



OTSEGO COUNTY LAND USE SERVICES, PLANNING AND ZONING DEPARTMENT

MEMORANDUM

TO: OTSEGO COUNTY TOWNSHIPS

FROM: CHRIS CHURCHES, DIRECTOR OF PLANNING & ZONING, CAPITAL PROJECTS & GRANTS, OTSEGO COUNTY

SUBJECT: TOURIST HOME DEFINITION

DATE: 7/21/2020

Otsego County Townships,

Enclosed is a proposed text amendment to the Otsego County Zoning Ordinance. The amendment adds a definition to the term "Tourist Home" under Article 2 of the Ordinance. Prior to the proposed amendment, the definition of Tourist Home referred to the definition of Bed and Breakfast. This resulted in conflicting interpretations of the use in certain districts, specifically that a dwelling must be occupied to be used as a Tourist Home. The proposed amendment would clarify this in that it would permit a dwelling to be used as a Tourist Home regardless of family occupancy.

As always, please do not hesitate to reach out with any questions or concerns.

Sincerely,

Christopher Churches
Director of Planning & Zoning, Capital Projects & Grants

*****AMENDMENT CHANGES / ADDITIONS ARE UNDERLINED WITH RED TEXT**

*****AMENDMENT DELETIONS ARE STRUCK**

ARTICLE 2 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Amended 5.20.2020

SECTION 2.1 CONSTRUCTION OF LANGUAGE

The following rules of construction apply to the text of this Ordinance:

- 2.1.1** The particular shall control the general.
- 2.1.2** In case of a difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- 2.1.3** Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- 2.1.4** A "building" or "structure" includes any part thereof.
- 2.1.5** The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
- 2.1.6** The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
- 2.1.7** Terms not herein defined shall have the meaning customarily assigned to them.
- 2.1.8** The term "including" means "including but not limited to." It is a term which introduces examples but does not limit the provision to only those examples.
- 2.1.9** Terms referring to the Michigan Department of Natural Resources (DNR) shall be understood to refer to the Michigan Department of Environmental Quality (DEQ) where appropriate.
- 2.1.10** Reference to Soil Erosion and Sedimentation Control as Part 91 of PA 451 shall be understood to mean MCLA Sections 324.9101 through 324.9123 of the Natural Resources and Environmental Protection Act of 1994.

SECTION 2.2 DEFINITIONS

ACCESSORY STRUCTURE: A building, the use of which is incidental to that of the main building, or main use, and which is located on the same lot. Total square footage of accessory structures which includes all levels and any attic area will be used to determine compliance with the lot coverage requirement in Article 17.

ACCESSORY USE: A use incidental to the principal use of a building or property as defined or limited by the provisions of this Ordinance.

ADULT ENTERTAINMENT USE: Any use of land, whether vacant or combined with structures or vehicles thereon by which said property is devoted to displaying or exhibiting material for entertainment, a significant portion of which includes matter or actions depicting, describing, or presenting "specified sexual activities: or "specified anatomical areas."

Adult entertainment uses shall include:

Adult book or video establishment: An establishment having a substantial or significant portion of its stock in trade books, magazines or other publications, video recordings and films which are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," or an establishment with a segment or section devoted to the sale, rent or display of such material.

Adult cabaret: A nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, or similar entertainers, where a significant portion of such performances show, depict, or describe "specified sexual activities" or "specified anatomical areas."

Adult motel: A motel wherein matter, actions or other displays are presented which contain a significant portion depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

Adult motion picture arcade: Any place where the public is invited or permitted wherein coin - or slug/token-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images and where a significant portion of images so displayed depict, describe or relate to "specified sexual activities" or "specified anatomical areas."

Adult motion picture arcade: Any place where the public is invited or permitted wherein coin - or slug/token-operated or electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images and where a significant portion of images so displayed depict, describe or relate to "specified sexual activities" or "specified anatomical areas."

Adult motion picture theater: An enclosed building or open-air site with any size seating capacity used for presenting motion pictures distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

Adult sexual encounter center: Any business, agency, or person who, for any form of consideration or gratuity, provides a place where three (3) or more persons, not all members of the same family, may congregate, assemble, or associate for the purpose of engaging in "specified sexual activities" or conduct involving "specified anatomical areas."

Adult entertainment use is further defined by these terms:

Specified anatomical areas: Less than completely covered human genitals, pubic regions, buttocks, and the areola or nipple of female breasts - Also, human male genitals in a discernibly turgid state, even if completely and opaquely covered

Specified sexual activities: Human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, and fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast.

AGRICULTURE OR AGRICULTURAL USE: Cultivating or using land for the production of crops for the use of animals or humans including, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry. An agricultural building does not include a building used for retail trade.

ALTERATIONS: Any change, addition, or modification in construction or type of occupancy, or in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

ANTENNA: An 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 frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

ANEMOMETER: An instrument for measuring and recording the speed of the wind.

ANEMOMETER TOWER: A structure, including all accessory facilities, temporarily erected, on which an anemometer is mounted for the purposes of documenting whether a site has wind resources sufficient for the operation of a wind turbine generator.

APARTMENTS: [See [DWELLING, MULTIPLE FAMILY](#)]

AUTO REPAIR GARAGE: A place where the following auto services may be carried out: general repair, engine rebuilding, collision service, painting, undercoating, and rust proofing. The sale of engine fuels and lubricants may be included.

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. If the vertical distance from the grade to the ceiling is over five feet (5'), such basement shall be rated as a first story.

BED AND BREAKFAST: Any dwelling used or designed in such a manner that certain rooms in excess of those used by the family and occupied as a dwelling unit, are rented to the transient public for compensation; this includes establishments that comply with Public or State Statutes. Such a use shall have the appearance of a single-family residence and be consistent with surrounding neighborhood character.

BILLBOARDS: A billboard shall mean any structure or portion thereof designed or intended to be used for posting, painting, or otherwise affixing any sign which does not pertain to the premises, or to the use of premises on which the billboard is located, or to goods sold or services rendered, or activities conducted on such premises.

BUILDING: A structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support or enclosure of persons, animals or property of any kind.

BUILDING HEIGHT: The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs; and the average height between the eaves and ridge for gable, hip, and gambrel roofs. "A" frame structures shall be measured to the highest point of the building. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

BUILDING LINE: A line formed by the face of the building, a building line is not to be used when determining setbacks.

BUILDING LENGTH: The greatest overall linear dimension of a building measured at the building footprint.

BUILDING WIDTH: The greatest distance between two (2) sides of a building which extend half or more of its length as measured at the building footprint

BUILD-TO-AREA: The space within the Build-to-Line and the Lot Line Sides. The Build-to-Area may vary a distance on either side of the Build-to-Line. The distance is determined by measuring the number of feet between the Build-to-Line and the public right-of-way and multiplying the number of feet by ten percent (10%).

BUILD-TO-LINE: The line of vertical plane formed by the planned building façade that is parallel to the road right-of-way and extends to and coincides with the plane of the front façade of existing or planned buildings along the same right-of-way.

CARE FACILITY, COMMERCIAL DAY: A facility receiving more than twelve (12) minor children or adults for care for periods of less than twenty-four (24) hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meeting, or by a fitness center or similar operation, shall not be considered Commercial Day Care.

CARE FACILITY, CONVALESCENT OR NURSING HOME: A facility with sleeping accommodations where persons are housed twenty-four (24) hours a day and furnished with meals, nursing and medical care.

CARE FACILITY, FAMILY: A facility required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes, or those suffering the effects of drugs or alcohol, for more than one (1) but less than seven (7) adults. Care for persons related by blood, marriage, or adoption to a member of the family occupying the facility is excluded from this definition. This does not include commercial day care facilities, family child care homes, group child care homes, foster homes, schools, hospitals, jails or prisons.

CARE FACILITY, GROUP: A facility required to be licensed by the state, which provides training, care, supervision, treatment and/or rehabilitation to the aged, disabled, those convicted of crimes, or those suffering the effects of drugs or alcohol, for at least seven (7) but not more than twelve (12) adults. Care for

persons related by blood, marriage, or adoption to a member of the family occupying the facility are excluded from this definition. This does not include commercial day care facilities, family child care homes, group child care homes, foster homes, schools, hospitals, jails or prisons.

CHILD CARE HOME, FAMILY: A private home in which one (1) but fewer than seven (7) minor children are received for care and supervision for compensation 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 household by blood, marriage, or adoption. Family child care home includes a home in which care is given to an unrelated minor child for more than four (4) weeks during a calendar year. A family child care home does not include an individual providing babysitting service for another individual. This definition is intended to be pursuant to the Child Care Organizations Act, MCL 722.111

CHILD CARE HOME, GROUP: A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption. This definition is intended to be pursuant to the Child Care Organizations Act, MCL 722.111

CLIMBING BARRIER: Material attached to the lowest eight feet (8') of a lattice tower for the prevention of using structural cross members as a ladder; a safety feature to discourage climbing by unauthorized individuals

CLUB: An organization of persons for the promulgation of sports, arts, sciences, literature, politics, or the like.

CO-LOCATION: The location of two (2) or more communication providers of wireless communication facilities on a common structure, tower or building, with the view toward reducing the overall number of structures required to support wireless communication antennas with the County.

COMMERCIAL MOTOR VEHICLE: Any self-propelled or towed vehicle designed or used on public highways to transport passengers or property, if the vehicle meets one or more of the following:

Has either a gross vehicle weight rating or actual gross weight or gross combination weight rating or an actual gross combination weight of ten thousand and one pounds (10,001 lbs.) or more;

Is designed for carrying sixteen (16) or more passengers, including the driver;

Is used in the transportation of hazardous materials in a quantity that requires the vehicle to be marked or placarded.

CONDOMINIUM PROJECT: Means a plan or project consisting of not less than two (2) condominium units if established and approved in conformance with the Condominium Act (Act 59, 1978).

CONDOMINIUM SUBDIVISION: A division of land on the basis of condominium ownership, which is not subject to the provisions of the Subdivision Control Act of 1967, Public Act 288 of 1967, as amended. Any "condominium unit", or portion thereof, consisting of vacant land shall be equivalent to the term "lot" for the purposes of determining compliance of a condominium subdivision with the provisions of this ordinance pertaining to minimum lot size, minimum lot width, and maximum lot coverage.

CONDOMINIUM SUBDIVISION PLAN: The drawings attached to the master deed for a condominium subdivision which describes the size, location, area, horizontal and vertical boundaries and volume of each condominium unit contained in the condominium subdivision, as well as the nature, location and size of common elements.

CONDOMINIUM UNIT: Means that portion of a condominium project or condominium subdivision which is designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, use as a time-share unit, or any other type of use. A condominium unit may consist of either vacant land or space which either encloses or is enclosed by a building structure.

COUNTY: Where used in this Ordinance, shall mean the County of Otsego, State of Michigan.

COURTYARD: An unroofed area that is completely or mostly enclosed by the walls of a large building.

DEVELOPMENT: The construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

DISTRICT: A portion of the county lying outside the limits of incorporated cities and villages of the county within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance (also a zone).

DRIVE-IN: A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking area for vehicles, so customers may receive goods or services for use or consumption on the premises while remaining in their vehicles.

DRIVE-THROUGH: A business establishment so developed that it's retail or service character is dependent on providing a driveway approach and vehicle service window for vehicle access so customers may receive goods or services for use or consumption off the premises.

DRIP LINE: An imaginary line drawn around the base of a tree to connect the points where drips would fall straight down from the outermost tips of the tree's branches. The drip line generally delineates the ground area containing the root system near the surface which is most sensitive to disturbance

DWELLING UNIT: A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation

DWELLING, ONE-FAMILY: A building containing not more than one (1) dwelling unit designed for residential use

DWELLING, TWO-FAMILY (DUPLEX): Dwelling, Two-Family - A building containing two (2) separate dwelling units designed for residential use.

DWELLING, MULTIPLE-FAMILY: A building containing three (3) or more dwelling units designed for residential use and including a rooming house, bed and breakfast, tourist home, apartment house, group quarters, or extended care facility for seven (7) or more persons, such as adult foster care or alternative institutional setting home. State-licensed residential facilities shall be considered as single-family dwellings when questions of overcrowding and safety are addressed by the state agency issuing the license.

ERECTED: Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and the like.

ESSENTIAL SERVICES: The erection, construction, alteration or maintenance of underground, surface, or overhead gas, electrical, steam or water transmission or distribution systems; collection, communication, supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, electrical substations, gas regulator stations, and other similar equipment, and applicable accessories reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health, safety, and general welfare. Provided, however, that wireless telecommunication towers and facilities, alternative tower structures, antennas, wind turbine generators and anemometer towers shall not be considered essential services.

EXCAVATION: Any breaking of ground, except common household gardening and ground care.

FAMILY: One (1) or two (2) related persons or parents with their direct lineal descendants and adopted children (and including the domestic employees thereof), together with not more than three (3) persons not so related, living together as a single housekeeping unit.

FARM: Structures, facilities and lands of twenty (20) acres or more for carrying on of any agricultural use or the raising of livestock or small animals as a source of income. [See also [AGRICULTURE](#)]

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

FENESTRATION: The arrangement of windows and doors on the elevations of a building.

FLOOR AREA, USABLE (FOR COMPUTING PARKING): That area used for, or intended to be used for, the sale of merchandise or services, or for use to serve patrons, clients, or customers. Floor area used, or intended to be used, for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded for the computation of "Usable Floor Area" All floor levels shall be counted.

FLOWAGE: Body of water impounded by a dam, used interchangeably with reservoir, impoundment, and flood water.

GARAGE, PRIVATE: A building used for the non-commercial storage of property owned by the owners of the parcel on which the building is located.

GARBAGE: The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food. A self-contained compost pile is not considered garbage.

GASOLINE SERVICE STATION: A place primarily operated and designed for the dispensing, sale, or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories.

GLAZING: Furnishing or fitting with glass all surfaces on a fenestration.

GOLF COURSE POLICY GUIDELINES: Policy Guidelines for Minimizing Environmental Impacts from Golf Course Development in Otsego County, published by the Otsego County Water Quality Committee and the Northeast Michigan Council of Governments, as adopted by resolution of the Otsego County Planning Commission.

GRADE: 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 ground is not level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

GUEST HOUSE: A building accessory to the main dwelling constructed under the same standards as those required for the main dwelling used for housing guests - A shared septic system does not by itself qualify the building as a guest house.

HAZARDOUS SUBSTANCES: Substances which are toxic, corrosive, flammable, combustible, radioactive, or capable of producing substantial injury through handling, use, or ingestion.

HOME OCCUPATION: The partial use of a home for commercial or nonresidential uses by a resident thereof, which is subordinate and incidental to the use of the dwelling for residential purposes. Family or group child care homes shall not be considered a home occupation and shall be regulated by 2006 PA 110, MCL 125.3206 and 1973 PA 116, MCL 722.111 to 722.128.

IMPERVIOUS SURFACE: A material incapable of being penetrated by water and other liquids. Under conditions where spills are to be retained, retention capability must be sufficient to contain one hundred twenty-five percent (125%) of any reasonably foreseeable spill for any reasonably foreseeable period necessary and have sufficient strength and durability to remain intact under reasonably foreseeable conditions. For the purpose of calculating storm water runoff, impervious surfaces shall include all roofs, slabs, pavements and gravel drives and parking lots.

JUNK: Junk includes, but is not limited to, broken and/or inoperable machinery or vehicles, or parts relating to machinery or vehicles, or broken and unusable furniture, stove, refrigerators, or other appliances.

JUNK YARD: An open area where waste, used or second-hand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled, including scrap iron and other metals, paper, rags, rubber tires, and bottles. Junkyard also includes any area of more than 200 sq. ft. used for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

JUNK YARD - AUTOMOTIVE: An area or facility for the storage, wrecking, or salvage of parts from inoperable motorized vehicles including cars, trucks, tractors, buses, etc., containing more than four (4) vehicles, or occupying an area of 200 sq. ft. or more.

KENNEL: A kennel is a use that includes indoor or outdoor facilities for the boarding, for profit, of dogs or other household pets which are owned by others as a commercial business.

LIGHTS: Flashing, intermittent or moving – a light that blinking, flashing, or fluttering lighting, including changes in light intensity, brightness or color except as provided for in [21.38.3.1](#).

LOADING SPACE: An off-street space on the same lot with a building for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials

LOT: Land described in a recorded plat or by metes and bounds description, including a condominium unit in a condominium subdivision, occupied or to be occupied by a building, structure, land use or group of buildings having sufficient size to comply with the frontage, area, width-to-depth ratio, setbacks, yards, coverage, open spaces and buildable area requirements of this Ordinance, and having its principal frontage upon a public street or on a private road approved by the County.

LOT AREA: The total horizontal area within the lot lines of the lot, excluding public or private streets, roads, right of ways or easements dedicated for the purpose of vehicle access or transit.

LOT - CORNER: A lot which occupies the interior angle at the intersection of two (2) streets, which make an angle of less than one hundred thirty-five degrees (135°).

LOT - INTERIOR: Any lot other than a corner lot.

LOT - THROUGH: Any interior lot having frontage on two (2) more or less parallel streets as distinguished from a corner lot. In the case of a row of double frontage lots, all sides of said lots adjacent to streets shall be considered frontage, and front yards shall be provided as required (also a double frontage lot).

LOT COVERAGE: That portion of the lot occupied by main and accessory buildings

LOT DEPTH: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

LOT LINES: The lines bounding a lot as defined herein:

LOT LINE - FRONT: In the case of an interior lot, the line separating said lot from the street. In the case of a corner lot, the front lot line is that line separating said lot from the street which is designated.

LOT LINE - REAR: That lot line opposite the front lot line. In the case of a lot pointed at the rear (pie-shaped), the rear lot line shall be an imaginary line at least ten feet (10') long, parallel to the front lot line, but inside the side lot lines.

LOT LINE - SIDE: Any lot line other than the front lot line or rear lot line.

LOT OF RECORD: A parcel of land, the dimensions of which are shown on a document or map on file with the County Register of Deeds or in common use by County Officials, and which actually exists as so shown, or any part of such parcel held in record ownership separate from that of the remainder thereof.

LOT WIDTH: The horizontal distance between the side lot lines, measured at the two (2) points where the building line or setback line intersects the side lot lines.

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 or control.

A Zoning Lot may or may not coincide with a lot of record as filed with the County Register of Deeds, and may include one (1) or more lots of record.

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

MAIN USE: The principal use to which the premises are devoted and the principal purpose for which the premises exist.

MANUFACTURED HOME: [See [MOBILE HOME](#)]

MANUFACTURED HOUSING PARK: A parcel or tract of land under the control of a person upon which three (3) or more mobile 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 mobile home.

MARINA: A facility which is owned or operated by a person, extends into or over an inland lake or stream and offers service to the public or members of the marina for docking, loading or other servicing of recreational watercraft.

MASTER PLAN: The County Comprehensive Plan as may be amended or updated, including graphic and written proposals indicating general locations for roads, streets, parking, schools, public buildings, and other physical development features, including resource conservation objectives.

MOBILE HOME: Means a structure, transportable in one (1) or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

MUNICIPAL CIVIL INFRACTION: The words “municipal civil infraction” means an act or omission that is prohibited by the Otsego County Zoning Ordinance or the Otsego County Municipal Civil Infractions Ordinance, and for which civil sanctions, including fines, damages, expenses and costs, may be ordered. A municipal civil infraction is not a lesser included offense of a violation of the Otsego County Zoning Ordinance that is a criminal offense.

NEO-TRADITIONAL: Reviving traditional methods; combining tradition with newer elements.

NONCONFORMING BUILDING: A building or portion thereof lawfully existing at the effective date of this Ordinance, or amendments thereto, that does not conform to the provisions of the Ordinance in the district in which it is located.

NONCONFORMING USE: A use which has lawfully occupied a building or land at the time this Ordinance, or amendments thereto, became effective, that does not conform to the use regulations of the district in which it is located. (Commonly referred to as “grandfathered”)

NURSERY, PLANT MATERIALS: A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants 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.

NUISANCE FACTORS: An offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as: noise, dust, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people, particularly at night, and passenger traffic.

OFF-STREET PARKING LOT: A parking area off the street, which may require drives and aisles for maneuvering, for the parking of four (4) or more vehicles.

ORDINARY HIGH-WATER LINE: On an inland lake which has a level established by law, it means the high established level. Otsego Lake has a High-Water Line established by law which is a 1273.5 elevation.

The elevation is maintained by the County Road Commission. For other lakes in the County it means the line between upland and bottom land which 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. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark.

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

PERSONAL WIRELESS SERVICES TELECOMMUNICATIONS TOWERS AND FACILITIES: Self-supporting or guyed towers of one hundred fifty feet (150’) or less that provide data and internet access

within a three to five (3-5) mile radius. These low wattage towers are a Permitted Use Subject to Special Conditions. [See [Section 21.46](#)]

Section 322(c)(7) of the Federal Communications Act uses the following definitions:

(i) the term “personal wireless services” means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services;

(ii) the term “personal wireless service facilities” means facilities for the provision of personal wireless services; and

(iii) the term “unlicensed wireless service” means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.

PLANNING COMMISSION: Shall mean the Otsego County Planning Commission

PLAZA: A public square in a city or town; an open area usually located near urban buildings and often featuring walkways, trees and shrubs, places to sit and sometimes shops.

POLLUTING MATERIALS: Materials which are capable of adversely affecting air or water resources by altering odor, taste, color, or physical or chemical composition to a degree that public health or biological communities are threatened - Examples of Polluting Materials include fertilizers and pesticides.

PRACTICAL DIFFICULTY: A situation whereby a property owner cannot establish a “minimum practical” legal use of a legal lot or parcel, while meeting all of the dimensional standards of the zoning district within which the lot is located. Situations occurring due to the property owner’s desire to establish a use greater than the “minimum practical” use or created by an owner subsequent to the adoption date of this Ordinance is not a practical difficulty.

PUBLIC UTILITY: A firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State, or municipal regulations to the public: gas, steam, electricity, sewage disposal, communication, telegraph, transportation, or water.

RACE TRACK: A way improved, designed, constructed, excavated or ordinarily used for traffic in racing, or training or testing for racing. It includes all racing by motorized vehicles and all racing activities accompanied by spectators but does not include walking or hiking trails used exclusively by humans. Racing means a competitive event in which time is a determining factor.

RESORT: A recreational camp or facility operated for gain, and which provides overnight lodging and one or more of the following activities: golf, skiing, dude ranching, recreational farming, snowmobiling, pack trains, non-motorized bicycle trails, boating, swimming and related or similar uses normally associated with recreational resorts.

ROAD, PRIVATE: A road owned and maintained by a private individual, group of individuals, or a corporate entity, that provides the principal means of access for vehicular traffic to more than three lots, parcels, or site condominium units.

ROADSIDE STAND: An accessory and temporary farm structure operated for the purpose of selling local agricultural products.

SERVICE ROADS: Local roads that parallel an expressway or through street and that provide access to property near the expressway or through street.

SETBACK: The distance required to meet the front, side and rear yard open space requirements of this ordinance as measured from the lot lines or Road Right of Way to the fascia of the roof overhang or to the closest point of a deck or porch, not including steps, whichever is less.

SHOOTING RANGE: An area designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport shooting at targets.

SHORELAND: Land paralleling the lake shoreline, fifty feet (50’) wide as measured from the ordinary high-water level. And the land paralleling the banks of all rivers, streams and flowages of water in the

County that appear on the most recent U.S. Geological Survey Quadrangle maps, one hundred fifty feet (150') wide, measured from the ordinary high-water level, landward, at right angles or radial to the shoreline or bank, on a horizontal plane.

SIGN: The use of any words, numerals, figures, devices, designs or trademarks by which anything is made known such as are used to show an individual, firm, profession or business, and are visible to the general public. Accessory signs pertain to uses, activities or services conducted on the premises where located.

SIGN FACE: The part of a sign structure which is used to graphically communicate a message or announcement including a border space of not less than three inches (3") outside of any lettering or other graphic symbols or depictions.

STORY: That part of a building, except a mezzanine and/or basement, between the surface of one (1) floor and the surface of the next floor, or if there is no floor above, then the ceiling next above.

STREET OR ROAD: A right-of-way, affording the principal means of access to abutting property. Alleys differ in that they offer a secondary means of access to abutting property.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

TEMPORARY BUILDING OR USE: A use of a building or premises permitted by the Board of Appeals to exist during periods of construction of the main building or use, or for special events.

TOURIST HOME: A building containing not more than one (1) dwelling unit used or designed for rent to the transient public for compensation. Such a use shall have the appearance of a one (1) family dwelling and be consistent with surrounding neighborhood character. The dwelling need not be occupied by the family to be used as a Tourist Home. {See BED & BREAKFAST}

TRAVEL TRAILER AND/OR CAMPER: Any trailer, trailer coach, motor home, tent camper, truck-mountable camper, or other unit designed as a vacation or traveling unit for short term occupancy, and which unit is legally licensed or licensable for towing or travel over public highways by ordinary domestic vehicle.

UNNECESSARY HARDSHIP: A situation whereby a property owner, due to the unique or unusual conditions of a lot or parcel, cannot meet specific standards set by the Ordinance within the subject zoning district. Situations created by an owner subsequent to the enactment of this Ordinance shall not be deemed an unnecessary hardship.

USE: The principal purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied. An accessory use is subordinate and clearly incidental to the principal use.

USES SUBJECT TO SPECIAL CONDITIONS: Refers to special land uses pursuant to PA 110 of 2006, as amended and also pursuant to uses referred to in this Ordinance as special approvals, special uses, special land uses, or conditional uses authorized by special permit.

VARIANCE: A modification of the literal provisions of the Zoning Ordinance which is authorized by the Zoning Board of Appeals when strict enforcement of the Ordinance would cause practical difficulties or unnecessary hardship for the property owner.

VEHICLE: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices exclusively moved by human power or used exclusively upon stationary rails or tracks and excepting a mobile home as defined in Section 2 of Act No. 419 of the Public Acts of 1976, being section 125.1102 of the Michigan Compiled Laws.

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

VEHICLE SERVICE STATION: A building and lot or parcel designed or used for the retail sale of fuel, lubricants, air, water or other operating commodities for vehicles, and including customary space and facilities

for the installation of such commodities on or in such vehicles and including space for vehicle storage, minor repair and servicing

WETLANDS: 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 is commonly referred to as a bog, swamp, marsh, or other areas such as flood plains or environmental areas designated as such in the County Comprehensive Plan or other county, state, or federal documents.

WIND TURBINE GENERATOR (WTG): A tower, pylon, or other structure and any, all or some combination of the following:

1. A wind vane, blade, or series of wind vanes or blades, or other devices mounted on a rotor for the purpose of converting wind into electrical or mechanical energy.
2. A shaft, gear, belt, or coupling device used to connect the rotor to a generator, alternator, or other electrical or mechanical energy producing device.
3. A generator, alternator, or other device used to convert the energy created by the rotation of the rotor into electrical or mechanical energy.

WIND TURBINE GENERATOR HEIGHT: The distance between the ground and the highest point of the wind turbine generator, regardless whether that point is on a fixed or mobile part of the wind turbine generator.

WIND TURBINE GENERATOR- BUILDING-MOUNTED: An on-site Wind Turbine Generator (WTG) used to generate electricity or produce mechanical energy for use on the property where it is located and attached to the building's roof, walls, or other elevated surface.

WIND TURBINE GENERATOR - LARGE: A commercial Wind Turbine Generator (WTG) used to generate and provide electricity to the electric utility grid. It may include nearby accessory facilities necessary to supply and transfer the electricity to the utility grid. These WTGs are greater than one hundred twenty feet (120') in height and shall not exceed four hundred feet (400').

WIND TURBINE GENERATOR - MEDIUM: An on-site Wind Turbine Generator (WTG) used to generate electricity or produce mechanical energy for use on the property where it is located having a height of greater than sixty feet (60') but less than or equal to one hundred twenty feet (120').

WIND TURBINE GENERATOR - SMALL: An on-site Wind Turbine Generator (WTG) used to generate electricity or produce mechanical energy for use on the property where it is located having a height of sixty feet (60') or less.

YARDS: The open spaces on the same lot with a main building, unoccupied and unobstructed from the ground upward except as otherwise provided in this Ordinance, and as defined herein:

YARD - FRONT: An open space extending the full width of the lot the depth of which meets the setback requirements of the zoning district. [See [SETBACK](#)]

Corner Lots: Shall provide front yard setbacks on all streets, frontages, or future road easements that have or may potentially have adjacent lots fronting on the same street (or across there from).

YARD - REAR: An open space extending the full width of the lot, the depth of which meets the setback requirements of the zoning district. In the case of a corner lot, the rear yard may be opposite either street frontage. [See [SETBACK.](#)]

YARD - SIDE: An open space which meets the setback requirements of the zoning district, extending from the front yard to the rear yard. [See [SETBACK](#)]

ZONING ADMINISTRATOR: The official designated by the County Board of Commissioners to administer and enforce the provisions of the Ordinance - The Zoning Administrator may be the Building Official, Building Inspector or other person charged with the responsibility of administering building, land use and/or other codes in Otsego County