

TITLE SIX - Zoning

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CHAPTER 1260

General Provisions and Definitions

EDITOR'S NOTE: By an unnumbered Motion dated November 21, 1995, Council adopted a document entitled "Municipal Standards for the City of Perry, Shiawassee County, Michigan" (February 1996 edition) for use in conjunction with the City's Zoning Code. Copies of such document may be obtained, at cost, from the City Clerk.

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| 1260.01 Short title. | 1260.04 Definitions. |
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CROSS REFERENCES

- Zoning and planning in home rule cities - see M.C.L.A. Sec. 117.4i
- Regulation of location of trades, buildings and uses by
local authorities - see M.C.L.A. Sec. 125.581
- Regulation of buildings; authority to zone - see M.C.L.A. Sec. 125.582
- Regulation of congested areas - see M.C.L.A. Sec. 125.583
- Uses of land or structures not conforming to ordinances; powers of
legislative bodies; acquisition of property - see M.C.L.A.
Sec. 125.583a

1260.01 SHORT TITLE.

This Title Six of Part Twelve, the Planning and Zoning Code shall be known and may be cited as the "City of Perry Zoning Code" or just the "Zoning Code." (Ord. 275. Passed 9-23-03.)

1260.02 PURPOSE AND SCOPE.

(a) The purpose of this title is to promote, protect, regulate, restrict and provide for the use of land and buildings within the city, to meet the needs of the residents for places of residence, recreation, industry, trade, service, and other

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uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population and transportation systems, sewage disposal, water, energy, education, recreation, and other public service and facility needs; and to promote public health, safety, and welfare.

(b) The city is divided into various districts that are considered best suited to carry out the intent of this section. For each of the districts, regulations are imposed designating the uses for which buildings or structures shall or shall not be erected or altered, and designating the trades, industries, and the land uses or activities that shall be permitted or excluded or subjected to special regulations.

(c) It is also the purpose of this title to provide for the administration and enforcement hereof and for penalties for its violation; and to provide for the repeal of any and all ordinances inconsistent herewith.
(Ord. 275. Passed 9-23-03.)

(d) No building or structure, or part thereof, shall hereafter be erected, constructed, altered or maintained, and no new use or change of any building, structure or land, or part thereof, shall be made or maintained, except in conformity with this Zoning Code.
(Ord. 275. Passed 9-23-03.)

1260.03 CONFLICT WITH OTHER LAWS, REGULATIONS, AND AGREEMENTS.

It is not intended by this Zoning Code to repeal, abrogate, annul or in any way impair or interfere with any existing provision of law or ordinance, other than the Zoning Code previously adopted by the city, as amended, or with any rule, regulation or permit adopted or issued pursuant to the law relating to the use of buildings or premises. However, wherever this Zoning Code imposes more stringent requirements, regulations, restrictions, restrictions or limitations than are imposed or required by the provisions of any other law or ordinance, this Zoning Code shall govern. Whenever the provisions of any other law or ordinance impose more stringent requirements than are imposed or required by this Zoning Code the provisions of such other law or ordinance shall govern.
(Ord. 275. Passed 9-23-03.)

1260.04 DEFINITIONS.

(a) Rules applying to text. The following rules shall apply to the text and language of this title:

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this title and any caption, the text shall control.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.
- (4) Words used in the present tense shall include the future, words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the

contrary.

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- (5) The word "used" or "occupied" as implied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied".
- (6) Any word or term not defined in this title shall be used with a meaning of common understanding.

(b) Definitions. As used in this Zoning Code, unless otherwise specifically stated:

- (1) Accessory building. A detached subordinate building located on the same lot as an existing building, the use of which is clearly incidental or secondary to that of the main building and which is not used for human habitation and includes a private garage or implement shed.
- (2) Accessory structures. A structure, such as a deck, which is incidental to that of the main building that is located on the same lot as the main building.
- (3) Accessory use. A use subordinate to the principal uses of a lot and used for purposes clearly incidental to those of the principal use.
- (4) Adult business. An establishment that draws its customers from one (1) or more classes of the public excluding minors by reason of age, including but not limited to the following:
 - A. Adult bookstores. An establishment which has a substantial or significant portion of its stock in trade in books, magazines, periodicals, photographs, sculpture, motion pictures, films or other visual representations and which excludes minors by reason of age pursuant to state law or local ordinances.
 - B. Adult cabarets. An establishment in which there is performed any live exhibition, show, dance, revue, floorshow, song, or other similar presentation and which excludes minors by reason of age pursuant to state law or local ordinances.
 - C. Adult motion picture theaters. An establishment, whether indoors or outdoors, used for the presentation of motion pictures, films or video recordings and which excludes minors by reason of age pursuant to state law or local ordinances.
 - D. Adult retail stores. An establishment that sells or offers for sale items used or advertised as sexually explicit entertainment gimmicks or paraphernalia and which excludes minors by reason of age pursuant to state law or local ordinances.
 - E. Tattoo/body piercing parlors. An establishment that provides external body modification, through the application of an indelible pattern and/or body piercing, and in accordance with all city ordinances.
- (5) Alley. A dedicated public way affording a secondary means of access to abutting property, which is not intended for general traffic circulation.

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- (6) Alterations. Any change, addition or modification in construction or type of occupancy or any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to in this Zoning Code as "altered" or "reconstructed."
- (7) Apartments. The dwelling units in a multiple family dwelling are defined as follows:
- A. Efficiency apartment. A dwelling unit consisting of not more than one (1) room in addition to kitchen, dining and necessary sanitary facilities.
 - B. One-bedroom unit. A dwelling unit consisting of not more than two (2) rooms in addition to kitchen, dining and necessary sanitary facilities.
 - C. Three or more bedroom unit. A dwelling unit consisting of not more than four (4) rooms in addition to kitchen, dining and necessary sanitary facilities.
 - D. Two-bedroom unit. A dwelling unit consisting of not more than three (3) rooms in addition to kitchen, dining and necessary sanitary facilities.
- (8) Attached. A building otherwise complete in itself, which depends, for structural support or complete enclosure, upon a division wall or walls shared in common with an adjacent building or buildings.
- (9) Automobile. Any motorized vehicle intended to be driven on roads or trails, such as cars, pickup trucks, vans and motorcycles, and other vehicles defined as motor vehicles by the Motor Vehicle Code.
- (10) Automobile collision services. A use such as frame or fender straightening and repair, painting and undercoating of automobiles, and similar vehicle repair activities.
- (11) Automobile filling station. A place used for the retail sale and dispensing of fuel or lubricants together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store and/or a single bay car wash operation as an accessory use.
- (12) Automobile dealership. A building or premises used primarily for the sale of new and used automobiles and other motor vehicles.
- (13) Automobile repair garage. An enclosed building where the following services may be carried out: general repair, engine rebuilding and reconditioning of automobiles.
- (14) Automobile service station. A place where gasoline or other vehicle engine fuel, kerosene, motor oil, lubricants and grease are sold directly to the public on the premises for the purposes of operating motor vehicles, including the sale of minor accessories for motor vehicles (such as tires, batteries, brakes, shock absorbers and window glass) and the servicing and minor repair of motor vehicles.
- (15) Automobile wash. A building or portion thereof where automobiles are washed. Such facilities shall include the following:

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- A. Automatic car wash. Any facility, including its structures, accessory uses and paved areas, used wholly or partly to wash, clean and dry the exterior of passenger automobiles, vans, pickups or panel trucks using conveyors to move the vehicle, or equipment that moves over or around the vehicle, or other automated equipment intended to mechanically wash such vehicles.
- B. Self-service car wash. Any facility, including its structures, accessory uses and paved areas used wholly or partly to wash, clean and dry the exterior of passenger automobiles, vans, pickups or panel trucks using hand-held equipment.
- (16) Basement. That portion of a building which is partly or wholly below grade but is so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A basement shall not be counted as a story.
- (17) Bed and breakfast. A one-family residential structure that meets the following criteria:
- A. Has eight (8) or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, one (1) or more of which are available for rent to transient tenants.
- B. Serves breakfast to its transient tenants.
- (18) Block. The property abutting one (1) side of a street and lying between the two (2) nearest intersecting streets; between the nearest such street and any railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.
- (19) Building. A structure, either temporary or permanent, used for the shelter or accommodation of persons, animals, goods or equipment, having a roof supported by columns or walls and including any tents or awnings which are situated on private property when so used.
- (20) Building code. The code that is in effect within the city.
- (21) Building frontage. That portion of a building that faces a public right-of-way.
- (22) Building height. The vertical distance measured from the finished grade at the front of the building to the higher of the highest point of a flat roof, or the mean level between the eaves and the ridge of a pitched roof.
- (23) Building inspector. The authorized representative designated by the City Council to enforce the Building Code.
- (24) Building line. A line formed by the face of the building. For the purpose of this Zoning Code, a minimum building line is the same as a front setback line.
- (25) Building official. The officer or other designated authority charged with the administration and enforcement of the Building Code, or a duly authorized representative.

(26) Church. A building wherein persons regularly assemble for religious worship, and which is maintained and controlled by a religious body organized to sustain public worship.

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- (27) Clinic. A structure, housing, facilities for the medical and dental care, diagnosis and treatment of sick, ailing, infirm and injured persons, and those who are in need of medical, dental or surgical attention, who are not provided with board or room or kept overnight on the premises.
- (28) Club. An organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics or the like, not operated for profit.
- (29) Collector street. A street intended to serve as a major means of access to major thoroughfares, such street having considerable continuity within the framework of the City Thoroughfare Plan.
- (30) Columbarium. A structure designed for the purpose of storing the ashes of human remains that have been cremated.
- (31) Condominium. Condominiums shall include the following elements:
- A. Condominium act. Refers to Act 59 of the Public Acts of 1978, as amended.
 - B. Condominium documents. The master deed, recorded pursuant to the Condominium Act, and any other instrument referred to in the Master Deed or bylaws that affects the rights and obligations of a co-owner in the condominium.
 - C. Condominium lot. The condominium unit includes the condominium unit and the contiguous limited common elements surrounding the condominium unit, and shall be the counterpart of "lot" as used in connection with a project developed under the Subdivision Control Act, Act 288 of the Public Acts of 1967, as amended.
 - D. Condominium unit. The portion of a condominium project designed and intended for separate ownership and use, as described in the master deed.
 - E. General common element. The common elements other than the limited common elements reserved in the master deed for use by all the co-owners.
 - F. Limited common element. A portion of the common elements reserved in the master deed for exclusive use of less than all of the co-owners.
 - G. Master deed. The condominium document recording the condominium project, and all other information required by Section 8 of the Condominium Act.
 - H. Site condominium. A condominium development in which each co-owner owns exclusive rights to a volume of space within which a structure or structures may be constructed, herein defined as a condominium unit. Such developments are also described in the master deed.
- (31) Congregate care housing. A dwelling providing shelter and services for four (4) or more elderly persons (age 60 or older) within which are providing living and sleeping facilities, meal preparation, laundry services and room cleaning. Such facilities may also provide

other services, such as transportation for routine social and medical appointments and counseling.

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- (32) Construction. The placing of construction materials in permanent position and fastened in a permanent manner. However, where demolition or removal of an existing building has been substantially begun and preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that the work is diligently carried on until completion of the building involved and that not more than twelve (12) months have elapsed since the permit was issued for such construction.
- (33) Crematorium. A building fitted with the proper appliances for the purpose of the cremation of human remains and includes everything incidental or ancillary thereto.
- (34) Day-care facility, adult.
- A. Day-care center, adult. A facility, other than a private residence, receiving one (1) or more adults, eighteen (18) years of age or older, for care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled or physically handicapped who require supervision on an ongoing basis. An adult day-care center does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities that do not meet the definition of adult day-care center.
- B. Group day-care home, adult. A private home in which more than six (6) but not more than twelve (12) adults, eighteen (18) years of age or older, receive care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis. An adult day-care home does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities that do not meet the definition of adult day-care center. The owner of an adult day-care home business must also be the occupant of the private home.
- C. Family day-care home, adult. A private home in which six (6) or less adults, eighteen (18) years of age or older, receive care for periods of less than twenty-four (24) hours a day. It includes facilities for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis. An adult day-care home does not include alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any other facilities that do not meet the definition of adult day-care center. The owner of an adult day-care home business must also be the occupant of the private home.

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- (35) Day-care facility, child.
- A. Day-care center, child. A facility, other than a private residence, receiving one (1) or more preschool or school age child or 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. The term "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. The term "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 greater than three (3) hours per day for an indefinite period, or not greater than eight (8) hours per day for a period not to exceed four (4) weeks during a twelve (12) month period.
 2. A facility operated by a religious organization where children are cared for not greater than three (3) hours while persons responsible for the children are attending religious services.
- B. Group day-care home, child. A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twentyfour (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. The term "group day-care home" includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year. The owner of the child group day-care home business must also be the owner and resident of the private home.
- C. Family day-care home, child. A private home in which at least one (1) but less than seven (7) 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. The term "family day-care home" includes a home that gives care to an unrelated child for more than four (4) weeks during a calendar year. Child family day-care homes shall be specifically exempt from regulations by this Title but are otherwise subject to applicable state law. The owner of the

child family day-care home business must also be the owner and resident of the private home.

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- (36) Deck. A structure without a roof having a foundation to hold it erect, and attached to or abutting one (1) or more walls of a building or constructed separately from a building, with or without direct access to the ground, the floor of which is above finished grade, and intended for use as an outdoor living area.
- (37) Demolition. The destruction, all or in part, of a building or structure.
- (38) District. A portion of the incorporated area of the city within which certain regulations and requirements, or various combinations thereof, apply under this Zoning Code.
- (39) Drive-in. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, regardless of whether self-service is involved, rather than within a building or structure.
- (40) Dwelling, multiple-family. A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families, living independently of each other.
- (41) Dwelling, one-family attached. A building divided vertically by a common wall extending from the foundation to the roof into two (2) or more attached dwelling units, each having a separate entrance.
- (42) Dwelling, one-family detached. A detached one-family dwelling is a building designed exclusively for, and occupied exclusively by one (1) family.
- (43) Dwelling, two-family. A building designed exclusively for occupancy by two (2) families, living independently of each other.
- (44) Dwelling unit. A single unit providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
- (45) Erected. Includes "built", "constructed", "altered", "reconstructed", "moved upon" or any physical operation on the premises that is required for construction. Excavation, fill, drainage and the like shall be considered a part of erection.
- (46) Essential services. The erection, construction, alteration or maintenance by public utilities or Municipal departments of underground, surface or overhead gas, electrical, steam, fuel or water transmission or distribution systems or collection, communication, supply or disposal systems. Such systems include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not buildings which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety or welfare.
- (47) Excavation. A breaking of ground, except common household gardening and ground care.
- (48) Family. One (1) or two (2) persons or parents, with their direct lineal descendants or adopted children (and including the domestic employees thereof), together with not more than three (3) persons

not so related, living together in the whole or part of a dwelling
comprising a single housekeeping unit.

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- (49) Farm. All of the contiguous neighboring or associated land operated as a single unit on which farming as defined by the Michigan Right-to-Farm Act is carried on directly by the owner-operator, manager, or tenant-farmer, by his own labor or with the assistance of members of his household or hired employees. Land to be considered a farm hereunder shall include a continuous parcel of not less than ten (10) acres in area. Farms may be considered as including establishments operated as greenhouses, sod farms, nurseries, orchards, chicken hatcheries, livestock/poultry farms and apiaries; but establishments keeping fur-bearing animals, game, or operating fish hatcheries, confined animal feedlots, stone quarries, or gravel or sand pits shall not be considered farms hereunder unless combined with farm operation on the same continuous tract of land.
- (50) Fence. A vertical structure intended to prevent entrance, to confine, or to mark a boundary.
- (51) Filling. The depositing or dumping of any matter onto or into the ground, except that which is done in connection with common household gardening and ground care.
- (52) Floor area. For the purpose of computing, the minimum allowable floor area in a residential dwelling unit, which is the sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.
- (53) Floor area usable. For the purpose of computing parking, the usable floor area includes that area used for or intended to be used for the sale of merchandise or services or for use to serve patrons, clients or customers. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, or for utilities, shall be excluded from this computation of usable floor area. Measurement of floor area shall be the sum of the gross horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. For the purpose of computing parking for those uses not enclosed within a building, the area used for the sale or display of merchandise and/or the area used to serve patrons or clients shall be measured to determine necessary parking spaces.
- (54) Foster care facilities, adult. A governmental or non-governmental establishment that provides foster care to adults. It includes facilities and foster care homes for adults who are aged, mentally ill, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. An adult foster care facility does not include nursing homes, homes for the aged, hospitals, alcohol or substance abuse rehabilitation centers, residential centers for persons released from or assigned to a correctional facility, or any

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other facilities which have been exempted from the definition of adult foster care facility by the Adult Foster Care Facility Licensing Act, M.C.L.A. 400.701, et seq; MSA 16.610(61), et seq, as amended. The types of licensed Adult Foster Care Facilities include the following:

- A. Foster care congregate facility, adult. An adult foster care facility with the approved capacity to receive more than twenty (20) adults to be provided with foster care.
 - B. Foster care family home, adult. A private residence with the approved capacity to receive six (6) or fewer adults to be provided with foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
 - C. Foster care large group home, adult. A facility with the approved capacity to receive at least thirteen (13), but not more than twenty (20) adults, to be provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.
 - D. Foster care small group home, adult. A facility with the approved capacity to receive twelve (12) or fewer adults who are provided supervision, personal care, and protection in addition to room and board, for twenty-four (24) hours a day, five (5) or more days a week, and for two (2) or more consecutive weeks for compensation.
- (55) Foster family facilities, child.
- A. Foster family home. A private home in which at least one (1) but not more than four (4) minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code, Chapter X of Act No. 288 of the Public Acts of 1939, being M.C.L.A. sections 710.21 to 710.70, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
 - B. Foster family group home. A private home in which more than four (4) but fewer than seven (7) minor children, who are not related to an adult member of the household by blood, marriage, or who are not placed in the household pursuant to the adoption code, Chapter X of Act No. 288 of the Public Acts of 1939, being M.C.L.A. sections 710.21 to 710.70, are given care and supervision for twenty-four (24) hours a day, for four (4) or more days a week, for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- (56) Grade. The degree of rise or descent of a sloping surface.

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- (57) Grade, finished. The final elevation of the ground surface after development.
- (58) Grade, natural. The elevation of the ground surface in its natural state, before man-made alterations.
- (59) Home occupation. An occupation or profession carried on as a subordinate use by a member of a family residing on the premises and conducted entirely within the dwelling, which occupation or profession is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. In addition to this definition, an occupant of a one-family residence shall also be allowed to specifically give instruction in a craft or fine art within the residence, pursuant to Act 376 of the Public Acts of 1994, as amended.
- (60) Hospital, general. An installation providing health services primarily for in-patient medical or surgical care of the sick or injured, and includes related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are integral parts of the facilities.
- (61) Hotel. A building in which lodging, with or without meals, is offered to transient guests (no more than 6 months) for compensation and in which there are six (6) or more guest rooms. Such facilities may have in room cooking facilities proving all Building Code requirements have been satisfied.
- (62) Housing for the elderly. A building or group of buildings containing dwellings intended for, and solely occupied by, elderly persons as defined by the Federal Fair Housing Amendments Act of 1988. Housing for the elderly may include independent and/or assisted living arrangements but shall not include nursing or convalescent facilities regulated by the State of Michigan.
- (63) Kennel, commercial. A lot or premises on which three (3) or more animals are either permanently or temporarily boarded for a profit.
- (64) Landscaping. The following definitions shall apply in the application of this title:
- A. Berm. A landscaped mound of earth that blends with the surrounding terrain.
 - B. Buffer. A landscaped area composed of living material, wall, berm, or combination thereof, established and/or maintained to provide, visual screening, noise reduction, and transition between conflicting types of land uses.
 - C. Conflicting non-residential land uses. Any non-residential land use, such as office, commercial, industrial, research, parking or public road right-of-way that abuts a residential land use.
 - D. Conflicting residential uses. Any residential land use developed at a higher density that abuts a residential land use developed at a lower density.

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- E. Greenbelt. A landscaped area, established at a depth of the minimum required front yard setback within a zoning district, which is intended to provide a transition between a public road right-of-way and an existing or proposed land use and/or between a conflicting land use and an existing or proposed land use.
- F. Opacity. The state of being impervious to sight.
- G. Plant material. A collection of living evergreen and/or deciduous, woody-stemmed trees, shrubs, vines and ground cover.
- (65) Lot. A parcel of land, excluding any portion in a street or other right-of-way, of at least sufficient size to meet minimum requirements for use, coverage, lot area, and to provide such yards as herein required. Such lot shall have frontage on a public street, or on an approved private street, and may consist of:
- A. A single lot of record; or,
- B. A parcel of land described by metes and bounds.
- (66) Lot area. The total horizontal area within the lot lines of the lot.
- (67) Lot, corner. A lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than one hundred and thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Zoning Code if the arc is of less radius than one hundred and fifty (150) feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred and thirty five (135) degrees.
- (68) Lot coverage. That part or percentage of the lot occupied by buildings, including accessory buildings.
- (69) Lot depth. The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.
- (70) Lot, interior. Any lot other than a corner lot.
- (71) Lot lines. The lines bounding a lot is defined as follows:
- A. Front lot line. In the case of an interior lot, that line separating the lot from the street right-of-way. In the case of a corner lot or a through lot, the "front lot line" is that line separating the lot from the street which is designated as the front street in the plat and in the application for a building permit.
- B. Rear lot line. That lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long and lying farthest from the front lot line and wholly within the lot.
- C. Side lot line. A lot line other than the front lot line or the rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another

lot is an interior side lot line.

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- (72) Lot of record. A parcel of land, the dimensions of which are shown on a recorded plat on file with the County Register of Deeds at the time of adoption of this Zoning Code.
- (73) Lot, through. Any interior lot having frontages on two (2), more or less, parallel streets, as distinguished from a corner lot. In the case of a row of through lots, all sides of such lots adjacent to streets shall be considered frontage, and front yards shall be provided as required.
- (74) Lot width. The horizontal distance between the side lot lines, measured at the two (2) points where the required front setback intersects the side lot lines.
- (75) Main building. A building in which is conducted the principal use of the lot upon which it is situated.
- (76) Main use. The principal use to which the premises are devoted and the principal purpose for which the premises exist.
- (77) Maneuvering space. An open space in a parking area that is immediately adjacent to parking space, is used for and/or is necessary for turning, backing, or driving forward a motor vehicle into such parking space but is not used for the parking or storage of motor vehicles.
- (78) Manufactured home. The following terms shall apply:
- A. Mobile home. A detached portable one-family dwelling, prefabricated on its own chassis and intended for long-term occupancy. The unit contains sleeping accommodations, a flush toilet, a washbasin, a tub or shower, eating and living quarters. It is designed to be transported on its own wheels or flatbed arriving at the site where it is to be occupied as a complete dwelling without permanent foundation and connection to existing utilities.
 - B. Modular home. A structure whose parts are manufactured separately off-site, but fitted together on a site with a permanent residential foundation.
 - C. Pre-manufactured home. A structure which is capable of being occupied exclusively as a dwelling and which is comprised of pre-fabricated components which are manufactured offsite, transported and erected on a lot.
- (79) Master plan. The comprehensive land use plan, including graphic and written proposals, indicating the general location of streets, parks, schools, public buildings and all physical development of the city, and includes any unit or part of such Plan and any amendment to such Plan or parts thereof. The Planning Commission shall adopt such plans.
- (80) Mausoleum. A building or other structure used as a place for the interment of the dead in sealed crypts or compartments.
- (81) Mezzanine. An intermediate level between the floor and ceiling of any story with an aggregate floor area of no more than one-third (1/3) of the area of the room in which the level or levels are located.

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- (82) Mobile home park. Any parcel of land intended and designated to accommodate more than one (1) mobile home for living use which is offered to the public for that purpose; and any structure, facility, area, or equipment used or intended for use incidental to that living use.
- (83) Motel. A series of attached, semi-detached or detached rental units containing bedroom, bathroom and closet space. Such units shall provide for overnight lodging, are offered to the public for compensation and shall cater primarily to the public traveling by motor vehicle.
- (84) Nonconforming building. A building or portion thereof, existing on the effective date of this Zoning Code, or amendments thereto, that does not conform to this Zoning Code in the district in which it is located.
- (85) Nonconforming use. A use that lawfully occupies a building or land on the effective date of this Zoning Code, or amendments thereto, that does not conform to the use regulations of the district in which it is located.
- (86) Nursery, plant material. A space, building or structure, or a combination thereof, for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for the storage of live trees, shrubs or plants offered for retail sale on the premises, including products used for gardening or landscaping.
- (87) Nursing or convalescent home. A state licensed facility for the care of children, of the aged or infirm or a place of rest for those suffering bodily disorders. Said home shall conform and qualify for license under state law even though state law has different size regulations.
- (88) Off-street loading space. An off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials there from.
- (89) Off-street parking lot. A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit, for the parking of more than two (2) vehicles.
- (90) Off-street parking space. An area of definite length and width, exclusive of drives, driveways, aisles or entrances giving access thereto, fully accessible for the storage or parking of permitted vehicles.
- (91) Off-street stacking spaces. An area designated for vehicles waiting to enter a drive-through facility.
- (92) Paved surface area. An area covered with cobblestone, clay-fired bricks, concrete precast paver units, poured concrete with or without decorative surface materials, a blacktop, or other asphaltic or rubber mixture which may include sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel

is not considered a paved surface.

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- (93) Plot plan. A plot plan shall include the following:
- A. The actual shape, location and dimensions of the lot.
 - B. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structure already on the lot.
 - C. The existing and intended use of the lot and all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate; and
 - D. Such other information concerning the lot or adjoining lots as may be essential for determining whether or not this Zoning Code is being complied with.
- (94) Porch. A roofed or open gallery attached to the entrance of a building, also referred to as a veranda or portico.
- (95) Principal use. The main use to which the premises are devoted and the main purpose for which the premises exist.
- (96) Public utility. A person, firm or corporation, or a Municipal department, board or commission, duly authorized to furnish and furnishing, under governmental regulations, to the public, the following: gas, steam, electricity, sewage disposal, communication, transportation or water.
- (97) Recreational equipment. One (1) or more of the following, or modifications thereof; travel trailer, camp trailer, tent trailer, camper, pop-up camper, folding tent trailer, utility trailer, boat, boat trailer, personal water craft, float and/or raft, including transportation equipment, manufactured motorized home, manufactured motor bus, all designed to be used as a temporary dwelling for travel, recreational and vacation use, or periodical and occasional family recreational and vacation use.
- (98) Restaurant. Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out restaurant, drive-in restaurant, drive-through restaurant, standard restaurant, tavern or sidewalk cafe, or a combination thereof, as defined below:
- A. Carry-out restaurant. A restaurant whose method of operation involves the sale of food, beverages and/or frozen desserts in disposable or edible containers or wrappers in a ready-toconsume state for consumption primarily off the premises.
 - B. Drive-in restaurant. A restaurant whose method of operation involves the delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of the enclosed building.
 - C. Drive-through restaurant. A restaurant whose method of operation involves the delivery of prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.

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- D. Sidewalk cafe. An area adjacent to and directly in front of a street-level eating or drinking establishment located within the sidewalk area of the public right-of-way exclusively for dining, drinking and pedestrian circulation. The encroachment area of a sidewalk cafe may be separated from the remainder of the sidewalk by railings, fencing or landscaping planter boxes or a combination thereof.
- E. Standard restaurant. A restaurant whose method of operation involves either:
1. The delivery of prepared food by wait staff to customers seated at tables within a completely enclosed building; or
 2. The acquisition by customers of prepared food at a cafeteria line and its subsequent consumption by the customers at tables within a completely enclosed building.
- F. Tavern. A type of restaurant that is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If a tavern is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.
- (99) Salvage yard. An open area where waste, used or second-hand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. "Salvage yard" includes automobile wrecking yards and any area of more than two hundred (200) square feet used for the storage, keeping or abandonment of salvaged materials, but does not include uses established entirely within enclosed buildings.
- (100) Self-storage facility. A building consisting of individual, small self-contained units that are leased for the storage of personal and household goods.
- (101) Setback. The distance required to obtain the front, side or rear yard open space provided for in this Zoning Code.
- (102) Sign. A name, identification, description, display, light, balloon, banner or illustration which is affixed to, or painted on, or otherwise located or set upon or in a building, structure or piece of land and which directs attention to an object, product, place, activity, person, institution, organization or business and which is visible from any public street, sidewalk, alley, park, public property or from other private property. The definition includes interior signs that are directed at persons outside the premises of the sign owners and exterior signs, but not signs primarily directed at person within the premises of the sign owners. The definition does not include religious symbols or paintings which do not display lettering and do not advertise a business, product or service and which are not a trademark or logo for a business, product or service.

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- (103) Site plan. A scaled drawing showing the relationship between the lot lines and their uses, buildings or structures, existing or proposed on a lot, including such details as parking areas, access points, landscaped areas, building areas, setbacks from lot lines, building heights, floor areas, densities, and utility lines.
- (104) Spouse abuse/domestic violence shelter. A structure owned or leased by a nonprofit entity for the purpose of providing short-term shelter care for abused individuals and their children, which structure may also contain an office for the administrative staff of such nonprofit entity.
- (105) Story. That part of a building, except a mezzanine, included between the upper surface of a floor and the upper surface of the floor or roof next above. A story thus defined shall not be counted as a story when more than fifty (50) percent of its area, by cubic content, is below the height level of the adjoining ground.
- (106) Story, half. An uppermost story lying under a sloping roof, the usable floor area of which, at a height of four (4) feet above the floor, does not exceed two-thirds (2/3) of the floor area in the story directly below, and the height of which above at least two hundred (200) square feet of floor space is seven (7) feet and six (6) inches tall.
- (107) Street. A public thoroughfare (such as a street, avenue or boulevard) that affords the principal means of access to abutting property.
- (108) Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, but not including pavements, curbs, walks or open air surface areas or moving vehicles.
- (109) Swimming pool. Any structure intended for swimming, recreational bathing or wading that contains water over twenty-four (24) inches deep. This includes in-ground, aboveground and on-ground pools, hot tubs, spas and fixed-in place wading pools.
- (110) Temporary use or building. A use or building permitted by the Planning Commission to exist during periods of construction of the main building or use, or for special events.
- (111) Use. The permitted or specially permitted purpose, as specified in the Zoning Code, for which any land or building is occupied, arranged, designed or intended.
- (112) Veterinary clinic. A place where animals are given medical or surgical treatment, with use as a kennel limited to short-term boarding that is incidental to the medical use, all within an enclosed building.
- (113) Wall. An artificially constructed barrier made of impenetrable materials or combination of materials erected to enclose or screen areas of land.
- (114) Wireless communication facilities. Includes all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to: radio towers, television

towers, telephone devices and exchanges, microwave

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relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included within this definition are: citizen band radio facilities, short wave facilities, ham, amateur radio facilities, satellite dishes; government facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority. For purpose of this Title, the following additional terms are defined:

- A. Attached wireless communications facilities. Facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.
 - B. Collocation. The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the city.
 - C. Wireless communications support structures. Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.
- (115) Yards. The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Zoning Code, defined as follows:
- A. Front yard. A space extending the full width of the lot, the depth of which is the horizontal distance between the front lot line and the nearest line of the main building. In the case of a corner lot or a through lot, the front yard is that line separating the lot from that street which is designated as the front street in the plat and in the application for a building permit. This yard shall also be referred to the addressed side of the lot.
 - B. Rear yard. A space extending the full width of the lot, the depth of which is the horizontal distance between the rear lot line and the nearest line of the main building, and opposite the front lot line that is the addressed side of the lot.
 - C. Side yard. A space between the main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building.
- (116) Zoning administrator. The administrative official designated by the City Council to enforce the Zoning Code.
(Ord. 275. Passed 9-23-03.)

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1260.05 AMENDMENTS AND CHANGES.

(a) The City Council may, from time to time, on its own motion, on recommendation of the Planning Commission, or on petition, after public notice, hearing and report by the Planning Commission as provided by law, amend, supplement or change the boundaries or regulations herein or subsequently established herein pursuant to the authority and procedure established in Section 4, Act No. 207 of the Public Acts of Michigan of 1921 (MCI, 125.584; MSA 5.2934), as amended.

(b) At least one (1) public hearing shall be held by the Planning Commission, and a report made thereon, before the City Council shall adopt any amendment to this Ordinance or the maps adopted hereunder. Not less than fifteen (15) days notice of the time and place of the public hearing shall first be published in a paper of general circulation in the City, and not less than fifteen (15) days notice of the time and place of the public hearing shall first be given by mail to each public utility company and to each railroad company owning or operating any public utility or railroad within the affected area that registers its name and mailing address with the City Clerk for the purpose of receiving such notice. An affidavit of mailing shall be maintained. A hearing shall be granted to any person interested at the time and place specified on the notice.

(c) A summary of the comments submitted at the public hearing shall be transmitted with the report of the Planning Commission to the City Council. The City Council may hold additional public hearings if it considers it necessary. After receipt of the Planning Commission's report, the City Council may adopt the proposed amendment, with or without amendments, or refer the proposed amendment again to the Planning Commission for further consideration. If an individual property, or several adjacent properties, are proposed for rezoning, notice of the proposed rezoning and hearing shall be given by mail to the owners of the property in question and to all person to whom real property is assessed, and to the occupants of all structures within three hundred (300) feet of the boundary of the property in question, at least fifteen (15) days before the hearing.

(d) Upon presentation of a protest petition meeting the requirements hereinafter set forth, an amendment to the Zoning Ordinance which is the object of the petition shall be passed only by a two-thirds (2/3) vote of the City Council. The protest petition shall be presented to the City Council before final legislative action on the amendment, and shall be signed by one (1) of the following: the owners of at least twenty percent (20%) of the area of the land included in the proposed change.

(e) The Board may reverse, affirm, vary, or modify, any order, requirement, or determination, as to which it has the power to consider, and shall have all the powers of the officer or body from whom the appeal was taken, and may issue or direct the issuance of a permit.

(f) The Board may impose conditions with any decision. Such conditions imposed shall meet all of the following requirements:

(1) Be designed to protect natural resources, public health, safety, and

welfare and the social and economic well being of those who will use the
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land, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

- (2) Be related to the valid exercise of the police power, and purposes, which are affected by the proposed use or activity.
- (3) Be necessary to meet the intent and purpose of this chapter, be related to the standards established in this chapter for the land use or activity under consideration, and be necessary to insure compliance with those standards. Violations of any of these conditions shall be deemed a violation of this chapter, enforceable as such and/or may be grounds for revocation or reversal of such decision.

(g) All decisions of the Board shall be in writing and so far as it is practicable, in the form of a general statement or resolution reciting the conditions, facts and findings of the Board. The applicant shall be advised of the decision after the public hearing unless the Board moves for a continuation of such hearing.

(h) Any decision of the Board favorable to the applicant shall remain valid only as long as the information or data relating thereto are found to be correct and the conditions upon which the decision was based are maintained.

(i) The Board may reconsider an earlier decision, if, in the opinion of the Board, circumstances justify taking such action.

(j) No order of the Board of Zoning Appeals permitting the erection or alteration of a building shall be valid for a period of longer than one (1) year, unless a building permit for such erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(k) No order of the Board of Zoning Appeals permitting a use of a building or premises shall be valid for a period longer than one (1) year, unless such use is established within such period. Provided, however, that such order shall continue in force and effect if a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with such permit.

(l) Any person or persons, or any board or department of the City, having an interest affected by a decision of the Board, shall have the right to appeal to the circuit court on questions of law and fact. Such appeal must be taken within twenty-one (21) days after the date of the Board's decision. A request for reconsideration under subsection (j) above shall not toll the owners of at least twenty percent (20%) of the area of land included within an area extending outward one hundred (100) feet from any point on the boundary of the land included in the proposed change. Publicly owned land shall be excluded in calculating this twenty percent (20%) land area requirement.
(Ord. 275. Passed 9-23-03.)

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