

## **ARTICLE II DEFINITIONS**

### **SECTION 2.01        RULES APPLYING TO TEXT**

- A.     If any portion of this Ordinance or the application thereof to any person or circumstances shall be found to be invalid by a court, such invalidity shall not affect the remaining portions or applications of the portion which can be given effect without the invalid portion or application. Providing such remaining portions are not determined by the court to be inoperable, and to this end all portions of this Ordinance are declared to be severable.
  
- B.     If the meaning of this Ordinance is unclear in a particular circumstance, then the body charged with interpreting or applying the Ordinance shall construe the provision to carry out the intent of the Ordinance if such intent can be discerned from other provisions of the Ordinance or law.
  
- C.     The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
  
- D.     All words and phrases shall be construed and understood according to the common preferred usage of the language; but technical words and phrases and such, as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.
  
- E.     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.
  
- F.     A “building” or “structure” includes any part thereof.
  
- G.     The word “person” includes an individual, a corporation, a partnership, and incorporated association, a trust, a custodian, an estate, a governmental unit, limited liability company, or any other similar activity.
  
- H.     Unless the context clearly indicates the contrary, the conjunctions noted below shall be interpreted as follows:
  - 1.        “And” indicates that all connected items, conditions, provisions or events shall apply.
  - 2.        “Or” indicates that the connected items, conditions, provisions or events may apply singularly or in any combination.
  - 3.        “Either or” indicates that the connected items, conditions, provisions or events shall apply singularly but not in combination.
  
- I.     In computing the number of days, the first day is excluded and the last day is included. If the last day of any period during which an application, filing, or request is required to be made to the Township or other governmental agency is a Saturday, Sunday or legal holiday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday.

- J. The following dimensions must be perpendicular measurements: lot, street and easement widths; front, side and rear setback lot lines; distances from the ordinary high water mark, bluff line, high risk erosion areas, and the like.

## **SECTION 2.02 DEFINITIONS – A**

### **ACCESSORY BUILDING**

A building or portion of a building subordinate to a main building on the same lot occupied by or devoted exclusively to an accessory use. An independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the housing or storage of persons, animals or property, or carrying on business activities. When an accessory building is attached to a main building in a substantial manner, such as a common wall or roof, the accessory building shall be deemed to have been integrated into the main building and no longer considered an accessory building.

### **ACCESSORY USE**

A use customary, incidental and subordinate to, and devoted exclusively to the principal use of the land or main building.

### **ACCESSORY VEHICLE**

See “RECREATIONAL VEHICLE OR EQUIPMENT”

### **ADULT USES**

The term shall include adult book stores, adult cabarets, adult motion picture theaters, massage establishments, and nude studios. These terms shall have the following meanings:

#### **A. ADULT BOOK STORE**

An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other printed materials characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas”, as defined herein, or an establishment with a segment or section devoted to the sale or display of such material.

#### **B. ADULT CABARET**

An establishment including, but not limited to, a café, restaurant or bar which features go-go dancers, erotic dancers, strippers, male or female impersonators, or similar entertainers.

#### **C. ADULT THEATER**

An establishment used 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 herein, for observation by patrons therein.

D. MESSAGE ESTABLISHMENT

Any establishment where massages are administered for pay, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed by the State of Michigan, or massages administered by persons certified by the American Massage Therapy Association or a graduate of a School of Massage that is certified by the State of Michigan, or to barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder. This definition shall not be construed to include a non-profit organization operating a community center, swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities for the welfare of the residents of the area. A *Massage* is defined as a method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand or any instrument.

E. NUDE STUDIO

Any establishment which offers the providing of models to display “specified anatomical areas” as described herein.

Specified Anatomical Areas

Specified anatomical areas are defined as:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola;
2. Human male genitals in a discernible turgid state even if completely and opaquely covered.

Specified Sexual Activities

Specified sexual activities are defined as:

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 genital, pubic region, buttock or female breast.

AGRICULTURE USES

“Agricultural use” means the land and buildings used in the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including breeding and grazing of cattle, swine, captive cervidae, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stock; fruits; vegetables; Christmas trees; and other similar uses and activities. Agricultural use includes use in a federal acreage set-aside program or a federal conservation reserve program. “Agricultural use” means 1 or more of the following:

- A. A farm of 40 or more acres in 1 ownership, with 51% or more of the land area devoted to an agricultural use.

- B. A farm of 5 acres or more in 1 ownership, but less than 40 acres, with 51% or more of the land area devoted to an agricultural use that has produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land. A farm described in this subparagraph enrolled in a federal acreage set aside program or a federal conservation reserve program is considered to have produced a gross annual income from agriculture of \$200.00 per year or more per acre of cleared and tillable land.
- C. A farm of any size designated by the department of agriculture as a specialty farm in single ownership that has produced a gross annual income from an agricultural use of \$2,000.00 or more. Specialty farms include, but are not limited to, greenhouses; equine and grazing; the breeding and grazing of cervidae, pheasants, and other game animals; bees and bee products; mushrooms; aqua-culture; and other similar uses and activities.

Agricultural use does not include the management and harvesting of a woodlot.

#### ALTERATIONS

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

#### ARCHITECTURAL FEATURES

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

#### AREA OF SPECIAL FLOOD HAZARD

Is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year?

### **SECTION 2.03            DEFINITIONS – B**

#### BASE FLOOD

Means the flood having a one percent chance of being equaled or exceeded in any given year.

#### BASEMENT OR CELLAR

A portion of a building having more than one-half (1/2) of its height below grade.

#### BED AND BREAKFAST

A single family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

#### BERM

A man-made, formed earthen mound of definite height and width used for obscuring purposes; the purpose of which is to provide a transition between uses of differing intensity.

#### BLUFF LINE

The edge or crest of the elevated segment of the shoreline above the beach or beach terrace.

#### BOARD OF APPEALS, or “ZBA”

As used in this Ordinance, this term means the Fruitland Township Zoning Board of Appeals.

#### BOARD, TOWNSHIP

As used in the Ordinance, this term means the Fruitland Township Board of Trustees.

#### BUILDABLE AREA

The space remaining within a lot after the minimum setback and open space requirements of this Ordinance have been met.

#### BUILDING

An independent structure, either temporary or permanent, having a roof supported by columns, walls, or any other support used for the housing or storage of persons, animals or property, or carrying on business activities. When any portion thereof is completely separated from every part thereof by division of walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

#### BUILDING CODE

Construction standards currently adopted by Fruitland Township.

#### BUILDING HEIGHT

See Development Standards in each Zoning District.

#### BUILDING, MAIN

A building in which is conducted the principal use of the lot on which it is situated.

#### BUILDING PERMIT

Written authorization issued by the Building Inspector on behalf of the Township permitting the construction, moving, alteration of a building or structure or excavation, in conformity with the provisions of this Ordinance and the Township’s building code.

### **SECTION 2.04           DEFINITIONS – C**

#### CERVIDAE FACILITIES

“Cervidae facility” means a privately owned cervidae livestock operation on privately controlled lands capable of holding cervidae species, being members of the cervidae family including, but not limited to, deer, elk, moose, reindeer, and caribou.

## CLINIC

A building or group of buildings where human patients are admitted for examination and treatment by more than one (1) professional, such as physician, dentist, or the like, except that human patients are not lodged therein overnight.

## COMMERCIAL

This term relates to the use of property in connection with the lodging of transient guests for profit for a rental fee or the purchase, sale, lease, barter, display or exchange of goods, wares, merchandise or personal services or that is used in commerce or the maintenance of service offices or recreation or amusement enterprise or garage/basement/yard sales operating more than six (6) days during any one (1) twelve (12) month period and designed to make a profit. Any rental of a dwelling for a fee if less than 30 consecutive days is a commercial use.

## COMMISSION, PLANNING

As used in this Ordinance, this term means the Fruitland Township Planning Commission.

## COMMON OWNERSHIP

Common ownership means ownership by the same person, the person's spouse or any other legal entity holding any ownership interest.

## **SECTION 2.05            DEFINITIONS – D**

### DAY CARE, COMMERCIAL

A facility, other than a private dwelling, that receives for more than fourteen (14) days in consecutive twelve (12) months minor children or adults for care for periods less than 24 hours in a day. Child care and supervision provided as an accessory use, while persons responsible for their care are engaged or involved in the principal use of the property, such as a nursery operated during church services or public meetings, or by a fitness center or similar operation, shall not be considered Commercial Day Care.

### DAY CARE, PRIVATE HOMES

#### A.     FAMILY CHILD CARE HOME

A home in which one (1) but fewer than seven (7) minor children are received for care and supervision for compensation for periods of less than twenty-four (24) hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage or adoption. A family child care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. A family child care home does not include an individual providing babysitting services for another individual. As used in this subparagraph, "providing babysitting services" means caring for a child on behalf of the child's parent or guardian when the annual compensation for providing those services does not equal or exceed \$600.00 or an amount that would according to the internal revenue code of 1986 obligate the child's parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services.

According to the Michigan Zoning Enabling Act 110 of 2006, MCL 125.3206, a family child care home is considered a residential use of property for the purposes of zoning and a permitted use in all residential zones and is not subject to a special use or conditional use permit or procedure different from those required for other dwellings of similar density in the same zone.

#### B. GROUP CHILD CARE HOME

A private home in which more than six (6) but not more than twelve (12) minor children are given care and supervision for periods of less than twenty-four (24) hours a day unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage or adoption. A group child care home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

According to the Michigan Zoning Enabling Act 110 of 2006, MCL 125.3206, a group child care home shall be issued a special use permit, conditional use permit, or other similar permit if the group child care home meets all requirements.

#### DEVELOPMENT

Means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

#### DISTRICT, ZONING

A geographical area of the Township within which certain uses of land and/or buildings are permitted.

#### DRIVE-IN ESTABLISHMENT

A commercial facility whose retail/service is provided through service windows or facilities in order to serve patrons while in or momentarily stepped away from the vehicle. Examples include banks, cleaners, and restaurants, but not vehicle service stations.

#### DWELLING UNIT

A building providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and bathroom facilities.

#### DWELLING, MULTIPLE FAMILY

A building or portion thereof, used or designed for use as three (3) or more dwelling units.

#### DWELLING, SINGLE FAMILY

A building used or designed for use exclusively as a dwelling unit by one (1) family.

## DWELLING, TWO-FAMILY

A building or portion thereof, used or designed for use as two (2) dwelling units. It may also be termed a duplex.

## **SECTION 2.06            DEFINITIONS – E**

### ERECTED

The word “erected” includes built, constructed, reconstructed, move upon, or any physical operations on the premises required for the building. Excavations, fill, drainage and the like, shall be considered a part of the term “erect”.

### ESSENTIAL SERVICES

Underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or general welfare, but not including buildings other than such buildings as are primarily enclosures or shelters of the above essential service equipment. Wireless Communications Equipment, Wireless Communications Support Structures, wind energy systems and met towers shall not be considered essential services.

### EXCAVATING

Any breaking of ground, except common household gardening, agricultural uses and grounds care.

## **SECTION 2.07            DEFINITIONS – F**

### FAMILY

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children and servants of the principal occupants who are domiciled together as a single housekeeping unit in a dwelling unit; or
- B. A collective number of individuals domiciled together in one (1) dwelling unit whose relationship is of a continuing, non-transient domestic character and who are cooking and living as a single non-commercial housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individuals whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of a school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature.

### FENCE

A barrier, partition, wall, structure or gate erected as a dividing structure, barrier or enclosure.



## FENCE DESIGN & TYPE

Decorative: a designed open or solid fence or wall that contributes to the identification and beauty of the principle use; is not erected to satisfy and other provision, and does not act as a retaining structure.

## FILL/FILLING

The depositing or dumping of any matter into or onto the ground except common household gardening and general maintenance.

## FINANCIAL GUARANTEE OF PERFORMANCE

When a financial guarantee of performance may be required under the terms of this Ordinance, the Township may require a cash deposit, certified check, letter of credit, bond or other similar type of financial guarantee acceptable to the Township to insure compliance with applicable provisions of the Ordinance. The financial guarantee shall be deposited with the Township Clerk at the time any permits or other approval authorizing the project or activity which requires the financial guarantee are issued. As work progresses, the Township may authorize a proportional rebate of the financial guarantee upon the completion of significant phases of the project.

## FLOOD or FLOODING

Means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

## FLOOD HAZARD BOUNDARY MAP

Means an official map of a community issued by the Federal Insurance Administration, where the boundaries of the areas of special flood hazards have been designated as Zone A.

## FLOOD INSURANCE RATE MAP (FIRM)

Means an official map of a community on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

## FLOOD INSURANCE STUDY

Means the official report provided by the Federal Insurance Administration. The report contains flood profiles, flood boundaries, flood insurance rate zones, and the water surface elevation of the base flood.

## FLOOD HAZARD AREA

Means land, which on the basis of available floodplain information is subject to a one-percent or greater chance of flooding in any given year.

## FLOOD PLAIN

Means any land area susceptible to being inundated by water from any source (see definition of flood).

## FLOODWAY

Means the channel of a river or other watercourse and the adjacent land areas which must be reserved in order to discharge the base flood.

## FLOOR AREA, GROSS (GFA)

The sum of the gross horizontal area of the floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two (2) buildings. The gross floor area of a building shall not include the basement floor area. (See Basement)

Gross floor area shall not include attic space having headroom of less than seven and one-half (7 ½) feet, or interior balconies or mezzanines. Any space devoted to parking or loading shall not be included in floor area. Areas of basements, porches, or attached garages are not included.

## FLOOR AREA, USABLE (UFA)

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; or area used in a dwelling unit for living purposes. Floor area which is used for or intended to be used principally for the storage or processing of merchandise, for hallways, or for utilities shall be excluded for the computation of usable floor area. Measurement of usable 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.

## FOREDUNE

One or more low linear dune ridges that are parallel and adjacent to the shoreline of a Great Lake and are rarely greater than twenty (20) feet in height. The lakeward face of a foredune is often gently sloping and may be vegetated with dune grasses and low shrub vegetation or may have an exposed sand face.

FRONTAGE (See Lot Width)

## **SECTION 2.08            DEFINITIONS – G**

## GARAGE

A building used primarily for the storage of vehicles for the use of the occupants of a lot on which such building is located.

## GRADE

The average finished grade elevation established for the purpose of regulating the number of stories and the height of buildings. The grade shall be the level of the original ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground of each face of the building or structure being measured, before any earth is moved.

## GRADE, AVERAGE EXISTING

The average grade calculated from the grade elevations at the four points where an imaginary line parallel to the front and rear yard setback lines and touching the proposed structure intersects the required side yard setback lines.

## **SECTION 2.09            DEFINITIONS – H**

### HARMFUL INCREASE

Means an unnaturally high stage on a river, stream or lake which causes, or may cause damage to property, threat to life, personal injury, or damage to land or water resources.

### HEDGE

A close-set row of bushes, shrubs or small trees, usually with their branches intermingled, forming a barrier contiguous to a boundary line.

### HOME OCCUPATION

An occupation customarily conducted in a dwelling unit that is clearly an incidental and subordinate use of the dwelling.

### HOSPITAL

An institution providing health services, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central services facilities and staff offices.

### HOTEL

A building where guests are provided a sleeping room and lavatory facilities, with or without meals, in return for payment.

## **SECTION 2.10            DEFINITIONS – I**

### INDUSTRIAL USE

A structure, building, parcel of land, or portion thereof utilized or inherently designed for the production, manufacturing, processing, cleaning, testing, rebuilding, assembly, distribution, finishing, construction and printing of goods or products; including related research and development facilities.

### INOPERATIVE OR ABANDONED VEHICLES

Any vehicle which is self-propelled and/or intended to be self-propelled, and which by reason of dismantling, disrepair, or other cause is incapable of being propelled under its own power.

## INTENSIVE LIVESTOCK OPERATIONS

A commercial operation where livestock are kept at a population per acre of at least four (4) dairy cattle, four (4) slaughter or feeder cattle, twenty (20) swine, seven hundred (700) poultry, ten (10) sheep or goats, or four (4) horses.

### **SECTION 2.11      DEFINITIONS – J**

#### JUNK

Any vehicles, machinery, appliances, lumber, building materials, products, or merchandise with parts missing; scrap metals or materials that are damaged or deteriorated or reclaimed materials; or vehicles or machines in a condition which precludes their use for the purpose for which they were manufactured.

#### JUNKYARD

This term includes automobile wrecking yards and salvage yards and includes any area of more than two hundred (200) square feet for the storage, sale, processing, keeping or abandonment of junk, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof, but does not include such uses when entirely within enclosed buildings.

### **SECTION 2.12      DEFINITIONS – K**

#### KENNEL

Any lot or premises on which four (4) or more dog and/or cats, six (6) months of age or older are kept temporarily or permanently for the purpose of breeding, boarding or sale.

### **SECTION 2.13      DEFINITIONS – L**

#### LAKE FRONT LOT

A lot having frontage along the shores of Lake Michigan, White Lake, Duck Lake, and Muskrat Lake.

#### LOADING SPACE

An off-street space on the same lot as or within a building or group of buildings, for temporary parking for a commercial vehicle while loading or unloading merchandise or materials. Off-street loading spaces are not to be included as off-street parking space in computation of required off-street parking.

#### LOT

A piece or parcel of land occupied or intended to be occupied by a building, structure, land use, or group of buildings and providing the open spaces or yards required by this Ordinance and having frontage upon a street or recorded private street or easement. Each lot will have a separate and distinct tax parcel identification number. Also, a site condominium unit, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate ownership and use as described in the master deed.

## LOT AREA

The total horizontal area within the lot lines of a lot, excluding any recorded private street easement.

## LOT, CORNER

A lot located at the intersection of two (2) streets or a lot bounded on two (2) sides by a curving street, any two (2) cords of which form an angle of one hundred thirty-five (135) degrees or less.

## LOT COVERAGE

The part or percent of the lot occupied by buildings or structures, including accessory buildings or structures.

## LOT DEPTH

The mean horizontal distance from the front lot line to the rear lot line, or the two (2) front lot lines of a through lot.

## LOT, DOUBLE FRONTAGE (THROUGH)

A lot other than a corner lot having frontage on two (2) more or less parallel streets.

## LOT, INTERIOR

A lot other than a corner lot with only one (1) lot line fronting on a street.

## LOT LINES

The property lines or other described lines bounding the lot.

- A. Front Lot Line. In case of an interior lot, it is that line separating said lot from the right-of-way giving access to the lot. In the case of a through lot, it is that line separating said lot from either right-of-way. In the case of a corner lot, the shorter street line shall be the front lot line, except in the case of both street lines being equal; the choice may be made at the discretion of the property owner. Once declared and so indicated on the building permit application, the designated front lot line shall remain as such.
- B. Rear Lot Line. Ordinarily, that lot line which is opposite and most distant from the front lot line of the lot. In the case of an irregular or triangular-shaped lot, a line at least ten (10) feet in length entirely within the lot parallel to and at the maximum distance from the front lot line shall be considered to be the rear lot line for the purpose of determining depth of rear yard. In cases where none of these definitions are applicable, the Zoning Administrator shall designate the rear lot line.
- C. Side Lot Line. Any lot line not a front lot line or rear lot line. A side lot line separating a lot from another lot line or lots is an interior side lot line.
- D. Street Lot Line. A lot line separating the lot from the right-of-way of a street or alley.

## LOT OF RECORD

A lot which is part of a subdivision plat as shown on the records of the County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance and was lawful at the time of recording.

## LOT WIDTH (Frontage)

The horizontal distance between the side lot lines, as measured at the front yard setback line and most nearly perpendicular to the side lot lines. No part of the lot may have a width less than the required minimum, except for frontage on cul-de-sac lots.

## **SECTION 2.14            DEFINITIONS – M**

### MANUFACTURED HOME

A manufactured home, also known as a mobile home, is a structure: built on a permanent chassis, transported to its site in one or more sections, and affixed to a permanent foundation, and includes a residential building, dwelling unit, dwelling room or rooms, or a building component of a dwelling unit wholly or substantially constructed at an off-site location, transported to a site, erected or set.

### MANUFACTURED HOME PARK

A parcel or tract of land under unified control upon which two (2) or more manufactured homes are located on a continual, non-recreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefore, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incident to the occupancy of a manufactured home.

### MANUFACTURED HOME SPACE

A plot of ground within a manufactured home park designed for the accommodation of one (1) manufactured home.

### MASTER PLAN

The Master Plan or Land Use Plan adopted by Fruitland Township, including graphic and written materials, indicating the general location for streets, parks, schools, public buildings, and all physical development of the Township, and includes any unit or part of such plan and any amendment to such plan.

### MOTEL

A building or group of buildings where guests are provided a sleeping room and lavatory facilities, with or without meals, in return for payment.

### MOTOR HOME

A motorized vehicular unit primarily designed for temporary dwelling in connection with travel and/or recreational usage. This term does not include manufactured homes.

## **SECTION 2.15            DEFINITIONS – N**

### **NEW CONSTRUCTION**

Means structures for which the “start of construction” commenced on or after the effective date of this Ordinance.

### **NON-CONFORMING BUILDING**

A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, which does not conform to the provisions of the Ordinance relating to height, bulk, area, placement or yards for the Zoning District which it is located.

### **NON-CONFORMING LOT OF RECORD**

A platted lot of record that conformed with all Township zoning requirements at the time of recording of said plat, which no longer conforms to the zoning regulations and requirements for lot area, lot width, or both; or a lot of record outside a recorded plat that conformed with all Township zoning requirements at one time, and which has not been subdivided or reduced in size subsequent to the time it did conform to the Zoning Ordinance, which no longer conforms with the zoning requirements for lot area, lot width or both.

### **NON-CONFORMING USE**

A use which lawfully occupied a building or land at the effective date of this Ordinance or amendments thereof, that does not conform to the use regulations of the Zoning District in which it is located.

### **NON-RESIDENTIAL DISTRICT**

The NC, AP, LI Zoning Districts.

### **NUISANCE**

An offensive, annoying, unpleasant, or obnoxious thing or practice; a cause or source of annoyance, especially continuing or repeated invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being; or the generation of an excessive or concentrated movement of people or things such as, (a) noise, (b) dust, (c) smoke, (d) odor, (e) glare, (f) fumes, (g) flashes, (h) vibration, (i) objectionable effluent, (j) noise of a congregation of people, particularly at night, (k) passing traffic, or (l) invasion of street traffic generated from an adjacent land use which lacks sufficient parking and circulation.

### **NURSERY**

A parcel of land utilized for the purpose of growing ornamental trees, shrubbery, house plants, flowers or perennial ground covers, from seed or seedlings, for the purpose of retail or wholesale trade.

## NURSING HOME

An establishment for the care of the aged or infirm, or a place of rest for those suffering bodily disorders, wherein persons are provided care for compensation. Said facility shall conform to, and qualify for license under applicable State law.

## SECTION 2.16 DEFINITIONS – O

### OCCUPY

The residing of an individual(s) overnight in a dwelling unit, or the installation, storage or use of equipment, merchandise or machinery in an institutional, commercial or industrial building.

### OPEN AIR BUSINESS

A commercial operation conducted substantially in the open air, including but not limited to:

- A. Bicycle, utility truck or trailer, motor vehicle, boats or home equipment sale, repair, rental, or storage services.
- B. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, agricultural implements, swimming pools, and similar activities.
- C. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, topsoil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.
- D. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving ranges, children's amusement park or similar recreation uses (transient or permanent).

### OPEN SPACE

That portion of a lot which is not covered with structures and is open to the sky.

### ORDINARY HIGH WATER MARK

Lake Michigan, Duck Lake and White Lake shall be defined as 579.80 feet IGLD 1955 DATUM.

Creeks and Streams shall be defined as the line between upland and bottomland that persists through successive changes in the water level, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. Delineation of the ordinary high water mark on creeks and streams entails the identification of indicators on the bank of a creek or stream and the transition line between, aquatic vegetation (such as sedges and cattails) and terrestrial vegetation (perennial grasses and woody shrubs) or the scour line on exposed earth on the bank (from constant erosion) and terrestrial vegetation. On any creek or stream where the ordinary high-water mark cannot be found, the top of the lowest bank on either side shall substitute. In braided channels, the ordinary high-water mark or line of mean high water shall be measured so as to include the entire creek or stream feature.



## OUTDOOR FURNACE

A furnace, heating system, stove or boiler that is a separate structure, either above or below ground, not located in a building, but provides heat or hot water for a building or buildings on the same lot.

## SECTION 2.17 DEFINITIONS – P

### PARK

A parcel of land, building or structure used for recreational purposes, including but not limited to, playgrounds, sport fields, game courts, beaches, trails, picnicking areas and leisure time activities.

### PARKING LOT

A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space that allows unrestricted ingress and egress to park at least two (2) vehicles.

### PARKING SPACE

An off-street space of at least one hundred eighty (180) square feet exclusive, of necessary driveways, aisles, or maneuvering space, suitable to accommodate one (1) motor vehicle and having access to a street or alley.

### PERSONAL SERVICE ESTABLISHMENTS

Any commercial business conducting services that are performed primarily on the premises.

### PLANNED UNIT DEVELOPMENT

Land that is under unified control that is planned and developed as a whole in a single stage development or series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

### PORCH, ENCLOSED

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

### PORCH, OPEN

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

### PRINCIPAL USE

The primary use for which land or premises, and any building thereon, is designed, arranged, or intended, for which it is occupied, or maintained, let or leased.

## **PUBLIC UTILITY**

Any person, firm, corporation, municipal department, board, or commission duly authorized to furnish to the public, under Federal, State or municipal regulations, electricity, gas, steam, communications, transportation, sewer or water services.

## **SECTION 2.18 DEFINITIONS – R**

### **RECREATIONAL VEHICLE OR EQUIPMENT**

A vehicle or equipment intended for periodic use for recreational or leisure pursuits. Such vehicles shall include boats, airplanes, special purpose automobiles, floats, rafts, trailers, snowmobiles, camping and travel trailers, motorized homes, detachable travel equipment for the type adaptable to light trucks, and other equipment or vehicles of a similar nature.

### **RESIDENTIAL**

This term relates to the use of real property for dwelling purposes and is the owner's principal, seasonal or main living place. This term does not include any rental of a dwelling for a fee if less than 30 consecutive days.

Property owners who own a dwelling but who live there only on a seasonal basis and who have a continuity of presence as evidenced by the storing of their personal possessions for their personal use such as golf clubs, ski equipment, cycling equipment, boating equipment, and clothing is included within the meaning of the term Residential.

### **RESIDENTIAL DISTRICT**

Residential District shall refer to the RR, LDR, MDR, MHDR, and HDR Zoning Districts, as described in this Ordinance.

### **RESTAURANT**

An establishment whose principal business is the sale of food and/or beverages to customers in a ready-to-consume state.

### **RIDING STABLE**

A building or premises used for the shelter, care, riding, showing or other similar use of horses or other similar livestock.

### **RIGHT-OF-WAY**

A street, alley or other thoroughfare or easement permanently established for passage of persons, vehicles, or the location of utilities. The right-of-way is delineated by legally established lines or boundaries.

### **RIPARIAN ACCESS**

Riparian access applies to land along the shores of Lake Michigan, White Lake, Duck Lake, Muskrat Lake and any creek or stream which empties into the above lakes or any other lake.

## ROADSIDE STAND

An agricultural building or a separate structure used for the display or sale of agricultural products grown on the premises upon which the stand is located.

## **SECTION 2.19            DEFINITIONS – S**

### SALVAGE YARD

An open space where waste, surplus, discarded, or salvaged materials are brought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including but not limited to house wrecking and structural steel materials and equipment and automobile wrecking.

### SATELLITE DISH ANTENNA, DISH ANTENNA

An apparatus capable of receiving communication from a transmitter relay located in planetary orbit.

### SCREEN

A structure providing enclosure, such as a fence, and a visual barrier between the area enclosed and the adjacent property. A screen may also be a non-structure, consisting of shrubs or other growing materials.

### SETBACK; SETBACK AREA

The minimum horizontal distance measured for the front, side, or rear lot line, as the case may be, required by the zoning district in which the lot is located.

### SETBACK LINES

Lines marking the setback distance for the lot lines which establish the minimum permitted front, side, or rear yards required in this Ordinance for the district in which the lot is located.

- A.     Front Setback Line. The line marking the setback distance from the front lot line.
- B.     Rear Setback Line. The line marking the setback distance for the rear lot line.
- C.     Side Setback Line. The lines marking the setback distance for the side lot lines as measured to either the eaves or foundation, whichever is closer.

### SHORELINE

The shoreline is a strip of land along the shores of Lake Michigan, White Lake, Duck Lake and any creek and stream.

### SIGNIFICANT NATURAL FEATURE

Any natural area designated by the Planning Commission, Township Board, or the Michigan Department of Natural Resources, or other appropriate governmental agency which exhibits unique topographic, ecological, hydrological, or historical characteristics such as a wetland, floodplain, water features or other unique natural features.

## SITE PLAN

A plan showing all salient features of a proposed development, so that it may be evaluated in order to determine whether it meets the provisions of this Ordinance.

## STORY

That portion of a building included between the surface of any floor and the sill plate of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it; provided that portion shall be counted as a story only if over eighty percent (80%) of its height is above grade.

## STORY, HALF

That part of a building between a pitched roof and the uppermost full story, said part having a floor area which does not exceed one-half (1/2) the floor area of said full story, provided the area contains at least two hundred (200) square feet and which contains a clear height of at least seven and one-half (7 1/2) feet, at its highest point.

## STREET, ARTERIAL

Arterials streets shall be the following: Bard Road, Bell Road, Berquist Road, Blank Road, Clark Street, Creekside Drive, Dame Road, Duck Lake Road, Durham Road, Gibson Road, Green Creek Road, Hain Road, Hyde Park Road, Jay Road, Jones Road, Lakewood Road, Lamos Road, Lorenson Road, McMillan Road, Michillinda Road, Murray Road, Nestrom Road, Nord Road, Olds Lane, Orshal Road, Riley Thompson Road, River Road, Scenic Drive, Simonelli Road, South Shore Drive, Todd Road, Tyler Road, Wabaningo Road, Weber Road, White Lake Drive, Whitehall Road, Worden Road, Zellar Road.

## STREET, PRIVATE

A privately owned and maintained right-of-way that affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and other thoroughfare. A private street shall include any drive or roadway which is not a dedicated public right-of-way, and which provides or has the potential for providing access to existing parcels.

## STREET, PUBLIC

A public right-of-way that affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and other thoroughfare; except an alley.

## STREET, RESIDENTIAL

Residential streets are all those not listed as Arterial streets and include but are not limited to private streets and streets in subdivisions and site condominiums.

## STRUCTURE

Anything constructed or erected which requires permanent location on the ground or attachment to something having such location, including but not limited to, all buildings and free-standing signs, but not including sidewalks, drives, patios, utility poles and the like. It includes any walled and roofed building that is principally above ground, gas or liquid storage facility, or a manufactured home.

## STRUCTURE – SUPPLEMENTARY

A non building structure including canopies, scales and the like.

## SUBSTANTIAL IMPROVEMENT

Means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a Michigan Register of Historic Places.

## **SECTION 2.20            DEFINITIONS – T**

### TEMPORARY BUILDING OR USE

A structure or use permitted by the Zoning Administrator to exist during periods of construction of the main building or for special events as permitted by this Ordinance.

### TRAVEL TRAILER

A vehicular, portable unit built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes, not exceeding eight (8) feet in width or thirty-five (35) feet in length. It includes folding campers and truck mounted campers.

## **SECTION 2.21            DEFINITIONS – V**

### VARIANCE

A modification of the literal provisions of the Zoning Ordinance granted when strict enforcement of the Zoning Ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.

### VEHICLE REPAIR

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

## VEHICLE SERVICE STATION

A building designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water or other commodities for operating motor vehicles (including trucks, aircraft and boats) and including the customary space and facilities for the installation of such commodities on or in such vehicles and including space for storage, hand washing, minor repair, and servicing, but not including vehicle repair as defined in this Article.

## VEHICLE WASH ESTABLISHMENT

A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

## SECTION 2.22 DEFINITIONS – W

### WALL

An upright structure of masonry, wood or other building materials serving to enclose, divide or protect an area.

### WIND TOWER

A structure designed to use wind power to pump water or generate electricity.

## SECTION 2.23 DEFINITIONS – Y

### YARD

A yard is an open space on the same land with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied by any structure and unobstructed from the ground upward, except as provided herein.

- A. A *Front Yard* is the open space extending the full width of the lot, uniform depth of which is measured at right angles to the front lot line.
- B. A *Rear Yard* is the open space extending the full width of the lot, the uniform depth of which is measured at right angles to the rear lot line.
- C. A *Side Yard* is an open unoccupied space between a main building and the side lot lines, extending from the front yard area to the rear yard area. The width of the side yard shall be measured horizontally from and at right angles to the nearest point of the side lot line.

### YARD, REQUIRED

The yard is set forth in the applicable chapters of the Fruitland Township Zoning Ordinance as the minimum yard required in each zoning district.

## SECTION 2.24 DEFINITIONS – Z

### ZONING ACT

The Michigan Zoning Enabling Act; Act 110 of 2006 of the Public Acts of Michigan, as amended (MCL 125.3101, et seq).

## ZONING ADMINISTRATOR

The person designated by the Township Board to administer the provisions of this Zoning Ordinance.