

ORDINANCE NO. _____

CITY OF FERNDALE
OAKLAND COUNTY, MICHIGAN

AN ORDINANCE TO AMEND ARTICLE XIX, DEFINITIONS, SECTION 24-452 TO THE ZONING ORDINANCE, ORDINANCE NO. 1087, OF THE FERNDALE CODE OF ORDINANCES.

THE CITY OF FERNDALE ORDAINS:

Part I.

The City of Ferndale Zoning Ordinance, being Ordinance No. 1087, Article XIX, Definitions, Sections 24-452 are amended as follows:

Sec. 24-452. - Definitions A - B.

Abandon. To cease or discontinue a use or activity, excluding temporary or short-term interruptions during periods of remodeling, maintaining or otherwise improving or rearranging a facility; during normal periods of vacation or seasonal closure; during labor-related shutdowns and similar events.

Abutting or Adjacent. Having a common border with or being separated from such a common border by a right-of-way, alley or easement.

Accessory building or structure. A detached building or structure occupied by or devoted to an accessory use on the same lot or parcel of land with, and of a nature customarily incidental and subordinate to, a principal building. Examples may include detached garages, decks, swimming pools, sheds and storage buildings.

Accessory use. A use reasonably and customarily incidental and subordinate to the principal use of the building or structure, or the lot or parcel of land. Accessory uses include, but are not limited to:

- (1) Residential accommodations for servants and/or caretakers.
- (2) Residential swimming pools, hot tubs and saunas.
- (3) Domestic storage in a shed, tool room, or similar accessory building or other structure.
- (4) Storage of merchandise normally carried in stock in connection with a use.
- (5) Storage of goods used in or produced by industrial uses or related activities.

- (6) Off-street parking spaces and loading areas.
- (7) Solar panels, wind generators, television reception antenna and air conditioning units.

Adult businesses. Establishments characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined below, including, but not limited to, adult book, novelty, retail or video stores, adult movie theaters, adult personal service businesses, adult cabarets, and nude modeling studios. These provisions shall not apply to licensed physicians and certified members of the American Massage and Therapy Association and Associated Bodywork and Massage Professionals while practicing within the scope of their license.

- (1) *Adult book, novelty, retail or video store.* A commercial establishment that offers for sale or rental for any form of consideration, as one of its principal business purposes, any one (1) or more of the following:
 - a. Books, data storage devices, magazines or other printed matter or photographs, films, video or other visual representation, recordings or other audio matter which depict or describe sexually explicit activities or specified anatomical areas.
 - b. Instruments, devices novelties or paraphernalia which are designed for use in connection with sexually explicit activities.
 - c. Items, materials, gimmicks or paraphernalia depicting, displaying, advertising or packaged as sexually explicit activities or depicting or describing specified anatomical areas.
 - d. For purposes of this Ordinance, principal business purpose means:
 - 1. The devotion of a substantial portion of its stock-in-trade or interior floor space, meaning at least 20 percent of the floor area.
 - 2. The receipt of 20 percent or more of its revenues from the sale of the items listed above.
 - 3. Other business purposes shall not exempt an establishment from being categorized as an adult book retail, novelty store or video store so long as more than 20 percent of its business includes the offering for sale or rental for consideration of the specified materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
 - e. An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing sexually explicit activities or specified anatomical areas and still be characterized as an adult

book store, adult novelty or retail store or adult video store. Such other business purposes will not serve to exempt such an establishment from being categorized as an adult bookstore, adult novelty store or adult video store, so long as the establishment falls within the definition of an adult bookstore, adult novelty store or adult video store.

- (2) *Adult cabaret.* A nightclub, bar, restaurant or similar commercial establishment, whether or not alcohol is served, which regularly features:
 - a. Persons who appear in a state of restricted nudity.
 - b. Live performances characterized by the partial exposure of specified anatomical areas.
 - c. Films, motion pictures, video cassettes, compact discs, slides or other photographic reproductions which are characterized by the depiction or description of sexually explicit activities or specified anatomical areas.
- (3) *Adult movie theater.* An enclosed building used for presenting more than ten percent of its material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, for observation by patrons therein.
- (4) *Adult personal service establishment.* Any business, agency or service that arranges, solicits or provides, for the benefit of its customers or clients, escorts, dates, models, companions or entertainers, either on or off the premises, for the purpose of engaging in specified sexual activities or displaying specified anatomical areas.
- (5) *Nude model studio.* Any place where a person appears in a state of nudity or displays specific anatomical areas and is provided money or any form of consideration to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons. This includes modeling studios that provide for nude modeling on an occasional basis, but it does not include a modeling studio whose primary function is to provide art classes as part of a college, university or educational institution that is certified by the State of Michigan.
- (6) *Specified anatomical areas.* Less than completely and opaquely covered human genitals, pubic regions, buttock or female breast below a point immediately above the top of the areola; and male genitals in a discernible turgid state, even if completely and opaquely covered.
- (7) *Specified sexual activities.* Human genitals in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse or sodomy; and fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Alley. Any dedicated public way other than a street that provides a secondary means of access to any property and is not intended for general circulation.

Alteration. Any addition or modification to a building or structure or type of occupancy; any change in the structural members of a building, such as walls, partitions, columns, beams, or girders, stairways, light or ventilation, means of egress and ingress, or any other changes affecting or regulated by the building code, the city's housing code or this chapter. This definition does not include minor repairs or changes not involving any of the above elements.

Amusement arcade. A facility whose principal use is the operation of amusement devices or where eight or more amusement devices are operated.

Amusement device. Any machine, which upon the insertion of a coin, slug, token plate or disc, or payment of a price, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score.

Architectural features. Architectural features of a building or structure shall include, but not be limited to, cornices, eaves, gutters, belt courses, sun shading devices, sills, lintels, bay window, chimneys and decorative ornaments.

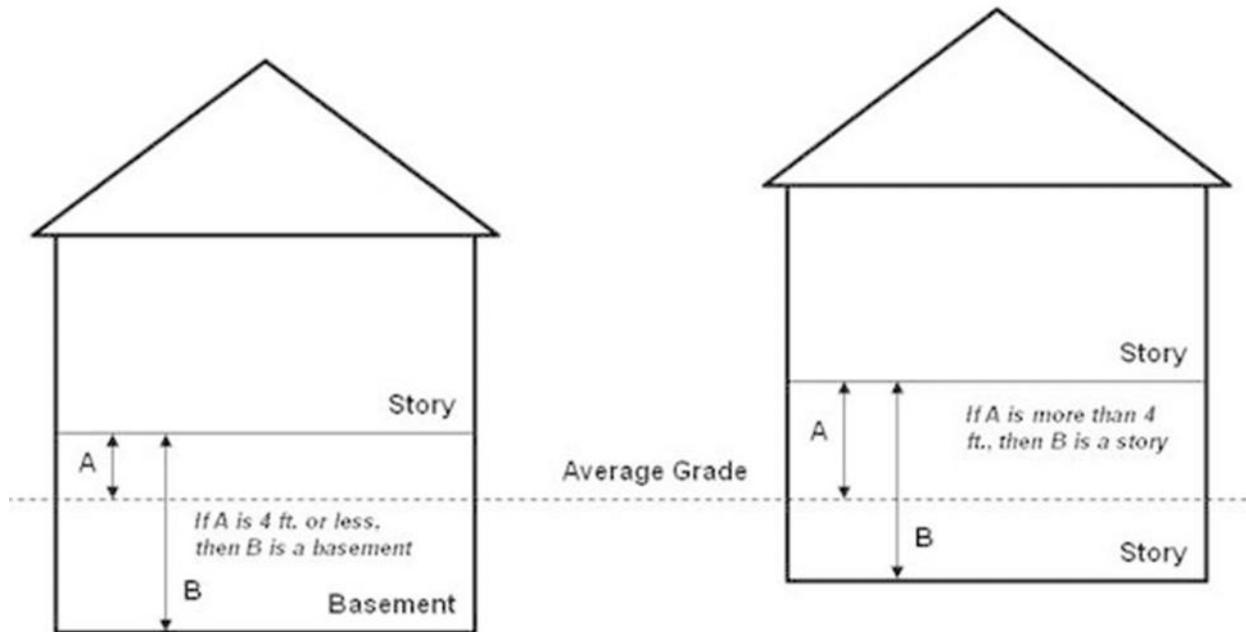
Artisan and creative industry use with studio space. A use conducted for the production of products by workers who practice a trade or craft using small-scale, light mechanical equipment. This may include activities with knowledge and intellectual information, such as advertising, architecture, art, crafts, design, fashion, film, music, performing arts, publishing, software, toys and games, TV and radio, and video games.

Attached building/structure. A building or structure that is attached to a principal building by connection of walls, a foundation and a roof.

Automobile or motor vehicle. Any vehicle, truck under one and one-half ton payload, van or motorcycle, but specifically excluding motorized wheelchairs or other personal transportation devices used by the physically challenged. The phrase "any vehicle" includes automobiles, commercial vehicles and motorized recreational vehicles as those terms are defined in this article.

Banquet hall. A facility whose principal use is to be rented out for gatherings, with or without food and beverage service, and which may allow live entertainment and dancing.

Basement. That portion of a building having less than four feet above finished grade.



Bed and breakfast. A use that is accessory to the principal use of a building by its operators as a single-family dwelling in which guests are provided a sleeping room and breakfast in return for compensation for periods of 14 days or less. These facilities shall contain no more than six sleeping rooms for compensation.

Block. The abutting properties on one side of a street and lying between the two nearest cross streets, or between one intersecting street and a railroad right-of-way, or any other barrier to the continuity of development.

Board of zoning appeals (BZA). The board of zoning appeals for the City of Ferndale.

Boarding house. A building other than a lodging facility, multiple family dwelling, hotel or motel, where lodging or lodging and meals is provided in return for compensation.

Body decorating salon. A facility having as its principal activity the applying, decorating or placing of permanent marks upon or under the skin by any method including, but not limited to, ink or any other substance resulting in the coloration or scarring by the aid of needles, blades or any other instrument designed to touch, cut, burn, pierce or puncture the skin.

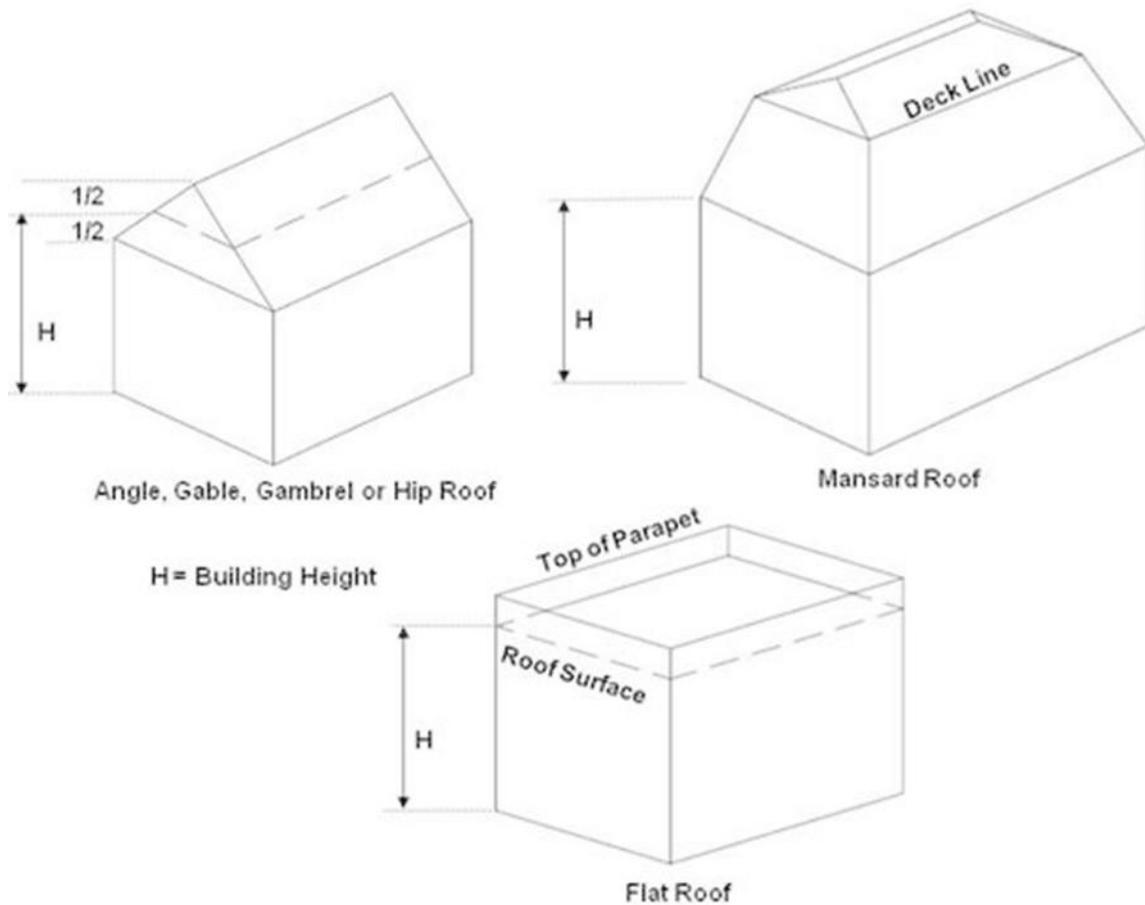
Building. Any structure having a roof supported by columns or walls.

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

Building code. Any code regulating building construction in the City of Ferndale.

Building height. Where a building is situated on sloping terrain, its height shall be measured from the average level of the finished grade at the building wall.

- (1) *Flat roof.* The vertical distance measured from the finished grade level to the highest point of the roof surface.
- (2) *Mansard roof.* The vertical distance measured from the finished grade level to the deck.
- (3) *Gable, hip, angled and gambrel roofs.* The vertical distance measured from the finished grade level to the mean height level between eaves and ridges.



Building setback line. The line established by the minimum required setbacks that delineate the area within a lot or parcel of land on which a building may be located.

Building permit. An official document issued by the city which grants permission to a contractor, individual or entity to erect or alter a building or structure.

Business and technical school. A facility whose principal use is teaching culinary, health and medical (medical assistant, occupational, physical or speech therapist, etc), computer, cosmetology, broadcast/media, business, legal, creative (commercial art, fashion, graphic art, video, web design, CAD, visual and fine art) skills, generally in an office setting.

Part II. Savings Clause.

All proceedings pending and all rights and liabilities existing, acquired or incurred at the time this ordinance takes effect are saved and may be consummated according to the law enforced when they are commenced.

Part III. Severability.

The various parts, sections and clauses of this ordinance are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

Part IV. Repeal.

All regulatory provisions contained in other city ordinances which are inconsistent with the provisions of this ordinance, are repealed.

Part V. Effective Date; Publication.

This ordinance shall become effective seven (7) days after publication.

MADE, PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF FERNDALE, OAKLAND COUNTY, MICHIGAN, THIS ___ DAY OF _____, 2019.

DAVID COULTER, MAYOR

MARNE MCGRATH, CITY CLERK

Date of Adoption: _____

Date of Publication: _____

06/14/2019

CERTIFICATE OF ADOPTION

I certify that the foregoing is a true and complete copy of the Ordinance passed at a meeting of the Ferndale City Council held on the ___ day of _____, 2019.

MARNE MCGRATH, CITY CLERK

CITY OF FERNDALE
NOTICE OF ADOPTION
ORDINANCE _____

The City of Ferndale has adopted Ordinance No. ____ amending Article XIX, Definitions, Section 24-452 to the Ferndale Zoning Ordinance, Ordinance No. 1087. This Ordinance shall become effective seven (7) days after publication. A true copy of the ordinance may be inspected or obtained at the office of the City Clerk.

MARNE MCGRATH, CITY CLERK