

ARTICLE 4

CONSTRUCTION OF LANGUAGE AND DEFINITIONS

401 WORD USAGE RULES

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

- A. The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- B. Words used in the present tense shall include the future, and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary
- C. A "structure" includes any part thereof.
- D. The word "used" or "occupied" as applied to any land or structure shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- E. The words "zone" and "district" shall be considered to mean the same thing and may be used interchangeably.
- F. Any *word* or term not defined herein shall be used with a meaning of common or standard utilization.

402 DEFINITIONS

The following definitions apply to this Ordinance. Other definitions appear elsewhere in this Ordinance, as appropriate.

ABANDON: Cease to use or occupy a structure or land for its allowed use for the period specified in this Ordinance.

ACCESSORY STRUCTURE. A separate subordinate structure (whether temporary or permanent), the use of which is incidental to that of the principal structure on the land. For dwellings, one (1) detached or attached (but not both), garage is considered a part of the principal use

ACCESSORY USE: A use (whether temporary or permanent) subordinate to the

principal use on a lot and used for purposes clearly incidental to those of the main use..

AGRICULTURAL USES: Includes purposes related to agriculture, farming, dairying, pasturage, horticulture, and animal and poultry husbandry

ALLEY: A public or legally established private thoroughfare, other than a street, which affords a secondary means of access to abutting property, and not more than twenty (20) feet wide.

ALTERATIONS: Any change, addition, or modification in construction, any change in the structural component of a structure, such as walls, or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

AUTOMOBILE, VEHICLE, OR TRAILER SALES AREA: Any space used for display, sale or rental of motor vehicles, motorcycles, or trailers, in new or used and operable condition.

AUTOMOTIVE REPAIR: General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service such as body, frame or fender straightening and repair, and overall painting and undercoating of automobiles when carried on in a completely enclosed room or structure..

BASEMENT: That portion of a structure which is below the first story, the ceiling of which is less than five (5) feet above the majority of the surrounding ground elevation at all points.

BICYCLE PATH: An asphalt or concrete path for non-motorized users *that is physically separated by an open space buffer or physical barrier from the portion of a street or private road traveled by motor vehicles. Amended 10-28-2013

BILLBOARD: See definition of "Sign"

BUILDING: See definition of "Structure".

CHURCH: A structure wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain worship.

CLUB OR LODGE, PRIVATE: A non-profit association of persons who are bona fide members paying dues, which owns, hires, or leases a structure or portion thereof, the use of such premises being restricted to members and their guests. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests may be allowed provided it is secondary

and incidental to the promotion of some other common objective by the organization.

DWELLING: A structure or portion thereof designed or used exclusively as the home, residence or sleeping place of one (1) or more persons. In the case of a mixed occupancy where a structure is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions herein relative to dwellings. Garage space, whether in an attached or detached garage, shall not be considered as part of a dwelling for meeting minimum area requirements. A dwelling shall comply with the following standards.

A. The dwelling shall meet the living space requirements for the zoning district in which it is located. In addition, the minimum dimension of the area of the dwelling shall be twenty four (24) feet by twenty four (24) feet.

B. If a dwelling has wheels, towing mechanism, or undercarriage, they shall be removed.

C. The dwelling shall be connected to a public sanitary sewer and public water system if available, or to private on-site facilities, approved by the Muskegon County Health Department.

D. The dwelling shall contain storage area, in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling. The storage area, which may consist of separate sub-areas, shall be equal to fifteen percent (15%) of the square footage of the dwelling, or one hundred fifty (150) square feet, whichever is less.

E. The dwelling shall be aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of at least six (6) inches on all sides, or alternatively, with window sills and roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling, has at least two (2) exterior doors, with the second one being in either the rear or side of the dwelling, and contains permanently attached steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same. The compatibility design and appearance shall be determined in the first instance by the Zoning Administrator upon review of the plans (which may include elevational sketches or photographs) submitted for a particular dwelling, subject to appeal by an aggrieved party to the Zoning Board of Appeals. Any determination of compatibility shall be based upon the standards.

set forth in this definition of "dwelling" as well as the character, design and appearance of one (1) or more residential dwellings located outside of mobile home parks within two thousand (2,000) feet of the subject dwelling, where at least twenty percent (20%) of the lots situated within said area have been developed with dwellings, or where said area is not so developed, by the character, design, and appearance on one or more residential dwellings located outside of mobile home parks throughout the Township The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard design home.

F. The dwelling shall not contain additions or rooms or other areas which are not constructed with similar quality work as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

G. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park, except to the extent required by State or Federal law

DWELLING UNIT. A structure or portion thereof, designed as a dwelling for occupancy by one (1) family.

DWELLING UNIT, ONE FAMILY ("Single Family Dwelling") A structure designed exclusively for one dwelling unit.

DWELLING UNIT, TWO FAMILY ("Duplex"). A structure designed for two (2) (but not more than two) dwelling units

DWELLING UNIT, MULTIPLE FAMILY. A structure designed for occupancy by three (3) or more dwelling units

ESSENTIAL SERVICES. The phrase "essential services" means either (1) government provided services or (2) the erection, construction, alteration or maintenance by public utilities or municipal department or commission of underground or overhead gas, cable TV or other cable, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories in connection therewith; including structures, reasonably necessary for the furnishing of such government provided services or

such adequate service by such public utilities or municipal departments or commission or for the public health or safety or general welfare

FAMILY One (1) person, or group of two (2) or more persons living together who may or may not be inter-related by bonds of consanguinity, marriage, or legal adoption, occupying a dwelling as a separate housekeeping unit with a common single set of culinary facilities. The persons thus constituting a family may also include foster children, guests, and domestic servants This definition does not include the occupants of a rooming house, boarding house or co-operative unit as a family unit or the members of any order or association who have a common religious, fraternal, philosophical or economic bond

FARM: All of the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried directly by the owner-operator, manager or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; provided, however for land to be considered a farm it shall include a continuous parcel of at least ten (10) acres in area

FLOOR AREA: The sum of the gross horizontal areas of the several floors of the structure measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) structures. The "floor area" of a structure shall not include the area of any basement, "floor area" shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment, (except equipment, open or enclosed, located in a basement or on the roof), penthouses, attic space having headroom of seven (7) feet, six (6) inches or more, interior balconies and mezzanines Any space for off-street parking or loading shall not be included in "floor area" The terms "floor area" and "living space" (as hereafter defined), are separate concepts

GARAGE, COMMERCIAL: Any garage, other than a private garage available to the public, operated for gain, and used for automotive repair, storage, rental, washing, or serving the equipment of other motor vehicles

GARAGE, PRIVATE: A garage is an accessory to the permitted structure in a residential (A) (AA) (F) zone. **Amended 6/27/2016 Effective July 10, 2016**

GASOLINE SERVICE STATION. Any structure or lot used for the dispensation, sale or offering for sale at retail of any motor fuels, oils or lubricants. When the dispensing, sale or offering for sale of such products is incidental to the conduct of a commercial garage, the use is classified as a commercial garage.

GRADE. The ground elevation established for the purpose of regulating the number of stories and the height of structures. The structure 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 level, the grade shall be determined by averaging the elevation of the ground for each face of the structure.

GREENBELT BUFFER. A strip or parcel of land privately restricted or publicly dedicated as open space, located between land uses for the purpose of protecting the character of adjacent residential or other uses. Said greenbelt buffer shall include, but not be limited to the following materials, open space with maintained grass cover, evergreens, deciduous trees, shrubs, bushes

HOME OCCUPATION. An occupation that is allowed in a portion of a dwelling unit or accessory structure

HOSPITAL. An institution providing health services, primarily for in-patient, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities, central services facilities, and staff offices.

JUNK YARD: Any land or structure where waste, used or second hand materials are disposed of, bought, and sold, exchanged, stored, baled, parked, disassembled, or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, and bottles. A junkyard includes automobile wrecking yards and also includes any area of more than fifty (50) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed structures

LAND USE PLAN: The plan adopted by the Township Board, pursuant to P.A. 165 of 1959_

LIVING SPACE: That area within a dwelling unit intended, designed, erected or used for human occupancy; that is the sum of the gross horizontal area of the floor in question of the structure used for occupancy, measured from the exterior faces of the exterior walls, from the center line of interior walls; but excluding porches, garages, common halls and other common areas in duplexes or multiple family dwelling units, unfinished basement areas, and breezeways not usable the year around, and excluding areas not included within the definition of floor area. The terms "floor area" and "living space" (as previously defined) are separate concepts.

LOADING SPACE: An off-street space on the same lot with a structure, or group

of structures, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials

LOT. A parcel of land (whether platted or not) occupied or intended for occupancy, including one (1) principal use structure together with its accessory structures, and providing the open-spaces, parking and loading spaces required by this Ordinance. Said parcel of land may consist of one (1) or more lots of record according to any recorded plat, which for the purpose of this Ordinance shall be deemed one (1) parcel or lot if title to the property is held in the name of the same person or entities. The term "lot" also includes a "unit" in a so-called site condominium.

LOT, CORNER: A lot where the interior angle of two (2) adjacent sides at the intersection of the two (2) streets is less than one hundred thirty five (135) degrees.

LOT, INTERIOR: Any lot other than a corner lot

LOT LINES. The lines bounding a lot as defined herein.

Front Lot Line. In the case of an interior lot, the line separating said lot from the street, in the case of a corner lot or double frontage lot, the line separating said lot from that street which is designated as the front street in the plat In the case of lots bordering on a lake, river, or canal, the established water or shoreline shall be designated as the rear of such lots.

Lot, Waterfront — a lot having frontage directly upon a lake, river, or other significantly sized impoundment of water. The portion adjacent to the water is considered the front yard and the opposite side, abutting the street, shall be the rear year. There shall be a rear yard setback of (40) feet. *Adopted 2/23/2015 Effective 3/8/2015*

Rear Lot Line: The lot line opposite the front lot line In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, at least ten (10) feet long lying farthest from the front lot line and wholly within the lot.

Side Lot Line: Any lot lines other than the front or rear lot lines of a lot.

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

LOT COVERAGE: That portion of the lot occupied by structures including accessory structures.

LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between side lot lines.

LOT OF RECORD: A lot existing prior to the adoption of this Ordinance and

recorded in the office of the County Register of Deeds, but dated and executed prior to the effective date of this Ordinance shall also constitute a lot of record

LOT WIDTH: The horizontal distance between the side lot lines, measured at the two (2) points where the structure setback intersects the side lot line.

MASTER PLAN See "Land Use Plan"

MOBILE HOME: A vehicular, portable structure built on a chassis and designed to be used without a permanent foundation as a permanent dwelling when connected to required utilities and which is, or is intended to be, attached to the ground, to another structure, or to a utility system on the same lot for more than thirty (30) days.

MOBILE HOME PARK. Any lot, however designated, that is occupied or designated for occupancy by more than one (1) mobile home and which is governed and which must conform to the provision of Act 243 of 1959.

NONCONFORMING STRUCTURE: A structure or portion thereof, existing at the effective date of this Ordinance, or amendments thereto, and which does not conform to the provisions of the Ordinance or to the use regulations of the district in which it is located

NONCONFORMING LOT OR USE A lot or use of land or any structures or portion thereof, existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of this Ordinance or of the district in which it is located

NURSING OR CONVALESCENT HOME: A structure with sleeping rooms where persons are housed or lodged and furnished meals and nursing care for hire.

OFFSTREET PARKING. A facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than two (2) automobiles.

OPEN SPACE Any space suitable for recreation, gardens or household service activities such as clothes drying. Such space must be at least seventy five percent (75%) open to the sky, free of automotive traffic, parking and undue hazard, and readily accessible by all those for whom it is intended.

PARKING SPACE: An off-street land area exclusive of driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle and so located as to

be readily accessible to a public street or alley

PLANNED UNIT DEVELOPMENT: A tract of land which includes two (2) or more principal structures, developed under single ownership or control; the development of which is unique and of a substantially different character than that of the surrounding area, and where the specific requirements of a given zoning district may be modified. Such development may be based on a plan which allows for flexibility of design not available under normal requirements otherwise applicable in that zone

PRINCIPAL USE: The main use to which a lot is devoted and the main purpose for which the lot exists A dwelling includes one (1) attached or detached (but not both) garage as part of the principal use.

PUBLIC PARK: Any park, playground, beach, outdoor swimming pool, parkway, within the jurisdiction and control of a governmental agency authorized by State statutes to own and maintain parks.

PUBLIC SEWER SYSTEM: A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversions and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment thereof, treating or otherwise handling sanitary sewage or industrial liquid wastes of such a nature as to be capable of adversely affecting the public health, operated for the benefit of the general public in a given area whether owned by a public, semi-public, or private entity.

PUBLIC UTILITY: Any person or entity authorized to furnish to the public natural gas, steam, TV signal, electricity, sewage disposal, communications, telegraphs, transportation, or water

RECREATION AREA: PRIVATE. All lands and structures which are owned and operated by private individuals, a business, corporation or other entity that is predominantly intended to accommodate recreational vehicles and provide for outdoor recreational activities.

RECREATIONAL VEHICLE: Mobile units principally designed for recreation pastime such as motor homes, camper trailers, pick-up campers, pop-up tents, trailers and similar camping type vehicles or trailers

RETAIL STORE: Any structure in which goods, wares, or merchandise is sold to the ultimate customer for direct consumption

SANITARY LANDFILL: A method of disposing of refuse on land without creating nuisances or hazards to public health or safety, by utilizing principles or engineering to confine the refuse to the smallest practical area, to reduce it to the smallest practical volume, and to suitably cover all dumped refuse at the conclusion of each day's operation or at more frequent intervals as necessary; and maintained in accordance with the provision of Act 87 of Public Acts of 1965, as amended.

SETBACK: The minimum horizontal distance between the street right-of-way, rear or side lines of the lot and the front, rear or side lines of a structure. When two (2) or more lots under one (1) ownership are used, the exterior property lines so grouped shall be used in determining offsets.

SCHOOL: A structure used for the purpose of elementary or secondary education which meets all requirements of compulsory education laws of the State of Michigan, and not providing residential accommodations_

SHOPPING CENTER: A group of commercial establishments, planned, developed, owned and managed as a unit, with off-street parking provided on the property,

SIDEWALK: A concrete path for pedestrians that is physically separated by an open space buffer or physical barrier from the portion of a Street or Private Road traveled by Motor Vehicles. 10/28/2013

SIGNS: Any of the following which direct attention to a business or occupation conducted or to a commodity, service, or entertainment sold or offered for sale: billboards, bulletin boards, free-standing signs, illuminated signs, portable signs, wall signs, painted walls or any other structure or device regardless of size. Further included within the definition of advertising signs are spotlights intended, by their use, to draw the public's attention by their illuminating beam.

STORY: The part of a structure, included between the surface of one floor and the surface of the next floor, or if there is no floor above, than the ceiling next above.

STRUCTURAL ALTERATION: The erection, strengthening, removal, or other change of the supporting elements of a structure, such as footings, bearing walls, beams, columns and the like.

STRUCTURE: Anything (including a building) constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground_

SWIMMING POOL: Any artificially constructed, portable or non-portable pool capable of being used for swimming or bathing, having a depth of three (3) feet or more at any point.

Adopted June 8, 2004

UNDEVELOPABLE LAND. Land which has soil types or high water condition which presents severe limitations on septic tank and tile fields

USABLE FLOOR AREA The area for the purpose of computing parking and off-street loading and unloading space, is that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients, or customers Such floor area which is used or intended to be used principally for the storage or processing of merchandise utilized shall be excluded from this computation of "usable floor area" Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the structure measured from the interior faces of the exterior walls

USE: The purpose for which land or premises of a structure thereon is designed, arranged, or intended, or for which it is occupied or maintained

YARD: An open space on the same lot with the principal use structure, unoccupied and unobstructed from the ground upward except as otherwise provided in the Ordinance Yards shall be measured from roof drip edge of structures

Front yard. A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest line of the main structure

Rear yard: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and nearest line of the main structure.

Side yard: A yard between the main structure and the side lot line, extending from the front yard to the rear yard the width of the required side yard shall be measured horizontally from the nearest point of the side lot line to the nearest point of the main structure