ARTICLE 2.00

RULES OF CONSTRUCTION AND DEFINITIONS

Section 2.01 -- RULES OF CONSTRUCTION

The following rules of construction apply to the text of this Ordinance:

A. The specific shall control the general.

B. Words used in the present tense shall include the future.

C. Words used in the singular number shall include the plural and the plural shall include the singular, unless the context clearly indicates the contrary.

D. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

E. The masculine gender includes the feminine and neuter.

F. All measurements shall be to the nearest integer, unless otherwise specified herein.

G. The phrase "used for" includes "arranged for", "designed for", "intended for", "occupied for", and "maintained for".

H. The word "building" includes the word "structure". The word "build" includes the words "erect" and "construct". A "building" or "structure" includes any part thereof.

I. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any similar entity.

J. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as defined herein. Words or terms not herein defined shall have the meaning customarily assigned to them, or as found in the most recent available version of the American Heritage Dictionary.

K. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", or "either/or", the conjunction shall be interpreted as follows:

   1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.

   2. "Or" indicates that the connected items, conditions, provisions, or events may apply singularly or in any combination.

   3. "Either/or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.

L. Catch words and catch lines shall in no way by their presence or absence limit or affect the meaning of this Ordinance.

M. Unless the context clearly indicates to the contrary, where an illustration accompanies any item within this Ordinance, the written text shall have precedence over said illustrations.

N. Where a specific agency, department, law, or rule is referred to in this Ordinance, such reference shall include any successor agency, department, law or rule.

Section 2.02 -- DEFINITIONS

Whenever used in this Ordinance, the following words and phrases shall have the meaning ascribed to them in this Section:

ABANDONED BUILDING OR STRUCTURE: A building or structure which has been vacated as a result of the voluntary decision of the owner or holder to discontinue the previous use for six (6) months or more of that building or structure.

ABUTTING: Two or more uses, lots or parcels having a common border, or being separated from such a common border by a right-of-way, alley, or easement.

ACCESSORY BUILDING: A type of structure that:
a. has a roof which is supported by columns or walls,
b. is intended for the shelter or enclosure of persons, animals, goods or property, and
c. is further intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same zoning lot as the principal use to which it is exclusively related.

Examples of accessory buildings include: garages, storage sheds, gazebos, play houses, and greenhouses.

ACCESSORY BUILDING, ATTACHED: An accessory building that is physically joined to the principal building by a wall, roof, rafter, or other structural component.

ACCESSORY DWELLING UNIT (ADU): A smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e. detached) single-family home.

ACCESSORY STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location, and that is intended to be used in a manner that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related. Examples of accessory structures include: accessory buildings, swimming pools, generators, pump houses, dog houses, tennis courts and other sports courts.

ACCESSORY USE: A use that is clearly incidental to, customarily found in connection with, subordinate to, and located on the same lot or parcel as the principal use to which it is exclusively related.

ACTIVITY CENTER FOR THE MENTALLY AND/OR PHYSICALLY CHALLENGED: A place for the supervision, training, or care of the mentally ill or handicapped.

ADJACENT: Lots are adjacent when at least one boundary line of one lot touches a boundary line or lines of another lot.

ADULT REGULATED USES: As used in this Ordinance, the following definitions shall apply to adult regulated uses:

a. **Adult Book or Supply Store:** An establishment having ten percent (10%) or more of all usable interior, retail, wholesale, or warehouse space devoted to the distribution, display, or storage of books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes,

recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein),. Such establishment or the segment or section devoted to the sale or display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

b. **Cabaret:** An establishment which features any of the following: topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers, or topless and/or bottomless waitpersons or employees.

c. **Adult Motion Picture Theater or Adult Live Stage Performing Theater:** An enclosed building with a capacity of twenty-five (25) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein) for observation by patrons therein. Such an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age. In accord with provisions of Michigan law, public nudity in these establishments is prohibited.

d. **Adult Model Studio:** Any place where models who display "Specified Anatomical Areas" (as defined herein) are present to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons who pay some form of consideration or gratuity. This definition shall not apply to any bona fide art school or similar educational institution or a professional photographic studio.

e. **Adult Motel:** A motel which rents rooms by the hour and presents visual displays, graphic materials, or activities that depict, describe or relate to “Specified Sexual Activities” or “Specified Anatomical Areas” (as defined herein).

f. **Adult Motion Picture Arcade:** Any place where motion 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 displayed depict, describe, or relate to "Specified Sexual Activities" or "Specified Anatomical Areas."

g. **Massage Parlor or Massage Establishment:** A place where manipulated massage or manipulated exercises are practiced for pay upon the human body by anyone using mechanical, therapeutic, or bathing devices or techniques, other than the following: a duly licensed physician, osteopath, or chiropractor; a registered or practical nurse operating under a physician's directions; myotherapy; or, registered physical or occupational therapists or speech pathologists who treat patients referred by a licensed physician and operate only under such physician's direction. A massage establishment may include, but is not limited to, establishments commonly known as massage parlors, health spas, sauna baths, turkish bathhouses, and steam baths. Massage establishments, as defined herein, shall not include properly-licensed hospitals, medical clinics, or nursing homes, or beauty salons or barber shops in which massages are administered only to the scalp, the face, the neck, or the shoulders.

h. **Adult Outdoor Motion Picture Theater:** A drive-in theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "Specified Sexual Activities" or "Specified Anatomical Areas" (as defined herein) for observation by patrons of the theater. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

i. **Specified Anatomical Areas:** Portions of the human body defined as follows:

1. Less than completely and opaquely covered human genitals, pubic region, buttocks, or female breast below the point immediately above the top of the areola, and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

j. **Specified Sexual Activities:** The explicit display of one or more of the following:

1. Human genitals in a state of sexual stimulation or arousal.
2. Acts of human masturbation, sexual intercourse, or sodomy.
3. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

AGENT: Authorization provided by the principal naming agent to prove a proper agency and level of authority granted and signed by the principal. Examples include but are not limited to an affidavit, power of attorney, petition, etc.

AGRICULTURE: The art and science of cultivating the soil, producing crops or raising livestock, and the processing of crops or livestock, or milk produced on the same premises. Not included in this definition are riding stables, fur farms, hog or poultry farms using garbage as a principal source of feed, dairy processing operations, or the sale of nursery stock not produced on the premises.

AIRPORT: A cleared and leveled area where aircraft can take off and land. Airports may include hard-surfaced or grass landing strips, a control tower, hangars, passenger terminals, and accommodations for cargo.

AIRPORT OVERLAY ZONE: The overlay zone is the area within which the Tri-City Joint Airport Zoning Ordinance applies. This area is defined as all the lands within the City of Midland lying beneath the approach, transitional, 150' horizontal, conical and 500' horizontal surfaces, said land being located within a circle having a radius extending ten miles from the established center of the usable landing areas of Jack Barstow Airport. The boundaries of this surface are shown on the Tri-City Airport Joint Zoning Plans and in which the terms used in this definition are further defined.

ALLEY: A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on another street. An alley is not intended for general traffic circulation.

ALTERATION: Any construction or renovation to an existing structure other than repair or addition.

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, farm and service animals as defined by this ordinance.

ANIMAL, 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 .

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 **(**per City ordinance #1711, Chapter 3 of the Code of Ordinances**)** or any other type of poultry or fowl or bees. 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: See CLINIC, VETERINARY.

ANIMAL SHELTER: A building supported by a governmental unit or agency, or a nonprofit organization where dogs, cats, or other animals are kept because of requirements of local health officials, loss of owner, neglect, or violation of local ordinances or State statutes.

APARTMENT: See DWELLING, MULTIPLE-FAMILY.

ARCADE: Any establishment which provides on its premises three (3) or more machines which may be operated or used as a game, contest or for amusement of any description, not including devices used solely for playing music.

ARCHITECTURAL FEATURES: The features of a building, including cornices, eaves, gutters, belt courses, sills, lintels, chimneys, and decorative ornaments.

AUTOMOBILE. Unless specifically indicated otherwise, "automobile" shall mean any motorized vehicle including cars, trucks, vans, motorcycles, and other motorized vehicles that do not meet the definition of a **COMMERCIAL VEHICLE**.

AUTOMOBILE FILLING STATION: A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use, but no auto repairs shall be permitted.

AUTOMOBILE REPAIR: Major or minor repair of automobiles defined as follows:

a. **Minor Repair**: Engine tune-ups and servicing of brakes, air conditioning exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.

b. **Major Repair**: Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rust proofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

AUTOMOBILE SERVICE STATION: A place where gasoline or other vehicle engine fuel, kerosene, motor oil and lubricants, and other commodities are sold directly to the public on the premises for the purposes of operation of motor vehicles, aircraft, or boat. A service station may include the sale of minor accessories (such as tires, batteries, brakes, shock absorbers, window glass), installation of equipment, minor repair, and temporary storage.

AUTOMOBILE REPAIR GARAGE: An enclosed building where minor and major automobile repair services may be carried out.

AUTOMOBILE OR VEHICLE DEALERSHIP: A building or premises used primarily for the sale of new and used automobiles and other motor vehicles.

AUTOMOBILE WASH OR CAR WASH ESTABLISHMENT: A commercial establishment contained within a building or premises or portion thereof where vehicles are washed.

BANQUET AND CONFERENCE/MEETING FACILITIES: Buildings or facilities used to conduct banquets, meetings, or conferences, which are not a restaurant, but where, for purposes of events which take place there, food and beverages may be served.

BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year - also known as the 100-year flood or 1 percent flood event.

BASEMENT: That portion of a building which is partially or totally below grade, where the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the ceiling. This definition shall not apply to earth-bermed or earth- sheltered homes.

BED-AND-BREAKFAST ESTABLISHMENT: A dwelling in which eight (8) or less sleeping rooms are provided or offered to transient guests as overnight accommodations, including provisions for a morning meal for overnight guests only, in return for compensation. May also be known as a "tourist home".

BEDROOM: A room in a dwelling unit that is intended to be used by human beings for sleeping purposes.

BERM: See LANDSCAPING.

BILLBOARD: See OFF-PREMISES SIGN in Section 2.03.

BLOCK: An area of land bounded by a street or by a combination of streets and public lands, rights-of-way, a waterway, boundary lines of the City, or any other barrier to the continuity of development.

BOARD OF APPEALS: The City of Midland Zoning Board of Appeals, created pursuant to the provisions of Michigan Public Act 207 of 1921, as amended.

BOARDING HOUSE: A building where meals, or lodging and meals, are provided for three (3) or more persons for compensation or by prearrangement for definite periods of time of not less than one (1) week. A boarding house is not the same as a hotel, motel, bed-and-breakfast establishment, convalescent home, or nursing home. Boarding House is defined in the Michigan Building Code.

BODY PIERCING: Means puncturing or penetration of the skin of a person using pre-sterilized single use needles and the insertion of pre-sterilized jewelry or other adornment thereto in the opening. Puncturing the outer perimeter or lobe of the ear using pre-sterilized single use stud and clasp ear piercing systems shall not be included in this definition.

BODY PIERCING ESTABLISHMENT: Any place or premise, whether public or private, temporary or permanent in nature or location, where the practice of body piercing, whether or not for profit, is performed.

BUILDABLE AREA: Generally, the area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this Ordinance.

BUILDABLE AREA, NET: That portion of a site that is not encumbered by Michigan Department of Environmental Quality (MDEQ)-regulated wetlands (except as specifically noted), steep slopes, road rights-of-way, easements, structures or lots, or other existing or proposed features that would prevent construction of a building or use of the site for a use permitted in the district in which the site is located.

BUILDING: Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, property, or materials of any kind. When any portion thereof is completely separated from every other part by division walls without openings,

extending from the ground up, each such portion shall be deemed a separate building. A building shall not include such structures as signs, fences, or smokestacks. Building is defined in the Michigan Building Code.

BUILDING, PRINCIPAL: A building or, where the context so indicates, a group of buildings which are permanently affixed to the land and which are built, used, designed or intended for the shelter or enclosure of the principal use of the parcel.

BUILDING, ACCESSORY: See ACCESSORY USE, BUILDING, OR STRUCTURE.

BUILDING, TEMPORARY: A building which is not permanently affixed to the property, and is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on a construction site.

BUILDING ENVELOPE: See BUILDABLE AREA.

BUILDING HEIGHT: The vertical distance measured from the established grade to:

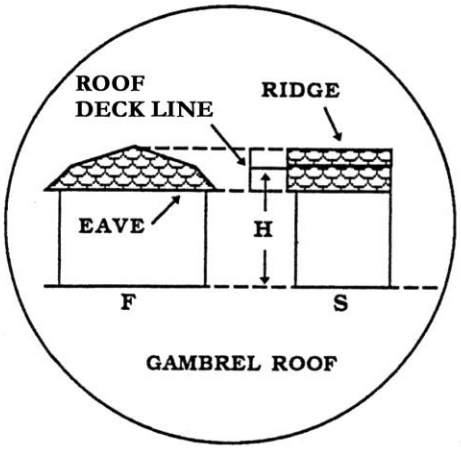
a. the highest point of the coping of a flat roof;
b. the deck line of a mansard roof; or,
c. the average height between the eaves and the ridge for a gable, hip, studio (shed), or gambrel roof;
d. seventy-five percent (75%) of the height of an A-frame.

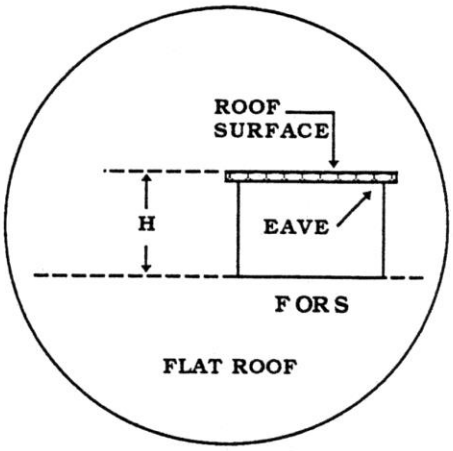
Where a building is located on sloping terrain, the height shall be computed using the average grade measured at the building wall on all four sides (see illustration on page 2-7).

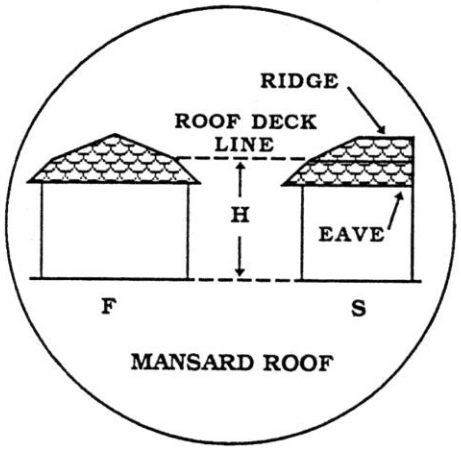
BUILDING LINE: A line that is parallel to the front street right of way line, between which line and the front street right-of-way line no part of a building shall project, except as otherwise provided by this ordinance (see illustration on page 2-8).

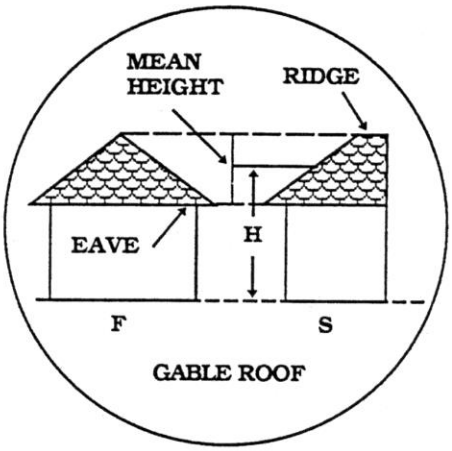
BUILDING OFFICIAL: The officer or other authority designated to administer and enforce the Building Code.

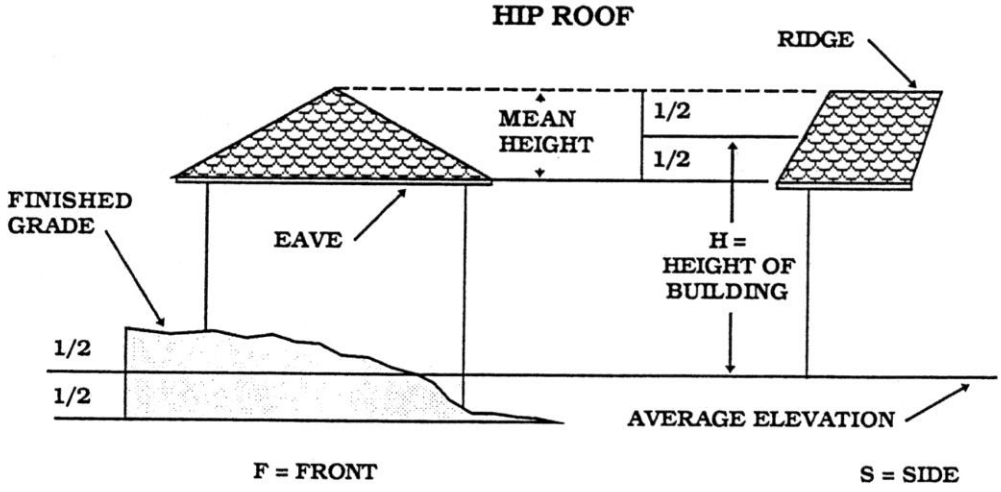
BUILDING HEIGHT

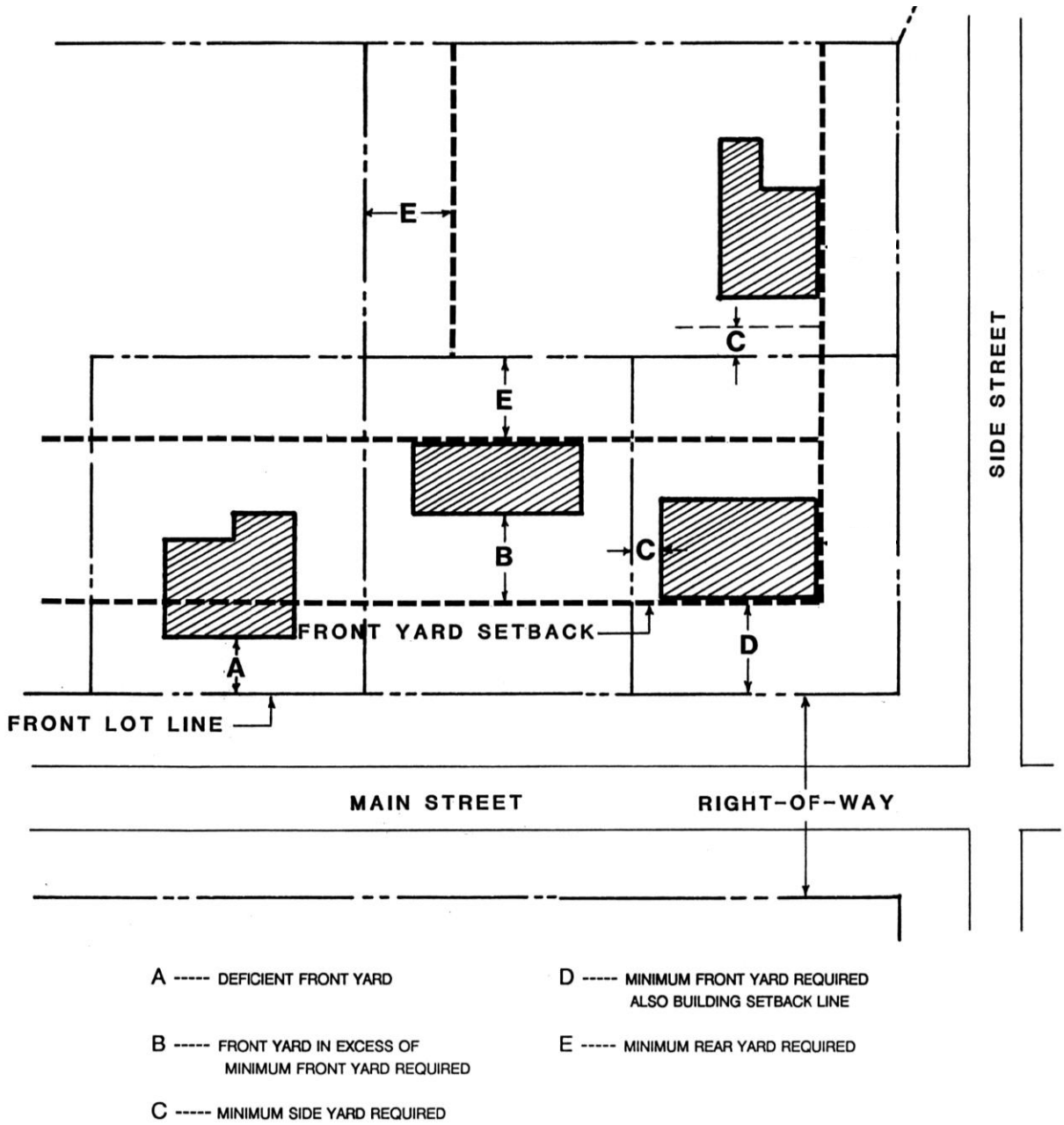












Building Line

BUILDING PERMIT: The written authority issued by the Building Official permitting the construction, removal, repair, moving, alteration, or use of a building in conformity with the provisions of this Ordinance.

BULK: The term used to indicate the size and setbacks of buildings and structures and the location of same with respect to one another, including standards for the height and area of buildings; the location of exterior walls in relation to lot lines, streets, and other buildings; gross floor area of buildings in relation to lot area; open space; and, the amount of lot area required for each dwelling unit.

CAR RENTAL ESTABLISHMENTS: A building or premises used primarily for the rental of automobiles and other motor vehicles.

CARPORT: A partially open structure, intended to shelter one (1) or more vehicles.

CEMETERY: Land used for the burial of the dead, including crematories, and mausoleums.

CHANGE OF USE: A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance.

CHARITABLE ORGANIZATION: Any person or organization that is both 1) established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental, conservation, civic, or other charitable purpose, and 2) determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code.

CHECK-CASHING ESTABLISHMENTS: Any building or portion thereof where check or money orders are cashed or money orders or wires are issued and these services are a significant part of the business (over twenty-five percent (25%) of the gross dollar volume of the business), excluding banks and savings and loan institutions, credit unions, or other banking organizations regulated by State or Federal law.

CHURCH: See PLACE OF WORSHIP.

CLINIC, MEDICAL: 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. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

CLINIC, VETERINARY: An institution which is licensed by the Michigan Department of Health to provide for the care, diagnosis, and treatment of sick or injured animals, including those in need of medical or surgical attention. A veterinary clinic may include fully enclosed pens or cages for the overnight boarding of animals and such related facilities as laboratories, testing services, and offices.

CLUB or FRATERNAL ORGANIZATION: An organization of persons for special purposes or for the promulgation of sports, arts, science, agriculture, literature, politics, or similar activities, but not operated for profit or to espouse beliefs or further activity that is not in conformance with the Constitution of the United States or any laws or ordinances. The facilities owned or used by such organization may be referred to as a "club" in this Ordinance.

COLLEGE or UNIVERSITY: A school of higher learning, consisting of a building or buildings and other facilities for teaching and research, and that grants bachelor's, master's, and doctorate degrees.

COLOCATION: See WIRELESS, COLOCATION.

COMMERCIAL AMUSEMENT: A facility operated for profit which affords entertainment and recreation, such as pool halls, miniature golf, bowling lanes, indoor soccer, ice and roller hockey facilities.

COMMERCIAL BROADCASTING TRANSMITTING TOWER, RADIO AND TV: A tower used to transmit or receive electromagnetic waves for AM and FM radio and television, where such activity is undertaken for the purpose of generating income.

COMMERCIAL GARAGE: See AUTOMOBILE REPAIR GARAGE.

COMMERCIAL USE: The use of property in connection with the purchase, retail sale, barter, display or exchange of goods, wares, merchandise or personal services directly to the consumer; the maintenance of office, or, recreational or amusement enterprises. As used in this Ordinance "commercial use" shall not include industrial, manufacturing, or wholesale businesses.

COMMISSION or PLANNING COMMISSION: The Planning Commission of the City of Midland.

CONDITIONAL LAND USE: Uses, either public or private, which possess unique characteristics and therefore cannot without the benefit of a conditional land use permit be considered a permitted use by right in a particular zoning district or districts. After due consideration of the impact of each such proposed use upon the neighboring land and of the public need for the particular use at the proposed location, such conditional land uses may be permitted following review and approval subject to the terms of this Ordinance.

CONDOMINIUM: A system of separate ownership of individual units in multi-unit projects. In addition to the interest acquired in a particular unit, each unit owner is also a tenant in common in the underlying fee and in the spaces and building parts used in common by all the unit owners. For the purposes of this Ordinance, condominium terms shall be defined as follows:

a. **Condominium Act:** Shall mean Public Act 59 of 1978, as amended.

b. **Condominium, Commercial:** A building, or group of buildings, used for office, business, professional services, research, and other commercial enterprise, owned and maintained as a condominium.

c. **Condominium, Industrial:** An industrial building, or group of buildings, organized, owned and maintained as a condominium.

d. **Condominium Lot:** That portion of a site condominium project designed and intended to function similar to a platted subdivision lot for purposes of determining minimum yard setback requirements and other requirements set forth in the Schedule of Regulations (Article 26.00).

e. **Condominium Subdivision Plan:** Drawings and information which show the size, location, area, and boundaries of each condominium unit, building locations, the nature, location, and approximate size of common elements, and other information required by Section 66 of Michigan Public Act 59 of 1978, as amended.

f. **Condominium Unit:** That portion of the condominium project designed and intended for separate ownership and use, as described in the master deed for the condominium project. A condominium unit is not a lot or condominium lot as those terms are used in this Ordinance.

g. **Common Elements:** Portions of the condominium project other than the condominium units.

h. **Detached Condominium:** A condominium project of detached units designed to be similar in appearance to a conventional single family subdivision, except that limited common areas are not arranged in such a manner as to create clearly defined condominium lots.

i. **General Common Elements:** Common elements other than the limited common elements, intended for the common use of all co-owners.

j. **Limited Common Elements:** Portions of the common elements reserved in the master deed for the exclusive use of less than all co-owners.

k. **Master Deed:** The condominium document recording the condominium project to which are attached as exhibits and incorporated by reference the bylaws for the project and the condominium subdivision plan.

l. **Site Condominium Project:** A condominium project designed to function as an alternative to, but in a similar manner as a platted subdivision. A site condominium project shall be considered as equivalent to a platted subdivision for purposes of regulation in this Ordinance.

CONGREGATE HOUSING: See HOUSING FOR THE ELDERLY.

CONSERVATION EASEMENT: A legal agreement in which the landowner retains ownership of private property, but conveys certain specifically identified rights to a land conservation organization, charitable or educational organization, corporation, trust, governmental entity, or other legal entity.

CONTIGUOUS LOT: See LOT, CONTIGUOUS.

CONTRACTOR'S YARD: A site on which a building or construction contractor stores equipment, tools, vehicles, building materials, and other appurtenances used in or associated with building or construction. A contractor's yard may include outdoor or indoor storage, or a combination of both.

CONVALESCENT HOME: See NURSING HOME.

CONVENIENCE STORE: A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase a relatively few items (in contrast to a "supermarket"). Convenience stores are designed to attract a large volume of stop-and-go traffic.

CO-OP (COOPERATIVE) HOUSING: See DWELLING, MULTIPLE FAMILY

CORNER LOT: See LOT, CORNER.

CORRECTIONAL FACILITY: A facility that is operated by a local unit of government for the detention of persons charged with, or convicted of, criminal offenses or ordinance violations; persons found guilty of civil or criminal contempt; or a facility which houses prisoners for not more than one (1) year.

COUNCIL or CITY COUNCIL: The City Council of the City of Midland.

CURB CUT: The entrance to or exit from a property provided for vehicular traffic to or from a public or private road or highway.

DAY SHELTER: A facility and associated administrative functions providing temporary daytime shelter for one or more individuals who are otherwise temporarily or permanently homeless. Day Shelters may include provision of food, clothing and support services such as counseling, education and transportation. A Day Shelter does not include overnight stay. This definition includes soup kitchens, missions, religious organizations and other organizations offering similar services.

DECK: A platform, commonly constructed of wood or recycled plastic, which is typically attached to a house, and which is typically used for outdoor leisure activities. Also see PATIO.

DENSITY: The number of dwelling units per acre of land.

a. **Gross Density:** The number of units per acre of total land being developed.

b. **Net Density:** The number of units per acre of land devoted to residential use, exclusive of road rights-of-way, parks, utility easements (if the easements are not useable for recreation purposes), and other areas not used for residential purposes.

DETENTION BASIN: A man-made or natural water collection facility designed to restrict the flow of stormwater to a prescribed maximum rate, and to concurrently detain the excess waters that accumulate behind the outlet.

DEVELOPMENT: The construction of a new building, reconstruction of an existing building, improvement of a structure on a parcel or lot, the relocation of an existing building to another lot, or the improvement of open land for a new use.

DIMENSIONAL NONCONFORMITY: See NONCONFORMITY, DIMENSIONAL.

DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT: The staff planner designated by the City Council to advise the City administration, City Council, and Planning Commission on planning, zoning, land use, subdivision, housing and other related planning and development matters.

DISABLED*:* Having a physical and/or mental condition that limits movements, senses, or activities.

DISPATCH CENTER*:* A place from which tow trucks are sent out on call. This may be a stand-alone operation or in conjunction with a service station or other vehicle repair operation.

DISTRIBUTION CENTER: A use which typically involves both warehouse and office/administration functions, where short and/or long term storage takes place in connection with the distribution operations of a wholesale or retail supply business.

DISTRICT, ZONING: A portion of the city within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain yards, open spaces, lot areas, and other requirements are established.

DOUBLE FRONTAGE LOT: See LOT, DOUBLE FRONTAGE or THROUGH.

DRIVE-UP: A business establishment so designed that its operation involves providing service to patrons while they are in their car, rather than within a building or structure.

DRIVEWAY: A private lane designed primarily for use by vehicles that connects a single building lot or parcel with a street.

DRIVEWAY, COMMERCIAL: Any vehicular access except those serving one (1) or two (2) dwelling units or an essential public service use, building or structure.

DUPLEX: See DWELLING, TWO FAMILY or DUPLEX.

DWELLING: A building that contains one or two dwelling units used, intended, or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

DWELLING, MANUFACTURED: A building or portion of a building designed for long-term residential use and characterized by all of the following:

a. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and

b. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and

c. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

DWELLING, MOBILE HOME: A type of manufactured housing that is transportable in one (1) or more sections, that is built upon a chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this Ordinance.

DWELLING, MULTIPLE-FAMILY: A building designed for and occupied by three (3) or more families living independently, with separate housekeeping, cooking, and bathroom facilities for each. Examples of multiple-family dwellings units include those commonly known as apartments which are defined as follows:

a. **Apartment:** An apartment is an attached dwelling unit with a party wall contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often may have a central heating system and other central utility connections. Apartments are also commonly known as garden apartments or flats. An apartment house is a residential structure containing three (3) or more attached apartments.

b. **Efficiency Unit:** An efficiency unit is a type of multiple-family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

c. **Co-op (Cooperative) Housing:** A multiple unit dwelling owned by a corporation which leases its units to stockholders on a proprietary lease arrangement.

DWELLING, ONE-FAMILY OR SINGLE-FAMILY: An independent, detached residential dwelling designed for and used or held ready for use by one (1) family only. A single-family dwelling is commonly the only principal use on a parcel or lot.

DWELLING, TWO-FAMILY OR DUPLEX: A detached building, designed exclusively for and occupied by two (2) families living independently of each other, with separate housekeeping, cooking, storage, and bathroom facilities for each and with separate entrances. Also known as a duplex dwelling.

DWELLING UNIT: A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

DWELLING UNIT, SINGLE-FAMILY ATTACHED OR TOWNHOUSE: A townhouse is an attached single-family dwelling unit, not more than two and a half (2 ½) stories in height, with party walls, designed as part of a series of three (3) or more dwellings, with its own front and rear entrance. It has a front entrance that opens to the outdoors at ground level. Townhouses are sometimes known as row houses.

EARTH-SHELTERED HOME: A complete building partially below grade that is designed to conserve energy and is intended to be used as a single-family dwelling.

EASEMENT: A legal agreement that conveys the right of a specific non-owner to use part of a parcel of land for a specific purpose. Typical easements include the right of the owner of a piece of land with no public road frontage to use a specific strip of another person's land to reach the public street (e.g. a private road easement) or the right of the City to run a water main or sewer main across a specific strip of an owner's land.

ENGINEER, CITY: The City Engineer is the person or firm designated by the City Council to advise the City administration, City Council, and Planning Commission on drainage, grading, paving, storm water management and control utilities, and other related site engineering and civil engineering issues.

ENFORCEMENT OFFICIAL: The Enforcement Official is the person or persons designated by the City as being responsible for enforcing and administering requirements of this Zoning Ordinance. Throughout this Ordinance the Enforcement Official may be referred to as the Planning Official, Public Safety Official, Engineering Official or their agents. Such titles do not necessarily refer to a specific individual, but generally the office or department most commonly associated with the administration of the regulation being referenced.

ERECTED: Any physical change on a site, including construction, reconstruction, or alteration of buildings or structures thereon. Excavation, fill drainage, and the like shall be considered part of erection.

ESSENTIAL SERVICES: The term "essential services" shall mean the erection, construction, alteration or maintenance and operation by public or quasi-public utilities or municipal departments or commissions of underground, surface or overhead gas, steam, electrical fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities, school bus yards, cellular telephone towers and support equipment, and commercial reception or transmitting communication towers and support equipment.

EXCAVATION: The removal or movement of soil sand, stone, gravel or fill dirt except for common household gardening, farming, and general ground care.

EXCEPTION: An exclusion from the normal Zoning Ordinance rules and regulations for the purposes of permitting particular uses or structures which are considered essential or appropriate in certain locations or under certain conditions. A variance is not required for uses or structures which are permitted because of an exception.

FAÇADE: The exterior side of a building which faces and is more nearly parallel to, a public or private street. The façade shall include the entire building walls, including wall faces, parapets, facia, windows and doors. An individual façade is defined by a change in depth or wall treatment.

FAMILY: Means either of the following:

1. A domestic family, that is, one or more persons living together and related by the bonds of consanguinity, marriage, or adoption, together with servants of the principal occupants and not more than one additional unrelated person, with all of such individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling.

2. The functional equivalent of the domestic family, that is, persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family shall be cooking and otherwise housekeeping as a single, nonprofit unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration. There shall be a rebuttable presumption enforceable by the Zoning Enforcement Officer in the first instance that the number of persons who may reside as a functional equivalent family shall be limited to four (4). Such presumption may be rebutted by application to the Planning Commission for a conditional land use based upon the applicable standards in this Ordinance.

FENCE: An artificially constructed barrier of wood, masonry, stone, wire, metal or any other manufactured material or combination of materials, used to prevent or control entrance, confine within, or mark a boundary. For the purposes of this ordinance, a fence is not considered an accessory structure.

FILL, FILLING: The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

FINISHED GRADE: See GRADE.

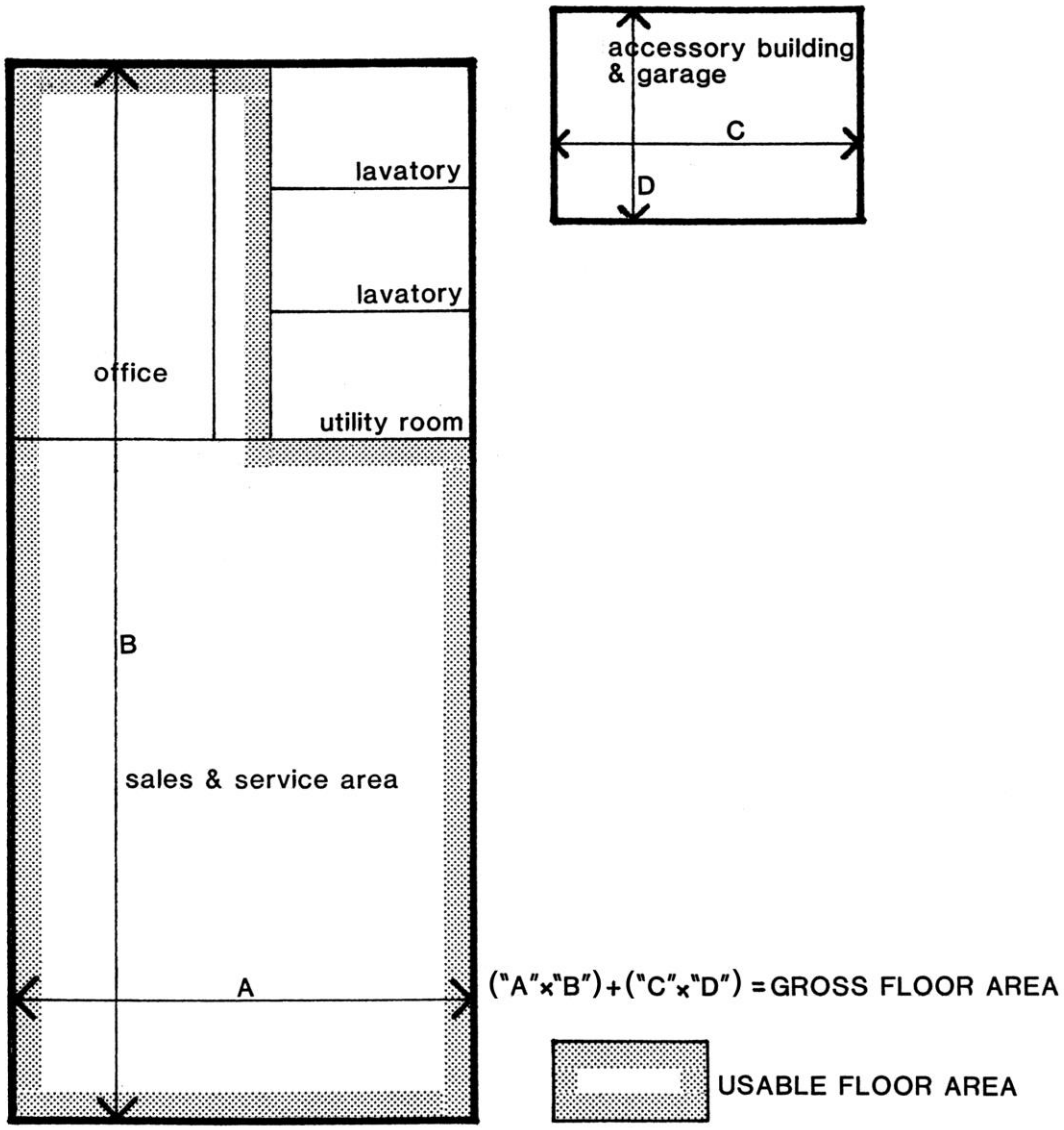
FLAG LOT: See LOT, FLAG.

FLOOR AREA, GROSS: The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deduction for corridors, stairways, closets, the thickness of interior walls, columns, or other features. In the case of a building not provided with surrounding exterior walls, the floor area shall be the usable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

FLOOR AREA, NET: See FLOOR AREA, USABLE RESIDENTIAL, and FLOOR AREA, USABLE NONRESIDENTIAL.

FLOOR AREA, USABLE RESIDENTIAL: The gross floor area minus areas in basements, unfinished attics, attached garages, and enclosed or unenclosed porches.

FLOOR AREA, USABLE NONRESIDENTIAL: The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which is used for or intended to be used for the storage or processing of merchandise or for utilities shall be excluded from the computations of Usable Nonresidential Floor Area (see illustration on page 2-16).



Floor Area Terminology

FLOOR AREA OF COMMERCIAL, OFFICE AND SIMILAR NON-RESIDENTIAL USES

FOSTER CARE FACILITY: See RESIDENTIAL CARE FACILITIES.

FRATERNAL ORGANIZATION: See CLUB.

FRONTAGE: See LOT FRONTAGE.

FRONTAGE, BUILDING: The length of an outside building wall fronting a public right-of-way or private street.

GAMBLING ESTABLISHMENTS: Any premises wherein or whereon gaming is done; for the purpose of this Ordinance, a building or structure and any part of which is used or intended to be use for the purposes of dealing, operating, maintaining, conducting or exposing for pay of any game. Included in this definition are charitable organizations and facilities licensed to conduct games of chance.

GARAGE, PRIVATE: An accessory building for parking or storage of motor vehicles owned and used by the occupants of the building to which it is accessory. Private garages shall not house a home occupation. A private garage may be either attached to or detached from the principal structure.

GARAGE, PUBLIC: See AUTOMOBILE REPAIR GARAGE.

GASOLINE SERVICE STATION: See AUTOMOBILE FILLING STATION and AUTOMOBILE SERVICE STATION.

GOLF COURSE OR COUNTRY CLUB: The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

GRADE: The ground elevation established for the purpose of regulating the number of stories or height of a building. "Finished grade" is the elevation of the surface of the ground after development, filling, or excavation. The building grade shall be the level of the ground adjacent to the walls of the structure if the finished grade is level. If the ground is not entirely level, the grade shall be determined by lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet from the building, between the building and a point six (6) feet from the building, as determined in the State Construction Code.

GREENBELT: See LANDSCAPING.

GROCERY STORE: A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers.

GYM or GYMNASIUM: A room or building equipped for gymnastics, exercise or sport.

HABITABLE SPACE: A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

HALF STORY: See STORY, HALF.

HAZARDOUS USES: Any activity which is or may become injurious to public health, safety, or welfare or the environment. Hazardous uses include but are not limited to all uses which involve the storage, sale, manufacture, or processing of materials which are dangerous or combustible and are likely to burn immediately, and from which either poisonous fumes or explosions are to be anticipated in the event of fire. These uses include all high hazard uses listed the State Construction Code, as amended.

HEIGHT OF BUILDING: See BUILDING HEIGHT.

HIGHWAY: See STREET.

HOME OCCUPATION: An occupation or profession conducted within a dwelling or on a residential lot by the inhabitants thereof, where such use is clearly incidental to the principal use of the dwelling as a residence. (See Section 3.06.)

HOSPITAL: An institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

HOSPITAL, VETERINARY: See CLINIC, VETERINARY

HOTEL: A building occupied as a temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, and which typically provides hotel services such as maid service, the furnishing and laundering of linens, telephone and secretarial or desk service, the use of furniture, a dining room and general kitchen, and meeting rooms.

HOUSING FOR THE ELDERLY AND THE DISABLED: A facility other than a hospital or hotel, which provides room and board to non-transient persons. Housing for the elderly and the disabled may include the following:

a. **Senior Apartments:** Multiple-family dwelling units generally occupied by persons sixty (60) years of age or older.

b. **Elderly Housing Complex:** A building or group of buildings containing dwellings where the occupancy is restricted to persons sixty (60) years of age or older or couples where either the husband or wife is sixty (60) years of age or older.

c. **Congregate Housing:** A type of semi-independent housing facility containing common kitchen, dining, and living areas, but with separate sleeping rooms. Such facilities typically provide special support services, such as transportation and limited medical care.

d. **Dependent Housing Facilities:** Facilities including nursing homes, which are designed for the care of the aged, infirm or those suffering from bodily disorders who need a wide range of health and support services, including personal nursing care.

IMPERVIOUS SURFACE: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

INDOOR RECREATION CENTER: A recreational use fully enclosed by walls and including a roof. Examples of such uses include bowling facilities, skating rinks, and indoor pools.

INGRESS AND EGRESS: As used in this Ordinance, "ingress and egress" generally is used in reference to a driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk which allows pedestrians to enter or leave a parcel of property, a building, or another location.

INTERIOR LOT: See, LOT, INTERIOR.

JUNK YARD or SALVAGE YARD: An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including, but not limited to: junk, scrap iron, metals, paper, rags, tires, bottles and automobiles. A "junkyard" includes automobile wrecking yards and includes any open area of more than two hundred (200) square feet for storage, keeping or abandonment of junk.

JUVENILE SERVICES FACILITIES: A residential and institutional complex for providing detention and rehabilitation services to juveniles under the jurisdiction of a court of record.

KENNEL: A service commercial establishment for the keeping, boarding, breeding or training of four (4) or more male or female dogs or domestic animals. Included in this definition are any places where dogs and other domestic animals, excluding livestock, are bred and raised and are sold or kept for sale or boarded whether for profit or not.

KIOSK: A freestanding permanent outdoor structure that is no greater than one hundred (100) square feet in area that is designed to serve drive through and/or nonmotorized traffic. Examples of these types of structures are automatic teller machines or coffee or food sales.

LAKE: Any body of water, natural or artificial, defined as "inland lake or stream" in the Natural Resources and Environmental Protection Act, Michigan Public Act 451 of 1994, as amended.

LANDFILL: A tract of land that is used to collect and dispose of "solid waste" as defined and regulated in the Natural Resources and Environmental Protection Act, Michigan Public Act 451 of 1994, as amended.

LANDSCAPING: The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative man-made materials, such as wood chips, crushed stone, boulders, or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping-related terms are defined as follows:

a. **Berms:** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of Article 6.00 this Ordinance.

b. **Grass:** Any of a family of plants with narrow leaves normally grown as permanent lawns in Midland or Bay County, Michigan.

c. **Greenbelt:** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this ordinance.

d. **Ground Cover:** Low-growing plants that form a dense, extensive growth after one complete growing season, and tend to prevent weeds and soil erosion.

e. **Hedge:** A row of closely planted shrubs or low-growing trees which commonly form a continuous visual screen, boundary, or fence.

f. **Hydro-Seeding:** A method of planting grass where a mixture of the seed, water, and mulch is mechanically sprayed over the surface of the ground.

g. **Interior Parking Lot landscaping:** Landscaped areas located in the interior of a parking lot in such a manner as to improve the safety of pedestrian and vehicular traffic, guide traffic movement, and improve the appearance of the parking area.

h. **Mulch:** A layer of wood chips, dry leaves, straw, hay, plastic, or other materials placed on the surface of the soil around plants to retain moisture, prevent weeds from growing, hold the soil in place, or aid plant growth.

i. **Nurse Grass:** Any of a variety of rapidly-growing annual or perennial rye grasses used to quickly establish ground cover to prevent dust or soil erosion.

j. **Screen or Screening:** A wall, wood fencing, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of nonliving material such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.

k. **Shrub:** A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than fifteen (15) feet in height.

l. **Sod:** An area of grass-covered surface soil held together by matted roots.

m. **Tree:** A self-supporting woody, deciduous or evergreen plant with a well-defined central trunk or stem which normally grows to a mature height of fifteen (15) feet or more in Midland or Bay County, Michigan.

1. **Deciduous Tree:** A variety of tree that has foliage that is shed at the end of the growing season.
2. **Evergreen Tree:** A variety of tree that has foliage that persists and remains green throughout the year.

n. **Ornamental Tree:** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of twenty-five (25) feet or less in Midland or Bay County, Michigan.

o. **Shade Tree:** For the purposes of this Ordinance, a shade tree is a deciduous tree which has a mature crown spread of fifteen (15) feet or greater in Midland County, Michigan, and has a trunk with at least five (5) feet of clear stem at maturity.

p. **Vine:** A plant with a flexible stem supported by climbing, twining, or creeping along the surface, and which may require physical support to reach maturity.

LANDSCAPING CONTRACTOR'S OPERATION: A business engaged in the practice of improving building sites or other grounds by contouring the land and planting flowers, shrubs, and trees. A Landscaping Contractor's Operation typically consists of equipment, tools, vehicles, and materials used in or associated with such a business.

LOADING SPACE, OFF-STREET: An off-street space which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

LOT: A tract of land occupied, or intended to be occupied, by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this Ordinance. A lot may or may not be specifically designated as such on public records. A lot may be a single lot of record, a portion of a lot of record, a combination of contiguous lots of record, contiguous portions of lots of record, a parcel of land described by metes and bounds or a condominium lot.

LOT AREA, NET: The total horizontal area within the lot lines of the lot, exclusive of any abutting public road rights-of-way or private road easements, or the area of any body of water. The net lot area shall be used in determining compliance with Minimum Lot Area standards.

LOT AREA, GROSS: The net lot area plus one-half (½) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

LOT, BUILDABLE AREA: See BUILDABLE AREA

LOT, CONTIGUOUS: Lots adjoining each other.

LOT, CORNER: A lot abutting on and at the intersection of two or more streets, provided that the streets intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above (see illustration on page 2-22). A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.

For the purposes of this definition, the "street" lot line shall be the line separating the lot from the street or road right-of-way (see Open Space Terms illustration on page 2-40).

LOT DEPTH: The horizontal distance between the front street line and rear lot line, measured along the median between the side lot lines (See Open Space Terms illustration on page 2-40).

LOT, DOUBLE FRONTAGE (OR THROUGH LOT): A lot, other than a corner lot, that fronts upon two (2) more-or-less parallel streets or upon two (2) streets that do not intersect at the boundaries of the lot. In the case of a row of double frontage lots, one (1) street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit.

LOT, FLAG: A lot which is located behind other parcels or lots fronting on a public or private road and /or drive, but which has a narrow extension to provide access to the road. The extension, which provides access to the buildable portion of the lot, shall comply with the lot width standards for the district in which the lot is located.

LOT FRONTAGE: The length of the front lot line measured along the street right-of-way or easement line.

LOT, INTERIOR: Any lot other than a corner lot with only one (1) lot line fronting on a street.

LOT LINES: The lines bounding a lot as follows (See illustration on page 2-40):

a. **Front Lot Line**: The lot line separating said lot from the street. In the case of a corner lot, the line separating the narrowest side of a lot from the street. The orientation of the structure on the lot does not impact the front lot line definition.

b. **Rear Lot Line**: Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge-shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.

c. **Side Lot Line:** Any lot line other than the front or rear lot lines. A side lot line separating a lot from another lot or lots is an interior side lot line.

d. **Side Street Lot Line:** A side lot line separating a lot from a road right-of-way.

e. **Interior Lot Line:** Any lot line which does not abut upon a street.

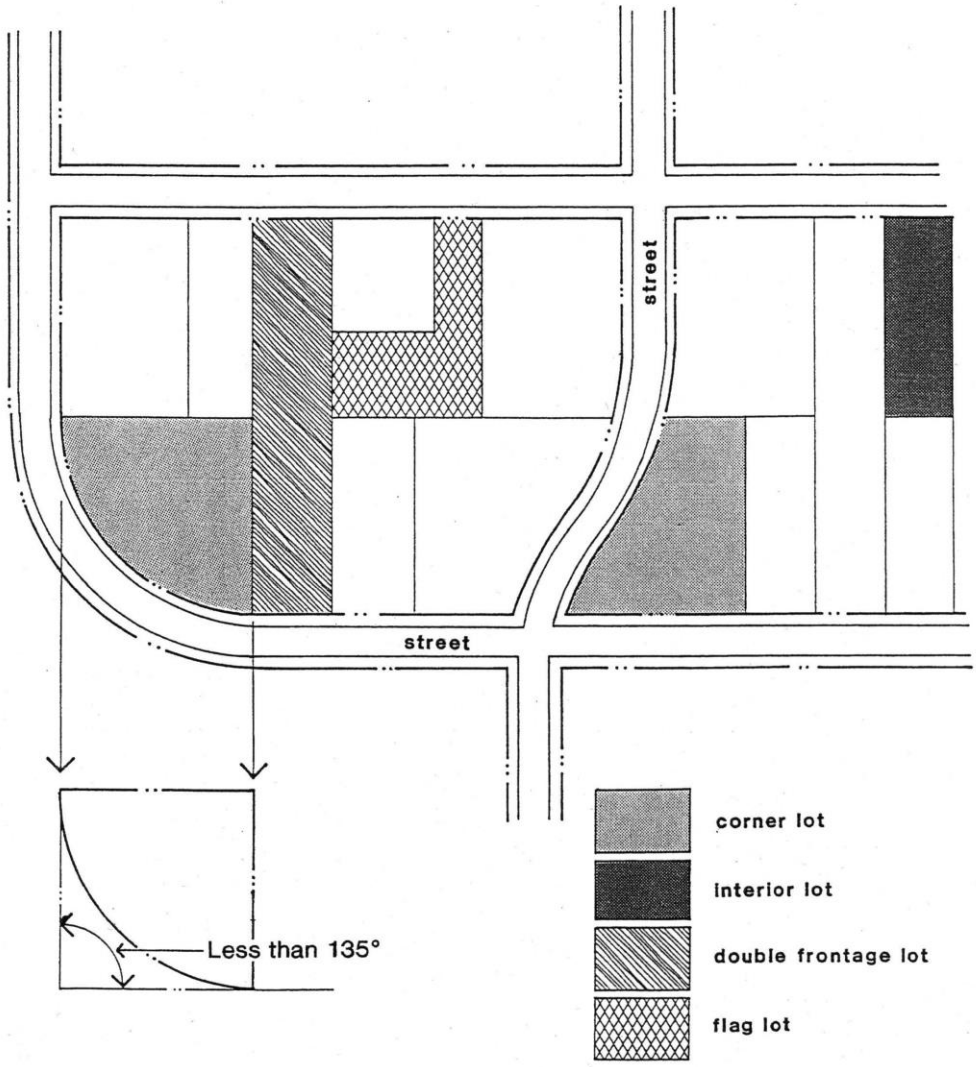
LOT OF RECORD: A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the Midland or Bay County Register of Deeds, or a legally created lot or parcel described by metes and bounds.

LOT SPLIT AND CONSOLIDATION: The dividing or uniting of lots by virtue of changes in the deeds in the office of the Midland or Bay County Register of Deeds.

LOT WIDTH: The straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines (see illustration on page 2-22).

LOT, ZONING: A tract of land consisting of a group of adjacent lots located within a single block, which, at the time of filing for a building permit, is designated by the owner or developer as a tract to be used, developed or build upon as a unit, under single ownership or control. A zoning lot is considered as a single lot for the purpose of this chapter. In such case, the outside perimeter of the such group of lots shall constitute the front, rear, and side lots thereof.

MAIN ACCESS DRIVE: A private access drive from a public or private street or road to a mobile home park, apartment or condominium complex, or commercial development.



Interior & Corner Lots

MAJOR THOROUGHFARE: A main traffic artery designated on the Midland Thoroughfare Plan as a major thoroughfare.

MANEUVERING LANE: The area of a drive which provides direct maneuvering access to a parking space.

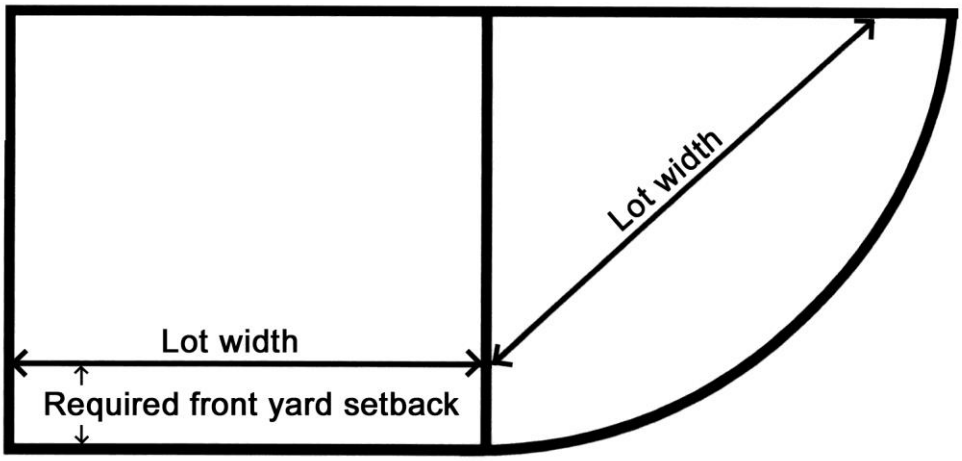
MANUFACTURED HOUSING: See DWELLING, MANUFACTURED.

MARGINAL ACCESS ROAD: See SECONDARY ACCESS DRIVE.

MARIHUANA, also known as MARIJUANA, also known as CANNABIS. That term shall have the meaning given to it in section 7601 of the Michigan public health code, 1978 PAS 368, MCL 333.7106, as is referred to in section 3(d) of The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d). Any other term pertaining to marihuana used in this Chapter and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.

MASTER PLAN: A comprehensive, long-range plan adopted and amended from time to time by the Planning Commission and/or City Council that is intended to serve as a guide for growth and

development of the City, as provided for by the Municipal Planning Act, Public Act 33 of 2008. The plan consists of maps, text, tables, and graphics with recommendations concerning land use, economic development, housing, recreation and open space, transportation and community facilities.



Lot Width

MEDICAL CLINIC: See CLINIC, MEDICAL.

MEDICAL OFFICE BUILDING: An office building of which greater than fifty (50) percent of the floor area is occupied by licensed medical, dental, optometric, osteopathic, or chiropractic offices for the examination or treatment of human outpatients.

MEDICAL USE OF MARIHUANA. The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under The Michigan Medical Marihuana Act, P.A. 2008, Initiated Law, MCL 333.26423(d).

MEZZANINE: An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third (1/3) of the floor area of the story in which the level or levels are located (see illustration on page 2-31).

MINI-WAREHOUSE: A building or group of buildings, each of which contains several individual storage units, each with a separate door and lock and which can be leased on an individual basis. Also known as "Mini-Storage."

MIXED-USE BUILDING. A building that contains some combination of non-residential and residential uses, such as a building with a non-residential use on the first floor and residential units above the first floor or live-work units.

MOBILE HOME: See DWELLING, MOBILE HOME.

MOBILE HOME PARK: A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home, subject to conditions set forth in the Mobile Home Commission Rules and the Mobile Home Commission Act, Public Act 96 of 1987, as amended.

MOBILE HOME LOT: An area within a mobile home park which is designated for the exclusive use of a specific mobile home.

MORTUARY or FUNERAL HOME: An establishment where the dead are prepared for burial or cremation and where wakes or funerals may be held.

MOSQUE: See PLACE OF WORSHIP.

MOTEL: A building or group of buildings occupied as a temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of a bedroom and bath, occupied for hire, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use of furniture. Motels typically provide exterior entrances and on-site parking for each unit. A motel may also include conference room or banquet facilities, a dining room or standard restaurant, and manager or caretaker living quarters. The term "motel" shall include buildings designed as "auto-courts", "tourist courts," "motor courts", “suites” and similar terms that refer to a building or buildings containing rooms to be occupied as temporary abiding places.

MULTIPLE FAMILY DWELLING: See DWELLING, MULTIPLE FAMILY.

MUNICIPALITY: The City of Midland, Michigan.

MUNICIPAL WATER SYSTEM: A water supply system owned by a City, Township or other governmental unit or authority or commission comprised of governmental units.

NATURAL RESOURCES: Natural resources shall include land, soils, wetlands, floodplains, surface and ground water, topography, trees and other types of vegetative cover, subsurface strata, geologic formations, animal life, and naturally occurring substances and living organisms that can be useful to people. Natural resources are of two types: renewable (e.g., plants and trees) and nonrenewable (e.g., mineral resources).

NET BUILDABLE AREA: See BUILDABLE AREA, NET.

NONCONFORMITY: Any building, structure, lot, or use of any lot, land, building or structure, which does not conform at the time of adoption of this Ordinance or any amendment thereto, to the regulations for the district in which it is located.

NONCONFORMING BUILDING: A lawfully-constructed building or portion thereof in existence prior to the effective date of this Ordinance or amendment thereto that does not conform to the current requirements regarding building size, setbacks, height, lot coverage, parking or other regulations for the district in which such building is located.

NONCONFORMING LOT: A lawfully-established lot existing at the effective date of this Ordinance or amendment thereto that does not meet the current minimum area or dimensional requirements of the district in which the lot is located.

NONCONFORMING SIGN: A lawfully-constructed sign that on the effective date of this Ordinance or amendment thereto does not conform to one or more current regulations set forth in this Ordinance.

NONCONFORMING USE: A use that lawfully occupied a building or land at the effective date of this ordinance or amendment thereto and which does not conform to the current use regulations of this Ordinance for the zoning district in which it is now located.

NONCONFORMITY, DIMENSIONAL: A nonconformity that exists when the height, size, or minimum floor space of a structure, or the relationship between an existing building and other buildings or lot lines, does not conform to the standards of the district in which the property is located.

NUISANCE: Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance

commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, or endangers life and health.

NUISANCE, ATTRACTIVE: A use, practice, structure or condition on a property that children are reasonably likely to come in contact with or be exposed to that involves an unreasonable risk of death or serious bodily harm to children, and that meets the criteria in the "classic statement of the doctrine of attractive nuisance" in the Restatement of Torts, 2d 339, p. 167; 76 Mich. App. 137 - June 1977.

NURSERY, DAY NURSERY, or NURSERY SCHOOL: See RESIDENTIAL CARE FACILITIES.

NURSERY, PLANT MATERIAL: A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises, but not including any space, building or structure used principally for the sale of fruits, vegetables, or Christmas trees.

NURSING HOME, CONVALESCENT HOME, or REST HOME: SEE HOUSING FOR THE ELDERLY, Dependent Care.

OBSCURING WALL: See WALL, OBSCURING.

OCCUPANCY, CHANGE OF: The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

OCCUPIED: Used in any way at the time in question.

OFFICE: A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

OFFSET: The distance between the centerline of the subject driveway and the centerline of driveways on the opposite side of the street.

ONE FAMILY DWELLING: See DWELLING, ONE FAMILY or SINGLE FAMILY.

OPEN SPACE: Any parcel or area of land or water that is generally free of structures and that is set aside, dedicated, designated or reserved for public or private use or enjoyment or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space. Open space may be required for recreation, resource protection, aesthetics, or other purposes.

OPEN STORAGE: Storage of building materials, equipment and supplies such as but not limited to: sand, gravel, stone, lumber, in an unroofed area in the same place for more than 24 hours.

ORNAMENTAL FIXTURE: A decorative or functional object or element that does not require a foundation, and cannot be used for human or animal shelter. Examples of ornamental fixtures include, flag poles, landscape features, garden ornaments, clothes lines, and similar objects.

OUTDOOR SALES LOT: Any area used for the display and sale of new or used passenger, commercial or recreational vehicles. The area shall be arranged in an orderly manner. The keeping of miscellaneous materials, equipment parts or outdoor storage of damaged or inoperable vehicles and debris shall be prohibited.

OUTDOOR STORAGE LOT: Any area outdoors used for the storage of new or used passenger, commercial or recreational vehicles (damaged or intact including those awaiting service or repair), equipment, parts, materials or other miscellaneous items accessory to a new or used automotive, commercial or recreational vehicle dealership.

OUTDOOR WOOD BURNER: (Outdoor wood fired hydronic heater, OWHH)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.

OUTLOT: When included within the boundary of a recorded plat, a lot set aside for purposes other than those for the rest of the lots in the plat. For example, land set aside for a future street would typically be set aside in an outlot.

OVERLAY ZONE: A zoning district which has definite boundaries and is superimposed over all existing zoning districts within those boundaries. The overlay zoning may establish additional regulations, reduce existing regulations, or extend or limit the permitted uses within the underlying zoning districts.

OWNER: The owner of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property, or his or her duly authorized agent.

PARCEL: A continuous area, tract, or acreage of land that has not been divided or subdivided according to the provisions of the Land Division Act and has frontage on a public or private street.

PARK: A parcel of land, building or structure used for recreational purposes including but not limited to playgrounds, sport fields, game courts, beaches, trails, picnicking areas, and leisure time activities.

PARKING STRUCTURE: A structure, building, or parcel of land, or any portion thereof used for the storage or parking of motor vehicles, or boats, operated as a business.

PARKING LOT, OFF-STREET: An area in non-residential districts which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

PARKING SPACE: An area of definite length and width as designated in this Ordinance for parking an automobile or other vehicle, and which is fully accessible for such purposes.

PATIO: A paved open space of land at grade adjacent to a residential dwelling unit or mobile home which is used as an extension to the interior of the home for private or semi-private entertainment or leisure activities.

PAWN SHOP: An establishment where the shop employee or proprietor lends money on the security of personal property pledge and kept by the shop until the loan is repaid. A pawn shop can also include establishments where individuals sell personal items to the shop employee or proprietor for cash instead of a loan, and where the items are then sold to the general public. A pawn shop is a retail use**.**

PEDESTRIAN WALKWAY: A right-of-way, dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties, or is constructed to service an area deemed to be in the public interest.

PERFORMANCE GUARANTEE: A financial guarantee to ensure that all improvements, facilities, or work required by this Ordinance will be completed in compliance with the Ordinance, regulations, and approved plans and specifications of the development.

PERVIOUS SURFACE: A surface that permits full or partial absorption of storm water.

PET: See ANIMAL, DOMESTIC.

PILOT AND DEVELOPMENT PLANT: An industrial plant with the principal function of research, and whose manufacturing operations are limited to those which related specifically to and support the principal use and which have no external nuisances.

PLACE OF WORSHIP: Any structure wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

PLANNED UNIT DEVELOPMENT (PUD): A planning or construction project involving the use of special zoning requirements and review procedures that are intended to provide design and regulatory flexibility.

PLANNING COMMISSION: The Planning Commission of the City of Midland.

PLOT PLAN: A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and all salient features required to adequately evaluate whether the approvals sought by an applicant are in compliance with this Ordinance.

POLICE POWER: The constitutional power available to a sovereign authority to legislate so as to impair the use or value of private property for the benefit of the public at large.

PORCH, ENCLOSED: A covered entrance to a building or structure which is totally enclosed and projects out from the main wall of such building or structure, and has a separate roof or an integral roof with the principal building or structure to which it is attached.

PORCH, OPEN: An entrance, covered or uncovered, to a building or structure which projects out from the main wall of such building, which is unenclosed except for columns supporting the roof.

PRINCIPAL USE: See USE, PRINCIPAL.

PRIVATE STREET OR ROAD: See STREET.

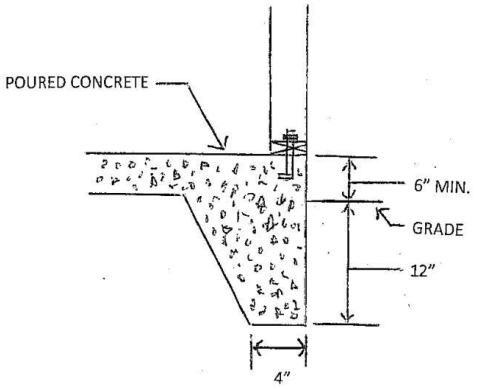
PROPERTY LINE: The line separating a piece of property from the street right- of-way and the lines separating a parcel of property from the parcels next to it. See also LOT LINE.

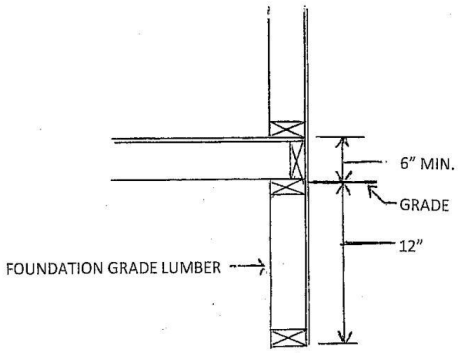
PUBLIC UTILITY: Any persons, firm, corporation, municipal department, or board, duly authorized to furnish under federal, state, or local regulations a service which is of public consequence and need. The principal distinctive characteristics of a public utility are that:

a. because of the nature of its business, it has characteristics of natural monopoly, and

b. it provides a service to an undefined public (or portion of the public) which has a legal right to demand and receive its services. Services for the purpose of this ordinance include gas, electricity, steam, water, sewage, transportation, telephone, and cable television.

RAT WALL: A low perimeter foundation wall that is both below and above grade, intended to prevent rodents and burrowing animals from accessing the sub-floor area.





REAL PROPERTY: Includes the surface, whatever is attached to the surface (such as buildings or trees), whatever is beneath the surface (such as minerals), and the area above the surface, i.e., the sky.

RECEPTION ANTENNA: An apparatus installed out-of-doors which is capable of receiving communications for radio and/or television purposes, including satellite reception antennas, but excluding such facilities that have been pre-empted from City regulation by applicable state or federal laws or regulations.

RECOGNIZABLE AND SUBSTANTIAL BENEFIT: A clear benefit, both to the ultimate users of the property in question and to the community, which would reasonably be expected to accrue, taking into consideration the reasonably foreseeable detriments of the proposed development and uses. Such benefits may include: long-term protection or preservation of natural resources and natural features, historical features, or architectural features; or elimination of or reduction in the degree of nonconformity in a nonconforming use or structure.

RECREATION LAND: Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to, camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

RECREATIONAL VEHICLE: "Recreational Vehicles" shall include the following:

a. **Travel Trailer:** A portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" by the manufacturer. Travel trailers generally contain sanitary, water, and electrical facilities.

b. **Pickup Camper:** A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses.

c. **Motor Home:** A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.

d. **Folding Tent Trailer:** A folding structure, mounted on wheels and designed for travel and vacation use.

e. **Boats and Boat Trailers:** "Boats" and "boat trailers" shall include boats, floats, rafts, canoes, jet skis plus the normal equipment to transport them on the highway.

f. **Other Recreational Equipment:** Other recreational equipment includes snowmobiles, all terrain or special terrain vehicles, utility trailers, and storage trailers plus the normal equipment to transport them on the highway.

RECREATIONAL VEHICLE PARK: A facility designed for either overnight or long-term use by travelers using travel-trailers, pick-up campers, or other recreational vehicles. Such parks typically provide electrical hook-ups, restrooms and showers, and recreational facilities.

RECREATION FACILITIES, INDOOR: An establishment which provides indoor exercise facilities and indoor court sports facilities, and which may include spectator seating in conjunction with the sports facilities. For the purposes of this Ordinance, a bowling establishment shall be considered a type of indoor recreation center.

RECREATIONAL FACILITIES, OUTDOOR: Playgrounds, parks, picnic areas, golf courses, ball fields, camps, swimming pools, nature preserves, or any other type of community space or equipment that is designed to provide the user with the opportunity to relax, engage in athletic activity, or engage in other leisure pursuits.

RECYCLING CENTER: A facility at which recyclable materials, as defined in Michigan Public Act 451 of 1994, as amended, are separated and processed prior to shipment to others who will use the materials to manufacture new products.

RECYCLING COLLECTION STATION: A facility for the collection and temporary storage of recoverable resources, prior to shipment to a recycling center for processing.

REGULATED WETLAND: See WETLAND, REGULATED.

REHABILITATION: The upgrading of an existing building or structure or part thereof which is in a dilapidated or substandard condition.

RESIDENTIAL CARE FACILITIES:

a. **Child Care Organization:** A facility for the care of children under 18 years of age, as licensed and regulated by the State under Michigan Public Act 116 of 1973, and the associated rules promulgated by the State Department of Social Services. Such organizations shall be further defined as follows:

   1. **Child care center** or **day care center** means a facility, other than a private residence, receiving more than six (6) pre-school or school age children for group care for periods of less than twenty-four (24) hours a day, and where the parents or guardians are not immediately available to the child. It includes a facility which provides care for not less than two (2) consecutive weeks, regardless of the number of hours of care per day.

      The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative, preschool play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

   2. **Foster family home** is a private home in which one but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

3. **Foster family group home** means a private home in which more than four (4) but less than seven (7) children, who are not related to an adult member of the household by blood, marriage, or adoption, are provided care for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.

4. **Family day care** means a private home in which one but no more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or guardian, except children related to an adult member of the family by blood, marriage, or adoption. It includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year.

5. **Group day care home** means a private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.

b. **Adult Foster Care:** A facility for the care of adults, over eighteen (18) years of age, as licensed and regulated by the State of Michigan Public Act 218 of 1979, and rules promulgated by the State Department of Social Services. Such organizations shall be defined as

1. **Adult foster care facility** means a governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care.

   An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, or a residential center for persons released from or assigned to a correctional facility.

2. **Adult foster care small group home** means a facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

3. **Adult foster care large group homes** means a facility with approved capacity to receive at least thirteen (13) but not more than twenty (20) adults to be provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.

4. **Adult foster care family home** means a private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week or for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

RESIDENTIAL TREATMENT CENTER: A community-based, State-licensed facility that provides therapeutic services, counseling or treatment for mental health or substance use disorders along with room and board in a highly structured environment for its residents with staffing 24 hours per day, seven days a week. A Residential Treatment Center does not include Housing for the Elderly and the Disabled as defined by this Ordinance.

RESTORATION: The reconstruction or replication of an existing building's original architectural features.

RESTAURANT: A restaurant is any establishment whose principal business is the sale of food and/or beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive- through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

a. **Restaurant, Fast-Food:** A fast-food restaurant is a restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food and/or beverage to the customer. Service may be at a counter, cafeteria line, drive through window or in a motor vehicle for consumption where it is served, at tables, booths, or stands inside the structure or out, in a motor vehicle**,** or for consumption off the premises.

b. **Restaurant, Standard:** A standard restaurant is a restaurant whose method of operation involves either:

   1. The delivery of prepared food and/or beverages by waiters and waitresses to customers seated at tables within a completely enclosed building, or

   2. The prepared food and/or beverages are acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables.

c. **Bar/Lounge:** A bar or lounge is a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

RETAIL STRIP CENTER: A property containing one or more buildings containing two or more commercial uses which have been designed and developed as contiguous units, and characterized by shared parking and the absence of a common interior walkway. This use is generally one story in height and one store deep.

RETENTION BASIN: A pond, pool, or basin used for the storage of water runoff.

RETREAT CENTER: A use that is typically in a building located in a quiet, secluded, area and which contains rooms for meetings, discussion, and contemplation.

RIGHT-OF-WAY: A strip of land reserved and dedicated for a street, highway, alley, walkway, or other public purpose, and which may be occupied by public utilities, such as electric transmission lines, gas pipelines, cable television lines, fiber optics lines, water mains, sanitary sewers, storm sewer mains, shade trees, or other utility uses (see illustration on page 2-36).

ROAD: see STREET

ROADSIDE STAND: A temporary structure or use operated for the purpose of seasonally selling agricultural products, a portion of which are raised or produced on the same premises by the proprietor of the stand. A roadside stand shall not include a small operation consisting of a portable table that is operated intermittently.

ROOM: For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchens, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1, 2 or 3 bedroom units and including a "den", "library", or other extra room shall count such extra room as a bedroom for the purpose of computing density.

ROOMING HOUSE: See BOARDING HOUSE.

ROOMING UNIT: Any room, or group of rooms, forming a single habitable unit used for living and sleeping, but which does not contain cooking or eating facilities.

SANITARY SEWER: A system of underground pipes used to carry sanitary sewage from the point of origin (e.g., residential units, offices, etc.) to the point of discharge at a wastewater treatment facility.

SCHOOL: A building used for the purpose of elementary, secondary, or university education, which meets all requirements of the compulsory education laws of the State of Michigan.

SECONDARY ACCESS DRIVE: A road that is generally parallel to an arterial or collector road and that is designed to provide access to abutting properties so that these properties are separated from the through traffic on the arterial or collector road and so that the flow of traffic on the arterial or collector road is not impeded by direct driveway access from a large number of abutting properties. Also known as a "marginal access drive."

SERVICE TRUCK: A pick-up truck or van that is used in conjunction with a repair or maintenance business, such as a plumbing, electrical, or carpentry business.

SETBACK: The distance between the front, side or rear lot line and the nearest part of a structure on the lot. The MINIMUM REQUIRED SETBACK is the minimum distance between the front, side or rear lot line and the nearest part of a structure in order to conform to the required yard setback provisions of this Ordinance (see definition of YARD, see also illustrations on page 2-40). Measurements are made at right angles to the property line.

SHOPPING CENTER: A grouping of retail businesses and service uses on a single site with common parking facilities.

SIGN: See Section 2.03 Signs.

SINGLE FAMLIY DWELLING: See DWELLING, ONE FAMILY or SINGLE FAMILY.

SITE PLAN: A plan, prepared to scale, as required in Article 27.00, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.

SMALL WIND ENERGY CONVERSION SYSTEM (SWECS), also known as Small Wind Energy Systems (SWES): A wind energy conversion system consisting of a wind turbine, a tower, and associated control and conversion electronics, which has a rated capacity of not more than 25 kW and which is intended to primarily reduce on-site consumption of utility power.

SOCIAL SERVICE AGENCIES: An administrative facility operated by a government, public, civic, nonprofit or charitable organization providing services to advance the welfare of citizens in need. Typical uses include but are not limited to employment counseling, life skills training, counseling, food banks, and blood banks. Social Service Agencies shall not include transitional housing or group homes.

SOLAR POWER GENERATING FACILITY: Solar facilities include all structures and mechanical installations necessary to obtain usable energy from the light of the sun.

SOUP KITCHEN: A facility providing food to one or more individuals who are otherwise temporarily or permanently homeless or unable to provide sufficient food for themselves. Soup Kitchens must be located within Transitional Housing or Day Shelters as defined by this ordinance.

SPECIAL EVENT: An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events are unlike the customary or usual activities generally associated with the property where the special event is to be located.

STORY: That portion of a building, included between the upper surface of any floor and the upper surface of the floor or roof next above it (see illustrations on page 2-34).

STORY, ABOVE GRADE PLANE: Any story having its finished floor surface entirely above grade plane, except that a basement shall be considered a story above grade plane where the finished surface of the floor above the basement is:

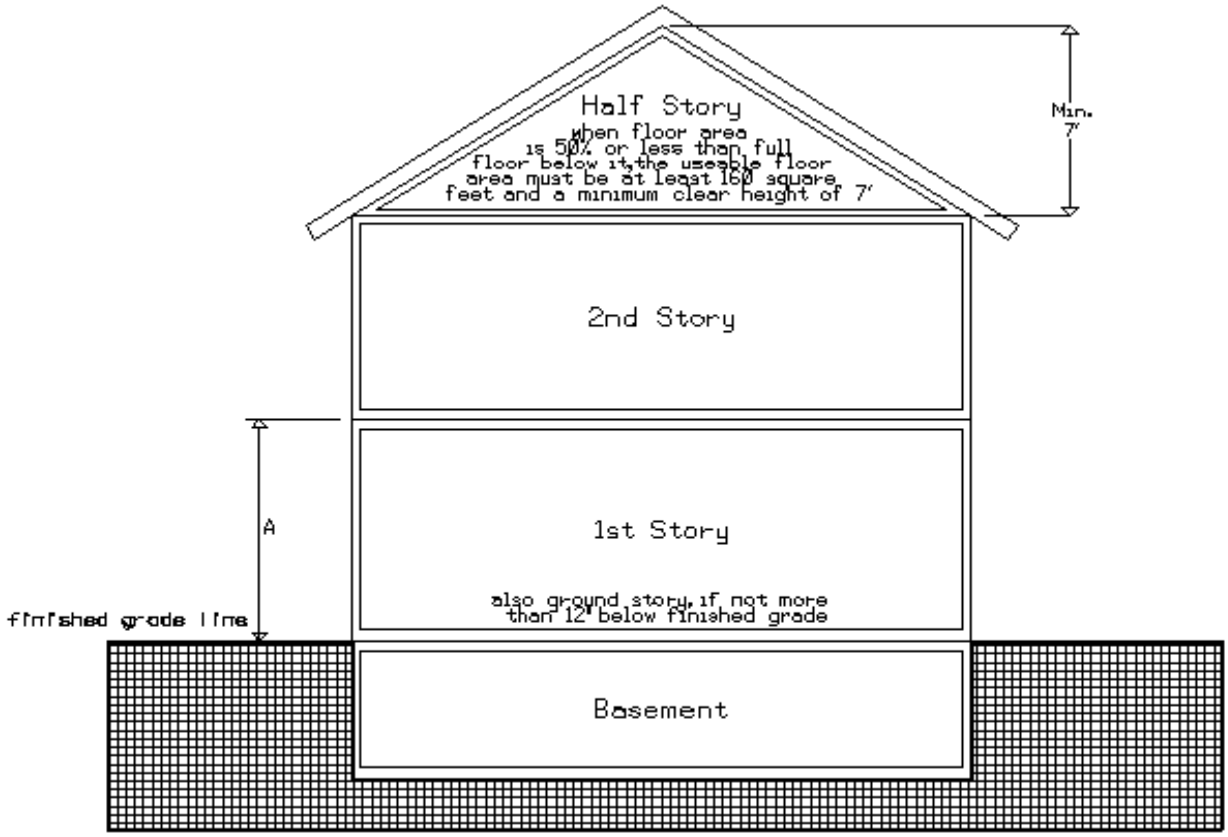
a. More than 6 feet above the grade plane

b. More than 6 feet above the finished ground level for more than 50% of the total building perimeter; or

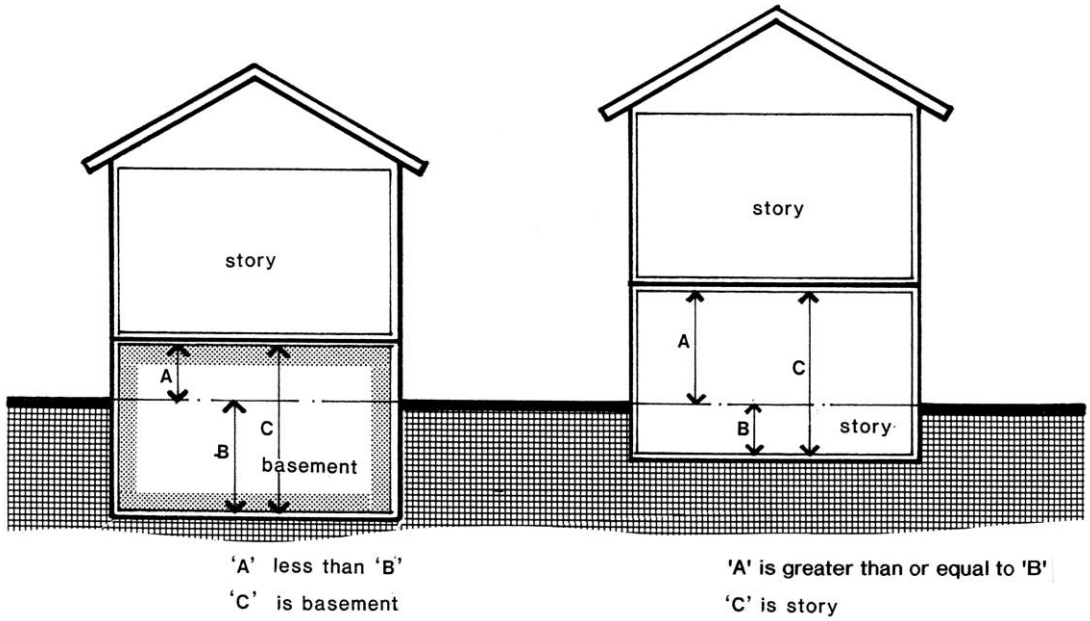
c. More than 12 feet above the finished ground level at any point.

STORY, HALF: The uppermost story lying under a pitched roof, the usable floor area of which does not exceed one-half (½) of the floor area of the uppermost full story. The usable floor area of a half story shall be at least one hundred and sixty (160) square feet with a minimum clear height of seven (7) feet.

STORY HEIGHT: The vertical distance from top to top of two successive finished floor surfaces; and, for the topmost story, from the top of the floor finish to the top of the ceiling joists.



Basic Structural Terms



Basement and Story

STREET: Any public or private thoroughfare or right-of-way, other than a public or private alley, dedicated to or designed for travel and access to any land, lot or parcel whether designated as a thoroughfare, collector, road, avenue, highway, boulevard, drive, lane, place, court, or any similar designation. Various types of streets are defined as follows:

a. **Private Street:** Any street which is to be privately maintained and has not been accepted for maintenance by the City of Midland, the Midland or Bay County Road Commissions, the State of Michigan or the federal government, but which is subject to approval by the City.

b. **Public Street:** Any street or portion of a street which has been dedicated to and accepted for maintenance by the City of Midland, the Midland or Bay County Road Commissions, State of Michigan or the federal government.

c. **Collector Street:** A street whose principal function is to carry traffic between local and arterial streets but may also provide direct access to abutting properties.

d. **Cul-De-Sac:** A street that terminates in a vehicular turnaround.

e. **Local Street:** A street whose sole function is to provide access to properties.

f. **Arterial Street, Thoroughfare or Highway:** A street or highway which is intended to service a large volume of traffic for both the immediate area and the region beyond, and which serves as an avenue for circulation of traffic into, out of, or around the City.

g. **Residential Street or Road:** A road whose principal function is to provide direct access to residential properties in a subdivision or other type of residential development.

STREET LOT LINE: A dividing line between the street and a lot, also known as the right-of-way line.

STRUCTURAL ADDITION: Any alteration that changes the location of the exterior walls or area of a building.

STRUCTURAL ALTERATIONS: Any change in the supporting members of the building, such as the bearing walls, beams or girders, or any change in the dimensions or configuration of the roof or exterior walls.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, and signs.

SUBDIVISION PLAT: Generally, the partition 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 one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that is not exempted from platting requirements by sections 108 and 109 of Michigan Public Act 288 of 1967, as amended, and by the subdivision control regulations adopted by the City.

SWIMMING POOL: Any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing.

SYNAGOGUE: See PLACE OF WORSHIP.

TATTOO PARLOR: Any place or establishment which is operated for the principal business or primary purpose of marking the skin with indelible ink, pigment or other such substance so as to produce permanent design, mark or similar feature on the skin.

TEMPORARY BUILDING: See BUILDING, TEMPORARY.

TEMPORARY USE or STRUCTURE: Shall mean a use or structure permitted to exist for a limited period of time.

THEATER: An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building.

THOROUGHFARE: See STREET.

THROUGH LOT: See LOT, DOUBLE FRONTAGE or THROUGH.

TOURIST HOME: See BED-AND-BREAKFAST ESTABLISHMENT.

TOWNHOUSE: See DWELLING, SINGLE FAMILY ATTACHED or TOWNHOUSE.

TOW SERVICE: An establishment that provides for the authorized removal of vehicles and also provides for the storage of such vehicles on public or private property. This shall not include the permanent storage, disposal, disassembly or salvage of any vehicle, nor shall it include accessory storage of inoperable vehicles.

TRANSITIONAL HOUSING: An establishment with administrative supervision that provides, through permanent facilities and guidance personnel, resident beds, structured or supervised peer group living and limited programming emphasizing social rehabilitation with support and guidance toward the goals of independent living as they transition from institutional living. Transitional housing also includes Emergency Shelter housing which is safe housing provided for those who are homeless or those who are fleeing situations of domestic or sexual violence. In these situations, the housing is treated as the individuals' home with staffing and services available.

Transitional Housing may include provision of food and clothing and support services such as counseling, education and transportation. Transitional Housing includes homeless shelters, halfway houses, missions, religious organizations with overnight stay, other forms of temporary emergency housing or shelter, and similar facilities.

TRUCK TERMINAL: A structure to which goods, except raw or unprocessed agricultural products, natural mineral or other resources, are delivered for immediate distribution or to be or divided for delivery in larger or smaller units to other points, or for distribution or division involving transfer to other modes of transportation.

TWO FAMILY DWELLING: See DWELLING, TWO FAMILY or DUPLEX.

UNDERLYING ZONING: The zoning classification and regulations applicable to the property prior to the application of any overlay zones or Planned Unit Developments.

UNIVERSITY: See COLLEGE or UNIVERSITY.

USABLE RESIDENTIAL FLOOR AREA: See FLOOR AREA, USABLE RESIDENTIAL.

USABLE NONRESIDENTIAL FLOOR AREA: See FLOOR AREA, USABLE NONRESIDENTIAL.

USE: The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

a. **Use, Accessory:** See ACCESSORY USE, BUILDING, OR STRUCTURE.

b. **Use, Permitted:** A permitted use is a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

c. **Use, Principal:** The principal use is the main use of land and buildings and the main purpose for which land and buildings exist.

d. **Use, Conditional Land:** See CONDITIONAL LAND USE.

UTILITY TRAILER: A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

VARIANCE: A modification of the literal provisions of the Zoning Ordinance granted by the Zoning Board of Appeals when strict enforcement of the Zoning Ordinance would cause unnecessary hardship or practical difficulties owing to circumstances unique to the individual property on which the variance is granted.

VEHICLE: See AUTOMOBILE.

VEHICLE, COMMERCIAL: Any vehicle bearing or required to bear commercial license plates or which falls into one or more of the categories listed below:
(1) Truck tractor
(2) Semi-trailer, which shall include flat beds, stake beds, roll-off containers, tanker bodies, dump bodies and full or partial box-type enclosures
(3) Vehicles of a type that are commonly used for the delivery of ice cream, milk, bread, fruit or similar vending, supply, commercial, or delivery trucks. This category shall also include vehicles of a similar nature which are of a type commonly used by electrical, plumbing, heating, cooling, and other construction oriented contractors, as well as mobile food trucks. Vans, pick-up trucks, taxis and other similar passenger vehicles shall be excluded from this category.
(4) Tow trucks
(5) Commercial hauling trucks
(6) Vehicle service repair trucks
(7) Vehicles designed for commercial purposes with blades attached for plowing or grading. This category shall not include private vehicles that are outfitted with blades and/or plows on a seasonal basis.
(8) Construction vehicles such as bulldozers, backhoes and similar vehicles

VETERINARY CLINIC: See CLINIC, VETERINARY.

VETERINARY HOSPITAL: See CLINIC, VETERINARY.

WALL, OBSCURING: A structure of definite height and location to serve as an opaque screen in carrying out the requirements of this Ordinance.

WAREHOUSE: A building used primarily for storage of goods and materials. See also DISTRIBUTION CENTER.

WATERCOURSE: Any waterway or other body of water having well defined banks, including rivers, streams, creeks, and brooks, whether continually or intermittently flowing, and lakes and ponds.

WETLAND: An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that, under normal circumstances, does support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

WETLAND, REGULATED: A wetland regulated by the Michigan Department of Environmental Quality under the provisions of Michigan Public Act 451 of 1994, as amended, and generally defined as land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is any of the following:

a. Contiguous to an inland lake or pond, or a river or stream;

b. Not contiguous to an inland lake or pond, or a river or stream, and more than five (5) acres in size;

c. Not contiguous to an inland or pond, or river or stream; and five (5) acres or less in size if the Michigan Department of Environmental Quality determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the department has so notified the property owner.

WHOLESALE SALES: The sales of goods generally in large quantities and primarily to customers engaged in the business of reselling the goods.

WIRELESS, COLOCATION*:* The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building.

WIRELESS COMMUNICATION FACILITIES: All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, cellular telephone facilities, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; accessory reception antennae facilities regulated by Section 3.16 of this Ordinance; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

WIRELESS COMMUNICATIONS FACILITIES, ATTACHED: Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established is not included within this definition.

WIRELESS COMMUNICATION SUPPORT STRUCTURES: Structures erected or modified to support wireless communication antennas, including, but not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Ordinance (see definition of SETBACK; also, see illustrations on page 2-39 and 2-40).

a. **Yard, Front:** An open space extending the full width of the lot, the depth of which is the horizontal distance between the front lot line and the nearest line of the principal building. The orientation of the structure on the lot does not impact the determination of the front yard.

b. **Yard, Rear:** An open space extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest line of the principal building.

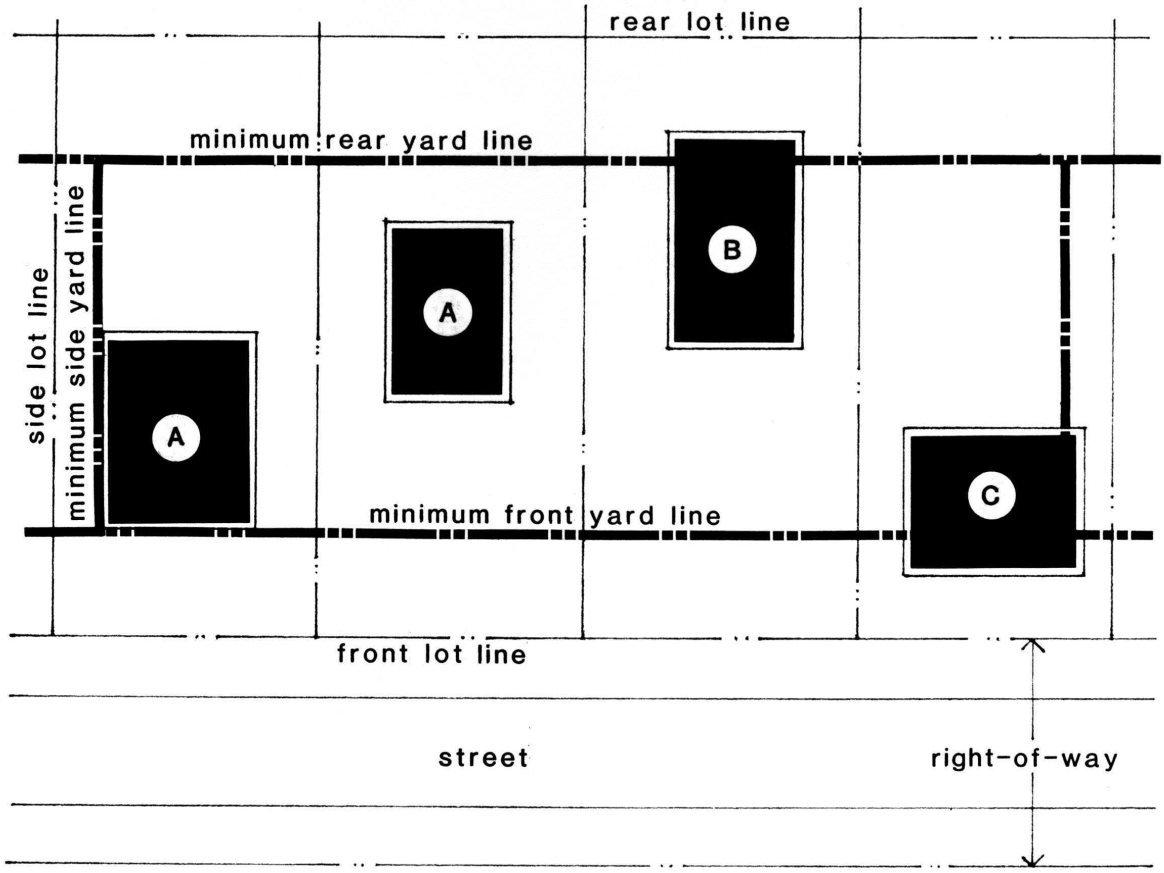
c. **Yard, Side Street**: On a corner or through lot with more than one street lot line, an open space between a principal building and the side lot line separating the lot from the street.

d. **Yard, Side:** An open space between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

ZONING BOARD OF APPEALS: The Zoning Board of Appeals for the City of Midland. The words "Board of Appeals" or "Zoning Board" shall have the same meaning.

ZONING ENFORCEMENT OFFICER: The Director of Planning and Community Development for the City of Midland, or designee.

ZONING LOT: See LOT, ZONING.



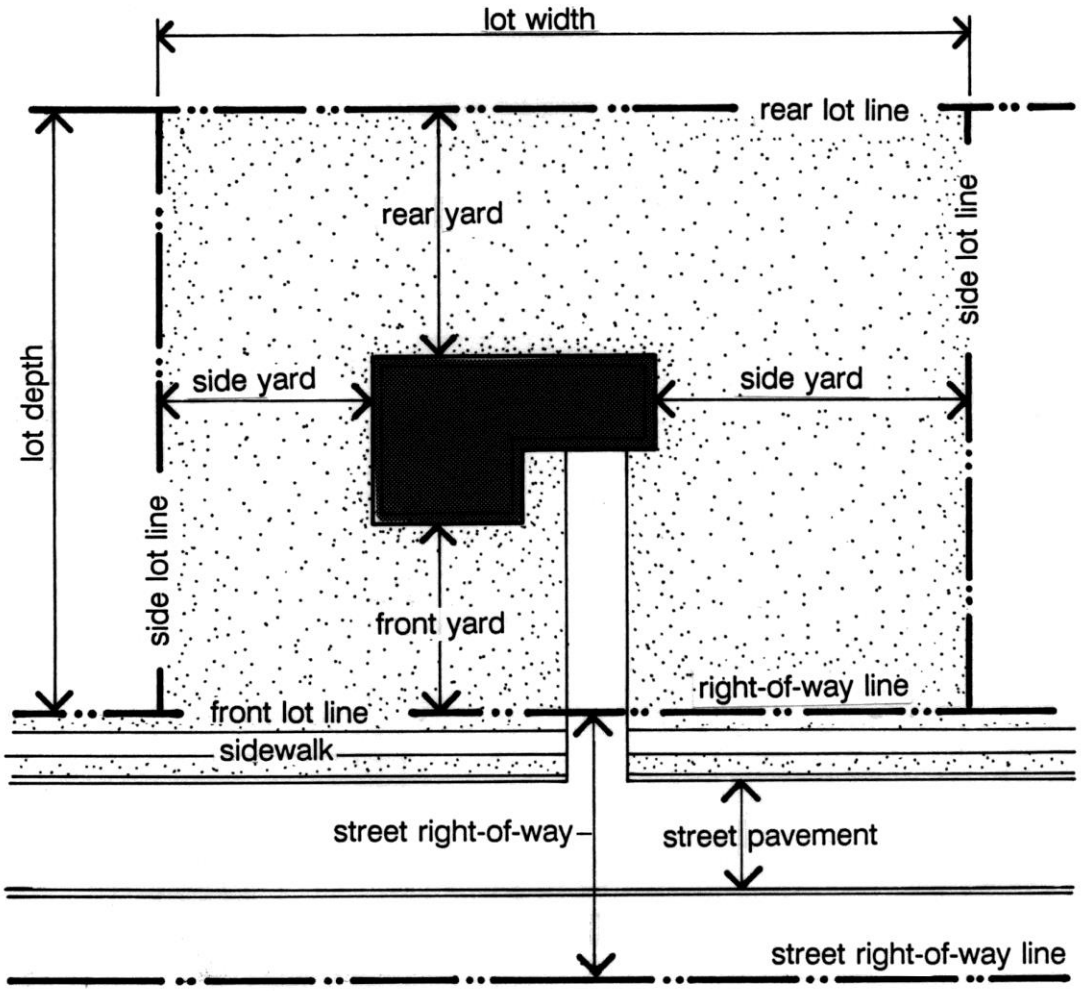
Legend

A Structures satisfying minimum yard requirements

B Structure with deficient rear yard setback

C Structure with deficient front and side yard setbacks

Yard Requirements



Open Space Terms

Section 2.03 – SIGN DEFINITIONS

Whenever used in this Ordinance, the following words and phrases pertaining to signs shall have the meaning ascribed to them in this Section:

ABANDONED SIGN: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product and/or for which no legal owner can be found.

ADD-ON SIGN: A sign that is attached as an appendage to another sign, sign support, or a building, and is intended to draw attention to the goods or services available on the premises.

ANIMATED SIGN: Any sign which uses movement or change of lighting to depict action or create a special effect or scene (see also FLASHING SIGN).

AWNING: A shelter projecting from and supported by the exterior wall of a building constructed of materials on a supporting framework (see also MARQUEE SIGN).

AWNING SIGN: Sign painted on, printed on or attached flat against the surface of an awning (see also MARQUEE SIGN). A quarter cylinder awning sign is one that uses a rounded shape that is roughly one quarter the distance around a cylinder. This definition is a description of a style and is not intended to be used literally.

BAND SIGN: A sign with a specified area, as defined in the Article 8, on the wall of a building.

BANNER SIGN: A sign made of fabric or any non-rigid material with no enclosing framework.

BEACON LIGHT: Any light with one or more beams, capable of being directed in any direction, or capable of being revolved automatically.

BILLBOARD: See OFF-PREMISES SIGN.

BLADE SIGN: A type of projecting sign mounted on a building façade.

BUILDING: See definition in Section 2.02.

BULLETIN BOARD: A type of "changeable copy" sign which displays the name of an institution, school, library, community center, fraternal lodge, golf course, country club, park or other recreational facility, and which displays announcements of its services and activities upon the premises.

CANOPY, FREESTANDING: A protective roof like covering, often made of canvas, mounted on a frame over a walkway, door, gasoline service station pump island, or other similar features.

CHANGEABLE COPY SIGN (AUTOMATIC): A sign on which the copy changes automatically on a lamp bank or through mechanical or computerized means, e.g., electrical or electronic time and temperature units.

CHANGEABLE COPY SIGN (MANUAL): A sign on which the message is changed manually in the field, e.g., read-a-board with changeable letters.

CLEARANCE (OF A SIGN): The smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.

COMMUNITY SPECIAL EVENT SIGN: Signs, banners, and pennants including decorations and displays celebrating a holiday, or special community or school activities.

CONSTRUCTION SIGN: A sign identifying an architect, designer, contractor, sub-contractor, and/or material supplier participating in construction on the property on which the sign is located.

COPY: The wording on a sign surface in either permanent or removable letter form.

DIRECTIONAL OR INFORMATIONAL SIGN: An on-premises sign giving directions, instructions or facility information.

DOUBLE-FACE SIGN: A sign with two (2) faces, which are parallel and no greater than three (3) feet apart.

ELECTION SIGN: A sign used in connection with an election, as defined by state law.

ELECTRICAL SIGN: A sign or sign structure in which electrical wiring, connections or fixtures are used.

ENTRANCEWAY IDENTIFICATION SIGN. A sign identifying a complex or neighborhood.

ERECT: To build, construct, attach, hang, place, suspend or affix signs, including the painting of walls.

FACADE: The entire building front including the parapet.

FACE OF SIGN: The area of a sign on which copy is placed.

FESTOONS: A string of ribbons, tinsel, or small flags.

FLASHING SIGN: A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Such sign does not include changeable copy signs, animated signs, or signs which, through reflection or other means, create an illusion of flashing or intermittent light (see also ANIMATED SIGN, CHANGEABLE COPY SIGN.

GROUND SIGN: A three dimensional, self-supporting, base-mounted freestanding sign, consisting of two (2) or more sides extending up from the base, and upon which a message is painted or posted. A ground sign may also consist of a base-mounted cylindrical structure upon which a message is painted or posted. See POLE MOUNTED GROUND SIGN and MONUMENT GROUND SIGN.

IDENTIFICATION SIGN: A sign whose copy is limited to the name and address of the building, institution, person or entity and/or to the occupation being identified.

ILLEGAL SIGN: A sign which does not meet the requirements of this ordinance and which has not received legal nonconforming status.

ILLUMINATED SIGN: A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

INCIDENTAL SIGN: A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, e.g., a credit card sign or sign indicating the hours of business.

INFLATABLE SIGN: A temporary sign consisting of a non-porous bag or balloon inflated with a gas.

INTEGRAL SIGN: Memorial sign or tablet, names of buildings and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible materials mounted on the face of a building.

MAINTENANCE, SIGN: The cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.

MANSARD: A sloped roof or roof-like facade architecturally comparable to a building wall.

MARQUEE SIGN: Any sign attached to or supported by a marquee structure.

MONUMENT GROUND SIGN: A pedestal ground sign provided with a base and not supported by poles, pylons or other upright supports.

MOVING SIGN: A sign in which the sign itself or any portion of the sign moves or revolves. A "rotating sign" is a type of moving sign. Such motion does not refer to the method of changing the message on the sign.

MURAL: A design or representation which is painted or drawn on the exterior surface of a structure and which does not advertise a business, product, or service.

NAMEPLATE: A non-electric on-premise identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.

NEON SIGN: See OUTLINE TUBING SIGN.

NONCONFORMING SIGN: A sign which was erected legally but which does not comply with subsequently enacted sign restrictions and regulations.

OBSOLETE SIGN: A sign that advertises a product that is no longer made, a business that is no longer in operation, or an activity or event that has already occurred.

OFF-PREMISE ADVERTISING SIGN: A sign structure advertising an establishment, business, merchandise, service or entertainment, which is not sold, produced, manufactured, or furnished at the property on which said sign is located, e.g., billboards or outdoor advertising.

ON-PREMISE ADVERTISING SIGN: A sign which pertains to the use of the premises on which it is located.

OUTLINE TUBING SIGN: A sign consisting of glass tubing, filled with a gas such as neon, which glows when electric current is sent through it.

PAINTED WALL SIGN: Any sign which is applied with paint or similar substance on the face of a wall.

PARAPET: The extension of a false front or wall above a roof line.

PEDESTAL SIGN: See GROUND SIGN.

PERSONAL SPECIAL OCCASION SIGN: A temporary sign announcing special events of a personal nature: e.g. birthday, anniversary, birth of a child, which relate to the occupant of the property on which the sign is located.

POINT OF PURCHASE DISPLAY: Advertising of a retail item accompanying its display, e.g., advertisement on a product dispenser.

POLE MOUNTED GROUND SIGN: A sign installed upon and in the ground by poles or braces and not attached to any building.

POLITICAL SIGN: See ELECTION SIGN.

PORTABLE SIGN: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building.

POSTER PANEL: A type of temporary sign that is used to draw attention to matters that are temporary in nature, such as price changes or sales, e.g., "A" frame or sandwich signs.

PROJECTING SIGN: A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.

PUBLIC SIGN: A sign erected in the public interest by or upon orders from a local, state, or federal public official. Examples of public signs include: legal notices, safety signs, traffic signs, memorial plaques, signs of historical interest, park signs, signs identifying public buildings, and similar signs.

REAL ESTATE SIGN: A sign advertising the real estate upon which the sign is located as being for sale, lease, or rent.

REAL ESTATE DEVELOPMENT SIGN: A sign that is designed to promote the sale or rental of lots, homes, or building space in a real estate development (such as a subdivision or shopping center) which is under construction.

ROOF LINE: The top edge of a roof or building parapet, whichever is higher, excluding cupolas, pylons, chimneys, or similar minor projections.

ROOF SIGN: Any sign erected on the roof of a building (see also MANSARD, WALL SIGN).

SANDWICH SIGN: A temporary sign which consists of two boards upon which a message is posted, and which are hinged at the top and are open at the bottom so that the boards can lean against each other when placed on the ground.

SIGN: Any surface, fabric, device or display which bears lettered, pictorial or sculptured matter, including forms shaped to resemble any human, animal or product, designed to convey information visually and which is exposed to public view. For the purpose of the section, the term "sign" shall include all structural members and embellishments. A sign shall be constructed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of components, each such component shall be considered to be a single sign.

SIGN, AREA OF, (ALLOWABLE COPY AREA): See Section 8.05 C.

SUBDIVISION IDENTIFICATION SIGN: A ground or wall sign identifying a subdivision, condominium complex, or residential development.

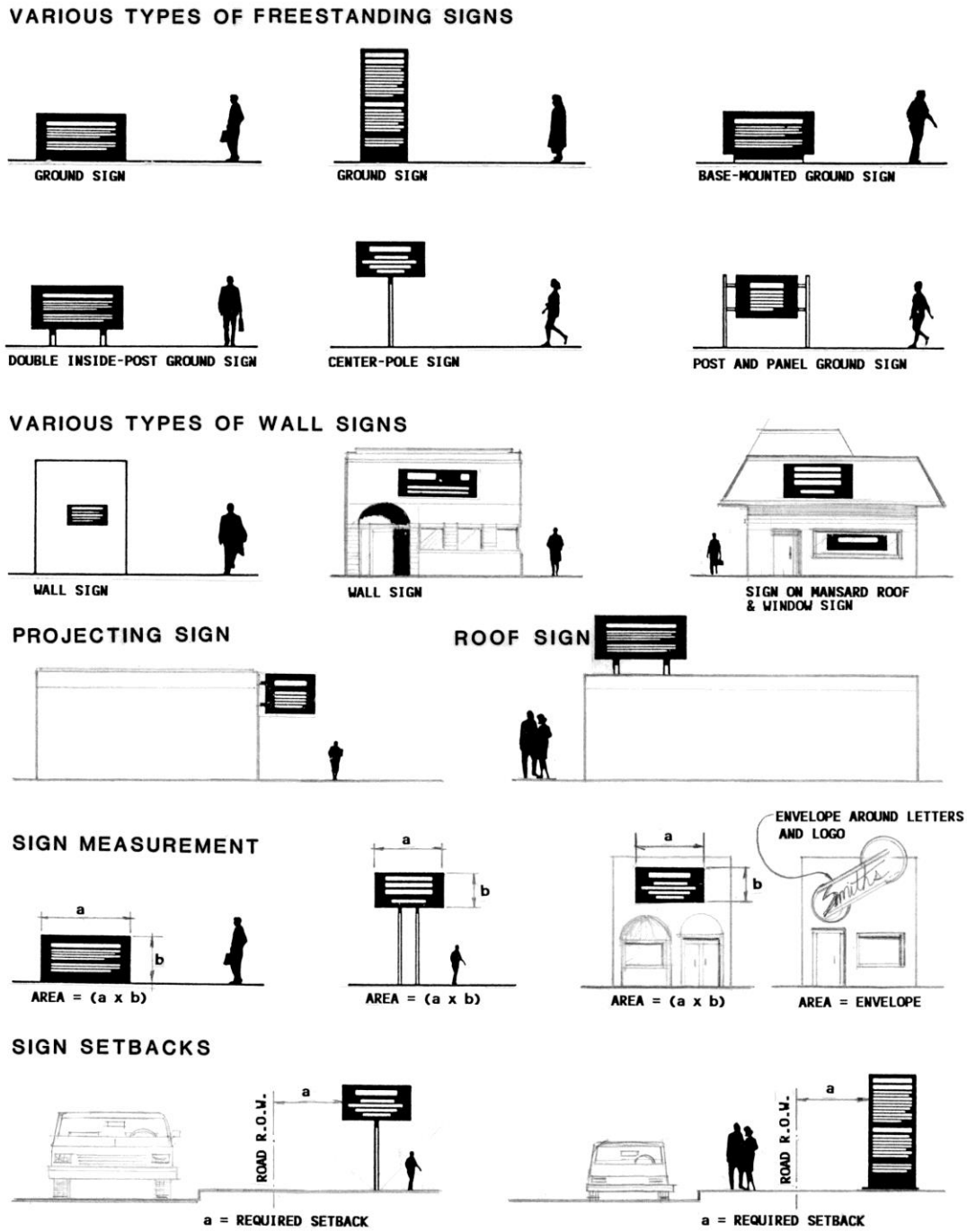
TEMPORARY SIGN: A sign not constructed or intended for long term use. Examples of temporary signs include signs which announce a coming attraction, a sale or bargain, a new building under construction, a community or civic project, or other special events that occur for a limited period of time (see also INFLATABLE SIGN).

UNDERCANOPY SIGN: A sign suspended beneath a canopy, ceiling, roof or marquee.

VEHICLE SIGNS: Signs painted or mounted on the side of a vehicle, including signs on the face of a truck trailer.

WALL SIGN: A sign attached parallel to and extending not more than twelve (12) inches from the wall of a building. This definition includes painted, individual letter and cabinet signs, and signs on a mansard.

WINDOW SIGN: A sign installed inside or outside a window and intended to be viewed from the outside.



Illustrations of Sign Definitions and Standards