.01 Recreational establishments.
- 5.10.03.02 Department Store.
- 5.10.03.03 Variety store, not including uses defined in Adult Establishment.
- 5.10.03.04 Amusement arcades.
- 5.10.03.05 Brew Pubs.
- 5.10.03.06 Coffee Kiosks.
- 5.10.03.07 Micro breweries when in conjunction with a restaurant.
- 5.10.03.08 Automated Teller Machines when not within the interior of a primary use.
- 5.10.03.09 Theater, indoor, not including uses defined in Adult Establishment.
- 5.10.03.10 Bowling center.
- 5.10.03.11 Business or trade school.
- 5.10.03.12 Commercial greenhouse.
- 5.10.03.13 Mail order services.
- 5.10.03.14 Pinball or video games business.
- 5.10.03.15 Tavern and cocktail lounge, not including uses defined in Adult Establishment.
- 5.10.03.16 Totally enclosed, automated and conveyor-style car washes.
- 5.10.03.17 Convenience store with limited fuel sales.
- 5.10.03.18 Garden supply and retail garden center.
- 5.10.03.19 Outdoor storage in conjunction with another primary use.
- 5.10.03.20 Pet Health Services, provided the following:
 1. Said use is totally enclosed within a building.
 2. Said services shall be provided for dogs, cats, birds, fish, and similar small animals customarily used as household pets.
 3. Typical uses include animal veterinary clinics with overnight boarding, only if medically necessary, not exceeding 48 hours.
 4. Grooming shall only be associated with medical appointment.
 5. This excludes uses for livestock and other large animals and uses for general grooming, dog bathing and clipping salons.
- 5.10.03.21 Self-storage units, provided:
 1. Storage unit is an extension of an existing self-storage unit or facility.
 2. The topography and access of the property will limit the development of identified commercial uses.
 3. No outdoor storage.
 4. Unit or facility provides perimeter fencing in accordance with this ordinance and a vegetative screen of at least six (6) feet in height and twenty (20) feet in width to any adjacent residential zoned property.
 5. Lighting on site shall not be directed at or allowed to shine on any residential zoned property.
 6. Applications for self-storage units under the terms of this Section shall be accompanied by evidence concerning the feasibility of the proposed request and its affect on surrounding property and shall include a site plan defining the areas to be developed with buildings and/or structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of

walls and fences, the location and type of landscaping, and the location, size and number of signs.

7. Such use shall not be located adjacent to the intersection of two or more arterial streets.
8. The property shall have at least one boundary line that is adjacent to other property that is zoned I-1 Light Industrial or I-2 Heavy Industrial.
9. Such use shall not include storage of explosives or hazardous materials and shall be in accordance with the intent, purpose and spirit of this ordinance and the Comprehensive Development Plan of La Vista, Nebraska.

(Ordinance No. 954, 7-5-05)

5.10.03.22 Event center, provided:

1. A conditional use permit would need to include specifics to the design and operation of the proposed center and individual activities, including, but not limited to, a detailed site plan and floor plan, a complete list of appointed or designated managers for each event at the center, and a complete description and duration of each event submitted to the city prior to each event.
2. Lighting on site shall not be directed at or allowed to shine on any residential zoned property.
3. Buildings utilized as event centers shall be accompanied by evidence concerning the feasibility of the proposed request and its affect on surrounding property and shall include a site plan defining the areas to be developed with buildings and/or structures, the areas to be developed for parking, driveways and points of ingress and egress, the location and height of walls and fences, the location and type of landscaping, and the location, size and number of signs.

4. All signage shall comply with the City's established regulations.

(Ordinance No. 955, 7-19-05)

5.10.03.23 Animal Specialty Services with or without overnight boarding of animals and outdoor exercise areas. **(Ordinance No. 1253, 6-16-15)**

5.10.03.24 Pet Shop. **(Ordinance No. 1253, 6-16-15)**

5.10.4 Permitted Accessory Uses:

- 5.10.04.01 Buildings and uses customarily incidental to the permitted uses.
- 5.10.04.02 Parking as allowed in Section 7.05 through 7.09.
- 5.10.04.03 Signs allowed in Section 7.01 through 7.04.
- 5.10.04.04 Landscaping as required by Section 7.17.

5.10.5 Permitted Temporary Uses

Temporary Uses require a permit from the City of La Vista and shall be valid only for a specific amount of time as indicated on said permit. *All platted lots or tracts of land may have a maximum number of four (4) temporary uses per calendar year. Such uses shall not last more than two (2) weeks per use, except as provided for hereafter.* **(Ordinance No. 998, 7-18-06)**

- 5.10.05.01 Temporary greenhouses.
- 5.10.05.02 Temporary structures as needed for sidewalk and other outdoor sales events.
- 5.10.05.03 Fireworks stands, provided the criteria are met as established by the City through separate Ordinances.
- 5.10.05.04 Buildings and uses incidental to construction work *are permitted to remain until completion or abandonment of the construction work, at which time they shall be removed.* **(Ordinance No. 998, 7-18-06)**
- 5.10.05.05 Temporary structure for festivals or commercial events.

5.10.6 Height and Lot Requirements:

5.10.06.01 The height and minimum lot requirements shall be as follows:

Uses	Lot Area (SF)	Lot Width	Front Yard	Side Yard	Rear Yard	Max. Height	Max. Lot Coverage
Permitted Uses	-	150'	25' ¹	10'	25'	45'	60%
Permitted Conditional Uses	-	150'	25' ¹	10'	25'	45'	60%

^{1.} 25' front yard setback required only when no parking is present in the front yard. If parking is located in the front yard then front yard setback is a minimum of fifty (50) feet.

5.10.7 Use Limitations:

- 5.10.07.01 When adjacent to residentially zoned land, no parking, drives or signs shall be allowed in any required yard within fifteen (15) feet of such district.

- 5.10.07.02 Furthermore, permanent screening shall be provided in this area in order to minimize impacts on residentially zoned property, as per Section 7.17.04.
- 5.10.07.03 Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.