

Article II: Rules of Construction and Definitions

Section 2.01 - Rules of Construction

In order to clarify the intent of the provisions of this Ordinance, the following rules shall apply, except when clearly indicated otherwise.

1. The particular shall control the general.
2. The word "shall" is always mandatory and never discretionary. The word "may" is permissive.
3. Words used in the present tense shall include the future; words in the singular number shall also denote the plural and the plural shall also denote the singular.
4. A "building" or "structure" includes any part thereof.
5. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for" and "occupied for".
6. Unless the context clearly indicates otherwise, where a regulation involves two (2) or more items, conditions, provisions, or events, the terms "and", "or", "either...or", such conjunction shall be interpreted as follows:
 - A. "And" denotes that all the connected items, conditions, provisions, or events apply in combination.
 - B. "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
7. "Township" shall refer specifically to Hayes Township.
8. Terms not defined shall be assumed to have the meaning customarily assigned them.
9. Any necessary interpretation of this Ordinance shall be defined by the Hayes Township Zoning Board of Appeals.

Section 2.02 - Definitions

Accessory Structure: Any building or structure that is customarily incidental and subordinate to the use of the principal or main building or structure, including but not limited to, accessory buildings, personal freestanding television and radio reception antennas, satellite dishes and signs. An accessory structure attached to a main building or structure shall be considered part of the main structure.

Accessory Use: A use naturally and normally incidental and subordinate to the main use of the land or building.

Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated, electronically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

Adult Bookstore or Adult Video Store: A commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration one or more of the following:

1. books, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes, DVD or video reproductions, slides or other visual representations or media which depict or describe Specified Sexual Activities or Specified Anatomical Areas; or
2. instruments, devices, or paraphernalia that are designed for use in connection with Specified Sexual Activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing Specified Sexual Activities or Specified Anatomical Areas and still be categorized as an Adult Bookstore or Adult Video Store. The sale of such material shall be deemed to constitute a principal business purpose of an establishment if it comprises 35% or more of annual sales volume or occupies 35% or more of the floor area or visible inventory within the establishment.

Adult Cabaret: A nightclub, bar restaurant, or similar commercial establishment that regularly features:

1. persons who appear in a state of nudity;
2. live performances that are characterized by the exposure of Specified Anatomical Areas or by Specified Sexual Activities;
3. films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; or
4. persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult Motel: A hotel, motel or similar commercial establishment that:

1. offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, other photographic reproductions or visual media that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas and has a sign visible from the public right of way that advertises the availability of any of the above;
2. offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or
3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve (12) hours.

Adult Motion Picture Theater: A commercial establishment which for any form of consideration, regularly and primarily shows films, motion pictures, video cassettes, slides, or other photographic reproductions or visual media that are characterized by depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment that regularly features a person or persons who appear in a state of nudity or live performances that are characterized by exposure of Specified Anatomical Areas or by Specified Sexual Activities.

Agriculture: The act or business of cultivating or using land and soils for the production of crops for the use of animals or humans and includes, but is not limited to, purposes related to agriculture, farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and

poultry husbandry. Flower, vegetable or other gardens maintained only for the property owner(s) use and/or enjoyment are not considered agricultural.

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

Alternative Tower Structure: Any structure which, if intended to be used to locate an antenna or tower, may accommodate and conceal or camouflage the presence of said antenna or tower, including but not limited to man-made trees, clock towers, bell steeples, light poles, silos and other similar alternative-design mounting structures.

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

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

Antenna: Any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio signals, wireless communication signals or other communication signals.

Apartment: A room or suite of rooms, including bath and culinary accommodations, in a multiple dwelling, intended or designed for use as a residence by a single family.

Appearance Ticket: see Municipal Civil Infraction Citation.

Architectural Features: Parts of a building which are not for human occupancy, that shall include but are not limited to cornices, eaves, gutters, courses, sills, lintels, chimneys and decorative ornaments.

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

Automobile Sales Area: Any space used for display, sale or rental of motor vehicles, in new or used and operable condition.

Automobile Wash Establishment: A building, or portions thereof, the primary purpose of which is that of washing motor vehicles.

Average: For the purpose of this Ordinance, the term, "average" will be an arithmetic mean.

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.

Bed and Breakfast Establishment: Any family occupied dwelling used or designed in such a manner that certain rooms in excess of those used by the family are rented to the transient public for compensation. For the purpose of this Ordinance, the term bed and breakfast establishment also includes tourist home.

Bedroom: A dwelling room used or intended to be used by human beings for sleeping purposes.

Billboard: An outdoor sign which is used to identify or communicate a noncommercial message such as an idea, belief, or opinion or a commercial message related to an activity conducted, a service rendered, or a commodity sold at a location different than the property on which the billboard is located. However, a billboard shall not include a tourist oriented directional sign for which a permit has been issued by the Michigan Transportation Department pursuant to Public Acts 299 of Public Acts 1996, as amended.

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

Boardwalk: An elevated pedestrian walkway often built to maintain erosion control over steep grades or wetland areas

Boat and/or Canoe Livery and Boat Yard: A place where boats and/or canoes are stored, rented, sold, repaired, docked and serviced.

Buffer Strip: A strip of land for the planting of shrubs and/or trees to serve as an obscuring screen to carry out the requirements of this Ordinance.

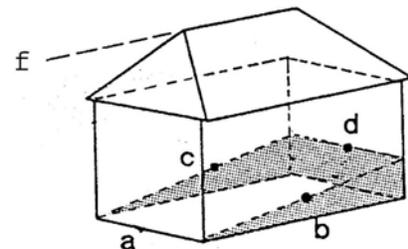
Buildable Area: That portion of a lot remaining after the minimum setback and open space requirements of this Ordinance have been complied with.

Buildable Width: The width of a lot left for building after required side yards are provided.

Building: Any structure, either temporary or permanent, having a roof supported by columns, or walls for the shelter or enclosure of persons, animals, or property of any kind.

Building Envelope: The area upon a lot where a principal building or structure and any attached or detached accessory structures are or are intended to be constructed. For a residential use, the building envelope shall mean the area upon a lot, parcel, or site condominium unit where a dwelling and any accessory structures, including but not limited to garages, storage sheds and decks, are or are intended to be constructed.

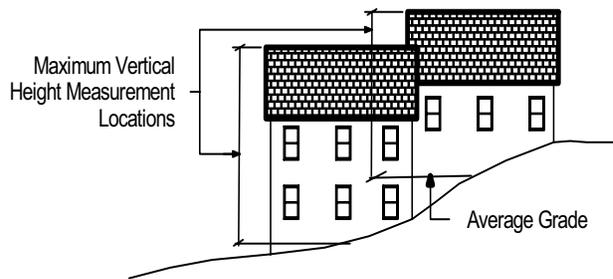
Building Height: The vertical distance from the peak of the roof to the average finished grade. When the terrain is sloping, the height shall be computed using the average grade measured at the building wall on all four sides (see Figure).



a, b, c, d = avg finished grade on each building wall
Average Grade (entire building): $(a+b+c+d)/4 = e$
Height = f (elevation at peak) – e (average grade)

No portion of the structure's roof may exceed the maximum height allowed in the specific District regulations. As

illustrated in Figure below, buildings may be “stair stepped” up and down slopes. The building height shall be calculated for each “stair stepped” portion separately.



Walkout basements are excluded from the building height calculations, provided that no more than one third of horizontal wall or a maximum twenty feet including doors is primarily exposed, and the basement height is no more than ten (10) feet (measured floor to floor). If a greater portion of the basement wall is exposed or the basement height is greater, the basement shall be included in the height calculation.

Campgrounds: Any parcel or tract of land, under the control of any person wherein sites are offered for the use of the public or members of an organization, either free of charge or for a fee for the establishment of temporary living quarters for five (5) or more recreational units.

Church: See Place of Worship.

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

Club: Buildings and facilities owned or operated by corporation, association, person or persons, for social, educational, or recreational purposes.

Co-Location: The use of a telecommunication tower by more than one wireless telecommunication provider.

Condominium Project: a plan or project consisting of two (2) or more condominium units established and approved in conformance with the Condominium Act (Act 59 of 1978, as amended).

Condominium Unit: That portion of a condominium project designed and intended for use by the unit owner consistent with the provisions of the master deed.

Dock: A temporary or permanent structure, built on or over the water, supported by pillars, pilings, floats, or other supporting devices.

Drive-Thru Business: Any restaurant, bank or business with a vehicle service window.

Driveway: A private lane, which is used for vehicular ingress or egress serving one or two lots, parcels or site condominium units.

Dwelling Unit: A building or portion of a building, either site-built or pre-manufactured which has sleeping, living, food preparation area and sanitary facilities and can accommodate one family, either permanently or transiently. In the case of buildings which are occupied in part, the portion occupied shall be considered a dwelling unit, provided it is in conformance with the criteria for dwellings. In no case shall a travel trailer, truck, bus, motor home, tent or other such portable structures be considered a dwelling unit.

Dwelling, Single-Family: A detached building containing not more than one dwelling unit designed for residential use.

Dwelling, Two-Family: A building containing not more than two separate dwelling units designed for residential use.

Dwelling, Manufactured: A building or portion of a building designed for long-term residential use and characterized by all of the following:

1. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended, and
2. The structure is designed to be transported to the site in nearly complete form, where it is placed on a foundation and connected to utilities; and
3. The structure is designed to be used as either an independent dwelling or as a module to be combined with other elements to form a complete dwelling on the site.

Dwelling, Mobile: A factory-built, single-family structure that is transportable in one or more sections, is built on a permanent chassis, and is used as a place of human habitation; but which is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, which does not have wheels or axles permanently attached to its body or frame, and which is constructed according to the National Mobile Home Construction and Safety Standards Act of 1974, as amended.

Dwelling, Multiple-Family: A building containing three or more dwelling units designed for residential use.

Efficiency Unit: A dwelling unit consisting of one room, exclusive of bathroom, hallway, closets, and the like providing not less than three hundred and fifty (350) square feet of usable floor area.

Erected: Includes built, constructed, reconstructed, extended, enlargement, moved upon, or any physical operation on the premises intended or required for a building or structure. Excavation, fill, drainage, and general land improvements, shall be considered part of erection.

Escort: A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency: A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or municipal department or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems, including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, traffic signals, hydrants, towers, poles, 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. Telecommunication towers or facilities, alternative tower

structures, wireless communication antenna and wind turbine generators are not included within this definition.

Excavating: Excavating shall be the earth moving, filling or removal of earth, sand, stone, gravel, or dirt.

Family: An individual, a collective number of individuals related by blood, marriage, adoption, or legally established relationships such as guardianship or foster care, or a collective number of unrelated individuals whose relation is of a permanent and distinct domestic character who occupy a single dwelling and live as a single nonprofit housekeeping unit with single culinary facilities. A family, however, shall not include any society, club, fraternity, sorority, association, lodge or group of individuals, whether related or not, whose association or living arrangement is temporary or resort-seasonal in character or nature.

Farm: All of the contiguous neighboring or associated land operated as a single unit on which bona fide agriculture is carried on directly by the owner-operator, manager, or tenant-farmer by his own labor or with the assistance of members of his household or hired employees.

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

Floor Area: The square footage of floor space measured from exterior to exterior wall for all floors, but not including enclosed and unenclosed porches, breezeways, non-commercial garages, attic, unfinished basement and cellar area.

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

Food Preparation Area: A room or part of a room or building in which food is prepared and/or cooked.

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

Garage-Public: A building, or part thereof, designed or used for equipping, servicing, repairing, hiring, storing, or parking motor vehicles. The term repairing does not include the rebuilding, dismantling or storage of wrecked or junked vehicles.

Gasoline / Service Station: Any land, building or structure used for sale or retail of motor vehicle fuels, oils, or accessories, or installing or repairing parts and accessories, but not including repairing or replacing of motors, doors, or fenders, or painting motor vehicles.

Grade, Finished: The elevation of the ground upon the completion of construction and improvements.

Grade, Natural: The elevation of the ground surface in its natural state, before human alterations.

Hazardous Substances: Any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive or otherwise injurious properties, may be detrimental to the health of any person handling or otherwise coming into contact with such materials or substances.

Home Business: A profession or occupation, or trade that is accessory to a principal residential use conducted within a dwelling or residential accessory building. Home businesses fall into two classifications defined below:

Home Occupations: A profession or occupation conducted within a dwelling, or an attached garage, which is clearly incidental and secondary to the use of the lot, or dwelling for residential purposes. Home occupations are regulated by Section 3.15.1.

Cottage Industry: An occupation or trade conducted within a detached residential accessory structure, which is clearly incidental and secondary to the use of the lot, and dwelling for residential purposes. Cottage industries are regulated by Section 3.15.2.

Hospital: An institution providing health services, primarily for inpatients 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 service facilities, clinics and staff offices.

Hotel or Motel: A building occupied or used as a predominantly temporary abiding place by individuals or groups of individuals, with or without meals, and in which building there are more than five (5) sleeping rooms.

Impervious Surface: Any surface or structure incapable or highly resistant to penetration by water including, but not limited to, roofs of any type, concrete, asphalt or bituminous paving, compacted gravel, flagstone or brick patios, and driveways.

Industrial Park: A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with facilities and services in attractive surroundings among compatible neighbors.

Industry: A use engaged in manufacturing, fabricating, and/or assembly activities.

Junk: Any motor vehicles, watercraft, machinery, appliances, products, or merchandise with parts missing, or scrap metals or other trash, rubbish, refuse or scrap materials that are damaged or deteriorated, except if in a completely enclosed building or otherwise managed as part of a junk yard. Junk includes any inoperable or abandoned motor vehicle or watercraft which is not licensed for use in the State of Michigan for a period in excess of fifteen (15) days and shall also include, whether so licensed or not, any motor vehicle which is inoperative for any reason for a period in excess of fifteen (15) days and which is not in a completely enclosed building. Junk does not include domestic refuse if stored so as to not create a nuisance and is thirty (30) feet or more from any residential structure for a period not to exceed seven (7) days.

Junkyard: An open area where waste, used or second hand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled including, but not limited to scrap or other metals, paper, rags, rubber tires and bottles. A "Junkyard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

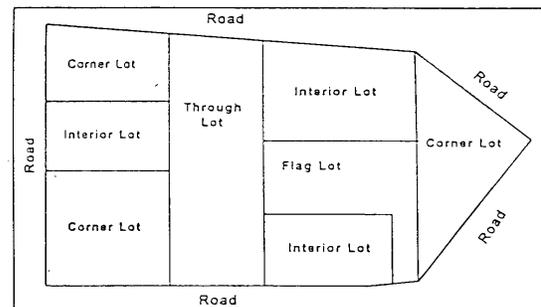
Kennel: Any lot or premises on which three (3) or more dogs, cats, or other household pets of the same species four (4) months of age or older are kept temporarily or permanently. Kennel shall also include any lot or premise where household pets are bred or sold.

Landscape buffer: See Buffer Strip.

Living Space: A conditioned space used for or intended for human occupancy.

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

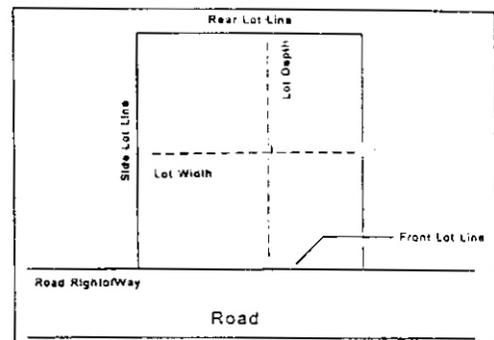
Lot: The parcel of land or site condominium unit occupied or to be occupied by a use or building and its accessory buildings or structures together with such open spaces, minimum area, and width required by this Ordinance for the district in which located, but not including any area within any abutting right-of-way or traffic lane.



Lot, Corner: A lot located at the intersection of two streets or a lot bounded on two sides by a curving street, any two (2) sides 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 and all impervious surfaces.

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



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

Lot Line, Front: In the case of an interior lot abutting upon one public or private street, the front lot line shall mean the property line separating such lot from such street right-of-way. In the case of a lot having frontage upon a lake, river or stream, the water frontage shall be considered the front lot line.

Lot Line, Rear: The property line being opposite the front lot line. In the case of a lot irregularly shaped 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.

Lot Line, Side: Any property line bounding a lot that is not a front lot line or a rear lot line.

Lot of Record: A lawfully created lot defined by a legal description and recorded in the office of the Charlevoix County Register of Deeds on or before the effective date of this Ordinance.

Lot, Waterfront: A lot having frontage directly upon a lake, river, or stream. The portion adjacent to the water is considered the water frontage. The waterfront is considered the front lot line.

Lot Width: The distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines. See illustration above.

Lot, Zoning: A contiguous tract of land that at the time of filing for a Zoning permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A Zoning Lot may not coincide with a lot of record, but may include one or more lots of record.

Manufactured Home: see Dwelling, Manufactured.

Master Plan: The statement of policy by the Township Planning Commission and approved by the Township Board relative to the agreed-upon desirable physical pattern of future community development. It consists of a series of maps, charts, and written material representing in summary form the community's conception of how it should grow in order to bring about the very best community living conditions.

Mobile Home: see Dwelling, Mobile.

Mobile Home Park: A parcel of land which has been planned and improved for the placement of three (3) or more mobile homes for residential dwelling use.

Mobile Home Site: A plot of ground within a mobile home park designed for the accommodation of one mobile home.

Motel: See Hotel.

Municipal Civil Infraction Citation: A written complaint prepared by an authorized Township official, directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Natural State: An area where bedrock soil and vegetation is left undisturbed and void of structural improvements. An area that is untouched and undisturbed by man. An area that is declared a natural state will remain as it presently is, without improvements, mowing, removal of trees and shrubs or contouring, filling or removal of soil. Previous land use may show the effects of human use such as fences, foundations, orchards, etc. These may be considered for inclusion as a natural state at the discretion of the planning commission if and only if there is no further use or improvement of these effects. If any of these previous effects are to be utilized they will not be considered as a natural state.

Nonconforming Lot of Record: A lot of record that legally existed on or before the effective date of this ordinance or any amendment to this ordinance and does not meet dimensional requirements of this ordinance or amendment.

Nonconforming Structure: A building, structure, or portion thereof that lawfully existed before the effective date of this ordinance or any amendment to this ordinance and that does not meet the floor area, setback, parking or other dimensional regulations for the zoning district in which such building or structure is located.

Nonconforming Use: A use which lawfully occupied a building or land at the effective date of this Ordinance or Amendments thereto that does not conform to the use regulations of the Zoning District in which it is located.

Nude Model Studio: Any place where a person who displays Specified Anatomical Areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration, but does not include an educational institution funded, chartered, or recognized by the State of Michigan.

Nudity or a State of Nudity: Knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female individual's breast with less than a fully opaque covering of the nipple and areola. Public nudity does not include any of the following:

1. A woman's breastfeeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.
2. Material as defined in section 2 of Act No. 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
3. Sexually explicit visual material as defined in section 3 of Act No. 33 of Public Acts of 1978, being section 722.673 of the Michigan Compiled Laws.

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

Nursery, Plant Materials: A space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises, including products used for gardening or landscaping. The definition of nursery *does not include* space used for the sale of fruits or vegetables.

Occupancy Permit: A permit issued by the Charlevoix County building official that certifies a structure as being completed and suitable for use and/or occupancy.

Off Street Parking Lot: A facility providing vehicular parking spaces, along with adequate drives and aisles. Adequate maneuvering space shall also be included to allow unrestricted ingress and egress to at least two (2) vehicles.

Open Air Business: Includes uses operated for profit, substantially in the open air, including:

1. Bicycle, utility truck or trailer, motor vehicle, boats, or home equipment sale, repair or rental services.
2. Outdoor display and sale of garages, motor homes, mobile home, snowmobiles, farm implements, swimming pools and similar activities.
3. Retail sale of trees, fruit, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment, and other home garden supplies and equipment.

4. Miniature golf, golf driving ranges, children's amusement park or similar recreation uses operated for profit.

Open Space: Land upon which no structures, parking, rights-of-way, or other improvements have or will be made and that will not be committed for future use other than outdoor recreational use.

Ordinary High Water Mark: The line between upland and bottomland that persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On Lake Charlevoix the ordinary high water mark shall be the legally established lake level of 582.3 feet IGLD 1985, and on Lake Michigan the ordinary high water mark shall be the legally established lake level of 581.5 feet IGLD 1885.

Park: Properties and facilities owned or operated by any governmental agency, or owned or operated by any private agency, which are open to the general public for recreational purposes.

Parking Space: An area of definite length and width exclusive of drives, aisles, or entrances, giving access thereto, and fully accessible for the storage or parking of permitted vehicles.

Person: An individual, firm, corporation, association, partnership, limited liability company or other legal entity, or their agents.

Place of Worship: A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such principal purpose.

Planning Commission: For the purpose of this Ordinance the term Planning Commission is deemed to mean The Hayes Township Planning Commission.

Planned Unit Development (PUD): A type of development to be planned and built as a unit and which permits upon review and approval, variations in many of the traditional controls related to density, land use, setbacks, open space and other design elements, and the timing and sequencing of the development. Such developments can be proposed as either single use (such as a residential site condominium project), or mixed use developments (such as a project which includes both residential and commercial components).

Pick-up Camper: See Recreational Unit.

Principal Use: The main use to which the lot is devoted and the primary purpose for which the lot exists.

Professional Office: The office of a professional person such as a doctor, dentist, engineer, architect, attorney, insurance or real estate agent, and the like.

Public Sewer Systems: A public sewer system shall be defined as a central or community sanitary sewage and collection system of pipes and structures including pipes, conduits, manholes, pumping stations, sewage and waste water treatment works, diversion and regulatory devices, and outfall structures, collectively or singularly, actually used or intended for

use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid waste of such a nature as to be capable of adversely affecting the public health operated and maintained by the general public.

Public Utility: Any person, firm, corporation, municipal department board, or commission fully authorized to furnish and furnishing, under federal, state or municipal regulations, to the public, electricity, gas, steam, communications, telegraph, transportation, water services, or sewage disposal.

Recreational Unit: Means a vehicular-type unit, primarily designed as temporary living quarters for recreational camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle which is self-powered. Recreation unit shall include "Travel trailers", "Camping trailer", "Motor home", "Truck camper", "Slide-in-camper", and "Chassis-mount camper" as defined in Act 171 of the Public Acts 1970, as amended. A recreational vehicle is not a mobile home or manufactured home as defined under this ordinance or under Section 2 of the Mobile Home Commission Act.

Recreational Vehicle: see Recreational Unit.

Road, Private: An area of land which is not a public road, but which is intended for passage to and from three (3) or more lots or site condominium units.

Road Right-of-Way: A street, alley or thoroughfare or easement permanently established for passage of persons or vehicles which, if used to establish a lot front, provides adequate permanent access.

Retail and Retail Stores: Any building or structure in which goods, wares, or merchandise are sold to the ultimate consumer for direct consumption and not for resale.

School: A public or private educational institution offering students a conventional academic curriculum, including kindergartens, elementary schools, middle schools, high schools and colleges. Such term shall also include all adjacent properties owned by and used by such schools for educational, research, and recreational purposes.

Seasonal Use: Any use or activity that reasonably can or should only be conducted during certain months or seasons of a year.

Setback: The minimum required horizontal distance from the applicable right-of-way line, easement, water feature or property line of a lot within which no buildings or structures may be placed, except as otherwise provided in this Ordinance.

Setback, Front: The required setback measured from the front lot line.

Setback, Rear: The required setback measured from the rear lot line.

Setback, Side: The required setback measured from a side lot line.

Sexual Encounter Center: A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

Sexually Oriented Business: A business or commercial enterprise engaging in any of the following: (1) adult arcade; (2) adult bookstore or adult video store; (3) adult cabaret; (4) adult motel; (5) adult motion picture theater; (6) adult theater; (7) escort agency; (8) nude model studio; and (9) sexual encounter center.

Shopping Center: A group of commercial establishments, planned, developed, owned, and managed as a unit, with off-street parking provided on the property, and related in its location, size and type of shops to the trade area which the unit serves. Three or more retail stores and services, so arranged or planned, shall qualify as a shopping center for zoning purposes.

Shoreland Protection Strip: A strip of land fifty feet in depth from the maximum or maximum recorded (IGLD) high water mark bordering the body of water, placed so as to be parallel to the body of water, shall remain in the natural state.

Sign: A structure, including its base, foundation and erection supports upon which is displayed any words, letters, figures, emblems, symbols, designs, or trademarks by which any message or image is afforded public visibility from out of doors on behalf of or for the benefit of any product, place activity, individual, firm, corporation, institution, profession, association, business or organization.

Sign, Animated: Any sign having a conspicuous and intermittent variation in the illumination of the physical position of any part of the sign.

Sign, Freestanding or Ground: A sign supported by permanent uprights or braces in the ground.

Sign, Off Premise: Any sign relating to subject matter not conducted on the premises on which the sign is located.

Sign, On Premise: An advertising sign relating in its subject matter to the premises on which it is located, or to products, accommodations, service, or activities on the premises.

Sign, Outdoor business or Informational: A freestanding, overhanging or wall mounted sign located outside a structure on which is displayed information pertaining to a product, use, occupancy, function, service or activity located within that structure on the same property as the sign, or at a location different than the property on which the sign is located.

Sign, Overhanging: A sign that extends beyond any structure wall and is affixed to the structure so that its sign surface is perpendicular to the structure wall.

Sign, Portable: A sign that is designed to be transported, including but not limited to signs:

- With wheels removed;
- With chassis or support constructed without wheels;
- Designed to be transported by trailer or wheels;
- Converted A- or T- frame signs;
- Attached temporarily or permanently to ground, a structure, or other signs;
- Mounted on a vehicle for advertising purposes, parked and visible from the public right-of-way, except signs identifying the related business when the vehicle is being used in normal day-to-day operations of that business;

- Menu and Sandwich boards;
- Searchlight stand; and
- Hot-air or gas-filled balloons or umbrellas used for advertising.

Sign surface: That portion of a sign excluding its base, foundation and erection supports on which information pertaining to a product, use, occupancy, function, service, or activity is displayed.

Site Condominium Unit: That portion of a condominium subdivision designed or intended for occupancy or use by the unit owner consistent with the provisions of the Master Deed.

Site Plan: The drawings and documents depicting and explaining all salient features of a proposed development so that it may be evaluated according to the procedures set forth in this ordinance, to determine if the proposed development meets the requirements of this Zoning Ordinance.

Special Use Permit: A permit grant with approval by the Township Planning Commission for a use of land in a district that does not conflict with any other permitted land use in the district when such a special use is specified in this Ordinance for that district.

Specified Anatomical Areas: are defined as:

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

Specified Sexual Activities: means and includes any of the following:

1. the fondling or other erotic touching of human genitals, pubic regions, buttocks or female breast;
2. sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3. masturbation, actual or simulated; or
4. excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

Stable, Private: A building or structure used to house horses for the property owner's private use; not for hire or sale.

Stable, Commercial: A structure and/or land use where horses are bred, reared, trained and/or boarded for remuneration.

Story: That portion of a building included between the surface of any floor and surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it and exclusive of any mezzanine, balcony or basement.

Story, half: An uppermost story lying under a sloping roof having an area of at least two-hundred (200) square feet with a clear height of seven feet six inches (7'6"). For the purpose of this ordinance the usable floor area is only that area having at least four feet (4') clear height

between the floor and ceiling, and does not exceed two-thirds of the floor area in the story directly below.

Structural Change or Alteration: See Alterations.

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

Telecommunication Towers and Facilities or Tower: All structures and accessory facilities, including Alternative Tower Structures, relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals; including, but not limited to, radio towers, television towers, telephone devices and exchanges, microwave relay facilities, telephone transmission equipment buildings, private and commercial mobile radio service facilities, personal communication services towers (PCS), and cellular telephone towers. Not included in this definition are: citizen band radio facilities; short wave receiving facilities; radio and television broadcast reception facilities; satellite dishes; federally licensed amateur (HAM) radio facilities; and governmental facilities which are subject to state or federal law or regulations which fully preempt municipal regulatory authority.

Temporary Building and Use: A structure or use permitted by this Zoning Ordinance to exist during periods of construction of the main building or for special events.

Thoroughfares: An arterial street which is intended to serve as a traffic way serving primarily the immediate Township area and serving to connect with major thoroughfares.

Tourist Home: See Bed and Breakfast Establishment definition.

Trailer Coach: See Recreational Unit definition.

Travel Trailer: See Recreational Unit definition.

Use: The lawful purpose of which land or premises, or a building thereon, is designed, arranged, or intended, or for which it is occupied, or maintained, let, or leased, according to this Ordinance.

Variance: A modification of literal provisions of this Ordinance which the Zoning Board of Appeals is permitted to grant when strict enforcement of said provision would cause practical difficulty owing to circumstances unique to the individual property on which the variance is sought.

Wind Turbine Generator: A tower, pylon, or other structure, including all accessory facilities, upon which any, all, or some combination of the following are mounted:

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

Wind Turbine Generator, Commercial: A wind turbine generator designed and used primarily to generate electricity by or for sale to utility companies.

Wind Turbine Generator, Noncommercial: A wind turbine generator designed and used primarily to generate electricity or produce mechanical energy for use on the property where located.

Wind Turbine Generator Tower Height: The distance between the ground and the highest point of the wind turbine generator, plus the length by which the rotor wind vanes or blades mounted on a horizontal axis wind turbine rotor exceeds the height of the wind turbine generator.

Yard: The space between a principal building, excluding steps and unenclosed porches, and a lot line.

Yard, Front: A yard across the full width of the lot extending from the front line of the principal building to the front lot line.

Yard, Rear: A yard extending across the full width of the lot from the rear line of the principal building to the rear lot line.

Yard, Side: A yard between the side lot line and the nearest side of the principal building, extending between the front yard and rear yard.

Zoning Permit: A zoning permit is written authority as issued by the Zoning Administrator on behalf of the Township permitting the construction, moving, exterior alteration or use of a building or land in conformity with the provisions of this Ordinance.