

**CHARTER TOWNSHIP OF GARFIELD
PLANNING COMMISSION MEETING**

Wednesday, September 9, 2020 at 7:00 pm
Garfield Township Hall
3848 Veterans Drive
Traverse City, MI 49684
Ph: (231) 941-1620

A G E N D A

ORDER OF BUSINESS

**Call meeting to order
Pledge of Allegiance
Roll call of Board Members**

1. Public Comment

Public Comment Guidelines:

Any person shall be permitted to address a meeting of The Planning Commission, which is required to be open to the public under the provision of the Michigan Open Meetings Act, as amended. (MCLA 15.261, et.seq.) Public Comment shall be carried out in accordance with the following Commission Rules and Procedures: a.) any person wishing to address the Commission is requested to state his or her name and address. b.) No person shall be allowed to speak more than once on the same matter, excluding time needed to answer Commissioner's questions. Where constrained by available time the Chairperson may limit the amount of time each person will be allowed to speak to (3) minutes. 1.) The Chairperson may at his or her own discretion, extend the amount of time any person is allowed to speak. 2.) Whenever a Group wishes to address a Committee, the Chairperson may require that the Group designate a spokesperson; the Chairperson shall control the amount of time the spokesperson shall be allowed to speak when constrained by available time. Note: If you are here for a Public Hearing, please hold your comments until that Public Hearing time.

2. Review and approval of the Agenda – Conflict of Interest

3. Minutes – August 26, 2020

4. Correspondence

5. Reports

- a. Township Board
- b. Planning Commissioners
- c. Staff Report

6. Unfinished Business

- a. PD-2020-129 – 3077 Garfield Conditional Rezoning – Update #5
- b. PD-2020-128 – Use Chart Project – Definitions Discussion

7. New Business

8. Public Comment

9. Other Business

- a. November 12 PC Meeting Date Confirmation

10. Items for Next Agenda – September 23, 2020

- a. 3077 Garfield Conditional Rezoning – Expiration
- b. Use Chart Project – Update
- c. Solar Energy Systems – Update

11. Adjournment

**Joe Robertson, Secretary
Garfield Township Planning Commission
3848 Veterans Drive
Traverse City, MI 49684**

The Garfield Township Board will provide necessary reasonable auxiliary aids and services, such as signers for hearing impaired and audio tapes of printed materials being considered at the meeting to individuals with disabilities upon the provision of reasonable advance notice to the Garfield Township Board. Individuals with disabilities requiring auxiliary aids or services should contact the Garfield Township Board by writing or calling Lanie McManus, Clerk, Ph: (231) 941-1620, or TDD #922-4412.

**CHARTER TOWNSHIP OF GARFIELD
PLANNING COMMISSION MEETING
August 26, 2020**

Call Meeting to Order: Chair Racine called the August 26, 2020 Planning Commission meeting to order at 7:00pm.

Pledge of Allegiance

The Pledge of Allegiance was recited by all in attendance.

Roll Call of Commission Members:

Present: Robert Fudge, Steve Duell, Joe McManus, Joe Robertson, Pat Cline, Chris DeGood and John Racine

Staff Present: Planning Director John Sych and Deputy Planning Director Steve Hannon

1. **Public Comment (7:01)**
None

2. **Review and Approval of the Agenda – Conflict of Interest (7:02)**
Fudge moved and Cline seconded to approve the agenda as amended

Yeas: Fudge, Cline, McManus, DeGood, Robertson, Duell, Racine

Nays: None

3. **Minutes (7:02)**

a. **August 12, 2020**

McManus moved and Robertson seconded to adopt the minutes of August 12, 2020 as presented.

Yeas: McManus, Robertson, Duell, Fudge, Cline, DeGood, Racine

Nays: None

4. **Correspondence (7:03)**

Planner John Sych said there was a communication from Lisa Schaub regarding Harris Hills, a letter in support of the Serra Automotive car wash request and a letter of notice from East Bay Township that they intend to update their master plan.

5. **Reports (7:05)**

Township Board Report

Duell said that retirement age was changed from 65 to 60 at the township as it relates to pensions.

Planning Commissioners

No reports

Staff Report

Deputy Planner Steve Hannon said that Mr. Majano from the Redevelopment Ready Communities is doing an evaluation of the township and Hannon has indicated that he is already doing some prep work on some of the items. He added that the Township Board adopted the new Fee Schedule.

6. Unfinished Business**a. PD 2020-127 - Serra Automotive CRA – Auto Wash Public Hearing (7:08)**

The applicant is proposing a car wash pursuant to a Conditional Rezoning which was amended and restated in 2018. A wash bay was approved without any noise generating mechanicals in 2018. As part of the agreement, any modifications to the wash bay would require planning commission review and approval following a public hearing. A noise study was completed in 2018 and still applies to the application. Staff stated that the proposed car wash meets all requirements listed in Section 712.

Racine opened the Public Hearing at 7:10pm.

Mark Pularski of 1234 Arbutus Ct. commented on the location of the proposed car wash and the noise from the dealership.

Jim Tuohy of Serra Automotive explained that the car wash would be located on the NE corner of the building. Planner John Sych said that the noise study was related to the car wash only and not to the dealership in general. Racine closed the Public Hearing at 7:20pm.

Commissioners discussed the conditions and wanted to add a condition which would mandate that the car wash doors be closed when the wash was in use to curtail noise. Mr. Tuohy said that the car wash would not operate with the doors closed. Noise data and enforcement was discussed and commissioners said that the design of the car wash did not conform with the conditional rezoning agreement and ensure that there would be no detrimental acoustic impact to the adjacent residential neighborhoods. According to a noise study done in 2018, acceptable decibels would be between 56-58. With a door open, the decibels would rise to 72-74. Jeff Crosing, builder of the Serra facilities said that the new car wash is the same one existing at another site. Commissioners thought that there may be decibel violations if the car wash was allowed to operate with the doors open as proposed.

DeGood moved to postpone application Z-2017-03A, submitted by Serra Works of Traverse City, LLC, until the applicant submits additional materials to meet the requirements of the conditional rezoning. Robertson seconded the motion.

*Yeas: DeGood, Robertson, Duell, McManus, Fudge, Cline, Racine
Nays: None*

b. 2020-125 – Requirements for Siting Solar Energy Systems – Discussion (7:44)

Sych reviewed the draft of the solar systems requirements. Definitions were presented as well as regulations. The Solar Energy information would be placed in Article 7 of the Zoning ordinance and would be permitted in all zoning districts by right and utility scale solar farms would be permitted by a Special Use permit. A financial surety provision has been included as well as language regarding abandonment and decommission of the solar site. Commissioners discussed siting the possible solar energy systems and asked about a provision which would anchor the solar panel to the ground. Commissioners also discussed property taxes and the removal of defunct panels and asked to add language regarding township removal of such panels if need be.

c. PD 200-126 – Zoning Ordinance Use Chart Project – Update (8:16)

Hannon said that he has drafted definitions and has attached a draft of a newly revised Article 3. He talked about how he came up with the retail categories and talked about definitions. Commissioners asked for a tracked document which shows the changes made to the original. Commissioners reviewed the Retail uses as well as the Parks and Recreation district and were in favor of the changes made. Commissioners agreed to provide feedback on the definitions via email and they concur with the overall direction of the revised portions, but want to look at the document in smaller pieces.

7. New Business

None

8. Public Comment (8:42)

None

9. Other Business (8:42)

Sych said that there is a conflict with the November 11th meeting and may reschedule to November 12th.

McManus talked about Chelsea Park signage and the Planning Department will look into what was approved for the development.

Staff touched on the BATA proposed application.


Commissioners talked about the Boardman Lake Loop.

10. **Items for Next Agenda – September 9, 2020 (8:55)**
a. **3077 Garfield Conditional Rezoning Application Update**
b. **Village at LaFranier Woods Minor Amendment**

11. **Adjournment**

Fudge moved and Cline seconded to adjourn the meeting at 9:00pm.

Joe Robertson, Secretary
Garfield Township Planning
Commission
3848 Veterans Drive
Traverse City, MI 49684

 Charter Township of Garfield Planning Department Report No. 2020-129		
Prepared:	September 2, 2020	Pages: 2
Meeting:	September 9, 2020 Planning Commission	Attachments: <input type="checkbox"/>
Subject:	3077 Garfield Conditional Rezoning – Update #5	
File No.	Z-2020-03	Parcel No. 05-014-077-00 (portion)
Owner:	3077 Garfield LLC / Richard Weaver	
Applicant:	Premier Space Solutions	

PURPOSE OF APPLICATION:

This application requests the conditional rezoning of a portion of Parcel #05-014-077-00 at 3077 Garfield Road, identified as the “Subject Lands for Conditional Rezoning” by the applicant. These “subject lands” consist of approximately 2.85 acres of a 4.43-acre parcel. The request is to conditionally rezone this part of the site from C-G General Commercial to I-G General Industrial via the conditional rezoning process.

BACKGROUND:

The applicant has offered a set of proposed conditions including: the only use on the conditionally rezoned portion will be small warehousing establishments; no servicing, repair or maintenance will be allowed, and the hours of operation will be limited. This application has been considered during the following Planning Commission meetings:

- March 11, 2020 – Introduction (PD Report 2020-45)
- April 22, 2020 – Public Hearing (PD Report 2020-58)
- May 13, 2020 – Update #1 (PD Report 2020-70)
- June 10, 2020 – Update #2 (PD Report 2020-91)
- July 8, 2020 – Update #3 (PD Report 2020-105)
- August 12, 2020 – Update #4 (PD Report 2020-122)

STAFF COMMENT:

This report is only intended to provide an update on the project. It has been suggested to the applicant to provide updated application materials, including a voluntary update to the Statement of Conditions and a site development plan, to address concerns identified by the Planning Commission and others at the public hearing. No updated materials have yet been provided. Staff has received information suggesting that the property owner may want to shift his interest in this property to a different developer, but Staff have not yet received any updated materials.

The applicant has also been informed of this section of the Zoning Ordinance:

SECTION 404 EXPIRATION OF APPLICATION

During the course of any administrative, legislative, or quasi-judicial application review, if an applicant has failed to proceed meaningfully towards application completion or application decision for a period of one-hundred and twenty (120) consecutive calendar days, then the application shall be considered expired. Following expiration of an application, the applicant shall be provided with written notice of said expiration.

As calculated by staff, the previous meaningful action towards application completion was at the May 13, 2020 Planning Commission meeting, and 120 days later from May 13 is September 10, the day after this meeting. If the applicant does not provide any updated information or make any further progress toward application completion by September 10, Commissioners may consider the application to be expired. If


the application expires, it will be brought one final time before the Planning Commission to accept that the application has officially expired.

ACTION REQUESTED:

As such, the following motion is offered for consideration:

MOTION THAT application Z-2020-03, submitted by Premier Space Solutions for the conditional rezoning of a portion of Parcel #05-014-077-00 BE FURTHER TABLED until the applicant submits updated application materials to address outstanding items.

Additional information that the Planning Commission deems necessary should be added to this motion. If the applicant submits updated materials or offers revised conditions, these may be reviewed by Staff and/or the Township Attorney before coming to the Planning Commission.

		Charter Township of Garfield	
		Planning Department Report No. 2020-128	
Prepared:	September 2, 2020	Pages:	1
Meeting:	September 9, 2020 Planning Commission	Attachments:	<input checked="" type="checkbox"/>
Subject:	Use Chart Project – Definitions Discussion		

OVERVIEW:

At their August 26, 2020 study session, the Planning Commission reviewed the names and definitions for retail and parks uses in the Zoning Ordinance. Commissioners asked to review the entire Definitions article with track changes to see the full context of the proposed changes. The Definitions article was mailed to all Commissioners and is also attached to this report.

Staff is seeking feedback from Commissioners at this meeting on the proposed changes to the Definitions and encourages additional potential changes or new definitions to be discussed. Staff is also planning on handing out selections from Article 3: District Regulations, both current and proposed, to allow for a side-by-side comparison of the current Zoning Ordinance and what it would look like if the proposed changes to the Definitions article were adopted.

Following discussion on the Definitions article, if Planning Commissioners are comfortable with proposed changes and additions to the Definitions, the next step of the discussion would be proposed changes and formatting of Article 3: District Regulations. Future steps will include discussion regarding the changes to Article 7: Supplemental Use Regulations that will result from changes to the other districts.

ACTION REQUESTED:

No formal action is requested at this time. Staff envisions continuing discussion regarding these proposed Zoning Ordinance changes at the next Planning Commission study session.

Attachments:

1. Article 2: Definitions with track changes

ARTICLE 2 DEFINITIONS

SECTION 200 RULES APPLYING TO THE TEXT

For the purpose of this Ordinance, certain rules of construction apply to the text as follows:

- (1) Words used in the present tense include the future tense; and the singular includes the plural, unless the context clearly indicates the contrary.
- (2) The word "person" includes a corporation or firm as well as an individual.
- (3) The word "building" includes the word "structure".
- (4) The word "lot" includes the word "plot", "tract", "unit" or "parcel".
- (5) The term "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (6) The word "used or occupied" as applied to any land or building shall be constructed to include the words "intended, arranged, or designed to be used or occupied".
- (7) Any word or term not interpreted or defined by this Article shall be used with a meaning of common or standard utilization.

SECTION 201 GENERAL DEFINITIONS

For the purpose of this Ordinance, certain terms or words used herein shall be interpreted or defined as follows:

Accessory Buildings: A subordinate building or structure on the same lot with a principal or main building, or the part of the main building occupied by or devoted exclusively to an accessory use.

Accessory Use: A use customarily incidental and subordinate to the principal use or building located on the same lot as the principal use or building.

Addition: A completely new structure or new component to an existing structure.

Adequate Public Facility: A public facility or system of facilities that has sufficient available capacity to service the physical area and designated intensity and use of development at adopted specified levels of service.

Administrative decision: A decision on a development approval application rendered by an administrative official that does not require legislative, administrative, or quasi-judicial discretion and unless specifically stated is not subject to a public hearing.

Adult Foster Care, Family Home (<7): A state licensed private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks.

Adult Foster Care, Small Group Home (7-12): A state licensed facility with the approved capacity to receive 12 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks.

Adult Foster Care, Large Group Home (13-20): A state licensed facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks.

Adult Foster Care Facility (21+): A state licensed facility which provides supervised personal care to unrelated, non-transient, adult individuals, not specified elsewhere in this Ordinance and including adult foster care, nursing homes, convalescent homes, homes for the aged, or any similar care facility.

Agricultural Operation: A farm or farm operation as defined by this Ordinance.

Airport or Airfield: A facility designed to allow for the takeoff and landing of aircraft.

Airport Critical Zone: The critical zone includes the clear zone approach-departure clearance surface and the transitional surface.

Airport Inner Horizontal Surface Area: The inner horizontal surface area is that area surrounding the airport for a distance of three miles, excluding the clear zone surface, transitional surface and airport approach-departure clearance surface.

Airport Outer Horizontal Surface: The outer horizontal surface is the airport hazard area less the critical zone area beyond a three mile distance of the Inner Horizontal Surface area to the outer boundary of the Airport Overlay Zone District.

Airport Overlay Zone District: The Airport Overlay Zone District is the airport hazard area consisting of all of the lands within Garfield Township lying beneath the approach, transitional, 149 feet horizontal conical and 500 foot horizontal surface; said land being located within a circle having a radius extending horizontally (6.32 miles) from the established center of the useable landing area of the airport.

Alley: Any dedicated public or private way, other than a street or a joint driveway, which functions primarily as a service corridor and which provides only a secondary means of access to abutting property and is not intended for general traffic circulation.

Alterations: Any modification, additions, or change in construction or type of occupancy, any change or rearrangement in the structural parts of a building; any enlargement of a building, whether by extending a side or by increasing in height; or the moving from one location to another.

Amendment: Any change to the districts of the zoning map (rezoning) or text of this ordinance, master plan, sub area plan, or similar adopted plans or development approval.

Apartment: A room or suite of rooms, including bath and kitchen facilities, located in an accessory structure or in a two-family or multiple-family dwelling intended or designed for use as a non-transient residence by a single family.

Appeal: An appeal to the Zoning Board of Appeals or designated body where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Ordinance.

Approval Authority: Any Board, Commission, or administrative official tasked with rendering a final decision on an application.

Assisted Living Facility: See Adult Care Facility

Auditorium or Assembly Hall: An indoor space used for bringing large groups of people together typically for entertainment or celebration, including theaters.

Automobile ~~showroom~~Showroom: An indoor space used for the display and sale of automobiles. This type of use is typically associated with internet sales where no outdoor display or sale is permitted or as an accessory use to a vehicle dealership.

Bed and Breakfast: A private residence that offers sleeping accommodations to transient tenants, is the innkeeper's residence in which the innkeeper resides while renting the rooms to transient tenants and serves breakfast at no extra cost to its transient tenants. A Bed and Breakfast Establishment shall not be a home occupation.

Berm: A mound of earth rising to an elevation above the ground of a parcel, which contributes to an opaque screening.

Best Management Practices: An effective integration of storm-water management systems, with appropriate combinations of landscape conservation, enhancement, structural controls, impervious cover, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices that provide an optimum way to convey, store, and release run-off, in order to reduce peak discharge, remove pollutants, and enhance the environment.

Billboard - Highway Advertising Sign: An off-premises sign owned by a person, corporation, or other legal entity that engages in the business of utilizing and/or selling the space on that sign for advertising.

Board of Appeals: Garfield Township Zoning Board of Appeals.

Boarding Residence: An owner-occupied residence where non-related individuals are provided with room and board on a permanent basis.

Boardman River Valley Environment Area: Includes those areas of the Township which because of elevation, soil, vegetation type and water table are directly influenced by any fluctuations, course changes or flooding of the river including:

1. lands below 600.0 feet above sea level, lying between the south city limits of Traverse City and the east-west half section line of Sections 22 and 23.
2. lands below 620.0 feet above sea level lying between the east-west half Section line of Sections 22 and 23 and Cass Rd, and
3. lands below 640.0 feet above sea level lying between Cass Rd and the south Township boundary.

Boat Livery: A boat livery is hereby defined and declared to be any structure, site or tract of land utilized for the storage, servicing or rental of boats and for the sale of hunting and/or fishing tackle, equipment, boats, etc.

Bond: Any form of a surety bond in an amount and form satisfactory to the reviewing authority. Bonds may require review and approval by the Garfield Township attorney whenever a bond is required by these regulations.

Brew Pub: A facility as defined by the State of Michigan Liquor Control Code (Act 58 of 1998, MCL 436.1101 et seq.)

Buffer Yard: A greenbelt area that is long and parallel to a property line within which no structures, driveways, parking, signs or other such uses may be located unless specifically permitted by this Ordinance. A yard area occupied by plant materials, fences, or other landscape devices designed to effectively mitigate to a substantial degree the negative impact which occurs between conflicting land uses and major thoroughfares.

Building: Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This shall include tents, awnings and vehicles situated on private property and used for purposes of a building, whether or not mounted on wheels.

Building Area: The buildable area of a lot or designated building envelope and other areas of a project site which have not been designated as permanent open space, areas to be used for project infrastructure, or other site improvements, etc.

Building Elevation: The entire view of any building or other structure from any one of four sides showing features, such as construction materials, design, height, dimensions, windows, doors, other architectural features, and the relationship of grade to floor level.

Building Footprint: The horizontal area measured within the outside of the exterior walls of the ground floor of the main structure.

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

Building Line: That portion of a site defined by the minimum front, side and rear yard setbacks within which no building or structure may be located.

Building Principal: A building in which is conducted the main or principal use of the lot on which it is located.

Building Supply/Equipment Store: An establishment where construction products and materials are sold.

Buildings, Semi-Detached: See Dwelling, two-family (duplex)

Bus shelter: A roofed structure with at least three walls located on or adjacent to the right-of-way of a street, and which is designed and used primarily for the protection and convenience of bus passengers.

Business College or Trade School: [An educational institution generally focusing on instruction in vocational education, including skilled trades and manufacturing, and allowing for hands-on and direct learning opportunities.](#)

Caliper: A tree's trunk or stem diameter in inches measured by diameter tape at four and one-half (4-1/2) feet above the ground. On multi-stem trees, the largest diameter stem shall be measured.

Campground: Means any parcel or tract of land under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee, for the establishment of temporary living quarters for five (5) or more recreational units.

Canopy tree, small: A deciduous tree with a mature height of no more than 30 feet at maturity.

Canopy tree, medium: A deciduous tree with a mature height of more than 30 feet and less than 40 feet at maturity.

Canopy tree, large: A deciduous tree with a mature height of more than 40 feet at maturity.

Carpport: Space for the housing or storage of motor vehicles and enclosed on not more than two sides by walls.

Car Wash: [A facility designed to allow for users to clean their vehicles through either self-service or automatic options.](#)

Car Wash, Freestanding: [A car wash on a freestanding lot and which is not connected to another use such as a gasoline service station.](#)

Catering Establishment: [A facility where food is cooked and prepared for a large group of people to consume at a different site.](#)

Cemetery: Any site containing at least one burial, marked or previously marked, dedicated to and used or intended to be used for the permanent interment of the human dead, including perpetual care and nonperpetual care cemeteries.

Cellar: A story having more than one-half (1/2) of its height below the average finished level of the adjoining ground. A cellar shall not be counted as a story for the purpose of height measurement in stories.

Child Care Center: A facility, other than a private residence, receiving one (1) or more preschool or school age children for 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. Child care center or day care center includes a facility that 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 any of the following:

1. A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.
2. A facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services

Child Care, Family Home (<7): A private home in which one (1) but not 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 legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Child Care, Small Group Home (7-12): A private home in which more than seven (7) 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.

Clinic: An establishment where human patients who are not lodged overnight are admitted for examination and treatment by physicians, dentists, or similar professions.

Cluster zoning: A zoning technique where the maximum number of dwelling units on a site is determined by density levels instead of minimum lot size.

Commercial District Housing Development: [A multiple-family residential development in a commercial district which includes elements contributing to the function of the development as a cohesive site, such as design elements and common open space.](#)

Comprehensive Development Plan: See Master Plan.

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

Common Elements, General: General common elements means and includes elements of the condominium project owned in common by all co-owners and intended for common use or necessary to the existence, upkeep and safety of the project.

Common Elements, Limited: Limited common elements means and includes those common elements, which are reserved in the master deed of a condominium project, for the exclusive use of less than all of the co-owners.

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

Condominium Act: Public Act 59 of the Public Acts of 1978, as amended.

Condominium documents: The master deed and any other instrument referred to in the master deed or bylaws which affects the rights and obligations of a co-owner in the condominium.

Condominium, Expandable: A condominium project to which additional land may be added pursuant to

express provision in the condominium documents and in accordance with the condominium documents and the condominium regulations of the Zoning Ordinance and the Condominium Act.

Condominium Project: A plan or project consisting of not less than two (2) condominium units established in conformance with the Condominium Act.

Condominium, Site: See Site Condominium.

Condominium Subdivision Plan: Site, survey and utility plans, floor plans and sections as appropriately showing the existing and proposed structures and improvements including the location thereof on the land. The Condominium Subdivision Plan shall show the size, location, area, vertical boundaries and volume for each unit comprised of enclosed air space. A number shall be assigned to each condominium unit. The Condominium Subdivision shall include the nature, location and appropriate size of common elements.

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

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

Contractor's Establishment: A facility from which a service provider operates a business, including vehicle storage, material storage, office functions, and light manufacturing of products to be sold and used off-site (e.g. signage, lighting, etc).

Courtyard: A multipurpose space, open and unobstructed to the sky, located at or above grade level on a lot, and bounded on three or more sides by the walls of a building.

Cul-de-sac: A local street with only one outlet that terminates in a vehicular turnaround, having an appropriate terminal for the safe and convenient reversal of traffic movement.

Data Center and Computer Operations and Data Centers: A facility used to house computer systems and association components, such as telecommunications and storage systems.

Density: The number of dwelling units residing upon, or to be developed upon, a net acre of land. In the case of a PUD or similar multi-use development where various land uses are being proposed, densities shall be reviewed as an overall density and by individual use density within a lot area.

Diameter: See Diameter Breast Height

Diameter Breast Height (d.b.h.): A tree's trunk or stem diameter in inches measured by diameter tape at four and one-half (4-1/2) feet above the ground. On multi-stem trees, the largest diameter stem shall be measured.

District: An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height limitations.

Drive-In Business: A business establishment that by design, physical facilities, service or by packaging

procedure, encourages or allows customers to receive services, obtain goods, or be entertained while remaining in their motor vehicles on the site of the establishment.

Drive-In Restaurant: A business establishment or portion hereof where food and/or beverages are sold in a form ready for consumption outside the confines of the building, often in a motor vehicle on the site of the establishment.

Drive-Through Business: A business establishment which by design, physical facilities, service or by packaging procedures, encourages or allows customers to receive services or obtain goods while remaining in their motor vehicles for use off the site of the establishment.

Drive-Through Restaurant: A business establishment or portion thereof where food and/or beverages are sold in a form ready for consumption outside the confines of the building, off the site of the establishment.

Driveway: A means of access for vehicles from a right-of-way to private property.

Driveway, Joint: A driveway, defined herein, providing access to two or more separate parcels used or intended to be used for commercial or industrial purposes.

Drip Line, Tree: An imaginary vertical line extending downward from the outermost tips of the tree branches to the ground.

Dry Cleaning Operation (Central Plant): A facility for the cleaning of garments, fabrics, draperies, etc. with any of various chemicals rather than water, with only accessory or no direct retail customer contact.

~~Dry Cleaning Operation (Retail): A facility for the cleaning of garments, fabrics, draperies, etc. with any of various chemicals rather than water, which may include direct retail customer contact.~~

Dwelling: Any building or structure or part thereof occupied as the home, residence or sleeping place of one or more persons including an attached garage, but except mobile homes and trailer coaches, whether or not mounted on wheels.

Dwelling, Single-Family: A dwelling unit designed for exclusive occupancy by a single family that is not attached to any other dwelling by any means and is surrounded by open area or yards.

Dwelling, Multiple-Family: A dwelling or group of dwellings on one lot used or designed to contain separate living units for three (3) or more families, including triplex units, apartment houses, cooperatives, garden apartments and condominiums.

Dwelling, Two-Family (duplex): A building containing two single family dwelling units totally separated from each other by an un-pierced, above ground, wall or floor and occupied exclusively by two (2) families living independently of each other.

Dwelling Unit: A building or portion thereof designed exclusively for residential occupancy by one (1) family, and having cooking facilities.

Earth change: Excavating, clearing, grading, re-grading, landfilling, berming, or diking of land.

Easement: Authorization by a property owner for another to use the owner's property for a specified purpose.

Environmental impact assessment: A process to examine the adverse on- and off-site environmental impacts to the ecosystem by a development project.

Essential Service Facility, Major: Any essential service facility as defined herein that is not a routine or minor essential service facility.

Essential Service Facility, Minor: An essential service facility as defined herein which is not typically regarded as imposing on, or detrimental to, neighboring property; including, but not limited to:

1. Underground utility facilities such as water mains, sewer mains and lift stations, electrical, gas, cable television and broadband distribution lines and associated structures, transformers, switches and utility boxes that are designed to serve primarily Garfield Township.
2. Overhead pole-mounted electrical, telephone, cable television and broadband distribution lines and transformers, switches, utility boxes and other equipment associated with the services provided the height above grade of such facilities does not exceed the height restriction of the district.

For the purpose of this Ordinance, a wireless communication tower or wind energy conversion system is not considered an essential service.

Existing Buildings: A building existing or for which the foundations are in place or upon which there has been substantial work done prior to the effective date of this Ordinance or any amendment thereto.

Existing Use: A legal use of premises or buildings or structures actually in operation, openly, visibly and notoriously prior to the effective date of the Ordinance or any amendment thereto.

Exterior storefront: A building wall and entryway which provides direct public access to a tenant's retail space from outside of the overall structure.

Family: (1) An individual, or two (2) or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit, or (2) a collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuing non-transient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonable nature or for an anticipated limited duration of a school term or other similar determinable period.

Family Day Care Home: See Child Care, Family Home

Farm: The land, plants, animals, buildings, structures, including ponds used for agricultural or aquacultural activities, machinery, equipment, and other appurtenances.

Farm Animals: Livestock, including beef and dairy cattle, goats, hogs, horses, poultry, sheep, and other fur-bearing animals.

Farm Employees House: A dwelling for full-time farm employees associated with the principal use of the property as an agricultural operation.

Farm Equipment: Mechanical equipment commonly used for farming operations including planting, cultivation, spraying, harvesting and storage operations, HOWEVER, ~~excluding heavy~~ excluding heavy earth moving or construction equipment used for short term construction purposes.

Farm Market, Roadside: A farm market operated as a part of a farming business, selling farm products produced on and off the proprietor's farm, not including roadside stands.

Farm Products: Those plants and animals useful to man and including, but not limited to: forages and sod crops, grains, and feed crops, dairy and dairy products, poultry and poultry products; livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products; or any other product which incorporates the use of food, feed, fiber or fur.

Feeder Lot: An area used for the concentrated feeding of large numbers of marketable meat producing animals carried on as a commercial operation rather than as part of a normal farming operation.

Fencing: The enclosure of an area by a structure of lumber, masonry, wire or other material designed and marketed for constructing such an enclosure.

Festival Banner Flag: Any banner or flag, as defined in this Ordinance, that meets the definition of a community sign.

Financial Institutions: Any federal or state- regulated business such as a bank, credit union, savings and loan company, or investment company.

Financial Institution, with Drive-Through: Any financial institution located on a site with drive-through lanes for servicing customers.

Financial Institution, without Drive-Through: Any financial institution located on a site without any drive-through service lanes.

Flag: Any fabric or other flexible material attached to or designed to be flown from a flagpole, lightpole or similar permanent device.

Flag Lot: A lot with two distinct parts:

1. The flag, which is located behind another lot; and
2. The pole, which connects the flag to the street; and provides the only street frontage for the lot.

Flood Plain: That area subject to inundation by a river and/or stream and its tributaries based on a reasonable flood expectancy as determined by flood history. Unless otherwise documented by detailed hydrological studies, the flood plain shall be designated by the Township Engineer.

Freestanding Sign: The vertical plane surface of a sign where the message is displayed or illustrated, irrespective of the size of the associated message.

Full cut-off (Lighting Fixture): A fixture that allows no emission above a horizontal plane through the

fixture.

Game or Hunting Preserve, Commercial: A site reserved for the keeping of game or animals and which allows for-profit hunting operations on the site.

Garage, Private: An accessory building or an accessory portion of a principal building designed or used solely for the storage of noncommercial motor vehicles owned and used by the occupants of the building to which it is accessory.

Gasoline Service Station: Any area of land, including any structures thereon, that is used or designed for the supply of gasoline, oil, or other fuel for the propulsion of vehicles. Permitted accessory uses may include any area or structure used or designed for polishing, greasing, washing, cleaning, or servicing such motor vehicles.

Glare: The sensation produced within the visual field by luminance that is sufficiently greater than the luminance to which the eyes are adapted, causing annoyance, discomfort or loss in visual performance and visibility.

Golf Course or Country Club: An outdoor recreation facility designed for enjoyment of golf, but not including stand-alone golf-driving ranges and miniature golf courses.

Grade, Finished: The completed surfaces of lawns, walks, and roads, brought to grades as shown on official plans or designs related thereto.

Greenbelt: A strip of land of definite width and location reserved for the planting of shrubs or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this Ordinance.

Greenhouse, Residential: An accessory building or structure to the principal residential use constructed chiefly of glass, glasslike or translucent material, which is devoted to the protection or cultivation of flowers, trees, shrubbery or other vegetation and kept for personal enjoyment.

Greenhouse, Commercial: An accessory use to an approved commercial nursery or agricultural use of the property constructed chiefly of glass, glasslike or translucent material, which is devoted to the protection or cultivation of flowers, trees, shrubbery or other vegetation and kept for personal enjoyment or subsequent sale. (See nursery, retail)

Ground Cover: Low-growing, woody shrubs, deciduous or evergreen plants, perennial plants and/or vines, turf, shredded bark, wood chips or other similar mulch and landscaping stone.

Hazardous Substances And Polluting Material: Shall mean hazardous chemicals as defined by the Michigan Department of Public Health and the Michigan Department of Labor; flammable and combustible liquids as defined by the Michigan State Police Fire Marshal Division; critical materials, polluting materials, and hazardous waste as defined by the Michigan Department of Natural Resources; hazardous substances as defined by the U.S. Environmental Protection Agency; and hazardous materials as defined by the U.S. Department of Transportation.

Health service: See Clinic

High-Tech Research: A facility for basic and applied learning, scientific experimentation and analysis, product design, technology development, consulting, and business development.

Highway: A street, defined herein, which is under the jurisdiction of the Michigan Department of Transportation. Highways may also be classified as freeways and interstates.

Home Industry: A value added activity carried out on a farm for the sale of goods in a farm market, such as small scale canning operation for fruits or vegetables. For the purpose of this ordinance commercial processing is not a home industry.

Home Occupation: Any non intrusive activity of professional character carried out as an accessory use for gain by the owner or resident of the home and conducted in the residents dwelling unit. The owner or resident shall reside in the home, which is clearly for living purposes.

Hospital: An institution providing medical, surgical, or other health services to the community, but not including clinics.

Hotel or Motel: A facility, building or group of buildings offering transient lodging accommodations to the general public and which may include additional facilities and services such as restaurants, meeting rooms, entertainment, personal services and recreational facilities.

Intermittent Visual Obstructions: A screen having unobstructed openings interrupting visual contact and creating spatial separation.

Illumination: Light directed at a working surface or into a space to be illuminated.

Incinerators: Facilities designed for the burning of solid waste.

Indoor Entertainment Center: A commercial public amusement facility conducted entirely within a building, and including archery and firearms range, bowling alleys, billiard halls, laser tag, roller skating, golf range, theaters, and including their ancillary support services.

Industrial/~~Research/Business Parks~~ or Research Park: A tract of land, greater than five (5) acres in size, which has been planned and developed for multiple uses allowed in the industrial districts, including high tech research and engineering, and which includes generally low-impact uses without the use of any materials having high toxicity, radioactivity, or explosive properties ~~within the MUIBD Mixed Use Industrial Business District of the Zoning Ordinance.~~

Interconnected WECS: A WECS which is electrically connected to the local electrical power utility system and could feed power back into the local electrical power utility system.

Interior Parking Lot Landscaping: Landscaping within a polygon having the least area, which can be drawn about a parking area or lot, exclusive of its access drives.

Institutional Uses and Structures: Institutional land uses are generally defined as land uses which serve the community's social, educational, and cultural needs, including but not necessarily limited to schools, libraries, places of worship, and governmental facilities but not health services.

Junk Yard: Any establishment or premise where worn out or discarded material is bought, kept, sold

and/or stored; any premise upon which two (2) or more unlicensed used motor vehicles which cannot be operated under their own power are kept or stored for a period of fifteen (15) days or more shall be deemed to be a "junk yard" within the meaning of this Ordinance.

Keeping of Chickens: Any raising or keeping of chickens on residential property and not including the raising or keeping of chickens as part of an agricultural operation.

Keeping of Fur-Bearing Animals, Commercial: Any keeping of fur-bearing animals for profit.

Keeping of Horses, Personal: Any non-commercial keeping of horses for the personal use of the residents on a property.

Keeping of Livestock: Any raising and keeping of livestock, such as cattle, hogs, horses, ponies, sheep, and similar livestock upon a lot having an area not less than ten (10) acres, except feeder lots.

Keeping of Small Animals: Any raising and keeping of small animals such as poultry, rabbits, and goats.

Kennel: Any lot or premises used for the sale, boarding, or breeding of dogs, cats, or other household pets. Kennel shall also mean the keeping of five (5) or more dogs, cats or other household pets over the age of six (6) months.

Laboratory: A room or building equipped for scientific testing, experimentation, research, or drug and chemical production. For the purposes of this ordinance, a laboratory as accessory to a principal use shall be considered according to the review guidelines for that use. A Laboratory as a Principal Use shall be considered as High-Tech Research.

Lake - Stream: A natural or artificial lake, pond or impoundment, a river, stream or creek, which may or may not be serving as a drain, or any other body of water which has definite banks, a bed and visible evidence of a continued flow or continued occurrence of water. For reference purposes the general location of existing lakes or streams are graphically depicted on the Garfield Township Hydrology Map.

Lakes: Boardman Lake, Silver Lake, Sabin Pond and Keystone Pond.

Landscaping: Some combination of planted trees, vines, ground covers, flowers or turf. In addition, the combination or design may include rock ground cover, earth mounds, and such structural features as fountains, pools, art works, screens, walls, fences or benches.

Launching Ramp, Private: A space or structure from which a boat may be launched for use and benefit of the patrons of the waterfront marina or boat yard wherein said boats are berthed or docked.

Light Shield: An opaque box or other device, which eliminates or greatly diminishes glare.

Light Source: A light bulb or other source within a luminaries.

Limited Residential: Livable spaces incorporated into any approved commercial, office, or industrial businesses including live-work units, upper floor apartments, and similar spaces.

Live-work units: A building in which offices, studios, or other commercial uses are located on the first floor and a dwelling unit is located above the first floor.

Livestock Auction Yards: A site where livestock animals are sold at auction.

Lot: The parcel of land defined by property lines or right-of-way lines, on which a principal use and its accessories are located or intended to be located together with any open spaces required by this Ordinance. A unit of land within a site condominium, which gives the owner exclusive rights to a building envelope where a building is placed and rights to the yard areas surrounding the building.

Lot, Corner: A lot, which has at least two (2) contiguous sides abutting upon a street for their full length.

Lot Coverage: The part of percent of the lot, occupied by a building, including accessory buildings.

Lot, Depth of: The mean distances from the street line of the lot to its opposite rear line, measured in the general direction of the sidelines of the lot.

Lot, Front of: The lot line, which is the front street line of the principal street or right-of-way providing access to the lot.

Lot, Interior: A lot other than a corner lot.

Lot, Line: The lines bounding a lot as hereby described.

Lot Line, (Zero): A condition requiring no (0) setback from a lot line as required for row housing, triplex and duplex structures, and other similar dwellings that are attached and situated on individual parcels for ownership purposes.

Lot of Record: A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds in Grand Traverse County, or had been approved as a preliminary or final plat by the Township Board prior to the date of this Ordinance. Also, a lot described by metes and bounds, the deed or other conveyance to which has been recorded in the Office of the Register of Deeds in Grand Traverse County prior to the date of this Ordinance.

Lot, Width of: The width measured along the front lot line or street line or at the setback line of a curvilinear road or cul-de-sac.

Low Impact Design: A stormwater management practice intended to mimic a site's pre-development hydrology by using techniques which allow storm water runoff to infiltrate, filter, evaporate, and be retained close to its source in lieu of discharging to traditional large retention basins or storm sewers. Low Impact Design may be accomplished via an engineered system of bio-retention areas, rain gardens, wetlands, grass swales, permeable pavement and similar methods.

Lumber Processing and Sawmills: A fully enclosed facility which receives and processes raw or partially finished lumber into a more finished form and including their accessory uses.

Luminaire: An outdoor lighting fixture.

Major Thoroughfare: A public street, the principal use or function of which is to provide an arterial route for through traffic, with its secondary use or function being the provision of access to abutting property, and which has been classified as such in the Master Plan.

Manufacturing: The act of processing, assembling, or fabricating raw or unfinished materials into a more complete or finished product.

Manufacturing, -(Light): The act of processing, assembling, or fabricating raw or unfinished materials into a more complete or finished product, and which may be perceived to have a relatively limited to moderate potential for adverse effect on surrounding properties and the environment, including noise, vibration, pollution, odor, and aesthetics.

Manufacturing, -(Heavy): The act of processing, assembling, or fabricating raw or unfinished materials into a more complete or finished product, and which may be perceived to have a great potential for adverse effect on surrounding properties and the environment, including noise, vibration, pollution, odor, and aesthetics.

Manufactured Home: See Mobile Home.

Marina: A commercial boat basin or dock with facilities for berthing and servicing all types of watercraft, as well as providing supplies, provisions, service and fueling facilities.

Master Deed: The condominium document recording the condominium project to which is attached as exhibits and incorporated by reference, the approved by-laws for the project and the approved condominium subdivision plan for the project.

Master Plan: A statement of policy by the Township Planning Commission relative to the agreed-upon desirable physical pattern of future community development, consisting of a series of maps, charts, and written material that represents a sound conception of how the community should grow in order to bring about the very best community living conditions.

Mechanical Amusement Arcades: Any place, premises or that area occupied by or under the control of the operator of mechanical amusement devices, room or establishment in which a substantial and significant portion of the business is devoted to the operation of mechanical amusement devices, or in which more than five (5) mechanical amusement devices are located and available for operation. For the purposes of this Ordinance, a mechanical amusement arcade shall not include the following.

1. Mechanical amusement devices located in bars, taverns, cocktail lounges and restaurants which are properly licensed by the State of Michigan when the devices are located so as to be an integral part of the operation and available only to tavern and restaurant patrons.
2. Mechanical amusement devices located in motels or hotels when the devices are generally available only to registered guests.
3. Vending machines dispensing food, drink, tobacco, toys, or written material, which material can be utilized away from the premises where the machine is located and does not require further participation by inserting the item or paying the price at the location of the machine.
4. Mechanical amusement devices located on property used solely for a residential purpose or a private club, and which device is not available for use by the general public, shall be exempt from this definition.

Mechanical Amusement Device: Any machine which upon the insertion of a coin, slug, token, plate or disk, or upon payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, including but not limited to games registering a score, electronic video games, mechanical and/or electronic devices such as marble machines, pinball machines, mechanical grab machines, shuffle board game machines, pool tables, billiard tables, and all game operations or transactions similar thereto, whether operated by hand, electric power, or combination thereof. For the purposes of this Ordinance, a mechanical amusement device shall not include the following:

1. Juke box or other similar device, which plays only music for money.
2. Full-size bowling lane or alley.
3. Movie Theater seating more than ten (10) persons.

Medical Clinic: See Clinic.

Medical Marihuana: Marihuana as defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq. grown, used, or transferred for "medical use" as defined by the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

Medical Marihuana Collective: means (a) any commercial use of property for the purpose of sale of medical marihuana for money or other consideration to registered qualifying patients or registered primary caregivers, or (b) any commercial business, commercial establishment or commercial structure that provides or rents space to multiple caregivers for storage and/or sale of Medical Marihuana. Medical Marihuana Collective includes uses commonly referred to as Medical Marihuana Dispensaries, Compassion Centers, Provisioning Centers and Medical Marihuana Cooperatives. The sale of Medical Marihuana where any other commodity, product or service is also available shall be considered a Medical Marihuana Collective.

Medical Marihuana Cultivation: A use where Medical Marihuana is grown by a primary caregiver or a qualifying patient as permitted by the Michigan Medical Marihuana Act, MCL 333.26421 et seq.

Medical Marihuana Cultivation Facility: A use where Medical Marihuana Cultivation, as defined by this ordinance, is being conducted on a lot, but shall not include a Medical Marihuana Collective.

Medical Marihuana Residential Cultivation: Medical Marihuana Cultivation undertaken by a primary caregiver, or a qualifying patient that has not specified a primary caregiver to cultivate marihuana for the qualifying patient, at the primary caregiver's or qualifying patient's primary place of residence.

Medical Office: See Clinic.

Metal Plating, Buffering, and Polishing: [Any of the various industrial processes involved in improving metal products.](#)

Micro Brewer: A person as defined and licensed by Michigan Liquor Control Code (Act 58 of 1998, MCL 436.1101 et seq.)

Microbrewery: A facility or facilities owned or controlled by a licensed Micro Brewer.

Mobile Home: A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air-conditioning and electrical systems contained in the structure. Mobile home does not include a recreational vehicle.

Mobile Home Commission Act: means Act 96 of 1987, as amended.

Mobile Home Park: A parcel or tract of land under the control of a person upon which 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.

Mobile Home Subdivision: A subdivision approved under Act 288 of the Public Acts of 1967, as amended, which by deed restrictions has been designated solely for occupancy by mobile homes.

Mortuary or Funeral Home: A building used for the preparation of the deceased for burial and the display of the deceased and rituals connected therewith prior to burial or cremation.

Nadir: The vertical position directly under a light source.

Nonconforming Sign: A sign or sign structure or portion thereof lawfully existing at the time this code became effective, which does not now conform.

Nonconforming Use: A building, structure, or use of land existing at the time of enactment of this Ordinance, and which does not conform to the regulations of the District or zone in which it is situated.

Non-Use Variance: A dimensional variance to standards such as yard requirements, building height, lot coverage, living space dimensions and similar requirements. These variances are granted based on a showing of a practical difficulty.

Normal Stream or River Bank: The bank or steep slope, which confines waters of a stream or river during normal periods of flow.

Nursery, Retail: The growing, cultivation, storage, and sale of garden plants, flowers, trees, shrubs, and fertilizers in an indoor setting, including limited outdoor storage & sales areas when approved by the Planning Commission. (See also greenhouse, commercial).

N.V.G.D.: Nation Vertical Geodetic Datum.

Office: A room, set of rooms, or a building where the business of a commercial, medical, institutional, or industrial organization or otherwise professional person is conducted, but excluding financial institutions. For the purposes of this ordinance, the term "office" shall include both principal and accessory units.

Off premise sign: See Billboard.

Off-Site Parking: [A parking lot or structure that is accessory to a permitted use in an adjacent commercial district.](#)

Official zoning map: The map of all zoning districts and overlay districts, including but not limited to Airport overlays, that is on file with the Garfield Township clerk, and the Planning Department.

On-Premise Sign: A sign which contains a message identifying a business, profession, product(s), or services conducted or available on the property upon which such sign is located.

Open Space: A typically vegetative area designed, depending upon the particular situation, for environmental, scenic, or recreational enjoyment, but not including supplemental setback areas, parking areas, drainage basins or areas within individual lots. Open space shall be consolidated and contiguous to the greatest extent reasonably possible so as to provide usable park-like areas.

Open Space Preservation: A development option intended to encourage and promote clustered development patterns in a manner that protects developable areas containing natural features and open space, in accordance with Section 506, Open Space Preservation, of the Michigan Zoning Enabling Act.

Outdoor Entertainment Center, Major: A commercial public amusement facility conducted outside of an enclosed building and anticipated to have major impacts on surrounding properties including drive-in theatres, racetracks, driving ranges, and similar facilities.

Outdoor Entertainment Center, Minor: A commercial public amusement facility conducted outside of an enclosed building and anticipated to have minimal impacts on surrounding properties such as miniature golf courses, trampolines, or similar public amusements.

Outdoor Sales, Accessory: A land use involving the sale of items outside a completely enclosed building as accessory to a primary indoor use.

Outdoor Sales, Major: A primary land use where large items such as automobiles, trailers, boats, or other similar items are sold outside of a completely enclosed building.

Outdoor Sales, Minor: A primary land use where items such as plant material not grown on site, lawn furniture, playground equipment, garden supplies, and similar items are sold outside of a completely enclosed building.

Outdoor Sales, Temporary: A temporary outdoor sales event is an accessory event to the established business and intended to provide the business owner with the ability to sell inventory or goods outdoors on the property for a limited time. This type of sale is typically referred to as a tent sale and does not include transient sales or mobile food sales. Common events may include sidewalk sales, Christmas tree sales lots, revival tents, or other quasi-civic activities.

Outdoor Storage: The location of any goods, wares, merchandise, commodities, junk, debris, or any other item outside of a completely enclosed building for a continuous period longer than twenty-four (24) hours.

Outdoor Storage, Accessory Use: Any outdoor storage that is accessory to a principal use, including the storage of a travel trailer, camper, or other recreational vehicle on a residential site.

Outdoor Storage, Primary Use: Any outdoor storage that is the primary use of the parcel.

Overlay Zoning District: A district that is superimposed over one or more zoning districts or parts of districts and which imposes specified requirements in addition to those applicable in the underlying base zoning district.

Park, Mini: A small park or public space, generally less than one (1) acre in size, providing recreational opportunities for residents of the surrounding neighborhood generally within a quarter mile of the site. Mini parks may include, but are not limited to, amenities such as small playgrounds, small open fields, gazebos, and benches.

Park, Neighborhood: A park or public space, generally between one (1) and ten (10) acres in size, which provides active and passive recreation opportunities for residents generally within a half mile of the site. Neighborhood parks may include, but are not limited to, amenities such as playgrounds, open fields, picnic tables, small pavilions, gazebos, and benches.

Park, Community – Low Intensity: A park or public space, generally greater than ten (10) acres in size, which provides recreation opportunities for the entire community, and which are intended primarily for natural area preservation, passive recreation, or low intensity active recreation uses. These community parks may include, but are not limited to, amenities such as playgrounds, fields, picnic tables, pavilions, gazebos, benches, dog parks, disc golf courses, or other similar uses and small structures.

Park, Community – High Intensity: A park or public space, generally greater than ten (10) acres in size, which provides recreation opportunities for the entire community. These parks may include some high intensity active recreation uses such as banquet or event centers, lodges, amphitheaters, athletic fields, and other uses and structures which may have impacts on surrounding neighborhoods that need to be mitigated, such as noise and parking.

Passenger Terminal: A facility such as a bus station allowing for people to access mass transit or other modes of transportation from a common node.

Pattern Book: A visual presentation of the architectural styles of buildings, including the height of cornice lines, roof profiles, finish materials, windows, and ornamentation as it relates to the project and that is adopted as part of the record of an approval.

Person: Any natural person, corporation, partnership, joint venture, association (including homeowners' or neighborhood associations), trust, or any other entity recognized by law.

Personal Service Establishment: Establishments primarily engaged in providing services involving the care of a person or their goods such as beauty shops, barber shops, laundry facility, jewelry repair shops, dry cleaning establishment (pickup only), and shoe repair, excluding the processing of physical materials.

Personal Wind Energy Conversion System: The combination of structures, mechanical equipment, and associated controllers which convert solar or wind energy into usable electricity for use within a personal residence.

Pet Grooming Establishment: A facility offering the grooming of pets as a service, but where no sales or boarding takes place on the site.

Pet Shop: A fully enclosed building for the purchase of birds, fish, and other small animals as pets and for pet care supplies, and where no boarding or grooming takes place on the site.

Planned Unit Development: A land area which has both individual building sites and common property, such as a park, and which is designated and developed under one (1) owner or organized group as a separate neighborhood or community unit.

Point of Light Source: A lighting source, direct, reflected, or refracted, which produces glare.

Pool: Any structure designed and constructed for the purpose of swimming or bathing that contains water over 24 inches deep and has over 100 square feet of surface area.

Practical Difficulty: A situation whereby a property owner, through no fault of their own, cannot establish a "minimum practical" legal use of a legal lot or parcel, meeting all the dimensional standards of the zoning district within which the lot is located. Situations occurring due to the owners desire to establish a use greater than the "minimum practical" standard or to enhance economic gain greater than associated with a "minimum practical" standard or created by an owner subsequent to the adoption date of this Ordinance is not a practical difficulty.

Principal use: The primary or main use of land or structures, as distinguished from a secondary or accessory use.

Printing or Publishing Enterprise: [Any business with activities in printing, publishing, newspaper or print media production, photographic reproduction, blueprinting, and related trades and arts.](#)

Private Swimming Pool: [A recreational swimming pool which is an accessory use to a private residential dwelling.](#)

Processing Operation: Any variety of operations [not otherwise identified within this Ordinance](#) which result in material being made more useable in some form. For the purposes of the Zoning Ordinance, the term "processing" includes but is not necessarily limited to the physical manipulation of chemicals, food, liquids, metals, plastics and textiles.

Professional Showroom: [A facility intended to showcase examples of work in interior decorating, design, architecture, and similar fields without including retail operations at the facility.](#)

Professional Studio: Performing arts, including sculpture, photo, music, painting, drama, dance and similar pursuits.

Property Owner: An owner of (i) a metes and bounds described parcel(s); (ii) a lot(s) in a platted subdivision, duly established under the provisions of the Land Division Act (MCL 560.101, et seq.); (iii) a condominium unit(s) in a condominium project duly established under the provisions of the Condominium Act (MCL 559.101, et seq.) or (iv) the holder of a lessee's interest in any one of the foregoing which exceeds three (3) years in duration. In the event an owner's interest as defined in (i), (ii) or (iii) above is subject to a lease term in excess of three (3) years as provided in (iv) above, the holder of such lessee's interest shall be deemed to be an owner for purposes of this section (which shall supersede and replace the owner/lessor's interest for purposes of this section).

Protected Root Zone: An area surrounding the tree by 1 ½ feet in radius for every inch of the tree caliper.

Public Service Utility or Installation: See Essential Service Facility.

Recreational Facility: An entity which receives a fee, whether by membership or daily passes, in return for the provision of some active recreational activity including but not limited to: gymnastic facilities, indoor soccer, bike & skate parks, racquet clubs, tennis and pickle ball courts, physical fitness facilities, swimming pools, athletic fields, yoga, spinning, martial arts, and other similar activities related to personal or team athletics, exercise, fitness and including their ancillary support services.

Recreational Field Complex: A facility with one or more outdoor athletic fields and which may include ancillary uses such as parking lots, fencing, lighting, restrooms, playgrounds, or weather shelters.

Recreational Unit: A tent, or vehicular-type structure, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own mode of power or is mounted on or drawn by another vehicle which is self-powered. A tent means a collapsible shelter of canvas or other fabric stretched and sustained by poles and used for camping outdoors. Recreational unit shall include travel trailer, camping trailers, motor home, truck camper, slide-in-camper, and chassis-mount camper, watercrafts, snowmobiles, special terrain vehicles, and utility trailers.

Recycling Facility: A facility designed for conducting a recycling operation.

Recycling Operation: The recovery and processing of waste materials for use in new products.

Rehabilitation Center: A facility offering substance abuse treatment and rehabilitation services.

Restaurant: An establishment where food and drink are prepared, served, and consumed, mostly within the principal building. ~~Restaurants may include~~ such as lunch counters, outdoor dining areas, dairy ~~bars~~ bars, bars, taverns, night clubs, coffee shops, and other similar establishments.

Restaurant, with Drive-Through: Any restaurant that includes a drive-in or drive-through as a part of its service or building design.

Restaurant, without Drive-Through: Any restaurant that does not include a drive-in or drive-through as a part of its service or building design.

Retail Fabricator: A shop or establishment which fabricates merchandise primarily for retail sale, where the retail activity constitutes 50% or more of the overall floor space.

Retail Food Establishment: Retail eEstablishments ~~that~~ which supply groceries, fruits, vegetables, meats, dairy products, baked goods, confections, or similar commodities for consumption off the premises. Foodstuffs may be prepared or manufactured on the premises as an accessory activity of the sale of the product is limited to the local retail store.

Retail, Industrial Accessory: Retail activity that is accessory to a primary industrial use, where such retail activity constitutes 15% or less of the overall floor space.

Retail, Industrial Primary: Retail activity that is a primary use on a site in an industrial district. Such retail activity generally has characteristics that are different from retail in a commercial district or that would result in greater site impacts, including bulky or high-value items, outdoor display or outdoor storage, a large indoor storage area or warehouse, and low traffic volumes.

Retail, Low Volume: The sale or rental of goods or merchandise, including the rendering of services incidental to the sale of such goods, taking place in a building of less than five thousand (5,000) square feet. Low volume retail primarily serves residents of the surrounding neighborhood.

Retail, Medium Volume: The sale or rental of goods or merchandise, including the rendering of services incidental to the sale of such goods, taking place in a building of between five thousand (5,000) square feet and fifty thousand (50,000) square feet. Medium volume retail primarily serves residents of several nearby neighborhoods or the entire community.

Retail, High Volume: The sale or rental of goods or merchandise, including the rendering of services incidental to the sale of such goods, taking place in a building of greater than fifty thousand (50,000) square feet. High volume retail primarily serves the entire community and other nearby communities across the region.

~~Retailer, Low Volume: An establishment or establishments engaging in the sale or rental of goods or merchandise, including the rendering of services incidental to the sale of such goods, which may be anticipated to generate less than 50 vehicular trips per day.~~

~~Retailer, High Volume: An establishment or establishments engaging in the sale or rental of goods or merchandise, including the rendering of services incidental to the sale of such goods, which may be anticipated to generate greater than 50 vehicular trips per day. High Volume store retailers are not envisioned as appropriate within the MUIBD.~~

Right-of-Way: A street, alley or other thoroughfare or easement for passage of persons or vehicles, but not including a driveway or joint driveway.

Road: See Street.

Road, Arterial: The following roads are Arterial Roads: Barlow; Cass; Garfield; Hammond; Keystone; LaFranier; N. Long Lake; N. Silver Lake; W. Silver Lake; W. South Airport

Road Frontage: See lot width.

Road, Primary: The following roads are Primary Roads: Barnes; Birmley; Cedar Run; E. Silver Lake; Hartman; Park; Silver Pines; Rennie School; Townline; Zimmerman;

Road, Local: Any road not considered a State Highway, Arterial Road or Primary Road

Roadside Stand: A structure for the display of agricultural products produced on the premises, with no space for customers within the structure itself.

Sale of Mobile Homes: A business where mobile home units are displayed and sold.

Sand or Gravel Pit, Quarry: Land where sand or gravel is extracted from the ground as a key natural resource and taken offsite for processing.

Screening: The enclosure of an area by a visual barrier, which may include a landscape buffer, fencing or other materials.

Second Hand Store/Pawn Shop: Retail sales of previously used merchandise, such as clothing, household furnishings or appliances, and recreational equipment. This definition does not include secondhand motor vehicles, parts or accessories.

Sequential Messaging: A succession of interrelated sign messages, presented on one or more sign faces, which, when read collectively, provide a completed message, statement thought, or idea.

Setback: The minimum required distance between the property line and the closest point of any structure whether attached or detached.

Setback, Front: The minimum required distance between the closest point of any structure and the front property line. The front property line is determined by the location of the principal street or right-of-way providing access to a lot, except that the Zoning Administrator may determine the front yard to be on the street front that is in line with the prevailing pattern of front yards on the street in order to be consistent with the established development pattern of the street.

Setback, Rear: The minimum required distance between the closest point of any structure and the rear property line, generally considered as the opposite side of the lot from the front property line.

Setback, Side: The minimum required distance between the closest point of any structure and any property line not considered a front or rear lot line.

Shopping Center, General: A group of ~~ten (10) or more~~ retail establishments, ~~regardless greater than ten thousand (10,000) square feet in floor area of square footage, or one (1) or more retail establishments of fifty thousand (50,000) square feet or more in floor area,~~ planned and constructed on a unified site, ~~at least five (5) acres in size (consisting of one or more parcels)~~ as an integrated unit for shopping and other business activity.

Shopping Center, Local: A group of retail establishments with a maximum square footage of ten thousand (10,000) square feet or more in floor area, planned and constructed on a unified site as an integrated unit for shopping and other business activity.

Signs: Any words, lettering, parts of letters, figures, fixtures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which communication is made or presented to identify or call attention to an individual, a firm, an association, a profession, a business, a commodity, or a product which are legible from any public roadway or private road, street, highway or other public way.

Sign, Banner: Means a sign other than a flag, with or without characters, letters, illustrations or ornamentation applied to cloth, flexible plastic, canvas, fabric or other similar light material that can be easily folded or rolled, but not including paper or cardboard, that is intended to be hung either with a frame or without a frame. Neither flags nor canopy signs are considered banners.

Signs, Community: Temporary, on or off premises signs, generally made of woven material or durable synthetic materials primarily attached to or hung from poles or on buildings. These signs are solely of a decorative, festive and/or informative nature announcing activities, promotions or events with seasonal or traditional themes having broad community interest, and which are sponsored or supported by a legally constituted nonprofit organization.

Signs, Directional: An on-premise sign which solely directs visitors or customers to a particular land use or all or part of a development.

Sign Area: The entire advertising area of a sign measured by a rectangle around the outer most portion of the sign face.

Sign, Changeable Copy: Any part of a sign that is changeable either manually or electronically, including changeable message boards, digital static messages or images that change physical position or light intensity, by any movement or rotation or that gives the illusion of movement or rotation.

Sign Face: The one vertical plane surface of a sign where the message is displayed or illustrated, irrespective of the size of the associated message.

Sign, Project Development: A sign placed on the premises of a subdivision or other real estate development to indicate the proposed start of the development project and to provide additional information about the project during the construction period. Project development signs are not to exceed forty (40) square feet on each side of a two (2) sided sign.

Sign, Real Estate Development: A sign placed on the premises of a subdivision or other real estate development to indicate the proposed start of the development project or to inform the public that property within the development is available.

Sign, Roof: A sign erected and constructed wholly on the roof of a building and supported by the roof structure. A roof signs height shall not exceed the midpoint of the roof. A sign located on a buildings flat roof parapet is not considered a roof sign.

Sign Structure: Any supports, uprights or internal framework or bracing of a sign excluding walls which are part of a building, landscape wall, or similar structure.

Sign, Wall: The area of a wall which is used to graphically communicate a message or announcement.

Site Area: The total area within the property lines excluding the street right-of-way.

Site Condominiums: Any parcel of land, which may be divided as a condominium under Public Act 59 of the Public Acts of 1978, as amended, into two or more parts, including building sites or lots, for the purpose of being occupied by either separate or attached structures for the purpose of being dedicated to some common use. This definition shall be deemed not exclusive and the definition of site condominium shall include any other decision which may be statutorily or judicially required or which may be appropriate by common usage.

Site Condominium Lot: A measured portion of a parcel or tract of land which is described and fixed as a unit within a Condominium Project.

Site Condominium Subdivision: A Condominium Project divided into site condominium lots.

Small Warehousing Establishment: A structure, series of structures, or series of interior units with totally enclosed storage, and generally intended to be sold or leased on an individual basis for self-storage purposes.

Stormwater Containment, Non-Agricultural: Stormwater containment systems on split-zoned properties to support non-agricultural uses.

Story, Height of: The vertical distance from the top surface of one floor to the top surface of the next above. The height of the top most story is the distance from the top surface of the floor to the top surface of the ceiling joints.

Street: A publicly or privately owned right-of-way, easement, or general common area (in the case of a site condominium subdivision) that provides direct vehicular access to abutting properties.

Street Minor: A public street or way, the principal use or function of which is to give access to the abutting properties.

Street, Private: A street, defined herein, which is to be privately owned and maintained and has not been accepted for jurisdiction and maintenance by the City of Traverse City, the County, the State of Michigan or the federal government but which meets the requirements of this Ordinance or has been approved as a private road by the Township under this Ordinance or any prior ordinance.

Street, Public: A street, defined herein, which has been dedicated to and accepted for jurisdiction and maintenance by the City of Traverse City, the County, the State of Michigan, or the federal government.

Structure: A structure is any production or piece of material artificially built up and composed of parts joined together in some definite manner, any construction, including decks, dwellings, garages, buildings, mobile homes, signs and sign boards, towers, poles, antennae, landfills, walls, weirs, jetties, pipes or other like objects, but not including fences.

Survival Wind Speed: The maximum wind speed, as designated by the WECS manufacturer, at which a WECS, in unattended operation (not necessarily producing power) is designed to survive without damage to any structural component or loss of the ability to function normally.

Taxi Terminal and Dispatch Center: A facility designed for housing taxicab vehicles in between servicing their customers.

Temporary Infrastructure: A non-permanent site element substituted to meet a site development need until construction is complete, and existing for less than 365 calendar days.

~~Temporary Outdoor Sales: A temporary outdoor sales event is an accessory event to the established business and intended to provide the business owner with the ability to sell inventory or goods outdoors on the property for a limited time. This type of sale is typically referred to as a tent sale and does not include transient sales or mobile food sales. Common events may include sidewalk sales, Christmas tree sales lots, revival tents, or other quasi-civic activities.~~

Temporary School Facilities: Portable classrooms used to support students of public and private elementary and secondary schools on a temporary basis.

Tower Height:

1. Horizontal Axis Wind Turbine Rotors: The distance between the ground and the highest point of the WECS, as measured from the ground, plus the length by which the rotor blade on a

horizontally mounted WECS exceeds the structure, which support the rotor and the blades.

2. Vertical Axis Wind Turbine: The distance between the ground and the highest point of the WECS.

Township Board: Garfield Township Board.

Travel Trailer: Refer to Recreational Unit as defined herein.

Travel Trailer Park: Refer to Campground as defined herein.

Trip end: Means the total of all motor vehicle trips entering plus all motor vehicle trips leaving a designated land use or building over a given period of time.

Truck or Rail Freight Terminal: An industrial facility designed to receive freight at the end of a truck or rail trip and facilitate the transfer of freight between modes of transportation.

Use: The purpose for which land and/or a building is arranged, designed, or intended or for which land or a building may be occupied.

Vacation Home Rental: A commercial use of a residential dwelling where the dwelling is rented or sold for any term less than 30 consecutive days.

Vehicle Dealership: A business offering for sale cars, boats, trailers, off-road vehicles, recreational vehicles, personal trailers, truck tractors, tractor trailers, farming equipment, mobile homes, or other motorized equipment. A Vehicle Dealership may include both indoor and outdoor sales.

Vehicle Service Center, Major: A business which offers servicing of vehicles with impacts which are more significant than a minor vehicle service center, such as a mechanic, body shop, major repair and/or rebuilding of vehicles, or similar. Vehicles serviced may include automobiles, trailers, boats, and other motorized vehicles.

Vehicle Service Center, Minor: A business which offers servicing of vehicles with limited impacts on surrounding uses, such as oil changes, tire sales and service, or similar. Vehicles serviced may include automobiles, trailers, boats, and other motorized vehicles.

Veterinary Hospital: A ~~place~~ fully enclosed building where animals are given medical care, ~~and but~~ which has no long-term boarding facilities. ~~Any~~ boarding of animals is limited to short-short-term recovery care associated with the hospital use.

View Corridors: Areas, usually linear or triangular, which are prevented from obscuring the view of or from particular points, via height limitations, or other development restrictions.

~~Warehouse: A structure for the storage and/or distribution of goods or material.~~ Warehouse or Distribution Center: A fully enclosed structure for storage and/or distribution of goods or material, including storage facilities for sand, gravel, stone, and contractor's equipment.

Warehouse or Distribution Center, Hazardous Materials: A fully enclosed structure for storage and/or distribution of hazardous substances such as fuels, chemicals, hazardous waste, and other flammable or

toxic substances.

Water Mark: The highest normal water level of the major lakes within the Township as determined by the Township Engineer based on water level history and/or impoundment control.

Water Mark, Ordinary High: A line between upland and bottomland, which persists through successive changes in water levels, below which the present action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

Water Mark, Boardman Lake: 590.0 feet above sea level.

Water Mark, Silver Lake: 862.0 feet above sea level.

Waterfront Stairways and Landings: Small structures on the waterfront of the property which provide points of access from the land to the water.

WECS: Shall be the approved form of abbreviation of "WIND ENERGY CONVERSION SYSTEM"; WECS shall mean a combination of:

1. A surface area, either variable or fixed, for utilizing the wind for electrical power, and
2. A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity producing device; and
3. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
4. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

Wholesaler: A business which includes the warehousing and storage of bulk quantities of goods and the sale of goods directly to businesses. Some wholesalers may also have a portion of their operation which involves retail and the sale of goods directly to consumers, where such retail activity constitutes 15% or less of the overall floor space.

Wireless Communication Collocation: To place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound. "Collocation" has a corresponding meaning.

Wireless Communications Equipment: A set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless communications support structures.

Wireless Communication Facilities: All facilities, equipment, and other structures used in the provision of wireless communications services.

Wireless Communications Support Structure: A structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

Wireless Communication Equipment Compound: An area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

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

Yard, Front: A yard, extending across the front of the lot between the side lot lines and measured between the front line of the lot and the building line.

Yard, Rear: An open space on the lot with a principal use, unoccupied, except as herein permitted, extending the full width of the lot and situated between the rear line of the lot and the rear building line projected to the side lines of the lot.

Yard, Side: An open and unoccupied space, unless otherwise provided herein, on the lot with a principal use, situated between the building line and the side line of the lot and extending from the front yard to the rear yard. Any yard not a front yard or rear yard shall be deemed a side yard.

Zoning Permit: A type of permit required for any change in use of land or structure in accordance with the provisions of this Ordinance.

SECTION 203 ADULT BUSINESS DEFINITIONS

Adult Business: Includes the following uses and acts as defined and described below and by Ordinance #51 Adult Licensing Ordinance:

Adult Arcade: Means any place to which the public is permitted or invited wherein coin operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images for any form of consideration to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas (as those terms are defined elsewhere herein).

Adult Bookstore or Adult Video Store: Means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of Specified Sexual Activities or Specified Anatomical Areas.

A "principal business activity" exists where:

- a. at least 35% of the establishment's displayed merchandise consists of said items, or
- b. at least 35% of the wholesale value of the establishment's displayed merchandise is in said items, or
- c. at least 35% of the fair market value of the establishment's displayed merchandise is in said items, or
- d. at least 35% of the establishment's gross revenues derive from the sale or rental, for any form of consideration, of said items, or
- e. at least 35% of the establishment's interior business space or, if less than 35%, at least five hundred square feet (500 sq. ft.) of the establishment's interior business space, is maintained for the display, sale, and/or rental of the foregoing items (aisles and walkways used to access said items shall be included in "interior business space" maintained for the display, sale, and/or rental of said items); or
- f. the establishment offers for sale or rental at least two thousand five hundred (2,500) of the foregoing items; or
- g. the establishment regularly features said items and regularly advertises itself or holds itself out as an establishment that caters to adult sexual interests by using "adult," "XXX," "sex," "erotic," or substantially similar language.

Adult Cabaret: A nightclub, bar, juice bar, restaurant, or similar commercial establishment which regularly features persons who appear in a state of semi-nudity; or films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction of Specified Sexual

Activities or Specified Anatomical Areas.

Adult Motel: A hotel, motel or similar commercial establishment which offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproduction; offers a sleeping room for rent for a pre-designated period of time that is less than twelve (12) hours; or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Theater: A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of semi-nudity.

Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish Escorts as one of its primary business purposes for a fee, tip, or other consideration.

Nudity or a State of Nudity: The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.

Regularly: The consistent and repeated doing of an act on an ongoing basis.

Semi-Nude or State of Semi-Nudity: The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.

Sexual Device: Any three (3) dimensional object designed for stimulation of the male or female human genitals, anus, female breast, or for sadomasochistic use or abuse of oneself or others and shall include devices commonly known as dildos, vibrators, penis pumps, cock rings, anal beads, butt plugs, nipple clamps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.

Sexual Device Shop: A commercial establishment that regularly features sexual devices. This definition shall not be construed to include any pharmacy, drug store, medical clinic, any establishment primarily dedicated to providing medical or healthcare products or services, or any establishment that does not limit access to its premises or a portion of its premises to adults only.

Sexual Encounter Center: A business or commercial enterprise that, as one of its principal business purposes, offers any form of physical contact in the form of wrestling or tumbling between persons of the opposite sex; or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

Specified Anatomical Areas: A less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities: The act of intercourse, oral copulation, masturbation or sodomy; or excretory functions as a part of or in connection with intercourse, oral copulation, masturbation or sodomy.

Viewing Room: A room, booth, or area where a patron of an adult business would ordinarily be positioned while watching a film, videocassette, digital video disc, or other video reproduction.