

## ARTICLE II DEFINITIONS

### Section 2.1 Purpose

For the purposes of this Ordinance, certain terms are herein defined. Terms not defined herein shall have the meanings of their ordinary uses as defined in a standard dictionary.

### Section 2.2 Interpretation of Wording

In order to clarify the intent of the provisions of this Ordinance, the following rules shall apply to certain words or terms, except when clearly indicated otherwise.

- A. The particular shall control the general.
- B. The word “shall” is always mandatory and never discretionary. The word “may” is permissive.
- C. Words used in the present tense shall include the future; words in the singular number shall also denote the plural and the plural shall also denote the singular.
- D. A “building” or “structure” includes any part thereof.
- E. The phrase “used for” includes “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.
- F. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions, or events, the terms “and”, “or”, “either...or”, such conjunction shall be interpreted as follows:
  - 1. “And” denotes that all the connected items, conditions, provisions, or events apply in combination.
  - 2. “Or” indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- G. “Townships” shall refer specifically to Homestead and Inland Townships, Benzie County, Michigan.
- H. The term “person” shall mean an individual, firm, corporation, association, partnership, Limited Liability Company or other legal entity, or their agents.

### Section 2.3 Definitions

**Accessory Building or Structure:** A building or structure occupied by or devoted exclusively to an accessory use deemed compatible with the occupied district, but not for

dwelling, lodging, or sleeping purposes. 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 naturally and normally incidental and subordinate to the main use of the land or building.

**Adult Arcade:** Any place to which the public is permitted or invited wherein coin-operated or slug-operated electronically or mechanically controlled still or motion picture 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 depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

**Adult Bookstore or Adult Video Store:** A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
- B. Instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

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 25% or more of annual sales volume or occupies 25% or more of the floor area or visible inventory within the establishment.

**Adult Cabaret:** A nightclub, bar restaurant, or similar commercial establishment that regularly features:

- A. Persons who appear in a state of nudity;
- B. Live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
- C. Films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or

- D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

**Adult Foster Care Home:** A governmental or non-governmental establishment licensed by Act 218 of 1979, as amended, and having as its principal function the receiving of adults for foster care. A capacity of six (6) or less is considered a residential use subject to the spacing requirements of the Act. A capacity of seven (7) or more is considered a commercial use and is not permitted in a residential district.

**Adult Motel:** A hotel, motel or similar commercial establishment that:

- A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, 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 right of way that advertises the availability of any of the above;
- B. Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

**Adult Motion Picture Theater:** A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

**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 Anatomical Areas or by Specified Sexual Activities.

**Agriculture:** The use of contiguous, neighboring, or associated land operated as a single unit by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees for the purpose of raising and harvesting trees, fruit or field crops, or animal husbandry for economic gain.

**Alterations:** Any change, addition or modification in construction or type of use or occupancy; any change in the supporting structural members of a building, such as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed".

**Alternative Tower Structure:** Man-made trees, clock towers, bell steeples, light poles and other similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

**Animal Hospital and Veterinary Clinic:** An establishment where animals are treated for diseases and injuries, surgically or medically.

**Antenna:** Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio signals or other communication signals.

**Appearance Ticket:** see Municipal Civil Infraction Citation.

**Architectural Features:** Architectural features of a building shall include cornices, eaves, gutters, courses, sills, lintels, bay windows, chimneys and decorative ornaments.

**Assisted Living Establishment:** A structure and its appurtenances, designed to provide housing for persons who live independently and may receive meals in a common area while staff is on duty on a twenty four (24) hour basis, direct/indirect care is provided and residents may care for themselves independently.

**Automobile Repair:** Any major activity involving the general repair, rebuilding, or reconditioning of motor vehicles or engines; collision repair, such as body, frame, or fender straightening and repair; overall painting and vehicle rust-proofing; refinishing or steam cleaning.

**Automobile Sales Area:** Any space used for display, sale or rental of motor vehicles, in new or used and operable condition.

**Automobile Wash Establishment:** A building, or portions thereof, the primary purpose of which is that of washing motor vehicles.

**Average:** An arithmetic mean.

**Basement:** That portion of a building which is partly or wholly below 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.

**Bathroom:** A room containing a water closet or urinal, a sink, and a bathtub or shower.

**Bed and Breakfast Facility:** An owner-occupied private home (dwelling unit) wherein up to and including three (3) bedrooms have been converted for guest use for compensation and by prearrangement. A Continental or American breakfast may be served.

**Bedroom:** A separate room or space used or intended to be used for sleeping purposes.

**Billboard:** A sign, whether placed individually or on a V-type, back-to-back, or double-faced display, which is located along a state or federal highway and which is intended or used to identify or communicate a noncommercial message such as an idea, belief, or opinion or a commercial message related to an activity conducted, a service rendered, or a commodity sold at a location different than the property on which the billboard is located. However, a billboard shall not include a tourist-oriented directional sign for which a permit has been issued by the Michigan Department of Transportation pursuant to Public Act 299 of the Public Acts of 1996, as amended.

**Board of Appeals:** As used in this Ordinance, this term means the Homestead Inland Townships Zoning Board of Appeals.

**Boarding, Lodging, or Rooming House:** A building other than a hotel or a bed and breakfast facility where, for compensation and by prearrangement for definite periods, lodging, meals, or both are offered to three (3) or more, but less than twenty-one (21) persons at a time.

**Boat and/or Canoe Livery and Boat Yard:** A place where boats and/or canoes are stored, rented, sold, repaired, decked and/or serviced.

**Buffer Strip:** A strip of land for the planting of shrubs and/or trees to serve as an obscuring screen to carry out the requirements of this Ordinance.

**Building Envelope:** The space remaining after the minimum setbacks, open space requirements and other sensitive areas requirements of this Ordinance have been met.

**Building:** Any structure having a roof supported by columns, or walls for the shelter or enclosure of persons, animals, or property of any kind.

**Building Height:** 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 deck of a mansard roof; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs. When the terrain is sloping the height shall be computed using the average grade measured at the building wall on all four sides.

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

**Church:** A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary

purpose, and which property falls within the constitutional exemption from taxation status.

**Clearing of Land:** The removal of vegetation from any site, parcel or lot except when land is cleared and cultivated for bona fide, forestry, agricultural or garden use in a district permitting such use. Mowing, trimming, pruning or removal of vegetation to maintain it in a healthy, viable condition is not considered clearing.

**Clinic:** A building or group of buildings where human patients are admitted for examination and treatment by one or more than one professional, such as a physician, dentist, or the like, except that human patients are not lodged therein overnight.

**Club:** Buildings and facilities owned or operated by a corporation, association, person or persons, for social, educational, or recreational purposes.

**Club, Private:** An association organized and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all applicable federal, state, county, and local laws.

**Conditional Rezoning:** A zoning process authorized by Act 110 of 2006, as amended, and as regulated under Article III of this Ordinance, whereby the owner of land may voluntarily offer conditions as part of a rezoning of land, and the Townships may, or may not accept such an offer.

**Condominium Unit:** That portion of a condominium development designed and intended for occupancy and use by the unit owner consistent with the provisions of the master deed.

**Conservation Easement:** That term as defined in Section 2140 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.2140.

**Dedicated Open Space:** Open space created under the provisions of Act 110 of 2006, as amended, to remain in an “undeveloped state”, which means a natural state, scenic or wooded condition, agricultural use, and open space as defined by said Act 110 of 2006, as amended.

**Directional Sign:** Signs limited to directional messages, principally for pedestrian or vehicular traffic such as “one way” and “exit”.

**Decibel:** A unit of measure for expressing the relative intensity of sounds.

**District:** A section or sections, or parts of sections of the Townships of Homestead and Inland for which zoning regulations governing land use are uniform.

**Dock:** A temporary or permanent structure, built on or over the water, supported by pillars, pilings, or other supporting devices.

**Drive-Through/Drive-Up Business:** Any restaurant, bank or business with an auto service window.

**Dwelling Unit:** A building or portion of a building, either site-built or pre-manufactured which has sleeping, living, cooking and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

**Dwelling Unit, Efficiency:** A dwelling unit that does not contain a separate bedroom(s) for sleeping.

**Dwelling, Single-Family:** A building containing not more than one dwelling unit designed for residential use, and complying with the following standards:

- A. It complies with the minimum square footage requirements of this Ordinance.
- B. It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single family dwellings.
- C. The dwelling is connected to a public sewer and water supply or to such private facilities approved by the County Health Department.
- D. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to 20% of the square footage of the dwelling or 100 square feet, whichever shall be less.
- E. The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.

- F. The dwelling complies with all pertinent building and fire codes. All construction and all plumbing, electrical apparatus and insulation within and connected to said dwelling shall be of a type and quality conforming among other requirements, to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, 24CFR 3280, adopted June 15, 1976, and as from time to time such standards may be amended.
- G. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this Ordinance.
- H. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Michigan State Construction Code provisions and requirements.

**Dwelling, Two-Family:** A building containing two separate dwelling units designed for residential use.

**Dwelling, Manufactured:** A building or portion of a building designed for long-term residential use and characterized by all of the following:

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended; 42 U.S.C. 5401 to 5426; 24 CFR Parts 3280 and 3282, and
- B. The structure is designed to be transported to the site in nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on the site.

**Dwelling, Mobile:** A factory-built, single-family structure that is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, which does not have wheels or axles permanently attached to its body or frame, and which is constructed according to the National Mobile Home Construction and Safety Standards Act of 1974, as amended; 42 U.S.C 5401 to 5426; 24 CFR, Parts 3280 and 3282.

**Dwelling, Multiple-Family:** A building containing three or more dwelling units designed for residential use.

**Engineer, Township:** A person or firm designated by the Township Boards to advise the Township administration, Township Board, and Planning Commission on drainage, grading, paving, storm water management, utilities and other related site engineering or

civil engineering issues. The Township Engineer may be a consultant or an employee of the Townships.

**Erected:** The act of building, constructing, reconstructing, extending, enlarging, moving upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general land improvements which are not required for a building or structure, shall not be considered to fall within this definition.

**Escort:** A person who, for 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 a striptease for another person.

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

**Essential Services:** The erection, construction, alteration, or maintenance by public utilities or municipal department or commissions of underground, surface, or overhead gas, electrical, steam, water or sewer transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, pipes, conduits, cables, hydrants and other similar equipment and appurtenances necessary for such systems to furnish an adequate level of service. Telecommunication towers or facilities, alternative tower structures, WECS, and wireless communication antenna are not included within this definition, nor are any buildings associated with any of these above listed services.

**Excavating:** Excavating shall be the removal or quarrying of sand, stone, gravel, or dirt.

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

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

**Family:** An individual, a collective number of individuals related by blood, marriage, adoption, or legally established relationships such as guardianship or foster care, or a collective number of unrelated individuals whose relationship is of a permanent and distinct domestic character who occupy a single dwelling and live as a single nonprofit housekeeping unit with single culinary facilities. A family, however, shall not include any society, club, fraternity, sorority, association, lodge, or group of individuals, whether related or not, whose association or living arrangement is temporary or resort-seasonal in character or nature.

**Farm:** See Agriculture.

**Farm Product:** Means those plants and animals useful to human beings and includes, but is not limited to forages and sod crops, grains and fee crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing, fruits, vegetables, flowers, seeds, grasses, trees, fish, apiaries, equine and other similar products or any other products which incorporates the use of food, feed, fiber or fur on a commercial basis.

**Fence:** Any permanent or temporary means, partition, structure or gate erected as a dividing structure, barrier, or enclosure, and not part of a structure requiring a building permit.

**Flea Market, Open Air Market:** The commercial sale of new or used general merchandise, including antiques and produce, on a temporary or year-round basis in open stalls or within partially enclosed or totally enclosed spaces.

**Floor Area:** See ground floor area.

**Freestanding Sign:** A sign attached to a permanent foundation supported from the ground by one or more poles, posts, or similar uprights, with or without braces, upon which announcements, declarations, displays, etc., may be placed.

**Garage:** A building used primarily for the storage of motor vehicles for the use of the occupants of a lot or parcel on which such building is located.

**Gasoline Service Station:** Any land, building or structure used for retail sale of motor vehicle fuels, oils, or accessories, or installing or repairing parts and accessories, but not including repairing or replacing of motors, doors, or fenders, or painting motor vehicles or collision repair.

**Glare:** Excessive brightness caused by an unshielded, high intensity light source.

**Government Building:** A building provided by or for the purpose of a government or municipality to care for a specified need or function essential to its existence, or which would serve or benefit the public at large.

**Government Parks:** A tract of land or area within the Townships set apart for the recreation of the public and owned or operated by the municipality.

**Grade:** The ground elevation established for the purpose of regulating the number of stories and the height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

**Greenbelt:** A natural vegetation strip abutting any waterfront to serve as a filtration buffer in carrying out the requirements of this Ordinance.

**Greenhouse:** A building or enclosure constructed chiefly of glass, plastic, or other translucent materials used for the cultivation or protection of tender plants.

**Ground Floor Area:** The square footage of ground floor space measured from exterior wall to exterior wall, but not including enclosed and unenclosed porches, breezeways, garages, attic, basement and cellar area.

**Gun and Skeet Clubs, Rifle Range:** Any facility, whether operated for profit or not and whether public or private, which is designed for the use of firearms which are aimed at targets: skeet or trap, or clay pigeons.

**Habitable Space:** Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

**Hazardous Materials:** Those chemicals or substances which are physical or health hazards. Hazardous materials categories include explosives and blasting agents, compressed gases, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable materials, water-reactive solids and liquids, cryogenic fluids, highly toxic and toxic materials, radioactive materials, corrosives, carcinogens, irritants, sensitizers and other health hazards. Each category is defined separately in the Code of Federal Regulations Title 29 and other nationally recognized standards.

**High Water Mark:** See Water Mark, Ordinary High

**Home Business:** A profession, occupation, or trade that is accessory to a principal residential use conducted within a dwelling or residential accessory building. Home businesses fall into one of the classifications defined below:

- A. **Home Occupation:** Occupations engaged in within a dwelling or garage by the resident or residents of the same complying with the following conditions and limitations:
  1. Are operated in their entirety within the dwelling, garage or an accessory building located upon the premises, the space to be used therefore limited to 35 percent (35%) of the square footage of the main dwelling and garage.
  2. Are only conducted by the person or persons occupying the premises as their principal residence.

3. The premises have no exterior evidence, other than a permitted sign, to indicate that the same is being utilized for any purpose other than that of a dwelling or garage.

4. The occupation conducted therein is clearly incidental and subordinate to the principal use of the premises for residential purposes and the use does not materially or visually alter the character of the property as residential in character.

5. No goods are sold from the premises which are not strictly incidental to the principal home occupation conducted therein.

6. No occupation shall be conducted upon or from the premises which would constitute a nuisance or annoyance to adjoining residents by reason of noise, smoke, odor, electrical disturbance, night lighting, or traffic to the premises. Noise, smoke, odor, electrical disturbance or the source of lighting shall not be discernible beyond the boundaries of the property from which the occupation is conducted.

**B. Home Based Business:** Any activity conducted on the premises and accessory buildings and/or the premises serves as a base of operation from which to conduct the activity off-site, except a home occupation and a business conducting primarily retail sales, which is clearly secondary to a residential use, carried out for economic gain.

**Home Business Sign:** A sign containing only the name and occupation of a permitted home occupation.

**Hotel:** A building, other than a bed and breakfast facility and a boarding, lodging, or rooming house, occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) sleeping rooms and in which rooms there is no provision for cooking.

**Impervious Surface:** A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water.

**Industry:** A use engaged in manufacturing, fabricating, and/or assembly activities.

**Junkyard:** The use of premises or buildings, excluding recycling operations, for the storage, abandonment or bailment of inoperable automobiles, trucks, tractors and other such vehicles and parts thereof, scrap building materials, scrap contractor's equipment, appliances, tanks, cases, barrels, boxes, piping, bottles, drums, glass, rags, machinery, scrap iron, paper, and any other kind of scrap or waste material.

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

**Lake:** Any body of water, of considerable size, occupying a natural basin or depression below the natural drainage area of the region and serving to drain the surrounding area.

**Land Use Permit:** See Zoning Permit.

**Licensed Family Day Care Facility:** A state-licensed facility for the care of six (6) or less preschool and/or school-aged children or disabled adults.

**Licensed Group Day Care Facility:** A state licensed facility for the care of seven (7) and not more than twelve (12) preschool and/or school aged children or disabled adults.

**Loading Space:** An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading or unloading merchandise or materials. Off-street loading space is not to be included as an off-street parking space in computation of required off-street parking.

**Lot:** A parcel of land, either described by metes and bounds or by reference to a recorded plat, or a site condominium unit created in a recorded master deed, occupied or to be occupied by a use or building and its accessory buildings or structures together with such open space, minimum area, and width as required by this Ordinance for the zoning district in which it is located.

**Lot, Corner:** A parcel of land located at the intersection of two public or private streets or a lot bounded on two sides by a curving street. A corner lot has two front yards and two side yards. Front yard setback is required from all road frontages.

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

**Lot Depth:** The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

**Lot, Double Frontage:** A lot other than a corner lot, such as a through lot having frontage on two (2) more or less parallel public or private streets. In case of a row of double frontage lots, one street will be designated by the developer as the front street for all lots in the request for a zoning permit. If there are existing structures in the same block fronting on one (1) or both of the streets, the required front yard setback shall be observed on those streets where such structures presently front.

**Lot, Interior:** A lot other than a corner lot with only one (1) lot line fronting on a street.

**Lot Lines:** The property lines bounding the lot.

**Lot Line, Front:** In the case of an interior lot, the front lot line shall be the line separating the lot from the right-of-way of the abutting public or private street. In the case of a corner lot or double frontage lot, the front lot line shall be the line separating the lot from the abutting public or private street right-of-way designated as the front street in the first zoning permit issued for that lot. In the case of a waterfront lot, the front lot line shall be the ordinary high water line on the lot.

**Lot Line, Rear:** The lot line being opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet long lying farthest from the front lot line and wholly within the lot.

**Lot Line, Side:** Any lot line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

**Lot of Record:** A tract of land which is part of a recorded plat or subdivision shown on a plat or map which has been recorded in the Office of the Register of Deeds from Benzie County, Michigan; or a tract of land described by metes and bounds, which is the subject of a deed or land contract, which is likewise recorded in the Office of the Register of Deeds.

**Lot, Waterfront:** A lot having frontage directly upon a lake, stream or watercourse. The portion adjacent to the water is considered the water frontage.

**Lot Width:** The horizontal distance between the side lot lines, measured at the two (2) points where the front set back line intersects the side lot line. On a curved street, the lot width is measured along the curve of the setback line.

**Lot, Zoning:** A contiguous tract of land which at the time of filing for a zoning permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership.

**Manufactured Home:** see Dwelling, Manufactured.

**Master Plan or Comprehensive Plan:** The statement of policy by the Homestead Inland Joint Planning Commission relative to the agreed-upon desirable physical pattern of future community development. It consists of a series of maps, charts, and written material representing in summary form the community's conception of how it should grow in order to bring about the very best community living conditions.

**Mini-Storage Facility:** A building, group of buildings or portions of buildings, divided and offered to the public for a fee on a monthly or yearly basis for the storage of goods. Persons have joint access to the facility and individual access to a specific storage unit.

**Mobile Home:** see Dwelling, Mobile.

**Mobile Home Park:** A parcel of land which has been planned and improved for the placement of three (3) or more mobile homes designed or intended to be used as living facilities for one (1) or more families, on a continual or non-recreational basis, and which is licensable under Act 96 of the Public Act of 1987, as amended.

**Mobile Home Site:** A plot of ground within a licensed mobile home park designed for the accommodation of one mobile home.

**Motel:** A series of attached, semi-detached or detached rental units providing overnight lodging for transients, open to the traveling public for compensation.

**Municipal Civil Infraction Citation:** A written complaint or notice prepared by an authorized Township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

**Nonconforming Lot of Record:** A lot of record that legally existed on or before the effective date of this Ordinance or amendments thereto and does not meet dimensional requirements of this ordinance.

**Nonconforming Structure:** A building, structure, or portion thereof that lawfully existed before the effective date of this Ordinance or amendments thereto and that does not meet the floor area, setback, parking or other dimensional regulations for the zoning district in which such building or structure is located.

**Nonconforming Use:** A use which lawfully occupied a building or land at the effective date of this Ordinance or Amendments thereto that does not conform to the use regulations of the Zoning District in which it is located.

**Normal Grade:** Shall be construed to be the lower of (1) the existing grade prior to construction, or (2) the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign.

**Nude Model Studio:** Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

**Nudity or a State of Nudity:** Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

- A. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

- B. Material as defined in section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
- C. Sexually explicit visual material as defined in section 3 of Act No. 33 of Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

**Nursery, Plant Materials:** A space, building or structure, or combination thereof, for the growing and storage of live trees, shrubs, or plants as stock for budding and grafting, or offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery does not include space used for the sale of fruits or vegetables.

**Occupancy:** The purpose for which a dwelling unit or portion thereof is utilized or occupied.

**Occupant:** Any individual living or sleeping in a dwelling unit, or having possession of a space within a dwelling unit.

**Offices:** Refers to offices of private firms and organizations and government agencies which are primarily used for the execution of professional, executive, management or administrative services. These have relatively few on-premise customers and are relatively low traffic generators. Typical uses include legal, bookkeeping, architectural, engineering, medical and psychiatric offices.

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

**Open Air Businesses:** Businesses operated for profit, substantially in the open air, including but not limited to the following:

- A. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair or rental services.
- B. Outdoor display and sale of garages, motor homes, mobile home, snowmobiles, farm implements, swimming pools and similar activities.
- C. Retail sale of trees, fruit, 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 ranges, children's amusement park or similar recreation uses.

**Open Space:** Land upon which no structures, parking, rights-of-way, easements, sewage disposal systems (including backup areas for sewage disposal) or other improvements have or will be made that commit land for future use other than outdoor recreational use. Land proposed for outdoor recreational usage that will result in the development of impervious surfaces shall not be included as open space.

**Open Space Preservation:** A land development technique outlined in Act 177 of 2001, that allows a landowner to develop the same number of dwelling units on 50% or less of the land area of a parcel as would be allowed on the entire parcel under conventional development regulations.

**Operator:** Any person who owns or has charge, care or control of a dwelling unit which is offered for rent.

**Outdoor Storage:** The keeping of any goods, material, merchandise or vehicles in an open and unsheltered area for more than twenty four (24) hours.

**Parking Space:** An area of definite length and width exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

**Person:** An individual, firm, corporation, association, partnership, Limited Liability Company or other legal entity, or their agents.

**Pervious Surface:** A surface that permits full or partial absorption of storm water.

**Place of Worship:** A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

**Planning Commission:** For the purpose of this Ordinance the term Planning Commission is deemed to mean the Homestead Inland Joint Planning Commission.

**Playground:** Properties and facilities owned and operated by any governmental agency, or owned and operated by any private agency, including day care centers, which are open to the general public for recreation or day care purposes.

**Pick-up Camper:** See Recreational Vehicle.

**Porch, Enclosed:** A covered entrance to a building or structure which is totally enclosed, and projects out from the main wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

**Porch, Open:** A covered entrance to a building or structure which is unenclosed except for columns supporting the porch roof, and projects out from the main wall of said building or structure and has a separate roof or integral roof with principal building or structure to which it is attached.

**Political Sign:** A temporary sign announcing or supporting political candidates or issues in connection with any national, state or local election.

**Principal Use:** The main use to which the premise is devoted and the principal purpose for which the premise exists.

**Private Driveway:** A portion of a lot or site condominium unit or a permanent private easement used for vehicular ingress and egress to not more than two (2) lots or site condominium units.

**Private Drive:** A permanent way or easement that is not maintained by public authorities and that provides the principle means of access to not less than three (3), but not more than nine (9) existing or proposed lots or site condominium units.

**Private Street, Highway, or Road:** A permanent way or easement that is not maintained by public authorities and that provides the principle means of access to ten (10) or more existing or proposed lots or site condominium units.

**Public Sewer Systems:** A central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversion and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid waste of such a nature as to be capable of adversely affecting the public health operated and maintained by the general public.

**Public Utility:** Any person, firm, corporation, municipal department board, or commission fully authorized to furnish and furnishing, under Federal, State or municipal regulations, to the public, electricity, gas, steam, communications, cable television, telegraph, transportation, water services, or sewage disposal.

**Real Estate Sign:** A sign pertaining to the sale or lease of the premises, or a portion of the premises on which the sign is located.

**Recreational Unit or Vehicle:** A vehicle-type structure designed to be used primarily for recreational purposes, including temporary sleeping quarters and/or cooking facilities, or a unit designed to be attached to a vehicle and used for such purposes, including self-propelled motor homes, pickup campers, fifth wheel trailers, travel trailers, and tent trailers; PROVIDED, however, that any such vehicle or unit which is forty (40) feet or

more in overall length shall be considered a mobile home and shall be subject to all regulations of this Ordinance applicable to a mobile home.

**Recycling Facility or Operation:** A facility and the operations to collect and process solid waste as defined in the Solid Waste Management Act.

**Resort:** A recreational lodge, camp or facility operated for gain, and which provides overnight lodging and one or more of the following: golf, skiing, dude ranching, recreational farming, snowmobiling, pack trains, bike trails, boating, swimming, hunting and fishing and related or similar uses normally associated with recreational resorts.

**Restaurants:** Establishments where food and drink are prepared, served and consumed either within the principal building or on a take-out or drive-through basis.

**Roadside Stand:** An accessory and temporary farm structure operated for the purpose of selling local agricultural products, part of which are raised or produced on the same farm premises.

**Retail:** Any building or structure in which goods, wares, or merchandise are sold to the ultimate consumer for direct consumption and not for resale.

**School:** A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, and high schools. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

**Seasonal Use:** Any use or activity that can not be conducted or should not be conducted each month of the year.

**Setback:** The minimum required horizontal distance from the applicable lot lines within which no buildings or structures may be placed.

**Setback Line(s):** Line(s) established parallel to a lot line and along a highway or waters edge for the purpose of defining limits within which no building or structure or any part thereof shall be erected or permanently maintained.

**Sexual Encounter Center:** A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. 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.

**Sexually Oriented Business:** A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

**Short-term Rental:** A residential dwelling unit lawfully established under the Townships Zoning Ordinance and meeting all requirements of the Zoning Ordinance, which is non-owner occupied, renting to the transient public for compensation for a period of less than thirty (30) days, when not a hotel, motel, resort, boarding house, bed & breakfast, multiple family dwelling, or lodging or rooming house pursuant to a written or unwritten lease or agreement.

**Sign:** A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of and for the benefit of any product, place, activity, individual, firm, corporation, institution, profession, association, business or organization.

**Sign, Animated:** Any sign having a conspicuous and intermittent variation in the illumination or the physical position of any part of the sign.

**Sign, Freestanding or Ground:** A sign supported by permanent uprights or braces in the ground.

**Sign Height:** The distance from the base of the sign at normal grade to the top of the highest attached component of the sign. In cases of severe topography in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public or private road.

**Sign, Off Premise:** 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 sign is located. Tourist oriented directional signs, as provided by the Michigan Department of Transportation, are excluded from this definition.

**Sign, On Premise:** An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

**Sign, Outdoor Business or Informational:** A freestanding, overhanging or wall mounted sign located outside a structure on which is displayed information pertaining to a product, use, occupancy, function, service or activity located within that structure on the same property as the sign, or at a location different than the property on which the sign is located.

**Sign, Overhanging:** A sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

**Sign, Portable:** A sign that is designed to be transported, including but not limited to signs:

- With wheels removed;
- With chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T- frame signs;
- Attached temporarily to the ground, a structure, or other signs;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in normal day-to-day operations of that business;
- Menu and Sandwich boards;
- Searchlight stand; and
- Hot-air or gas-filled balloons or umbrellas used for advertising.

**Sign Surface:** That portion of a sign excluding its base, foundation and erection supports on which information pertaining to an idea, a product, use, occupancy, function, service, or activity is displayed.

**Sign, Wall mounted:** Any sign attached parallel to or painted on the exterior surface of a building or structure wall in such a manner that the sign does not extend beyond the surface of the wall to which it is attached.

**Site Plan:** The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this Ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

**Specified Anatomical Areas:** are defined as:

- A. Less than completely and opaquely covered human genitals, pubic regions, buttocks, anus and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state even if completely and opaquely covered.

**Specified Sexual Activities:** means and includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;

- 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) through (c) above.

**Special Uses:** Those uses of land which are not essentially incompatible with the permitted uses in a zoning district, but possess characteristics of locational qualities which require individual review and restriction in order to avoid incompatibility with the character of the surrounding area, public services, facilities and adjacent uses of land.

**Stable:** A structure used to house horses, either for the property owner's private use or for hire.

**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 be 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 (50%) percent of the area of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the next above it is twenty-four (24) feet or more.
- B. For the purpose of this Ordinance, a basement or cellar shall be counted as a story only if it is used for business purposes.

**Stream:** See Watercourse.

**Structural Change or Alteration:** See Alterations.

**Structure:** Anything constructed or erected, the use of which requires location on the ground or attachment to something having permanent location on the ground excluding driveways, fences and similar structures.

**Telecommunication Towers and Facilities or Towers:** All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and

governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

**Temporary Building and Use:** A structure or use permitted by this Zoning Ordinance to exist during periods of construction of the main building or for special events.

**Temporary Sign:** A sign, banner or other advertising device constructed of cloth, canvas, fabric, plastic or other light temporary material with or without a structural frame, or any other sign intended for a limited period of display.

**Tenant:** A person who is not the legal owner of record and who is occupying a dwelling unit pursuant to a written or unwritten rental lease or agreement.

**Toilet Room:** A room containing a water closet or urinal and a sink, but not a bathtub or shower.

**Trailer Coach:** See Recreational Vehicle definition.

**Travel Trailer:** See Recreational Vehicle definition.

**Undevelopable Land:** Land which has soil types or a high water table condition which present severe limitations on septic tanks and tile fields and on which no septic tank and tile field, or Health Department approved holding tanks can be legally constructed and to which no public, community or off-site sewer is extended.

**Undeveloped State:** A natural state preserving natural resources, natural features, or scenic or wooded conditions; open space; or similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, green way, or linear park. Land in an undeveloped state may be, but is not required, to be dedicated to the public.

**Use:** The lawful purpose of which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.

**Variance:** A variance granted upon a finding of practical difficulty by a zoning board of appeals other than for use, and typically from dimensional or numerical standards of the ordinance such as from setback or yard requirements, and where such a variance would not have the effect of permitting a use of land or a structure that is not otherwise permitted in the zoning district.

**Wall Sign:** A sign which is attached directly to a building wall with the horizontal sign surface parallel to the building wall, including signs painted on any building wall.

**Warehousing:** A building used primarily for the storage of goods and materials.

- A. Public Warehouse – A building used primarily for the storage of goods and materials and available to the general public for a fee.
- B. Private Warehouse – A building used primarily for the storage of goods and materials by the owner of the goods, or operated for a specific commercial establishment or group of establishments in a particular industrial or economic field.

**Watercourse:** Any waterway or other body of water having well defined banks, including rivers, streams, creeks, lakes, ponds, and brooks, whether continually or intermittently flowing.

**Waterfront Property:** See Lot, Waterfront.

**Water Mark, Ordinary High:** The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as a result of the permanent removal or abandonment of a dam, it means the natural ordinary high water mark.

**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 or aquatic life, and, that is commonly referred to as a bog, swamp, or marsh.

**Wind Energy Conversion System “WECS”:** The approved form of abbreviation of “wind energy conversion system”, and WECS shall consist of the combination of:

- A. A surface area, either variable or fixed, for utilizing the wind for electrical power; and
- B. A shaft, gearing, belt or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electrical-producing device; and
- C. A generator, alternator, or other device to convert the mechanical energy of the surface area into electrical energy; and
- D. The tower, pylon or other structure upon which any, all or some combination of the above are mounted.
- E. “Interconnected WECS”. A WECS which is electrically connected to the local electrical power utility system and which could feed power back into the local electrical power utility system.

- F. “Household WECS”. A WECS which supplies electricity to a single parcel with a design output of less than 20 KW per day, and does not generally flow electric energy to the utility system. Such a system supplements the electrical energy used at the dwelling and is connected to specific circuits which may have automatic transfer to the electrical utility to maintain a constant source of electric energy to the designated circuit. A household WECS may be allowed with a Land Use Permit in all zoning districts provided it complies with the applicable regulations and standards.
- G. “Commercial WECS”. A WECS that has a design output rated at 20 KW per day or greater, and is allowed in all zoning districts by Special Use Permit and as regulated.
- H. “Survival Wind Speed”. The maximum wind speed as designated by the WECS manufacturer at which a WECS in unattended operation but not necessarily producing power, is designed to survive without damage to any structural equipment or loss of the ability to function normally.
- I. “Tower Height”
  - 1. Horizontal Axis Wind Turbine Rotors: The distance between the ground and the highest point of the WECS as measured from the ground, plus the length by which the rotor blade on a horizontally mounted WECS exceeds the structure which supports the rotor and the blades.
  - 2. Vertical Axis Wind Turbine: The distance between the ground and the highest point of the WECS.

**Yard:** An open space between a building and the lot lines of the parcel which is unoccupied or unobstructed by an encroachment or structure except as otherwise provided by this Ordinance.

**Yard, Front:** A yard across the full width of the lot extending from the front line of the principal building to the front lot line.

**Yard, Rear:** A yard extending across the full width of the lot from the rear line of the building to the rear lot line.

**Yard, Side:** A yard between the side lot line and the nearest side of the building extending between the front yard and the rear yard.

**Yield Plan:** A plan showing layout and density as allowed under conventional zoning regulations to be used to determine overall density and number of buildable parcels, lots or condominium units under the Open Space Preservation provisions of this Ordinance as required by Act 110 of 2006, as amended.

**Zoning Permit:** A zoning permit is written authority as issued by the Zoning Administrator on behalf of the Townships permitting the construction, moving, exterior alteration or use of a building or property in conformity with the provisions of this Ordinance.