

CHAPTER III

DEFINITIONS

SECTION 3.01 RULES APPLYING TO TEXT. *The following listed rules of construction apply to the text of this Ordinance.*

- (a) The particular shall control the general.
- (b) With the exception of this Chapter, the headings which title a chapter, the headings which title a chapter, section or subsection are for convenience only and are not to be considered in any construction or interpretation of this Ordinance in any respect.
- (c) The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- (d) Unless the context clearly indicates to the contrary, (1) words used in the present tense shall include the future tense; (2) words used in the singular number shall include the plural number; and (3) words used in the plural number shall include the singular number.
- (e) A “building” or “structure” includes any part thereof.
- (f) The word “person” includes a firm, association, partnership, joint venture, corporation, trust, or equivalent entity or a combination of any of them as well as natural person.
- (g) The words “used” or “occupied”, as applied to any land or building shall be construed to include the words “intended”, “arranged”, “designed to be used”, or “occupied”.
- (h) Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

The following listed terms and words are defined for the purpose of their use in this Ordinance; these definitions shall apply in the interpretation and enforcement of this Ordinance unless otherwise specifically stated.

SECTION 3.02 ACCESSORY USE, BUILDING OR STRUCTURE. *A use, building, structure or portion of a building supplementary and/or subordinate to a main use or building on the same lot occupied by or devoted exclusively to a principle use. When an accessory building is attached to a main building in a substantial manner, such as a wall, roof, breezeway or other roofed or enclosed passage, the accessory building is considered a part of the main building.*

Ord No. 74, eff 4-13-09

SECTION 3.03 ALTERATIONS, STRUCTURAL. *Any change in the supporting members of a building or structure such as bearing walls, columns, beams or girders, any substantial change in the roof, or an addition to or diminution of a structure or building.*

SECTION 3.04 AUTOMOBILE REPAIR-MAJOR. *General repair, rebuilding, or reconditioning of engines or vehicles; collision service (including body repair and frame straightening); painting or upholstering; or vehicle steam cleaning and undercoating.*

SECTION 3.05 AUTOMOBILE REPAIR-MINOR. *Minor repairs, incidental replacement of parts, or motor service to passenger automobiles and trucks not exceeding two (2) tons capacity; provided, however, there is excluded any repair or work included in the definition of "Automobile Repair-Major".*

SECTION 3.06 BASEMENT. *A portion of a building, or a portion of a room, located wholly or partially below grade, but not including any part thereof not so located.*

SECTION 3.07 BILLBOARDS AND SIGNS.

- (a) Billboard - Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment which is not conducted on the land upon which the structure is located or products not primarily sold, manufactured, processed or fabricated on such land.
- (b) Business Sign - Any structure, including the wall of any building, on which lettered, figured, or pictorial matter is displayed for advertising a business, service, or entertainment conducted on the land where the structure is located, or products primarily sold, manufactured, processed, or fabricated on such land.
- (c) Real Estate Sign - Any temporary structure used only to advertise with pertinent information the sale, rental, or leasing of the premises upon which it is located.
- (d) Identifying Sign - Any structure on the same premises it identifies which serves only (1) to tell the name or use of any public or semipublic building or recreation space, club, lodge, church, or institution; (2) only to tell the name or address of an apartment house, hotel, or motels; or (3) only to inform the public as to the use of a parking lot.

- (e) Name Plate - A structure affixed flat against the wall of a building which serves solely to designate the name or the name and profession or business occupation of a person or persons occupying the building.

SECTION 3.08 BUILDING. *Any structure which is constructed or erected, or positioned, either temporary or permanent, having a roof supported by columns, walls, or any other supports, which is used for housing, storing, or enclosing persons, animals, or personal property or conducting business activities or other uses. When any portion thereof is completely separated from every other part thereof by division of walls from the ground up, and without enclosed passageways or openings, each portion of such building is deemed a separate building. The definition includes mobile homes or mobile structures, pre-manufactured or pre-cut structures, movable storage units, freight containers, and semi-trailers positioned or installed on property and serving in the function of a building.*

Ord No. 74, eff 4-13-09

SECTION 3.09 BUILDING HEIGHT. *The vertical distance measured from the top of the main or ground level foundation wall, whichever is lowest, to the highest point of the roof surface of flat roofs, to the deck of mansard roofs, and to the main height level between eaves and ridge of gable, hip, and gambrel roofs.*

SECTION 3.10 BUILDING SETBACK LINES – MINIMUM FRONT, SIDE AND REAR: *Lines marking the setback distance for buildings measured from the respective front, side, and rear lot lines, from which are derived the minimum permitted front, side or rear yards(ref. definition of “Yard”). Also referred to as “setback lines” and “building lines”. The “minimum building setback” is the minimum depth of a front, side or rear “yard” necessary to conform to the required yard provisions of this ordinance (ref. definition of “Yard”).*

Ord No. 74, eff
4-13-09

SECTION 3.10a COMMERCIAL WIRELESS TELECOMMUNICATIONS SERVICES. *Licensed commercial wireless telecommunication service including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that are marketed to the general public.”*

[Section 3.10a adopted July 10, 2002 by Ordinance No. 55, effective July 25, 2002]

SECTION 3.11 CORNER LOT. *A lot located at the intersection of two (2) or more streets where the corner interior angle formed by the intersection of the streets is one hundred thirty-five (135) degrees or less or a lot abutting upon a curved street or streets if tangents to the curve, form an interior angle of one hundred thirty-five (135) degrees or less.*

SECTION 3.12 DWELLING. *A building containing one or more dwelling units designed for residential use (excluding motels, hotels, and tourist rooms or cabins), complying with the following standards:*

- (1) It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
- (2) At least 50% of the longest side of a dwelling must also have a width of not less than 24 feet.

- (3) The dwelling shall comply in all respect with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 PA 230, as amended, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction are different than those imposed by the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 PA 230, as amended, then and in that event such federal or state standard or regulation shall apply.
- (4) It is firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code as promulgated by the Michigan State Construction Code Commission under the provisions of 1972 PA 230, as amended, and shall have wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable Code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's setup instructions and shall be secure to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission.
- (5) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage or chassis.
- (6) The dwelling is connected to a public sewer and water supply or to such private facilities as are approved by the local health department.
- (7) 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 10% of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (8) 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.

- (9) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended.
- (10) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park or a mobile home allowed as a special use under Section 5.02N or 6.02L, except to the extent required by the state or federal law or otherwise specifically required in the ordinance of the Township pertaining to such parks.
- (11) 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.

SECTION 3.13 DWELLING UNIT. *One (1) room or suite of two (2) or more rooms designed for use or occupancy by one (1) family for living and sleeping purpose with housekeeping facilities.*

SECTION 3.14 FAMILY. *An individual or group of two or more persons related by blood, marriage, or adoption, including foster children, together with not more than one (1) additional person not related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit.*

SECTION 3.15 FLOOR AREA. *The gross floor area of all floors of a building or an addition to an existing building. For all office buildings and for any other building, except dwelling units where the principal use thereof shall include the basement, the basement floor area shall be included except that part thereof which contains heating and cooling equipment and other basic utilities.*

SECTION 3.16 HOME OCCUPATION. *A gainful occupation traditionally or customarily carried on in the home as a use incidental to the use of the home as a dwelling place. Home occupations may include any profession, vocation, or trade, such as beauty shops, barber shops, nursery schools caring for more than three children, and photographic studios. The space must be located within the home which is devoted to the occupation and cannot exceed 300 square feet in area. No retail sales shall be allowed other than the incidental sale of items related to the permissible services being performed.*

SECTION 3.17 JUNKYARD. *A place where junk, waste, or discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including wrecked vehicles, used building materials,*

structural steel materials and equipment and other manufactured goods that are worn, deteriorated, or obsolete.

SECTION 3.18 KENNEL. *Any land, building or structure where five (5) or more cats and/or dogs are boarded, housed or bred.*

SECTION 3.19 LOT. *A separate parcel of land within in a recorded plat or described by metes and bounds, having frontage on a public or private street, occupied or to be occupied by a principal building or a group of buildings and accessory structures, or utilized for a principal use and accessory uses and having sufficient dimensions to comply with the requirements of this ordinance for minimum area, frontage, width, setbacks, and yards. A lot need not be a "lot of record". "Lot" shall include "plot" or "parcel". In the context of a site condominium project as regulated by Public Act 59 f 1978, as amended, the term "lot" is that portion of a condominium project, designed and intended for separate ownership and/or exclusive use.*

- (a) LOT AREA.-The total horizontal area included within the lot lines excluding any public or private easement for right-of-way purposes (e.g. for a public street, private street, alley or other thoroughfare or easement permanently established for passage of persons or vehicles).
- (b) LOT FRONTAGE.-The length of the lot line separating a lot from a public or private street right of way.
- (c) LOT LINES-The property lines bounding a lot.
 - 1. Front Lot Line - Front lot line in shall mean the line separating a lot from the public or street right of way. In all cases in which street widths have not been specifically recorded, the front lot line shall be considered to be thirty-three (33) feet from the center of the street. Corner lots and double frontage lots are considered as having two front lot lines.
 - 2. Lot Line, Rear - That lot line which is most opposite and most distant from the front lot line. On corner lots, the rear lot line may be opposite either street frontage, but only one rear lot line shall be so designated. In such cases the owner shall have the privilege of selecting the rear lot line, provided that, in the opinion of the Zoning Administrator such choice does not negatively influence existing or future development of the adjacent properties.

The rear lot line of an irregular or triangular shaped lot shall be a property line at least ten (10) feet long, parallel or nearly parallel to and most distant from the front lot line. In cases where none of these definitions is applicable, the Zoning Administrator shall designate the rear lot line. (See Def. of Double Frontage Lot)

3. Side Lot Line. Any lot line not a frontline or a rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- (d) LOT WIDTH. The horizontal distance between side lot lines, measured at the two points where the minimum front yard building setback line intersects the side lot lines and perpendicular to a straight line indicating the depth of the lot.

Ord No. 74, eff 4-13-09

SECTION 3.20 MOBILE HOME. *A structure, transportable in one or more sections, which is built on a chassis and designed to be used for dwelling purposes 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. Mobile home does not include a recreational vehicle.*

SECTION 3.21 MOBILE HOME LOT. *A measured parcel of land within a mobile home park which is delineated by lot lines on a final development plan and which is intended for the placement of a mobile home and the exclusive use of a occupants of such mobile home.*

SECTION 3.22 MOBILE HOME PAD. *That portion of a mobile home lot reserved for the placement of a mobile home, appurtenant structures or additions.*

SECTION 3.23 MOBILE HOME PARK. *A parcel or tract of land under the control of a person upon which three or more mobile homes are located on a continual non-recreational basis and which a charge is made therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a mobile home and which is not intended for use as a travel trailer park.*

SECTION 3.24 MOBILE HOME SUBDIVISION. *A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Michigan Act 288 of 1967, as amended.*

SECTION 3.25 MOTEL AND HOTEL. *A building or group of buildings on the same lot, whether detached or in connected rows, containing sleeping or dwelling units which may or may not be independently accessible from the outside with garage or parking space located on the lot and designed for, or occupied by, automobile travelers. The term shall include any building or building groups designated as motor lodges, transient cabins, or by any other title intended to identify them as providing lodging, with or without meals, for compensation on a transient basis.*

SECTION 3.26 MOTOR VEHICLE. *Every vehicle which is self-propelled.*

SECTION 3.27 PARKING AREA. *An off-street open area including designated parking spaces, the principal use of which is for the parking of automobiles, whether for compensation or not, or as an accommodation to clients, customer, visitors, or employees. Parking areas shall include access drive within the actual parking areas.*

- (a) **Parking Space.** *A paved designated area at least 10 feet by 20 feet meant for parking a vehicle, and complying with the regulations of Section 12.04.*

SECTION 3.28 PARKING BAY. *A hard surface area adjacent and connected to, but distinct from, a street intended for parking motor vehicles.*

SECTION 3.29 PIEP.. *Concrete posts embedded in the ground to a depth below the front line at regular intervals along the longitudinal distance of a mobile home and intended to serve as a base for supporting the frame of the mobile home.*

SECTION 3.30 PLANNING COMMISSION. *The Heath Township Planning Commission.*

SECTION 3.31 PRINCIPAL OR MAIN USE. *The primary or predominate use of a lot.*

SECTION 3.32 ROADSIDE MARKET STAND. *A temporary building or structure designed or used for the display and/or sale of agriculturally produced products.*

SECTION 3.33 STREET. *A publicly owned and maintained right-of-way or privately owned road which affords traffic circulation and principal means of access to abutting property, including any avenue place, way, drive, land, boulevard, highway, road or other thoroughfare, except and alley.*

- (a) All streets must be named and properly identified by appropriate street sign.
- (b) A stop sign must be erected and maintained when approach is constructed where said street approaches any public road.

SECTION 3.34 STRUCTURE. *Anything except a building, constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground.*

SECTION 3.35 TOURIST HOME. *A building, other than a hotel, boarding house, lodging house, or motel, where lodging is provided by a resident family in it's home for compensation, mainly for transients.*

SECTION 3.35a TOWER. *Any ground or roof mounted pole, spire, structure or combination thereof taller than fifteen feet, including support lines, cables, wires, braces, and masts intended primarily for the purpose of mounting an antenna, meteorological device, or similar device above grade.*

[Section 3.35a was adopted July 10, 2002 by Ordinance No. 55, effective July 25, 2002]

SECTION 3.36 TOWNSHIP BOARD. *The Heath Township Board.*

SECTION 3.37 TOWNSHIP. *Heath Township, Allegan County, Michigan.*

SECTION 3.38 TRAILER COACH PARK ACT. *Michigan Act 243 of 1959, as amended.*

SECTION 3.39 TRAVEL TRAILER. *A transportable unit intended for occasional or short-term occupancy as a dwelling unit during travel, recreational, or vacation use.*

SECTION 3.40 USABLE FLOOR AREA. *The floor area of a dwelling exclusive of garages, porches, basement or utility area.*

SECTION 3.41 VEHICLE. *Every device in, upon, or by which any person or property is or may be transported drawn upon a highway, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.*

SECTION 3.42. Reserved for future use. (Ord No. 74, eff 4-13-09)

SECTION 3.43. Reserved for future use. (Ord No. 74, eff 4-13-09)

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SECTION 3.45 YARD. *A required open space other than a courtyard, on the same lot with a building or group of buildings unoccupied and unobstructed by any building or structure or portion thereof except as otherwise permitted in this ordinance. The minimum building setback is the minimum depth of a front, side or rear yard, exclusive of steps, necessary to conform to the required yard provisions of this ordinance. Structures not considered buildings, such as fences, walls, poles and posts under 30 inches in height above general ground level, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.*

- (a) YARD - FRONT. A yard extending across the full width of the lot, the depth of which is the distance between the street right-of-way line and the main wall of the building or structure, including porches but excluding steps. In the case of waterfront lots, the yard fronting on the street is considered the front yard.
- (b) YARD - REAR. A yard unoccupied except for permitted accessory buildings, extending across the full width of the lot, the depth of which is the distance between the rear lot line and nearest part of the main building wall or nearest roof support structure, which ever is closer.
- (c) YARD - SIDE. A yard between a main building wall and the side lot line extending from the front yard to the rear yard. The width of

the required side yard shall be measured from the nearest point of the side lot line to the nearest part of the main building wall or nearest roof support structure, which ever is closer.

Ord No. 74, eff 4-13-09

SECTION 3.46 ZONING ACT. *The Michigan Zoning Enabling Act (ZEA) P.A. 110 of 2006 (MCL 125.3101, et seq).* Ord 66; Eff 10/27/06