

ARTICLE XXIII DEFINITIONS AND USE OF TERMS

Section 23.01 - Interpretation of Language.

For the purpose of this ordinance, the following rules of interpretation shall apply to the text of this ordinance:

- A. The particular shall control the general.
- B. In the case of any difference of meaning or implication between the text of this ordinance and any caption or illustration, the text shall control.
- C. The word "shall" is always mandatory and not discretionary. The word "may" is permissive and discretionary.
- D. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. A "building" or "structure" includes any part thereof.
- F. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- G. The word "person" includes an individual, a corporation, a partnership, limited liability company, a public utility, firm, an incorporated association, or any other similar entity.
- H. Unless the context clearly indicates the contrary, or a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," "either. . . or," the conjunction shall be interpreted as follows:
 - (a). "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - (b). "Or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
 - (c). "Either... or" indicates that the connected items, conditions, or provisions, or events may apply singly or in any combination.
- I. Terms not herein defined shall have the meaning customarily assigned to them.

Section 23.02 - Definitions.

For the purpose of this ordinance the terms and words herein are defined as follows:

Accessory Use, Building or Structure. A use, building, or structure which is clearly incidental to, customarily found in connection with, subordinate to, and is located on the same zoning lot as the principal use to which it is exclusively related.

Adjacent. See "Lot, Adjacent."

Adult Business II. An adult book store, adult movie theater, adult personal service business, adult cabaret, adult novelty business, massage parlor, nude modeling studio, and tattoo parlor as defined in ArticleXXII, Section 12.04.

Adult Book Store. An establishment having twenty (20) percent of its stock in trade books, magazines, and other periodicals and/or periodicals and/or photographs, drawings, slides, films, video tapes, recording tapes, and/or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or

"specified anatomical areas" (as defined herein), or an establishment with a segment or section devoted to the sale or display of such material which exceeds twenty (20) percent of the floor area of the establishment.

Adult Cabaret. An establishment having as an activity the presentation or display of male and/or female impersonator(s), dancer(s), entertainer(s), waiter(s) or waitress(es), or employee(s), who display specified anatomical areas as defined herein, and which may or may not feature the service of food or beverage.

Adult Movie Theater. An enclosed building or room used for presenting motion picture films, video cassettes, cable television or any other visual media, having a dominant theme materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined herein) for observation by patrons therein.

Adult Novelty Business. A business which offers for sale devices which simulate human genitals or devices designed for sexual stimulation.

Adult Personal Service Business. A business having as its principal activity a person, while nude or while displaying "specified anatomical areas" (as defined herein), providing personal services for another person. Such business include, but are not limited to, modeling studios, body painting studios, wrestling studios, conversation parlors, and theatrical performances or entertainment.

Adult Use. Any commercial or recreational establishment which at all times excludes minors by virtue of age, including adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult drive-in theaters, adult massage parlors, adult modeling studios, and eating and drinking places with sexually oriented entertainment.

Alley. A public way which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alterations. Any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as wall, partitions, stairways, columns, beams, girders; any change in the width or number of exits; any substantial changes in the roof or exterior walls; any change in the location of a building; any change in the number of off-street parking or loading area or means of egress and ingress to the site; or any change which may be referred to herein as "altered" or "reconstructed" or "change of use."

Anatomical Areas, Specified. is defined as:

- A. Less than completely and opaquely covered:
 - 1. Human genitals, pubic region;
 - 2. Buttocks, anus; and
 - 3. Female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Animal Hospital. See "Clinic, Veterinary."

Apartment. See "Dwelling, Multiple-Family."

Arcade. Any establishment which provided on its premises one (1) or more machines which upon the insertion of a coin or slug may be operated for use as a game, contest, or amusement of any description, not including musical devices.

Architectural Features. Architectural features of a building including cornices, eaves, gutters, sills, lintels, bay windows, chimneys and decorative ornaments.

Automobile (including motor vehicles). Unless specifically indicated otherwise, "*automobile*" shall mean any vehicle including cars, trucks, vans, motorcycles, and the like.

Automobile (including motor vehicles) Filling Station. A place used for the retail sale and dispensing of fuel or lubricants, either full or self service, together with the fixed equipment from which the fuel is dispensed directly into motor vehicles. Automobile filling stations may also incorporate a convenience store operation as an accessory use, provided it is clearly incidental to the filling station use. Parking requirements for filling station/convenience store operations shall be computed by adding together the parking space requirements for each separate use.

Automobile (including motor vehicles) Repair. Major or minor repair of automobiles defined as follows:

- A. **Minor Repair.** Engine tune-ups and servicing of brakes, air conditioning, exhaust systems; oil change or lubrication; wheel alignment or balancing; or similar servicing or repairs that do not normally require any significant disassembly or storing the automobiles on the premises overnight.
- B. **Major Repair.** Engine and transmission rebuilding and general repairs, rebuilding or reconditioning; collision service such as body, frame or fender straightening or repair; steam cleaning, undercoating and rustproofing; and similar servicing, rebuilding or repairs that normally do require significant disassembly or storing the automobiles on the premises overnight.

Automobile (including motor vehicles) Repair Garage. A premise primarily used for general automobile repair wholly within enclosed buildings, including engine or transmission building; rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair, overall vehicle painting or rustproofing; and other related activities.

Automobile (including motor vehicles) Service Station. A building or structure designed or used for the retail sale of fuel (stored only in underground tanks), lubricants, air, water coolants and other operating commodities for motor vehicles or which may include retail sale of tires, batteries, and similar accessories and the making of minor repairs to vehicles or parts thereof totally enclosed within a building and that do not normally require storing such vehicles on the premises overnight. Automotive service station shall not including bumping, painting, refinishing, major repairs and overhauling, steam cleaning, rustproofing, high-volume of motor vehicle washing or sales of new or used cars, trucks, motorcycles or other land vehicles.

Automobile (including motor vehicles) Wash Establishment. An activity or building, or portion thereof, the primary purpose of which is that of washing motor vehicles.

Basement. That portion of a building wholly or partly below grade, but so constructed that the vertical distance from the average grade to the basement floor is greater than the vertical distance from the average grade to the basement ceiling. A basement shall not be included as a story for height measurement.

Bed-n-Breakfast Inn. A dwelling in which overnight accommodations are provided or offered for transient guests for compensation. Said facilities may include meal service.

Bedroom. Any private room in a dwelling unit suitable for regular use for sleeping purposes. Bedrooms include rooms designated on development floor plans as dens, studies, or libraries but exclude living rooms, family rooms, dining rooms, kitchens, bathrooms, laundry rooms, and mud rooms. Any room designated as other than a bedroom but which in the judgement of the Village Planning Commission would normally be usable for sleeping purposes shall be considered a bedroom.

Berm. See "landscaping."

Bikeway. A pedestrian or non-motorized vehicular circulation routes built according to the standards of the Village or other agency with right-of-way jurisdiction, as applicable.

Billboard. Any non-accessory advertising sign, device, design, words, letters, number or trademark which makes anything known to the general public and may be the principal use of the lot or parcel on which it is located. Billboards are prohibited throughout the Village.

Block. The property bounded by a street or by a combination of streets and public lands, rights-of-way, rivers or streams, boundary lines of the Village, or any other barrier to the continuity of development.

Board of Appeals. The Village of Constantine Zoning Board of Appeals, created pursuant to the provisions of Michigan Zoning Enabling Act P. A. Act 110, of 2006.

Boardinghouse. A building, other than a hotel, where for compensation or by prearrangement for definite periods of time, lodging or lodging and meals are provided for three (3) or more persons. A rooming house shall be deemed a boardinghouse for the purposes of this ordinance.

Buildable Area. The area of a lot which is defined by the minimum setback requirements within which building construction is permitted by the terms of this ordinance.

Building. Any structure, either temporary or permanent, having a roof or other covering and used or built for the shelter or enclosure of persons, animals, or property or materials of any kind. A building shall include tents, awnings, and carports; and also semi-trailers, vehicles, mobile homes, or pre-manufactured or pre-cut structures, erected on-site, above or below ground, designed primarily for shelter rather than as a means of conveyance. A building shall not include such structures as signs, fences or smokestacks, but shall include structures such as storage tanks, grain elevators, coal bunkers, oil cracking towers, or similar structures.

Building, Accessory. See "Accessory Use, Building, or Structure."

Building, Commercial Frontage. The length of the portion of a building facing a street abutting to the premises on which a business is located.

Building, Completely Enclosed. A building separated on all sides from the adjacent open space or from other buildings or structures by a permanent roof and exterior walls having only windows and normal entrance or exit doors.

Building, Detached. A principal building surrounded by open space.

Building Height. The vertical distance measured from the mean average ground level at the front building line to the highest point of the roof surface in the case of a flat roof; to the deck line of mansard roofs; to the mean height level between the eaves and ridge of gable, studio hip and gambrel roofs; and seventy-five (75) percent of the height of an "A" frame, chimneys, spires, antenna, and similar projections other than signs shall not be included in calculating building height.

Building Line. A line parallel to the front lot line that separates all parts of a building from the open spaces adjacent thereto on the same lot. For the purposes of this ordinance, a minimum building line is the same as a required setback line.

Building, Principal. A building or group of buildings in which is conducted the main or principal use of the lot on which the building is situated. (See "building, accessory" and "use, principal.")

Building, Temporary. A building which is not permanently affixed to the property, and is permitted to exist for a specific reason for a specific period of time. An example of a temporary building is a trailer used on construction-site.

Bumper Blocks. Concrete or cement cast units located at one (1) end of each parking space, designed to protect buildings, walls, fences, sidewalks or landscaping from damage by vehicles. Asphalt bumper blocks may not be used in the Village.

Buttock. Includes the anus and perineum of any person

Canopy. A suspended covering, often movable, placed above a door, window, or other entranceway. Canopies can be constructed of cloth, metal, wood, or other materials.

Caretaker Living Quarters. An independent residential dwelling unit designed for and occupied by one (1) or two (2) persons, of which at least one (1) is employed to look after goods, buildings, or property on the parcel on which the living quarters are located.

Cemetery. Land used for the burial of the dead including columbariums, crematories, and mausoleums.

Certificate of Occupancy. A certificate issued by the Village Building Official or Inspector pursuant to the Village Building Code authorizing an occupancy and/or use of land and/or a building or structure pursuant to the Village Building Code and the terms of this Ordinance.

Child Care Center. An establishment where three (3) or more children, not related by bonds of consanguinity or fostership to the family residing on the same premises, are cared for in return for remuneration. Such child care centers need not have a resident family on the premises. A child care center may also sometimes be referred to as a "nursery", "day nursery", "day care center", or "nursery school".

Church and Houses of Worship. Any structure wherein persons regularly assemble for religious activity.

Clinic, Veterinary. A place for the care, diagnosis, and treatment of sick or injured animals, and those in need of medical or minor surgical attention. A veterinary clinic may include customary pens or cages enclosed within the walls of the clinic building.

Clinic, Medical. An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, or similar professionals. A medical clinic may incorporate customary laboratories and pharmacies incidental to or necessary for its operation or to the service of its patients, but may not include facilities for overnight patient care or major surgery.

Club, Health. Any establishment providing physical culture or health services, including health clubs, racquetball or tennis clubs, reducing salons, or tanning salons.

Club or Lodge, Private. A non-profit association of persons who are bonafide members paying dues which owns or leases premises, the use of which is restricted to members and their guests. The facilities owned or used by such organization may be referred to as a "club" or "lodge" in this ordinance.

Cluster Development. A form of residential development where the total number of residential dwelling units may, with approval of the Planning Commission be constructed on eighty (80) percent of the total site area (or less), provided that twenty (20) percent, or more, of the total land area remains in open space protected from development through a permanent easement or other form of dedication acceptable to the Planning Commission.

Collector Street. See "street, collector."

Commercial, Vehicle. A truck or motor vehicle with cab and chassis and with a stake, rack, body, dump body, wrecker body, tanker body or any other body, the mounted height of which exceeds the height of the cab roof more than eight (8) inches. Any truck or motor vehicle which has a commercial license plate and is designed to accommodate a body length in excess of nine

(9) feet. Commercial vehicles shall not include motor homes or recreational vehicles, but shall include construction equipment such as backhoes, power shovels, bulldozers, earth moving equipment, semi trucks, tractors and trailers.

Common Open Space. A parcel or parcels of land (including areas designated as common or limited common elements as recorded pursuant to the Michigan Condominium Act, P.A. 59 of 1978, as amended) or an area of water, or a combination of land and water within an area for Planned Unit Development and designed and intended for the use and enjoyment of residents or occupants of the Planned Unit Development. Common open space may contain such contemporary structures and improvements as are necessary and appropriate for the benefit and enjoyment of all residents of the Planned Unit Development but shall not include area reserved for the exclusive use or benefit of any individual tenant or owner, including any dedicated street or other public right-of-way; driveway, parking area, loading and storage area, and area reserved for non residential related use.

Commission. Means the Planning Commission of the Village of Constantine.

Comprehensive Plan. See "Land Use Plan"

Conditional Use. A use which is subject to conditional special approval by the Village Planning Commission. A conditional use may be granted only when there is a specific provision in this ordinance. A conditional use is not considered to be a nonconforming use and is distinct from a special land use. See "special land use."

Condominium. An ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all of the occupants, such as yards, foundations, basements, floors, walls, hallways, stairways, elevators and all other related common elements, together with individual ownership in fee of a particular dwelling unit in such building. Condominiums shall be subject to the regulations set forth in Michigan Public Act 59 of 1978, as amended.

Convalescent Home. See "Nursing Home."

Co-op (cooperative) Housing. A multiple dwelling owned by a corporation which leases its units to stockholders on a proprietary lease arrangement.

Corner Lot. See "Lot, Corner."

Cul-de-sac. See "Street, Cul-de-sac."

Curb Cut. The entrance to or exit from a property provided for vehicular traffic to or from a public or private thoroughfare.

Day Care Center. See "Child Care Center."

Deck. An open, horizontal platform attached to the rear or side of the principal residential structure and that is used for outdoor leisure or recreational activities. The platform shall not be enclosed by a roof or walls or other screened or framed enclosure.

Density - Planned Unit Development. The relationship of the total number of dwelling units contained in the Planned Unit Development to the Gross Acreage of the Planned Unit Development; dwelling units per gross acre.

Development Plan - Planned Unit Development. The application and any site, facade, or other engineering drawings including a property survey map and drawing necessary for submission, review and approval of a Planned Unit Development in accord with Article XXI..

Distribution Center. A use which typically involves both warehouse and office/ administration functions, where short and/or long-term storage takes place in connection with the distribution operations of a wholesale or retail supply business. See also "warehouse."

District. A portion of the Village within which, on a uniform basis, certain uses of land and/or building are permitted and within which certain regulations and requirements apply under the provisions of this ordinance.

Downtown Development Authority. The body appointed by the Village Council pursuant to The Downtown Development Authority Act, P.A. 197 of 1975, as amended and assigned certain powers to review facade development and redevelopment plans pursuant to the terms of this Ordinance.

Drive-Thru Service. A business activity so developed that its retail or service character provides a driveway approach and waiting spaces for motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Driveway. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

Dumpster. A container used for the temporary storage of rubbish, pending collection, having a capacity of at least two (2) cubic yards.

Dwelling. A building or portion thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one (1) family, excluding hotels, motels, and tourists homes. In no case shall a travel trailer, motor home, automobile, tent or other portable building defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this ordinance.

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

- A. The structure is produced in a factory in accordance with the National Manufactured Housing Construction and Safety Standards Act, as amended; and
- B. The structure is designed to be transported to the site in a nearly complete form, where it is placed on a foundation and connected to utilities; and
- C. The structure is designed to be used as either an independent building or as a module to be combined with other elements to form a complete building on a site.
- D. Is equal to or greater than twenty-four (24) feet in width at least one-half of the depth of the dwelling unit.

Also refer to "dwelling, one family" or "single-family."

Dwelling, Mobile Home. A structure, transportable in one (1) or more sections, which is built upon a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. Recreational vehicles as described and regulated herein shall not be considered "mobile homes" for the purposes of this ordinance. A mobile home is a type of manufactured housing. Also see "dwelling, one family or single-family." After the date of adoption of this Ordinance, all mobile homes not meeting the definition of a manufactured dwelling shall be located within a designated mobile home park

Dwelling, Multiple-Family. A building designed for and occupied by three (3) or more families living independently with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwellings units include the following:

- A. **Apartment.** An apartment is an attached dwelling unit with party walls, contained in a building with other apartment units which are commonly reached off of a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often have a central heating system and other central utility connections and common yard space.
- B. **Efficiency Unit.** An efficiency unit is a type of multiple-family or apartment unit consisting of one (1) principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

Dwelling, One-Family or Single-Family. A detached building containing not more than one (1) dwelling unit designed for residential use, provided:

- A. It complies with the minimum square footage requirements of this ordinance for the zone in which it is located.
- B. It has a minimum width across front, side and rear elevations of twenty-four (24) feet and complies in all respects with the Village building code, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Village Building Code, then and in that event, such federal or state standard or regulation shall apply; further provided that the provisions of this section shall not have the effect of making one (1) family dwellings, which exist as of the effective date of this ordinance, nonconforming.
- E. It is firmly attached to a permanent foundation constructed on the site in accordance with the Village Building Code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for one-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Mobile Home Commission and shall have a perimeter wall as required.
- D. In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels and towing mechanism removed. Additionally, no dwelling shall have any exposed undercarriage or chassis.
- E. The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction equal to or of better quality than the principal dwelling, which storage area shall be equal to ten (10) percent of the square footage of the dwelling or one hundred (100) square feet, whichever shall be less.
- F. The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof over-hang of not less than six (6) inches on all sides, or alternatively with window sills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling; has not less than two (2) exterior doors with the second one (1) being in either the rear or side of the dwelling; and contains steps connected to said exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.

The compatibility of design and appearance shall be determined in the first instance by the building official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the zoning board

of appeals within a period of thirty (30) days from the receipt of notice of said building official's decision. Any determination of compatibility shall be based upon the standards set forth in this definition of single-family "dwelling" as well as the character, design and appearance of one (1) or more residential dwellings to the extent of less than twenty (20) percent of the lots situated within said area; or, where said area is not so developed, by the character, design and appearance of one or more residential dwellings located outside of mobile home parks throughout the Village.

- G. The dwelling contains no additions or rooms or other areas which are not constructed with a quality of workmanship equal to the original structure, including permanent attachments to the principal structure and construction of foundations as required herein.
- H. The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- I. The foregoing standard shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in the ordinance of the Village pertaining to such parks.
- J. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable building code provisions and requirements.

Dwelling, Two-Family or Duplex. A detached building, designed exclusively to be occupied by two (2) families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each.

Dwelling Unit. One (1) or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by one (1) family for living, cooking, and sleeping purposes.

Dwelling Unit, Single-Family - Attached or Townhouse. A townhouse is an attached single-family dwelling unit with party walls, designed as part of a series of three (3) or more dwellings, with its own front door which opens to the outdoors at ground level, and typically with its own basement utility connections, and front and rear yards. Townhouses are also commonly known as "row houses."

Drive-In Theater. An open-air theater constructed and operated at an established location, without cover or roof, displaying motion pictures for the general public who view the screen or stage while seated in a vehicle. The term "drive-in theater" as used herein shall include the entire premises upon which such theater is constructed and operated, including parking areas and all other facilities accessory to such business.

Duplex. See "dwelling, two-family or duplex."

Earth-Sheltered Home. A complete building partially below grade that is designed to conserve energy and is intended to be used as a single-family dwelling.

Easement. Any private or dedicated public way that provides a means of access to property. The term "easement" may also refer to utility easements which give public or private utility companies the right to use land for the construction and maintenance of utilities.

Efficiency Unit. See "Dwelling, Multiple-Family."

Erected. Includes built, constructed, reconstructed, moved upon, or any physical operations on the premises required for the building. Excavations, fill, drainage, and the like, shall be considered a part of erection.

Essential Services. The erection, construction, alteration or maintenance by public or quasi-public utilities or municipal departments or village-certified cable television companies of underground, surface or overhead gas, steam, electrical, fuel or water systems for the purposes of transmission, distribution, collection, communication, supply, or disposal; including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar equipment, which are necessary for the furnishing of adequate service by such utilities or municipal departments for the general health, safety, and welfare of the public. Essential services shall not include storage yards, sales or business offices, or commercial buildings or activities.

Excavation. The removal or movement of soil, sand, stone, gravel, or fill dirt, except for common household gardening, farming, and general ground care.

Facade Plan. A sketch or other illustration showing the exterior surface of a building including all architectural features, surface materials and color or colors of all surface materials submitted pursuant to the requirements of Article XVII.

Family. The term family includes:

- A. An individual or group of two (2) or more persons related by blood, marriage or adoption, together with foster children or servants of the principal occupants, with not more than one (1) additional unrelated persons, who are domiciled together as a single, domestic, housekeeping unit in a dwelling unit; or
- B. A collective number of individuals living together in one (1) dwelling unit, 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, lodge, coterie, organization or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature or for an anticipated limited duration of a school term or terms or other similar determinable period.

Family Day Care Home. See "State Licensed Residential Facility."

Farm. All of the contiguous neighboring or associated land operated as a single unit for agricultural production by the owner-operator, manager, or tenant farmer, by his own labor or with the assistance of members of his household or hired employees; also including establishments operated as bonafide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries. For the purposes of this ordinance, farms shall not include establishments for keeping or raising fur-bearing animals, riding or boarding stables, commercial dog kennels, game fish hatcheries, piggeries, stockyards, or gravel or sand pits, unless such establishments are combined with other bonafide farm operations listed above which are located on the same continuous tract of land.

No farms shall be operated for the disposal of garbage, sewage, rubbish, offal or rendering plants, or for the slaughtering of animals except such animals as have been raised on the premises or have been maintained on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption by persons residing on the premises.

A farm permitted by this ordinance is not intended nor implied to permit trucking, equipment and/or sales, contractor yards or any other activities other than those incidental to the bonafide farm.

Fence. A permanent or temporary unroofed barrier enclosing or bordering a plot of land or portion thereof composed of suitable manmade materials for the purpose of preventing or controlling entrance, confining within, or marking a boundary.

Fill, Filling. The deposit or dumping of any matter onto or into the ground, except for common household gardening, farming, and general ground care.

Flag. A banner of distinctive design used as a symbol of a nation, state or other governmental entity or a non-profit organization.

Floor Area. The area of a building defined as follows:

- A. **Floor Area, Gross.** The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- B. **Floor Area, Net.** See "floor area, usable residential" and "floor area, usable nonresidential."
- C. **Floor Area, Usable Residential.** The gross floor area minus areas in unfinished basements or attics, attached garages, and enclosed or unenclosed porches.
- D. **Floor Area, Usable Nonresidential.** The sum of the horizontal areas of each floor, measured from the interior faces of the exterior walls, including all areas used for, intended to be used for, and accessible for the sale of merchandise, provision of services, or service to patrons, clients or customers. Floor area which is used for or intended to be used for the storage or processing of merchandise, or for utilities shall be excluded from the computations of usable nonresidential floor area.

Foster Care Home. See "state licensed residential facility."

Foster Child. A child unrelated to a family by blood or adoption with whom he or she lives for the purposes of care and/or education.

Fraternal Organization. See "club."

Front Lot Line. See "lot line, front."

Front Yard. See "yard, front."

Garage, Private. An accessory building used or designed to be used primarily for the storage of motor vehicles, boats, or trailers owned and used by the occupants of the building to which it is accessory. A private garage may be either attached to or detached from the principal structure. Private garages shall not have public repair facilities.

Garage, Public. Any building or premise, other than junkyard, where more than one (1) motor vehicle is stored for compensation.

Garage, Repair. See "Automobile Repair Garage."

Gas Station. See "Automobile Filling Station" and "Automobile Service Station."

Golf Course or Country Club. The premises upon which the game of golf is played, including clubhouses, parking lots, swimming pools, tennis courts, or other facilities or uses customarily incidental to a golf course or country club.

Golf Driving Range. An area or parcel of land which includes golf tee areas and associated facilities, the purpose of which is to practice golf shots.

Grade. A grade is the average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Greenbelt. See "Landscaping."

Gross Acreage - Planned Unit Development. Shall include all land area occupied by the Planned Unit Development and any portions of said Planned Unit Development lying within an existing public right-of-way or highway.

Group Homes or Day-Care. See "State Licensed Residential Facility."

Gym or Gymnasium. A room or building equipped for gymnastics, exercise, or sport.

Hazardous Substances. Any chemical or other material which, by virtue of its inherent properties and not solely by the manner in which it is used, has the potential to be injurious to the public health, safety, and welfare even in small quantities. Uses and facilities which use, store or generate hazardous substances in quantities greater than one hundred (100) kilograms per month, or twenty-five (25) gallons per month, whichever is less, shall be subject to site plan requirements.

Height, Building. See "Building Height."

Highway. See "street."

Home Occupation - Major. An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a permitted, accessory or appurtenant structure of a residential dwelling unit which does not alter the exterior of the property or adversely affect the general residential use or character of the neighborhood. Major Home Occupations are evidenced by an increased amount of customer traffic, delivery or other vendor traffic, or other commercial activity which is not normally intended as a permitted use of the property, but which by their low level of activity or use do not adversely affect others.

Example businesses included the sales of any goods or the provision of services and includes, but not limited, to sales of health products and vitamins, cookware, novelty items (typically made by the resident of the home occupation), barber and beauty shops, massage and physical therapy centers, doctors and dentist offices, offices of lawyers and similar professions, and other similar business. In such cases these major home occupations, where allowed as special uses approved by the Village Council at which time appropriate conditions may be placed on the business operation to assure compatibility of the business operations with neighborhood residential needs.

Home Occupation - Minor. An occupation, profession, activity, or use that is clearly a customary, incidental, and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.

Minor home occupations are characterized as computer and telephone based businesses where there is no or limited customer or client traffic into the home occupation. Examples of a minor home occupations included, but not limited to, real estate agent, insurance sales agents, consultants, financial planners, stockbrokers, etc.

Hospital. Means an institution which is licensed by the Michigan Department of Health to provide in-patient and out-patient medical and major surgical services for the sick and injured, and which may include such related facilities as laboratories, medical testing services, central service facilities, and staff offices.

Hospital, Veterinary. See "Clinic, Veterinary."

Hotel. A building occupied as a more or less temporary abiding place for individuals who are lodged with or without meals in rooms consisting of a minimum of one (1) bedroom and a bath, occupied for hire, in which access to at least fifty (50) percent of the lodging units is through a common entrance, and in which provision is not made for cooking in the individual units. Hotels customarily provide services such as desk service, maid service, laundering of linens, etc.

Ingress and Egress. A driveway which allows vehicles to enter or leave a parcel of property, or to a sidewalk or entranceway which allows pedestrians to enter or leave a parcel of property, a building, or another location.

Junk. Any motor vehicles, machinery, appliances, products or merchandise with parts missing, or other scrap materials that are damaged, deteriorated, or are in a condition which prevents their use for the purpose for which the product was manufactured.

Junkyard - Recycling Facility. An area where waste and used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to junk, scrap iron, metals, paper, rags, tires, bottles and automobiles.

Kennel. Any lot or premises on which three (3) or more dogs, cats, or other domestic animals six (6) months or older are kept, either permanently or temporarily, either for sale, breeding, boarding, training, hobby, protection, grooming or as pets; and may offer provisions for minor medical treatment including animal shelters.

Laboratory. A place devoted to experimental, routine or basic study such as testing and analytical operations and in which manufacturing of product or products, except prototypes, is not performed.

Lake. Any body of water, natural or artificial, defined as "inland lake or stream" in the Inland Lake and Stream Act of 1972, P.A. 1972, No. 346, as amended.

Lake Lot. See "lot, lake."

Landfill. Any disposal area, tract of land, building, unit or appurtenance or combination thereof that is used to collect, store, handle, dispose of, bury, cover over, or otherwise accept or retain refuse as herein defined.

Landowner or Applicant - Planned Unit Development. The legal or beneficiary owner or owners of the land proposed to be included in a Planned Unit Development or the holder of an option or contract to purchase the land subject to the proposed Planned Unit Development.

Landscaping. The treatment of the ground surface with live plant materials such as, but not limited to, grass, ground cover, trees, shrubs, vines, and other live plant material. In addition, a landscape design may include other decorative man-made materials, such as wood chips, crushed stone, boulders, or mulch. Structural features such as fountains, pools, statues, and benches shall also be considered a part of landscaping, but only if provided in combination with live plant material. Artificial plant materials shall not be counted toward meeting the requirements for landscaping. Various landscaping-related terms are defined as follows:

- A. **Berm.** A continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height and width that complies with the requirements of this ordinance.

- B. **Greenbelt.** A strip of land of definite width and location reserved for the planting of a combination of shrubs, trees, and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this ordinance.
- C. **Ground Cover.** Low-growing plants that form a dense, extensive growth after one (1) complete growing season, and tend to prevent weeds and soil erosion.
- D. **Hedge.** A row of closely planted shrubs or low-growing trees which form a continuous visual screen, boundary, or fence.
- E. **Screen or Screening.** A wall, wood fence, or combination of plantings of sufficient height, length, and opacity to form a visual barrier. If the screen is composed of nonliving material, such material shall be compatible with materials used in construction of the main building, but in no case shall include wire fencing.
- F. **Shrub.** A self-supporting, deciduous or evergreen woody plant, normally branched near the base, bushy, and less than fifteen (15) feet in height.
- G. **Sod.** A piece from the surface of grassland containing the grass support soil, and the healthy roots, extracted with the intention of replanting in another area for the purpose of establishing lawn areas. Sod is grown on mineral soil (commonly referred to as "topsoil") or peat, and must be a minimum of two (2) years old. The grasses permitted for use in sod for landscaped lawns should be a blend that reflects the current standards in the industry and has been demonstrated to prosper under local conditions.
- H. **Tree.** A self-supporting woody, deciduous or evergreen plant with a well-defined central stem which normally grows to a mature height of fifteen (15) feet or more in St. Joseph County, Michigan.
1. **Deciduous Tree.** A variety of tree that has foliage that is shed at the end of the growing season.
 2. **Evergreen Tree.** A variety of tree that has foliage that persists and remains green throughout the year.
- I. **Ornamental Tree.** A deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of about twenty-five (25) feet or less.
- J. **Shade Tree.** A deciduous tree which has a mature crown spread of fifteen (15) feet or greater in St. Joseph County, Michigan, and has a trunk with at least five (5) feet of clear stem at maturity.

Livestock. Horses, cattle, sheep, goats, and other domestic animals normally kept or raised on a farm.

Loading Space, Off-Street An off-street space of definite size and dimensions in accordance with the requirements of this ordinance, which is safely and conveniently located on the same lot as the building or buildings being served, for the temporary parking of delivery vehicles while loading and unloading merchandise and materials.

Local Street. See "street, local or minor."

Lot (Or Zoning Lot or Parcel). For the purposes of enforcing this ordinance, a lot is defined as a piece of land under one (1) ownership and control that is at least sufficient in size to meet the minimum requirements for use, coverage, area, setbacks, and open space as required herein. A lot shall have frontage on a roadway dedicated to the public and certified for maintenance by a public agency, or, if permitted by the regulations set forth herein, on a private road. A lot may consist of:

- A. A single lot of record.
- B. A portion of a lot of record.
- C. A combination of complete lots of record, or portion thereof. A piece of land described by metes and bounds.

Lot, Adjacent. Lots which adjoin each other or which are separated only by a public or private right-of-way or easement.

Lot Area. The total horizontal area within the lot lines of a lot, exclusive of any abutting public street right-of-way or private road easements, or the area of any lake or wetlands area.

Lot Area, Gross. The net lot area plus one-half (½) of the area of any public right-of-way area or private road easement immediately adjacent to or abutting the lot.

Lot, Contiguous. Lots adjoining each other.

Lot, Corner. A lot of which at least two (2) adjacent sides abut their full length upon a street, provided that such two (2) sides intersect at an angle of not more than one hundred thirty-five (135) degrees. Where a lot is on a curve, if the tangents through the extreme point of the street lines of such lot make an interior angle of not more than one hundred thirty-five (135) degrees, it shall be considered a corner lot. In the case of a corner lot with a curved street line, the corner is that point on the street lot line nearest to the point of intersection of the tangents described above. (A tangent is a straight line extended from the outer edges of a curve which intersect to form a corner.)

Lot Coverage. The part or percent of the lot that is occupied by buildings or structures.

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

Lot, Double Frontage. A lot other than a corner lot having frontage on two (2) more or less parallel streets. In the case of a row of double frontage lots, one (1) street shall be designated as the front street for all lots in the plat and in the request for a zoning compliance permit. If there are existing buildings in the same block fronting on one (1) or both of the streets, the required minimum front yard setback shall be observed on those streets where buildings presently front.

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

Lot, Lake. A lot having any frontage directly upon a lake, natural or man-made. The yard adjacent to the water shall be designated the front yard of the lot, and the opposite side shall be designated the rear yard of the lot.

Lot Lines. The lines bounding a lot as follows:

- A. **Front Lot Line.** In the case of an interior lot abutting on one (1) public or private street, the front lot line shall mean the line separating the lot from such street right-of-way. In the case of a corner or double frontage lot, the front lot line shall be that line separating said lot from the street which is designated as the front street in the plat and/or in the request for a building permit.
- B. **Rear Lot Line.** Ordinarily, that lot line which is opposite and most distant from the front lot line. In the case of irregular, triangular, wedge shaped, or lots that are pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten (10) feet in length, lying farthest from the front lot line and wholly within the lot.

- C. **Side Lot Line.** Any lot line other than the front or rear lot lines. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Lot Of Record. A parcel of land, the dimensions and configuration of which are shown on a subdivision plat recorded in the offices of the St. Joseph County Register of Deeds, or a lot or parcel described by metes and bounds, and accuracy of which is attested to by a land surveyor (registered and licensed in the State of Michigan) and likewise so recorded with the St. Joseph County Register of Deeds.

Lot Split and Consolidation. The dividing or uniting of lots by virtue of changes in the deeds in the office of the St. Joseph County Register of Deeds and/or the Village Treasurer. The division of lots shall take place in accordance with the Subdivision Control Act, Michigan Public Act 288 of 1967, as amended and the Village of Constantine Subdivision Regulations Ordinance.

Land Division. The act of creating a lot or parcel of land defined by a metes and bounds description pursuant to the provisions of the Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act) or the act of creating a condominium plat pursuant to the provisions of the Condominium Act, P.A., 58 of 1978, as amended, for the purpose of recording same with the Register of Deeds of St. Joseph County. (See: Land Division Act and Condominium Act.). For the purpose of this Ordinance any and all Land Division and Condominium plats will be considered a Planned Unit Development and submitted for approval according to the procedure of the Village of Constantine Land Division Ordinance.

Land Division Act. The Michigan Land Division Act, P.A. 87 of 1997, as amended (formerly the Michigan Subdivision Control Act) and any ordinance adopted by the Village of Constantine in furtherance of Village duties required of the act

Land Use Plan. A document which is prepared under the guidance of the Village of Constantine Planning Commission and consists of graphic and written materials which indicate the general location for streets, parks, schools, public buildings and all physical development of the Village.

Lot Width. The straight line distance between the side lot lines, measured at the two (2) points where the minimum front yard setback line intersects the side lot lines.

Main Access Drive. Any private street designed to provide access from a public street or road to a mobile home park, apartment or condominium complex, or other private property development.

Major Street or Thoroughfare. See "Street, Major."

Manufactured Housing. See "Dwelling, Manufactured."

Massage. Manipulation of body muscle or tissue by rubbing, stroking, kneading, tapping or vibrating, through the use of physical, mechanical, or other device, of the body of another for a fee.

Massage Parlor. An establishment wherein private massage is practiced used or made available as a principal use of the premises.

Mezzanine. An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than one-third ($\frac{1}{3}$) of the floor area of the story in which the level or levels are located. A mezzanine shall be deemed a full story if the vertical distance from the next floor below the mezzanine to the next floor above is twenty-four (24) feet or more.

Minor Street. See "Street, Local or Minor."

Mobile Home. See "Dwelling, Mobile Home."

Mobile Home Park. A parcel or tract of land under the control of a person upon which three (3) or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made, together with any building, structure, enclosure, street, equipment, or facility used or intended for use as temporary park, subject to conditions set forth in the Mobile Home Commission Rules and Michigan Public Act 419 of 1976, as amended.

Mobile Home Lot. An area within a mobile home park which is designated for the exclusive use of the occupants of a specific mobile home.

Motel. A series of attached, semi-detached, or detached rental units which mayor may not be independently accessible from the outside parking area consisting of a minimum of a bedroom and bath, occupied for hire, in which a minimum of fifty (50) percent plus one (1) of the units feature exterior entrances, and which provides customary motel services such as maid service, linen service, telephone and/or desk service, and the use office furniture. No kitchen or cooking facilities are to be provided with the exception of units for use of the manager and/or caretaker.

Motor Home. A motorized vehicular unit primarily designed for travel and/or recreational usage, which may also contain facilities for overnight lodging. This term does not apply to mobile home.

Municipality. The Village of Constantine, St. Joseph County, Michigan

Natural Features. Soils, wetlands, floodplains, water bodies and channels, topography, trees and other types of vegetative cover, and geologic formations.

Nonconforming Building. A building or portion thereof that was lawfully in existence at the effective date of this ordinance, or amendments thereto, and which does not now conform to the minimum building height, area, setback, lot coverage or other provision of this ordinance pertaining to buildings in the zoning district in which it is located.

Nonconforming Lot. A lot which was lawfully in existence at the effective date of this ordinance, or amendments thereto, and which does not now conform to the lot size, lot width, or other provisions of this ordinance pertaining to lots in the zoning district in which it is located.

Nonconforming Use. A use which was lawfully in existence at the effective date of this ordinance, or amendment thereto, and which does not now conform to the use regulations of this ordinance for the zoning district in which it is now located.

Nonconformity. Any structure, lot, or use of any lot, land or structure, which does not conform at the time of adoption of this ordinance or any amendment thereto, to the regulations for the district in which it is located.

Nude Modeling Studio. Any building, structure, premises or part thereof, used primarily as a place which offers as its principal activity the providing of models to displace specified anatomical areas as defined herein for artists and photographers for a fee.

Nuisance. Any offensive, annoying, or disturbing practice or object, which prevents the free use of one's property, or which renders its ordinary use or physical occupation uncomfortable. Nuisance commonly involves continuous or recurrent acts which give offense to the senses, violate the laws of decency, obstruct reasonable and comfortable use of property, or endanger life and health.

Nursery, Day Nursery, or Nursery School. See "Child Care Center."

Nursery, Plant Material. A space, building, and/or structure, or combination thereof, where live trees, shrubs, and other plants used for gardening and landscaping are propagated, stored, and/or offered for sale on the premises. Also see "open air business" and "roadside stand."

Nursing Home, Convalescent Home, or Rest Home. A home for the care of the aged, infirm, or those suffering from bodily disorders, wherein two (2) or more persons are housed or lodged and furnished with nursing care. Such facilities are licensed in accordance with Michigan Public Acts 139 of 1956, as amended.

Occupancy, Change. A discontinuance of an existing use and the substitution of a use of a different kind or class, or, the expansion of a use.

Occupied. Used in any way at the time in question.

Off-Street Parking Space. See "Parking Space" and "Parking Lot, Off-Street."

Open Air Business. Any business that is conducted primarily out-of-doors. Unless otherwise specified herein, open air business shall include:

- A. Retail sales of garden supplies and equipment, including but not limited to trees, shrubbery, plants, flowers, seed, topsoil, trellises, and lawn furniture.
- B. Roadside stands for the sale of agricultural products, including fruits, vegetables, and Christmas trees.
- C. Various outdoor recreation uses, including but not limited to tennis courts, archery courts, shuffleboard, horseshoe courts, miniature golf, golf driving ranges, and amusement parks.
- D. Outdoor display and sale of model garages, swimming pools, playground equipment, and similar uses.

Open Space. That part of a zoning lot, including courts and/or yards, which is open and unobstructed from its lowest level to the sky, and is accessible to all residents upon the zoning lot.

Parcel. See "lot."

Parking Lot, Off-Street. An area on private property which provides vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide safe and convenient access for entrance and exit and for parking of more than three (3) vehicles.

Parking Space. An area of definite length and width as designated in this ordinance for parking an automobile or other vehicle, which is fully accessible for such purposes, and is exclusive of access drives and aisles thereto.

Party Wall. A wall starting from the foundation and extending continuously through all stories to or above the roof that separates one (1) building from another and that is in joint use by each building.

Person. An individual, trustee, executor, fiduciary, corporation, firm, partnership, association, organization, or other legal entity acting as a unit.

Performance Standard. A criterion to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, glare, heat, or other effects.

Pet. A domesticated dog, cat, bird, gerbil, hamster, guinea pig, turtle, fish, rabbit, or other similar animal that is kept for pleasure or companionship.

Planned Unit Development. May include such concepts as cluster development, planned development, community unit development, planned residential development, and other terminology denoting special zoning requirements and review procedures. These requirements and procedures are intended to provide design and regulatory flexibility, so as to accomplish the objectives of this ordinance using innovative and effective planning approaches.

Planning Commission. The Village of Constantine Planning Commission created pursuant to the provisions of Michigan Public Act 285 of 1931.

Poultry. Means any of various breeds of birds long ago domesticated by man so as to live and breed in a tame, docile, tractable condition useful to man for meat and eggs, including chickens, ducks, geese, guinea fowl and turkeys not including game fowl.

Premises. A lot or group of lots with one (1) or more buildings which functions as a single use, is under the same ownership or control and is not divided by a public street. Multiple tenants of a single premises may share common entranceway and off-street parking. Examples of premises include a shopping center, a multiple-family apartment complex, and a educational or medical campus.

Principal Use. See "Use, Principal."

Private Street or Road. See "street."

Property Line. The line separating a piece of property from the street right-of-way and the lines separating a parcel of property from the parcels next to it. See also "lot line."

Public Utility. Any persons, firm, corporation, municipal department, or board, duly authorized to furnish to the public under government regulations any of the following: Electricity, gas, steam, communications services, cable television services, transportation services, water, sewer service, or sewage treatment.

Rear Lot Line. See "Lot Line, Rear."

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

Recreational Vehicle. A boat, snowmobile, off-road vehicle, camper travel trailer, motor home, pick-up camper, trailer which is designed for private recreational or recreational travel use.

Refuse. The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any similar or related combinations thereof.

Restaurant. Any establishment whose principal business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, standard restaurant, or bar/lounge, or combination thereof, as defined below:

- A. **Restaurant, Carry-Out.** A restaurant whose method of operation involves sale of food, beverages, and/or frozen desserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption primarily off the premises.
- B. **Restaurant, Drive-In.** A restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle or elsewhere on the premises, but outside of an enclosed building.
- C. **Restaurant, Drive-Through.** A restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.
- D. **Restaurant, Fast-Food.** A restaurant whose method of operation involves minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is served, or at tables, booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.
- E. **Restaurant, Standard.** A restaurant whose method of operation involves either:
 - 1. The delivery of prepared food by waiters and waitresses to customers seated at tables within a completely enclosed building, or
 - 2. The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.
- F. **Bar / Lounge.** A type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snacks may also be permitted. If an establishment includes a bar or lounge and a separate dining facility, the establishment shall be considered a bar/lounge if more than fifty (50) percent of the usable floor area of the entire establishment is used for the bar/lounge.

Right-of-Way. As defined herein dedicated to or owned by a public body and available for use by the general public. In the case of public streets, the right-of-way normally includes curbs, lawn strips, and lighting and drainage facilities.

Roadside Stand. A temporary or permanent building primarily operated for the purpose of seasonally selling agricultural products.

Room. For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least eighty (80) square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing one (1), two (2) or three (3) bedroom units and including a "den", "library", or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Rooming House. See "Boardinghouse."

Satellite Antenna. An accessory structure which at its widest dimension is in excess of thirty-six (36) inches, capable of receiving signals from orbiting satellites and other extraterrestrial sources, together with other equipment related to such purposes.

Setback. The distance between a front, side or rear lot line and the nearest supporting member of a structure on the lot. The "minimum required setback" is the minimum distance between a front, side or rear lot line and the nearest supporting member of a structure in order to conform to the required yard setback provisions of this ordinance (see definition of "yard").

Sexual Activities, Specified. Are defined as:

- A. Human genitals in a state of sexual stimulation or arousal;
- B. Acts of human masturbation, sexual intercourse, or sodomy; and
- C.. Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breast.

Sexual Intercourse. Includes fellatio, cunnilingus, anal intercourse, or any other intrusion, however light, of any part of a person's body, or of any object into the genital or anal openings of another's body.

Side Lot Line. See "Lot Line, Side."

Sidewalk. A pedestrian or non-motorized vehicular circulation routes built according to the standards of the Village or other agency with right-of-way jurisdiction, as applicable.

Sign. Any visual or graphic device designed through use of words, numbers, characters, or symbols to inform or attract attention and which is designated to be visible from outside any building or structure in which, upon which, or attached to which it may be located.

Sign, Accessory. A sign which pertains to the principal use of the premises upon which such sign is located.

Sign, Appendage. A sign that is intended to draw attention to one (1) or more of various services, items for sale, contests, etc., and is attached as an appendage to an accessory sign, sign support or any part of a sign structure. Appendage signs are prohibited throughout the Village.

Sign Area. The entire area within a circle, triangle, rectangle or other geometric shape enclosing the extreme limits of writing, representation, emblem or any figure of similar character, together with any frame or other material, graphic or color forming an integral part of the display or message, or used to differentiate the sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed, if no advertising matter is placed thereon.

Sign, Banner. A sign on paper, cloth, fabric or other combustible material of any kind, either with or without frames.

Sign, Billboard. A non-accessory sign which makes anything known to the general public, and on which a display can be posted, painted or otherwise affixed in a manner which is readily changed. Billboards are prohibited in the Village.

Sign, Bulletin Board. A sign with temporary or replaceable letters or characters, used to announce dates of functions or activities.

Sign, Construction. A sign advertising a project under development, erected for the period of construction, identifying its developers, contractors, engineers, brokers and architects.

Sign, Directional. A sign, the primary purpose of which is to expedite the flow of vehicular and/or pedestrian traffic to, from and within a site.

Sign, Electronic Message Board. A sign that uses lights to display messages, such as, but not limited to, the current time, temperature, and/or date of the immediate environment.

Sign Erector. Any person engaged in the business of erecting, constructing, altering, or removing signs on a contractual or hourly basis.

Sign, Flashing. A sign that is intermittently illuminated or reflects light intermittently from either an artificial source or from the sun.

Sign, Freestanding. A sign supported by one (1) or more uprights, poles, pylons or braces placed in or upon the ground and not attached to any building or other structure.

Sign Grade Means. The average elevation of an area within a radius (of the sign base) equal to two (2) times the height of the sign.

Sign, Handicapped. A sign limited to indicating that off-street parking is reserved for the physically handicapped, or a sign which is limited to indicating facilities for the physically handicapped.

Sign, Illuminated. A sign which has characters, letters, figures, or designs which are illuminated either internally or with external shielded lights.

Sign, Institutional. A sign containing a surface area upon which is displayed the name of a religious institution, school, library, community center, or similar institutions, and the announcement of its services or activities.

Sign, Interior. A sign which is visible from any public street, sidewalk, alley, park or public property and located within a building.

Sign, Marquee. A sign attached to or hung from a marquee, canopy or other covered structure projecting from and supported by the building.

Sign, Maximum Height. Sign height shall be measured from grade or sidewalk to the highest edge of the sign surface or its projecting structure.

Sign, Moving. A sign that has motion either constantly or at intervals or that gives the impression of movement through intermittent, flashing, twinkling, or varying intensities of illumination.

Sign, Non-Accessory. A sign which does not pertain to the principal use of the premises on which such sign is located.

Sign, Occupational. A sign denoting only the name and profession of an occupant in a commercial building or public institutional building.

Sign, Portable. A sign, sign board, or banner which is not permanently anchored or secured to either a building, structure or the ground; or any sign attached to a trailer or other vehicle not accessory to the vehicle or its use, but used with the express intent of advertising.

Sign, Projecting. A sign so constructed and erected as to be attached at one (1) end to a building, metal pole or other structure, and projecting therefrom.

Sign, Roof. A sign which is erected, constructed and maintained on or above the roof of a building or any portion thereof.

Sign, Subdivision / Development. A sign or entranceway structure, listing the names and addresses only of the establishments occupying a development, subdivision or condominium. The erection of such identification signs is so intended to assist the public in locating establishments within its immediate area and shall be placed upon property within the development or subdivision.

Sign, Temporary. A sign intended to be displayed for a limited period of time, including decorative displays for holidays, special events, political signs, real estate signs, or public demonstrations.

Sign, Wall. A sign attached to, painted on, inscribed, or otherwise set upon the exterior wall or surface of any building. A mural is considered a wall sign. A sign painted or inscribed on a canopy shall also be considered a wall sign.

Site Plan. A sketch or other illustration containing information required for the submission, review and approval of a zoning matter where a site plan is required pursuant to the requirements of Article XVII.

Sodomy. Means sexual bestiality.

Special Event. An occurrence or noteworthy happening of seasonal, civic, or church importance, which is organized and sponsored by a non-profit village community group, organization, club or society, and which offers a distinctive service to the community, such as public entertainment, community education, civic celebration, or cultural or community enrichment. Special events typically run for a short period of time (less than two (2) weeks) and are unlike the customary or usual activities generally associated with the property where the special event is to be located. All such special events shall be open to the public.

Special Land Use. Uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district or districts but upon due consideration of the impact on each such proposed use upon the neighboring land and of the public need for the particular use at the proposed location, such special land uses may be permitted following review and approval by the by the Planning Commission.

Stable, Private. means a private stable is an enclosed building intended for the keeping of horses or other large domestic animals, for the noncommercial use of the residents of the principal residential use on the site.

Stable, Public. A public stable is an enclosed building intended for the keeping of horses or other domestic animals, in which any such animals are kept for remuneration, hire, or sale.

State Licensed Residential Facility. Any structure constructed for residential purposes that is licensed by the State of Michigan pursuant to Public Act 287 of 1972, Public Act 11 of 1973, or Public Act 218 of 1979. These acts provide for the following types of residential structures:

A. **Adult Foster Care Facility.** A governmental or nongovernmental establishment having as its principle function the receiving of adults, eighteen (18) years of age or older, for foster care in accordance with 218 of 1974, as amended, and the adult foster care administrative rules as administered by the Michigan Department of Social Services. It includes facilities and foster care family homes for adults who are aged, emotionally disturbed, developmentally disabled, or physically handicapped who require supervision on an ongoing basis but who do not require continuous nursing care. The following four (4) types of adult foster care homes are provided for by these rules:

1. **Adult Foster Care Family Home.** A private residence with the approved capacity to receive not more than six (6) adults who shall be provided foster care for five (5) or more days a week and for two (2) or more consecutive weeks. The adult foster care family home licensee shall be a member of the household and an occupant of the residence.

2. **Adult Foster Care Small Group Home.** An adult foster care facility with the approved capacity of not more than twelve (12) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license only if seven (7) or more residents will live in the home.

3. **Adult Foster Care Large Group Home.** An adult foster care facility with the approved capacity to receive at least thirteen (13) but not more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.

4. **Adult Foster Care Congregate Facility.** An adult foster care facility with the approved capacity to receive more than twenty (20) adults who shall be provided foster care. Local zoning approval is required prior to issuance of a license.

B. **Foster Family Home.** A private residence that houses four (4) or fewer foster children, up to age nineteen (19), under constant child care and supervision. Under Public Act 116 of 1973, a foster family home does not require local zoning approval before being licensed by the department of social services.

C. **Foster Family Group Home.** A private residence that houses five (5) or six (6) foster children, up to age nineteen (19), under constant care and supervision. Under Public Act 116 of 1973, a foster family group home requires local zoning approval before being licensed by the department of social services.

State Equalized Valuation. The value shown on the Village assessment roll as equalized through the process of state and county equalization.

Storage. The depositing of material, products for sale or use, vehicles, or other items for a period greater than twenty-four (24) hours. This definition shall include items for household use, but shall not include vehicles, boats, mobile homes and other items.

Story. That portion of a building included between the upper surface of any floor, and the upper surface of any floor above; or any portion of a building between the topmost floor and the roof having a usable floor area to at least fifty (50) percent of the usable floor area of the floor immediately below it.

A **mezzanine** shall be deemed a full story when it covers more than one-third ($\frac{1}{3}$) of the area of the story underneath said mezzanine, or, if the vertical distance from the floor next below the mezzanine to the floor next above it is twenty-four (24) feet or more.

A **basement** shall be deemed a full story when the vertical distance from the average grade to the floor below is less than the vertical distance from the average grade to the ceiling.

Story, Half. The uppermost story lying under a pitched roof, the usable floor area of which does not exceed two-thirds ($\frac{2}{3}$) of the floor area of the uppermost full story. The usable floor area of a half story shall be at least one hundred sixty (160) square feet with a minimum clear height of seven (7) feet, six (6) inches.

Street. A public or private street, road or thoroughfare intended primarily to provide vehicular circulation and access to abutting property. Various types of streets are defined as follows:

A. **Collector Street.** A street whose principal function is to carry traffic between local or minor streets and major streets but may also provide direct access to abutting properties.

B. **Cul-de-sac.** A street that terminates in a vehicular turnaround.

C. **Local or Minor Street.** A street whose sole function is to provide access to abutting properties.

D. **Major Street.** A street that carries high volumes of traffic and serves as a main avenue through or around the Village . Major streets may also be referred to as arterial streets or major thoroughfares. For the purpose of this ordinance, major streets shall include those streets designated as "county primary," "county local" or "major street."

E. **Private Street or Road.** A street or road under private ownership which has been constructed for the purposes of providing access to adjoining property, and which is normally open to the public so that persons other than the occupants of adjoining property may travel thereon, but which has not been accepted for maintenance by the Village, County, State or Federal Government.

F. **Public Street or Road.** A street or road, the right-of-way and improvements of which have been accepted for maintenance by the Village, County, State or Federal Government.

Street Line. A dividing line between the street and a lot, also known as the right-of-way line.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having location [at] such location. Structures include, but are not limited to, principal and accessory buildings, towers, decks, fences, privacy screens, walls, antennae, swimming pools, and signs.

Structure, Accessory. See "Accessory Use, Building, or Structure."

Subdivision. For the purposes of this Ordinance the term subdivision included any act which is taken to record the division of a lot or parcel of land pursuant to the provisions of the Michigan Land Division Act or Condominium Act.

Subdivision (Land Division) Plat. The division of a tract of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development, in accordance with the Land (Subdivision) Control Act, Michigan Public Act 288 of 1967, as amended, and the Village of Constantine Subdivision Regulations. See "Land Division."

Swimming Pool. means any permanent, non-portable structure or container located either above or below grade designed to hold water to a depth of greater than twenty-four (24) inches, intended for swimming or bathing. A swimming pool shall be considered an accessory structure for purposes of computing lot coverage.

Tattoo Parlor. A business having as its principal activity the application or placing, by any method, designs, letters, scrolls, figures, symbols, or any other marks upon or under the human skin within or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

Temporary Use or Building. See "Building, Temporary" or "Use, Temporary."

Theater. An enclosed building used for presenting performances or motion pictures which are observed by paying patrons from seats situated within the building. Also see "drive-in theater."

Townhouse. See "Dwelling Unit, Single-Family Attached" or "Townhouse."

Toxic or Hazardous Waste. Waste or a combination of waste and other discarded material including solid, liquid, semi-solid, or contained gaseous material which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to the following if improperly treated, stored, transported, disposed of, or otherwise managed:

- A. An increase in mortality, or
- B. An increase in serious irreversible illness, or
- C. Serious incapacitating, but reversible illness, or
- D. Substantial present or potential hazard to human health or the environment.

Trailer. See "Recreational Vehicle"; "Dwelling, Mobile Home"; and "Utility Trailer."

Transition. The word or term "transition" or "transitional" shall mean a zoning district, a landscaped area, lot arrangement, wall or other means which may serve as a buffer between various land use types, particularly those uses which are incompatible.

Unit, Condominium. The descriptor for a lot or specific unit for occupancy in a condominium plat designed to be conveyed under single ownership and having a individual property tax code identification number (in a land division (subdivision) plat a lot is equivalent to a condominium unit).

Use. The purpose for which land, lots, or buildings thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

Use, Accessory. See "Accessory Use, Building, or Structure."

Use, Conditional. See "Conditional Use."

Use, Permitted. A use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such districts.

Use, Principal. The main use of land and buildings and the main purpose for which land and buildings exist.

Use, Special Land. See "Special Land Use."

Use, Temporary. A use permitted to exist during a specified period of time under conditions and procedures as provided in this ordinance.

Utility Room. A room in a dwelling, the use of which is primarily for storage, for housing a heating unit, or for laundry purposes.

Utility Trailer. A small trailer that is designed to be pulled by an automobile, van, or pick-up truck.

Variance. A modification of the literal provisions of the zoning ordinance in accordance with the provisions herein in cases where strict enforcement would cause undue hardship as a result of special circumstances affecting an individual property that do not generally affect other properties in the same zoning district.

The crucial points of variance are: (a) undue hardship, (b) unique circumstances, and (c) applying to property. A variance is not justified unless all three (3) elements are present in the case. A variance to permit a use not otherwise permitted within a zoning district (i.e., a "use variance") shall not be permitted. Hardships based solely on economic considerations are not grounds for a variance.

Veterinary Hospital. See "Clinic, Veterinary."

Village. The Village of Constantine, St. Joseph County, Michigan.

Village Council. The Village Council of the Village of Constantine, St. Joseph County, Michigan.

Wall, Obscuring. A masonry structure of definite height and location to serve as an opaque screen in carrying out the requirements of this ordinance.

Wall, Retaining. A structural mass which is designed and used to resist lateral pressures of soil behind it and is designed to be safely supported by soil beneath it.

Warehouse. A building used for short- and/or long-term storage in connection with production and marketing or in connection with manufacturing, freight handling, and retailing. See also "distribution center".

Wholesale Sales. On-premise sales of goods primarily to customers engaged in the business of reselling the goods.

Wireless Communication Facilities. All structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving radio signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment building and commercial mobile radio service facilities. Not included within this definition are citizen band radio facilities; short wave facilities; ham, amateur radio facilities; satellite dishes; and, governmental facilities which are subject to state or federal law or regulations which preempt municipal regulatory authority.

Wireless Communications, Attached Facilities. Wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.

Wireless Communication, Support Structures. Structures erected or modified to support wireless communication antennas. Support structures within this definition include, but shall not be limited to, monopoles, lattice towers, light poles, wood poles and guyed towers, or other structures which appear to be something other than a mere support structure.

Wireless Communication, Collocation. The location by two (2) or more wireless communication providers of wireless communication facilities on a common structure, tower, or building, with the view toward reducing the overall number of structures required to support wireless communication antennas within the community.

Yard. An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this ordinance. The minimum required setback is the minimum depth of a front, rear or side yard necessary to conform to the required yard setback provisions of this ordinance.

- A. **Yard, Front.** A yard extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the principal building. Unless otherwise specified, on corner lots there shall be maintained a front yard along each street frontage.
- B. **Yard, Rear.** A yard extending the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and the nearest point on the principal building. On corner lots, the rear yard may be opposite either street frontage, but there shall only be one (1) rear yard.
- C. **Yard, Side.** A yard between a principal building and the side lot line, extending from the front yard to the rear yard, the width of which shall be the horizontal distance from the nearest point of the side lot line to the nearest point on the principal building.

Zoning Official. The official assisting Village Council, Village Manager, Planning Commission and Zoning Board of Appeals in administering the regulations of this ordinance.