

Article 2

Interpretations and Definitions

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2.100 Use of Terms and Meanings

1. Words used in the present tense shall include the future tense.
2. Words used in the singular number shall include the plural number and the plural number shall include the singular number.
3. The words "shall" and "will" are mandatory and are not discretionary.
4. The word "may" is permissive.
5. The word "lot" shall include the words "place" and "parcel."
6. The word "building" shall include any covered structure specifically constructed for support, shelter or enclosure of persons, animals, chattels or moveable property of any kind.
7. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
8. The word "person" shall include the words "individual," "corporation," "governmental agency," "trust," "estate," "partnership," "association," "ventures," "joint ventures," or any other legal entity.
9. The masculine gender includes the feminine and neuter.
10. All measured distances shall be expressed in feet and shall be to the nearest foot. If a fraction of one-half (1/2) foot or less, the next full number below shall be used. If a fraction of more than one-half (1/2) foot, the next full number above shall be used.
11. Unless otherwise specified, all distances shall be measured horizontally.
12. Word and terms shall have the meaning set forth, except where otherwise specifically indicated. Words and terms not defined herein shall be defined as in Webster's New Collegiate Dictionary - latest edition.

2.101 Rules for Interpretation

1. Overlapping Regulations. Where the conditions imposed by any provision of this ordinance (UDC) on the use of land, buildings, or structures are more restrictive than comparable conditions imposed by any other laws, ordinances, resolutions, rules or regulations of any kind, the restrictions of this ordinance shall govern.

2. Private Agreements. The provisions of this ordinance (UDC) are not intended to annul or otherwise interfere with any easement, covenant, or private legal agreement, except that when the regulations of this ordinance are more restrictive, or impose higher standards than private agreements, the regulations of this ordinance shall govern.
3. Unlawful Uses. No building, structure, or use of the land not lawfully existing at the time of the adoption of this ordinance shall become or be made lawful solely by reason of the adoption of this ordinance.
4. Prohibited Uses. All uses and activities not provided for or addressed by the terms of this ordinance shall be considered to be prohibited uses and activities, unless the Zoning Administrator shall find that the use or activity is consistent and compatible with the provisions of this ordinance. The Zoning Administrator's decision may be appealed to the Board of Zoning Appeals as provided for in Chapter One, Section 3.101.7.a).

2.102 Undefined Terms, Words and Phases

1. Terms, words and phrases not defined herein, but in need of definition, shall be processed under the interpretation provisions of Section 2.100.12 of this Unified Development Code.
2. The definitions in Chapter 2 Subdivision Regulations are intended to be used in conjunction with the definitions in Chapter 1 Zoning Regulations.

2.103 Definitions

Note: See also Chapter 1, Section 14.111 for definitions applicable to floodplain matters and Chapter 2, Article 6 for definitions applicable to subdivisions.

1. Abut: To touch or to adjoin, or being separated from a common border by a R.O.W. or other type of easement.
2. Accessory Use: A use of land or a building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building or structure and located on the same parcel or zoning lot as the principal use.
3. Adjacent: To lie near, or close to.
4. Addition: Any increase to the gross floor area of a structure.
5. Agent: One who represents another, called the principal, in dealings with third persons. The agent undertakes some business by authority of the principal. The principal is the property owner. Typical actions include obtaining a building permit, applying for a rezoning, subdivision plat, variance or an appeal of a zoning-ordinance related matter.
6. Adult Care Home: Adult care home means any nursing facility, nursing facility for mental health, intermediate care facility for the mentally

retarded, assisted living facility, residential health care facility, home plus, boarding care home, adult day care facility, and adult care home for the aged. For specific definition see KSA 39-923, 39-1501 and 12-4901.

7. **Agriculture:** The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for packing, treating or storing the produce. Included are truck-farming, growing of nursery stock, raising of fruit and berries, bee-keeping and the retail sale of products grown or raised on the premises.
8. **Agricultural Building or Structure:** For the purposes of this ordinance, an "agricultural building or structure" shall imply any building or structure existing or erected on land used principally for agricultural purposes. Agriculture buildings include, but are not limited to: barns, sheds, granaries, silos, wind towers, structures and buildings for the housing of livestock, poultry and other marketable animals or fowl, or buildings or structures for the storage or housing of equipment and machinery or foodstuff produced on the farm.
9. **Agricultural Services:** An establishment primarily engaged in providing services specifically for the agricultural community which is not directly associated with a farm operation. Included in this use type would be servicing of agricultural equipment, independent equipment operators, and other related agricultural services.
10. **Airport or Aircraft Landing Field:** Any area of land which is used or intended for use for the landing and taking off of aircraft and any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxi ways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.
11. **Alley:** A public or private way, which normally affords a secondary means of access to abutting property. An alley shall not be considered a street. Further, frontage on an alley shall not be construed as satisfying the requirements related to frontage on a dedicated street.
12. **Amateur Radio Tower:** A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC.
13. **Animal Boarding:** Any structure where animals are boarded.
14. **Animal Hospital/Veterinary Clinic:** Any structure where animals or pets are given medical or surgical treatment. Use for boarding purposes and shall be limited to short-time boarding and shall be incidental to such hospital use.

15. Apartment: One (1) or more rooms in a multiple-family dwelling arranged, intended or designed as living quarters for an individual, group of individuals, or a family.
16. Area: The area is a function of the length of bounding sides yielding a measurement of the surface given in "square" units of length: e.g., square yards or feet.
17. Area, Floor: The floor area is the surface included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts.
18. Area of a Building: The total of all floor surfaces, including attached garages and below grade rooms, expressed in square feet (exclusive of uncovered porches, terraces and steps).
19. Arterial Street: Any street serving major traffic movements or used primarily for through traffic, designed primarily as a road to serve collector streets.
20. Assurance: A financial commitment consisting of letters of credits, construction bonds, cash, or other instruments approved as to form by the City Attorney, to cover the cost of public improvements.
21. Attic Story: An attic story is any story situated wholly or partly in the roof, so designated, arranged, or built so as to be used for business, storage, or habitation.
22. Automobile Accessory Stores: Automobile accessory stores are commercial uses primarily engaged in the business of selling new tires, batteries, or vehicle parts. Exterior storage areas are not permitted. This definition does not include "salvage yards".
23. Automobile Car Wash: Building or portion thereof containing facilities for washing one (1) or more automobiles.
24. Automobile Dealership: The use of any building, land area or other premise for the display of new and used automobiles, trucks, vans, or motorcycles for sale or rent, including any warranty repair work and other major and minor repair service conducted as an accessory use.
25. Automobile Repair Garage: An "automobile repair garage" is any building or premises whose primary use is for the general repair, engine rebuilding or reconditioning of motor vehicles, collision service such as body, frame and fender straightening and repair and painting of motor vehicles.
26. Automobile Service Station: An "automobile service station" is any building or premises whose primary use is for the dispensing or sale at retail to the public of automobile fuels, lubricating oil or grease, tires, batteries and other minor automobile accessories. Services offered may include the installation of tires, batteries and minor automobile accessories, minor automobile repairs and greasing or washing of individual automobiles, but do not include major automobile repairs. See Automobile Repair Garage.

27. Awning: A roof-like cover, temporary in nature, which projects from the wall of a building or other structure. A light, protective, appurtenance to a building.
28. Base Setback Line: A point from which all required setbacks are measured. When no R.O.W. is present, the measurement point shall be along the property line.
29. Basement: A basement or walk-out is that portion of a building located below grade.
30. Bathroom: A room containing bath, water closet or mechanically flushable device for the disposal of human waste, and a basin with running hot and cold water and drainage piping or tubing.
31. Bed and Breakfast Facility: A dwelling in which bedrooms are provided for overnight guests for compensation, on daily or weekly basis, with or without breakfast. The serving of meals other than breakfast or the serving of breakfast to other than overnight guests shall be considered a restaurant.
32. Bedroom: A room in a dwelling which one or more persons occupy for sleeping purposes.
33. Board of Zoning Appeals: The term Board of Zoning Appeals shall refer to the St. Marys Board of Zoning Appeals, also referred to in this ordinance as BZA.
34. Boarding House: A building other than a hotel, motel, or bed-and-breakfast where lodging and/or meals are provided for guests pursuant to previous arrangements, but not for the public or transients.
35. Broadcasting or Communication Tower: Any unstaffed facility for the transmission and/or reception of radio, television, radar, cellular telephone, personal paging device, specialized mobile radio (SMR), and similar services. A Broadcasting or Communication Facility usually consists of an equipment shelter or cabinet, a support tower or other structure used to achieve the necessary elevation, and the transmission or reception devices or antenna. Excluded are amateur radio towers, which are described separately.
36. Borrow Pit: Any place or premises where dirt, soil, sand, gravel, or other material is removed by excavation or otherwise, below the grade of surrounding land, for any purpose other than that necessary and incidental to grading or to building construction or operation on the premises.
37. Buffer Zone: The term buffer zone as used in this UDC refers to a portion of one or more properties set aside for the purpose of lessening the visual disparity between commercial and residential zones, and between industrial and residential zones. A buffer zone may consist entirely of a large open space separation of the two zones, or of vegetation of a sufficient density year round to provide the visual separation, or a combination thereof. A buffer zone may be

established on land specifically set aside for the buffer zone, or on land that is a required setback area, or on land that is a combination of thereof, as required to obtain a lessening of the visual disparity between the disparate.

38. Building: Any structure built for the enclosure, protection, shelter, or support of persons, animals or property of any kind and which is permanently affixed to the ground. The term "building" shall not include fences.
39. Building, Attached: A building having any portion of a wall(s) in common with an adjoining building.
40. Building, Detached: A structure not supported by or appurtenant to another structure or a building surrounded by an open space on the same lot.
41. Building Code: The Building Code of the City St. Marys.
42. Building, Completely Enclosed: Any building separated on all sides from adjacent open space, or from other buildings, by a permanent roof and by exterior walls or party walls pierced only by windows and normal entrance or exit doors.
43. Building Coverage: That portion of a lot, which when viewed from directly above, would be covered by any building or structure. For the purposes of this definition, lot shall include contiguous lots of the same ownership within a single zoning district which are to be used, developed or built upon as a unit.
44. Building Envelope: The portion of a lot shown in a final plat which may be used for construction purposes, including: buildings, accessory uses, lateral fields, lagoons, and parking. Typically, the lot building envelope is the area bounded by the required setback, side and rear yards. However, because of conditions arising from soils composition, slope, drainage and other natural features, the building envelope may be either reduced or increased in size at the direction of the Planning Commission
45. Building, Front Line of: The side of a building which faces the front of the lot upon which the building is located (see "Lot, Front").
46. Building Height: The vertical distance from the average grade or its equivalent, opposite the center of the front of a building to the top or the highest roof beams, in the case of a flat roof; to the deck line of a mansard roof; and to mean level of the highest gable or slope of a gable, hip or gambrel roof. Where no curb level has been established, the height of a building may be measured from the mean elevation of the center line of the street fronting the lot.
47. Building, Residential: Any building which is arranged, designed, used, or intended to be used for residential occupancy by one or more families or lodgers and which includes, but is not limited to, the following types:

- a) Single-family detached dwellings.
 - b) Two-Family dwellings.
 - c) Townhouse dwellings.
 - d) Multiple-family dwellings.
48. Building Separation: The minimum horizontal distance between two buildings on adjacent lots or across a street or alley.
49. Building Setback Line: The line, perpendicular to the depth of the required front yard setback and parallel to a front lot line and/or street right-of-way line, whichever is greater, at which structures are permitted to be constructed and where "lot width" is measured.
50. Buildable Area of a Lot: That portion of a lot bounded by the required "rear" and "side yards" and the "building setback line."
51. Bulk: A composite term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and includes the following:
- a) Size and height of buildings;
 - b) Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings.
 - c) Floor area ratio of buildings.
 - d) All open spaces allocated to buildings.
 - e) Amount of lot area provided per dwelling unit.
52. Bulk Storage: The storage of chemicals, petroleum products and other materials in aboveground containers for subsequent resale to distributors or retail dealers or outlets.
53. Business: An occupation, employment, or enterprise, which occupies time, attention, labor and materials, or wherein merchandise is exhibited or sold, or where services are offered.
54. Caliper: The diameter of the trunk of a tree in inches at the height of twelve inches above grade.
55. Camp, Day or Youth: A camp providing facilities for groups of young people such as Y.M.C.A. camps, Boy Scout camps and Girl Scout camps.
56. Campground: An area of land, managed as a unit, providing short term accommodations for tents, tent trailers, travel trailers, recreational vehicles and campers.
57. Capacity in Persons: The "capacity in persons" of an establishment or use is the maximum number of persons that can avail themselves of the services (or goods) of such establishment, at any one time, with reasonable safety.
58. Carport: An open-sided roofed automobile shelter, usually formed by extension of the roof from the side of a building.
59. Car Wash: See Automobile Car Wash.

60. Certificate of Occupancy: The written approval of the Zoning Administrator certifying that a newly constructed structure, addition to an existing structure, or existing structure undergoing a change in use is in full compliance with the provisions of this Ordinance and that such structure is habitable and in conformance with all applicable City building codes and regulations.
61. Child Care
- a) Licensed Day Care Home is a facility giving regular care for less than 24 hours per day to a maximum of six children under kindergarten age (includes the family's own children in this age group and four additional children kindergarten age and over, with a maximum of ten children including the provider's children).
 - b) Group Day Care Home is a facility licensed to care for a maximum of 12 children less than 14 years of age.
 - c) Registered Family Day Care Home is a licensed facility giving regular care for less than 24 hours per day to six or fewer children away from the child's home. The total must include the family's own children under the age of 16, and may not include more than three children less than 18 months of age (including the family's own children in this age group).
 - d) Child Care Center/Preschool is a licensed facility in which care and educational activities are provided for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day (including day time, evening, and night time care), or which provides before and after school care for school aged children. A facility may not have fewer than 13 children and be licensed as a center if the program and building meet childcare center regulations. For facility regulations see KSA 1982 Supp. 72-1107(c).
62. Clinic: A building, the principal use of which is for offices of health professionals, which contains facilities for the examination and treatment of patients but not for their lodging.
63. Club: An organization catering exclusively to members and their guests, or premises and buildings for social, recreational, or athletic purposes which are not conducted primarily for gain; provided that any vending stands, merchandising, or commercial activities are conducted only as required generally for the membership of such club.
64. Clustering: The grouping of structures, courts, cul-de-sacs, or short streets--more closely than in conventional residential plans--in order to preserve natural site amenities and open space.
65. Collector Street: A road that collects traffic from local streets and serves as the most direct route to an arterial street.
66. Common Open Space: Land within or related to development, not individually owned or dedicated for public use, that is designed and

intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary structures and improvements as are necessary and appropriate. Common open spaces do not include streets, alleys, off-street parking or loading areas or other facilities dedicated by the developer.

67. Common Entrance: Any access facility that provides passageway from the outside to a group of apartments in a garden apartment building or apartment house.
68. Compatible Use: Any property, use, or service, which is capable of direct association with certain other uses because it is complementary, congruous, or otherwise not detrimental.
69. Conditional Use: A use that, owing to some special characteristics attendant to its operation or installation is permitted in a district subject to approval by the Planning Commission and subject to special requirements, different from those usual requirements for the district in which the conditional use may be located.
70. Conforming Building or Structure: A "conforming building" or "conforming structure" is any building or structure which complies with all the regulations of the UDC.
71. Congregate Housing. Low-rent housing connected with which there is a central dining facility to provide wholesome and economical meals to the low-rent housing occupants. (See 42 USC 8002 for federal law setting forth other definitions affecting congregate housing.)
72. Conservation Easement: An easement granting a right of interest in real property that is appropriate to retaining land or water areas in their natural state.
73. Contiguous: See "Adjacent".
74. Curb Level: The level of the established curb in the front of a building or other structure measured at the center of such front. Where no curb elevation has been established, the mean elevation of the center line of the street fronting the lot shall be considered the curb level.
75. Density, Gross: The numerical value obtained by dividing the total number of dwelling units in a development by the gross area of the tract of land (in acres) within a development. This would include all non-residential land uses and private streets of the development, as well as rights-of-way of dedicated streets; the result being the number of dwelling units per gross acre of land.
76. Density, Net: The numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in acres) upon which the dwelling units are proposed to be located and including common open space and associated recreational facilities within the area; the result being the number of dwelling units per net residential acre of land. Net density calculations exclude rights-of-way of publicly dedicated streets and private streets.

77. Detention Basin: A facility for the temporary storage of storm water runoff and the release of it gradually into a watercourse or storm water facility.
78. District: A portion of the territory of the City St. Marys where certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this Ordinance.
79. Drainage Facility: Any ditch, gutter, pipe, culvert storm sewer, or other structure designed, intended, or constructed for the purpose of diverting surface waters from, or carrying surface waters off streets, public rights-of-way, parks, recreational areas, or any part of any subdivision or contiguous land areas.
80. Drive-in and/or Take-out Establishment: A place of business operated for the retail sale and purchase of food and other goods, services, or entertainment, which is laid out and equipped so as to allow its patrons to be served or accommodated while remaining in their motor vehicles, or which allows the consumption of food or beverages in motor vehicles on the premises or elsewhere on the premise, but outside any completely enclosed structures. If, in addition to the consumption of any food or beverages in motor vehicles or elsewhere on the premises outside any completely enclosed structure, an establishment also allows for the consumption of such products within a completely enclosed structure, it shall be considered a drive-in, drive-thru and/or take-out establishment.
81. Driveway: A pathway for motor vehicles with access from a street to a parcel of land or a structure.
82. Dwelling: A building, or portion thereof designed or used exclusively for human habitation.
83. Dwelling, Multiple-Family: A building designed exclusively for human habitation containing three (3) or more dwelling units.
84. Dwelling, Single-Family: A building designed exclusively for human habitation containing one (1) dwelling unit and intended for occupancy by one (1) family.
85. Dwelling, Townhouse: A building designed exclusively for human habitation containing two (2) or more dwelling units where each dwelling unit is attached to another dwelling unit by a vertical wall, with each dwelling unit having an individual entrance, not accessible from the entrance of any other dwelling unit and not overlapping any part of another dwelling unit.
86. Dwelling, Two-Family: A building designed exclusively for human habitation containing two (2) dwelling units.
87. Dwelling Unit: One (1) or more rooms, including individualized bathroom or kitchen facilities, which are arranged, designed, or used as living quarters for one (1) family or household.

88. Easement: A limited service or right-of-way of use granted in private land for public or quasi-public purpose; authorization by a property owner of any designated part of his/her property for use by another for a specified purpose.
89. Educational Institutions: Any public, parochial, private or charitable, or non-profit school, junior college, or university, other than trade or business schools, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants, and other incidental facilities for students, teachers and employees.
90. Efficiency Unit: A dwelling unit consisting of one (1) principal room exclusive of bathroom, kitchen, hallway, closets, or dining alcove directly off the principal room.
91. Establishment, Business: Any place of business carrying on operations, the ownership and management of which are separate and distinct from those of any other place of business located on the same zoning lot.
92. Factory Built Home: The term factory-built home means a mobile home, manufactured home or modular home. (See KSA 58-4202 (d) and UDC Sections 2.134, Manufactured Home; 2.135, Mobile Home and 2.136, Modular Home).
93. Family: A "family" consists of one (1) or more persons each related to the other by blood, marriage, or adoption (including foster children), together with such relatives of the respective spouses who are living with the family in a single dwelling and maintaining a common household.
94. Farm: Land being utilized for agricultural purposes.
95. Fence: A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and constructed of wood, plastic, metal, wire mesh, stone, masonry or other similar material and used as a barrier of some sort.
96. Frontage: The length of all the property fronting on one (1) side of a street between the two (2) nearest intersecting streets, measured along the line of the street, or if dead ended, then all of the property abutting on one (1) side between an intersecting street and the dead end of the street.
97. Garage, Private: A detached accessory building or portion of a principal building, designed, arranged, used or intended to be used for the storage of motor vehicles owned and operated exclusively by the occupants of the premises and their guests.
98. Glare: The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
99. Grade: The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

100. Grading: The reshaping of natural land contours, using natural land materials such as soil, gravel, sand, etc., for the purpose of eliminating erosion or sedimentation problems, creating or improving surface drainage, providing for the natural aesthetic contouring of property, or to accommodate a building plan by making minor changes in land elevation.
101. Group Home: Any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, while dwelling is licensed by a regulatory agency of this state. (See KSA 12-736 for state law governing the operation of group homes.)
102. Halfway House: An establishment providing accommodations, rehabilitation, counseling, and supervision to persons suffering from alcohol, drug addiction, or similar disorders or to persons re-entering society after being released from a correctional facility or other institution.
103. Height of Structure: The "height of a structure," other than that of buildings (for height of buildings see Building Height), is the vertical distance from the ground level measured at a ninety (90) degree angle from the highest point of said structure.
104. Home Occupation: Any occupation or profession conducted within a dwelling unit, which complies with all the regulations of the UDC.
105. Hospice: A medical facility, either in a commercial or residential building, for the care of terminally ill people, including accommodations for their families.
106. Hospital: A "hospital or sanitarium" is an institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care of three (3) or more non-related individuals suffering from illness, disease, injury, deformity, or other abnormal physical or mental conditions.
107. Hotel: An establishment which provides lodging for transient guests in return for monetary reward and which provides customary hotel services, such as maid service, the furnishing and laundering of linen, telephone and desk service, the use and upkeep of furniture.
108. Incompatible Use: A use or service, which is incapable of direct association with certain other uses because it is contradictory, incongruous, or discordant.
109. Inoperable Vehicle or Equipment: A motorized vehicle or a machine, which is not in a condition to be operated in the normal or customary manner.
110. Industrial Park: A special or exclusive type of planned industrial area designed and equipped to accommodate a variety of industries,

- providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.
111. Junk Vehicle: An automobile, truck, or other motor vehicle which has been damaged to such an extent that it cannot be operated under its own power and will require major repairs before being made usable or such a vehicle which does not comply with State, County or City laws or ordinances.
 112. Junk or Scrap Yard\Salvage Yard: An open area where junk, waste, scrap, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles. "Junk yard" includes automobile wrecking or salvage yards, house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking and structural steel materials and equipment, but does not include uses established entirely within enclosed buildings.
 113. Kennel: A licensed or unlicensed commercial or non-profit facility where dogs or other domesticated animals commonly kept as pets (primarily cats and dogs) are boarded, bred, maintained for humane reasons, made available for adoption, or sold. A residence or a farm is not classified as a kennel when household pets are sometimes bred and given away or sold. This definition does not include small accessory use structures providing shelter to household or farm pets.
 114. Landfill, Dump: A disposal site in which the method of disposing of solid waste is by landfill, dump or pit and which has a solid waste disposal area permit issued under K.S.A. 65-3401 et seq., and amendments thereto.
 115. Landscaping: The improvement of the appearance of an area by the planting of trees, grass, shrubs, or other plant materials, or by the alteration of the contours of the ground.
 116. Livestock Sales Yard: An enclosure or structure designed or used for the purpose of holding livestock for sale or transfer by auction, consignment, or other means.
 117. Lot: A single parcel of land under unified ownership or control. A lot can be either a lot of record or a zoning lot.
 118. Lot Area, Gross: The area of a horizontal plane bound by the front, side and rear lot lines.
 119. Lot, Buildable Area: The space remaining on a zoning lot after the minimum open space requirements of this Code have been complied with.
 120. Lot Corner: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty-five (135) degrees. On a "corner lot", the front lot line shall be the lot line having the shorter dimension along the street line.

121. Lot Coverage: That portion of the lot that is covered by the ground floor of any covered or enclosed structure.
122. Lot Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.
123. Lot, Interior: A lot other than a corner or reversed corner lot.
124. Lot Line: A property boundary line of any lot. When a lot extends to an abutting street or alley, the lot line shall be the closest street or alley line.
125. Lot, Flag: A lot having access to a public street by means of a private driveway, access easement, or other private means.
126. Lot Line, Front: The surveyed boundary of a lot along the right-of-way of an existing or dedicated or public street or where no public street exists, along a public way. Where such public way is not a dedicated street, the right-of-way of such public way shall be deemed to be sixty (60) feet in width unless otherwise provided.
127. Lot Line, Rear: That boundary of a lot, which is most distant from, and is, or is most nearly, parallel to, the front lot line.
128. Lot Line, Side: Any boundary of a lot, which is not, a front lot line or a rear lot line.
129. Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the Office of the Pottawatomie County Register of Deeds; or a parcel of land which was lawfully recorded prior to the adoption and enactment of this Comprehensive Amendment to the City of St. Marys Zoning Ordinance.
130. Lot, Reversed Corner: A corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.
131. Lot, Through: A lot having a pair of opposite lot lines along two (2) more or less parallel public streets and which is not a corner lot.
132. Lot Width: The horizontal distance between the side lot lines of a lot measured within the lot boundary at the building setback line.
133. Marquee or Canopy: A roof-like structure of a permanent nature, which projects from the wall of a building.
134. Manufactured Home: The term manufactured home means a structure which:
 - a) Is transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

- b) Is subject to the federal manufactured home construction and safety standard established pursuant to 42 U.S.C. 5403. (See KSA 58-4202(a).
135. Mobile Home: The term mobile home means a structure which:
- a) Is transportable in one or more sections, which in the traveling mode is 8 body feet or more in width and 36 body feet or more in length, and is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; and
 - b) Is not subject to the federal manufactured home construction and safety standard established pursuant to 42 U.S.C. 5403. (See KSA 58-4202(a).
136. Modular home. The term modular home means a structure which is:
- a) Transportable in one or more sections,
 - b) Not constructed on a permanent chassis,
 - c) Designed to be used as a dwelling on a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein; and
 - d) Certified by its manufacturer as being constructed in accordance with a nationally recognized building code. (See KSA 58-58-4202(c).
137. Residential Design Manufactured Home: The term residential-design manufactured home means a manufactured home on permanent foundation which has:
- a) Minimum dimensions of 22 body feet in width.
 - b) A pitched roof.
 - c) Siding and roofing materials, which are customarily used on site-built homes. (See KSA 12-742 (a) (7) and UDC Section 2.103 Definitions)
138. Mobile or Manufactured Home Park: An area of land or lands upon which three (3) or more independent mobile homes are harbored either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle, or enclosure used or intended for use as a part of the equipment of such mobile home park. A mobile home park shall not include a sales lot or unoccupied mobile homes for the purpose of inspection and sale.
139. Motel: An establishment which provides lodging for transient guests, in return for monetary reward and which provides customary hotel services such as maid service, the furnishing and laundering of linen, telephone and desk service, the use and upkeep of furniture and bellboy service. A typical motel consists of a number of bedrooms

- united under one (1) roof, but having individual entrances and with adequate parking available nearby.
140. Motor Freight Terminal: A building or area in which freight brought by motor truck is assembled and/or stored for routing in shipment by motor truck.
 141. Motor Vehicle: Any passenger vehicle, motorcycle, recreational vehicle, truck, truck-trailer, or semi-trailer propelled or drawn by mechanical power.
 142. Non-Conforming Building or Structure: Any building or structure and the use thereof or the use of land that does not conform with the regulations of this ordinance or any amendment hereto governing use in the district in which it is located.
 143. Non-Conforming Use: Any use of land, buildings, or structures which use is not permitted in the zoning district in which such use is located.
 144. Occupancy: The period during which one owns, rents, leases, uses, or occupies a certain premises or land.
 145. Occupant: A person who, on a regular basis, spends nights at a residence. A person is considered an occupant regardless of whether they spend the majority of their nights at a residence, if the times they do stay overnight are regular and recurrent. In addition, a person shall be considered an occupant if their clothes or other daily living supplies are maintained at the residence.
 146. Open Space: That portion of land and/or water not devoted to buildings or other structures, parking or loading areas, driveways, or any principal or accessory use.
 147. Outdoor Storage: The keeping, in other than a building, of goods, materials, or merchandise kept on the same parcel outside of the building for more than twenty-four consecutive hours.
 148. Overlay District: A district established by this ordinance to prescribe special regulations to be applied to a site in combination with the underlying or base district.
 149. Parking Facility: A site for surface parking or a parking structure unrelated to a specific use which provides one or more parking spaces together with driveways, aisles, turning and maneuvering areas, incorporated landscaped areas, and similar features meeting the requirements established by this ordinance. This use type shall not include parking facilities accessory to a permitted principal use.
 150. Parking Lot Area: The square foot area of the parking spaces, aisles and interior parking lot islands, excluding access drives that do not have parking spaces within them.
 151. Permitted Use: A use which is permitted "by right" in a particular zoning district. It is contrasted with special (conditional) uses that are authorized only if certain requirements are met and after review and

- the appropriate city boards grant approval. Permitted uses are normally principal uses of land.
152. Place of Worship: A facility or institution which people regularly attend to participate in or hold religious services, meetings, other activities. A “place of worship” for the purpose of this ordinance, shall only mean a building, which has been specifically constructed or adapted to a place of assembly and not a dwelling unit.
 153. Planned Unit Development (P.U.D.): A tract of land which is developed as a unit under single ownership or unified control, which includes one (1) or more principal buildings or uses and is processed under the Planned Unit Development provisions of this Ordinance. Also, a parcel of land planned as a single unit, rather than as an aggregate of individual lots, with design flexibility from traditional regulations (such as side yards, setbacks and height limitations) or land use restrictions (such as prohibitions against mixing land uses within a development). The greater flexibility in locating buildings and in combining various land uses often makes it possible to achieve certain economics in construction, as well as the preservation of open space and the inclusion of many amenities.
 154. Planned Unit Development Plat: A drawing or map made to measurable scale upon which is presented a description and definition of the way in which the design requirements of the Planned Unit Development are to be met and intended for recording with the County Register of Deeds.
 155. Planning Commission: The Planning Commission of the City of St. Marys.
 156. Principal Building: The main building upon a lot, or the building, which houses the principal use of the premises.
 157. Principal Use: The primary use of land or structures as distinguished from a secondary or accessory use. A house is a principal use in a residential area; a garage or pool is an accessory use.
 158. Quarter-quarter. A quarter of a quarter section of land (1/16 of 640 acres or approximately 40 acres).
 159. Quarry, Sand Pit, Gravel Pit, Top Soil Stripping: A lot or parcel or tract, used for the purpose of extracting stone, sand, gravel or topsoil for sale, and exclusive of the process of grading a lot in preparation to the construction of a building for which application for a permit has been made.
 160. Recording (of a document): To officially record a document in the Office of the County Register of Deeds.
 161. Recreational Vehicle: Any unit designed primarily for living or sleeping purposes, equipped with wheels or placed upon a wheeled device for the purpose of transporting from place to place. This term shall include, but not be limited to, camping trailers, campers, tent trailers, motor

- coaches, tent campers and shall also include those wheeled devices upon which they are placed.
162. Restaurant: Any establishment whose principal business is the sale of food for consumption at tables located on the premises.
 163. Restaurant, Drive-In: An establishment primarily engaged in the preparation of food and beverages, for take-out, delivery or table service, served in disposable containers at a counter and a drive-up or drive through service facility or which offers curb service.
 164. Restaurant, Fast-Food (Carry Out): An establishment primarily engaged in the preparation of food and beverages, for either take-out, delivery or table service, served in disposable containers at a counter. This use type does not employ a drive-up or drive-through service facility, and does not offer curb service. Retention: The permanent on-site maintenance of storm water.
 165. Right-of-way, Public: An access way dedicated to public use.
 166. Right-of-way, Railroad: A strip of land with tracks and appurtenant track operational facilities.
 167. Roadside Stand Non-Permanent: A temporary, portable structure used for retail sales and/or service.
 168. Screening: Concealing from view.
 169. Senior Housing: Multiple-Family residential development, the occupation of which shall be limited to persons 62 years of age or more provided that if two or more persons occupy a single dwelling unit, at least one shall be 62 years of age or more.
 170. Setback: the shortest horizontal distance between the lot line and the outermost buildable area of the lot.
 171. Sexually Oriented Business: The definitions, words, and phrases contained in KSA 12-770, and amendments thereto, are adopted by reference and shall have the same meaning for this Unified Development Code.
 172. Sight Triangle: The triangular space formed by the street lines of a corner lot and a line drawn from a point in one street line to a point in the other street line, each such point being 15 feet from the point of intersection of the street lines (measured along the street lines). Where the two street lines do not intersect at a point, the point of intersection of the street lines shall be deemed to be the intersection of the projection of the street lines or the intersection of the tangents to the street lines.
 173. Signs, Portable or movable: Portable or movable sign. A portable or movable sign is a sign whose supporting structure is not placed in the ground or affixed to a structure or building and which requires the efforts of two or more people or mechanical equipment to move it.
 174. Site or Lot Coverage: A percentage figure indicating that portion of a site covered by principal and accessory buildings, parking area, private

- streets, access drives, etc. Normally, land not considered in the site coverage computation is classified as open space.
175. Stable, Private: A detached accessory building for the keeping of horses owned by the occupants of the premises and not kept for remuneration, hire or sale.
 176. Stables and/or Riding Academies, Commercial: The grounds and buildings where horses are bred, raised, boarded, or kept for remuneration, hire or sale.
 177. Story: That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above.
 178. Street: A public or private right-of-way, which affords a primary means of vehicular access to abutting property, but does not include alleys or driveways to buildings.
 179. Structure: Anything constructed, erected or placed, which requires location in or on the ground or is attached to something having a location on the ground.
 180. Structural Alteration: Any change, other than incidental repairs, which would prolong the life of supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders or foundations.
 181. Tent: Any structure or enclosure, the roof of which and/or one-half (1/2) or more of the sides, are constructed of silk, cotton, canvas, fabric, or a similar light material.
 182. Top Soil: The top 10 inches of soil at a particular location.
 183. Trailer: Any vehicle, house car, camp car, recreational vehicle, or any portable or mobile vehicle on wheels, jacks, horses, skids, or blocks, and with or without automotive power; which is used, adapted, or designed for living, sleeping, business, trade, occupation or storage purposes. Normally, such occupancy is on a temporary or transient basis.
 184. Trailer-Camper Parks: A residential facility designed, used, or intended to be used to accommodate the over-night or temporary location, hook-up, or use of its facilities for travel trailers, camp trailers and recreational vehicles.
 185. Use: The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained, and shall include any manner of performance of such activity with respect to the performance standards of this UDC.
 186. Variance: A device which grants a property owner relief from certain provisions of this Zoning Ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship, as distinguished from a mere inconvenience or a desire to make more

- money, or a practical hardship owing to circumstances which do not occur generally to land or buildings in the neighborhood.
187. Vested Property Right: A right that has become fixed. Vested rights are often established by showing that some development permit (road, water, sanitary sewer, or building permit) has been obtained and substantial construction started on the project. See Chapter 1 Section 1.107.
 188. Warehouse: A structure, or part thereof, or area used principally for the storage of goods and merchandise.
 189. Public Water Supply System: A system for the provision to the public of piped water for human consumption, if such system has at least 10 service connections or regularly serves an average of at least twenty five (25) individuals daily at least sixty (60) days out of the year. Such term includes any source, treatment, storage or distribution facilities under control of the operator of the system and used primarily in connection with the system, and any source, treatment, storage or distribution facilities not under such control but which are used in connection with such system.
 190. Well: An underground source of water made accessible by drilling or digging to the level of the water table.
 191. Wholesale Establishment: A business establishment principally engaged in selling to retailers or distributors rather than consumers.
 192. Wind Turbine Electrical Generator (Small): A wind turbine electrical generator that has a rated capacity of 10 KW or less, has a rotor diameter of 10 feet or less, shall not cause a sound pressure level in excess of 60 decibels, as measured at ground level anywhere on the property line of the property on which the generator is located and which is intended primarily to reduce on-site consumption of utility power.
 193. Yard: any open unoccupied space within a lot.
 194. Yard, Corner Side: A side yard which adjoins a public street.
 195. Yard, Front: An open unoccupied space between the front property line and the front setback line extending the full width of the lot.
 196. Yard, Interior Side: A side yard which is located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.
 197. Yard, Rear: an open unoccupied space between the rear lot line and the rear setback line, extending the full width of the lot.
 198. Yard, Side: an open unoccupied space between the side lot line and the side setback line, extending from the front setback line to the rear setback line.
 199. Zero-Lot Line Residence: A detached single-family dwelling unit which is built to one of the side lot lines; generally constructed within a Planned Unit Development or when clustering residential units.

200. Zoning Administrator: A person appointed by the City Manager who is vested with certain defined administrative responsibilities regarding the implementation and enforcement of this ordinance.
201. Zoning District (Zone): A section or sections of the land area incorporated within the City St. Marys and the Extra-Territorial Zone (ETZ) for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.
202. Zoning Lot: A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. The parcel or tract may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination; and shall be contiguous parcels.