

## **ARTICLE TWO DEFINITIONS AND INTERPRETATION**

### **SECTION 200            RULES APPLYING TO THE TEXT**

For the purpose of this Ordinance, certain rules of structure apply to the text. Words used in the present tense include the future tense, and vice versa; and the singular includes the plural, and vice versa, unless the context clearly indicates the contrary. The words “person” and “entity” include a corporation, association, organization, partnership, trust, company, or firm as well as an individual. The words “used” or “occupied” as applied to any land or building include the words “intended, designed, or arranged to be used or occupied.” The word “lot” includes the words “plot,” “tract,” or “parcel.” The term “shall” is always mandatory and not discretionary; the word “may” is permissive. Any word or term not interpreted or defined by this Article shall be used with a meaning of common or standard utilization.

### **SECTION 201            DEFINITIONS**

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

#### **SECTION 202            A**

**ACCESS:** A way or means of approach to provide year-round vehicular physical entrance to a property or lakefront area.

**ACCESSORY BUILDING:** An accessory structure, as defined herein, which is a supplementary building on the same parcel as the principal building, or part of the principal building, occupied by or devoted exclusively to an accessory use.

**ACCESSORY STRUCTURE:** A structure which is clearly subordinate or incidental to a principal structure or principal use. Accessory structures include, but are not limited to, the following: storage structures, parking lots, loading docks, radio and television antennas, or any part thereof; but shall not include fences and hunting blinds which are clearly not permanent and are easily removed. Under no circumstances shall a septic system and tile field be considered an accessory structure.

**ACCESSORY USE:** A use naturally and normally incidental to, subordinate to, and devoted exclusively to, the principal use of the land or buildings and located on the same parcel as the principal use. [Annotation: the language “and located on the same parcel as the principal use” was added to the definition of “Accessory Use” by amendment 08-01, effective 2/29/08]

**ADAPTIVE REUSE:** The development of a new use for a building originally designed for a special or specific purpose which has become obsolete. Adaptive Reuse is the redevelopment, including expansion, into uses which might not otherwise be permitted in a Zoning District. Such uses may include residential, retail, office, eating and drinking establishments and service uses. [Annotation: Definition of “Adaptive Reuse” was changed by amendment 08-03, effective 2/29/08]

**ADMINISTRATOR:** The Manistee City Zoning Administrator as established in [Section 2400](#) of this Ordinance.

**ADULT FOSTER CARE FACILITY:** A governmental or non-governmental establishment having as its principal function the receiving of adults for foster care. It includes facilities and foster care family homes for adults, who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care does not include any of the following:

- A. Nursing homes and hospitals licensed Article 17 of Act 368 of the Public Acts of 1978, as amended;
- B. Hospital for the mentally ill or a facility for the developmentally disabled operated by the department of mental health under Act 258 of the Public Acts of 1974, as amended;
- C. County infirmary operated by a county department of social services under section 55 of Act 280 of the Public Acts of 1939, as amended;
- D. A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under Act 116 of the Public Acts of 1973, as amended;
- E. An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house which does not provide or offer to provide foster care; and
- F. A veteran's facility created by Act 152 of the Public Acts of 1885, as amended.

**ADULT FOSTER CARE SMALL GROUP HOME:** An adult foster care facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care.

**ADULT FOSTER CARE LARGE GROUP HOME:** An adult foster care facility with the approved capacity of more than thirteen (13) adults who shall be provided foster care.

**ALLEY:** A public way which is not a street, private street, or sidewalk, which provides secondary access to property, generally but not always to the rear of parcels.

**ALTERATIONS:** Any construction; modification; remodeling; repair; improvement; relocation; or, replacement of a structure, building, dwelling, accessory building, or structure which needs a permit under the provisions of [Section 2402](#) or under the provisions of the Building Code.

**ALTERED:** Any change in the location or use of a building, or any change in the supporting members of a building such as bearing walls, columns, beams, posts, girders, and similar components, or any substantial change in the roof or exterior walls.

**ANIMAL GROOMING FACILITY:** Any property, structure, building, or premise in or on which pets and other domesticated animals are bathed and/or groomed for commercial gain, but excluding any veterinary or clinical services.

**APARTMENT BUILDING:** (see Dwelling, Multiple Unit).

**APPEALS BOARD:** The Manistee City Board of Appeals, created in [Article 25](#).

**ARBOR:** An man-made structure or shelter consisting of a lattice or trellis intended and used as a landscape decorative amenity and used to support vines, floral plants or branches.

**ARTICLE:** The main divisions of this Ordinance, cited by the words "Article XX." Sections further divide Articles.

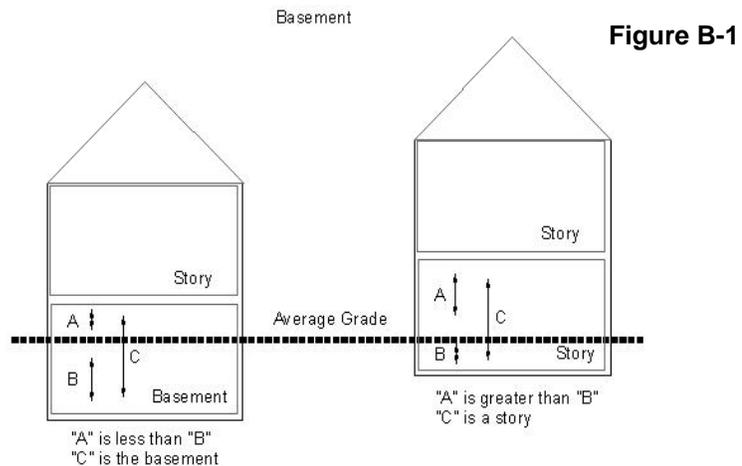
**ASSEMBLY OPERATION:** Buildings, structures and premises used for the combining of parts and raw materials into finished products and/or sub-assembly components for subsequent finishing on or off site and for the packaging, shipping and receiving of such products.

**ATTIC:** That part of a building that is immediately below and wholly or partly within the roof framing.

**AUTOMOBILE REPAIR FACILITY:** Any establishment, building, premises, or land where commercial services are furnished involving automobile and truck repair, maintenance, and painting for the general public, and where rental, leasing, storage and salvage operations and parking services are incidental to the principal activities.

## SECTION 203 B

**BASEMENT:** A portion of a building which is not intended to serve as the main living space in a dwelling, duplex or apartment building, and is built below the main floor joists such that it is partially or wholly below average grade but 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.



**BED AND BREAKFAST:** An owner-occupied residential building wherein up to six (6) rooms or suites are offered, for compensation, as overnight lodging for transient guests and which may provide one or more meals per day for overnight guests only.

**BILLBOARD:** An outdoor sign advertising services or products, activities, persons, or events which are not made, produced, assembled, stored, distributed, leased, sold, or conducted upon the premises upon which the billboard is located.

**BLUFF LINE:** The line which is the edge or crest of the elevated segment of the shoreline above the beach which normally has a precipitous front declining steeply on the lakeward side. Where there is no precipitous front indicating the bluff line, the line of perennial vegetation may be considered the bluff line.

**BOAT:** Means every description of water craft used or capable of being used as a means of transportation on water. (reference; vessel definition from the Marine Safety Act P.A. 303 of 1967, as amended, Compiled Laws Annotated, 281.1008).

**BOAT LAUNCH:** Shall mean and include boat access, within fifty (50) feet of the shore from or incidental to a single private riparian property, public or private road end abutting Manistee Lake, the Manistee River Channel, or Lake Michigan, and/or a public or private access site.

**BUFFER AREA:** An open landscaped area that is in addition to setback requirements, that may include berms, but that may not include any structures, designed to buffer noise, light, visual, and other nuisances. (See also Vegetation Belt, Greenbelt.)

**BUILDABLE AREA:** That portion of a parcel contained by the required front, rear and side yards and excluding any wetland, 100-year flood plain, critical dune, high risk erosion area, drainage way, lake or similar natural feature which poses an impediment or hazard to safe construction or use of property. Contour changes to create a buildable area are permissible only if not contrary to this Ordinance, or any other state or federal statute.

**BUILDING:** Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of person, animals, chattel, or property of any kind. Buildings shall include: decks and porches, including steps and trailers, whether mounted or on wheels and situated on private property and used for purposes of a building.

**BUILDING AREA (also FOOTPRINT):** The total area contained within the exterior foundation or framing area taken on a horizontal plane at the largest floor level of a building or an accessory building exclusive of unroofed porches, terraces, patios and steps, and of awnings and nonpermanent canopies.

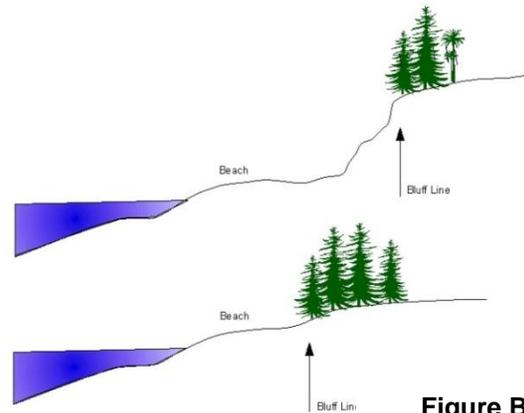


Figure B-2

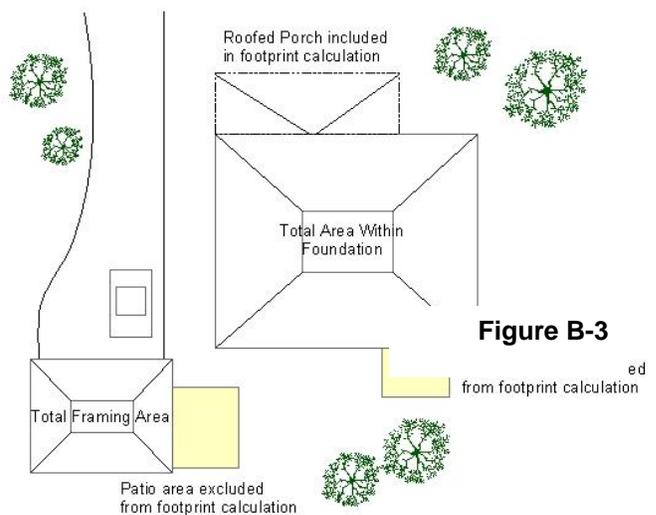


Figure B-3

**BUILDING ENVELOPE:** That portion of a parcel contained within the required front, rear, waterfront and side yards, as established by the setback dimensions for the zoning district.

**BUILDING LINE:** A line extending through the building foundation, or the outermost portion of a cantilevered building and parallel to the nearest parcel boundary.

## **SECTION 204            C**

**CAMPGROUND:** A use on a parcel or tract of land licensed by the State under the control of a person in which sites are offered for the use of the public or members of an organization either free of charge or for a fee, for the establishment of temporary living quarters for three or more recreational units, which includes trailers, as defined in this Ordinance.

**CAR WASH:** Any facility or premises or portions thereof used for washing automobiles, including, manual wash facilities, coin washes, and those with automatic and semiautomatic application of cleaner, brushes, rinse water, and forced air and/or heat for drying.

**CEMETERY:** Any one (1) or a combination of more than one (1) of the following (as per MCL 456.522): a burial ground for earth interment; a mausoleum for crypt entombment; a crematory for the cremation of human remains; and a columbarium for the deposit of cremated remains.

**CITY:** The City of Manistee, a chartered Michigan municipal corporation.

**COMMISSION:** The Manistee City Planning Commission created pursuant to Public Act 33 of 2008, as amended, being Michigan Planning Enabling Act, which has vested with it all the powers and duties of a zoning board pursuant to Public Act 110 of 2006, as amended, being Michigan Zoning Enabling Act. [Annotation section changed to reflect new public acts with Amendments October 2010]

**COMMON ELEMENTS:** The portions of the condominium project other than the condominium units. [Annotation: Definition of "Common Elements" was changed by amendment Z10-03, effective 10/30/10]

**COMMON OR SHARED DRIVE:** A commonly shared driveway way that connects or serves two or more properties.

**COMMUNICATION TOWER:** A monopole, lattice and/or guyed structure in excess of thirty-five (35) feet in height, intended or used to support one or more antennae or other equipment to transmit and/or receive radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals.

**COMMUNITY GARDEN:** Land used for the cultivation of fruits, vegetables, plants, flowers or herbs by multiple individuals. [Annotation: Definition of "Community Garden" was added by amendment Z11-06, effective 09/25/11]

**COMPREHENSIVE PLAN:** The comprehensive, long-range master plan intended to guide growth and development in the City of Manistee which includes recommendations on future land use,

economic development, housing, recreation, transportation, open space, and community facilities.

**CONDEMNATION:** When referring to property acquisition by a public entity, Condemnation shall mean the exercise of the right of eminent domain as regulated by state statute. When referring to Building or Housing Code enforcement action, Condemnation shall mean an action taken by the Building Official or other authorized official to identify all or part of a property as unfit or unsafe for use. [Annotation: Definition of "Condominium" was deleted by amendment Z10-03, effective 10/30/10]

**CONDOMINIUM ACT:** The Michigan Condominium Act, Act 59 of the Public Acts of Michigan of 1978, as amended, or successor legislation. [Annotation: Definition of "Condominium Act" was added by amendment Z10-03, effective 10/30/10]

**CONDOMINIUM CONVERSION:** A condominium project involving one or more pre-existing buildings and proposed to contain two or more condominium units some or all of which were under single ownership before the filing of a notice to taking reservations under Section 71 of the Condominium Act. [Annotation: Definition of "Condominium Conversion" was added by amendment Z10-03, effective 10/30/10]

**CONDOMINIUM SUBDIVISION PLAN:** The plans, drawings and information prepared for a condominium project as required by Section 66 of the Condominium Act and as required by this ordinance for review and approval of the condominium project. [Annotation: Definition of "Condominium Subdivision Plan" was added by amendment Z10-03, effective 10/30/10]

**CONDOMINIUM UNIT:** That portion of the condominium project assigned and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. [Annotation: Definition of "Condominium Unit" was added by amendment Z10-03, effective 10/30/10]

**CONSERVATION LANDS:** Environmentally sensitive areas with characteristics such as steep slopes, wetlands, floodplains, high water tables, forest areas, endangered species habitat, dunes, shoreline, or areas of significant biological productivity or uniqueness that have been designated for protection from any activity that would significantly alter their ecological integrity, balance, or character.

**CONTRACTOR'S FACILITY:** A facility, building, structure, grounds, or portion thereof used to store tools, trucks, equipment, supplies, resources, and materials used by building construction professionals, contractors, and subcontractors. Such facilities typically will include outdoor storage, assembly or staging areas.

**CONVALESCENT HOME:** (See Nursing Home)

**CONVENIENCE STORE:** Any retail establishment offering for sale prepackaged food products, household items, newspapers and magazines, and freshly prepared foods, such as salads and sandwiches, for on-site or off-site consumption.

**COUNCIL:** The City Council of the City of Manistee.

**SECTION 205            D**

**DAY CARE, COMMERCIAL:** A commercial facility which is not a private home and in which at least thirteen (13) 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.

**DAY CARE FACILITY:** An establishment or facility, other than a private residence, providing for the care, supervision, and protection for 1 or more preschool or school age children for periods less than 24 hours a day, and where the parents or guardians are not immediately available to the child, including a facility which provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The term includes any facility referred to as a day care center, day nursery, nursery school, drop-in center, or parent cooperative preschool. A group day care does not include a Sunday school, vacation bible school, or religious instructional class operated by a religious organization where children are in attendance for not greater than 3 hours per day for an indefinite period, or not greater than 8 hours per day for a period not to exceed 4 weeks during a 12-month period.

**DAY CARE, FAMILY:** A private home in which at least one (1), but not more than six (6) minor children are received for care and supervision for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. 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.

**DAY CARE, GROUP:** A private home in which at least seven (7), but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

**DAY CARE, ORGANIZATION:** Any governmental or nongovernmental organization having as its principle function the receiving of minor children for care, maintenance, training, and supervision, notwithstanding whether educational instruction may be given, and organizations commonly described as child caring institutions, child placing agencies, children's camps, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, group homes, or day care homes.

**DENSITY:** The number of dwelling units per acre. The maximum density is that number of dwelling units per acre that is allowed based on the total parcel area.

**DRIVE THROUGH ESTABLISHMENT OR FACILITY:** An establishment that by design, physical facilities, services or by packaging procedures encourages or permits some or all customers to receive services, obtain goods or be entertained while remaining in their vehicles.

**DRIVEWAY:** A private vehicular roadway providing access to a street or highway from a property.

DRIVEWAY CURB CUT: The opening along a curb line at which point vehicles may enter or leave the street.

DUPLEX: A building designed for or occupied by two families only, with separate housekeeping, cooking, and bathroom facilities for each. For facilities with more than two dwelling units, see Dwelling, multiple unit.

DWELLING, (OR DWELLING UNIT): A structure or building or portion thereof that is used exclusively for human habitation by one (1) family and so designed and arranged as to provide living, sleeping, sanitary, and kitchen accommodations.

DWELLING, ACCESSORY: A dwelling located in an accessory structure on the same parcel as another, single unit dwelling.

DWELLING, MULTIPLE UNIT: A building which is a dwelling designed for or occupied by three or more families, with separate housekeeping, cooking, and bathroom facilities for each.

DWELLING, SINGLE UNIT: A structure or building or portion thereof that is used exclusively for human habitation by one (1) family and so designed and arranged as to provide living, sleeping, sanitary, and kitchen accommodations.

DWELLING, UPPER STORY ACCESSORY: A dwelling, which is considered an accessory use, located in the same building as the principal commercial use and located on or above the second story of a building.

## **SECTION 206            E**

EATING AND DRINKING ESTABLISHMENT: A retail establishment selling food and drink for consumption on the premises, including restaurants, taverns, coffee houses, bakeries, lunch counters, refreshment stands and similar facilities selling prepared foods and drinks for immediate on-site consumption or for take-out.

EASEMENT: A private irrevocable agreement of record between landowners, public utilities, and/or persons, for a specific purpose such as, but not limited to, utilities, driveways, pipelines, or pedestrian ways.

EDUCATIONAL FACILITY: Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge, including a preschool, elementary, middle, or high school, college or university, trade school and the like, whether public or private, that meets state requirements, where applicable.

ENVIRONMENTAL ASSESSMENT: An Environmental Assessment means a summary review of the environmental impacts of a project.

ENVIRONMENTAL IMPACT STATEMENT: A thorough analysis which evaluates the effects a proposed development or project, and other major actions, and alternatives to those developments, projects or actions, may have on the environment and that inventories existing environmental conditions at the project site and the surrounding area, including air and water

quality, water supply, hydrology, geology, soil type, topography, vegetation, wildlife, aquatic organisms, ecology, demography, land use, aesthetics, history, and archaeology.

**ERECTED** or **ERECTION**: As applied to any building or structure, erected or erection means built, constructed, reconstructed, moved upon, or any physical operation or work on the land which the building or structure is to be built, constructed, reconstructed or moved upon, including excavation, filing, draining or the like.

**ESSENTIAL SERVICES**: Services and utilities needed for the health, safety, and general welfare of the community, such as underground, surface, or overhead electrical, gas, telephone, stream, water, sewage, and other utilities and the equipment and appurtenances necessary for such systems to furnish an adequate level of service for the City.

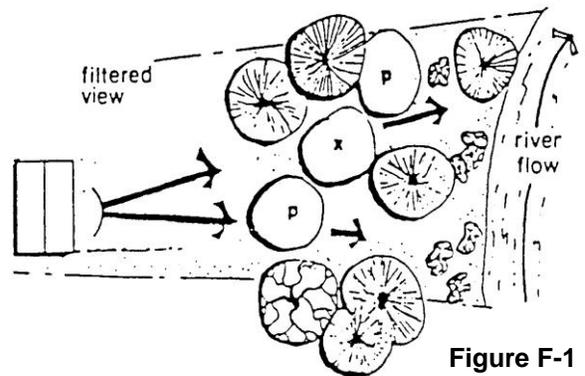
**SECTION 207 F**

**FAMILY**: An individual or a collective number of individuals living together in one dwelling as a single housekeeping and cooking unit, whose relationship is of a permanent and distinct domestic character. However, this shall not include any society, club, fraternity, sorority, association, lodge, combine, federation, group, coterie, occupants of a counseling house, lodging house or hotel, or organization which is not a recognized religious order, nor include a group of individuals whose association is temporary and resort-seasonal in character or nature.

**FENCE**: An artificially constructed barrier erected to enclose, screen, or separate parcels or portions of parcels.

**FENCE, DECORATIVE**: A fence, no more than four (4) feet in height measured from the grade to the top of the highest horizontal rail, and intended primarily as an ornament or accent on a parcel.

**FILTERED VIEW OF WATER**: A vista or view of a river, lake or stream that is partially screened by woody vegetation of sufficient density to buffer development from said water body, to provide for bank stabilization and erosion control, to serve as an aid in filtration of surface runoff, and to provide cover to shade the water. Vegetation need not be so dense as to completely block the view of the water, but shall not include clear cutting.



**Figure F-1**

**FINANCIAL INSTITUTION**: Commercial establishments such as banks, savings and loans, credit agencies, investment companies, brokers and dealers of securities and commodities, security and commodities exchanges, and insurance agencies.

**FLOODPLAIN**: That area mapped by the National Flood Insurance Program having a flood elevation that has a one percent (1%) chance of being equaled or exceeded each year, and as determined by the Federal Emergency Management Agency.

**FLOOR AREA**: The sum of the horizontal area of each story of a building measured from the exterior faces of the exterior walls, but not including basements, unfinished attics, attached garages, breeze ways and enclosed or unenclosed porches, decks or patios.

**FOOTPRINT**: See Building Area.

**FUNERAL HOME**: See Mortuary.

## **SECTION 208            G**

**GALLERY OR MUSEUM**: Repositories of objects connected with literature, art, history, culture, or science collected and displayed for the edification, amusement, entertainment, or education of patrons and consumers.

**GASOLINE STATION**: Any building, structure, or land, or portion thereof, and any associated appurtenances, intended and used for the retail sale, supply, and dispensing of fuels, lubricants and similar products for motor vehicles.

**GENERAL COMMON ELEMENTS**: Components of the grounds, building, or development collectively owned and available for use by all of the co-owners as defined within the master deed. [Annotation: Definition of "General Common Elements" was added by amendment Z10-03, effective 10/30/10]

**GOLF COURSE**: A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards such as waterways, which may include such accessory uses as a pro shop, a clubhouse, banquet facility, driving range, practice greens and service buildings. [Annotation: Definition of "Golf Course" was amended when language for "banquet facility" was added by amendment Z10-06, effective 10/30/10]

**GRADE**: The vertical elevation of the ground.

**GRADE, FINISHED**: The proposed median grade of a parcel as set forth on the site plan.

**GREENBELT**: An open area of vegetation that may be cultivated or maintained in a natural state surrounding development or used as a buffer between land uses or properties. (See also Buffer Area, Vegetation Belt.)

**GREENHOUSE (OR NURSERY)**: Land, or portion thereof, including a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. A Greenhouse and Nursery may be used to raise flowers, shrubs, and plants for commercial sale or personal enjoyment.

**SECTION 209            H**

HAZARDOUS SUBSTANCES: One or more of the following:

- A. A chemical, toxic substance or other material which is or may become injurious to the public health, safety, or welfare or to the environment.
- B. "Hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980.
- C. "Hazardous waste" as defined in Article II, Chapter 3, Part 111 of P.A. 451 of 1994, as amended, being the Hazardous Waste Management part of the Natural Resources and Environmental Protection Act.
- D. "Petroleum" as defined in Article II, Chapter 8, Part 213 of P.A. 451 of 1994, as amended, being the Leaking Underground Storage Tanks part of the Natural Resources and Environmental Protection Act.

HEIGHT, BUILDING: The vertical distance measured from grade to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the highest point for gable, hip and gambrel roofs.

HOBBY: An activity carried out by a person primarily for pleasure and self-entertainment.

HOME-BASED BUSINESS: A business operation carried out for gain from a residential property which operation is clearly subordinate and incidental to the residential nature of the property and which involves business activities generally conducted at other locations.

HOME OCCUPATION: An activity carried out for gain by a resident and conducted as a customary, secondary, incidental, and accessory use in the resident's dwelling, but not a hobby. Without limiting the foregoing, any dwelling used by an occupant of that dwelling to give instruction in a craft or fine art within the dwelling shall be considered a home occupation.

HOSPITAL, OR CLINIC: An establishment providing health services including medical and surgical care, dental care and mental health care on an in-patient or out-patient basis to persons suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions. Such facility may include such accessory uses as laboratories, training facilities, pharmacies, medical offices and training facilities.

HOTEL: A facility offering transient lodging accommodations to the general public and may provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

**SECTION 210            I**

IMPERVIOUS SURFACE: Any material of the built environment that prevents absorption of storm water into the ground, including pavement and rooftops.

INTERSECTION: The location where two or more roadways cross at grade without a bridge.

**SECTION 211            J**

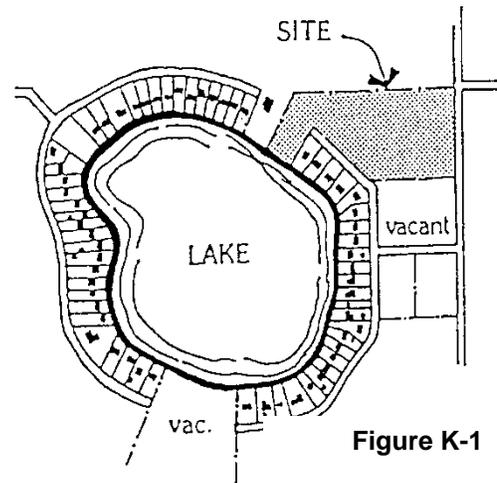
**JUNK:** Any scrap, waste, reclaimable material, or debris, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition or abandoned.

**SECTION 212            K**

**KENNEL:** A commercial establishment in which dogs or other domestic animals are housed, groomed, bred, boarded, trained, or sold, for fee or compensation.

**KEYHOLE DEVELOPMENT:** Keyhole development (also known as “funnel” development) is the use of a waterfront lot as common open space for waterfront access for a larger development located away from the waterfront.

**KEY STREET SEGMENTS:** Key street segments are located throughout the City and are identified on the zoning map. For the purposes of this ordinance the following street segments as described here and as illustrated on the City of Manistee Zoning Map, shall be considered key street segments:



**Figure K-1**

- A. US-31, from the northerly City limits to the southerly City limits.
- B. Main Street, from the southerly City limits to 13<sup>th</sup> Street.
- C. 13<sup>th</sup> Street, from Main Street to Vine Street
- D. Vine Street, from 13<sup>th</sup> Street to 8<sup>th</sup> Street
- E. 8<sup>th</sup> Street, from Vine Street to US-31.
- F. Kosciusko Street, from 8<sup>th</sup> Street to 5<sup>th</sup> Street
- G. 5<sup>th</sup> Street, from Kosciusko Street to Sibben Street
- H. Sibben Street, from 5<sup>th</sup> Street to 1<sup>st</sup> Street
- I. 1<sup>st</sup> Street, from Sibben Street to Tamarack Street
- J. Cedar Street, from 1<sup>st</sup> Street to Water Street
- K. Water Street, from Cedar Street to Maple Street
- L. Maple/Washington Streets, from 4<sup>th</sup> Street to the northerly City limits
- M. Fifth Avenue, from Maple/Washington Streets to Hastings Street.
- N. Glocheski Street for its entire length.

Source: Planning & Zoning News

**SECTION 213            L**

**LAUNDRY AND DRY CLEANING ESTABLISHMENT:** A service business which provides washers and dryers and other facilities for rental use to the general public for cleaning garments, bedclothes, and other household and personal materials and a facility which provides cleaning and dry cleaning services to the general public.

**LIVING AREA:** The net floor area of a dwelling unit used, or intended to be used, for permanent habitation including, but not limited, to sleeping, cooking, personal sanitation areas, but excluding storage space in attics, garages, and any below-grade room without a window or door affording egress to the outdoors.

**LIMITED COMMON ELEMENTS:** A portion of the common elements reserved in the master deed for the exclusive use of less than all of the co-owners. [Annotation: Definition of “Limited Common Elements” was added by amendment Z10-03, effective 10/30/10]

**LOT:** (See Parcel)

**LOT COVERAGE:** That portion of a lot that is covered with buildings, expressed as a ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot to the total lot area.

**SECTION 214            M**

**MANUFACTURED HOME:** A dwelling which is transportable in one or more sections, that is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and is installed by a Michigan Licensed Mobile Home dealer or Michigan Licensed Mobile Home installer as required by Michigan statute, and administrative rules promulgated there under.

**MANUFACTURED HOUSING COMMUNITY:** A use which is a parcel of land under the control of a person upon which three or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a manufactured home and which is not intended for use as a temporary manufactured home or trailer.

**MARINA:** A facility, including three (3) or more waterfront boat slips, which provides for the servicing, storing, fueling, berthing, and securing of boats and that may include a communication tower, eating, sleeping, and retail facilities intended primarily for the owners, crews, and guests of boat owners using the marina. [Annotation: Definition of Marina was amended by adding “communication tower” by Amendment Z12-01, effective 6/19/12]

**MASTER DEED:** A legal instrument under which title to some or all rights of real estate ownership are conveyed and by which a condominium is created and established, including as exhibits and incorporated by reference in the approved bylaws and the condominium subdivision plan.

**MAYOR:** The chief elected official of the City.

**MEDICAL AND DENTAL OFFICE:** A facility in which medical, dental, health and related providers maintain offices and may provide services to patients on an out-patient basis.

**MINE, SAND AND GRAVEL:** A facility, property, or portion thereof designed, constructed, or used for the commercial open pit or subterranean extraction of sand, gravel or minerals. This term also includes quarrying, groundwater diversion, soil removal, milling and crushing, and other preparation customarily done as part of a mining activity.

**MINI/SELF STORAGE FACILITY:** A structure or group of structures divided into storage units, stalls or lockers of no more than five hundred (500) square feet in area each and which are offered to the public for a fee for the storage of goods.

**MIXED USE DEVELOPMENT:** A development of a tract of land, building, or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact urban form.

**MORTUARY:** A facility for the preparation of the deceased for burial or cremation and for visitation and for the conduct of memorial and funeral services.

**MOTEL:** An establishment providing sleeping accommodations to the general public with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building, as distinguished from a boarding house, hotel, lodging house, or an apartment.

## **SECTION 215            N**

**NONCONFORMING BUILDING, STRUCTURE:** A structure or building lawfully in existence prior to the effective date of this Ordinance which does not conform to the requirements of the Zoning District in which it is situated.

**NONCONFORMING LOT:** A lot, the area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of the ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the applicable zoning district or other zoning regulations.

**NONCONFORMING USE:** A use of lands or structures lawfully in existence on the effective date of this Ordinance but which does not conform to the regulations of the Zoning District in which it is situated.

**NUISANCE:** (See [Section 654](#) of the City of Manistee Codified Ordinances)

**NURSING HOME:** A residential care facility providing long-term care for elderly, infirm, terminally-ill, physically, emotionally and/or developmentally disabled persons, licensed in accord with Article 17 of Act 368 of 1978, as amended.

## **SECTION 216            O**

**OPEN SPACE:** Any property or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space.

**ORDINARY HIGH WATERMARK:** The elevation contour line at five hundred eighty one and five tenths (581.5) feet above sea level – International Great Lakes Datum 1985 (IGLD 85). [Annotation: This definition of “Ordinary High Watermark” was changed by amendment 07-05, effective 5/29/07 and Figure O-1 was deleted].

**OUTDOOR PLAYSET:** A structure erected outside for children to play on and around less than eighteen (18) feet in height. Typical components of an outdoor playset include but are not limited to:

- A. **Towers.** In a playset, a tower is a vertical structure with one or more decks placed at various levels. A deck is essentially a horizontal play surface contained within or attached to a tower.
- B. **Bridges.** Towers may be connected to one another via fixed bridges or chain bridges for children to walk across.
- C. **Ladders.** Rope ladders and fixed ladders are common accessories for playsets.
- D. **Sandboxes.** A sandbox often accompanies an outdoor playset.
- E. **Slides.** Slides may be covered or uncovered.
- F. **Swings.** Swings are usually mounted on a free-standing swingset.
- G. **Monkey bars.** Towers may be connected by monkey bars as well as bridges.

[Annotation: This definition of “Outdoor Playset” was added by amendment Z12-07, effective 10/27/12].

**OUTDOOR RECREATION – PARK:** Public or private playgrounds, pocket parks, natural area, ball fields, open space preserves, arboretums, gardens, beaches, and similar uses, but not facilities designed for overnight or camping use, or as a commercial venue for performances or professional athletics.

**OUTDOOR SALES FACILITY:** The display and sales of products and services primarily outside of a building or structure, including vehicles, garden supplies, boats and aircraft, farm equipment, motor homes, burial monuments, manufactured housing, recreational vehicles, building and landscape materials, and lumber yards.

**SECTION 217            P**

**PARCEL:** An area of land separated from other parcels of land by description on a plat, condominium subdivision plan or by metes and bounds description, recorded in the Manistee County Office of the Register of deeds and with a unique tax identification number, and which complies with the dimensional requirements of this Zoning Ordinance.

**PARCEL AREA:** The area contained within the boundaries of a parcel.

**PARCEL MEASUREMENTS:** Parcel depth is considered to be the distance between the midpoints of straight lines connecting the foremost points of the front property line and rearmost points of the rear property line. Parcel width is the distance between the side property lines, measured at the front yard setback line.

**PARCEL, SUBSTANDARD:** A parcel of record or a parcel which is described in a land contract or deed executed and delivered before the designation of a high risk erosion area and which does not have adequate depth to provide the minimum required setback from the bluff line for a permanent structure. The term also means those lots which are legally created after the designation of a high risk erosion area, which have sufficient depth to meet setback requirement for permanent structures, but which subsequently become substandard due to erosion processes.

**PARENT PARCEL:** A parcel of record on the effective date of this ordinance amendment, or the “parent parcel” or “parent tract” as defined by the Michigan Land Division Act.

**PARKING FACILITY:** A parking area used to temporarily store motor vehicles. [Annotation: “Parking Facility” was amended when the language “available to the public, with or without fee,” was deleted by Amendment 08-02, effective 2/29/08]

**PARKING SPACE:** One (1) unit of parking area provided for the parking of one automobile or similar motor vehicle.

**PERSONAL PROPERTY SALES:** Events such as garage sales, yard sales, basement sales or other similar events where personal property is offered for sale on a limited basis.

**PERSONAL SERVICE ESTABLISHMENT:** An establishment engaged in providing services involving the care of a person or his or her personal goods or apparel, including linen supply, beauty shops, barbershops, shoe repair, health clubs, and similar facilities.

**PERVIOUS PAVING:** Systems that allow water to pass freely through interstitial space ingrained throughout the paving matrix, thereby transforming traditionally impervious surfaces such as pervious concrete and asphalt; including interlocking pavers, reinforced gravel, porous concrete, porous asphalt and grass paving. [Annotation: this definition of “Pervious Paving” was added by amendment Z15-05, effective 7/14/15]

**PHYSICAL REQUIREMENTS:** All the requirements of this Ordinance dealing with designated areas for specific physical (tangible) improvements or uses/functions required for an approved use, structure, building and parcel, including but not limited to, placement of accessory structures, improvements within buffer areas, building height, easements, floor area,

improvements within a greenbelt, access drives, loading areas, solid waste storage areas, service drives, parking areas, and other requirements.

**PLACE OF PUBLIC ASSEMBLY:** Buildings, structures and grounds, including theaters, churches, auditoriums, sports arenas, lecture halls and other similar facilities intended for commercial or non-commercial entertainment, instruction, worship or similar activities involving assembled groups of people numbering thirty (30) or more.

**PLACE OF PUBLIC ASSEMBLY, LARGE:** A place of public assembly shall be considered a large facility if it has either two thousand (2000) square feet or more in gross floor area, total seating capacity of more than one hundred (100) in the largest room intended for public assembly, or the capability to expand to meet these standards in the future. [Annotation: Language for "Place of Public Assembly, Large" was corrected by amendment 08-06, effective 2/29/08]

**PLACE OF PUBLIC ASSEMBLY, SMALL:** A place of public assembly shall be considered a small facility if it has either less than two thousand (2,000) square feet in gross floor area or total seating capacity of no more than one hundred (100) in the largest room intended for public assembly. [Annotation: Language for "Place of Public Assembly, Small" was corrected by amendment 08-06, effective 2/29/08]

**PLANNED UNIT DEVELOPMENT:** A special land use pursuant to [Section 1870](#) intended to accommodate developments with mixed or varied uses, innovative design features and/or sites with unusual topography or unique settings.

**PORCH:** Open air roofed structure attached to the exterior of a building forming a covered entrance to the building. [Annotation: This definition of "Porch" was added by amendment Z12-07, effective 10/27/12].

**POWER GENERATING FACILITY:** A facility designed and used for the production of electrical energy primarily for the purpose of commercial sale of electrical energy to wholesale and retail customers connected to electrical transmission grid. Such facilities may include coal, diesel, fuel oil, natural gas combustion as well as solid waste incinerators.

**PRINCIPAL BUILDING:** A building in which is conducted the principal use of the lot on which it is located.

**PRINCIPAL USE:** The primary or predominant use of any parcel.

**PROCESSING AND MANUFACTURING:** Establishments engaged in a series of operations, in a continuous and regular action or succession of actions, taking place or carried on in a definite manner associated with chemical or mechanical transformation of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials, such as lubricating oils, plastics, resins, liquors, food and fiber products, minerals and compounds, and such related activities as storage, packaging, shipping and scrapping.

**PROFESSIONAL OFFICE:** The office of a member of a recognized profession maintained for the conduct of that profession.

**PROFESSIONAL SERVICE ESTABLISHMENT:** An establishment engaged in providing assistance, as opposed to products, to individuals, businesses, industries, governments, and other enterprises, including printing, legal, engineering, consulting, and other similar services.

**PROPERTY LINE:** The outside perimeter of a legally described parcel of land.

**PUBLIC UTILITY:** Any person, firm, corporation, municipal department or board fully authorized to furnish, under federal, state, or municipal regulations, electricity, gas, steam, communications, telegraph, transportation, water or sanitary or storm water sewerage facilities to the public.

**SECTION 218            Q            RESERVED**

**SECTION 219            R**

**RAIN GARDENS:** Landscaped depressions that can be built to any size or shape. Also known as 'bio-retention cells', they are designed to allow water to settle and infiltrate into the soil and may outlet through an underdrain if required by the City Engineer. [Annotation: this definition of "Rain Gardens" was added by amendment Z15-05, effective 7/14/15]

**RECREATION VEHICLE:** A trailer, self-propelled motor home, truck bed mounted camper and similar vehicle designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities

**REQUIRED SPATIAL RELATIONSHIPS:** All the requirements of this Ordinance dealing with minimum or maximum size, area or space required for an approved use, structure, building and parcel, including but not limited to, buffer areas, greenbelts, and yards.

**RESEARCH, LABORATORY, AND TESTING:** An establishment or other facility for carrying on investigation in the natural, physical or social services, which may include engineering and product development.

**RETAIL BUSINESS:** An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**RIGHT-OF-WAY:** Land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, railway, electric transmission lines, pipeline, water line, sanitary storm sewer, and other similar essential services, whether public or private, for public purposes.

## **SECTION 220 S**

**SAND EXCAVATION** - The process of altering the natural (grade) elevation by cutting or filling the earth, or any activity by which sand is dug, quarried, uncovered, removed, displaced, or relocated. [Annotation: Definition of "Sand Excavation" was added by amendment Z10-06, effective 10/30/10]

**SECTION:** A part of this Ordinance, being the next division under an Article. Sections may be further divided into subsections, and divisions, paragraphs and subparagraphs.

**SERVICE DRIVE:** A service drive shall be a front or rear interconnection between parcels, and may include the maneuvering lane within a parking lot. A service drive is not a private road.

**SETBACK:** The required minimum distance between a building and any lot line. Setbacks are measured by an imaginary line parallel to a property line which is a specified distance toward the center of a parcel from the property lines or ordinary high water mark. Side, front, rear and waterfront setbacks correspond to the respective yard. [Annotation: The definition of "Setback" was changed by amendment 07-05, effective 5/29/07]

**SEXUALLY ORIENTED BUSINESS:** Establishments, which include but are not limited to:

- A. **Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion pictures machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.
- B. **Adult Bookstore or Adult Video Store:** A commercial establishment that, as one of its principal business purposes, offers for any form of consideration any one or more of the following:
  - 1. Books, magazines, periodicals, or other printed matter or photographs, films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
  - 2. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.
  - 3. A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises more than ten (10) percent of the floor area or visible inventory within the establishment.
- C. **Adult Cabaret:** A nightclub, bar, restaurant or similar commercial establishment that regularly features:

1. Persons who appear in a state of semi-nudity or nudity;
  2. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
  3. Films, motion pictures, video cassettes or video reproductions, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities of Specified Anatomical Areas; or
  4. Persons who engage in lewd, lascivious or erotic dancing or performance that are intended for the sexual interests or titillation of an audience or customers.
- D. Adult Motel: A hotel, motel or similar commercial establishment that:
1. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public road right-of-way that advertises the availability of any of the above.
  2. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
  3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.
- E. Adult Motion Picture Theater: A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes or video reproductions, slides, or other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.
- F. Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Sexual Activities or Specified Anatomical Areas.
- G. Escort: A person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform striptease for another person.
- H. Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for any form of consideration.
- I. Nude Model Studio: Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly

depicted by other persons who pay money or any form of consideration, but does not include an education institution funded, chartered, or recognized by the State of Michigan.

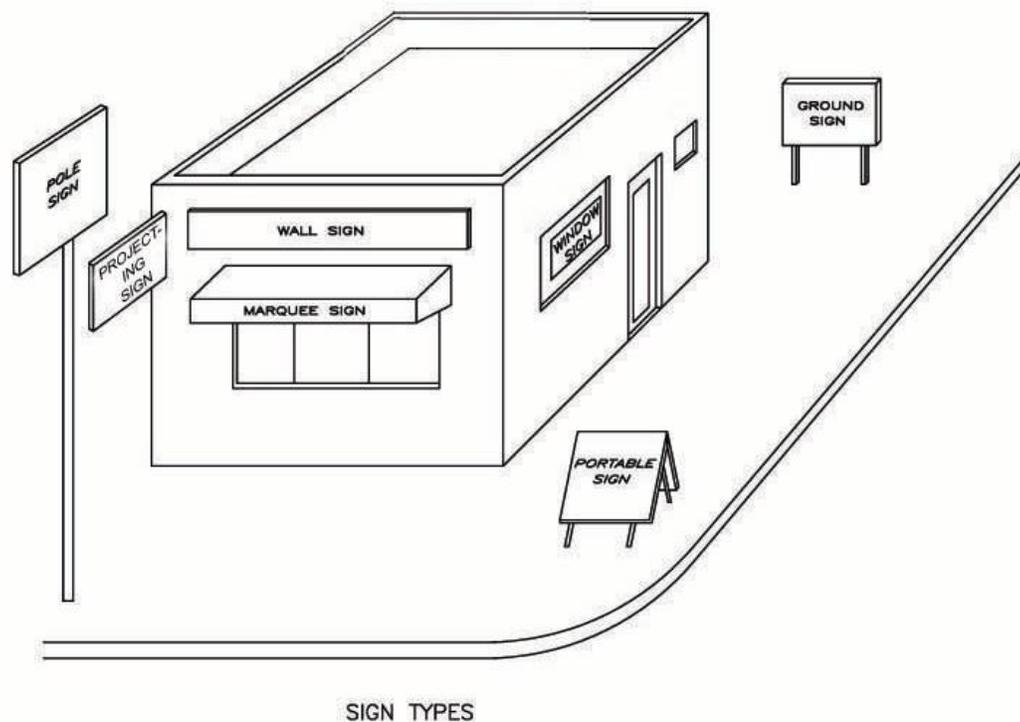
- J. Sexual Encounter Center: A commercial establishment that, as one of its principal business purposes, offers for any form of consideration.
1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
  2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

SHARED PARKING: Joint use of a parking area by more than one use or business.

SHIPPING FACILITY: An area of docks, wharfs, shore stations and related structures and facilities intended to service Great Lakes shipping vessels and the materials loaded and off-loaded from such vessels.

SIGN: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or a product which are visible from any public way and used as an outdoor display to advertise, identify, promote, direct, display, or attract attention.

Specific sign types and terms relating to signage content are defined as follows:



- A. SIGN, ANIMATED: Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.
- B. BANNER: Any sign of lightweight fabric or similar material that is mounted to a pole or on a building.
- C. BEACON: Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points, including any light with one (1) or more beams which rotate or move.
- D. COMMERCIAL MESSAGE: Wording, logos, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, person, or any commercial activity.
- E. FLAG: Any fabric, bunting, or banner which contains distinctive colors, patterns, or symbols representing a unit of government (including a local political subdivision, state government, or national government) or non-profit organization.
- F. ELECTRONIC MESSAGE BOARD: Any sign display, device or portion thereof with lighted messages that change at intermittent intervals by electronic process or remote control.
- G. ELECTRONIC SIGN: A portion of a sign, incorporating electric lights, light emitting diodes (LED's), liquid crystal display (LCD's), or similar elements that enable the display of remotely changeable or automatically changing text or graphics in a stationary display that change no more than once per hour. [Definition of Electronic Sign was amended when language for "Light emitting diodes (LED's) and (LCD') was added by amendment Z10-07, effective 10/30/10]
- H. SIGN, FREESTANDING: Any non-movable sign not affixed to a building.
- I. SIGN, GROUND: Any freestanding sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and is independent of any other structure.
- J. SIGN, IDENTIFICATION: A sign, containing no commercial message, giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.
- K. SIGN, INCIDENTAL: Any sign indicating a directional message, principally for pedestrian or vehicular traffic, such as, "Telephone," "One-Way," "Entrance," and "Exit;" provided, that the sign does not contain a commercial message other than a logo or emblem of the proprietor.
- L. SIGN, MARQUEE: Any sign that is mounted, painted, attached to, or in any manner made a part of, an awning, canopy, or marquee that is otherwise permitted by Ordinance. For the purposes of this definition, an awning, canopy, or marquee shall include any fabric, plastic, or structural protective cover over a door, window, entrance, or outdoor service area, including "roofs" over gas station islands.

- M. SIGN, NONCONFORMING: Any sign that does not conform to the requirements and standards of this Ordinance.
- N. PENNANT: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a pole, rope, wire, or string, usually in a series, designed to move in the wind.
- O. SIGN, OFF-PREMISE: Any sign that directs attention to a business, commodity, services or entertainment conducted, offered or sold at a location other than the premises on which the sign is located.
- P. SIGN, POLE: Any sign that is mounted on a freestanding pole or other support so that the bottommost edge of the sign is eight (8) feet or more above grade.
- Q. SIGN, POLITICAL: A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.
- R. SIGN, PORTABLE: Any sign that is not permanent, affixed to a building, structure, or the ground, usually intended to be transported easily.
- S. SIGN, PROJECTING: Any sign that is wholly or partly dependent upon a building for support, that is attached perpendicularly to said building, and that projects more than twelve (12) inches from such building.
- T. SIGN, SUSPENDED: Any sign hanging down from a marquee, awning, canopy, porch, or a horizontal plane surface necessary for the structural soundness of the building out of which it projects that would exist without the sign, that does not project above or beyond said marquee, awning, canopy, porch, or horizontal plane surface.
- U. SIGN, TEMPORARY: Any sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time and for one (1) specific event, such as a yard sale.
- V. SIGN, WALL: Any sign fastened parallel to or painted on the wall of a building or structure that displays one (1) sign surface or face in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than twelve (12) inches from such building or structure.
- W. WINDOW SIGN: Any sign that is painted on, etched on, or bonded to the window glass, or mounted so as to be visible from the exterior of the window. Merchandise normally offered for sale on the parcel and Temporary Signs shall not constitute Window Signs.

SITE CONDOMINIUM: A development in compliance with the Condominium Act containing or designed to contain structures or other improvements and in which each co-owner owns exclusive rights to an area of land on which a structure or structures may be constructed as a site condominium unit. [Annotation: Definition of "Site Condominium" was added by amendment Z10-03, effective 10/30/10]

**SITE CONDOMINIUM UNIT:** A specific area of land, described in a master deed and established in compliance with the Condominium Act, which is under private ownership and is part of a larger development connected by other site condominium units, limited common elements, and general common elements. . [Annotation: Definition of “Site Condominium Unit” was added by amendment Z10-03, effective 10/30/10]

**SITE PLAN:** The development plan for one or more lots on which is shown the existing and proposed conditions of the lot, including topography, vegetation, drainage, floodplains, wetlands, and waterways; landscaping and open spaces; walkways; means of ingress and egress; circulation and utility services; structures and buildings; signs and lighting; berms, buffers, and screening devices; surrounding development and legal description pursuant to [Article 22](#) of this Ordinance.

**SPECIFIED ANATOMICAL AREAS:** The male genitals and/or the vulva or more intimate parts of the female genitals.

**SPECIFIED SEXUAL ACTIVITIES:** Any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- C. Masturbation, actual or simulated; or,
- D. Excretory functions as part of or in connection with any of the activities set forth in A-C above.

**SPORTS AND RECREATION CLUB:** A facility designed and equipped for the conduct of sports and leisure-time activities, including aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers, whether operated as a business and open to the public for a fee, or operated by a nonprofit organization and open only to bona fide members and guests of such organization, or operated by a governmental agency.

**STATE LICENSED RESIDENTIAL FACILITIES:** A dwelling located in a structure constructed for residential purposes, licensed by the state, pursuant to Michigan statute for a home for the care of six (6) or fewer senior citizens.

**STOREFRONT:** Tenant or owner occupied space that fronts on a public right-of-way and that occupies all or a portion of a principal building accessed from a main entrance. [Annotation: Definition of “Storefront” was added by amendment Z10-03, effective 10/30/10]

**STREET:** Any public vehicular way that is:

- A. An existing state, county, or locally maintained roadway; or
- B. Shown upon an approved plat pursuant to law; or
- C. Approved by other official legal action; and

D. Excluding an alley or private street.

STREET, PRIVATE: A road or street which is part of a recorded subdivision, condominium or land division, and shown as a private road on the plat or site plan, or a road which is not public which services more than one (1) dwelling and/or business.

STRUCTURE: Anything constructed, erected or placed with a fixed location on the ground or affixed to something having a fixed location on the ground, but not including automobiles, trucks, trailer, hunting blinds, fences, hedges, sidewalks, gardens, and shore stabilization devices.

STRUCTURE, MOVABLE: A structure which is determined to be movable based on a review of the design and size of the structure, a review of the capability of the proposed structure to withstand normal moving stresses, and a site review to determine whether the structure is accessible to moving equipment.

STUDIO FOR PERFORMING AND GRAPHIC ARTS: A facility designed, constructed, or used for instructional, practice or production purposes in graphic and performing arts, including sculpture, painting, music, photography, drama, dance and other similar pursuits.

SWALE BIOFILTRATION: A shallow drainage way that employs landscaping to stabilize the soil while providing water quality treatment. Designed to remove silt and sediment-associated pollutants before discharging to storm sewers and to reduce volume if soils allow for infiltration. [Annotation: this definition of "Swale Biofiltration" was added by amendment Z15-05, effective 7/14/15]

SWALE, VEGETATED OR ROCK: A densely vegetated or rock lined drainage ways with low-pitched side slopes that detain, evaporate, and/or infiltrate the runoff associated with a storm event. [Annotation: this definition of "Swale, Vegetated or Rock" was added by amendment Z15-05, effective 7/14/15]

SWEETENING PLANT: A facility or plant which is designed for the removal of sulfur compounds from natural gas from gas and oil wells.

## **SECTION 221            T**

TATTOO: Any method of placing permanent designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance, by the aide of needles or any other instruments designed to touch or puncture the skin, resulting in either the coloration of the skin, or the production of scars or scarring.

TATTOO PARLOR: An establishment where persons are tattooed for consideration, other than by a licensed medical practitioner or cosmetologist; or any place where tattooing is regularly conducted whether or not it is in exchange for compensation.

TEMPORARY DWELLING: A dwelling established for a limited duration with the intent to discontinue such use upon the expiration of a predetermined time period, but not a manufactured home.

**TEMPORARY STORAGE STRUCTURE:** A storage structure established for a limited duration with the intent to discontinue such use upon the expiration of a predetermined time period.

**THEATER:** A building or structure or part thereof devoted to showing motion pictures or for dramatic, dance, musical, or other live performances or lectures.

**TOXIC SUBSTANCES:** Those poisonous substances which, by physical contact, ingestion or inhalation, could cause damage to humans, animals or aquatic life as set forth on the Toxic Substance Listing, maintained by the U.S. Environmental Protection Agency, and listed on the Critical Materials Register, as created pursuant to the Michigan Water Resources Act, P.A. 245 of 1929, as amended.

**TRAILER:** A structure that can stand on wheels, be towed, and hauled by another vehicle on a roadway, and used for short-term human occupancy, camping and recreational use, carrying of materials, goods, or objects, or as a temporary office.

## **SECTION 222            U**

**URGENT CARE FACILITY:** A medical care facility open to the public in which professional medical care is provided for injuries and illness.

**USE:** The primary or main purpose for which land or a building thereon is designed, arranged or intended to be occupied or used, or for which it is maintained.

**USEABLE OPEN SPACE:** Any parcel or area of land or water where the actual and intentional use is enjoyment of owners, occupants, and their guests of land adjoining such open space. Useable open space may include active recreational facilities such as swimming pools; play equipment; competitive sports fields and courts; and picnic tables.

## **SECTION 223            V**

**VARIANCE:** A relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the Ordinance would result in unnecessary or practical difficulty.

**VEGETATED ROOF:** The roof a building that is partially or completely covered with vegetation and a growing medium, planted over a waterproofing membrane. May include roofs vegetated for food production. [Annotation: this definition of "Vegetated Roof" was added by amendment Z15-05, effective 7/14/15]

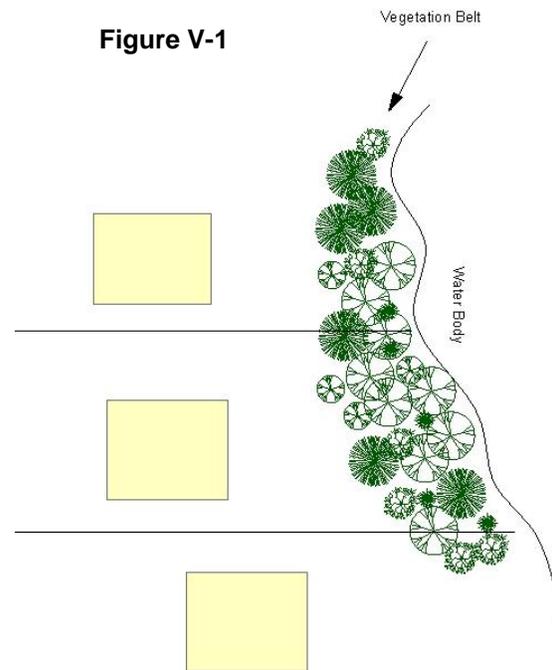
**VEGETATION BELT:** An area which does not have any buildings which is designed to mitigate the movement of nutrients in the ground into a water body by use of woody plant material whose roots are likely to remove nutrients from the soil prior to the nutrients reaching the water body, and for erosion and bank stabilization. (See also Buffer Area, Greenbelt.)

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

**VETERINARY CLINIC:** A facility where animals are given medical care and the boarding of animals is limited to short-term care incidental to the clinic use.

**VIEW CORRIDOR:** A line-of-sight corridor from a public activity area, such as a pedestrian walkway, outdoor recreation area, outdoor eating/drinking facility, outdoor attraction or similar area to Lake Michigan, Manistee Lake and/or the Manistee River Channel.

Figure V-1



## SECTION 224 W

**WAREHOUSE, PUBLIC:** A structure used for storage and repackaging of goods, wares, raw materials, equipment, parts and other materials by the owner or operator on behalf of the owner(s) of such items.

**WATER BODIES:** Surface water, lakes, wetlands, rivers, streams, creeks, brooks, ponds, springs, but not including storm water retention ponds, sediment ponds, or impromptu or uncontrolled collection of storm water.[Annotation: The definition of "Waters Edge" was deleted by amendment 07-05, effective 5/29/07]

**WELLS, EXTRACTION:** Wells installed for the commercial extraction of ground water, crude oil, brine, natural gas, sour gas or similar products. This definition may include any surface or subsurface pumping or processing equipment or facilities.

**WETLAND:** Land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support wetland vegetation and/or aquatic life, and is classified as forested or non-forested emergent or flats in the Manistee County Land Use/Cover Classification system prepared under the Michigan Resource Inventory

Act and characterized by a soil type which is alluvial land, undifferentiated, variably textured flood plain sediments.

**WHOLESALE FACILITY:** Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WIND ENERGY CONVERSION SYSTEM, ACCESSORY:** A wind energy conversion system which is intended to primarily serve the needs of the property upon which it is located. [Annotation: The definition of "Windmill, Accessory" was deleted when the definition of "Wind Energy Conversion System, Accessory" was added by amendment Z11-08, effective 12/28/11]

**WINDMILL (WIND ENERGY CONVERSION SYSTEMS):** A windmill or a wind energy conversion system shall mean all, or any combination of the following:

- A. A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal shaft;
- B. A surface area, either variable or fixed, for utilizing the wind for electrical or mechanical power;
- C. A shaft, gearing, belt, or coupling utilized to convey the rotation of the surface areas into a form suitable for driving a generator, alternator, or other mechanical or electricity producing device;
- D. The generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and,
- E. The tower, pylon, or other structure upon which any, all, or some combination of the above are mounted.

**WIND MONITORING STATION:** A tower-mounted or building-mounted anemometer or other similar device intended to measure and report wind speeds and direction.

**WIRELESS COMMUNICATION ANTENNA:** Any mounted device that radiates or captures electromagnetic waves, digital signals, analog signals, radio frequencies, wireless communication signals, optical, laser or other communication signals; including, but not limited to cellular, PCS, land mobile radio, marine, paging, AM/FM radio antenna, television antenna, satellite dishes, and licensed amateur radio facilities.

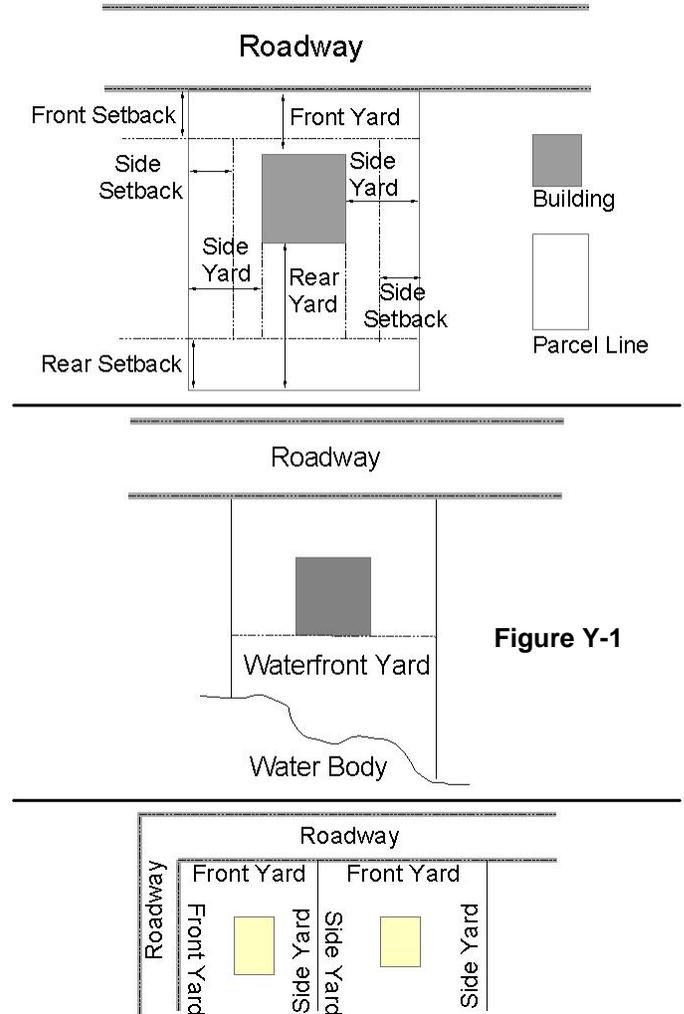
**WOODY PLANT MATERIAL:** Vegetation characterized as having a wooden stem or trunk (as opposed to a fibrous or grass stem).

**SECTION 225 X RESERVED**

**SECTION 226 Y**

**YARD:** An open space that lies between the building or buildings and the nearest lot line. Front yard means a yard between the front property line, which is adjacent to a road right-of-way, and the nearest building line. Rear yard means a yard between the property line on the opposite side of the parcel from the property line adjacent to a road right-of-way and the rear building line. Side yard means the remaining yard(s) between the front and rear building lines and the side line (s) of the parcel. Waterfront yard means a yard between the ordinary high water mark and a building line. It may be situated in what would be a side or rear yard if the water body was not present. A parcel may have any combination of yards, so that it may not have a rear yard, it may have two front yards, etc.

[Annotation: The definition of "Yard" was changed by amendment 07-05, effective 5/29/07]



**SECTION 227 Z**

**ZONING ADMINISTRATOR:** See Administrator

**ZONING LOT:** Any tract or contiguous tracts of land established by plat, subdivision or otherwise and in the same ownership, whether one or more platted lots or parts of lots, as identified by property tax parcel number in the Manistee County assessment roll.