

Chapter 2 Definitions

SECTION 2.1 RULES APPLYING TO THE TEXT

For the purposes of this Ordinance, certain rules of construction apply to the Text, as follows:

- a. Words used in the present tense include the future tense, and the singular includes the plural, unless the context clearly indicated the contrary.
- b. The word “person” includes a corporation or firm as well as an individual.
- c. The word “lot” includes the word “plot”, “tract”, or “parcel”.
- d. The term “shall” is always mandatory and not discretionary; the word “may” is permissive.
- e. The term “used” or “occupied” as applied to any land or structure shall be construed to include the words “intended, arranged or designed to be used or occupied”.
- f. Any word or term not herein defined shall be used with a meaning of common standard use.

SECTION 2.2 DEFINITIONS

ABUT. To physically touch or border upon; to share a common property line.

ACCESSORY STRUCTURE. A structure attached or detached from a principal building on the same lot and customarily incidental to and subordinate to the principal building or use.

ACCESSORY USE. Any accessory use includes a building or structure and is a use clearly incidental to, customarily found in connection with, and located on the same lot as the principle use to which it is related.

ADULT CABARET. A building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibition of specific sexual activities or specified anatomical areas for observation by patron therein.

ADULT MEDIA. Magazines, books, slides, digital media or other devices used to record computer images, or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to hard-core material.

ADULT MEDIA STORE. An establishment that rents and/or sells media, and that meets any of the following three tests:

- a. 40 percent or more of the gross public floor area is devoted to adult media.
- b. 40 percent or more of the stock in trade consists of adult media.
- c. It advertises or holds itself out in any form as “XXX,” “adult,” “sex,” or otherwise as a sexually oriented business other than adult media store, adult motion picture theater or adult cabaret.

ADULT MOTION PICTURE THEATER. An establishment emphasizing or predominately showing sexually oriented movies.

ALLEY. Any dedicated public way other than a street which provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

ANIMAL, DOMESTIC. Any animal normally and customarily kept by a domestic household for pleasure and companionship. Examples of domestic animals include domestic breeds of dogs, cats and animals confined to cages throughout their lifetime. A domestic animal excludes exotic and farm animals as defined by this ordinance.

ANIMAL, FARM. Any animal customarily found in farming operations such as but not limited to all breeds of horses, cows, goats, pheasants, chickens, ducks, geese, sheep, swine (as per City ordinance #1519, Chapter 3) or any other type of poultry or fowl. A farm animal shall also include all animals classified as livestock by the State of Michigan. A farm animal shall not include fish.

ANIMAL HOSPITAL. A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Use as a kennel shall be limited to short-time boarding and shall be only incidental to such hospital use.

ANIMAL, WILD OR EXOTIC. Any of the following class or classes of animals; all marsupials (such as kangaroos and opossums); all non-human primates (such as gorillas and monkeys); all feline, except the domestic cat; all canine, except the domestic dog; all viverrine (such as mongooses and civets); all musteline (such as minks, weasels, otters and badgers but excluding a domesticated ferret); all ursine (bears); all ungulate artiodactyla and perissodactyla, except goats, sheep, pigs and cattle (such as deer, camels, hippopotamuses and elephants); all hyaena all pinniped (such as seals and walruses); all venomous snakes and all snakes of the families Boidae and Pythonidae; all venomous lizards; all ratite birds (such as ostriches); all diurnal and nocturnal raptorial birds (such as eagles, hawks and owls); all edentates (such as anteaters, sloths and armadillos); all bats; all crocodilian (such as alligators and crocodiles); and all venomous arachnids and spiders (such as tarantulas, scorpions and mites); all turtles in the families Chelydridae, Dermochelyidae, and Cheloniidae; wild or non-domesticated animals, whether or not raised or kept in captivity, and includes, but is not limited to, wolf, bobcat or mountain lion, fox, cougar, skunk, and all birds, the keeping of which is prohibited in the Migratory Birds Convention Act, 1994, c.22, and regulations thereto, and all animals, the keeping of which is prohibited in the Fish and Wildlife Conservation Act, 1997, c.41, and regulations.

AUTOMOBILE CAR WASH. An establishment being housed in a building or portion thereof, together with the necessary mechanical equipment used for washing automobiles.

AUTOMOBILE OR VEHICLE SALES AREA. An area used for the display, sales and rental of new and used motor vehicles, boats, trailers, farm equipment, construction equipment or mobile homes all in operable condition.

AUTOMOBILE REPAIR SHOP. An establishment being housed in a building or portion thereof, together with the necessary equipment used for general repair of automobiles, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service and painting or undercoating of automobiles.

AUTOMOBILE SERVICE STATION. An establishment being housed in a building or portion thereof, together with the necessary equipment used for the direct retail sale of gasoline or any other engine fuel, kerosene, or motor oil and lubricants or grease and including the sale of minor accessories, and the servicing of and minor repair of automobiles.

BANK. A building designed to perform one or more services, including, but not limited to, the safeguarding of money and other valuables, the lending of money, the executing of bills of exchange such as checks, drafts and money orders, the issuance of notes, and the receipts of funds. The term "bank" includes, but is not limited to, banks, savings and loan operations, and credit unions.

BAR. A structure or part of a structure used primarily for the sale or dispensing of alcoholic beverages by the drink.

BASEMENT. A story of a building having part not more than one-half (1/2) of its height above finished grade. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is more than five (5') feet or if used for business or dwelling purposes.

BERM. An earthen buffer that obscures sight, traffic and sound.

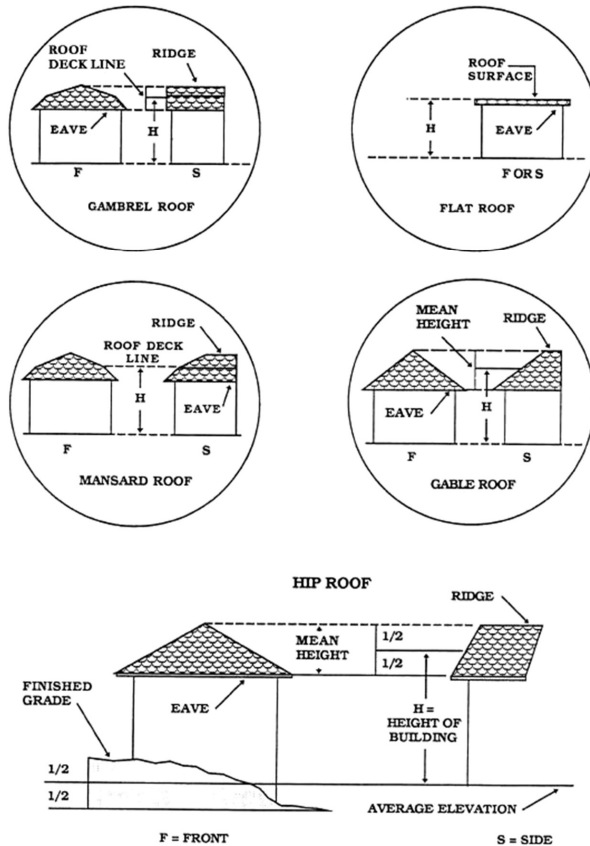
BODY SHOP. See AUTOMOBILE/VEHICLE REPAIR.

BUFFER. A buffer may be open spaces, landscaped areas, fences, walls, berms and/or combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights or other nuisances. Types of buffers required are regulated separately in this Ordinance.

BUILDING. Any structure having a roof supported by columns or by walls and intended for the shelter, housing, or enclosure of persons, animals, or property. This shall include tents and trailer coaches.

BUILDING, HEIGHT OF. The vertical distance measured from the mean elevation of the finished grade line of the ground about the front of the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs; and to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

BUILDING HEIGHT



BUILDING, FRONT LINE OF. The line that coincides with the face of the building nearest the front line of the lot. This face includes sun parlors and enclosed porches but does not include steps. Said line shall be parallel to the front lot line and measure as a straight line between the intersection points with the side yard.

BUILDING LINES. A line defining the minimum front, side or rear yard requirements outside of which no building or structure may be located.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which it is located.

CARPORT. A temporary or permanent roofed structure, open on at least one side designed for occupancy by a private passenger vehicle.

CEMETERY. Any publicly or privately owned place for the interment of human remains.

CLINIC. An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists or similar professionals.

CLUB. An organization catering exclusively to members and their guests, or premises and buildings for recreational, artistic, political, or social purposes, which are not conducted primarily for gain and which do not provide merchandise, vending, or commercial activities; except as required incidentally for the membership and purpose of such club.

COMMERCIAL. See RECREATIONAL USE, COMMERCIAL.

COMMON DRIVE. A driveway used by two residences or two or more commercial or industrial uses.

COMMON LAND. A parcel or parcels of land together with the improvements thereon, the use, maintenance, and enjoyment of which are intended to be shared by the owners and occupants of the individual building units in a planned unit development.

CONDOMINIUM ACT. Act 59 of 1978, as amended.

CONDOMINIUM, EXPANDABLE. A condominium project to which additional land may be added pursuant to express provisions in the condominium documents and in accordance with this Ordinance and the Condominium Act.

CONDOMINIUM SUBDIVISION. See SUBDIVISION.

CONDOMINIUM SUBDIVISION PLAN. The site, survey, and utility plans, floor plans and sections, showing the existing and proposed structures and improvements.

CONDOMINIUM UNIT. That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use.

CONSOLIDATED MASTER DEED. The final amended master deed for a contractible condominium project, expandable condominium project, or a condominium project containing convertible land or convertible space, which final amended master deed fully describes the condominium project as completed.

CONTRACTIBLE CONDOMINIUM. A condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the express provision in the condominium documents and in accordance with this Ordinance and the Condominium Act.

CONTRACTOR'S STORAGE YARD. An unenclosed portion of the lot or parcel upon which a construction contractor maintains its principal office or a permanent business office. Designation of the lot or parcel as a contractor's storage yard would allow this area to be used to store and maintain

construction equipment and other materials customarily used in the trade carried on by the construction contractor. If permitted to be used in this manner, the entire lot or parcel would then be classified as a “contractor’s storage yard” and will be required to conform to all applicable zoning district standards and other legislative regulations.

COVERAGE, LOT. That percent of the plot or lot covered by the building area.

CUL DE SAC. A street with only one outlet having sufficient space at the closed end to provide a vehicular turning area.

DAY NURSERY. A private establishment enrolling four or more children where tuition, fees, or other forms of compensation for the care of children is charged, and which is licensed or approved to operate as a child care center.

DEGREE OF NONCONFORMANCE. A measure of a property's relative lack of conformance, to be computed using whichever of the following standards applies.

- a. **USE.** A Use is any item listed in the DISTRICT REGULATIONS chapters of this Ordinance as allowed by Right or by Special Use Permit.
- b. **SETBACK.** The square footage of a building that is within a required setback area.
- c. **AREA.** The square footage by which a building or parcel varies from the maximum or minimum area required for its Zoning District.
- d. **WIDTH OR DEPTH.** The distance in feet by which the width or depth of a parcel varies from the minimum or maximum dimension for its Zoning District.
- e. **PARKING.** The number of off street parking spaces which a parcel lacks to conform to the requirements of the Zoning Ordinance.

DENSITY. The number of dwelling units situated on or to be developed upon gross acre of land. Low density is one dwelling unit per acre. Medium density is 2 to 4 dwelling units per acre.

DEPTH. Depth is the distance from a property line to a structure.

DRIVE-IN. A business establishment so developed that its retail or service character is dependent on providing a drive-way approach or parking space for motor vehicles so as to serve patrons while in their motor vehicles, or within a building on the same premises and devoted to the same purpose as the drive-in service.

DWELLING-SINGLE FAMILY. A building or portion thereof, designed for occupancy by one (1) family for residential purposes and having interior cooking facilities.

DWELLING-TWO FAMILY. A two family dwelling is a detached residential building containing two (2) dwelling units, designed for occupancy by not more than two (2) families. These may also be known as duplexes.

DWELLING-MULTIPLE FAMILY. A multiple family dwelling is a residential building designed for or occupied by three (3) or more families with the number of families in residence not exceeding the number of dwelling units provided.

ESSENTIAL SERVICES. The erection, construction, alteration or maintenance of underground surface or overhead electrical gas, water and sewage transmission and collection systems and the equipment and appurtenances necessary for such systems to furnish an adequate level of public service.

EXPLICIT SEXUAL MATERIAL. Any hard core material.

FAMILY. An individual, two or more persons related by blood, marriage or adoption, living together as a housekeeping unit in a dwelling unit or a group of not more than four (4) persons, who need not be related, living together as a single housekeeping unit.

FARM. A tract of land which is directly devoted to agricultural purposes including establishments operated as greenhouses, nurseries, orchards, chicken hatcheries or apiaries; but establishments keeping or operating fur-bearing animals, riding or boarding stables, kennels, quarries or gravel or sand pits shall not be considered farms hereunder unless combined with a bonafide farm operation on the same contiguous tract of land of not less than twenty acres (20). Feed lots do not fall under this definition.

FEED LOT (ANIMAL FEEDING OPERATION). A lot or building or combination of contiguous lots and buildings where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, where manure may accumulate and where the concentration of animals is such that vegetative cover or post-harvest residues cannot be maintained within the enclosure during the normal growing season.

FENCE, DECORATIVE. A decorative fence is intended to enclose a parcel or portion of a parcel in a decorative manner and is not necessarily intended to preclude or inhibit entry or vision into the property. Examples of decorative fences include split rail, wrought iron and similar fences that are visually “transparent” and /or readily breached. The Building Inspector may determine that a fence is decorative and is thereby exempt from restrictions under the provisions of Chapter 3, Section 3.3 (i).

FENCE, FUNCTIONAL. A functional fence is intended to enclose a parcel or portion of a parcel to prevent or make difficult entry by animals, persons or vehicles. SUCH A FENCE MAY ALSO BE VISUAL SCREEN. Chain link, masonry, stockade and similar types of fences are examples of functional fences.

FUNERAL HOME. A building used for the preparation of the deceased for burial and display, and for ceremonies connected therewith before burial or cremation.

GAS/SERVICE STATION: A place where gasoline, kerosene, or any other motor fuel or lubricating oil or grease for operation of motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles, including sale of accessories, greasing, oiling, and light motor service on the premises, but in no case to include automobile or truck mechanical repair. Convenience food sales and/or fast food restaurants may also be provided on the premises.

GRAVEL PIT. An open land area where sand, gravel, and rock fragments are mined or excavated for sale or off-tract use.

GREENHOUSE. A temporary or permanent building whose roof and sides are made largely of glass or other transparent or translucent material, and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or personal enjoyment.

GROSS FLOOR AREA. The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the center line of a wall separating two buildings, but not including interior parking spaces, loading spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet. For the purposes of calculating parking and loading requirements, the gross floor area is the floor area used for service to the public. It shall not include floor area used solely for storage or processing and packaging of merchandise.

GROSS PUBLIC FLOOR AREA. The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture or video arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled “public”), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways, and entryways serving such areas.

HARD-CORE MATERIAL. Media characterized by sexual activity that includes one or more of the following: erect male organ; contact of the mouth of one person with the genitals of another; penetration with a finger or male organ into any orifice in another person; open female labia; penetration of a sex toy into an orifice; male ejaculation; or the aftermath of male ejaculation.

HEAVY VEHICLE. Any commercial vehicle over 1.5 tons including trucks, buses, trailers, construction equipment and similar vehicles regardless of their road worthiness.

HEIGHT, MEASUREMENT OF. The height of a building, fence, or wall at any given level is the height above the natural grade of any portion or portions of a wall or walls along the length of the building. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

HOME OCCUPATION. Any business carried on by one or more members of family residing on the premises PROVIDED it:

- a. Be operated within the principal dwelling.
- b. Not more than one (1) employee not residing in the dwelling.
- c. All activities and storage shall be carried on indoors.
- d. Home occupations shall not be conducted in any accessory building or part thereof.
- e. Not use more than twenty-five (25%) percent of the total actual floor area of the dwelling.

HOSPITAL. An institution for the diagnosis, treatment or care of aged, sick or injured people. The term “hospital” shall include sanitarium, rest home, nursing home and convalescent home.

INDUSTRIAL PARK. A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design, orientation, and open space.

INDUSTRIAL USES. A business use or activity at a scale greater than home industry involving manufacturing, fabrication, assembly, warehousing, and/or storage.

INSTITUTION, EDUCATIONAL. A school for kindergarten through twelfth grade or any colleges or universities authorized by the state to award degrees.

INSTITUTION, HUMAN CARE. A public or private facility for physical or mental care. A human care institution may include hospitals, convalescent or nursing homes, homes for the mentally or physically impaired, and mental, physical or substance abuse rehabilitation facilities.

INSTITUTION, RELIGIOUS. A structure or place in which worship, ceremonies, rituals and education pertaining to a particular system of beliefs are held.

INSTITUTION, SOCIAL. Any profit or nonprofit use or facility in which activities for leisure or philanthropy are carried out. Such institutions may include service clubs, scout organizations, hobby clubs and veterans’ organizations.

JUNK YARD. Any establishment or premises used for the purpose of dismantling, wrecking, disposing and/or storage of refuse materials of automobiles. Any premise upon which three (3) or more unlicensed motor vehicles which cannot be operated under their own power are kept or stored for a period of fifteen (125) days or more shall be deemed a junk yard within the meaning of this ordinance.

KENNEL. Any facility, on a single parcel, where more than three (3) dogs, three (3) cats, or other household pets, over four (4) months old are kept, housed or boarded for a fee, or where such animals are kept for breeding purposes.

LABORATORY. A building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

LINGERIE MODELING STUDIO. An establishment or business that provides the services of live models modeling lingerie to individuals, couples or small groups in rooms smaller than six hundred (600) square feet.

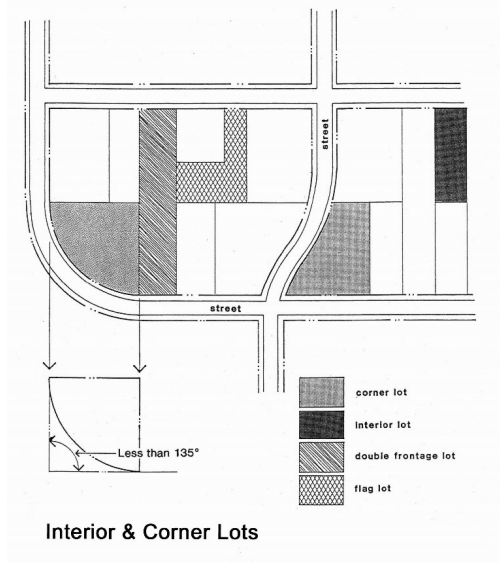
LOADING BERTH/SPACE. An off-street space at least ten feet (10) wide, twenty-five feet (25) long and fifteen feet (15) high; either within a building or outside on the same lot, provided, maintained and available for the loading or unloading of goods or merchandise and having direct and unobstructed access to a street or alley.

LOT. A parcel of land subject to the provision of this Ordinance and upon which a main building and accessory buildings may be constructed.

CORNER LOT. is a lot which has at least two (2) contiguous sides abutting upon a street for their full length, and PROVIDED the two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees.

INTERIOR LOT. is a lot other than a corner lot.

THROUGH LOT. is an interior lot having frontage on two (2) streets which do not intersect at a point contiguous to such lot.



LOT AREA. The total horizontal area within the lot lines of the lot.

LOT LINE, FRONT. That line separating the lot from the street. In the case of a corner lot or through lot, the lines separating the lot from each street.

LOT LINE, REAR. Lot line which is opposite the front lot line. In the case of a corner lot, the rear lot line may be opposite either front lot line, but there shall only be one (1) rear lot line. In the case of a lot with side lot lines converging at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than twenty feet (20) long, lying farthest from the front lot line and wholly within the lot.

LOT LINE, SIDE. Any lot line not a front lot line or not a rear lot line.

LOT, WIDTH OF. The width measured along the front line or street line on an approved road.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the Midland County Register of Deeds or in common use by county and community officials and which actually exists as shown; or, any part of such parcel held in a record of ownership separate from that of the remainder thereof.

MANUFACTURING. The mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing or products, and the blending of materials, such as lubricating oils, plastics, resins, or liquors.

MASSAGE STUDIO. An establishment offering massage therapy and/or body work by a massage therapist licensed under Michigan state law or under the direct supervision of a licensed physician.

MEDIA. Anything printed or written, or any picture, drawing, photograph, motion picture, film, video tape or videotape production, or pictorial representation or any electrical or electronic reproduction of anything that is or may be used as a means of communication. Media includes but shall not be necessarily limited to books, newspapers, magazines, movies, videos, sound recordings, CD-ROMs, other magnetic media and undeveloped pictures.

MEDIA SHOP. A general term, identifying a category of business that may include sexually oriented material but that is not subject to the special provisions applicable to adult media shops. IN that context, media shop means a retail outlet offering media for sale or rent, for consumption off the premises provided that any outlet meeting the definition of adult media shop be treated as an adult media outlet. See special conditions in Chapter 13, Special Use Permits, for media shops in which adult media constitute more than ten (10%) percent but less than forty (40%) percent of the stock in trade or occupy more than ten (10%) percent but less than forty (40%) percent of the floor area.

MINISTORAGE/INDIVIDUAL STORAGE FACILITY. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

MOBILE HOME. A mobile home is a structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a residential dwelling with permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, the construction of which shall comply with the U.S. Department of Housing and Urban Development (HUD) [Mobile Home Construction and Safety Standards, CFR 24, Part 3280](#) which have been designed for and are intended to be employed as dwellings for residential occupancy on an extended, rather than transient basis.

MOBILE HOME PARK. A parcel of tract or land under the control of a person and upon which three (3) or more mobile homes are located on a continual non-recreational basis and which is offered to the public for the purpose regardless of whether a charge is made thereof, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

MOBILE HOME SPACE. A plot or parcel of land within the Mobile Home Park designed to accommodate one (1) mobile home.

MOBILE HOME STAND. That part of an individual Mobile Home site which has been reserved for the placement of the Mobile Home, appurtenant structures, or additions.

MODULAR HOME. A fabricated, transportable building unit designed to be incorporated at a building site into a structure on a permanent foundation for residential use.

MOTEL. A building or group of buildings, whether detached or in connecting units, used as individual sleeping or dwelling units designed primarily to accommodate transients and their automobiles. The term “motel” shall include buildings designed as “auto courts”, “tourist courts”, “motor hotels” and similar appellations which are designed as integrated units of individual rooms under common ownership.

MUNICIPAL BUILDING. A structure housing and operation of Lincoln Township.

NIGHTCLUB. A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which dancing and musical entertainment are permitted.

NONCONFORMING USE. A building, structure or use of land existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the regulations of the district or zone in which it is situated.

OFFICE. An office is a place of business in which professional services are rendered or management activities of an enterprise are carried out. All such activities take place inside a building. Office activities include, but are not limited to, law, medicine, dentistry, accounting or computer consulting, bookkeeping, tax preparation, insurance, securities brokerage, executive or managerial functions for any type of enterprise, workshop or studio for a graphic artist or photographer, studio for broadcast media, all aspects of a newspaper or publishing business except actual printing, binding or distribution centers, and a base of operation for salespeople which does not include storage or display of merchandise.

OPAQUE. Not pervious to light.

Outdoor Storage Container. An industrial, standardized, reusable, and portable metal container originally and specifically designed for the intermodal shipping of goods or commodities by transport on trucks, rail cars, and ships which is now used primarily for the storage of personal property and materials.

OUTDOOR USE, TEMPORARY. A use carried out in an open area or uncovered or temporary structure, which is disbanded when the designated time period, activity or use for which the temporary structure was erected, has ceased.

OUTDOOR USE, PERMANENT. A use carried out in an open area, uncovered or permanent structure. Permanent is defined by the building code.

PARK, RECREATIONAL. An open area designed for the active and/or passive use of the general public and which may or may not contain playground or exercise facilities and equipment.

PARKING SPACE. An off-street space of at least 18 x 10 size exclusive of necessary driveways, aisles or maneuvering areas suitable to accommodate one (1) motor vehicle and having direct unobstructed access to a street or alley.

PERSONAL SERVICE. Establishments primarily engaged in providing services involving the care of a person or his or her apparel, ***excluding tattoo and piercing parlors.***

PLAT. A map of a subdivision of land.

POND. An artificially or naturally confined body of still water, less than one (1) acre in size, excluding swimming pools.

PRIMARY LIVE ENTERTAINMENT. On-site entertainment by live entertainers that characterizes the establishment, as determined (if necessary) from a pattern of advertising as well as actual performances.

PRINCIPAL USE. The main use or principal purpose to which the premises are devoted.

PRINT SHOP. A facility for the custom reproduction of written or graphic materials on a custom order basis for individuals or businesses.

PROCESSING FACILITY. A building or an enclosed space used for the collection and processing of recyclable material. "Processing" means the preparation of material for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

PROFESSIONAL SERVICES. Services offered to the general public such as law, medicine, engineering, accounting, and architecture.

PUBLIC FACILITIES. Facilities which are owned and operated by a municipality, government agency, or publicly owned utility.

PUBLIC UTILITY. Any person, firm, corporation, municipal department or board, fully authorized to furnish to the public electricity, gas, steam, telephone, telegraph, cable television, transportation, water or sewerage services.

RECREATION, COMMERCIAL. Any establishment whose main purpose is to provide the general public with an amusing or entertaining activity and where tickets are sold or fees are collected for the activity. Includes, but not limited to, skating rinks, water slides, miniature golf courses, arcades, bowling alleys, and billiards halls.

RECREATIONAL EQUIPMENT: Includes travel trailers, pickup campers, motor homes, ice fishing houses, tent trailers, tents, boats and boat trailers, personal watercraft, snowmobiles, off-road vehicles of any kind, and similar equipment and cases or boxes used for transporting recreational equipment, whether occupied by the equipment or not.

RECREATIONAL VEHICLE. A vehicle or conveyance capable of operation on public highways and primarily designed or used as a temporary living quarters for recreational, camping or travel purposes, including

a vehicle or conveyance having its own motor power or mounted on or drawn by another vehicle. Recreational vehicle includes motor homes, travel trailers, folding campers and truck-mounted campers but not mobile homes.

RECREATION, PRIVATE. Recreational, playgrounds and parks activities which are not open to the general public and for which a fee may or may not be charged.

REGIONAL COMMERCIAL CENTER. A commercial center having three (3) or more individual businesses using separate spaces with common walls.

RELIGIOUS INSTITUTION (see INSTITUTION, RELIGIOUS)

RESTAURANT. A business located in a building where, in consideration of the payment of money, meals are habitually prepared, sold and served to persons for consumption on or off the premises, having suitable kitchen facilities connected therewith, containing conveniences for cooking and assortment of goods which may be required for ordinary meals, and deriving the major portion of its receipts from the sale of food and complying with state and federal health regulations.

RETAIL SALES ESTABLISHMENT. A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.

RETAIL SALES ESTABLISHMENT, FOOD. Any establishment selling food or beverages for consumption off-premises either immediately or with further preparation. Such establishments may include, but not be limited to, supermarket, grocery store, bakery, candy store, butcher, delicatessen, convenience store, and similar establishments.

RIGHT-OF-WAY. A street, alley or other thoroughfare or easement permanently established for passage of persons, vehicles or utilities. The right-of-way is delineated by legally established lines or boundaries.

ROAD, APPROVED. An approved road is an easement, right-of-way street or road, public or private, that has been approved by the Lincoln Township Planning Commission and built to Midland County Road Commission standards in the case of a private road, or the Midland County Road Commission in the case of a public road.

ROAD, PRIVATE. A private road is a road that provides direct access to a parcel and which is not dedicated to and accepted by an authorized governmental road agency. A common driveway as used in this ordinance does not constitute a private road.

ROAD, PUBLICLY DEDICATED. A highway or road built to specifications of the Midland County Road Commission or the Michigan Department of Transportation and accepted and maintained by those entities.

ROADSIDE STAND. A temporary structure erected on property adjacent to a public road for the sale of products produced on the property, PROVIDED such use shall not constitute a commercial district and not be deemed a commercial activity.

RESOURCE RECOVERY FACILITY. A fully enclosed building where waste is sorted and classified by type and material, such as ferrous metal, nonferrous metal, aluminum, paper, newsprint, boxed board, plastic and glass colors. The purpose being to reuse the recovered materials.

SADOMASOCHISTIC PRACTICES. Flagellation or torture by or upon a person clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one clothed or naked.

SALVAGE YARD. See JUNKYARD.

SCHOOL. (See INSTITUTION, EDUCATION)

SERVICE-ESSENTIAL. The construction, alteration or maintenance by private companies or public departments or agencies of the various transmissions, distribution or disposal systems that are essential for the preservation of the public health, safety or general welfare such as gas, electricity, telephone, water and sewer. Also, this term includes all poles, wires, mains, drains, sewers, pipes, cables, traffic signals, hydrants and other service of said companies or agencies; but, the term shall not include buildings or utility substations.

SEWAGE TREATMENT PLANT. Any facility designed for the collection, removal, treatment, and disposal of waterborne sewage generated within a given service area.

SEXUALLY ORIENTED BUSINESS. An inclusive term used to describe collectively: adult cabaret; adult motion picture theater; video arcade; bathhouse; massage studio; and/or sex shop.

SEXUALLY ORIENTED TOYS OR NOVELTIES. Instruments, devices, or paraphernalia either designed as representations of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.

SEX SHOP. An establishment offering goods for sale or rent and that meets any of the following tests:

- a. The establishment offers for sale items from any two of the following categories:
 - 1) adult media,
 - 2) lingerie,
 - 3) leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; and the combination of such items constitutes more than 10 percent of its stock in trade or occupies more than 10 percent of its floor area.
- b. More than 5 percent of its stock in trade consists of sexually oriented toys or novelties.
- c. More than 5 percent of its gross floor area is devoted to the display of sexually oriented toys or novelties.

SIGN. A “sign” is a name identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building, structure or piece of land which is intended to direct attention to an object, product, place, activity of a person, institution, organization or business. However, a “sign” shall not include a sign located completely within an enclosed building.

- a. **AREA, OR SURFACE AREA, OF SIGN.** That area per face enclosed by one outline, the sides of which make contact with the extreme points or edges of the sign, excluding the supporting structure which does not form part of the sign proper or of the display.
- b. **AWNING/CANOPY SIGN.** Any sign attached to or constructed on a canopy or awning. A canopy is a permanent roof-like shelter extending from part of or all of a building face.
- c. **BANNER.** See TEMPORARY SIGN.
- d. **ELECTRIC SIGN.** Any sign containing electric wiring. This does not include signs illuminated by an exterior floodlight source.
- e. **ELECTRONIC MESSAGE BOARD.** Changeable copy signs in which the copy consists of an array of lights activated and deactivated simultaneously with a frequency of message change of not less than 20 seconds. Signs displaying time and temperature only may change messages with a frequency of no less than 5 seconds.
- f. **ENTRANCE SIGN.** A sign identifying a complex or neighborhood.
- g. **FREESTANDING SIGN.** A sign which is affixed to a permanent foundation, but not attached to the building proper. (Also "Ground Mounted" sign.)
- h. **GROUND LEVEL.** The elevation to be used for computing the height of signs. Defined as the roadway center line grade elevation at its intersection with the center line of the driveway serving the parcel which is located nearest to the sign location.
- i. **ILLUMINATED SIGN.** A sign that provides artificial light directly or through any transparent or translucent material.
- j. **INTEGRAL SIGN.** Names of buildings or farm, date of erection, monumental citations, commemorative tablets and the like which are made an integral part of the walls of the structure (or roof for farm buildings).
- k. **JOINT SIGN.** A sign which gives direction and identification to a group of adjacent businesses whether or not under single management.
- l. **LOCATION.** A lot, premise, building, wall or any place whatsoever upon which a sign is located.
- m. **MARQUEE.** An identification sign attached to or made a part of a marquee, canopy, or awning projecting from and supported by the building.
- n. **MONUMENT SIGN:** A Freestanding Sign where the base of the sign structure is permanently in the ground or integrated into landscaping or other solid structural features

- o. **NONRESIDENTIAL USE SIGN.** A sign used in conjunction with a nonresidential use that is specifically permitted by right or by special use permit in the residential districts. Nonresidential uses do not include home occupations.
- p. **PORTABLE/TEMPORARY SIGN.** A display, informational sign, banner, or other advertising device intended for a limited period of display, including any sign which can be physically lifted, pulled, carried or wheeled from one location to another.
- q. **PROJECTING SIGN.** A sign, other than a wall sign, which projects 18" or more from and is supported by a wall of a building or structure.
- r. **ROOF LINE.** This shall mean either the high point of the roof or the top of the parapet, whichever forms the top line of the building silhouette and where a building has several roof levels, this roof or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.
- s. **ROOF SIGN.** Any sign erected, constructed, and maintained wholly upon or over the roof of any building.
- t. **SETBACK.** A distance measured from the outer boundary of a parcel in which erection of a sign is not permitted. A Front Setback is measured from the edge of the right of way of any abutting roadway. A Rear Setback is measured from the property line opposite the roadway. A Side Setback is measured from any other abutting property line. Corner lots shall require two front setbacks, but only one rear setback.
- u. **SIZE OF SIGN.** The size of a sign is computed as the product of its height and its width expressed in square feet. A sign shall be considered to have not more than two (2) sides, i.e., a 3-sided sign equals two (2) signs.
- v. **SPECIAL EVENT SIGN.** A sign advertising display that is temporary in nature, is not permanently attached to the ground or sign surface, and is used for special events, such as, but not limited to grand openings, seasonal sales, liquidations, going out of business sales, fire sales and promotions.
- w. **WALL SIGN, FLAT.** One affixed directly to or otherwise inscribed on an exterior wall and confined within the limits thereof of any building and which projects from that surface less than eighteen (18") inches at all points.

SITE AREA. The total area within the property lines excluding street right-of-ways.

SOLAR POWER. Energy generated by the sun through the collection, transfer and storage of the sun's heat.

- a. Roof Mounted On-Site Solar Energy Systems. A roof mounted solar energy array used to convert solar energy to electricity for on-site use.
- b. Solar Energy Facility. An energy facility or an area of land principally used to convert solar energy to electricity, which includes, but is not limited to, the use of one or more solar energy

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systems. This definition shall only include those facilities that primarily sell electricity to be used off site.

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SPECIFIED ANATOMICAL AREAS.

- a. Less than completely and opaquely covered: human genitals, pubic region, buttock, and/or female breast below a point immediately above the top of the areola; and/or
- b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse, sodomy, or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

SPECIAL USE. The term applied to a use which may be permitted by the application for an issuance of a SPECIAL USE PERMIT by the Planning Commission. Specified procedures and requirements, as outlined in cited sections must be complied with prior to issuance of said permit.

STABLE, PRIVATE. An accessory building in which horses are kept for private use and not for hire.

STATE LICENSED RESIDENTIAL FACILITY. A State Licensed Residential Facility is a private residence licensed by the State of Michigan to receive not more than six (6) aged, emotionally disturbed, developmentally disabled or physically handicapped adults who require ongoing supervision but not continuing nursing care. The licensee must be a member of the household and an occupant of the residence.

None of the following may be construed to be a State Licensed Residential Facility: a nursing home, home for the aged, or hospital as defined by [Act 368 of 1978](#); a hospital for the mentally ill as defined by [Act 258 of 1974](#); a county infirmary as defined by [Act 280 of 1939](#); a child caring institution, children's camp, foster family home or group home as defined by [Act 116 of 1973](#); a Veterans' facility as defined by [Act 152 of 1885](#); nor an alcohol or substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, a hotel or a rooming house, nor a residential facility licensed by the State to care for four (4) or fewer minors.

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STORAGE. A space or place where goods, materials, or personal property is placed and kept.

STORAGE, BULK. The holding or stockpiling on land of materials and/or products where such storage constitutes 40 percent of the developed site area and the storage area is at least one acre, and where at least three of the following criteria are met by the storage activity: (1) in a bulk form or in bulk containers; (2) under protective cover to the essential exclusion of other uses of the same space due to special fixtures or exposed to the elements; (3) in sufficient numbers, quantities, or spatial allocation of the site to determine and rank such uses as the principal use of the site; (4) the major function is the collection and/or distribution of the material and/or products rather than processing; and (5) the presence of fixed bulk containers or visible stockpiles for a substantial period of a year.

STORY, HALF. A partial story under a gable, hip or gambrel roof the wall plate of which on at least two (2) opposite walls are not more than four feet (4') above the floor of such story. A half (1/2) story containing independent apartments of living quarters shall be counted as a full story.

STORY, HEIGHT OF. The vertical distance from the surface of one floor to the top surface of the next above. The height of the top most story is the distance from the top surface of the floor to the top surface of the ceiling joists.

STREET, HIGHWAY, ROAD: A thoroughfare which affords the principal means of access to abutting property.

STRUCTURE: A construction or building, the use of which requires permanent location on the ground or attached to something having permanent location on the ground.

SUBDIVISION. The partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than 1 year, or of building development that results in 1 or more parcels of land less than 40 acres or the equivalent, and that is not exempted from the platting requirements of [Act 288 of 1967](#), as amended. "Subdivide" or "subdivision" does not include a property transfer between 2 or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of [Act 288 of 1967](#) as amended or the requirements of this Ordinance.

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TATTOO AND PIERCING PARLOR. An establishment whose principle business activity, either in terms of operation or as conveyed to the public, is the practice of one or more of the following:

- a. Placing designs, letters, figures, symbols or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin by means of the use of needles or other instruments designed to contact or puncture the skin;
- b. Creation of an opening in the body of a person for the purpose of inserting jewelry or other decoration.

TEMPORARY BUILDING USE. A use in a temporary or permanent structure, established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period granted in the special use permit.

TEMPORARY OUTDOOR USE. A use carried out in an open area or uncovered or temporary structure, which is disbanded when the designated time period, activity, or use for which the temporary structure was erected, has ceased.

TERMINAL, MOTOR FREIGHT. Any premises used by a motor freight company regulated by the public utility commission and/or the Interstate Commerce Commission as a carrier of goods, which is the origin and/or destination point of goods being transported, for the purpose of storing, transferring, loading, and unloading.

TRAVEL TRAILER. (See RECREATIONAL VEHICLE)

TRUCK TERMINAL. (See TERMINAL, MOTOR FREIGHT)

USE. The lawful purpose of which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.

UTILITY TRAILER. A self-propelled or separate trailer for storage, hauling or other transportation purposes.

VARIANCE: A modification of literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provision would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

VETERINARY HOSPITAL. (See ANIMAL HOSPITAL)

VIDEO VIEWING BOOTH OR ARCADE BOOTH. Any booth, cubicle, stall or compartment that is designed, constructed, or used to hold or seat patrons and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media (including but not limited to film, video or magnetic tape, laser disc, CD-ROM, books, magazines, or periodicals) for observation by patrons therein. A video-viewing booth shall not mean a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than six hundred (600) square feet.

WIND ENERGY SYSTEM: A wind energy conversion system which converts wind energy into electricity through the use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid.

WIRELESS COMMUNICATION FACILITY. Any personal wireless services and structures as defined in the [Telecommunications Act of 1996](#) which includes and provides FCC licensed commercial wireless telecommunication service including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ENSM) paging, and similar services that currently exist; or that may in the future be developed.

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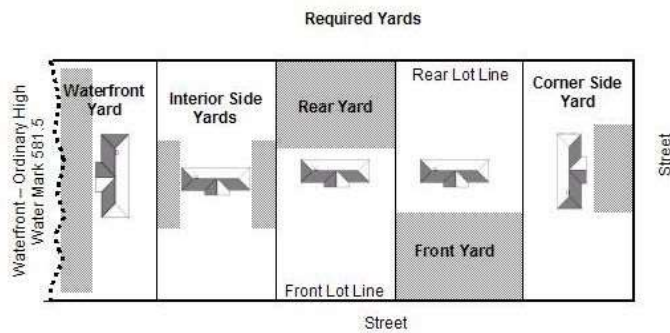
WOOD HEATER: "Outdoor wood-fired hydronic heater" (OWHH) or "outdoor wood boiler" means a fuel burning device designed to burn wood or other solid fuels; That the manufacturer specifies for outdoor installation or in structures not normally occupied by humans, including structures such as garages and sheds; and Which heats building space and water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

YARD. An open space on the same lot with a building, unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building line.

YARD FRONT. A yard extending across the front of a line between the front line of the lot and the nearest point of the main building or land use.

YARD, REAR: A yard extending the full width of the lot between the rear lot line and the nearest line of the main building.

YARD, SIDE: A yard between the side line and the nearest line of the main building or of an accessory building attached thereto.



YARD, RUMMAGE, GARAGE AND SIMILAR SALES: The sale of merchandise, household goods, domestic items or other articles, whether in new or used condition, in a residentially-zoned area, whether for profit, barter or elsewhere on the property.

- a. The sale is temporary and shall not continue for a period to exceeding seven (7) days from date of commencement, and may not commence again for at least ninety (90) days from the last date of prior sale at the location with no more than three (3) such sales per year. No items available during sales may be openly displayed when sales are not in progress.
- b. The sale shall not be intended for more than incidental income and shall not be intended to operate as a commercial venture providing regular income.