

CHAPTER 2 DEFINITIONS AND INTERPRETATIONS

SECTION 2.1 INTENT AND PURPOSE

The purpose of this Chapter is to establish rules for interpreting the text of this Ordinance, to define certain words and terms, and to provide for the interpretation of this Ordinance by adoption of a technical dictionary. Certain words and terms which may not appear in this Chapter, but which have special application may be defined in other Chapters to which they apply.

SECTION 2.2 USE OF WORDS AND TERMS

- A. If the meaning of this Ordinance is unclear in a particular circumstance, then the Zoning Board of Appeals shall interpret the provision to carry out the intent of the Ordinance.
- B. Words and phrases shall be interpreted and understood according to the common preferred use of the language. Technical words and phrases that have acquired a peculiar and appropriate meaning in the law shall be interpreted and understood according to their peculiar and appropriate meaning.
- C. Words used in the present tense shall include the future tense, words used in the singular shall include the plural, and words in the plural shall include the singular, unless the context clearly indicates or stipulates the contrary.
- D. The words "person", "proprietor", "property owner" and "operator" shall include any individual(s) and any recognized form of legal entity.
- E. The words "property", "lot", "parcel", "real estate", "premises", "plot" and "land" shall be interpreted to mean real property as delineated and described by legal documents and instruments.
- F. The word "road" shall also mean "highway", "street", "alley", "drive", "cul-de-sac", "lane", or other right-of-way.
- G. The word "building" shall include the word "structure."
- H. The words "used" or "occupied" when applied to any land or building shall be construed to include the words "intended", "arranged" or "designed to be used or occupied."
- I. The words "shall" and "required" are always interpreted as mandatory and never as permissive or discretionary.
- J. The word "may" shall be interpreted as permissive or discretionary.

- K. Unless the context clearly indicates the contrary, the words noted below shall be interpreted as follows.
1. "And" indicates that all connected items, conditions, provisions, or events shall apply.
 2. "Or," indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
 3. "Either..or" indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
- L. References to the masculine gender shall include, extend and apply to females as well as males.
- M. In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the City or other governmental agency is a Saturday, Sunday, or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday, or legal holiday.
- N. Unless otherwise indicated, where the term "Section" is used, it shall mean a Section of this Ordinance.

SECTION 2.3 DEFINITIONS "A"

Accessory Building: A building or portion of a building supplementary and/or subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use. Where an accessory building is attached to a main building in a substantial manner, such as a wall or roof, the accessory building shall be considered a part of the main building.

Accessory Use: A use of land or of a building or portion of a building which is customarily and naturally incidental, subordinate, and devoted exclusively to the principal use of the land or building and normally located on the same lot with the principal use.

Addition: A structural change added to the existing structure after the completion of the existing structure which extends or increases the floor area, or height of a building or structure.

Adult Care Facilities: A facility for the care of adults, over eighteen (18) years of age, as licensed and regulated by the State under Michigan Public Act 218 of 1979, as amended, and governed by rules pursuant to the Act as promulgated by the State Department of Labor and Economic Growth. The facilities shall be defined as follows:

- A. Adult Caring Institution:** A state licensed adult residential facility which provides care and supervision on a twenty-four (24) hour basis for the treatment of mental health, alcohol, substance abuse or other long-term illness or rehabilitation program. The terms

institutions for mentally handicapped, drug or alcohol patients , correctional institutions, or mental health facilities shall mean the same, with regard to persons eighteen (18) years of age or older.

- B. Adult Day Care Facility:** An unlicensed facility which provides care for elderly and/or functionally impaired adults in a protective setting for a portion of a twenty-four (24) hour day.
- C. Adult Foster Care Facility:** 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 or physically disabled who require supervision on an ongoing basis but 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 center, or a residential center for persons released from or assigned to a correctional facility.
- D. Adult Foster Care Family Home:** An Adult Foster Care Facility conducted in a private home with the approved capacity to receive six (6) or fewer adults to be provided with foster care for twenty-four (24) hours a day, five (5) or more days a week and for two (2) or more consecutive weeks for compensation. The adult foster care family home licensee must be a member of the household and an occupant of the residence.
- E. Adult Foster Care Small Group Home:** An Adult Foster Care Facility conducted in a private home 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. The licensee is not required to live in the home.
- F. Adult Foster Care Large Group Home:** An Adult Foster Care Facility conducted in a private home with the approved capacity for thirteen (13) to twenty (20) 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. The licensee is not required to live in the home.
- G. Congregate Facility:** An Adult Foster Care Facility conducted in a private home with the approved capacity for more than twenty (20) 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. The licensee is not required to live in the home.

Alteration: Any modification, remodeling, change or rearrangement in the structural or supporting members such as bearing walls, columns, or girders or any change which may be referred to in other places in this Ordinance as "altered" or "reconstructed".

Architectural Features: Architectural features of a building shall include, but not be limited to, cornices, eaves, gutters, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

Assisted Living: Housing facilities designed and generally limited to residents over the age of 55, who because of physical or other limitations need special care and other services and where 24 hour personal care and congregate meals are provided. Facilities contain congregate kitchens, dining and living areas and separate sleeping rooms for residents. Operation of assisted living facilities provide special support services such as, assistance with personal care and daily living needs, transportation and limited medical care.

Assisted Living Facility: An unlicensed residential facility providing housing, two (2) or more group meals a day for compensation, incidental nursing or medical services and some or all of the following services: transportation, ambulatory assistance, prescription scheduling, laundry, housekeeping or shopping.

SECTION 2.4 DEFINITIONS "B"

Basement or Cellar: That portion of a building which is partly below and partly above grade, and having at least one-half ($\frac{1}{2}$) its height below grade.

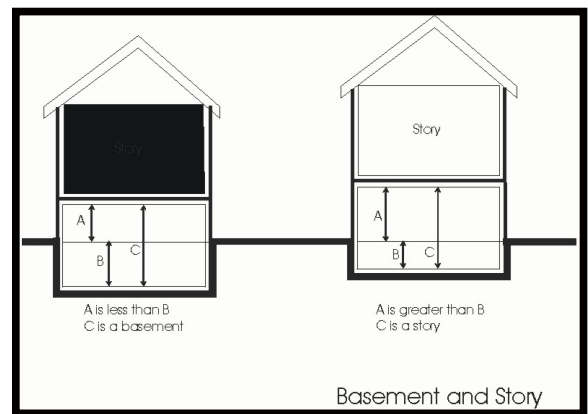
Bed and Breakfast: A use within a detached single family dwelling in which transient guests are provided sleeping rooms, breakfast and access to bathing and lavatory facilities for payment.

Boarding, Lodging or Rooming House: A dwelling primarily used for the purpose of providing long term lodging or both meals and lodging for payment. The use is distinguished from a hotel, motel, bed and breakfast, or a state licensed residential facility or other similar uses such as a nursing home.

Buildable Area: The space remaining within a lot after the minimum setback and open space requirements of this Ordinance have been met.

Building: An independent structure, either temporary or permanent, having a roof supported by columns, or any other support used for the enclosures of persons, animals, or chattels, or carrying on business activities or other uses. When any portion of a building is completely separated from every other part of the building by division of walls from the ground up, and without openings, each portion of the building shall be deemed a separate building.

Building Height: See Height, Building.



Building, Main: A building in which is conducted the principal use of the lot on which it is situated.

Building Official: The officer or other designated authority charged with the administration and enforcement of the City Building Code, or a duly authorized representative.

Building Permit: A permit granted upon compliance with the State Construction Code, and this Ordinance and with the requirements of all other applicable codes and Ordinances then in effect in the City.

SECTION 2.5 DEFINITIONS "C"

Caliper: A measurement of the thickness of a tree trunk. The diameter of the trunk is differentiated from thickness through the term caliper.

Carport: See Garage.

Change of Use: Any difference in the use of a building, structure or parcel of land, or portion thereof which is different in intensity or character or which is listed, defined, and/or otherwise identified as different from the previous use in the way it is classified in this Ordinance.

Child Care Facility: A facility having as its principal function the receiving of minor children for care, maintenance, training, and supervision notwithstanding that educational instruction may be given. Child care facilities are licensed and regulated under the State of Michigan Act 116 of 1973, as amended, and include the following:

- A. Child Care Center (or Day Care Center): A facility, other than a private residence, receiving one or more preschool or school age children for care for periods of less than twenty-four (24) hours a day and for not less than two (2) consecutive weeks and where the parents or guardians are not immediately available to the child. It does not include 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 three (3) hours per day for an indefinite period, or not more than eight (8) hours per day for a period not-to-exceed four (4) weeks during a twelve (12) month period.
 - 2. A religious organization where children are in attendance for not more than three (3) hours per day for an indefinite period, or not more than eight (8) hours per day for a period not-to-exceed four (4) weeks during a twelve (12) month period.
- B. Foster Care Family Home: A child care facility conducted in a private home in which 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, 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.

- C. Foster Care Group Home: A child care facility conducted in 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, are provided care for twenty-four (24) hours a day, for four (4) or more days a week for two (2) or more consecutive weeks, unattended by a parent or legal guardian.
- D. Family Child Day Care Home: A child care facility conducted in a private home in which one (1) but fewer 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. Family day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
- E. Group Child Day Care Home: A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to the adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four (4) weeks during a calendar year.
- F. Child Caring Institution: A child care facility which is organized for the purpose of receiving children for care, maintenance and supervision usually on a twenty-four (24) hour basis to more than six (6) children in a building maintained for that purpose, and operates throughout the year. It includes a maternity home for the care of un-married mothers and institutions for orphaned, mentally, emotionally or developmentally challenged or disturbed children.

City: The City of Otsego.

Clinic: A building or group of buildings where human patients are admitted for examination and treatment by a professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight. This term is synonymous with the term "medical office."

Club: A not-for-profit organization of persons for specific purposes or the promotion of enterprises such as agriculture, sports, arts, science, literature, social, politics, or the like.

Commercial Use: An activity carried out as a use of property for financial gain including but not limited to retail sales, repair service, business offices, food service, entertainment, and

brokerages, related to purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices or recreation or amusement enterprise or garage/basement sales operating more than twelve (12) days during any one (1) twelve (12) month period.

Condominium Act: Act No. 59 of the Public Acts of Michigan of 1978, of the State of Michigan, as amended or any replacement legislation.

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

Condominium Unit: That portion of a 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, recreation, use as a time share unit or any other type of use.

Construction: The erection, alteration, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, and grading of a lot.

Convalescent Home: A long-term recuperative care facility providing room and board and supervised personal care by facility staff on a twenty-four (24) hour basis for the aged, the infirm or persons recovering from illness. An unlicensed extended care facility or chronic care facility providing twenty-four (24) hour nursing care shall mean the same.

Convenience Store: A retail food establishment of less than ten thousand (10,000) square feet GFA which may supply groceries, fruits, vegetables, dairy products, baked goods, snacks, general interest newspapers, general interest magazines, alcoholic beverages, confections, or similar commodities for consumption off the premises. Although this use may be combined with an Automobile Fuel Station, it shall be treated as a separate use to the fuel station for the purposes of any use approvals, parking, signs, and other similar requirements. Convenience stores with drive-in facilities shall be treated as a drive-in facility rather than a convenience store.

Cul-De-Sac: A street having one (1) terminus open for vehicular or pedestrian access and the other terminated by a vehicular turnaround.

SECTION 2.6 DEFINITIONS "D"

Day Care Center: See Child Care Facilities.

Demolition: The purposeful razing or destruction, or disassembly of a building or structure.

Density: The number of dwelling units that may be erected on a described lot or parcel, expressed in dwelling units per acre.

Density, Gross: The numerical value obtained by dividing the total number of dwelling units in a development by the gross area of the tract of land (in acres) within a development. Gross density is calculated using all land as well as rights-of-way of streets; the result being the number of dwelling units per gross acre of land.

Density, Net: The numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in acres) upon which the dwelling units are proposed to be located and including common open space and associated recreational facilities within the area; the result being the number of dwelling units per net residential acre of land. Net density calculations exclude rights-of-way of publicly dedicated streets and utilities, private road easements, and floodplains/floodways.

Dependent Care Housing Facilities: Facilities designed for seniors and others requiring a wide range of health and support services, including personal nursing care, including nursing homes, extended care facilities, hospice and convalescent homes.

District, Nonresidential: The PO, C-1, CBD, GI, MPUD and IPUD Districts. (amended 1/06)

District, Residential: The R-A, R-B, R-C, OSP PUD, MPUD and MHP Districts. (amended 1/06)

District, Zoning: An area of land containing uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations, and other appropriate regulations.

Disturbed Land: A parcel of land which is graded, filled, excavated or mined or stripped of its natural vegetative cover or grass for a purpose other than agriculture land use.

Drive-in Window Establishment: An establishment that furnishes the patron with a product or services to be utilized or consumed outside the building from a drive-up window or other similar arrangement. Drive-in window establishments' retail and/or service character are dependent on providing a driveway approach and/or parking space for motor vehicles so as to serve patrons while in or momentarily away from their motor vehicles.

Driveway: A private path of travel over which a vehicle may be driven which provides access from a parcel of land to a public or private road.

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. In no case shall a motor home, trailer coach, automobile chassis, tent or portable building be considered a dwelling. In case of mixed occupancy, where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purpose of this Ordinance and shall comply with the provision relative to dwellings.

- A. Bi-Level Dwelling Unit: A dwelling consisting of two (2) stories, one (1) of which may be a basement having a vertical distance from the grade to the ceiling of four (4) feet or more.
- B. Split Level or Tri-Level Dwelling Unit: A dwelling consisting of more than two (2) levels of living space of which any two (2) shall be at or seventy-five percent (75%) above the grade.

Dwelling, Multiple: A building or portion of a building, used or designated for use as a residence for more than two (2) families living independently of each other. This definition does not include manufactured homes, single family detached dwellings or two-family dwellings.

Dwelling, Single Family Detached: A unit exclusively for use by one (1) family which is entirely surrounded by open space or yards on the same lot.

Dwelling, Two Family: A building used or constructed for two (2) dwelling units. It may also be termed a duplex.

SECTION 2.7 DEFINITIONS "E"

Essential Public Services: The erection, construction, alteration or maintenance by public utilities or City departments or commissions of underground, surface or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication supply or disposal systems shall be considered essential public services. This includes, but is not limited to, mains, drains, sewers, pipes, conduits, wires, cables, electrical switching stations and substations, fire alarm boxes, traffic signals, hydrants, towers, poles and other similar equipment and accessories reasonably necessary for the furnishing of adequate service by the public utility or municipal departments or commissions. Buildings shall not be considered as essential public services except for those that are primarily enclosures or shelters for the above essential service equipment. Wireless communication towers for Commercial Wireless Telecommunication Services are not essential public services.

Excavation: Removal or recovery by any means whatsoever of soil, rock, sand, gravel, peat, muck, marrow, shale, limestone, clay or other mineral or organic substance, other than vegetation, from water or land, whether exposed or submerged.

Existing Use: The use of a parcel of land or a structure at the time of the enactment of this Ordinance.

SECTION 2.8 DEFINITIONS "F"

Family:

- A. A domestic family which is one (1) or more persons living together and related by the

bonds of blood, marriage or adoption, together with servants of the principal occupants and not more than one (1) additional unrelated person, with all of the individuals being domiciled together as a single, domestic, housekeeping unit in a dwelling; or

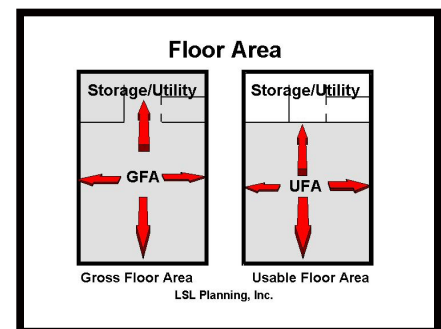
- B. The functional equivalent of the domestic family, including persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must operate as a single housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.

Fence: Any permanent structure, including a wall, partition, or gate erected as a dividing structure, barrier or enclosure, and not part of a structure requiring a building permit. For the purposes of this Ordinance, a natural vegetative barrier or a combination of natural and artificial materials may be considered a fence when constructed or planted to act in the capacity similar to a fence.

Flood Plain: The area adjoining a river, stream, water course, or lake subject to a one hundred (100) year recurrence-interval flood as delineated by the Flood Boundary and Floodway map prepared by the Federal Insurance Administration of the Federal Emergency Management Agency and on file with the City or the Michigan Department of Environmental Quality.

Floor Area: The sum of all horizontal areas of the several floors of a building or dwelling unit, measured from the exterior faces of exterior walls, or from the centerline of walls separating dwelling units. Unenclosed porches, courtyards, patios and cellars shall not be considered as part of floor area, except when utilized for commercial or industrial purposes.

- A. Floor Area, Gross (GFA): The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets/ storage rooms, thickness of walls, columns, or other features.
- B. Floor Area, Usable (UFA): 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.
1. Floor area used or intended to be used for hallways, stairways, elevator shafts, utility or sanitary facilities or the storage or processing of merchandise shall be excluded from this computation of UFA.
 2. Measurement of UFA shall be the sum of the



horizontal areas of each story of a structure measured from the internal faces of the exterior walls.

Frontage: The total length of the front lot line(s) being the horizontal distance between the side lot lines, as measured at the front lot line. This is distinguished from the lot width which is measured at the required setback line between the side lot lines.

SECTION 2.9 DEFINITIONS "G"

Garage, Carport, Private: A building used primarily for the storage of automobiles for the use of the occupants of a lot on which the building is located.

Garage, Public: A building, open to the public, land owners, tenants, and for specified others used primarily for the storage and care of automobiles.

GFA: See Floor Area, Gross.

Grade: The average elevation of the finished surface of ground after the development, filling, or excavation of a parcel of land.

Greenbelt or Buffer Strip: A strip of land in which trees and other natural vegetative cover are planted and maintained as approved by the City.

Ground Cover: Grasses or other plants grown to keep soil from being blown or washed away.

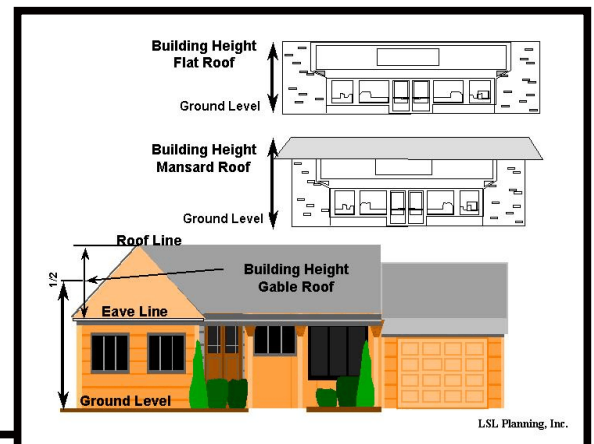
Group Day Care Center: See Child Care Facilities.

SECTION 2.10 DEFINITIONS "H"

Height: The vertical distance of a structure measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the structure, or as otherwise provided in this Ordinance.

Height, Building: The building height is the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the top of a mansard roof; and to the mean height level between eaves and ridges of gable, hip and gambrel roofs. When the terrain is sloping, the ground level is measured at the wall line.

Home Occupation: An occupation customarily conducted in a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the



foregoing, a single family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation. A home occupation may also be known commonly as cottage industry, home based business, home marketing network, or home interactive distribution or marketing, but shall not be construed to include foster care or day care, or bed and breakfast establishments. See Section 3.8.

Hotel: A building occupied or used as a temporary abiding place by individuals or groups of individuals, with or without meals.

Housing For The Elderly: An unlicensed multiple family residential development for elderly persons needing little or no personal assistance, which provides independent living dwelling units for the exclusive use of the occupants, whether or not group meals or other convenience services for the elderly are provided. The term "Senior Housing" shall mean the same.

SECTION 2.11 DEFINITIONS "I"

Industry: The manufacturing, compounding, processing, packaging, treating or assembly of products and materials in a manner which complies with all requirements of Chapter 12 or Chapter 13A, as applicable. (amended 1/06)

Institutional Use: Public, quasi-public uses such as, but not limited to, schools, municipal offices, court houses, public off-street parking facilities, libraries, museums, public safety facilities, parks, civic centers, hospitals, and similar uses.

SECTION 2.12 DEFINITIONS "J"

Junk: Any vehicles, machinery, appliances, products or merchandise with parts missing, scrap metals or materials that are damaged or deteriorated, vehicles or machines in a condition which precludes their use for the purpose for which they were manufactured, or inoperable vehicles.

Junk Yard: The term "junk yard" includes automobile wrecking yards and salvage areas and includes any area of more than two hundred (200) square feet for the storage, sale, processing, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts of automobiles or other vehicles for profit.

SECTION 2.13 DEFINITIONS "K"

Kennel, commercial: Any lot or premises on which more than four (4) domesticated household pets (but not including wild, vicious or exotic animals) six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, training, hobby, protection, or pets, subject to the regulation set forth herein regulating private and commercial kennels.

SECTION 2.14 DEFINITIONS "L"

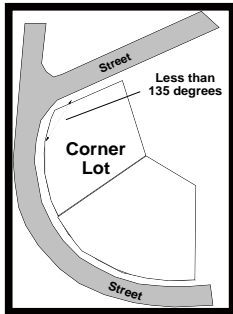
Land Use: A description of how land is occupied or utilized.

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 or unloading merchandise or materials.

Lot: A parcel of land, or contiguous parcels of land under one (1) ownership described within fixed boundaries, of sufficient size and configuration to meet the site development requirements of this Ordinance and having frontage on an improved public street, or an approved private street.

- A. The word "lot" shall include plot or parcel.
- B. A lot need not be a "lot of record."
- C. A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use.

Lot Area: The total area within the described lot lines of a parcel of land, excluding road right-of-way.



Lot, Corner: A parcel of land abutting upon two (2) or more streets at their intersection, or upon parts of the same street forming an interior angle of less than one-hundred thirty-five (135) degrees.

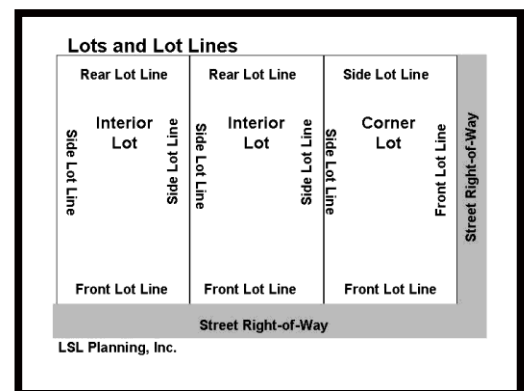
Lot Coverage: The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

Lot Depth: The mean horizontal distance from the front lot line to the rear lot line, or in the case of an acreage lot, from the front right-of-way line to the rear property line.

Lot, Interior: A lot other than a corner lot. This includes through lots.

Lot Line: The boundaries of a lot which divide one (1) lot from another lot or from a public or existing private road or any other publicly owned parcel of land.

- A. **Front Lot Line:** In the case of an interior lot, abutting upon one (1) public or private street, the front lot line shall mean the line separating the lot from the street right-of-way. In the case of a corner or through lot, the front lot lines shall be the lines separating the lot from the street rights-of-way.



- B. **Rear Lot Line:** Ordinarily, that lot line opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line

of the lot shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.

C. **Side Lot Line:** Any lot line not a front or rear lot line.

Lot of Record: A lot which actually exists in a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been recorded as required by law.

Lot, Through or Double Frontage: An interior lot having frontage on two (2) more or less parallel streets, as distinguished from a corner lot.

Lot Width: The horizontal distance between the side lot lines, as measured at the required front yard setback line.

SECTION 2.15 DEFINITIONS "M" (Updated 10/2010)

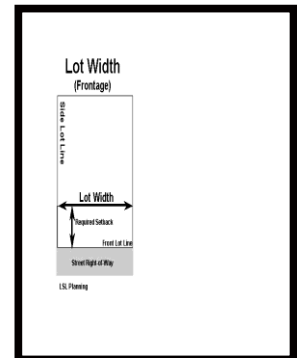
Main Building: A building in which is conducted the principal use of the lot upon which it is situated.

Manufactured Home: A structure transportable in one (1) or more sections and which is built on a permanent frame and designed to be used as a dwelling, with or without permanent foundation, when connected to required utilities and including plumbing, heating and electrical stems contained in the structure.

Manufactured Home Development or Manufactured Home Park: A parcel or tract of land under the control of a person upon which three (3) or more manufactured 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 therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

Marihuana, also known as Medical Marihuana, also known as Marijuana, also known as Cannabis: That term shall have the meaning given to it in Section 7601 of the Michigan Public Health Code, 1978 PA 368, as amended, MCL 333.7106 *et seq.*, as is referred to in Section 3(d) of the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26423(d). Any other term pertaining to marihuana used in this Ordinance and not otherwise defined shall have the meaning given to it in the Michigan Medical Marihuana Act and/or in the General Rules of the Michigan Department of Community Health issued in connection with that Act.

Marihuana Collective or Cooperative: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 *et seq.* (the "Act"), or



a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term "collective" or "cooperative" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 *et seq.* or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marijuana collective or cooperative" shall not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the City.

Marihuana Dispensary or Dispensary: Any facility, structure, dwelling or other location where medical marihuana is grown, cultivated, processed, stored, transmitted, dispensed, consumed, used, given, delivered, provided, made available to and/or distributed by two or more of the following: a registered primary caregiver or a registered qualifying patient, as defined by the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 *et seq.* (the "Act"), or a person in possession of an identification card issued under the Act or in possession of an application for such an identification card. The term "dispensary" shall not apply to a registered primary caregiver that provides necessary care and marihuana for medical use exclusively to his/her five (5) or fewer designated qualifying patients in strict accordance with the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 *et seq.* or the Administrative Rules of the Michigan Department of Community Health, Michigan Admin Code, R 333.101 through R 333.133. A "marihuana dispensary" shall not include the following uses: a State-licensed health care facility; a State-licensed residential care facility for the elderly or infirmed; or a residential hospice care facility, as long as any such use complies strictly with applicable laws and rules of the State of Michigan. It is unlawful to establish or operate a profit or nonprofit medical marihuana dispensary, collective or cooperative within the City.

Medical Use of Marihuana: The acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, as defined under the Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421 *et seq.*

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

Master Plan: The Master Plan of the City which is intended to guide the physical development of all portions of the City. The Plan, including maps, plats, charts, policy statements and/or descriptive material, shall be that adopted in accordance with the Municipal Planning Act, Michigan Public Act 285 of 1931, as amended. Also referred to as the Land Use Plan.

Motor Home: A motorized vehicular unit primarily designed as a temporary dwelling in connection with travel and/or recreational use. This term does not include manufactured homes.

SECTION 2.16 DEFINITIONS "N"

Non-conforming Building: A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, which does not conform to the provisions of the Ordinance in the Zoning District in which it is located.

Non-conforming Lot: A parcel with area or dimension lawfully existing at the effective date of this Ordinance or amendments thereto with less than the minimum lot requirements for the Zoning District in which it is located. This includes, but is not limited to minimum area, dimension or access requirements.

Non-conforming Use: A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof that does not conform to the use allowed in the Zoning District in which it is located.

Nonresidential District: The C-1, CBD, PO, GI IPUD and MPUD Zoning Districts. (amended 1/06)

Nursery: A parcel of land utilized for the purpose of growing ornamental trees, shrubbery, house plants, flowers, or perennial ground covers from seed or seedlings for the purpose of retail or wholesale trade.

Nursing Home: A dependent housing facility licensed as a "nursing home" by the State Department of Public Health under Article 17 of the Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.2010 et seq., MSA 14.15 (20101) et seq.), as amended. A "nursing home" shall include an extended care facility, hospice and convalescent home. Residents generally require 24-hour care and monitoring to meet their health and security needs.

SECTION 2.17 DEFINITIONS "O"

Occupy: The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage, or use of equipment, merchandise or machinery in any institutional, commercial, agricultural, or industrial building.

Office: A room, studio, suite or building occupied and for office uses only.

Off-Street Parking Lot: A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space to allow unrestricted ingress and egress to at least two (2) vehicles.

Open Space, Common: Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development.

Open Air Business: Includes uses operated on a permanent basis for profit substantially in the open air including but not limited to (this term does not include temporary uses):

- A. Bicycle, utility truck or trailer, motor vehicle, boat, or home equipment sale, repair or rental services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, farm implements, swimming pools and similar activities.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving range, children's amusement park or similar recreation uses (transient or permanent).

SECTION 2.18 DEFINITIONS "P"

Parking Space: An off-street space exclusive of necessary driveways, aisles or maneuvering areas suitable to accommodate one (1) motor vehicle and having unobstructed access to a street or alley.

Personal Service Establishments: Businesses conducting services for customers on the premises, such as barber and beauty shops, dry cleaning pick-up facilities, gymnasiums, reducing salons, aerobic dance studios, beauty shops, photographic studios, and similar uses.

Planned Unit Development: The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one (1) owner or organized group.

Planning Commission: The City of Otsego Planning Commission created under the Municipal Planning Act, Act 285 of the Public Acts of 1931, as amended.

Principal Use: The primary or predominant purpose to which a building or parcel of land is devoted, as distinguished from an Accessory Use.

SECTION 2.19 DEFINITIONS "Q"

(Reserved for Future Use)

SECTION 2.20 DEFINITIONS "R"

Recreational Equipment and Vehicles: Portable structures, machines or devices, self propelled or towable by another vehicle, capable of moving upon the highways without special movement permits; primarily designed, constructed or modified to provide temporary living quarters or for recreational camping, or travel use and the trailers and other devices as shall be primarily intended for the transporting of all the structures, machines, or devices.

- A. Motorcycles, bicycles, minibikes and vehicles such as jeeps, four-wheel drives and pickup trucks with attached cabs that do not exceed the roofline of the vehicle are specifically excluded from the provisions of this definition.
- B. This does not include a temporary building, structure or use, permitted to exist during periods of construction of the main building, structure or use. Various types of recreational equipment and vehicles include:
 - 1. Travel trailer: A portable vehicle on a towing chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" or a "fifth wheel" by the manufacturer. Travel trailers generally include self-contained sanitary, water, and electrical facilities. As an industry, this type of recreational vehicle is classified as a non-motorized recreational vehicle.
 - 2. Pickup camper: A structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for use as a temporary dwelling during the process of travel, recreational, and vacation uses. As an industry this type of recreational vehicle is classified as a non-motorized recreational vehicle.
 - 3. Motor home: A recreational vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities. As an industry, this type of recreational vehicle is classified as either a Class A or Class C recreational vehicle. A Class A or bus type recreational vehicle has the luggage compartment below the living quarter. The Class C recreational vehicle is a van with the bed over the cab and is much larger than a passenger van.
 - 4. Van/camper: A motorized recreational vehicle intended for temporary human habitation, sleeping and/or eating. This class of recreational vehicles includes conversion vans and camper vans that may contain refrigerator as well as water and electrical facilities. This class closely resembles passenger vans, but some models may be taller to allow for extra headroom. As an industry this type of recreational vehicle is classified as a Class B recreational vehicle.
 - 5. Folding tent trailer: A folding structure, mounted on wheels for towing and designed for travel and vacation use.

6. Boats and boat trailers: Boats, floats, rafts, canoes, plus the normal equipment to transport them on the highway.
7. Other recreational equipment: Includes snowmobiles, jet skis, all terrain or special terrain vehicles, utility trailers, plus the normal equipment used to transport them on the highway.

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

Repair: The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

Residential District: The R-A, R-B, R-C, OSP PUD, MPUD and MHP Zoning Districts. (amended 1/06)

Restaurant, Drive-Through: A business establishment or use so developed that it provides a driveway approach or parking spaces for motor vehicles to serve patrons while in the motor vehicle either exclusively or in addition to service within a building or structure, or to provide self-service for patrons and food carry-out.

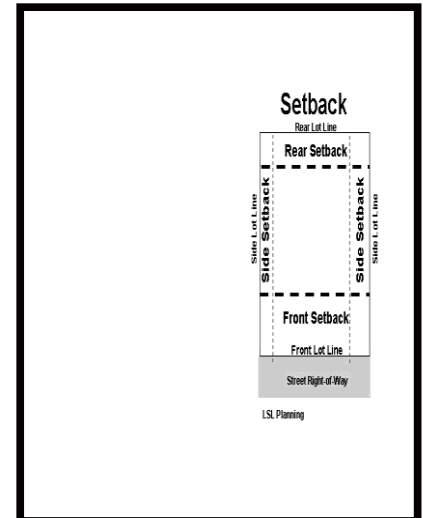
Right-of-Way: A public or private strip of land acquired or utilized by reservation, dedication, gift, easement, prescription, purchase or condemnation and permanently established for the passage of persons, vehicles, railroads, water, utility lines, and similar uses.

SECTION 2.21 DEFINITIONS "S"

Senior Housing: An unlicensed residential development for elderly persons needing little or no personal assistance, which provides independent living dwelling units for the exclusive use of the occupants, whether or not group meals or other convenience services for the elderly are provided. The development may consist of attached or detached single-family, two-family or multiple family dwellings designed for and generally limited to housing of persons over 55 years of age who maintain a degree of physical independence.

Setback: The minimum required horizontal distance measured from the front, side, or rear lot line, as the case may be, on a lot or parcel required by this Ordinance for the District in which it is located.

- A. Setback, Front: The minimum required horizontal distance measured from the front lot line on a lot or parcel required by this Ordinance for the District in which it is located.
- B. Setback, Rear: The minimum required horizontal distance measured from the rear lot line on a lot or parcel required by this Ordinance for the District in which it is located.
- C. Setback, Side: The minimum required horizontal distance measured from the side lot lines on a lot or parcel required by this Ordinance for the District in which it is located.



Sexually Oriented Business: As defined by Section 1451 of the Code of Ordinances of the City of Otsego.

Sign: Any object, device, display or structure, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. Specific definitions for different sign types regulated by this Ordinance are contained in Chapter 18.

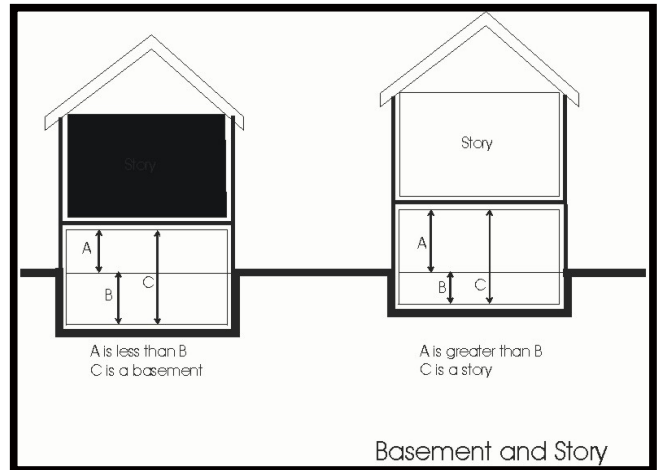
Site Condominium Development: A development of condominium units on an unplatted tract of land, in which each individual lot conforms to the requirements of the Zoning District in which it is established.

Site Plan Review and Approval: The submission of plans for review and approval, as required by this Ordinance. See Chapter 14.

Special Land Use Permit: A permit for a use that would not be appropriate generally or without restriction throughout a zoning district; but which, if controlled as to the number, area, location or relation to the city, would not adversely affect the public health, safety, order, comfort, convenience, appearance, prosperity, and general welfare. Such uses shall be permitted when the specific review criteria provided in this Ordinance for them are met. See Chapter 15.

Story: That portion of a building, other than a basement or mezzanine, included between the surface of any floor and the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

- A. A "mezzanine" floor shall be deemed a full story only when it covers more than fifty percent (50%) of the area of the story underneath the mezzanine, or, if the vertical distance from the floor next below it to the floor next above it is twenty four (24) feet or more.
- B. A basement or cellar shall be counted as a story only if over fifty percent (50%) of its height is above the level from which the height of the building is measured and the finished surface of the floor above the basement is more than six (6) feet above grade plane, or, if it is used for business purposes.



Story, Half: The part of a building between a pitched roof and the uppermost full story having a floor area which does not exceed one-half (1/2) the floor area of the full story, provided the area contains at least two hundred (200) square feet with a clear height of at least seven (7) feet.

State Licensed Residential Facility: A residential care family or group facility licensed by the State of Michigan under Act 287 of 1972 of the Public Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under twenty four (24) hour supervision or care for persons in need of that supervision or care. This term does not include such facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to adult correctional institutions:

- A. A Family Facility includes a state licensed residential facility providing resident services to six (6) or fewer persons.
- B. A Group Facility includes a state licensed residential facility providing resident services to more than six (6) persons.

Street, Private: A privately owned and maintained thoroughfare including any rights-of-way and traveled surfaces which afford vehicular traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare. A private street shall include any drive or roadway which is not a dedicated public right-of-way, and which provides or has the potential for providing access to two (2) or more existing parcels and/or main buildings.

Street, Public: A public thoroughfare including any rights-of-way and traveled surfaces which afford vehicular traffic circulation and principal means of access to abutting property, including avenue, place, way, court, drive, lane, boulevard, highway, road, and other thoroughfare; except an alley.

Structure: A combination of materials whether fixed or portable, anything constructed, erected, or artificially built-up which requires a location on or below the surface of land or water, including a part or parts thereof and all equipment within the structure.

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

Subdivision Plat: A map or chart depicting the subdivision of land as regulated by the Land Division Act, Act 288 of the Public Acts of 1967, as amended.

Swimming or Bathing Pool: A nonporous container designed to hold water having a depth of greater than twenty-four (24) inches and having a surface area of greater than two hundred fifty (250) square feet, or a pool permanently equipped with a water recirculating system or constructed of structural materials, excepting retention or detention ponds.

SECTION 2.22 DEFINITIONS "T"

Temporary Building and Use: A structure used during periods of construction of the main building.

SECTION 2.23 DEFINITIONS "U"

Use: The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

UFA, Useable Floor Area: See Floor Area, Useable.

SECTION 2.24 DEFINITIONS "V"

Variance: Permission given by the Zoning Board of Appeals to a property owner to depart from the literal requirements of this Ordinance which may occur when compliance with this Ordinance would create a practical difficulty or unnecessary hardship on the property owner.

Vehicle: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, or road, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

Vehicle Repair, Major: Any activity involving the general repair, rebuilding or reconditioning of motor vehicles, engines or trailers; collision service, such as body, frame or fender straightening and repair; or overall painting and vehicle rust-proofing.

Vehicle Repair, Minor: Any activity involving minor repair and maintenance of passenger vehicles and light trucks, vans, or trailers, including, but not limited to vehicle detailing, oil change establishments, audio or cellular installation, steam cleaning, and auto glass installation and repair.

Vehicle Fuel Station: A building, accessory structures (e.g. - canopy), and lot designed or used for the retail sale of fuel, lubricants, and other similar products for automobiles (including trucks, boats, etc.). This definition does not include automobile repair as defined in this Section.

Vehicle Wash Establishment: A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

Veterinary Hospital or Clinic: Any business or activity involving the permanent or temporary keeping or treatment of animals.

SECTION 2.25 DEFINITIONS "W"

Wall: The vertical exterior surface of a building and the vertical interior surfaces which divide a building's space into rooms.

Wireless Communication Towers: A structure of lattice or monopole framework to which an antenna may be attached for the transmission and /or reception of radio, television, satellite or

microwave signals that facilitates wireless communications including cellular, enhanced specialized mobile radio (ESMR), personal communication services (PCS), or similar services.

Wireless Communication Antenna: The device for transmitting and/or receiving radio, television, satellite, cellular, enhanced specialized mobile radio, personal communication, microwave, or similar transmissions.

Wireless Telecommunication Services, Commercial: Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

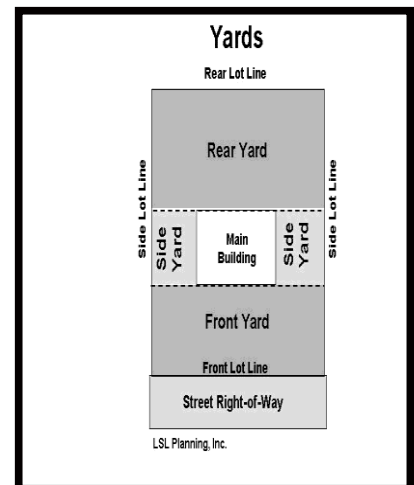
SECTION 2.26 DEFINITIONS "X"

(Reserved for Future Use)

SECTION 2.27 DEFINITIONS "Y"

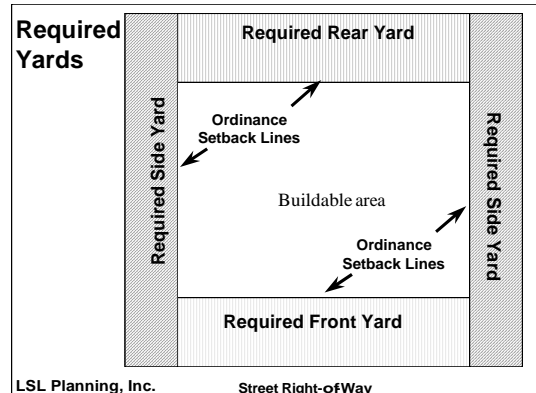
Yard: A yard is an open space on the same land with a building or group of buildings, which open space lies between the main building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

- A. A Front Yard is an open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line.
- B. A Rear Yard is an open area extending across the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.



- C. A Side Yard is an open unoccupied area between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

Yard, Required: A required yard is an open space on a lot prescribed by the requirements of the Zoning District in which it is located.



SECTION 2.28 DEFINITIONS "Z"

Zoning; Zoning District: The dividing of the City into districts of a number and shape considered best suited to carry out the purposes of the Zoning Act and this Ordinance, and the creation of uniform regulations throughout each individual district.

Zoning Act: The Michigan Zoning Enabling Act, Act No. 110 of the Public Acts of Michigan of 2006. (amended 9/06)

Zoning Administrator: The person or persons designated by the City to enforce the provisions of this Ordinance.

Zoning Board of Appeals: The City of Otsego Zoning Board of Appeals (ZBA), appointed by the City Commission and authorized as a body to interpret this Ordinance, hear appeals from administrative decisions, grant variances, and perform other required duties in accordance with the provisions of this Ordinance.