

Article 15

Definitions

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15.1 Use of Terms and Meanings

- A. Words used in the present tense shall include the future tense.
- B. Words used in the singular number shall include the plural number and the plural number shall include the singular number.
- C. The words "shall" and "will" are mandatory and are not discretionary.
- D. The word "may" is permissive.
- E. The word "lot" shall include the words "place" and "parcel."
- F. The word "building" shall include the word "structure" and shall include all other improvements of every kind, regardless of similarity to buildings.
- G. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- H. The word "person" shall include the words "individual," "corporation," "governmental agency," "trust," "estate," "partnership," "association," "ventures," "joint ventures," or any other legal activity.
- I. The masculine gender includes the feminine and neuter.
- J. All measured distances shall be expressed in feet and shall be to the nearest foot. If a fraction of one-half (1/2) foot or less, the next full number below shall be used. If a fraction of more than one-half (1/2) foot, the next full number above shall be used.
- K. Unless otherwise specified, all distances shall be measured horizontally.
- L. Word and terms shall have the meaning set forth, except where otherwise specifically indicated. Words and terms not defined herein shall be defined as in Webster's New Collegiate Dictionary - latest edition.

15.2 Definitions

ABUT: To touch or to adjoin.

ACCESSORY USE: A use of land or a building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building or structure and located on the same lot with such principal use.

ADJACENT: To lie near, close to, or in the immediate vicinity of.

ADDITION: Any increase to the gross floor area of a structure.

ADULT USE – SEXUALLY ORIENTED BUSINESS

- (1) The words and phrases used in this section shall have the same meaning ascribed thereto by K.S.A. 12-742, and amendments thereto;
- (2) "Adult arcade" means any place to which the public is permitted or invited in which coin-operated, slug-operated or for any form of consideration, electronically,

electrically or mechanically controlled still or motion picture machines, projectors, video or laser disc players 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 the depicting or describing of specified sexual activities or specified anatomical areas.

- (3) "Adult bookstore", "adult novelty store" or "adult video store" means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - (A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
 - (B) Instruments, devices or paraphernalia that are designed for use in connection with specified sexual activities;
- (4) "Adult cabaret" means a nightclub, bar, restaurant or similar commercial establishment which regularly features:
 - (A) Persons who appear in a state of nudity or semi-nudity; or
 - (B) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
 - (C) Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
- (5) "Adult motel" means a hotel, motel or similar commercial establishment which:
 - (A) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions which 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 which advertises the availability of this adult type of photographic reproductions; or
 - (B) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
 - (C) Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than 10 hours;
- (6) "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas;
- (7) "Adult theater" means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or semi-nudity, or live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities;
- (8) "Escort" means 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;
- (9) "Escort agency" means 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;

- (10) "Nude model studio" means any place where a person who appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. Nude model studio shall not include a college, community college or university supported entirely or in part by public money; a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college or university supported entirely, partly by public money or in a structure or private studio:
- (A) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing;
 - (B) Where, in order to participate in a class, a student must enroll at least three days in advance of the class; and
 - (C) Where no more than one nude or semi-nude model is on the premises at any one time;
- (11) "Nudity" or a "state of nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered male genitals in a discernibly turgid state.
- (12) "Sexual encounter center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
- (A) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (B) Activities between either male and female persons or persons of the same sex, or both, when one or more of the persons is in a state of nudity or semi-nudity;
- (13) "Semi-nude" or in a "semi-nude condition" means the showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of the male or female buttocks. Such term shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast, exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part;
- (14) "Sexually oriented business" means an adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center;
- (15) "Specified anatomical areas" means:
- (A) The human male genitals in a discernibly turgid state, even if completely and opaquely covered; or
 - (B) Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.
 - (C) The governing body may adopt, in the manner provided by K.S.A. 12-741 et seq., and amendments thereto, reasonable regulations for the gradual elimination of sexually oriented businesses that constitute nonconforming uses.

AGENT: One who represents another, called the principal, in dealings with third persons. The agent undertakes some business by authority of the principal. The principal is the property owner.

AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. Included are truck-farming, growing of nursery stock, raising of fruit and berries, bee-keeping and the retail sale of products grown or raised on the premises through one growing season.

AGRICULTURAL BUILDING OR STRUCTURE: For the purposes of this Ordinance, an "agricultural building or structure" shall imply any building or structure existing or erected on land used principally for agricultural purposes.

AGRICULTURAL SERVICES: An establishment primarily engaged in providing services specifically for the agricultural community which is not directly associated with a farm operation. Included in this use type would be servicing of agricultural equipment, independent equipment operators, and other related agricultural services.

AIRPORT: Any area of land or water which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxi ways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

ALLEY: A public right-of-way which normally affords a secondary means of access to abutting property. An alley shall not be considered a street. Further, frontage on an alley shall not be construed as satisfying the requirements related to frontage on a dedicated street.

ALTERATION: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, or any enlargement or reduction of a building or structure, whether horizontally or vertically, or the moving of a building or a structure from one location to another. The addition of bedrooms, kitchens, and bathrooms to an existing residential structure.

AMATEUR RADIO TOWER: A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC.

ANIMAL HOSPITAL: Any structure where animals or pets are given medical or surgical treatment. Use as a kennel, or for other boarding purposes, shall be limited to short-time and fully enclosed boarding and shall only be incidental to such hospital use. Also a Veterinary Clinic.

APARTMENT: One (1) or more rooms in a multiple-family dwelling arranged, intended or designed as living quarters for an individual, group of individuals, or a family.

AUTOMOBILE CAR WASH: A building, or portion thereof, containing facilities for washing one (1) or more automobiles at any one (1) time.

AUTOMOBILE DEALERSHIP: The use of any building, land area or other premise for the display of new and used automobiles, trucks, vans, or motorcycles for sale or rent, including

any warranty repair work and other major and minor repair service conducted as an accessory use.

AUTOMOBILE REPAIR GARAGE: An "automobile repair garage" is any building or premises whose primary use is for the general repair, engine rebuilding or reconditioning of motor vehicles, collision service such as body, frame and fender straightening and repair and painting of motor vehicles.

AUTOMOBILE SERVICE STATION: An "automobile service station" is any building or premises whose primary use is for the dispensing or sale at retail to the public of automobile fuels, lubricating oil or grease, tires, batteries and other minor automobile accessories. Services offered may include the installation of tires, batteries and minor automobile accessories, minor automobile repairs and greasing or washing of individual automobiles, but do not include major automobile repairs. See Automobile Repair Garage.

AWNING: A roof-like cover, temporary in nature, which projects from the wall of a building or other structure.

BED AND BREAKFAST: A dwelling in which not more than twelve bedrooms are provided for overnight guests for compensation, on daily or weekly basis, with or without breakfast. The serving of meals other than breakfast or the serving of breakfast to other than overnight guests, shall be considered a Restaurant.

BEDROOM: A room in a dwelling which may be occupied for sleeping purposes. Every room which is at least 70 square feet in area, having at least one window facing directly to the outdoors or to a court, which is not the kitchen, living room, dining room, bathroom, closet, hall, storage or utility space or similar area, shall be considered a bedroom.

BLOCK: A tract of land bounded by streets, or a combination of streets and public parks, golf courses, cemeteries, railroad rights-of-way, shorelines of waterways, or municipal boundary lines.

BOARD OF ZONING APPEALS: The term Board of Zoning Appeals shall refer to the City of Edgerton Board of Zoning Appeals, also referred to in this ordinance as BZA.

BROADCASTING OR COMMUNICATION TOWER: Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A Broadcasting or Communication Facility usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio towers, which are described separately.

BORROW PIT: Any place or premises where dirt, soil, sand, gravel, or other material is removed by excavation or otherwise, below the grade of surrounding land, for any purpose other than that necessary and incidental to grading or to building construction or operation on the premises.

BUILDING: Any structure built for the enclosure, protection, shelter, or support of persons, animals or property of any kind and which is permanently affixed to the ground. The term "building" shall not include fences.

BUILDING CODE: The Building Code of the City of Edgerton.

BUILDING, COMPLETELY ENCLOSED: Any building separated on all sides from adjacent open space, or from other buildings, by a permanent roof and by exterior walls or party walls pierced only by windows and normal entrance or exit doors.

BUILDING COVERAGE: That portion of a lot, which when viewed from directly above, would be covered by any building or structure. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.

BUILDING, DETACHED: A building surrounded by an open space on the same lot.

BUILDING, FRONT: The side of a building which faces the front of the lot upon which the building is located (see "Lot, Front").

BUILDING HEIGHT: The vertical distance from the curb level, or its equivalent, opposite the center of the front of a building to the top or the highest roof beams, in the case of a flat roof; to the deck line of a mansard roof; and to mean level of the highest gable or slope of a gable, hip or gambrel roof. Where no curb level has been established, the height of a building may be measured from the mean elevation of the center line of the street fronting the lot.

BUILDING, RESIDENTIAL: Any building which is arranged, designed, used, or intended to be used for residential occupancy by one or more families or lodgers and which includes, but is not limited to, the following types:

1. Single-family detached dwellings.
2. Two-Family dwellings.
3. Townhouse dwellings.
4. Multiple-family dwellings.

BUILDING SEPARATION: The minimum horizontal distance between two buildings on adjacent lots or across a street or alley.

BUILDING SETBACK LINE: The line, perpendicular to the depth of the required front yard setback and parallel to a front lot line and/or street right-of-way line, whichever is greater, at which structures are permitted to be construed and where "lot width" is measured.

BUILDABLE AREA OF A LOT: That portion of a lot bounded by the required "rear" and "side yards" and the "building setback line."

BUILDING COVERAGE: A percentage figure referring to that portion of a lot covered only with principal and accessory buildings.

BULK: A composite term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and includes the following:

1. Size and height of buildings;
2. Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings;
3. Floor area ratio of buildings;
4. All open spaces allocated to buildings; and
5. Amount of lot area provided per dwelling unit.

BUSINESS: An occupation, employment, or enterprise that occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.

CALIPER: The diameter of the trunk of a tree at the height of twelve inches above grade.

CAMP, DAY OR YOUTH: A camp providing facilities for groups of young people such as Y.M.C.A. camps, Boy Scout camps and Girl Scout camps.

CAPACITY IN PERSONS: The "capacity in persons" of an establishment or use is the maximum number of persons that can avail themselves of the services (or goods) of such establishment, at any one time, with reasonable comfort.

CARGO CONTAINERS: Also referred to as "Containers" or "Storage Containers." An industrial, standardized reusable vessel that is not permanently attached to a semi-trailer and wheels:

- a. Originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, and,
- b. Designed for or capable of being mounted on a rail car, and,
- c. Designed for or capable of being mounted on a chassis for movement by truck, train or loaded on a ship. (Ord. 915, 2012)

CARGO CONTAINER STORAGE FACILITIES: Any site engaged in the storage of cargo containers, semi-trailers, or chassis in which either the principal or secondary use is the movement, storage, staging or redistribution of cargo containers or semi-trailers (either on or off a chassis), or chassis, but not to include railroad operations that are subject to the jurisdiction of the U.S. Department of Transportation, Surface Transportation Board.(Ord. 915, 2012)

CARGO CONTAINER REPAIR AND MAINTENANCE FACILITIES: Any site engaged in the repair and maintenance of cargo containers, semi-trailers, or chassis located within, or separate from, a cargo container storage facility. This may include facilities or operations engaged in the conversion of cargo containers for a secondary use or sale. (Ord. 915, 2012)

CARPORIT: An open-sided roofed automobile shelter, usually formed by extension of the roof from the side of a building.

CAR WASH: See Automobile Car Wash.

CERTIFICATE OF OCCUPANCY: The written approval of the Zoning Administrator certifying that a newly constructed structure, addition to an existing structure, or existing structure undergoing a change in use is in full compliance with the provisions of this Ordinance and that such structure is habitable and in conformance with all applicable City building codes and regulations.

CERTIFICATE OF ZONING COMPLIANCE: For the purposes of this ordinance, official certification that premises conform to all applicable provisions of the zoning ordinance and may be lawfully used or occupied.

CHASSIS: The portion of a semi-trailer configuration that is non-powered and consisting of only a bed (frame) and the trailer wheels. (Ord. 915, 2012)

CHASSIS RACKING: A method of storing a chassis in an upright position (on end) where the bed is perpendicular to the ground. (Ord. 915, 2012)

CHASSIS STACKING: A method of storing a chassis where the bed of the chassis remains parallel to the ground. (Ord. 915, 2012)

CLINIC: A building, the principal use of which is for offices of health professionals, which contains facilities for the examination and treatment of patients but not for their lodging.

CLUB: An organization catering exclusively to members and their guests, or premises and buildings for social, recreational, or athletic purposes which are not conducted primarily for

gain; provided that any vending stands, merchandising, or commercial activities are conducted only as required generally for the membership of such club.

CLUSTERING: The grouping of structures, courts, cul-de-sacs, or short streets--more closely than in conventional residential plans--in order to preserve natural site amenities and open space.

COMMON OPEN SPACE: Land and/or water unoccupied by structures, buildings, streets, rights-of-way and automobile parking lots and designed and intended for the use or enjoyment of residents of a Planned Unit Development. Common open space may contain walks, patios and structures for recreational use. Areas used for individual open space, such as private courtyards and not available to all residents of the Planned Unit Development, shall not be included as common open space.

COMMON ENTRANCE: Any access facility that provides passageway from the outside to a group of apartments in a garden apartment building or apartment house.

COMPATIBLE USE: Any property, use, or service that is capable of direct association with certain other uses because it is complementary, congruous, or otherwise not detrimental.

COMMUNICATIONS SERVICES: Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded from this use type are facilities classified as Major Utility Services or Broadcasting or Communication Towers. Typical uses include television studios, telecommunication service centers, telegraph service offices or film and sound recording facilities.

CONFORMING BUILDING OR STRUCTURE: A "conforming building" or "conforming structure" is any building or structure which:

1. Complies with all the regulations of this Ordinance or of any amendment hereto governing bulk for the zoning district in which such building or structure is located; or
2. Is designed or intended for a conforming use.

CONTIGUOUS: In contact, adjoining, or touching another object or item, as distinguished from being adjacent.

CONVALESCENT HOME: See Nursing Home.

CURB LEVEL: The level of the established curb in the front of a building or other structure measured at the center of such front. Where no curb elevation has been established, the mean elevation of the center line of the street fronting the lot shall be considered the curb level.

DAY CARE CENTER: An institution or place in which three (3) or more children or adults are received and cared for apart from their parents or guardian, for part or all of a day, but not for overnight habitation.

DECIBEL: A unit measuring the intensity or loudness of sound.

DENSITY, GROSS: The numerical value obtained by dividing the total number of dwelling units in a development by the gross area of the tract of land (in acres) within a development. This would include all non-residential land uses and private streets of the development, as well as rights-of-way of dedicated streets; the result being the number of dwelling units per gross acre of land.

DENSITY, NET: The numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in acres) upon which the dwelling units are proposed to be located and including common open space and associated

recreational facilities within the area; the result being the number of dwelling units per net residential acre of land. Net density calculations exclude rights-of-way of publicly dedicated streets and private streets.

DETENTION: The temporary on-site storage of storm water.

DISTRICT: A portion of the territory of the City of Edgerton where certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.

DRIVE-IN AND/OR TAKE-OUT ESTABLISHMENT: A place of business operated for the retail sale and purchase of food and other goods, services, or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their automobiles, or which allows the consumption of food or beverages in automobiles on the premises or elsewhere on the premise, but outside any completely enclosed structures. If, in addition to the consumption of any food or beverages in automobiles or elsewhere on the premises outside any completely enclosed structure, an establishment also allows for the consumption of such products within a completely enclosed structure, it shall be considered a drive-in and/or take-out establishment.

DRIVEWAY: A pathway for motor vehicles from a street to a parcel of land used only for service purposes or for access to the parcel.

DWELLING: A building, or portion thereof designed or used exclusively for human habitation, including single-family dwellings, two-family dwellings, townhouse dwellings, and multiple-family dwellings, but not including mobile homes, hotels or motels.

DWELLING, MULTIPLE-FAMILY: A building designed exclusively for human habitation containing three (3) or more dwelling units.

DWELLING, SINGLE-FAMILY: A building designed exclusively for human habitation containing one (1) dwelling unit and intended for occupancy by one (1) family.

DWELLING, SINGLE-FAMILY ATTACHED: A portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building. Each such dwelling may be sold independently of other portions and must comply with the following requirements:

- a. The Common wall between attached units shall be on the side lot line separating the two lots and shall not be subject to side yard requirements providing there are not doors, windows, vents or other openings in the common wall.
- b. Any exterior wall which is not a common wall must meet all yard requirements.
- c. Each lot must have direct access to a public street.
- d. The deed to each lot must include covenants requiring the proper and timely reconstruction of any damaged or destroyed dwellings.(Ord. 1052, 2017

DWELLING, TOWNHOUSE: A building designed exclusively for human habitation containing two (2) or more dwelling units where each dwelling unit is attached to another dwelling unit by a vertical wall, with each dwelling unit having an individual entrance, not accessible from the entrance of any other dwelling unit and not overlapping any part of another dwelling unit.

DWELLING, TWO-FAMILY: A building designed exclusively for human habitation containing two (2) dwelling units.

DWELLING UNIT: One (1) or more rooms, including individualized bathroom or kitchen facilities, which are arranged, designed, or used as living quarters for one (1) family or household.

EDUCATIONAL INSTITUTIONS: Any public, parochial, private or charitable, or non-profit school, junior college, or university, other than trade or business schools, including

instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants, and other incidental facilities for students, teachers and employees.

EFFICIENCY UNIT: A dwelling unit consisting of one (1) principal room exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room, is providing such dining alcove.

ELEEMOSYNARY INSTITUTION: Any building or group of buildings devoted to and supported by charity.

ESTABLISHMENT, BUSINESS: Any place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same zoning lot.

FAMILY: A "family" consists of one (1) or more persons each related to the other by blood, marriage, or adoption (including foster children), together with such relatives of the respective spouses who are living with the family in a single dwelling and maintaining a common household. A family may also be composed of no more than three (3) unrelated persons, provided that such unrelated persons live in a single dwelling and maintain a common household and a single housekeeping unit.

FARM: Land being utilized for agricultural purposes.

FENCE: A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar material and is used as a barrier of some sort.

FLOOR AREA (FOR DETERMINING FLOOR AREA RATIO): For the purpose of determining the floor area ratio, the "floor area" of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The "floor area" of a building shall include basement floor area when more than one-half (1/2) of the basement height is above the established curb level or above the mean elevation of the centerline of the street fronting the lot where curb level has not been established, elevator shafts and stairwells at each floor, floor space for mechanical-equipment except equipment, open or enclosed, located on the roof-penthouses, attic space having headroom of seven feet, six inches (7'6") or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses. However, any space devoted to off-street parking or loading shall not be included in "floor area." The "floor area" of structures devoted to bulk storage of materials-including but not limited to, grain elevators and petroleum storage tanks-shall be determined on the basis of height in feet; i.e., ten (10) feet in height shall equal one (1) floor.

FLOOR AREA RATIO (F.A.R.): The "floor area ratio" of the building or buildings on any zoning lot is the floor area of the building or buildings on the zoning lot divided by the gross lot area of such zoning lot, or, in the case of planned unit developments, by the gross site area, exclusive of dedicated streets. The "floor area ratio" requirements, as set forth under each zoning district, shall determine the maximum floor area allowable for the building or buildings (total floor area of both principal and accessory buildings) in direct ratio to the gross area of the zoning lot.

FRONTAGE: The length of all the property fronting on one (1) side of a street between the two (2) nearest intersecting streets, measured along the line of the street, or if dead ended, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.

FRONTAGE, ZONING LOT: The length of all the property of a zoning lot fronting on a street, measured between side lot lines.

GARAGE, COMMERCIAL: A building or portion thereof, other than a private garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor vehicles. The term repairing shall not include an automotive body repair shop or the rebuilding, dismantling, or storage of wrecked or junked vehicles, unless expressly authorized.

GARAGE, PRIVATE: A detached accessory building or portion of a principal building, designed, arranged, used or intended to be used for the storage of motor vehicles owned and operated exclusively by the occupants of the premises and their guests.

GLARE: The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

GRADE: The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

GRADING: The reshaping of natural land contours, using natural land materials such as soil, gravel, sand, black dirt, etc., for the purpose of eliminating erosion or sedimentation problems, creating or improving surface drainage, providing for the natural aesthetic contouring of property, or to accommodate a building plan by making minor changes in land elevation.

GOVERNING BODY: The Governing Body of the City Edgerton

HALFWAY HOUSE: An establishment providing accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol or drug addiction, to persons re-entering society after being released from a correctional facility or other institution, or to persons suffering from similar disorders.

HEIGHT OF STRUCTURE: The "height of a structure," other than that of buildings (for height of buildings see Building Height), is the vertical distance from the ground level measured at a ninety (90) degree angle from the highest point of said structure.

HOME OCCUPATION: Any occupation or profession conducted within a dwelling unit and complies with all the regulations of this Ordinance. "Home occupations" are further defined in Article 9.

HOSPITAL OR SANITARIUM: A "hospital or sanitarium" is an institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not less than twenty-four (24) hours in any week, of three (3) or more non-related individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions.

HOTEL: An establishment which provides lodging for transient guests in return for monetarily reward and which provides customary hotel services, such as maid service, the furnishing and laundering of linen, telephone and desk service, the use and upkeep of furniture, and bellboy service.

INCOMPATIBLE USE: A use or service that is incapable of direct association with certain other uses because it is contradictory, incongruous, or discordant.

INDUSTRIAL PARK: A special or exclusive type of planned industrial area designed and equipped to accommodate a variety of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

INORGANIC MATERIAL: An "inorganic material" is one made from substances composed of matter other than plant, animal, or certain chemical compounds or carbon. Examples are metals and glass.

JUNK VEHICLE: An automobile, truck, or other motor vehicle which has been damaged to such an extent that it cannot be operated under its own power and will require major repairs before being made usable or such a vehicle which does not comply with State, County or City laws or ordinances.

JUNK YARD: An open area where junk, waste, scrap, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. "Junk yard" includes automobile wrecking or salvage yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but does not include uses established entirely within enclosed buildings.

KENNEL: Any place in or at which any number of dogs are kept for the purpose of sale or in connection with boarding care or breeding, for which any fee is charged; or any place or at which more than four dogs over age four (4) months are kept for any purpose.

LAKE: Any natural or man-made body of water surrounded by land.

LANDFILL, DUMP: A site where refuse is deposited in a haphazard manner without adequate control of the operation.

LANDSCAPING: The improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials, or by the alteration of the contours of the ground.

LOT: A single parcel of land under unified ownership or control. A lot can be either a lot of record or a zoning lot.

LOT AREA, GROSS: The area of a horizontal plane bounded by the front, side and rear lot lines.

LOT, BUILDABLE AREA: The space remaining on a zoning lot after the minimum open space requirements of this Ordinance have been complied with.

LOT, CORNER: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees. On a "corner lot," the front lot line shall be the lot line having the shorter dimension along the street line.

LOT COVERAGE: The "lot coverage" of a lot is the area of a lot occupied by the principal and accessory buildings.

LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.

LOT FRONTAGE: That boundary of a lot along a public or private street.

LOT, INTERIOR: A lot other than a corner or reversed corner lot.

LOT LINE: A property boundary line of any lot. When a lot extends to an abutting street or alley, the lot line shall be the closest street or alley line.

LOT LINE, FRONT: That boundary of a lot along an existing or dedicated public street, or where no public street exists, along a public way; where such public way is not a dedicated street the right-of-way of such public way shall be deemed to be sixty (60) feet, unless otherwise provided.

LOT LINE, REAR: That boundary of a lot that is most distant from, and is, or is most nearly, parallel to, the front lot line.

LOT LINE, SIDE: Any boundary of a lot that is not a front lot line or a rear lot line.

LOT OF RECORD: A lot which is a part of a subdivision, the plat of which has been recorded in the Office of the Johnson County Register of Deeds; or a parcel of land which was lawfully recorded prior to the adoption and enactment of this Comprehensive Amendment to the City of Edgerton Zoning Ordinance.

LOT, REVERSED CORNER: A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

LOT, THROUGH: A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot.

LOT WIDTH: The horizontal distance between the side lot lines of a lot measured within the lot boundary at the building setback line.

LOT, ZONING: A single tract of land located within a single block, which 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.

MARQUEE OR CANOPY: A roof-like structure of a permanent nature that projects from the wall of a building.

MICRON: A unit of measurement, equal to one thousandth part of one millimeter (.001 millimeter).

MOBILE HOME: A structure designed prior to July 1, 1976 for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be a permanent home and designed to permit the occupancy thereof as a dwelling place for one (1) or more persons. Even if structure rests on a permanent foundation, with wheels, tongue, hitch and axle or lug bolts permanently removed, it shall be construed as a mobile home. A mobile home may be with or without mechanical power.

MANUFACTURED HOME: A structure designed after July 1, 1976 for permanent habitation, transportable in one or more sections, which in the traveling mode is 12 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 480 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation. A manufactured home shall contain one dwelling unit.

RESIDENTIAL DESIGN MANUFACTURED HOME: Residential-design manufactured home" means a manufactured home on permanent foundation which has:

- 1). A minimum of 880 square feet of main floor living area, excluding any attached garage or porch, and the longest exterior dimension of the body shall be not more than two and one-half (2½) times the shortest exterior dimension.
- 2). The roof shall be double-pitched and shall have a minimum vertical rise of three (3) inches for each twelve (12) inches of horizontal run, and shall be covered with material that is residential in appearance, including but not limited to wood, asphalt, composition or fiberglass shingles. The roof shall have a minimum eave projection or overhang of ten (10) inches on at least two (2) sides, which may include a four (4) inch gutter.
- 3). The exterior siding shall be made of non-reflective material customarily used on site-built dwellings, such as wood, composition or simulated wood, clapboard, vinyl, brick, stucco, or similar materials but excluding smooth, ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior foundation.

MOBILE OR MANUFACTURED HOME PARK: An area of land or lands upon which three (3) or more independent mobile homes are harbored either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle, or enclosure used or

intended for use as a part of the equipment of such mobile home park. A mobile home park shall not include a sales lot or unoccupied mobile homes for the purpose of inspection and sale.

MODERATE BURNING MATERIAL: A material which in itself does not support combustion and which is consumed slowly as it burns.

MOTEL: An establishment which provides lodging for transient guests, arriving in motor vehicles, in return for monetary reward and which provides customary hotel services such as maid service, the furnishing and laundering of linen, telephone and desk service, the use and upkeep of furniture and bellboy service. A typical motel consists of a number of bedrooms united under one (1) roof, but having individual entrances and with adequate parking available nearby.

MOTOR FREIGHT TERMINAL: A building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate shipment by motor truck.

MOTOR VEHICLE: Any passenger vehicle, motorcycle, recreational vehicle, truck, truck-trailer, or semi-trailer propelled or drawn by mechanical power.

MULTI-FAMILY DWELLING: A building or portion thereof that contains three or more dwelling units for permanent occupancy, regardless of the method of ownership. Included in the use type would be garden apartments, low and high rise apartments, apartments for elderly housing and condominiums.

NAMEPLATE: A sign indicating the name and address of a building; or the name of an occupant thereof and the practice of a permitted occupation therein.

NON-CONFORMING BUILDING OR STRUCTURE: Any building or structure and the use thereof or the use of land that does not conform with the regulations of this Ordinance or any amendment hereto governing use in the district in which it is located, but conformed with all of the codes, ordinances and other legal requirements applicable at the time such building or structure was erected, enlarged, or altered, and the use thereof or the use of land was established.

NON-CONFORMING USE: Any use of land, buildings, or structures which use is not permitted in the zoning district in which such use is located.

NURSING HOME OR REST HOME: A home for the aged, chronically ill, care of children, infirm or incurable persons, or a place of rest for those suffering bodily disorders in which three (3) or more persons, not members of the immediate family residing on the premises, are received, kept or provided with food, shelter and care; but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases, or mental illness.

OCCUPANCY: The period during which one owns, rents, uses, or occupies a certain premises or land.

OCCUPANT: A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.

OCTAVE BAND: A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

OCTAVE BAND FILTER: An electrical frequency analyzer designed according to standards formulated by the American Standards Association and used in conjunction with a sound level meter to take measurements in specific octave intervals.

ODOROUS MATTER: Any matter that yields an odor that is offensive in any way.

OPEN SPACE: That portion of land and/or water not devoted to buildings or other structures, parking or loading areas, driveways, or any principal or accessory use.

ORDINANCE: The City of Edgerton Zoning Ordinance.

ORGANIC MATERIAL: A material or substance composed of chemical compounds of carbon in combination with other chemical elements (often hydrogen) and generally manufactured in the life processes of plants and animals. Organic substances include paper, wood, food and plastic, as well as the waste products of these and similar materials.

OUTDOOR STORAGE: The keeping, in other than a building, of any goods, materials, or merchandise on the same parcel for more than twenty-four consecutive hours.

OVERLAY DISTRICT: A district established by this Ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district.

PARKING FACILITY: A site for surface parking or a parking structure unrelated to a specific use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.

PARKING LOT AREA: The square foot area of the parking spaces and aisles and interior parking lot islands, excluding access drives that do not have parking spaces within them.

PARTICULATE MATTER: Material, other than water, which is suspended in or discharged into the atmosphere in a finely divided form as a liquid or solid.

PERMITTED USE: A use which is permitted "by right" in a particular zoning district. It is contrasted with special (conditional) uses which are authorized only if certain requirements are met and after review and the appropriate City boards grant approval. Permitted uses are normally principal uses of land.

PLANNED UNIT DEVELOPMENT (P.U.D.): A tract of land which is developed as a unit under single ownership or unified control, which includes one (1) or more principal buildings or uses and is processed under the Planned Unit Development provisions of this Ordinance. Also, a parcel of land planned as a single unit, rather than as an aggregate of individual lots, with design flexibility from traditional siting regulations (such as side yards, setbacks and height limitations) or land use restrictions (such as prohibitions against mixing land uses within a development). The greater flexibility in locating buildings and in combining various land uses often makes it possible to achieve certain economics in construction, as well as the preservation of open space and the inclusion of many amenities.

PLANNED UNIT DEVELOPMENT PLAT: A drawing or map made to measurable scale upon which is presented a description and definition of the way in which the design requirements of the Planned Unit Development are to be met and intended for recording with the County Register of Deeds.

PLAN COMMISSION: The Plan Commission of the City of Edgerton.

PRINCIPAL BUILDING: The main building upon a lot, or the building that houses the principal use of the premises.

PRINCIPAL USE: The primary use of land or structures as distinguished from a secondary or accessory use. A house is a principal use in a residential area; a garage or pool is an accessory use.

RECORDING (OF A DOCUMENT): To officially record a document in the Office of the County Register of Deeds.

RECREATIONAL VEHICLE: Any unit designed primarily for living or sleeping purposes, equipped with wheels or placed upon a wheeled device for the purpose of transporting from place to place. This term shall include, but not be limited to, camping trailers, campers, mobile homes, tent trailers, motor coaches, tent campers and shall also include those wheeled devices upon which they are placed.

RESTAURANT: Any establishment whose principal business is the sale of food for consumption, in non-disposable containers, at tables located on the premises.

RESTAURANT, DRIVE-IN: An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery or table service, served in disposable containers at a counter and a drive-up or drive through service facility or which offers curbside service.

RESTAURANT, FAST FOOD (Carry Out): An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery or table service, served in disposable containers at a counter. This use type does not employ a drive-up or drive-through service facility, and does not offer curbside service.

SINGLE FAMILY DWELLING: A site built or modular building designed for or used exclusively as one dwelling unit for permanent occupancy.

1. **Detached:** A single family dwelling which is surrounded by open space or yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.
2. **Attached:** Two or more single family dwellings sharing a two or more common walls area, each on its own individual lot. Attached dwellings are not vertically stacked.
3. **Group Home:** A licensed residential facility in which no more than eight mentally ill, mentally retarded, or developmentally disabled persons reside, with one or more resident counselors or other staff persons, shall be considered a residential occupancy by a single family. Mental illness and developmental disability shall not include current illegal use of or addiction to a controlled substance. Such facility shall be licensed by the State of Kansas, in order to qualify as a single family use.

RETENTION: The permanent on-site maintenance of storm water.

RIGHT-OF WAY, PUBLIC: - An access way dedicated to public use.

RIGHT-OF-WAY, RAILROAD: A strip of land with tracks and appurtenant track operational facilities.

ROADSIDE STAND, ACCESSORY: A structure erected for the display and sale of agricultural products no more than one (1) story in height and five hundred (500) square feet in retail floor area and located on a zoning lot where the principal use is agricultural.

ROADSIDE STAND, COMMERCIAL: A structure erected for the display and sale of agricultural products and may or may not be located on a zoning lot where the principal use is agricultural. A "commercial roadside stand" requires appropriate commercial zoning; it must comply with all site and structure provisions of the applicable zoning district and may sell up to five (5) products not of an agricultural nature. Products sold at a "commercial roadside stand" are generally grown off the zoning lot where such stand is located.

SCHOOL BUS: A yellow bus that is used solely for the purposes of transporting children to and/or from school and school-sponsored functions.

SEMI-TRAILER: The portion of a semi-trailer configuration that is non-powered and consisting of an enclosed cargo box that is permanently attached to the trailer wheels. (Ord. 915, 2012)

SENIOR HOUSING: Multiple-Family residential development, the occupation of which shall be limited to persons 62 years of age or more provided that if two or more persons occupy a single dwelling unit, at least one shall be 62 years of age or more.

SETBACK: The minimum horizontal distance between a lot line and the nearest side of a building or other structure, located on a particular zoning lot, to such lot line.

SITE COVERAGE: A percentage figure indicating that portion of a sign covered by principal and accessory buildings, parking area, private streets, access drives, etc. Normally, land not considered in the site coverage computation is classified as open space.

SLOW BURNING OR INCOMBUSTIBLE MATERIALS: Materials that do not in themselves constitute an active fuel for the spread of combustion. A material that will not ignite, nor actively support combustion during an exposure for five (5) minutes at a temperature of twelve hundred (1200) degrees Fahrenheit, shall be designated "incombustible."

SOUND LEVEL: The intensity of sound, measured in decibels, produced by an operation or use.

SOUND LEVEL METER: An instrument designed to measure sound pressure levels and constructed in accordance with the requirements for General Purpose Sound Level Meters published in the American National Standards Institute Standard No. S1.4-1971 or its latest revision.

CONDITIONAL USE: A "special or conditional use" of land or building, or both, described and permitted herein, is a use subject to special provisions and which because of unique characteristics cannot be properly classified as a permitted use.

STABLE, PRIVATE: A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.

STABLES AND/OR RIDING ACADEMIES, COMMERCIAL: The grounds and buildings where horses are bred, raised, boarded, or kept for remuneration, hire or sale.

STORY: That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above.

STREET: A public or private right-of-way which affords a primary means of vehicular access to abutting property, but does not include alleys or driveways to buildings.

STRUCTURE: Anything constructed, erected or placed, which requires location in or on the ground or is attached to something having a location on the ground.

STRUCTURAL ALTERATION: Any change, other than incidental repairs, which would prolong the life of supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders or foundations.

SURFACE WATER ELEVATION: The normal water level elevation of a lake, stream, or stream bed as depicted on United States Geological Survey (U.S.G.S.) flood plain topographic maps. If "surface water elevation" datum specified by the Kansas Department of Transportation-Division of Water Resources is more current than U.S.G.S. flood plain topographic maps, Division of Water Resources information may be used.

TENT: Any structure or enclosure, the roof of which and/or one-half (1/2) or more of the sides, are constructed of silk, cotton, canvas, fabric, or a similar light material.

THREE-COMPONENT MEASURING SYSTEM: Denotes instrumentation which can measure earth-borne vibrations in three (3) directions, that is, vibration occurring in a horizontal as well as a vertical plane.

TOXIC OR NOXIOUS SUBSTANCES: Any solid, liquid or gaseous matter, including but not limited to, gases, vapors, dusts, fumes and mists containing properties which by chemical means are inherently harmful and likely to destroy life and impair health, or capable of causing injury to the well-being of persons or damage to property.

TRAILER: Any vehicle, house car, camp car, recreational vehicle, or any portable or mobile vehicle on wheels, jacks, horses, skids, or blocks, and with or without automotive power; which is used, adapted, or designed for living, sleeping, business, trade, occupation or storage purposes. Normally, such occupancy is on a temporary or transient basis.

TRAILER-CAMPER PARKS: A residential facility designed, used, or intended to be used to accommodate the over-night or temporary location, hook-up, or use of its facilities for travel trailers, camp trailers and recreational vehicles.

TRUCK TRAILER: See Chassis or Semi-Trailer. (Ord. 915, 2012)

UNIFIED CONTROL: The combination of two (2) or more tracts of land wherein each owner has agreed that his tract of land shall be developed as part of a Planned Unit Development and shall be subject to the control applicable to the Planned Unit Development.

USE: The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of performance of such activity with respect to the performance standards of this Ordinance.

VARIATION: A device which grants a property owner relief from certain provisions of this Zoning Ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship, as distinguished from a mere inconvenience or a desire to make more money, or a practical hardship owing to circumstances which do not occur generally to land or buildings in the neighborhood.

VENDING MACHINE: A machine for the dispensing of merchandise for monetary remuneration, designed to be operated by the consumer.

VIBRATION: The periodic displacement of earth caused by an oscillating movement, and measured in inches.

VIBRATION FREQUENCY: The number of oscillations per second of a vibration.

WAREHOUSE: A structure, or part thereof, or area used principally for the storage of goods and merchandise.

WATER SUPPLY SYSTEM, INDIVIDUAL: The "water supply system" of a building or premises consists of the water service pipe, the water distribution pipes and the necessary connecting pipes, fittings, control valves, and all appurtenances in or adjacent to the building or premises.

WATER SUPPLY SYSTEM, PUBLIC: A "public water supply system" means collectively all property involved in a water utility including land, water sources, collection systems, dams and hydraulic structures, distribution systems and other appurtenances, pumping stations, treatment works and general properties, or any parts thereof.

WELL: An underground source of water made accessible by drilling or digging to the level of the water table.

WHOLESALE ESTABLISHMENT: A business establishment principally engaged in selling to retailers or distributors rather than consumers.

YARD: An open area on a lot extending along a lot line and to a depth or width specified in the yard requirements of the zoning district in which such lot is located.

YARD, CORNER SIDE: A side yard which adjoins a public street.

YARD, FRONT: An open unoccupied space on the same lot with the main building extending the full width of the lot and extending the full width of the building and the front line of the lot. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into the required front yard.

YARD, INTERIOR SIDE: A side yard which is located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.

YARD, PERIMETER: A yard abutting the inside of the boundaries of a Planned Unit Development.

YARD, REAR: An open unoccupied space on the same lot with the building between the rear of the building and the rear lot line of the lot and extending the full width of the lot. Covered porches, whether enclosed or unenclosed, shall be considered a part of the building and shall not project into the required rear yard.

YARD, SIDE: A yard extending along a side lot line from the front yard to the rear yard to a width specified as the side yard requirements in each zoning district.

YARD, TRANSITIONAL: A "transitional yard" is that yard which must be provided on a zoning lot, in a business district, which adjoins a zoning lot in a residence district, or that yard which must be provided on a zoning lot, in an industrial district, which adjoins a zoning lot in either a residence or business district.

ZERO LOT LINE RESIDENCE: A detached single-family dwelling unit which is built to one of the side lot lines; generally constructed within a Planned Unit Development or when clustering residential units.

ZONING ADMINISTRATOR: A person appointed by the Governing Body who is vested with certain defined administrative responsibilities regarding the implementation and enforcement of this Ordinance.

ZONING DISTRICT (ZONE): A section or sections of the land area incorporated within the City of Edgerton for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

15.3 Undefined Terms, Words and Phases

Terms, words and phrases not defined herein, but in need of definition, shall be processed under the interpretation provisions of this Unified Development Ordinance.