ARTICLE 2.00

DEFINITIONS

Section 2.01 -- CONSTRUCTION OF LANGUAGE

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

(a) The particular shall control the general.

(b) In the case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

(c) The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.

(d) 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.

(e) A "building" or structure includes any part thereof.

(f) The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".

(g) The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(h) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and", "or", "either...or", the conjunction shall be interpreted as follows:

1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.

2. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.

3. "Either . . . or" indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

(i) Terms not defined in this Article or in any other part of this Ordinance shall have the meaning customarily assigned to them.

Section 2.02 -- DEFINITIONS

For the purpose of this Ordinance certain terms, words and phrases shall, whenever used in this Ordinance, have the meaning herewith defined as follows:

ACCESSORY BUILDING OR STRUCTURE: A building or structure, or portion thereof, supplementary or subordinate to a principal building or structure on the same lot, that is occupied by or devoted exclusively to an accessory use.

ACCESSORY USE: A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces) located on the same zoning lot as the principal use to which it is related.

ADULT REGULATED USES: DEFINITIONS: As used in this Ordinance, the following definitions shall apply to adult regulated uses:

(a) **Adult Book Store:** An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", (as defined below), or an establishment with a segment or section devoted to the sale or display of such material. Such establishment or the segment or section devoted to the sale or display of such material in an establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

(b) **Adult Mini Motion Picture Theatre or Live Stage Performing Theatre:** The use of property commercially for displaying materials a significant portion of which include matter depicting, describing or presenting Specified Sexual Activities for observation by patrons.

(c) **Adult Motion Picture Theatre or Live Stage Performing Theatre:** An enclosed building with a capacity of 50 or more persons used commercially for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas", (as defined below), for observation by patrons therein. Such establishment is customarily not open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.

(d) **Amusement Gallery/Arcade:** Any business which provided on its premises four or more machines which upon the insertion of a coin or slug may be operated for use as a game, contest, or amusement of any description, not including musical devices.

(e) **Cabaret:** Shall mean an establishment which features any of the following: Topless dancers and/or bottomless dancers, go-go dancers, strippers, male and/or female impersonators or similar entertainers or topless and/or bottomless waitresses or employees.

(f) **Halfway House:** A facility established by the Michigan Department of Corrections in connection with a jail, prison, or other correctional institution or facility as a residence for three or more persons committed to the jail, prison, or correctional institution prior to full release from supervision including any period of parole.

(g) **Massage Parlor:** Shall be defined as any building, room, place or establishment other than a regularly licensed hospital or dispensary where nonmedical and nonsurgical manipulative exercises are practiced on the human body for other than cosmetic or beautifying purposes with or without the use of mechanical or bathing devices by anyone not a physician or surgeon or similarly licensed by the State of Michigan.

(h) **Modeling Studio:** An establishment which furnishes facilities to the public for the taking of photographs of males and/or females with specified anatomical areas, as defined below, exposed or makes such models available for any other purposes.

(i) **Significant Portion:** As used in the definitions of Adult Regulated Uses, the phrase Significant Portion shall mean and include either or both of the following:

1. Any one or more portions of the display having a duration in excess of five minutes; and/or

2. The aggregate of portions of the display having a duration equal to 10 percent or more of the single display as a whole.

(j) **Specified Anatomical Areas are defined as:**

1. Less than completely and opaquely covered:

- Human genitals, pubic region
- Buttock
- Female breast below a point immediately above the top of areola; and

2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(k) **Specified Sexual Activities:** are defined as the explicit display of one or more of the following:

1. Human genitals in a state of sexual stimulation or arousal.

2. Acts of human masturbation, sexual intercourse or sodomy.

3. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

ALLEY: A public or legally established private thoroughfare, other than a street, affording a secondary means of vehicular access to abutting property and not intended for general traffic circulation.

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

APARTMENTS: The dwelling units in a multiple family dwelling as defined herein:

(a) **Efficiency Apartment:** Is a dwelling unit of OR less than 350 square feet of floor area consisting of not more than one (1) room in addition to kitchen and necessary sanitary facilities.

(b) **One Bedroom Unit:** Is a dwelling unit containing a minimum floor area of at least six hundred (600) square feet consisting of not more than three (3) rooms, including one bedroom in addition to kitchen and necessary sanitary facilities.

(c) **Two Bedroom Unit:** Is a dwelling unit containing a minimum floor area of at least eight hundred (800) square feet, consisting of not more than four (4) rooms, including two bedrooms, in addition to kitchen and necessary sanitary facilities.

(d) **Three or More Bedroom Units:** Is a dwelling unit wherein for each room in addition or the four rooms permitted in a two (2) bedroom unit, there shall be provided an additional area of two hundred (200) square feet to the minimum floor area of eight hundred (800) square feet in addition to the kitchen and necessary sanitary facilities.

AUTOMOBILE: Unless specifically indicated otherwise, automobile shall mean any vehicle including by way of example cars, trucks, vans, motorcycles, recreational vehicles and the like. See definition of MOTOR VEHICLE.

AUTOMOBILE REPAIR: Major or minor repair of automobiles defined as follows:

(a) **Minor Repair:** Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; lubrication, wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.

(b) **Major Repair:** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rust proofing;. and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

AUTOMOBILE REPAIR GARAGE: A building or premises where automobile repair may be carried out in a completely enclosed building.

AUTOMOBILE SERVICE STATION: A facility or premises primarily for retail sale of fuels or oils for automobiles, or boats and which may include as a secondary activity retail sale of lubricants, tires, batteries, and similar accessories.

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. A basement shall not be counted as a story, and shall not be used for dwelling units, offices, retail sales or manufacturing, but may be used for storage, heating and utility facilities, etc. (See basement and story illustration)

BEDROOM: A room designed or used in whole or in part for sleeping purposes.

BED-N-BREAKFAST ESTABLISHMENT: A single-family dwelling owned and occupied by a person renting out not more than three rooms for compensation to persons who do not stay for more than seven consecutive days. Breakfast is required to be served to guests at no extra cost.

BLOCK: A block shall be that property abutting on one side of a street and lying between the two nearest intersecting streets or alleys and extending back to another street or alley or to the city boundary.

BOARDING HOUSE: A building, other than a hotel, where for compensation and/or prearrangement for periods exceeding ten days, lodging and meals are provided for three or more persons or together with one dwelling unit for occupancy by management. (The terms boarding house, rooming house and lodging house are used synonymously in this Ordinance.)

BOARD: The Zoning Board of Appeals.

BODY PIERCING: The perforation of human tissue other than an ear for a non-medical instrument.

BRANDING: A permanent mark made on human tissue by burning with a hot iron or other instrument.

BUILDABLE AREA: The space remaining on a lot after compliance with the minimum required setbacks of this Ordinance.

BUILDING: Any structure or any portion thereof including a mobile home or mobile structure, or a pre-manufactured or pre-cut structure above or below ground, temporary or permanent, having one or more floors or any structure, temporary or permanent, with a roof and designed or intended primarily for the shelter, support, or enclosure of persons, animals and property of any kind. A building shall include tents, awnings or vehicles used for the purposes of a building.

BUILDING, ACCESSORY: A subordinate, detached building, the use of which is customarily incidental to the permitted principal use of the principal buildings on the same lot.

BUILDING HEIGHT: The vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck line of mansard roofs; and to the mean height level between eaves and ridge of gable, studio, hip and gambrel roofs; and 75 percent of the height of an "A" frame.

BUILDING INSPECTOR: For the purposes of this Ordinance, the Building Inspector is the person or persons designated within the Building and Community Development Department to enforce certain provisions of this Ordinance. The Building Inspector, as referred to in this Ordinance, may also be the Director of the Building and Community Development Department, or the Code Official charged with the administration and enforcement of the City's Building Code.

BUILDING, MAIN OR PRINCIPAL: A building or, where the context so indicates, a group of buildings in which is conducted the main or principal use of the lot on which building or group of buildings is located.

BUREAU: Shall mean the municipal/ordinance violations bureau established by City Code of Ordinances, Chapter 1.

CAR WASH: A permanent commercial facility where motor vehicles are washed by hand, by mechanical devices, or by both, excluding temporary car washes organized for civic or charitable purposes.

CERTIFICATE OF USE AND OCCUPANCY: The certificate issued by the code official which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of law for the use and occupancy of the building in its several parts together with any special stipulations or conditions of the building permit.

CITY: The City of Walled Lake, Michigan.

CLINIC: A place for the care, diagnosis and treatment of sick or injured persons, and those in need of medical or minor surgical attention. A clinic may incorporate customary laboratories and pharmacies incidental or necessary to its operation or to the service of its patients, but may not include facilities for in-patient care or major surgery.

CLUB: A non-profit organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics or similar activities.

COIN-OPERATED AMUSEMENT DEVICE: Add "coin-operated amusement device": An instrument, machine or contrivance which may be operated or set in motion upon the insertion of a coin, token or similar object, or activated and/or paid for by any other means, and which provides games, entertainment or amusement.

COMMISSION: The Planning Commission of the City of Walled Lake.

CONDOMINIUM: A plan or project as established and approved in conformance with the Michigan Condominium Act, Act 59 of the Public Acts of 1978, as amended.

CONVALESCENT OR NURSING HOME: A structure with sleeping rooms, where persons are housed or lodged and are furnished with meals and nursing care, and where limited medical care may be available.

CO-OP (COOPERATIVE): A multiple dwelling owned by a corporation which leases its units to stockholders on a proprietary lease arrangement.

COUNCIL: The Walled Lake City Council, the duly elected legislative body of the City of Walled Lake.

COURT: A yard, other than a required open space, on the same lot with a building or group of buildings, and which is bounded on two or more sides by such building or buildings.

DAY CARE CENTER, CHILD CARE CENTER: See Nursery School.

DECK: A platform, commonly constructed of wood, which is typically attached to a house, and which is typically used for outdoor leisure activities.

DISTRICT: This term is synonymous with the term "Zone" or "zoning district"; a portion of the City within which, on a uniform basis, certain uses of land and buildings are permitted and within which certain regulations and requirements apply under the provisions of this Ordinance.

DRIVE-IN ESTABLISHMENT: A business establishment or portion thereof, so developed that its retail or service character includes a driveway approach or parking spaces for motor vehicles so as to serve motor vehicles or serve patrons while in the motor vehicle (e.g., car wash, gasoline service stations, restaurants, cleaners, retail stores, banks, theaters, etc.).

DRIVE-THRU RESTAURANT: (amended eff. Aug. 2001) An establishment that serves patrons in a vehicle via a driveway approach. Such establishment may also serve patrons within a building.

DUMPSTER: A container used for the temporary storage of rubbish, pending collection, having a capacity of at least one (1) cubic yard.

DWELLING UNIT: One or more rooms with bathroom and principal kitchen facilities designed as a self-contained unit for occupancy by one family for living, cooking and sleeping purposes.

(a) Dwelling Unit, Manufactured: A dwelling unit which is substantially built, constructed, assembled, and finished off the premises upon which it is intended to be located.

(b) Dwelling Unit, Site Built: A dwelling unit which is substantially built, constructed, assembled, and finished on the premises which are intended to serve as its final location. Site built dwelling units shall include dwelling units constructed of pre-cut materials and panelized wall, roof and floor section when such sections require substantial assembly and finishing on the premises which are intended to serve as its final location.

DWELLING, MULTIPLE-FAMILY: A building or portion thereof containing three or more dwelling units. This definition includes three family houses, four family houses, and apartment houses, but does not include trailer camps or mobile home parks.

DWELLING, SINGLE-FAMILY: A detached building containing one dwelling unit.

DWELLING, TWO-FAMILY: A detached building containing two dwelling units.

DWELLING, ROW OR TOWN HOUSE: A row of three or more attached one family dwellings, not more than two and one-half (2 1/2) stories in height, in which each dwelling has its own front entrance and rear entrance.

ERECTED: Built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, painting, plastering, sewers and the like shall be considered a part of erection.

ESSENTIAL SERVICES: Those services as outlined below, which are designed and constructed to directly serve local users within the geographic boundaries of the City. Such essential services include the erection,

construction, alteration or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, steam, fuel or water transmission or distribution systems, collection, communications, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants, and similar equipment and accessories in connection therewith, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the public health, safety and general welfare, but not including storage yards or sales offices or commercial buildings or activities.

FAMILY:

(a) An individual or group of two or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one additional unrelated person, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or,

(b) A collective number of individuals domiciled together in one dwelling unit whose relationship is of a continuous, non-transient, domestic character and who are cooking and living as a single, non- profit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms of other similar determinable period.

FAMILY DAY CARE HOME: A family day care home is a private home in which 1 but less than 7 minor children are received for care and supervision for periods of less than 24 hours a day, attended by other than a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

FENCE: An unroofed man-made structure exceeding twelve (12) inches in height that is designed as a barrier. It may be made of wood, metal or other material. It may be ornamental or intended for or capable of enclosing a piece of land, preventing ingress and egress, dividing, bounding or simply marking a line.

FILLING: The depositing or dumping of any matter onto or into the ground, except common household gardening and ground care.

FLOOR AREA: Area measured to the exterior face of exterior walls and to the center line of interior partitions.

FLOOR AREA, USABLE RESIDENTIAL: The sum of the horizontal area of the first story measured to the exterior walls; plus similarly measured, that area of all other stories having more than eight-four (84) inches of head room which may be made useable for human habitation; but excluding the floor area of basements, unfinished attics, attached or un-attached garages, breezeways, enclosed and unenclosed porches, and accessory buildings. (See "Floor area terminology" illustration)

FLOOR AREA, USABLE NON-RESIDENTIAL: (For the purpose of computing parking) is 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 substantially devoted to the storage or processing of merchandise, or for utilities shall be excluded from the computation of Floor Area, Usable Non-Residential. Measurement of usable non-residential floor area shall be measured using one of the following methods: 1) the sum of the gross horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls, or, 2) eighty (80) percent of the total floor area. For the purposes of computing parking for those uses not enclosed within a building, the area used for the sale of merchandise, display of merchandise, and/or area used to serve patrons or client shall be measured to determine necessary parking spaces.

FLOOR, GROUND: That portion of a building which is partly below grade but so located that the vertical distance from the average grade to the ceiling is greater than the vertical distance from the average grade to the floor. A ground floor shall be counted as a story.

FOSTER CARE FAMILY HOME: Means a private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days per week and for two (2) or more consecutive weeks. The Adult Foster Care Home licensee shall be a member of the household and an occupant of the residence. Halfway houses sponsored by the Michigan Department of Correcting are not considered licensed foster care facilities. (Section 3, subsection 5, Act 218, Public Acts of 1979.)

(a) **Large Group Home:** Means an adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults who shall be provided foster care. Beginning four (4) years after the effective date of Act 218, Public Acts of 1979 (approved January 16, 1980), an Adult Foster Care Large Group Home which is licensed by the Department of Health to provide foster care in each respective category may receive only those adults in the category whose primary need for services is based upon not more than one (1) of the following categories:

1. Aged condition,

2. Mental illness, developmental disability, or physical handicap, or a combination of mental illness, developmental disability, or physical handicap.

(b) **Small Group Home:** Means an Adult Foster Care Facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care.

GASOLINE SERVICE STATION: See Automobile Service Station.

GARAGE, REPAIR: See Automobile Repair Garage.

GARAGE, PRIVATE: An accessory building having not more than seven hundred twenty (720) square feet in area to be used for the storage of non- commercial vehicles, provided that not more than one commercial vehicle of less than three-quarter (3/4) tons capacity may be stored in said private garage and there shall be no services or commodities offered to the public in connection therewith. (See "building, accessory.")

GARAGE, COMMUNITY: An accessory building for the storage of non- commercial vehicles, with no public shop or service facilities in connection therewith.

GARAGE, PUBLIC PARKING: A structure available to the public for the parking and storage of motor vehicles, including such accessory uses as the sale at retail of gasoline (stored only in underground tanks) or motor oil and the washing, polishing and lubrication of motor vehicles, all within the structure.

GRADE: The ground elevation established for the purpose of regulating the number of stories and the height of the building. The building grade shall be the level of the ground measured six (6) feet from the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building.

GREENBELT: A strip of land of specified width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip, and as further defined in this Chapter.

GROUP DAY CARE HOME: Means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than 4 weeks during a calendar year.

HAZARDOUS USES: All uses which involve the storage, sale, manufacture, or processing of materials which are dangerous and combustible and are likely to burn immediately, and from which either poisonous fumes or explosions are to be anticipated in the event of fire. These uses include all high hazard uses listed in the City's adopted Building Code.

HOME OCCUPATION: An occupation conducted within a dwelling unit and carried on by the inhabitants thereof, not involving employees other than members of the immediate family residing on the premises, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, does not change the character thereof, and which does not endanger the health, safety, and welfare of any other persons residing in that area by reason of noise, noxious odors, unsanitary or unsightly conditions, fire hazards and the like, involved in or resulting from such occupation, profession or hobby. Any such home occupation shall also comply with the following minimum requirements:

(a) That such occupation is incidental to the residential use to the extent that not more than twenty percent (20%) of the useable floor area of the principal building shall be occupied.

(b) That no article or service is sold or offered for sale on the premises except such as is produced by such occupation.

(c) No home occupation shall be conducted in any accessory building.

(d) Such occupation shall not require internal or external alterations or construction features, equipment, machinery, outdoor storage, or signs not customarily in residential areas.

(e) No home occupations shall generate other than normal residential traffic either in amount or type.

(f) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

(g) No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, electricity, trash removal, etc.) such that the combined total use for the dwelling unit and home occupation exceeds by more than ten (10) percent the average for the residence itself, measured over the previous 12-month period.

(h) That there be no sign of any nature advertising said occupation.

(i) Parking needs generated by a home occupation shall be provided for in an off-street parking area, located other than in a required front yard.

HOSPITAL: An institution providing health services, primarily for in- patients, plus medical and surgical care for the sick or injured, including such related facilities as laboratories, out-patient departments, central service facilities and staff offices.

HOTEL or MOTEL or MOTOR LODGE: A series of dwelling units located in one or more buildings and designed primarily for overnight lodging by transients. Each unit typically has a bedroom, bathroom, closet space, and a separate entrance. Hotels typically offer a greater variety services than motels, such as restaurants, meeting rooms, valet services, recreation facilities, and so forth.

For the purposes of this Ordinance, motels which provide dwelling units with kitchen facilities which are commonly occupied for extended periods of time, rather than being used primarily for overnight lodging by transients, shall be considered "multiple family dwellings."

JUNK: For the purpose of this Ordinance, "junk" in addition to including garbage and rubbish shall mean unlicensed motor vehicles, machinery, appliances, product, merchandise with parts missing, or scrap metals, or other scrap materials that are damaged, deteriorated or are in a condition which renders them incapable of performing the function for which they were intended.

JUNK YARD: An open area of more than two hundred (200) square feet, including an automobile wrecking yard, used for the purchase, sale, exchange, disassembly, storage processing, baling or packaging of junk, including but not limited to scrap metals, unuseable machinery or motor vehicles, tires, bottles, and paper, and not including uses established entirely within enclosed buildings.

KENNEL: Any lot or premises on which more than two (2) dogs or cats, six (6) months or more old, are permanently or temporarily kept, or are boarded or kept for the purpose of breeding or selling.

LODGING HOUSE: See Boarding House.

LANDSCAPING: The treatment of the ground surface with live materials such as, but not limited to, grass, sod, ground cover, trees, shrubs, vines and other growing horticultural material. In addition, the combination or design may include other decorative surfacing such as wood chips, crushed stone, boulders, or mulch materials not to exceed twenty (20%) percent of the total for any landscape area. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping but such objects alone shall not meet the requirements of landscaping. In addition, artificial plant materials shall not be counted as required landscape areas.

LABORATORY: An establishment devoted to scientific, industrial or business research and experimental studies including testing and analyzing, but not including quantity manufacturing except the making of prototypes, models and test models.

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

LOT (OR ZONING LOT OR PARCEL): For the purposes of enforcing this Ordinance, a lot is defined as a piece of land under single ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a dedicated roadway or, if permitted by the regulations set forth herein, on a private road. A lot may consist of:

- A single Lot of Record,
- A portion of a Lot of Record,
- A combination of complete Lots of Record, or portion thereof, or
- A piece of land described by metes and bounds.

LOT AREA: The total horizontal area within the lot lines of a lot. For lots fronting or adjacent to private streets, lot area shall mean that area within lot lines and not including any portion of said private street.

LOT, CORNER: A lot where the interior angle of two adjacent sides at the intersection of two streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this Ordinance if the arc is of less radius than one hundred fifty (150) feet and the

tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than one hundred thirty-five (135) degrees.

LOT COVERAGE: That part or percent of the lot occupied by all buildings.

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

LOT, DOUBLE FRONTAGE: Any interior lot having frontages on two 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.

LOT, INTERIOR: Any lot other than a corner lot. (See "lot" illustration)

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

(a) **Front Lot Line:** In the case of an interior lot, that line separating the lot from the street. In the case of a through lot, the line separating the lot from that street which is designated in an application for a building permit, or in any manner as the front street. In the case of a corner lot, the lines, separating the lot both from that street which is designated as the front street in an application for building permit and from the side street are front lot lines. In the case of a lot which extends between a street and a canal or lake, the line separating the lot from the street shall be designated as the front lot line, and the line separating the lot from the water shall be designated as the "water line."

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

(c) **Side Lot Line:** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from another lot or lots is an interior side lot line. A lot line separating a lot from a side street is a front lot line.

(d) **Water Line.** In the case of a lot abutting a lake or canal, the water line shall be the same as the ordinary high-water mark, as defined in the City's Wetland Ordinance.

LOT OF RECORD: A parcel of land, the dimensions of which are shown on a recorded plat on file with the Oakland County Register of Deeds, or any parcel recorded with the Oakland County Register of Deeds, which has been separated, which exists as described, at the time of the effective date of this Chapter. A lot of record must front a public street which is dedicated for access as a public street.

LOT, WATERFRONT: A waterfront lot is a lot adjoining a Lake.

LOT WIDTH: The length of a straight line measured between the two points where the building line or setback line intersects the side lot lines. (See "yard terms" illustration)

MAJOR THOROUGHFARE: An arterial street which is designated as a major thoroughfare on the Zoning Map for the City.

MANUFACTURED BUILDING: Is defined by the following features or characteristics:

(a) Mass-produced in a factory;

(b) Designed and constructed for transportation to a site for installation and use when connected to required utilities;

(c) Either an independent, individual building or a module for combination with other elements to form a building on the site.

MANUFACTURED HOUSING: A manufactured building or portion of a building designed for long-term residential use.

MARGINAL ACCESS ROAD: A service roadway parallel to a feeder road; which provides access to abutting properties and protection from through traffic.

MASTER PLAN: The comprehensive plan including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the Municipality, and includes any unit or part of such plan, and any amendment to such plan or parts thereof. Such plan or part thereof may or may not be adopted by the Planning Commission and/or City Council.

MARQUEE: A roof-like structure of a permanent nature projecting from the wall of a building.

MEZZANINE: An intermediate or fractional story between the floor and ceiling of a main story occupying not more than one-third (1/3) of the floor area of such main story.

MOBILE HOME: A manufactured dwelling unit, 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. Mobile home does not include a recreational vehicle.

MOBILE HOME 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 there for, 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 temporary trailer park.

MOTEL: See Hotel.

MOTOR VEHICLE: As defined in the Michigan Vehicle Code, Act 300 of 1949, as amended, motor vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from over-head trolley wires, but not operated upon rails.

MUNICIPAL CIVIL INFRACTION: Shall mean a violation of a provision of this Zoning Ordinance for which the remedy and/or penalty is prescribed to be a civil fine or other sanction other than a criminal penalty. A municipal civil infraction is not a lesser-included offense of a criminal offense or of an ordinance violation that is not a civil infraction.

MUNICIPAL CIVIL INFRACTION CITATION: Shall mean a written complaint or notice prepared by an authorized official directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by that person.

MUNICIPAL CIVIL INFRACTION DETERMINATION: Shall mean a determination that a defendant is responsible for a municipal civil infraction by one of the following:

(a) An admission of responsibility of the municipal civil infraction.
(b) An Admission of responsibility for the municipal civil infraction, "with explanation."
(c) A preponderance of the evidence at an informal hearing or formal hearing.
(d) A default judgment for failing to appear at a scheduled appearance.

MUNICIPAL CIVIL INFRACTIO NOTICE: Shall mean a written notice prepared by an authorized official, directing a person to appear at the municipal ordinance violations bureau for the purpose of paying a civil fine and/or costs for a violation which is prescribed to be a municipal civil infraction.

NONCONFORMING BUILDING: (Nonconforming structure) A building or structure (or portion thereof) lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the provisions of this Ordinance relative to height, bulk, area, placement or yards for the zoning district in which it is located.

NONCONFORMING USE: A use of a building or structure or of a parcel or tract of land, lawfully existing at the time of adoption of this Ordinance or a subsequent amendment thereto, that does not conform to the regulations of this Ordinance for the zoning district in which it is situated.

NONCONFORMING USE AND BUILDING: A use and a building lawfully existing at the time of adoption of this Ordinance or a subsequent amendment there to which do not conform to the use and height, bulk, placement or yard provisions for the zoning district in which situated.

NUISANCE PERSE: Shall mean any violation of this Zoning Ordinance, including any uses of land, and dwellings, buildings, or structures, including tents, trailer coaches and mobile homes, used, erected, altered, raised, or converted in violation of this Zoning Ordinance.

NURSERY, PLANT MATERIAL: A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this Ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

NURSERY SCHOOL: (Day Care Center) A public or private school, kindergarten or child care facility wherein day care or day care and education is provided for children under the age of 14. Family day care homes shall not be considered nursery schools.

OCCUPANCY, CHANGE OF: The term "change of occupancy" shall mean a discontinuance of an existing use and the substitution therefore of a use of a different kind or class, or the expansion of a use.

OCCUPIED: Used in any way at the time in question.

OFF-STREET PARKING LOT: A facility other than for single or two-family dwellings providing parking vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.

OPEN-FRONT STORE: A business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile service stations or used car lots.

OFF-STREET LOADING SPACE: A facility or space which permits the standing, loading or unloading of trucks and other vehicles other than on or directly from a public right-of-way.

OUTDOOR DISPLAY AREA means a designated outdoor area on the site used for the outdoor display of goods offered for sale in the principal business.

OUTDOOR SEATING means the provision of tables and chairs in an area designated for outdoor seating adjacent to the principal building on the site to allow for the consumption of food and beverage products served at the principal location.

PARKING SPACE: A permanently paved area of land adequate to carry out the off-street parking regulations of this Ordinance, and an area for each motor vehicle of not less than nine (9) feet wide by twenty (20) feet long exclusive of drives, aisles and entrances giving access thereto, and fully accessible for the parking of permitted vehicles, except for a handicapped parking space which shall be not less than twelve (12) feet wide by twenty (20) feet long.

PET: A domesticated dog, cat, canary, parakeet, parrot, duck, gerbel, hamster, guinea pig, turtle, fish, or rabbit kept as a pet.

PLANNING COMMISSION: The City Planning Commission of Walled Lake created by Ordinance in accordance with Act 285, Public Acts of 1931, as amended, being the agency designated to prepare a Zoning Ordinance and to recommend amendments to same Ordinance, in accordance with authority of Act 207, Public Acts of 1921, as amended, throughout this Ordinance shall be known as the Planning Commission, or the Commission.

POINT OF OBSERVATION: The determination of the percentage of openness to the free passage of air and light in fences, privacy screens and walls shall be made from a specific point of observation. The point of observation shall be a point ten (10) feet away from the structure; perpendicular to the vertical surface plane of the structure and as viewed from a height above grade which is equal to 50 percent of the structure's height.
PROPERTY LINES: The lines bounding a lot, the lot lines.

PUBLIC UTILITY: Any person, firm or corporation, municipal department or board, duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electricity, sewage disposal, water, transportation and communications such as telephone, cable television, and mobile phone towers.

QUICK OIL CHANGE OR LUBRICATION CENTER: A commercial use intended to provide oil-change and lubrication services for automobiles while the customer waits, including no automobile repair except the lubrication services and no overnight storage of automobiles, but including the sale of oil, lubrication and related products to service customers.

RECOVERY HOME: A dwelling as their principal residence by up to 12 handicapped persons (as defined by the Federal Fair Housing Act, as amended) who are in need of a supportive living arrangement to help the recuperate from the effects of drug or alcohol addiction, who reside together as a single housekeeping unit, in which staff persons shall provide supervision, counseling, treatment, or therapy for the residents therein.

RECREATION LAND: Any public or privately owned lot or land that is utilized for recreation activities such as, but not limited to camping, swimming, picnicking, hiking, nature trails, boating, and fishing.

RECREATIONAL EQUIPMENT: Travel trailers, pick-up campers or coaches, motorized dwellings, tent-trailers, boats and boat trailers, snowmobiles, horse trailers, dune buggies and other similar equipment.

REPEAT OFFENSE: Shall mean a determination of responsibility for second or any subsequent Zoning Ordinance violation of the same Zoning Ordinance provision committed by the same person within any three (3) year period, unless some other period is specifically provided with regard to a specific Zoning Ordinance provision.

RESPONSIBLE OR RESPONSIBILITY FOR A VIOLATION: Shall mean a determination entered by a court or magistrate that a person is in violation of a provision of this Zoning Ordinance prescribed to be a municipal civil infraction.

RESTAURANTS:

(a) **Dining Room:** A structure which is maintained, operated and advertised or held out to the public as a place where food and beverage are served, and consumed, primarily within the structure. Such food and beverage are served primarily in non-disposable (reusable by the restaurant) containers.

(b) **Drive-In Restaurant:** A drive-in restaurant is any establishment where food, frozen dessert, and/or beverages are served to customers while seated in their motor vehicles upon the premises. It shall also include any establishment where the customers may serve themselves and are permitted to consume food and beverages in a motor vehicle parked on the premises or at other facilities which are provided for the use of the patron for the purpose of consumption and which are located outside of the building or structures.

(c) **Fast Food Restaurant:** A structure which is maintained, operated, and advertised or held out to the public as a place where food, beverage, and/or desserts are served to customers from a serving counter in disposable (not reusable by restaurant) containers and wrappers. Such food, beverage, and/or desserts may be consumed: inside the building; outside, at facilities provided; or "carried out" for consumption off the premises.

(d) **Carryout Restaurant:** A structure which is maintained, operated and/or advertised or held out to the public as a place where food, beverage, and/or desserts are served in disposable containers or wrappers from a serving counter for consumption primarily off the premises.

(e) **Bar/Lounge:** A structure or part of a structure designed, maintained, and operated primarily for the dispensing of alcoholic beverages. The selling of food and/or snacks may also be permitted. If the bar/lounge area is part of a larger dining facility, it shall be defined as that part of the structure so designated and/or operated.

ROADSIDE STAND: A temporary or existing permanent structure containing not more than two hundred (200) square feet of enclosed floor area and operated for the purpose of selling agricultural, dairy, or poultry products.

ROOMING HOUSE: See Boarding House.

ROOMING UNIT: A room or group of rooms, forming a single habitable unit used for living and sleeping, but not containing kitchen or eating facilities.

SATELLITE DISH ANTENNA: An accessory use which incorporates a solid, open mesh, or bar configured surface, which is typically in the shape of a shallow dish or cone, and which is in excess of 36 inches but not greater than ten (10) feet in diameter at its widest dimension. Such devices are designed to receive radio or electromagnetic signals from orbitally based satellites. Because of their weight, mass, and restriction to the free passage of light and air, such uses require specific regulatory guidelines.

SETBACK LINE, REQUIRED: A line, marking the setback distance from the street or lot lines, which establishes minimum required front, side or rear open space of area.

SIGN: See Section 20.03.

SITE PLAN: A plan showing all salient features of a proposed development, as required under Section 21.28, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.

SPECIAL LAND USE: Use permitted subject to special approval by the Planning Commission as set forth in Section 21.29 and other applicable sections of this Ordinance.

STABLE, PRIVATE: A stable for the keeping of horses for the non- commercial use of the residents of the principal premises.

STABLE, PUBLIC: A stable other than a private stable.

STORY: That portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area of at least 50 percent of the usable floor area of the floor immediately below it. A top floor area under a sloping roof with less than 50 percent of the usable floor area is a half story. The first story shall be considered the lowest story of which the ceiling is more than 4 feet above the average contact ground level at the exterior walls of the building. (See basic structural terms illustration)

STREET: A public or private right-of-way accepted and certified for maintenance by a public agency, which affords the primary means of access to abutting property.

STRUCTURE: Any constructed or erected material, the use of which requires location on the ground or attachment to something having location on the ground, including, but not limited to, buildings, towers, sheds, decks, fences, privacy screens, walls, antennae, and signs, but excepting walks, drives, pavements, and similar access or circulation facilities.

STREET LINE: (Right-of-Way Line) The dividing line between the street and a lot.

TATTOO: An indelible mark upon the body of another individual by the insertion of a pigment under the skin or an indelible design made upon the body of another by production of scars other than by branding.

TATTOO PARLOR: An establishment which provides external body modifications through the application of a tattoo, body-piercing, or branding.

TEMPORARY USE: TEMPORARY BUILDING: A use or building permitted to exist during limited periods of construction of a main building or use, or for temporary special events, sales or activities, as permitted by the Planning Commission.

TOURIST HOME: A dwelling in which overnight accommodations are provided or offered for transient guests for compensation, without provision for meals.

TOXIC/HAZARDOUS WASTE: Waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material which because of its quality; concentration; or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or increase in serious irreversible illness or serious incapacitating, but reversible illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

TRAILER COACH: See Recreation Equipment.

TRUCK STORAGE: An area used for the temporary storage of private trucks or trucks for hire.

TRUCK TERMINAL: A structure to which goods, except raw or unprocessed agricultural products, natural minerals, or other resources, are delivered for immediate distribution or to be amalgamated for delivery in larger units to other points, or for distribution or amalgamation involving transfer to other modes of transportation.

USE, ACCESSORY: A use which is clearly incidental to, customarily found in connection with and, unless otherwise specified, located on the same lot as the principle use to which it is related.

USE, CHANGE OF: A change from, conversion to, or replacement of the principal use of land and/or building. The addition of another principal use to a lot or building shall also constitute a change of use. A change in the specific primary function of a lot or building shall constitute a change of use.

USE, PRINCIPAL: A main use to which the premises are devoted and the main purpose for which the premises exist.

VARIANCE: A modification of the literal provisions of this Ordinance granted by the Zoning Board of Appeals in situations or under circumstances where permitted by law.

VETERINARY CLINIC: A place where animals or pets are given medical or surgical treatment with use as a kennel limited to short-time boarding which is incidental to the medical use.

VIOLATION: Shall mean any act, which is prohibited or made or declared to be unlawful, or an offense under this Zoning Ordinance, including affirmative acts as well as omissions and/or failure to act where the act is required by this Zoning Ordinance.

WALL: Any unroofed man-made structure which has a foundation and also has an exterior vertical surface of brick or stone, and no more than 25 percent of the vertical surface of which is open to the free passage of air and light.

WATERFRONT YARD: An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the water line and the required waterfront setback line, unoccupied from the ground up except as hereinafter specified.

WIRELESS COMMUNICATION: Use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. Structures used in wireless communication may include, but are not limited to, radio and television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities, short-wave facilities, ham and amateur radio facilities, television reception antennas, satellite dishes and governmental facilities that are subject to state and federal law or regulations that preempt municipal regulatory authority. Wireless communication shall not be included under the definition of "essential services".

(a) **Abandoned or unused:** An antenna, equipment, facility or system that has not been used for a period of ninety (90) consecutive days, or ninety (90) days after new technology is available which permits the operation of the system without the necessity of a wireless communication structure. Removal of antennas or other equipment from the structure or cessation of reception or transmission of radio signals shall be considered non-use.

(b) **Attached Wireless Communication Antenna:** A wireless communication device that is attached to an existing structure, such as a building, steeple, utility pole, water tank, etc., for support, that does not materially alter or materially change the appearance of the existing structure, that is used to receive and transmit federally or state licensed communications services via licensed segments of the radio frequency spectrum. The antenna shall be small in scale and unobtrusive to the area in which it is located, such as a single rod or a small box.

(c) **Co-location:** The use or attachment of two or more wireless communication antennas or antenna arrays to one support structure, the approval of which is intended to reduce the number of overall structures required to support wireless communication antennas within the City.

(d) **Coverage Area Map:** A map that identifies the location, height, ownership and capacity details of all existing and known proposed wireless communication antennas and facilities within Walled Lake and all areas within one-half mile of Walled Lake's boundaries. Capacity details shall include the number of

antennas and/or antenna arrays the support structure can accommodate along with details related to any existing co-locations, and any modifications that would be needed to the proposed equipment or service area to allow the provider to co-locate on an existing support structure.

(e) **Wireless Communication Equipment:** All wires, bracing, utility boxes and accessory buildings etc., that are used in conjunction with wireless communication antennas and facilities.

(f) **Wireless Communication Facility:** A type of wireless communication system that is visually apparent and may be accessory, freestanding, or otherwise, that is used to enable wireless communication to function. This shall include monopoles along with any antennas and required equipment. A lattice tower, guy-wired tower, or wooden pole shall not be considered as a wireless communication facility. An attached wireless communication antenna, as defined herein, is not a facility.

(g) **Wireless Communication Master Plan:** A map of the City that shows one provider's existing and planned cell sites within the City's boundaries, any existing and/or planned cell sites that would serve the City but are not located within the City, and identification of the geographical area each cell site would serve at the provider's full development. The anticipated activation date of each proposed cell site should be noted. The Master Plan also includes a written description of the type of consumer services and products that will be offered and of each type of technology along with its' radio frequencies that the provider anticipates using over the next five years.

(h) **Wireless Communication Support Structure:** Any structure erected or modified to support one or more wireless communication antennas, either as a primary or as an ancillary function.

(i) **Wireless Communication System:** Wireless communication antennas and their support structures, facilities, and equipment that are used to enable wireless communication to function.

YARD: 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: (See "yard lot" illustration)

(a) **Front Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the front setback line.

(b) **Front Yard, Double:** An open space on corner lots (as defined in this Ordinance) extending the full width of the lot on both sides facing the intersecting streets. Unless specifically noted otherwise in this Ordinance, both open spaces facing each street shall be considered front yards for the purposes of determining required setbacks.

(c) **Side Yard:** An open space, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the side setback line.

(d) **Rear (Back) Yard:** An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line or established zoning district line and nearest line of the principal building. On corner lots there shall be only one rear yard, which shall be opposite from the front street as designated on the plat, site plan review application, or request for a building permit.