

ORDINANCE NO. 05-15

AN ORDINANCE AMENDING SECTION 1125.04 OF THE PAINESVILLE CODE OF 1998, RELATING TO THE DEFINITION OF DOWNTOWN DEVELOPMENT DISTRICT and DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL of the City of Painesville, Lake County, Ohio:

SECTION I. That Section 1125.04 of the Painesville Code of 1998 is hereby amended to read as follows:

1125.04 DEFINITIONS.

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

The word person includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular.

The word shall is mandatory, the word may is permissive.

The words used or occupied include the words intended, designed or arranged to be used or occupied.

The word lot includes the words plot or parcel.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them in this section:

- (1) Accessory use or Accessory building - a use or building customarily incidental and subordinate to and located on the same lot as the main use or building. Accessory buildings shall be of less height and area than the main building.
- (2) Administrator - the Community Development Director or the authorized representative thereof.
- (3) Adult family home - A dwelling unit, as defined in and regulated by the Ohio Revised Code, which is shared by three to five unrelated individuals, exclusive of staff, who require assistance and/or supervision and who reside together in a family-type environment as a single housekeeping unit, provided that authorized supervisory personnel are present on the premises. An adult family home shall not include nursing homes, assisted living facilities, adult group homes or homes for persons who are addicted to alcohol or narcotic drugs or are criminal offenders serving on work release or probationary programs.
- (4) Agriculture - the use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce provided, however, that the operation of such accessory uses shall be secondary to that of the normal agricultural activities. Lot area shall not be less than five (5) acres.
- (5) Adult group home - A dwelling unit, as defined in and regulated by the Ohio Revised Code, which is shared by six to sixteen unrelated individuals, exclusive of staff, who require assistance and/or supervision and who reside together in a family-type environment as a single housekeeping unit, provided that authorized supervisory personnel are present on the premises. An adult group home shall not include nursing homes, assisted living facilities, adult family homes, or homes for persons who are addicted to alcohol or narcotic drugs or are criminal offenders serving on work release or probationary programs.
- (6) Apartment - a room or suite of rooms intended or designed or used as a residence which includes cooking, bathing and toilet facilities.
- (7) Automobile Wrecking - The dismantling or disassembling of used motor vehicles or trailers or the storage, sale or dumping of dismantled, obsolete or wrecked vehicles or their parts.
- (8) Awning/Canopy - any structure made of cloth or metal with a metal frame attached to a building which is designed to protect an area from the elements of weather.
- (9) Assisted Living Facility - The exclusive use of a facility for persons in need of some protective oversight or assistance due to functional limitations which provides a residential living environment by congregate meals, housekeeping and other supportive services.
- (10) Basement - a space with all or part below the ground and having at least 50% of its height below the average grade of the adjoining ground.
- (11) Bed and Breakfast - A private residence containing guest rooms for hire, for lodging by prearrangement and not a hotel, boarding or lodging house as defined by this Zoning Code.

- (12) Board - the Board of Zoning Appeals.
- (13) Boarding or Lodging house - a building other than a hotel or bed and breakfast where for compensation and by prearrangement, meals, or lodging and meals are provided for three or more persons.
- (14) Building - any structure having a roof, supported by column or walls, used or intended to be used for the shelter or enclosure of persons, animals or property.
- (15) Building, Height - the vertical distance from the grade to the highest point of the coping on a flat roof or to the deck line of a mansard roof, or to the mean height level between the eaves and ridge for gable, hip or gambrel roofs.
- (16) Building, line - see setback line
- (17) Building, Main - a building in which is conducted the principal use of the lot on which it is situated.
- (18) Cemetery - land used or intended to be used for the burial of human dead and dedicated to cemetery purpose, including columbariums, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.
- (19) Certificate of Compliance - the document issued by the Administrator authorizing buildings, structures or uses consistent with the terms of this Zoning Ordinance and for the purpose of carrying out and enforcing its provisions.
- (20) Clinic - a building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.
- (21) College/University - an educational institution, certified by the State of Ohio that offers courses toward a degree beyond the level of high school, which is located on lots of not less than five (5) acres in area.
- (22) Conditional use - a use that may be permitted in a district after review and approval by the Planning Commission.
- (23) Condominium - a structure or group of structures containing multiple units in which single units are held under individual ownership whereas common service areas and open space are held jointly and equally.
- (24) Corner lot - see lot.
- (25) Council or City Council - the City Council of the City of Painesville.
- (26) Day care facility, commercial - A facility other than a dwelling in which care, protection and supervision are provided with or without compensation for adults or children on a regular basis and in accordance with applicable state laws pertaining to licensing and regulation. Incidental facilities for the preparation and consumption of meals, rest and recreation may also be provided.
- (27) District - a portion of the city for which zoning regulations govern the use of buildings and premises.
- (28) District, Commercial - the term "commercial district" shall include those zoning districts designated as Business/Residential district, General Business district, ~~and Central Business district,~~ and Downtown Development District.
- (29) District, Industrial - the term "industrial district" shall include those zoning districts designated as Light Industrial district and Industrial district.
- (30) District, Residential - the term "residential district" shall include those zoning districts designated as Special district, Single Family Residential district and Multi-family Residential district.
- (31) Dormitories and student housing - a building serving as residential quarters for students of a college, university, monastery or boarding school but not including hotels, motels, boarding houses, bed and breakfast, tent, trailer or cabin.
- ~~(32)~~ Dwelling - a building or portion of a building designed or used for living or sleeping purposes and designed for residential occupancy but not including hotels, motels, boarding houses, bed and breakfast, tent, trailer or cabin.
- ~~(33)~~ Dwelling, duplex - a building consisting of two dwelling units.
- ~~(34)~~ Dwelling, multi-family - a building consisting of three or more dwelling units.
- ~~(35)~~ Dwelling, single family - a building consisting of one dwelling unit.
- ~~(36)~~ Drive -through commercial use - An establishment that by design, physical facilities, service, or by packaging procedures, encourages or permits customers to receive services, or obtain goods while remaining in their motor vehicles.
- ~~(37)~~ Dwelling unit(s) - one or more rooms intended to be occupied by and providing facilities for one family including rooms and/or facilities for bathing and toilet and only one kitchen or kitchenette.
- ~~(38)~~ Family - is one of the following:
- A. One to four persons occupying a dwelling unit; or

B. Five or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family;

1. It shall be presumptive evidence that five or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family.

2. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:

a. The group is one which, in theory, size, appearance, structure and function resembles a traditional family unit;

b. The occupants must share the entire dwelling unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family;

c. The group shares expenses for food, rent or ownership costs, utilities and other household expenses;

d. The group is permanent and stable. Evidence of such permanency and stability may include:

i. The presence of minor dependent children regularly residing in the household who are enrolled in local schools;

ii. Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes:

iii. The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;

iv. There is common ownership of furniture and appliances among the members of the household;

v. The group is not transient or temporary in nature;

vi. The group shares common entrances and exits; and

vii. There is only one set of utility connections to the dwelling unit.

e. Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

(398) Financial institution - An establishment, usually a corporation, chartered by a state or federal government, whose principal business is to provide for the everyday financial transactions of businesses and individuals, which includes most or all of the following: receives demand deposits and timed deposits, honors instruments drawn on them, and pays interest on them; discounts notes, makes loans, and invests in securities; certifies depositor's checks; and issues drafts and cashier's checks.

(409) Flood Plain - the land, including the flood fringe and floodway, subject to inundation by water from any source.

(410) Floor area - the sum of the areas of several floors of a building measured from outside wall to outside wall. In residential structures it shall not include porches, decks, garages or carports.

(421) Frontage - the portion of the property which abuts one side of a street.

(432) Funeral Homes - A building or part thereof used for human funeral service, provided such building is located on a State or Federal highway. Such facility shall not display gravestones or markers for sale.

(443) Garage, Parking - a structure which may have multiple levels above, below, at grade or a combination thereof constructed for the purpose of parking motor vehicles for the general public, clients or employees whether or not charges are made for individuals parking therein.

(454) Garage, private - an accessory building or portion of a main building used for the storage of motor vehicles as an accessory use.

(465) Grade, building - the first floor elevation which shall not be less than one-fourth of an inch per foot rise for each foot from the reference grade to the first floor of the building.

(476) Grade, reference - the center line street elevation opposite the midpoint of the building site frontage.

(487) Home occupation - an occupation conducted in a dwelling provided that:

A. No person other than family members of the family residing on the premises shall be engaged in such occupation;

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five percent (25%) of floor area of the dwelling unit shall be used in the conduct of the home occupation;

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding four square feet in area, non-illuminated and mounted flat against the wall of the principal building;

D. No home occupation shall be conducted in any accessory building;

E. No sales, not clearly incidental to the home occupation being conducted by the resident family are permitted;

F. No traffic shall be generated by such home occupation in greater volume than would normally be expected in residential neighborhoods and, any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in this ordinance and shall not be located in a required front yard; and

G. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single family residence, or outside the dwelling unit if conducted in other than a single family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in the voltage off the premises.

(498) Hospital - an institution providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patients services, etc.

(5049) Hotel - a building offering transient lodging accommodation for compensation to the general public and may provide additional services such as restaurants, meeting rooms or central services.

(510) Inn - an architecturally and/or historically significant structure, which may be owner-occupied, containing up to 20 guest rooms for hire with associated services and amenities, for lodging by prearrangement and not a bed & breakfast, hotel, boarding or lodging house as defined by the Zoning Code.

(524) Institution - an organization having a social, educational or religious purpose usually not for profit and designed for public use.

(532) Kennel - a lot or premises on which four or more domesticated animals of the same type, more than four months of age are housed, groomed, bred, boarded, trained, sold or which offers provisions for minor medical treatment.

(543) Loading space, Off-street - space designed for bulk pick-up and deliveries, scaled to delivery vehicles and expected to be available even when off-street parking spaces are filled. Loading spaces shall not count toward the required off-street parking spaces.

(554) Lot - a land parcel with frontage on an approved street and is occupied or intended to be occupied by main buildings or uses and accessory buildings or uses as permitted by this ordinance.

(565) Lot area - the total horizontal area within the lot lines of a lot exclusive of right-of-way of any public or private street.

(576) Lot, corner - a lot abutting upon two or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees.

(587) Lot coverage - that area of a lot which is covered by the footprint of a building, structure or pavement including access drives, parking lots and sidewalks. Percentage of lot coverage shall be determined by dividing the total square footage of coverage by the gross lot area.

(598) Lot depth - the mean horizontal distance between the front and the rear lot lines.

(6059) Lot, frontage - the portion of the lot abutting the street.

(610) Lot, interior - a lot other than a corner lot.

(621) Lot of record - a lot which is duly recorded among the land records of the Lake County Recorder's Office.

(632) Lot width - the width between the side lot lines measured at the front setback line.

(643) Non-conforming use - a building, structure, premises or use legally existing prior to the adoption of this ordinance that does not conform to the current regulations of the district in which it is currently located.

(654) Nursing home - An establishment for the care or assisted living of the aged or infirm. Such home may provide facilities and services including restorative care and treatment, nursing services, aid with daily living skills, meal service, regular or as-needed medical supervision, social care, or other services that are supportive, restorative or preventive in nature, but does not contain equipment for surgical care or the treatment of disease or injury. A nursing home shall not include assisted living facilities, adult family homes, or adult group homes.

- (665) Office, general or professional - An establishment providing executive, management, administrative or professional services, but not including medical offices or any retail sales activities.
- (676) Office, medical - An establishment providing consultation, examination and treatment to human patients on an outpatient basis by one or more physicians, dentists, psychologists, optometrists, therapists or other medical personnel and where patients are not lodged overnight.
- (687) Parking lot - An area designed and designated for the temporary storage of motor vehicles.
- (698) Personal services - Establishments that provide services directly to customers at the site of business. Personal service establishments shall include but not be limited to, travel agencies, dry cleaning and laundry drop-off and pick-up stations, coin operated laundries, tailors, hair stylists, health, fitness and other self-improvement facilities, photography studios, handicraft or hobby instruction, driving schools, photocopying services, postal substations, package delivery drop-off and pick-up stations, or shoe repair.
- (7069) Place of worship - A special purpose building for the primary use of conducting on a regular basis formal religious services by a religious congregation.
- (710) Planning Commission or Commission - the City Planning Commission of the City of Painesville.
- (724) Public use - Any facility, use or structure owned and/or operated by a Local, County, State or Federal government or any agencies thereof.
- (732) Recreational facilities - public or private facilities that are designed for the enjoyment and amusement of those persons using the facility.
- (743) Recreational facilities, commercial/organizational – a facility operated either for profit by the owner, lessee or licensee; or operated by a not-for-profit organization established for such purpose. Such facilities shall include, but not be limited to: fitness centers, gyms, schools for the martial arts, gymnastic schools, indoor softball/baseball practice facilities, golf practice facilities and other such similar facilities.
- (754) Recreational facilities, noncommercial - a recreational facility that is operated by a government entity for which a fee may or may not be charged.
- (765) Recreational vehicle - a vehicle or portable structure designed and constructed to be used for travel, recreational or vacation uses, including but not limited to the following:
- A. Travel trailer - a vehicular portable structure built on a chassis as a non-self propelled vehicle including tent-type fold-out trailer and designed to be used as a temporary dwelling;
 - B. Pick-up camper - a structure designed primarily to be mounted on a pick-up or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling;
 - C. Motorized home - portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
 - D. Watercraft - includes boats, floats, rafts, wet bike, jet ski, and the normal equipment to transport same.
 - E. Recreational trailers - any form of device, equipment or machinery on wheels, or a single wheel that is intended to be pulled by a motor vehicle, whether or not attached to a motor vehicle. This shall include every vehicle designed and utilized for the sole purpose of transporting materials or equipment used for recreation.
- (776) Right-of-way - a strip of land dedicated for use as a public way.
- (787) Roadside stand - a temporary structure designed or used for the display or sale of agricultural products grown on the site.
- (798) Service Station - a premises where gasoline and other petroleum products are sold and/or light maintenance and minor repairs are conducted but not including engine overhauls, body work and painting. This facility may also include facilities for other retail sales.
- (8079) Setback - the minimum horizontal distance by which any building or structure will be separated from a lot line.
- (810) Sign - an identification, description, illustration or device which is affixed to or integrated into a building, structure, or land, and which directs attention to a product, place, activity, person, institution or business.
- (824) Sign, area of - the total area of space to be used for advertising purposes, including spaces between open-type letters and figures, including decoration or addition which is an integral part of the sign. Sign supports shall be excluded in determining the area.
- (832) Story - that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor above it, or if there is no floor above it, then the space between the floor and the ceiling above it.
- (843) Street - see thoroughfare

(854) Structure - anything constructed or erected with a fixed location on or in the ground or attached to something having a fixed location on or in the ground. Among other things, the term includes buildings, mobile homes, walls, fences, signs, backstops for tennis courts, swimming pools, tanks and towers.

(865) Thoroughfare - shall be as defined in Section 1105.04 of the Codified Ordinances of the City of Painesville.

(876) Trailer - a vehicular portable structure built on a chassis as a non-self propelled vehicle.

(887) Transitional retail - Any generally recognized retail business which supplies commodities on the premises within a completely enclosed building including, but not limited to, antiques, clothing, collector coins/cards, notions, books, flowers, or jewelry.

(898) Usable Open Space - that portion of the property designed to be for the common use and enjoyment of residents of a development. Usable open space shall be accessible to all residents without the infringement on areas under private ownership or private use. It shall include but not be limited to recreation areas, playgrounds, or wooded areas. Usable open space shall not be located within the front setback.

(9089) Use, main - the principal activity on a property.

(910) Variance - a modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulation would result in unnecessary hardship and/or a practical difficulty.

(924) Warehouse - a building used primarily for the storage of goods and materials.

(932) Wholesale - the sale of commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments for resale, use in the fabrication of a product, or use by a business service.

(943) Yard - the space between a building and the lot line which is unoccupied and unobstructed by any portion of the structure from the ground upward, except as permitted herein.

(954) Zoning Ordinance or Ordinance - the Zoning Ordinance of the City of Painesville as codified in Part Eleven - Planning and Zoning Code, Titles Three to Seven.

(965) Zoning Permit - see certificate of compliance.

SECTION II. That this Ordinance is passed as an emergency measure for the protection and preservation of the peace, health, safety and general welfare of the inhabitants of the City of Painesville, the proposed change is necessary to provide the highest and best use of land described and therefore, this ordinance shall be effective immediately.

PASSED: April 20, 2015

EFFECTIVE DATE: April 20, 2015



Paul W. Hach, II
President of Council

ATTEST:



Tara Diehl
Clerk of Council