

CHAPTER 1123

Definitions

1123.01 Purpose.

1123.02 Definitions.

1123.01 PURPOSE.

(a) It is the purpose of this Chapter to define certain words and terms utilized in this Zoning Code in order to assist in the interpreting of the provisions, regulations and standards of this ordinance.

(b) Unless the context otherwise indicates, the following words shall have the meaning as defined in this Chapter. Words used in the present tense include the future; the singular number shall include the plural; the plural number shall include the singular; the word "building" shall include "structure"; and the word "shall" is mandatory and not directory. (Ord. 45-08. Passed 12-15-08.)

1123.02 DEFINITIONS.

ACCESSORY USE

"Accessory Use" means a use both subordinate and incidental to the principally permitted use of a lot, and which is located on the same lot or parcel as the principally permitted use and is not larger than the principally permitted use on the lot or parcel, except as may be approved by the Board of Zoning Appeals.

ACCESSORY STRUCTURE

"Accessory Structure" means a building or structure which is secondary and incidental to a principal use or structure.

ADULT ENTERTAINMENT FACILITIES

"Adult Entertainment Facilities means any of the following:

(a) "Adult arcade" means any place to which the public is permitted or invited in which coin-operated, slug-operated, or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and in which the images so displayed are distinguished or characterized by their emphasis upon matter exhibiting or describing specified sexual activities or specified anatomical areas.

(b) "Adult bookstore," "adult novelty store," or "adult video store" means a commercial establishment that, for any form of consideration, has as a significant or substantial portion of its stock-in-trade in, derives a significant or substantial portion of its revenues from, devotes a significant or substantial portion of its interior business or advertising to, or maintains a substantial section of its sales or display space for the sale or rental of any of the following:

(1) Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations, that are characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas;

(2) Instruments, devices, or paraphernalia that are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of self or others.

"Adult bookstore," "adult novelty store," or "adult video store" also includes a commercial establishment as defined in section 2907.38 of the Revised Code. An establishment may have other principal business purposes that do not involve the offering for sale, rental, or viewing of materials exhibiting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore, adult novelty store, or adult video store. The existence of other principal business purposes does not exempt an establishment from being categorized as an adult bookstore, adult novelty store, or adult video store so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, such materials that exhibit or describe specified sexual activities or specified anatomical areas.

(c) "Adult cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, whether or not alcoholic beverages are served, that regularly features any of the following:

(1) Persons who appear in a state of nudity or semi nudity;

(2) Live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities;

(3) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas.

(d) "Adult entertainment" means the sale, rental, or exhibition, for any form of consideration, of books, films, video cassettes, magazines, periodicals, or live performances that are characterized by an emphasis on the exposure or display of specified anatomical areas or specified sexual activity.

(e) "Adult entertainment establishment" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion picture theater, adult theater, nude or seminude model studio, or sexual encounter establishment. An establishment in which a medical practitioner, psychologist, psychiatrist, or similar professional person

licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to section 4731.15 of the Revised Code, is not an “adult entertainment establishment.”

(f) “Adult motion picture theater” means a commercial establishment where films, motion pictures, video cassettes, slides, or similar photographic reproductions that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas are regularly shown for any form of consideration.

(g) “Adult theater” means a theater, concert hall, auditorium, or similar commercial establishment that, for any form of consideration, regularly features persons who appear in a state of nudity or semi nudity or live performances that are characterized by their emphasis upon the exposure of specified anatomical areas or specified sexual activities.

(h) “Distinguished or characterized by their emphasis upon” means the dominant or principal character and theme of the object described by this phrase. For instance, when the phrase refers to films “that are distinguished or characterized by their emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas,” the films so described are those whose dominant or principal character and theme are the exhibition or description of specified sexual activities or specified anatomical areas.

(i) “Nude or seminude model studio” means any place where a person, who regularly appears in a state of nudity or semi nudity, is provided for money or any other form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

(1) A modeling class or studio is not a nude or seminude model studio and is not subject to this chapter if it is operated in any of the following ways:

A. By a college or university supported entirely or partly by taxation;

B. By a private college or university that maintains and operates educational programs, the credits for which are transferable to a college or university supported entirely or partly by taxation;

C. In a structure that has no sign visible from the exterior of the structure and no other advertising indicating that a person appearing in a state of nudity or semi nudity is available for viewing, if in order to participate in a class in the structure, a student must enroll at least three days in advance of the class and if not more than one nude or seminude model is on the premises at any one time.

(j) “Nudity,” “nude,” or “state of nudity” means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft, or cleavage with less than a fully opaque covering; or the showing of the female breasts with less than a fully opaque covering of any part of the nipple.

(k) “Regularly features” or “regularly shown” means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered as a part of the ongoing business of the adult entertainment establishment.

(l) “Seminude” or “state of semi nudity” means a state of dress in which opaque clothing covers not more than the genitals, pubic region, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

(m) “Sexual encounter establishment” means a business or commercial establishment that, as one of its principal business purposes, offers for any form of consideration a place where either of the following occur:

(1) Two or more persons may congregate, associate, or consort for the purpose of engaging in specified sexual activities.

(2) Two or more persons appear nude or seminude for the purpose of displaying their nude or seminude bodies for their receipt of consideration or compensation in any type or form.

An establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized therapy, including, but not limited to, massage therapy, as regulated pursuant to section 4731.15 of the Revised Code, is not a “sexual encounter establishment.”

(n) “Specified anatomical areas” means the cleft of the buttocks, anus, male or female genitals, or the female breast.

(o) “Specified sexual activity” means any of the following:

(1) Sex acts, normal or perverted, or actual or simulated, including intercourse, oral copulation, masturbation, or sodomy;

(2) Excretory functions as a part of or in connection with any of the activities described in division (o) (1) of this section.

AGRICULTURAL VEHICLE

“Agricultural vehicle” means an off-road vehicle designed by the manufacturer to be used in the conduct of agricultural activity, rather than as a vehicle to be used to casually carry passengers, and which is not licensed for use on the public right of way. Agricultural vehicle shall exclude semi- tractor trailers unless such vehicle is necessary for the function of the agricultural use.

AGRICULTURE

"Agriculture" means the use of the land for such purposes as general farming of crops, pasturage, horticulture, viticulture and animal husbandry and the necessary accessory uses for the packaging, treatment or storing of produce; however, the operation of such accessory uses shall be secondary to that of normal agricultural activities.

AIRPORT

"Airport" means premises designated for the use of public or private aircraft.

ALLEY

"Alley" means a dedicated public right-of-way, not more than twenty feet wide, which provides secondary access to the rear or side of abutting property.

APARTMENT

"Apartment" means a dwelling unit in a multi-family building.

ASSISTED GROUP LIVING FACILITY

"Assisted Group Living Facility" means a residence for the elderly that provide rooms, meals, personal care and supervision of self-administered medication. The facility may provide other services such as recreational activities and transportation.

AUTOMOBILE DISMANTLING YARD

"Automobile dismantling yard" means any premises used for the dismantling or disassembling of motor vehicles, including the buying, selling or dealing in such vehicles or integral parts or component materials thereof and the storage, sale or salvage of dismantled, partially dismantled, or wrecked, inoperative vehicles. Automobile dismantling does not include the incidental storage of inoperative or disabled vehicles in connection with the legal operation of an automobile repair garage or body and fender shop.

AUTOMOTIVE FILLING STATION

"Automotive filling station" means a place where motor vehicle fuels, lubricants and related automotive products are sold; convenience items included.

AUTOMOTIVE REPAIR

"Automotive repair" means general repair of passenger cars and trucks, incidental body, frame, fender or painting work, upholstery and engine rebuilding.

AUTOMOTIVE SALES, RENTAL AND LEASE

"Automotive sales, rental and lease" means a building or buildings and grounds where new and/or used automobiles and trucks, in operating condition, are offered on display for sale, rental or lease.

AUTOMOTIVE SERVICES

"Automotive services" means an establishment providing general repair to motor vehicles including minor engine repair, tune-ups, oil changes and lubrication, tire and brake installation, and muffler work.

BASEMENT

"Basement" means that portion of a building located partly underground but having more than one-half (1/2) of its floor to ceiling height below the average grade of the adjoining ground.

BED AND BREAKFAST

"Bed and Breakfast", often referred to as a B&B, means lodging typically operated out of a large owner-occupied single family residence where guests can be accommodated at night in one to three private guestrooms (which may or may not be equipped with private baths) and where breakfast is the only meal served to guests. The business may be operated either as a primary occupation or as a secondary source of income, and the staff consists primarily of the house's owner(s) and members of their family who live there.

BEER AND WINE CARRYOUT

"Beer and Wine Carryout" means vendors licensed to sell alcoholic beverages, but in sealed containers only, and for consumption off the premises. Non-alcoholic beverages and foodstuffs may be also sold incidentally. No sale of gasoline is permitted on the premises.

BOARD

"Board" means the Board of Zoning Appeals of the City of Trotwood.

BUILDING

"Building" means any structure built for the support, shelter or enclosure of persons, animals, chattel or property of any kind.

BUILDING AREA

"Building area" means that portion of a site, exclusive of the required setback areas, on which a structure or building may be erected.

BUILDING HEIGHT

“Building height” means the vertical distance from the average grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof; or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

BUILDING LINE

“Building line” means a line parallel to the street right-of-way line at any story level of a building and representing the distance which all or any part of the building is to be setback from said right-of-way.

BUILDING PERMIT

“Building permit” means a permit issued after review to a party proposing to fall trees, clear, excavate, or fill land, or commence alterations to a structure or commence erection of a structure; such permit recognizing that the proposed work complies with the provisions of this chapter, the applicable zoning district regulations as well as all other requirements of the Trotwood Planning and Zoning Code, and other pertinent ordinances of the Municipality.

BUILDING SITE

“Building site” means that portion of a lot, which is occupied by a building or that portion of a site, which is proposed to be occupied by a building and for which a building permit has been issued.

CARE FACILITY

“Care facility” means a family-like living arrangement which provides room and board, personal care, and supervision for six (6) or more disabled residents on a transient, semi-transient, or permanent basis. Personal care is the necessary assistance to residents with the activities of daily living including self-administration of medications, preparation of special diets as may be prescribed by a physician or licensed dietician, and/or the assurance of physical safety of the residents.

CAR WASH

“Car wash” means a structure in which passenger cars and trucks are washed and/or waxed, either by the patron or employees of the establishment, or by machinery specially designed for such purpose(s).

CARPORT

“Carport” means a permanent roofed structure, which is attached to and constructed of similar materials as the primary structure, with not more than two (2) enclosed sides used or intended to be used for automobile shelter and storage. Temporary carports are not classified as permanent structures and are not permitted.

CLINIC

“Clinic” means a place where medical or dental care is furnished to persons on an outpatient basis by two or more doctors or dentists.

COMMERCIAL RECREATION

“Commercial Recreation” means any profit making activity which is generally related to the entertainment field such as motion picture theaters, carnivals, comedy clubs, theaters, amusement parks, and similar entertainment facilities. Commercial Recreation facilities shall not include sexually oriented businesses or adult entertainment businesses.

COMMISSION

“Commission” means the Planning Commission of the City of Trotwood.

COMMUNITY CENTER

“Community center” means a place where public, cultural, educational and recreational services and activities are offered.

COMPREHENSIVE PLAN

“Comprehensive plan” means a plan, or any portion thereof, of the City of Trotwood, as officially adopted and amended by the City Planning Commission. The purpose of such plan is to serve as a guide in the zoning and progressive changes in zoning of land to meet the changing needs, in the subdivision and use of undeveloped land, and in the acquisition of right-of-way or sites for public purposes.

CONDITIONAL USE

“Conditional Use” means a use which may be essential or desirable but which is not allowed as a matter of right within a zoning district. Such uses require approval of a Conditional Use Permit so that the effects of those uses don’t negatively impact other properties.

CONDITIONAL USE PERMIT

“Conditional Use Permit” means a permit which allows the City of Trotwood to consider special uses which may be essential or desirable but which are not allowed as a matter of right within a zoning district. Through a public hearing process the Conditional Use Permit enables the City to control certain uses which could have detrimental effects on the community. Consideration of a Conditional Use Permit application is a discretionary act. Conditions may be imposed as necessary to insure that the proposed use will be compatible with the surrounding properties and environment.

CONSTRUCTION VEHICLE

“Construction vehicle” means any off-road vehicle designed by the manufacturer to be used in the conduct of construction activity, rather than as a vehicle to be used to casually carry passengers, and is not licensed for use on the public right of way. This definition does not apply to dump trucks and similar construction vehicles designed to be driven on public roads.

CONVENIENCE RETAIL STORE

“Convenience Retail Store” means any retail establishment offering for sale a relatively limited selection of prepackaged food products, household items, newspapers and magazines, and sandwiches and other freshly prepared foods such as salads, for off-site consumption.

“Convenience Retail Store” does not include carry-outs. Convenience Retail Stores are characterized by a rapid turnover of customers and high traffic generation. Convenience Retail Stores may include the sale of gasoline. Convenience Retail Stores may include the sale of beer and wine but only as a minor percentage of sales. “Convenience Retail Stores” definition does not include Beer and Wine Carry-Outs.

CORPORATE OR BUSINESS TRAINING FACILITY

“Corporate or Business Training Facility” means a place utilized for the vocational training of potential, current or future employees.

CPAI-84

In 1980, the Industrial Fabrics Association International (formerly the Canvas Products Association) published "A Specification for Flame Resistant Materials Used In Camping Tentage," referred to as CPAI-84. CPAI-84 has become the standard widely used in the industry and has been adopted by California (19 CCR 332) and other states. The CPAI-84 standard provides test methods for evaluating flame resistance of fabric and other pliable materials in camping tentage. It also provides performance criteria and certification guidelines for suppliers and labeling requirements that identify a tent as being constructed of flame resistant material and caution against action detrimental to the flame-retardant finishes.

DAY CARE CENTER

“Day care center” means any place in which licensed day care is provided for nine or more children, other than those of the administrator, who are in average daily attendance.

DAY CARE GROUP HOME

“Day care group home” means any place in which day care is provided for no more than eight or less than five children, other than those of the group home provider, who are in average daily attendance, with or without compensation.

DAY CARE HOME

“Day care home” means any place in which day care is provided for four or fewer children, other than those of the day care provider, who are in average daily attendance, with or without compensation.

DIAMETER BREAST HEIGHT

"Diameter Breast Height" or DBH means tree diameter measured at 4 ½ feet above ground level. Diameter can be measured with diameter tape (available from a forestry or arborist supplier) or a tape measure and convert using this ratio (3" on a tape measure = 1" on a diameter tape).

DISTRIBUTION CENTER

“Distribution center” means an establishment engaged in the receipt, storage and distribution of goods, products, cargo or materials.

DISTRICT

“District” means a section of the City within which the use of land and structures, and the location, height and bulk of structures is governed by the provisions of this Zoning Code.

DRIVEWAY

“Driveway” means a private road containing a permanently surfaced area, the use of which is limited to persons residing, employed or otherwise using or visiting the parcel on which it is located.

DWELLING

“Dwelling” means any building, or portion thereof, designed or used exclusively as the residence of one or more persons, but not including tents, cabins, trailers, hotels and motels.

(a) “Dwelling, Attached” means a building containing a single dwelling unit and having one or more walls in common with another such unit.

(b) “Dwelling, Detached” means a building containing a single dwelling unit and having no walls in common with another such unit.

(c) “Dwelling, Multi-Family” means a building or portion thereof designed for or used exclusively for resident purposes by three or more families living independently of one another.

(d) “Dwelling, Single-family” means a building designed for or used exclusively for residential purposes by one family.

(e) "Dwelling, Two-family" means a building designed for or used exclusively for residential purposes by two families living independently of one another.

DWELLING UNIT

"Dwelling unit" means a single family, two-family, or multi-family dwelling used by one family for cooking, living and sleeping purposes. (Ord. 45-08. Passed 12-15-08.)

EDUCATIONAL INSTITUTION (ELEMENTARY)

"Elementary education institution" means a facility that provides a curriculum of elementary academic instruction, including kindergartens and elementary schools. This definition does not include private training schools such as driving, beauty, secretarial schools, etc. Nor does it include junior high schools, high schools, technical and collegiate level courses.

EDUCATIONAL INSTITUTION (SECONDARY)

"Secondary education institution" means a facility that provides a curriculum of secondary academic instruction, including junior high schools, high schools, technical and collegiate level courses. This definition does not include private training schools such as driving, beauty, secretarial schools, etc. Nor does it include kindergartens and elementary schools.

(Ord. 21-09. Passed 11-16-09.)

ESSENTIAL SERVICES

"Essential services" means the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use or enlargement by City or other Governmental agencies underground or overhead gas, electrical, steam or water generation, transmission or distribution systems; including buildings, structures, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment or accessories and the use of land in connection therewith, for the furnishing of adequate service by such public utilities or City or other governmental agencies or for the public health, safety and morals.

FAMILY

"Family" means a group of individuals, not necessarily related by blood, marriage, adoption or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

FARM ANIMAL (LARGE)

Any domestic species of cattle, sheep, goats, llamas, alpacas, ostriches, emus or horses, except swine, which are normally or historically, been kept and raised on farms in the United States, and used or intended to be used as a transportation, food or fiber source.

FARM ANIMAL (SMALL)

Any domestic species of poultry (wings shall be clipped), rabbits, mink or chinchilla which are normally and have historically, been kept and raised on farms in the United States, and used or intended to be used as food or fiber.

FAST FOOD RESTAURANT

"Fast food restaurant" means an establishment that sells prepared food either indoors or outdoors in disposable containers (e.g., paper or plastic). These uses include retail bakeries that provide on-site seating.

FENCE

"Fence" means an enclosure or barrier which physically and/or visually contains certain uses and activities which are carried out on a particular parcel of property. Fences may be constructed of natural or manmade materials.

FINANCIAL INSTITUTION

"Financial Institution" means an establishment which the principal use or purpose of which is the provision of financial services including, but not limited to: banks, accessory facilities for automated teller machines (ATM's), credit unions, savings and loan institutions and mortgage companies.

FLOOR AREA

(a) For the purposes of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the interior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches, but includes basement areas which are approved under the building code and designed and used for dwelling purposes.

(b) For the purpose of computing parking requirements, 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. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, for utilities or sanitary facilities, and hallways, stairways and elevator shafts shall be excluded from this computation of **FLOOR AREA**. Measurements of useable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls."

FLOOR AREA RATIO

"Floor area ratio" means the total floor area of the building or buildings on a lot or parcel divided by the gross area of the lot or parcel.

FOOD TRUCK VENDOR

"Food Truck Vendor" means any commercially manufactured, self-contained motorized vehicle currently licensed by the Ohio Department of Motor Vehicle and Public Health Dayton & Montgomery County selling food prepared specifically on site within the self-contained vehicle.

FOSTER CARE HOME

"Foster care home" means a residence for children or adolescents who are otherwise normal, but for various reasons cannot reside with their natural families, and who are provided twenty-four hour adult care and supervision by foster parents in a home setting. Foster care facilities shall be approved by the appropriate public or private health/welfare agency.

GARAGE

"Garage" means a fully enclosed accessory building used only for the storage of vehicles and incidental personal property.

HISTORIC TREE

"Historic tree" means any tree which has a diameter breast height (DBH) of 30 inches or larger.

HOME OCCUPATION

"Home occupation" means any occupation, profession, activity or use which is customarily incidental to the principal use of the premises and is conducted by a resident occupant which does not alter the exterior of the property or affect the residential character of the neighborhood.

HOTEL

"Hotel" means a facility with room entrances accessed through an interior corridor, offering transient lodging accommodations for a daily rate to the general public and possibly providing additional services such as: restaurants, taverns, meeting rooms and recreational facilities. "Bed and Breakfast" facilities are not included under this definition.

IMPERVIOUS SURFACE RATIO

"Impervious surface ratio" means the measure of the intensity of a land use on a lot or parcel which is determined by dividing the total area of all impervious surfaces on the site by the area of the lot or parcel.

JUNK

"Junk" means old or scrap copper, brass, rope, rags, batteries, paper, rubber, junked, dismantled or wrecked automobiles or parts thereof, iron, steel and other old or scrap ferrous or nonferrous materials which are not held for sale for melting purposes by an establishment having facilities for processing those materials.

JUNK YARD

"Junk yard" means an establishment or place of business, other than an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal product is scrap iron and steel or nonferrous scrap for sale for re-melting purposes, which is maintained or operated for the purpose of storing, keeping, buying or selling junk or for the maintenance or operation of an automobile graveyard, except an establishment or place where automobiles, wrecked or otherwise, are held or impounded for a period not to exceed ninety days exclusively for storage, repair or resale without alteration.

KENNEL

"Kennel" means any premises except animal hospitals, where three or more dogs, cats or other household pets which are over the age of six months are sold, boarded or bred.

LANDSCAPING

"Landscaping" means the placement of materials such as grass, flowers, shrubs, hedges, trees, decorative walls and fences, and berms improved with ground cover, within a designated area.

LOADING SPACE

"Loading space" means an off-street space or berth on the same lot with a building for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

LOT

"Lot" means a piece or parcel of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces as are required by this Zoning Ordinance, and having frontage on a public or an approved private street.

(a) "Lot area" means the area of land within the boundary of a lot.

(b) "Corner Lot" means a lot at the junction of and abutting on two or more intersecting streets where the intersection does not exceed 135 degrees.

(c) "Lot depth" means the mean horizontal distance between the front and rear lot lines.

- (d) "Double frontage Lot" means an interior lot having frontage on two non-intersecting streets.
- (e) "Lot frontage" means the distance between the side lot lines, measured by a line drawn parallel with the front lot line at a point of required minimum front yard depth.
- (f) "Interior Lot" means a lot other than a corner lot.
- (g) "Front Lot Line," means, in the case of an interior lot, a line separating the lot from the street; and in the case of a corner lot, a line separating the narrowest lot frontage of the lot from the street.
- (h) "Rear Lot Line" means the lot line opposite and most distant from the front lot line.
- (i) "Side Lot line" means any lot line other than a front or rear lot line.

LOT OF RECORD

"Lot of record" means any lot which is part of a subdivision, the plot of which has been recorded in the office of the Recorder of Montgomery County; or a parcel of land, the deed of which was of record as of the effective date of this Zoning Code.

MANUFACTURING

"Manufacturing" means the assembling, altering, converting, fabricating, finishing, processing or treatment of a product.

MANUFACTURING, LIGHT

"Light Manufacturing" means the assembling, altering, converting, fabricating, finishing, processing or treatment of a product which is conducted wholly within an enclosed building and one which does not emit odors, glare, heat, vibrations, noises or hazardous processes outside of said enclosed building.

MEDICAL MARIJUANA CULTIVATOR

"Medical Marijuana Cultivator" means the use by the holder of a current, valid cultivator license issued by the State of Ohio per ORC 3796.18 to cultivate medical marijuana or deliver or sell medical marijuana to one or more licensed processors.

MEDICAL MARIJUANA DISPENSARY

"Medical Marijuana Dispensary" means the use by the holder of a current, valid retail dispensary license issued by the State of Ohio per ORC 3796.20 to obtain medical marijuana from one or more processors and/or dispense or sell medical marijuana in properly labeled packaging.

MEDICAL MARIJUANA PROCESSOR

"Medical Marijuana Processor" means the use by the holder of a current, valid processor license issued by the State of Ohio per ORC 3796.19 to obtain and process, package or label medical marijuana from licensed cultivators for the purpose of preparation to dispense or sell.

MINI-WAREHOUSE

"Mini-warehouse" means a facility which provides self-storage units of varying sizes only within one or more completely enclosed buildings leased or rented for varying periods of time.

MIXED USES

"Mixed uses" means two or more permitted uses within the same building or structure.

MOBILE VENDOR

"Mobile Vendor" means any commercially manufactured, self-contained motorized vehicle currently licensed by the Ohio Department of Motor Vehicles and Public Health Dayton & Montgomery County selling retail items and prepackaged food products.

MONARCH TREE

"Monarch Tree" means any tree which has a diameter breast height (DBH) of thirty (30) inches or larger.

MOTEL

"Motel" means a facility with exterior room entrances, offering transient lodging accommodations for a daily rate to the general public and possibly providing additional services such as: restaurants, taverns, meeting rooms and recreational facilities. "Bed and Breakfast" facilities are not included under this definition.

NONCONFORMING

"Nonconforming" means a legally existing use, structure or land at the time of adoption of this Zoning Code or any amendment thereto, and which does not conform with the regulations of the district in which it is located.

NURSING AND CONVALESCENT HOME

"Nursing and convalescent home" means an establishment operated as a lodging house in which five or more unrelated convalescent, aged and/or invalid persons, not including those suffering from contagious or mental diseases, alcoholism or drug addiction, or those requiring surgery, are provided nursing, dietary and other personal services.

OFFICE

"Office" means a building or portion of a building wherein services are performed involving predominately administrative, professional or clerical operations.

OFF-STREET PARKING SPACE

“Off-street parking space” means a permanently surfaced area for vehicular parking measuring not less than ten feet in width by twenty feet in length, exclusive of driveways and access drives.

OPEN SPACE

“Open space” means a land area including resource protection, recreation amenities and bufferyards or water body designed and intended for the use and enjoyment of the public or members of a homeowners association or other similar group.

PATIO

“Patio” means a paved surfaced area, open on at least one side, which is customarily incidental to a dwelling unit.

PERSONAL SERVICES

“Personal services” means activities conducted in an office, store or other place of business, catering to the personal needs of a customer such as normally provided by a barber, beautician, tailor, dressmaker, shoe repair and similar.

PLANNED UNIT DEVELOPMENT

“Planned unit development” means land under unified control, planned and developed as a whole according to comprehensive and detailed plans. Development may be a single operation or a definite sequential series of development operations including all lands and buildings, with a program for provisions, operation and maintenance of such areas, improvements and facilities necessary for common use by the occupants of the development.

PORCH

“Porch” means a structure which is attached to an outer wall, open on at least two sides, and is covered by a roof.

PRIVATE SCHOOLS

“Private schools” means institutions, organizations, businesses and individuals providing training and education of individuals and groups for a fee. Private schools shall include art schools, dancing schools, secretarial and business schools, etc. but does not include uses classified under the definition of "Educational Institution."

PROFESSIONAL SERVICES

“Professional Services” means activities conducted in an office, store or other place of business providing services of a recognized profession such as an attorney at law, accountant, architect, engineer, consultant, real estate agent, etc.

PROTECTIVE BARRICADE

“Protective barricade” means a physical structure not less than four feet in height, limiting access to protected and significant trees. A suitable protective barrier shall be composed of wood or another durable material, which insures protection of protected trees and significant trees during development.

PUBLIC UTILITY

“Public Utility” means a closely regulated enterprise with a franchise for providing to the public a utility service, such as gas and electric, deemed necessary for the public health, safety and welfare.

RECREATION, ACTIVE

“Active Recreation” means the improvement of the land, open to the general public, which provides facilities serving the recreational needs of the community. Active recreation areas may include, but are not limited to: public swimming pools, athletic fields, tennis courts, community centers and playgrounds.

RECREATION, COMMERCIAL

“Commercial Recreation” means land or facilities operated as a business and are open to the general public for a fee that may include, but is not limited to: rollerblade rental, billiard parlors, go- cart tracks, amusement parks, pay to play athletic fields, golf courses or sports stadiums.

RECREATION, NON-COMMERCIAL

“Non-commercial Recreation” means any land or facility operated by a governmental agency or a non-profit organization which is open to the public or members of the non-profit organization, without a fee, that may include, but is not limited to: picnic areas, bike/hike trails or athletic fields.

RECREATION, PASSIVE

“Passive Recreation” means the use of unimproved land, in its natural state and open to the general public, which provides for a variety of activities for the outdoor exercise and activity needs of the community. Passive recreation may include, but are not limited to: unimproved backpacking trails and hiking trails and primitive camping areas.

RECREATIONAL VEHICLES

“Recreational vehicles” means travel trailers, pickup trucks with slide-in campers, motorized homes, fold-tent trailers, and boats and boat trailers.

RESTAURANT

“Restaurant” means an establishment that sells prepared food or beverages either indoors or outdoors in non-disposable containers. A restaurant may provide for the accessory sale of food and nonalcoholic beverages for off-site consumption provided that all food and beverages sold for on-site consumption are served in non-disposable containers.

RETAIL SALES

“Retail Sales” means an establishment engaged in the selling of goods or merchandise to the general public for personal or household consumption and rendering of services incidental to the sale of such goods.

RIGHT OF WAY

“Right of way” means any land which is reserved, used or designated by the City of Trotwood for future use which may include but shall not be limited to: utility easements, quasi- public easements, easements, streets, walkways or bikeways, drainage, utilities, etc...

SERVICE CLUB

“Service Club” means an association organized and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases the premises, the use of which premises is restricted to such members and their guests.

SETBACK LINE

“Setback line” means the closest point at which a building or structure may be placed in relation to the lot line.

SIGN

“Sign” means any object, device, display or structure or part thereof situated outdoors or adjacent to the interior of a window or doorway which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means including words, letters, pictures, logos, figures, designs, symbols, fixtures, colors, illumination or projected images." (For other sign definitions see Chapter [1185](#).)

SIGN, WARNING

“Warning Sign” means any sign indicating danger or a situation which is potentially dangerous.

STORY

“Story” means that portion of a building included between the surface of any floor and the floor or ceiling next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

STREET

“Street” means an improved public right-of-way which provides a public means of access to abutting property. The term "street" shall include avenue, drive, circle, court, road, parkway, boulevard, highway, thoroughfare or other similar term, except alley.

STRUCTURE

“Structure” means anything constructed or erected which requires location on the ground or attachment to something having location on the ground.

SWIMMING POOL

“Swimming pool” means a water filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above surface pool of more than thirty (30) inches in depth, designed, used and maintained for swimming and bathing.

TAVERN

“Tavern” means an establishment serving alcoholic beverages in which the principal business is the sale of such beverages at retail for consumption on the premises and where food may be available for consumption on the premises.

TENT

“Tent” means a temporary structure having a roof and/or walls of fabric.

THOROUGHFARE PLAN

“Thoroughfare Plan” means the Official Thoroughfare Plan of, and as adopted by, the City of Trotwood Planning Commission, establishing the location and official right-of-way widths of principal highways and streets in the City, together with all amendments thereto subsequently adopted.

TRUCK TERMINAL

“Truck Terminal” means a premises which is used for loading or unloading trucks upon which storage of cargo is incidental to the primary function of motor freight shipment or shipment point, and which is designed to accommodate the simultaneous loading or unloading of two or more trucks.

USE

“Use” means the purpose for which a lot or structure is or may be leased, occupied, maintained, arranged, designed, intended, constructed, erected, moved, altered or enlarged.

(a) “Accessory Use” means a use or structure subordinate to the principal use of a building or to the principal use of the land, which is located on the same lot or parcel as the principal use, and which is serving a purpose customarily incidental to the use of the principal building or land use.

(b) “Conditional Use” means a use which is permitted in a district only if a zoning permit therefore is expressly authorized by the Board of Zoning Appeals in accordance with Chapter [1133](#), Conditional Uses.

(c) “Principal Use” means a use which is permitted as-of-right in a district for which a zoning permit shall be issued by the Zoning Administrator, provided that the applicant meets the applicable requirements of this Code.

VARIANCE

“Variance” means a modification of the strict terms of the relevant regulations of this Code, where such modification will not be contrary to the public health, safety and welfare and, where owing to conditions peculiar to the property and not to the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

WALL

“Wall” means a masonry structure intended to act as an enclosure, barrier or divider along a property line.

WHOLESALE

“Wholesale” means an establishment or place of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users; to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

YARD

“Yard” means a space on the same lot with a main building, open, unoccupied and unobstructed from the ground up.

(a) “Front Yard” means an open space extending the full width of the lot between a building and the front lot line.

(b) “Rear Yard” means an open space extending the full width of the lot between a building and the rear lot line. (Also see [1189.11](#) CORNER LOTS)

(c) “Side Yard” means an open space extending from the front yard to the rear yard between a building and the nearest side lot line.

ZONING

“Zoning” means the act of regulating the use of land and the size of and location of buildings and structures on the land, such regulations being designed to assure the health, safety and general welfare of a community.

ZONING ADMINISTRATOR

“Zoning Administrator” means the administrator of the Planning and Zoning Code of the City of Trotwood, as appointed by the City Manager.

(Ord. 04-17. Passed 2-6-17.)