

# Chapter 1

## PURPOSE, TITLE, AND SCOPE

### SECTION 1.1 PURPOSE

Pursuant to the authority granted to the Village of Fowler by the Public Acts of the State of Michigan, this Ordinance is established for the following purposes:

- A. To promote and protect the public health, safety, and general welfare;
- B. To protect the character and the stability of the open space, residential, and nonresidential areas within the Village of Fowler and promote the orderly and beneficial development of such areas;
- C. To provide adequate light, air, privacy and convenience of access to property;
- D. To regulate the intensity of use of land and lot areas and determining the area of open spaces surrounding buildings and structures necessary to provide adequate light and air and to protect the public health;
- E. To lessen and avoid congestion on the public highways and streets;
- F. To promote healthful surroundings for family life in residential areas;
- G. To protect the public and adjacent uses from fire, explosion, noxious fumes or odors, excessive heat, dust, smoke, glare, noise, vibration, and other health and safety hazards;
- H. To prevent the overcrowding of land and undue concentration of buildings and structures, so far as possible and appropriate, in each zoning district by regulating the use and bulk of buildings in relation to the land surrounding them;
- I. To enhance the social and economic stability of the Village;
- J. To enhance the aesthetic desirability of the environment throughout the Village; and
- K. To conserve the expenditure of funds for public improvements and services.

### SECTION 1.2 SCOPE

- A. Interpretation and Application: In its interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements adopted for the promotion of the public health, safety, comfort, convenience, or general welfare. It is not intended by this Ordinance to impair or interfere with any other existing provision of law or Ordinance.

However, where this Ordinance imposes a greater restriction than is required by existing Ordinance or by rules, regulations, or permits, the provisions of this Ordinance shall control.

- B. Vested Rights: Except as otherwise noted in this Ordinance, nothing in this Ordinance shall be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification, or any permissible activities therein; and all rights are hereby declared to be subject to such subsequent amendment, change or modification as may be necessary to the preservation or protection of public health, safety, and welfare.

### **SECTION 1.3 TITLE**

This Ordinance shall be known and may be cited as the "Village of Fowler Zoning Ordinance."

### **SECTION 1.4 APPLICATION OF REGULATIONS**

The right to continue a land use or activity or construct a building or structure which is either permitted by this Ordinance or established as a legal nonconformity shall be vested with the property rather than the owner. No rights shall be terminated for reasons of transfer of ownership. The right to continue a land use or activity shall transfer automatically upon the conveyance of the property unless terminated pursuant to Section 3.20, Nonconforming Uses, Structures, and Lots, of this Ordinance.

### **SECTION 1.5 SCOPE OF PROVISIONS**

- A. Except as otherwise provided for in this Ordinance, every building and structure erected, every use of any lot, building, or structure established, every structural alteration or relocation of an existing building or structure, and every enlargement of, or addition to, an existing use, building and structure occurring after the effective date of this Ordinance, shall be subject to this Ordinance.

- B. Uses Permitted by Right

All land development specifically listed under the heading "Uses Permitted by Right" shall be allowed when determined to be in accordance with all provisions of this Ordinance and all other applicable laws, regulations or ordinances having jurisdiction over the proposed use of land. Where not specifically permitted, uses are prohibited, unless construed to be similar to a use as expressly determined by the Board of Zoning Appeals.

- C. Uses Permitted by Special Land Use

All land development specifically listed under the heading of "Uses Permitted by Special Land Use" in the district description contained in this Ordinance shall be conducted in accordance with the requirements of Chapter 12 of this Ordinance.

## D. Uses Not Specifically Mentioned

1. Any use of land or development activity not specifically mentioned in this Ordinance shall be classified by the Zoning Board of Appeals for classification.
2. If the Zoning Board of Appeals finds that the use is not similar in character to uses listed in the Ordinance they shall so find. It is advisable that the Zoning Board of Appeals recommend to the Planning Commission for consideration of an amendment to the Zoning Ordinance to include the proposed use in one (1) or more of the zoning districts of this Ordinance, either as a Use Permitted by Right or a Use Permitted by Special Land Use.

## E. Uses Existing Before Ordinance

Any use of the land or development activity existing on the effective date of this Ordinance may continue subject to the provisions contained in Section 3.20, Nonconforming Uses, Structures, and Lots, of this Ordinance.

## Chapter 2

# DEFINITIONS AND INTERPRETATIONS

### SECTION 2.1 INTENT AND PURPOSE

The purpose of this Chapter is to establish rules for interpreting the text of this Ordinance, to define certain words and terms, and to provide for the interpretation of this Ordinance by adoption of a technical dictionary. Certain words and terms which may not appear in this Chapter, but which have special application may be defined in other Chapters to which they apply.

### SECTION 2.2 USE OF WORDS AND TERMS

- A. If the meaning of this Ordinance is unclear in a particular circumstance, then the Zoning Board of Appeals shall interpret the provision to carry out the intent of the Ordinance if such can be comprehended from other provisions of the Ordinance or law.
- B. All words and phrases shall be interpreted 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 interpreted and understood according to such peculiar and appropriate meaning.
- C. Words used in the present tense shall include the future tense, words used in the singular shall include the plural, and words in the plural number shall include the singular, unless the context clearly indicates and stipulates the contrary.
- D. The words "person," "proprietor," "property owner," and "operator" shall include any recognized form of legal entity.
- E. The words "property," "lot," "parcel," "real estate," "premises," "plot" and "land" shall be interpreted to mean real property as delineated and described by legal documents and instruments.
- F. The word "road" shall also mean "highway," "street," "alley," "drive," "cul-de-sac," "land" or other public thoroughfare.
- G. The word "building" shall include the word "structure."
- H. The words "used" or "occupied" when applied to any land or building shall be construed to include the words "intended," "arranged," or "designed to be used or occupied."
- I. The words "shall" and "required" are always interpreted as mandatory and never as permissive or discretionary.
- J. The word "may" shall be interpreted as permissive or discretionary.
- K. Unless the context clearly indicates the contrary, the words 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.
- L. 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 Village 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.

### SECTION 2.3 DEFINITIONS "A"

**Accessory Structure:** A building or structure located on the same lot as the principal building or structure, the use of which is incidental or secondary to the principal building or use.

**Accessory Use:** A use of land or of a building or portion thereof which is customarily and naturally incidental to, subordinate to, and devoted exclusively to the principal use of the land or building and located on the same lot with the principal use.

**Addition:** A structure added to the existing structure after the completion of the existing structure which extends or increases the floor area, or height of a building or structure.

**Adult Uses:** The term shall include adult bookstore, adult motion picture theater, adult motel, adult nightclub, and massage parlor. These terms and terms related to these definitions, as noted, shall have the following indicated meanings:

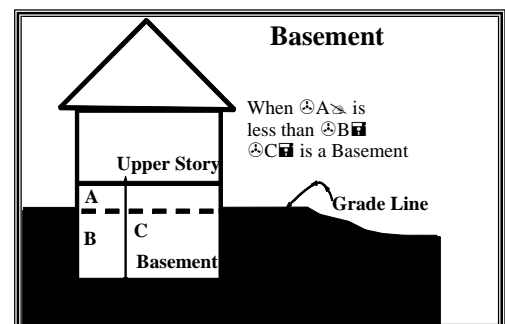
- A. **Adult Bookstore.** An establishment having as a significant portion of its stock in trade books, films, magazines, electronic media and other periodicals which are distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."
- B. **Adult Motion Picture Theater.** Means of adult entertainment depicting, describing or portraying through a motion picture media form "Sexual Conduct" or "Specified Anatomical Areas" in a setting within an adult use that is generally characterized by one of the following:
  1. A coin or token-operated machine where someone may view a motion picture film, video, cassette, compact disc or other similar media form which depicts, describes, or portrays "Sexual Conduct" or "Specified Anatomical Areas."
  2. A booth, or other such constructed area, where an individual may, for the payment of a fee, view sexually explicit material depicting, describing or portraying "Sexual Conduct" or "Specified Anatomical Areas."

- C. **Adult Motel.** A motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "Sexual Conduct" or "Specified Anatomical Areas."
- D. **Adult Merchandise Store or Adult Business.** A commercial establishment having a substantial or significant portion of its stock and trade in books, magazines, periodicals, photographs, videotapes, video cassettes, laser cassettes, films, electronic media or other visual representations which depict, describe, or portray "Sexual Conduct" or "Specified Anatomical Areas."
- E. **Adult Personal Service Business.** A business having, as its principal activity, a person while nude, or while displaying "Sexual Conduct" or "Specified Anatomical Areas." as defined herein, providing personal service for another person.
- F. **Adult Nightclub.** A theater or other establishment, which features live performances by topless and/or bottomless dancers, "go-go" dancers, exotic dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on "Sexual Conduct" or "Specified Anatomical Areas."
- G. **Massage Parlor.** Any place where for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body occurs as part of, or in connection with, "Sexual Conduct," or where any person providing such treatment, manipulation or service related thereto exposes "Specified Anatomical Areas."
- H. **Sexual Conduct**
  - 1. Human genitals in a state of sexual stimulation or arousal;
  - 2. Acts of human masturbation, sexual intercourse or sodomy;
  - 3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.
- I. **Specified Anatomical Areas**
  - 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 discernibly turgid state, even if completely and opaquely covered.

Alteration: Any modification, remodeling, change or rearrangement in the structural or supporting members such as bearing walls, columns, or girders, as well as any change in the doors or windows which affect the means of egress which is undertaken without adding to the floor area height or physical size of the building or structure.

**SECTION 2.4 DEFINITIONS "B"**

**Basement or Cellar:** That portion of a building which is



partly below and partly above grade, and having at least one-half(½) its height below grade.

**Bed and Breakfast:** A use within a detached single family dwelling in which transient guests are provided a sleeping room, breakfast and access to bathing and lavatory facilities in return for payment.

**Board of Zoning Appeals, or Zoning Board of Appeals, or Board, or Board of Appeals:** The Zoning Board of Appeals of the Village of Fowler.

**Building :** A combination of material, whether portable or fixed forming a structure having a roof supported by columns or by walls affording a facility or shelter for use or occupancy by persons, animals, or property.

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

**Building Official:** The officer or other designated authority charged with the administration and enforcement of the Village Building Code, or their duly authorized representative.

## SECTION 2.5 DEFINITIONS "C"

**Caliper:** The diameter of a tree trunk.

**Change of Use:** A use of a building, structure or parcel of land, or portion thereof which is different from the previous use in the way it is classified in this Ordinance.

**Cluster Development:** A development where structures are arranged in closely related groups, units are typically of the same type or design character, and built at higher densities in certain areas of a site while preserving the natural features in others on the same site.

**Commercial Use:** An activity carried out as a use of property for financial gain including but not limited to retail sales, repair service, business offices, food service, entertainment, and brokerages, related to purchase, sale, barter, display, or exchange of goods, wares, merchandise or personal services or the maintenance of service offices or recreation or amusement enterprise or garage/basement sales operating more than twelve (12) days during any one (1) twelve (12) month period.

**Commercial Wireless Telecommunication Services:** Licensed telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

**Condominium:** The ownership of a dwelling unit and the space enclosed by the description thereof as contained in the master deed for the complex or project, established in conformance with the provisions of the Condominium Act 59 of 1978, as amended, MCLA 559.101 et seq.

**Construction:** The erection, alteration, repair, renovation, demolition or removal of any building or structure; and the excavation, filling, and grading of a lot.

**Convalescent Home:** A long-term recuperative care facility providing room and board and supervised personal care by facility staff on a twenty-four (24) hour basis for the aged, the infirm or persons recovering from illness. An unlicensed extended care facility or chronic care facility providing twenty-four (24) hour nursing care shall mean the same.

**Cul-De-Sac:** A street having one (1) terminus open for vehicular or pedestrian access and the other terminated by a vehicular turnaround.

## SECTION 2.6 DEFINITIONS "D"

**Day Care, Commercial:** A facility, other than a private residence, receiving minor children for care for periods of less than 24 hours in a day, for more than two (2) weeks in any calendar year. Child care and supervision provided as an accessory use, while parents 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, Family:** A single family residence, occupied as such, in which care is provided for more than one (1) but less than (7) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage or adoption to a member of the family occupying the dwelling is excluded from this definition.

**Day Care, Group:** A single family residence, occupied as such, in which care is provided for at least seven (7) but not more than twelve (12) minor children or adults for periods of less than twenty-four (24) hours per day, unattended by a parent or legal guardian. Care for persons related by blood, marriage, or adoption to a member of the family occupying the dwelling is excluded from this definition.

**Demolition:** The purposeful razing or destruction, or disassembly of a building or structure.

**Density:** The number of dwelling units per unit of lot area (see Lot Area).

**Density, Gross:** "Gross Density" means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot.

**Density, Net:** "Net Density" means a figure which equals the total number of dwelling units on a lot divided by the total number of acres included in the lot, excluding any lot area owned by a governmental entity, used as a private street or occupied by a non-residential use.

**Development:** The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; and mining, excavation, land filling or land disturbance, and any extension of an existing use of land.

**Development Permit:** A permit issued to a person proposing a development which is regulated by this Ordinance, which indicates compliance with the Ordinance and thereby granting permission to proceed.

**Disturbed Land:** A parcel of land which is graded, filled, excavated or mined or stripped of its natural vegetative cover or grass for a purpose other than agriculture land use.

**Driveway:** A private path of travel over which a vehicle may be driven which provides access from one (1) or two (2) parcels of land to a public or private road.

**District, Zoning:** An area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations, and other appropriate regulations.

**Dwelling:** A detached building or portion thereof designed or used exclusively as the home, residence or sleeping place of one (1) or more persons, not including accessory buildings or structures, either attached or detached or travel trailers, motor homes, automobiles, tents, or other portable buildings as defined as a recreation vehicle. In the case of a mixed occupancy where a building is occupied in part as a dwelling, the part so occupied shall be deemed a dwelling for purposes of this Ordinance and shall comply with the provisions relative to dwellings.

**Dwelling, Two-Family:** A building designed exclusively to occupancy by two (2) families independently of each other and having separate cooking and bath facilities for each.

**Dwelling, Multiple-Family:** A building, or a portion thereof, designed exclusively for occupancy by three (3) or more families living independatley of each other.

**Dwelling, Single-Family:** A detached building, designed for or occupied exclusively by one (1) family.

## SECTION 2.7 DEFINITIONS "E"

**Essential Public Services:** The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground, surface, or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication supply or disposal systems. These may include, but are not necessarily limited to, 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. Essential public services shall not include buildings other than such buildings as are primarily enclosures or shelters of the above essential public service equipment. Cellular telephone or communications towers as defined by this Chapter shall not be considered essential services.

**Excavation:** Removal or recovery by any means whatsoever of soil, rock, sand, gravel, peat, muck, marrow, shale, limestone, clay or other mineral or organic substances, other than vegetation, from water or land, whether exposed or submerged.

**Existing Use:** The use of a parcel of land or a structure at the time of the enactment of this Ordinance.

## SECTION 2.8 DEFINITIONS "F"

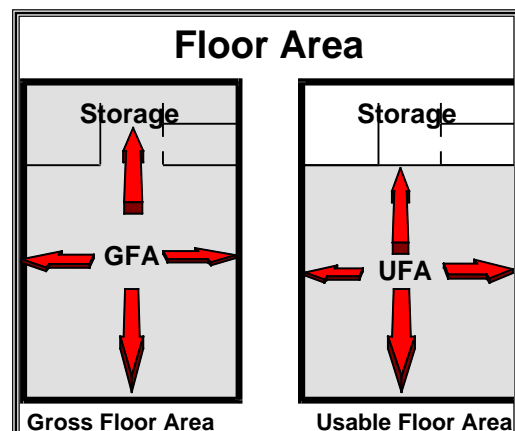
### Family:

- A. An individual or group of two (2) or more persons related by blood, marriage, or adoption, together with foster children, a caretaker, and not more than one (1) addition unrelated person 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 not to exceed the maximum number of individuals reasonably permitted by the health, safety and welfare guidelines of the Zoning Ordinance, Health Regulations, and the Building Code, whose relationship is of a continuing, nontransient domestic character and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, half-way house, lodge, coterie, organization, group of students, or other individual whose domestic relationship is of a transitory or seasonal nature, is for an anticipated limited duration of school term or during a period of rehabilitation or treatment, or is otherwise not intended to be of a permanent nature. [AMENDED 8/11/08]

**Flood or Flooding:** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of waters; or the unusual and rapid accumulation of runoff of surface waters from any source.

**Floor Area:** The sum of all horizontal areas of the several floors of a building or dwelling unit, measured from the exterior faces of exterior walls, or from the centerline of walls separating dwelling units. Unenclosed porches, courtyards, patios and cellars shall not be considered as part of floor area, except when utilized for commercial or industrial purposes.

**Floor Area, Gross (GFA):** The area within the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets/ storage rooms, thickness of walls, columns, or other features.



**Floor Area, Usable (UFA):** "Usable floor area" means 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.

- A. Such floor area which is used or intended to be used for hallways, stairways, elevator shafts, utility or sanitary facilities or the storage or processing of merchandise shall be excluded from this computation of "usable floor area."
- B. Measurement of usable floor area shall be the sum of the horizontal areas of each story of a structure measured from the internal faces of the exterior walls.

**Frontage:** The total length of the front lot line being the horizontal distance between the side lot lines, as measured at the front setback line.

**SECTION 2.9 DEFINITIONS "G"**

**GFA:** See Floor Area, Gross.

**Government and Community Service Facility:** A facility under the operational control of a governmental unit, specifically a township, city, village, county, state, the United States Government, or some combination of governmental units, including, but not limited to, offices, libraries, museums, Village hall, post offices, courts, and civic centers; excluding vehicle and equipment maintenance, garages and correctional institutions.

**Grade:** The average elevation of the finished surface of ground after the development, filling, or excavation of a parcel of land.

**Greenhouse:** A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment. (See Nursery.)

**Ground Cover:** Grasses or other plants grown to keep soil from being blown or washed away.

**Group Day Care Center:** See Day Care, Group.

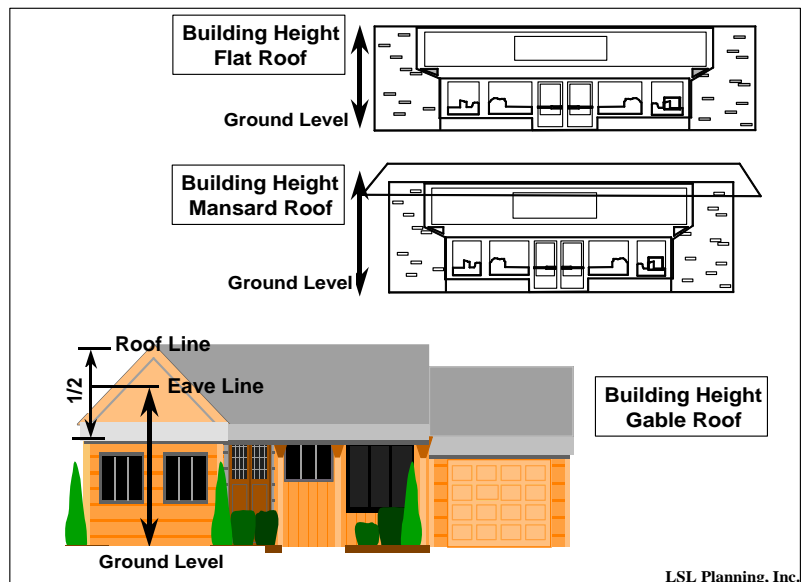
**SECTION 2.10 DEFINITIONS "H"**

**Heavy Equipment:** Commercial vehicles with a Gross Vehicle Weight in excess of ten thousand (10,000) pounds, and excavating, grading, road building, earth moving, demolition, loading and similar equipment.

**Height:** The vertical distance of a structure measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the structure, or as otherwise provided in this Ordinance.

**Height, Building:** The building height is the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck of mansard roofs; and to the mean height level between eaves and ridge of gable, hip and gambrel roofs.

When the terrain is sloping, the ground level is measured at the wall line.



**Home Occupation:** An occupation customarily conducted in a dwelling unit that is clearly an incidental and secondary use of the dwelling. Without limiting the foregoing, a single family residence used by an occupant of that residence to give instruction in a craft or fine art within the residence shall be considered a home occupation. A home occupation may also be known commonly as cottage industry, home based business, home marketing network, or home interactive distribution or marketing, but shall not be construed to include day care or state licensed residential care facilities.

**Human Occupancy:** A building or portion thereof primarily used or intended to be used for individuals to congregate for any purpose and which is equipped with means of egress, light, and ventilation facilities in accordance with the Michigan Construction Code, excluding a building or portion thereof incidental to the use for agricultural purposes of the land on which the building is located, or a building used exclusively for the purpose of storage in which there are no employees or occupants.

#### **SECTION 2.11      DEFINITIONS "I"**

(Reserved for Future Use)

#### **SECTION 2.12      DEFINITIONS "J"**

(Reserved for Future Use.)

#### **SECTION 2.13      DEFINITIONS "K"**

**Kenel, commercial:** Any lot or premises on which more than four (4) domesticated household pets (but not including wild, vicious or exotic animals) six (6) months or order are kept, either permanently or temporarily, either for sale, breeding, boarding, training, hobby, protection, or pets, subject to the regulation set forth herein regulating private and commercial kennels.

#### **SECTION 2.14      DEFINITIONS "L"**

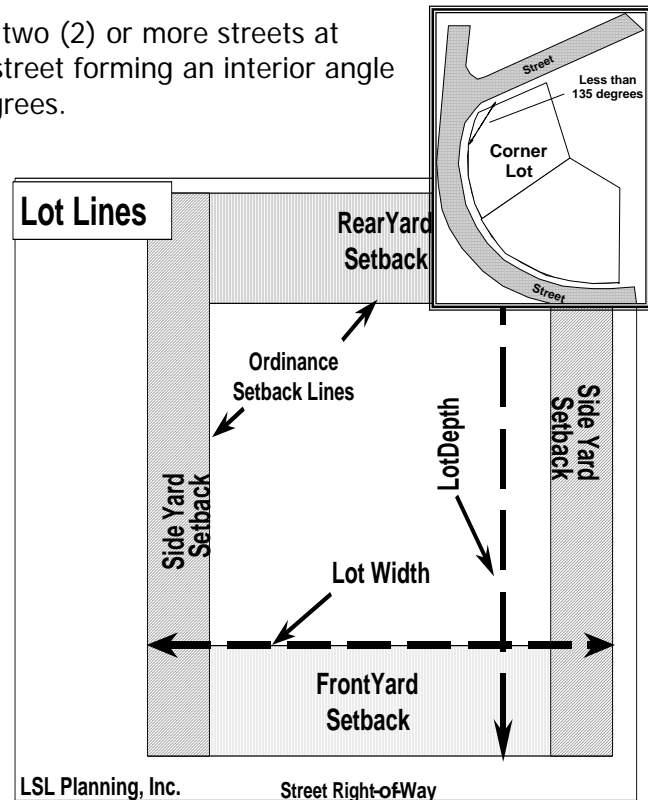
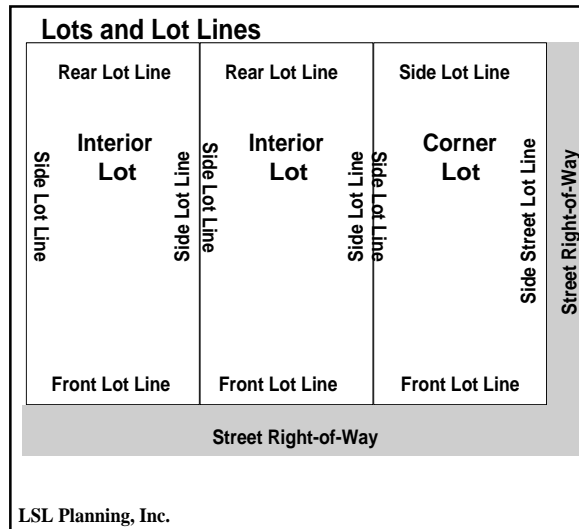
**Land Use:** A description of how land is occupied or utilized.

**Loading Space:** Is an off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

**Lot:** A parcel of land, or contiguous parcels of land under one (1) ownership described within fixed boundaries, of sufficient size and configuration to meet the site development requirements of this Ordinance and having frontage on an improved public street, or an approved private street. The word "lot" shall include plot or parcel. A lot need not be a "lot of record." A lot may also mean a portion of a condominium project, as regulated by Public Act 59 of 1978, as amended, designed and intended for separate or limited ownership and/or use.

**Lot Area:** The total area within the described lot lines of a parcel of land, excluding road right-of-way.

**Lot, Corner:** A parcel of land abutting upon two (2) or more streets at their intersection, or upon parts of the same street forming an interior angle of less than one-hundred thirty-five (135) degrees.



**Lot, Coverage:** That portion of the area of lot that contains buildings and structures, including accessory structures, measured as a percent of the entire lot area.

**Lot Depth:** the distance from the front lot line to the rear lot line measured in the general direction of the side lines of the lot.

**Lot, Flag:** A lot which is located behind other parcels or lots fronting on a public road, but which has a narrow extension to provide access to the public road.

**Lot, Interior:** A lot other than a corner lot.

**Lot Line:** The boundaries of a lot which divide one (1) lot from another lot or from a public or existing private road or any other publicly owned parcel of land.

**Lot Line, Front:** A lot line of a length equal to or greater than the minimum lot width as required in this Ordinance which is also the road right-of-way line on interior lots which front a public or private road and one (1) of the right-of-way lines on corner lots and is the lot line most parallel to the closest public or private road on all other lots.

**Lot Line, Rear:** The lot line opposite and most distant from the front lot line; or in the case of triangular or otherwise irregularly shaped lots, a line twenty (20) feet entirely within the lot parallel to and at a maximum distance from the front lot line.

**Lot Line, Side:** Any lot line other than a front or rear lot line.

**Lot, Through or Double Frontage:** An interior lot having frontage on two more or less parallel street as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of said lots adjacent to streets shall be considered frontage and front yard setbacks shall be provided as required.

**Lot Width:** The horizontal distance between the side lot lines, as measured at the front yard setback line.

## SECTION 2.15 DEFINITIONS "M"

**Manufactured Home:** A manufactured home is a structure transportable in one (1) or more sections, eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to required utilities and including plumbing, heating and electrical stems contained therein.

**Manufactured Home Development or Manufactured Home Park:** A parcel of land owned by a person upon which are located two (2) or more manufactured homes whether attached or detached from each other or adjacent buildings which are occupied for residential purposes or are connected to a water supply or wastewater disposal system either on a temporary or permanent basis, regardless of whether or not the development offers rental lots or manufactured homes to the public.

**Multiple Family Development:** Two (2) or more buildings containing multiple family dwellings on a single lot.

**Municipal Water Supply:** A water supply system owned by a governmental unit.

## SECTION 2.16 DEFINITIONS "N"

**Non-conforming Building:** A building or portion thereof lawfully existing at the effective date of this Ordinance or amendments thereto, and which does not conform to the provisions of the Ordinance in the Zoning District in which it is located.

**Non-conforming Lots of Record:** A platted lot that conformed with all Village 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 outside a recorded plat that conformed with all Village 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, and that does not conform to the use regulations of the Zoning District in which it is located.

**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:** A state licensed long-term facility providing room and board and supervised personal care by facility staff on a twenty-four (24) hour basis for seven (7) or more aged, infirm or persons recovering from illness which is regulated under Act 368 of 1978. A State Licensed Sub-Acute Care Facility, State Licensed Home for the Aged, a State Licensed Nursing Home, or State Licensed Hospice Facility providing twenty-four (24) hour nursing care shall mean the same.

## SECTION 2.17 DEFINITIONS "O"

**Occupancy Certificate:** A written document received from the Building Inspector stating that the Village Building Code, as amended, and this Ordinance have been complied with as they apply to the construction of a building or structure and the use of a lot and that the building may now be occupied for its previously declared purpose.

**Occupy:** The residing of an individual or individuals overnight in a dwelling unit, or the installation, storage, or use of equipment, merchandise or machinery in any institutional, commercial, agricultural, or industrial building.

**Open Space, Common:** Open space which is held for the collective use and enjoyment of the owners, tenants, or occupants of a single development.

**Owner:** The owner of the freehold of the premises or lesser estate in the premises, a mortgagee or vendee in possession, an assignee of rents, receiver, executor, trustee, leasee, or any other person, sole proprietorship, partnership, association, or corporation directly or indirectly in control of a building, structure, or real property or his or her duly authorized agent.

**Office:** A room, studio, suite or building occupied and for office uses only.

**Off-Street Parking Facility:** A facility providing vehicular parking spaces, along with adequate drives, aisles, and maneuvering space 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, boat, or home equipment sale, repair or rental services.
2. Outdoor display and sale of garages, motor homes, manufactured homes, snowmobiles, farm implements, swimming pools and similar activities.
3. Retail sales of trees, fruits, vegetables, shrubbery, plants, seeds, top-soil, humus, fertilizer, trellises, lawn furniture, playground equipment and other home garden supplies and equipment.

4. Tennis courts, archery courts, shuffleboard, horseshoe courts, rifle ranges, miniature golf, golf driving range, children's amusement park or similar recreation uses (transient or permanent).

## SECTION 2.18 DEFINITIONS "P"

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

**Permit:** An official document or certificate issued by an authorized official, empowering the holder thereof to perform a specified activity which is not prohibited by law, but not allowed without such authorization.

**Planned Unit Development:** The use of a parcel of land which is planned and developed as a single entity containing the various uses, structures, open spaces, and other elements and which is designated and developed under one (1) owner or organized group.

**Portable Storage Container:** Any container designed for the temporary storage of personal and/or business property which is typically rented to owners or occupants of property for their storage use and which is delivered and/or removed by truck trailer. [AMENDED 8/11/08]

**Principal Use:** The primary or predominant purpose to which a parcel of land is devoted as distinguished from an Accessory Use.

**Private Sanitary Sewage Disposal System:** An individual on-site sewage disposal system as defined in the Mid-Michigan District Health Department Sanitary Code.

**Private Water Supply:** A well or other water supply system approved by the Mid-Michigan District Health Department pursuant to Part 127 of Act 368 of the Public Acts of 1978, as amended, M.C.L. 333.12701 et seq.

**Public Sanitary Sewer:** A system of pipe owned and maintained by a governmental unit used to carry human, organic and industrial waste from the point of origin to a point of treatment or discharge.

**Public Storm Sewer:** A system of pipe owned and maintained by a governmental unit, used to carry storm water collected from multiple sources including streets, downspouts, and parking lots to a discharge point. Discharge points include, but are not limited to, a lake, river or tributary, and retention or detention ponds.

**Public Water Supply:** A water works system which provides water for drinking or household purposes to persons other than the supplier of water, except those water works systems which supply water to only one (1) living unit, or as further defined in Public Act 399 of 1976, as amended, MCLA 325.1001 et seq.

**SECTION 2.19 DEFINITIONS "R"**

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

**Rehabilitation:** The upgrading of an existing building or part thereof which is in a dilapidated or substandard condition.

**Repair:** The reconstruction or renewal of any part of an existing building for the purpose of maintenance.

**Residential Family Care Center:** See State Licensed Residential Facility.

**Restoration:** The reconstruction or replication of an existing building's original architectural features.

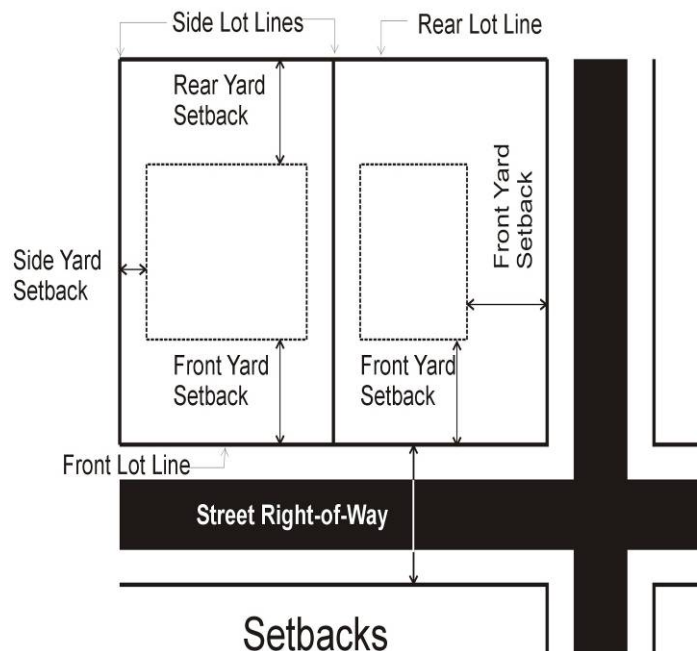
**Right-of-Way:** A public or private strip of land acquired or utilized by reservation, dedication, easement, prescription, purchase or condemnation and permanently established for the passage of persons, vehicles, railroads, water, utility lines, and similar uses.

**SECTION 2.20 DEFINITIONS "S"**

**Satellite Dish Antenna, or Dish Antenna:** An apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit.

**Setback:** The minimum required horizontal distance measured from the front, side, or rear lot line, as the case may be, which describes an area termed the setback on a lot or parcel required by this Ordinance for the District in which it is located.

- A. **Setback, Front:** The minimum required horizontal distance measured from the front lot line which describes an area termed the front setback on a lot or parcel required by this Ordinance for the District in which it is located.
- B. **Setback, Rear:** The minimum required horizontal distance



measured from the rear lot line which describes an area termed the rear setback on a lot or parcel required by this Ordinance for the District in which it is located.

- C. **Setback, Side:** The minimum required horizontal distance measured from the side lot lines which describes an area termed the side setback on a lot or parcel required by this Ordinance for the District in which it is located.

**State Licensed Residential Facility:** A residential care family or group facility licensed by the State of Michigan under Act 287 of 1972 of the Public Acts of Michigan, as amended, or Act 116 of 1973 of the Public Acts of Michigan, as amended, which provides resident care services under twenty four (24) hour supervision or care for persons in need of that supervision or care. This term does not include such facilities licensed by the State of Michigan for care and treatment of persons released from or assigned to adult correctional institutions.

- A. A *Family Facility* includes a state licensed residential facility providing resident services to six (6) or fewer persons.
- B. A *Group Facility* includes a state licensed residential facility providing resident services to more than six (6) persons.

**Stop Work Order:** An administrative order which is either posted on the property or mailed to the property owner which directs a person not to continue, or not to allow the continuation of an activity which is in violation of this Ordinance.

**Street, Private:** A privately owned and maintained thoroughfare including any rights-of-way and traveled surfaces which afford 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 two (2) or more existing parcels and/or main buildings.

**Street, Public:** A public thoroughfare including any rights-of-way and traveled surfaces which afford 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.

**Structural Alterations:** Any change in the supporting members of a building such as bearing walls, columns, beams or girders, or in the dimensions or configurations, or of the roof and exterior walls or means of egress.

**Structure:** A combination of materials whether fixed or portable, anything constructed, erected, or artificially built-up which requires a location on or below the surface of land or water, including a part or parts thereof and all equipment within the structure.

**Subdivision:** Subdivision means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors, or assigns for the purpose of sale, or lease of more than one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act, Act 288 of 1967 of the Public Acts of Michigan, as amended. "Subdivide" or "subdivision" does not include a property transfer between two (2) or more adjacent parcels, if the property taken

from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of the Village of Fowler Land Division Ordinance.

**Subdivision Plat:** A map or chart depicting the subdivision of land as regulated by the Subdivision Control Act of 1967, Act 288 of the Public Acts of 1967, as amended.

**Substantial Improvement:** Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred.

- A. 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.
- B. The term does not, however, include either 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 any compatible alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Swimming or Bathing Pool:** A nonporous container containing water having a depth of greater than twenty-four (24) inches or having a surface area of greater than two hundred fifty (250) square feet, or a pool permanently equipped with a water recirculating system or constructed of structural materials, excepting retention or detention ponds.

## SECTION 2.21 DEFINITIONS "T"

**Tower, Communication:** Towers erected for the purpose of providing Commercial Wireless Telecommunication Services or other radio wave communications.

**Travel Trailer:** A vehicular portable structure built on a chassis which is less than thirty-two (32) feet in length and is of such a width and weight as not to require special highway movement permits when drawn by a vehicle.

## SECTION 2.22 DEFINITIONS "U"

**Use:** The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained.

**Use Group:** The classification of a building or structure based upon its Purpose as contained in the State Construction Code.

**Useable Floor Area:** See Floor Area, Useable.

**SECTION 2.23      DEFINITIONS "V"**

**Variance:** Permission given by the Zoning Board of Appeals to a property owner to depart from the literal requirements of this Ordinance which may occur when compliance with this Ordinance would create a practical difficulty or unnecessary hardship on the property owner.

**Vehicle:** Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, or road, excepting devices moved by human power or used exclusively upon stationary rails or tracks.

**Vehicle Repair:** Any major 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 and lot or parcel designed or used for the retail sale of fuel, lubricants, air, water or other operating commodities for 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 Chapter.

**Vehicle Wash Establishment:** A building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

**Veterinary Hospital, Clinic, and Indoor Kennel:** Any activity involving the permanent or temporary keeping or treatment of animals operated as a business.

**Village:** Means the Village of Fowler, Michigan.

**Village Building Code:** The duly adopted Building Code of the Village of Fowler.

**Village Council:** Legislative body of the Village of Fowler, Michigan.

**SECTION 2.24      DEFINITIONS "W"**

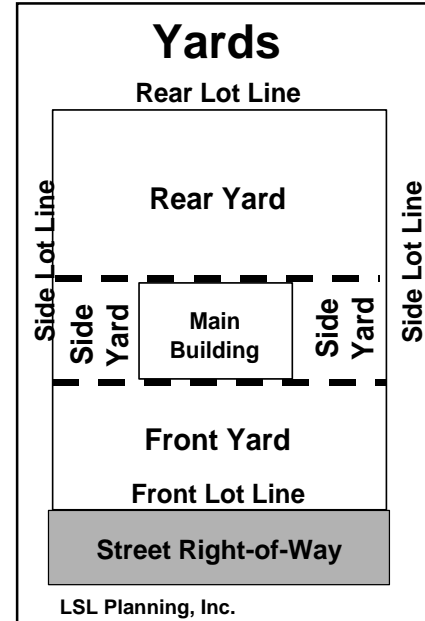
**Wall:** The vertical exterior surface of a building and the vertical interior surfaces which divide a building's space into rooms.

**Watercourse:** An open trench either naturally or artificially created which periodically or continuously contains moving water draining an area of at least two (2) acres which has definite banks, a bed and visible evidence of a continued flow or occurrence of water.

**SECTION 2.25      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 and unobstructed from the ground upward, except as otherwise provided herein.

- A. A *Front Yard* is an open space extending the full width of the lot, the uniform depth of which is measured at right angles to the front lot line.
- B. A *Rear Yard* is an open area extending across 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 area 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.



**SECTION 2.26 DEFINITIONS "Z"**

**Zoning:** The dividing of the Village into districts of a number and shape considered best suited to carry out the purposes of the Zoning Act and the creation of uniform regulations throughout each individual district. Such districts are referred to as Zoning Districts in this Ordinance.

**Zoning Act:** The Michigan Zoning Enabling Act, Public Act 110 of 2006, and its amendments. [AMENDED 3/10/08]

**Zoning Board of Appeals:** The Zoning Board of Appeals of the Village of Fowler.

**Zoning Ordinance:** The Village of Fowler Zoning Ordinance.