

RID (Rule Interpretation Decision)

(Use additional sheets as necessary)

Type of RID		Requested Response Time	DSD Assigned RID # 118
Customer RID	<input type="checkbox"/>	24 hours	<input type="checkbox"/>
Internal Staff RID	<input type="checkbox"/>	10 working days	<input type="checkbox"/>
		As time available	<input type="checkbox"/>

1. Project Name: Nightmare on Grayson (former name pending approval of new location)

2. Project Number:

(Plat #, Zoning Case #, etc.)

3. Project Street Address: 3363 E. Commerce

(If not available nearest intersection of two public streets)

4. Applicant Name: Patrick W. Christensen

5. Applicant Address: 1800 W. Commerce, Suite 1; San Antonio, TX 78207

6. Applicant Telephone #: 210-320-2540

7. Applicant e-mail Address: pwc@christensenpc.com

8. Rule in Question: Section 35-A101 (b) *Definitions* and Table 311-2 of the Unified Development Code

(Section and/or policy of UDC, Sign Code, etc)

9. Applicant's Position:

(Including date position presented and name of city staff point of contact)

The typical Haunted House Attraction operates during the Halloween season, and charges a fee for attendance into a "maze" of scenes and performances by actors that are intended to scare or frighten the attendees. The City's Unified Development Code ("UDC") does not currently clarify this use and it is not listed in the UDC zoning matrices. It is this Firm's opinion that this use should be clarified since although it is a brief seasonal use, usually six weeks per year, the use can be fairly intense in terms of traffic generation and long lines of potential attendees on City sidewalks.

The most similar use in the UDC is the "Laser Hide and Seek Games – Indoors" use in the UDC which is allowed in the C-2, C-3, and D zoning districts. A distinction can be made between the Haunted House Attraction and what is normally called Laser Tag, in that Laser Tag is usually conducted by appointment for teams and parties. The typical Haunted House Attraction is normally conducted on a first come first served basis during its hours of operation. Another similar use could be a "Theater – Indoor" use in the UDC. However, a movie theater has scheduled showings and operates year round. The proposed definition below is intended to clarify the intent that the Haunted House

(3) Interpretation - Materially Similar Uses. *The director of development services shall make a determination if a use not mentioned can reasonably be interpreted to fit into a use category where similar uses are described. Interpretations may be ratified by the city council upon recommendation by the zoning commission at a regularly scheduled meeting. It is the intent of this article to group similar or compatible land uses into specific zoning districts, either as permitted uses or as uses authorized by a specific use permit. Uses not listed as a permitted or specific use permit shall be presumed to be prohibited from the applicable zoning district. In the event that a particular use is not listed in the Use Matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the director of development services shall determine whether a materially similar use exists in this section. Should the director of development services determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the director's decision shall be recorded in writing. Should the director of planning and development services determine that a materially similar use does not exist, the matter may be referred to the zoning commission for consideration for amendment to this chapter to establish a specific listing for the use in question. Unless an appeal is timely filed pursuant to section 35-481 of this chapter, a decision of the director of development services pursuant to this section is deemed to be valid. If, when seeking periodic ratification of interpretations, the director's interpretation is reversed, then decisions made in reliance on the director's interpretation shall be deemed to be nonconforming uses.*

(4) Rules of Construction. *The director may determine that a use is materially similar if:*

A. The use is listed as within the same structure or function classification as the use specifically enumerated in the Use Matrix, as determined by the Land- Based Classification Standards ("LBCS") of the American Planning Association. The director shall refer to the following documents in making this determination, which documents are hereby incorporated by this reference and which shall be maintained on file in the office of the department of planning and development services: American Planning Association, Land-Based Classification Standards, LBCS Structure Dimension with Detail Descriptions (September 13, 1999); American Planning Association, Land-Based Classification Standards, LBCS Function Dimension with Detail Descriptions (September 13, 1999); American Planning Association, Land-Based Classification Standards, LBCS Tables (September 13, 1999); and American Planning Association, Land Based Classification Standards (April 18, 1999). The use shall be considered materially similar if it falls within the same LBCS classification (subject to subsection (5), below), and meets the requirements of subsection C., below.

B. If the use cannot be located within one of the LBCS classifications pursuant to subsection A., above, the director shall refer to the North American Industry Classification Manual (Executive Office of the President, Office of Management and Budget, 1997)("NAICS"). The use shall be considered materially similar if it falls within the same industry classification of the NAICS (subject to subsection (5), below), and meets the requirements of subsection C., below.

C. The proposed use shall not generate trips exceeding other uses proposed in the zoning district by more than ten (10) percent, as determined by the Institute of Transportation Engineers, Trip Generation (5th ed., 1991)(the "ITE Manual"), which document is hereby incorporated by this reference. If the trip generation is not listed in the ITE Manual, the use shall be considered materially similar.

(5) Construction of LBCS and NAICS. In order to assist in interpretation of the Use Matrix, the LBCS and NAICS numbers precede each use in the Use Matrix.

Based on the clear direction from the UDC to consult the LBCS function codes, the following entries were found:

***5100 Performing arts or supporting establishment.** Establishments in this category produce or organize and promote live presentations. The classification recognizes the following basic processes: producing events; organizing, managing, and promoting events; managing and representing entertainers; and providing the artistic, creative and technical skills for the production of these live events. Although nightclubs may offer live entertainment, they are excluded from this category. Use the appropriate food, drink, or recreational category for nightclubs.*

***5110 Theater, dance, or music establishment.** This subcategory comprises establishments producing live presentations by actors and actresses, singers, dancers, musicians, and other performing artists. Establishments include: companies, groups, or theaters that produce theatrical presentations and dance (ballet, musicals, operas, plays, etc.); dinner theaters that produce theatrical productions and provide food and beverage for consumption on the premises; and groups or freelance artists producing live musical entertainment. Theater/dance groups or companies may or may not operate their own theater or other facility for staging their shows. Musical groups and artists may perform in front of a live audience or in a studio, and may or may not operate their own facilities for staging their shows.*

Staff finds the "Haunted House Attraction" use to be a large-scale indoor amusement use which would most appropriately be classified under LBCS Function 5110 Theater, Dance, or music establishment.

Although some indoor entertainment uses with the same LBCS classification code are permitted in the “C-2” Commercial District, haunted houses are likely to generate significant amounts of vehicle traffic as well as foot traffic and outdoor queuing that would be better suited in the higher-intensity zoning districts. Additionally, Haunted House Attractions require a large space in order to adequately operate their theatrical operations, such as warehouses. Such spaces could be scarce; therefore, additional zoning categories are necessary, such as “L” Light Industrial District, and “I-1” General Industrial.

Date: 1/28/2013 **Contact:** Tony Felts **Contact Telephone #:** 210-207-8214

11. Staff Position:

By including haunted house uses as a permitted use within the City’s established zoning regulations, venue proprietors will have assurance of the ability to have the use year after year when located within appropriate zoning districts. Such uses will be subject to all conventional zoning district development standards and parking requirements. Additionally, the temporary use permit will remain a viable option for proprietors operating seasonal haunted house attractions.

Based on the LBCS function code and on past precedents in determining the appropriate locations of such land uses, the following uses shall be the basis for future permitted use determinations:

	PERMITTED USE	O-1 & O-1.5	O-2	NC	C-1	C-2	C-3	D	L	I-1	I-2	ERZD	LBCS Function
<u>Amusement</u>	<u>Haunted House Attraction (Indoor)</u>						<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>5110</u>
<u>Amusement</u>	<u>Haunted House Attraction (Outdoor)</u>						<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>		<u>P</u>	<u>5110</u>

The following definition shall be used to support the use in the matrix above:

Haunted House Attraction: Any indoor permanent or temporary building, structure or facility, or portion thereof, which provides walkways or any other system that transports passengers through a facility or course so arranged where the public is invited to view, be entertained, scared or amused by simulated creations of sound, theatrical displays or distractions, or sight and feeling of a ghoulish, ghostly, spectral, imaginary and haunting nature.

Haunted House Attraction, Outdoor: Any outdoor amusement which provides walkways or any other system that transports passengers through a facility or course;

or a conveyance such as a bus or trailer (similar, but not limited to a hayride) so arranged where the public is invited to view, be entertained, scared or amused by simulated creations of sound, theatrical displays or distractions, or sight and feeling of a ghoulish, ghostly, spectral, imaginary and haunting nature. Examples of this type of use include, but are not limited to, a cornfield maze or a hayride.

Lastly, Haunted House Attractions, both indoor and outdoor, may still be permitted under Section 35-391 of the UDC involving Temporary Uses if the use is seasonal or transitory, and all other requirements of applicable city code are met.

Date: 1/28/2013 **Contact:** Tony Felts **Contact Telephone #:** 210-207-8214

12. Departmental Policy or Action:

(Including date of presentation of policy or action to the applicant, the effective date of the policy or action, schedule for pursuing an amendment to the code if required and signature of the Director)

Date of policy/action:



Roderick Sanchez, AICP, C.B.O
Director

Effective Date of policy/action:

1-30-13

Date