

1001.02 RULES AND DEFINITIONS

Subd. 1. Rules of Word Construction. For the purposes of this Chapter, certain terms of words used herein shall be interpreted as follows:

- A. The word “person” includes an owner or representative of the owner, firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. The word “building” shall include the word “structure”, the word “lot” shall include the word “plot”, “piece”, or “parcel”.
- C. The present tense includes the future tense.
- D. The word “shall” is mandatory; the word “may” is permissive.
- E. The singular number includes the plural, and the plural the singular.
- F. All measured distances expressed in feet shall be to the nearest tenth of a foot.
- G. When calculating parking stall requirements, any fraction of a number shall constitute an additional parking space.
- H. When calculating residential density, any fraction of a number shall not constitute an additional dwelling unit.
- I. For terminology not defined in this Section, the most current Webster's dictionary shall be used to define such terms.

Subd. 2. Definitions. The following words and terms, wherever occur in this Chapter, shall be interpreted as herein defined:

Accessory Building. A subordinate building which is located on the same lot or parcel as the main building and the use of which is clearly incidental to those of the Main use.

Accessory Use. A use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main use.

Alley. Any public space or thoroughfare less than sixteen (16) feet, but not less than ten feet in width which has been dedicated or deeded to the public for public use and designed to provide secondary property access.

Allowable Use. A use which may be lawfully established in a particular district provided it conforms with all requirements, regulations, and performance standards of said district.

Antenna. Commercial, public, or private broadcasting towers exceeding 100% (or two times) of the district height limitations.

Apartment. A portion of a building consisting of a room or suite of rooms which is designed for, intended for, or used as a residence by a single family or an individual, and is equipped with cooking facilities. Includes dwelling unit and efficiency unit.

Apartment Building. Three (3) or more dwelling units or apartments grouped in one building, with each unit sharing a common area for ingress and egress.

Automobile Laundry (Car Wash). A building, or portion thereof, containing facilities for washing two or more automobiles, using mechanical devices.

Automobile Repair - Major. General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steam cleaning.

Automobile Repair-Minor. Installation, including cellular telephones, audio systems, and minor repairs, upholstery, replacement of parts (tires, glass, etc.) and minor motor services to passenger automobiles and trucks not exceeding twelve thousand (12,000) pounds gross weight, but not including any operation specified under "Automobile Repair-Major".

Automobile Wrecking. The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts. (See Junk Yard)

Basement. That portion of a building between floor and ceiling, which is partly below and partly above grade (as defined in this section).

Buffer. The use of land, topography, difference in elevation, space, fences or landscape plantings to screen or partially screen a use or property from the vision of another use or property.

Buildable Area. The space remaining on a lot after the minimum setback and open space requirements of this Chapter have been met and excluding easements.

Building. Any structure having a roof and built for the support, shelter or enclosure of persons, animals, chattel or movable property of any kind, and includes any structure.

Building Height. The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the

average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building:

- a. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above lowest grade.
- b. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in Item a above is more than ten (10) feet above lowest grade.

The height of a stepped or terraced building is the maximum height of any segment of the building.

Building Line. An imaginary line separating buildable area and required yards.

Building Line Setback. The minimum horizontal distance between the building and the lot line.

Cellar. That portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

Cemetery. A site or property set apart for the burial or interment of the dead.

Church. A building wherein people regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

Comprehensive Plan. A comprehensive plan prepared and approved by the City, including a compilation of policy statements, goals, standards, fiscal guidelines, and maps indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the City, including any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Concept Plan. A report in map and text form submitted as the first phase of a Planned Unit Development (PUD) proposal, depicting the location, general purpose, general type of land use and circulation patterns, primary relationships between site elements and between the proposed development and surrounding development, proposed general schedule of development, and information on the developer.

Condominium. A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes, Section 515.A.1-101 to 515.A.4-115.

Day Care Facility. Any facility licensed by the State Department of Public Welfare, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than twenty-four (24) hours per day, in a place other than the person's own home. Day care facilities include but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, day-time activity centers, day treatment programs and day services, as defined by Minnesota State Statutes, Section 245.782.5.

Density, Residential. A number expressing the relationship of the number of dwellings to an acre of land as established in the Comprehensive Plan.

District. Sections of the City for which the regulations governing the height, area, use of building and premises are the same.

Dog Kennel. Any premises where three or more dogs, over six months of age, are owned, boarded, bred, or offered for sale.

Dwelling. A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple family dwellings, but not including hotels, motels, boarding houses, or manufactured housing.

Dwelling, Multiple (Apartment). A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits. A two-family dwelling (duplex) with a separate rooming unit(s) shall be considered and classified as a multiple family dwelling.

Dwelling, Single-Family. A dwelling unit designed exclusively for occupancy by one (1) family.

- a. Attached: A dwelling which is joined to another at one or more sides by a party wall.
- b. Detached: A dwelling unit not attached to another dwelling or structure or is entirely surrounding by open space.

Dwelling, Two-Family. A residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each. A two-family dwelling (duplex) with a separate rooming unit(s) shall be considered and classified as a multi-family dwelling.

- a. Double Bungalow: A two-family dwelling with two (2) units side-by-side.
- b. Duplex: A two-family dwelling unit with one (1) unit above the other.

Dwelling Site. A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Dwelling Unit. A residential building or portion thereof intended for occupancy by one (1) or more persons with facilities for living, sleeping, cooking and eating, but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, resorts, tourist homes, or trailers.

Dwelling Unit Occupancy. Occupancy of a dwelling unit for the purpose of enforcing provisions of this Chapter shall be limited by restrictions as included in the definition of family in this Section.

Dwelling Unit, Temporary. A residence allowed for a specific time which is intended for occupancy by one (1) or more persons with facilities for living, sleeping, cooking and eating. Temporary dwelling units shall not include garages, tents, or accessory buildings.

Essential Services. Overhead or underground electrical, gas, steam or water transmission or distribution systems, collection, communication, supply or disposal systems used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety, or general welfare, including towers, poles, wires, substations, mains, drains, sewers, pipes, conduits, cables, reservoirs, wells, elevated tanks, fire alarm boxes, police call boxes, and other similar equipment and accessories in connection therewith, but not including buildings, except those buildings that are an integral part of the essential service.

Family. An individual or two (2) or more persons related by blood, marriage, adoption or a group of not more than five (5) persons who need not be related by blood or marriage living together in a dwelling unit.

Fence. Any partition, structure, wall, or gate erected as a dividing marker, barrier, or enclosure and located along the boundary or within the required lot area.

Flood Related.

- a. **Accessory Use or Structure.** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- b. **Basement.** Any area of a structure, including crawl spaces, having its floor or base sub-grade (belowground level) on all four sides, regardless of the depth of excavation below ground level.
- c. **Conditional Use.** A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon finding that: (1) Certain conditions as detailed in the

Zoning Ordinance exist and (2) the structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

- d. Equal Degree of Encroachment. A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.
- e. Flood. A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.
- f. Flood Frequency. The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.
- g. Flood Fringe. That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the City.
- h. Flood Plain. The beds proper and the areas adjoining a wetland, watercourse or lake which have been or hereafter maybe covered by the regional flood.
- i. Flood-Proofing. A combination of structural provisions, adjustments or changes to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
- j. Floodway. The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.
- k. Obstruction. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
- l. Principal Use or Structure. Means all uses or structures that are not accessory uses or structures.
- m. Reach. A hydraulic engineering term to describe a longitudinal segment of a stream or river influence by a natural or man-made obstruction. In an urban area, the segment or a stream or river between two consecutive bridge crossings would most typically constitute a reach.
- n. Regional Flood. A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be

expected to occur on an average frequency in the magnitude of the 100 year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study.

- o. Regulatory Flood Protection Elevation. A point not less than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.
- p. Structure. Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Section 1001.23 and other similar items.
- q. Variance. A modification of a specific permitted development standard required in an official control including this ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective planning and zoning enabling legislation.

Floor Area, Gross. The sum of the gross horizontal areas of all floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The floor area of a residence shall not include the cellar area.

Garage, Private (Residential). An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles and non-commercial trucks not exceeding twelve thousand (12,000) pounds gross weight, of the family or families resident upon the premises, and in which no business service or industry is carried on unless specifically authorized by this Chapter.

Garage, Public. Any garage other than a private garage. May also mean parking ramp.

Gas Station. See Motor Fuel Station.

Governing Body. The Rockford City Council.

Grade (Adjacent Ground Elevation). The lowest point of elevation of the finished surface of the ground between the exterior wall of a building and a point five feet distant from said wall, or the lowest point of elevation of the finished surface of the ground between the exterior wall of a building and the property line if it is less than five feet of a

public sidewalk, alley, or other public way, the grade shall be the elevation of the sidewalk, alley, or public way.

Group Home. A dwelling principally for boarding; a temporary residence of more than one family combined as one household.

Home Occupation. Any occupation or profession of a service character which is secondary to the main use of the premises and which may generate additional traffic, parking, dust, noise, disturbance, odor, light, risk/safety, excessive use of resources (such as water, etc.); which alters or changes the character of the single family dwelling unit in any manner; exhibits any exterior evidence of the home occupation or any home occupation in which customers or delivery persons in excess call at the single family dwelling.

Hotel (Motel). Any building or portion thereof where lodging is offered to transient guests for compensation and in which there are more than three sleeping rooms, with no cooking facilities in an individual room or apartment.

³¹ **Impervious Surface.** A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops and asphalt, concrete, paver stone and gravel surfaces including sidewalks, patios, storage areas and driveways.

Junk Yard. An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled; including but not limited to, scrap iron and other materials, paper rags, rubber, tires, lumber, and bottles. A junk yard includes an auto wrecking yard, but does not include uses established entirely within closed buildings nor sanitary land fills.

Land Alteration. The movement of soils by way of grading, filling or excavation.

Land Reclamation. The process of the re-establishment of acceptable topography (i.e. slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

Landscaping. Plantings such as trees, flowers, grass and shrubs and improvements directly related thereto.

Loading Space. A space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street, alley or other appropriate means of access.

Lot. A parcel or portion of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open

spaces as are herein required. Such lot shall have frontage on an improved public street.

Lot Area. The total land area within the lot lines.

Lot, Base. Lots meeting all specifications in the zoning district prior to being subdivided into a two-family dwelling, townhome, or quadraminium unit lot subdivision.

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.

Lot Depth. The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot lines in the rear.

Lot, Double Frontage. An interior lot having frontage on two (2) streets.

Lot, Front. The front of a lot shall be considered to be that boundary abutting a public right-of-way having the least width.

Lot Improvement. Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

Lot, Interior. A lot, other than a corner lot, including through or double frontage lots.

Lot Lines. The lot boundary limits. When a lot line abuts a street, park or other public property, except an alley, such line shall be known as a street line and when a lot abuts an alley, it shall be known as an alley line.

Lot Line, Rear. That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

Lot Line, Side. Any boundary of a lot which is not a front lot line or a rear lot line.

Lot of Record. Any lot which is legally established according to applicable regulations at the time of its creation, which is one unit of a plat heretofore duly approved and filed, or one unit of an auditor's outlot or a registered land survey, or a parcel of land not so platted, subdivided or registered but for which a deed, auditor's subdivision or registered land survey has been recorded in the Office of the Register of Deeds prior to September 26, 1983.

Lot, Substandard. A lot or parcel of land for which a deed has been recorded in the office of the Wright County Recorder upon or prior to the effective date of this Chapter

which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Chapter.

Lot, Through. A lot fronting on two parallel streets.

Lot, Unit. Lots created from the subdivisions of a base lot for two-family dwelling, townhome, or quadraminium dwelling having different minimum lot size requirements than the conventional base lots within the zoning district.

Lots Width. The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum building setback line. If no setback line is established, the distance between the side lot lines measured along the public right-of-way.

Manufactured Home (Mobile Home). A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Manufactured Home Lot. A section of ground in a manufactured home park not less than 5,200 square feet, designated as the location of one housing unit, and all other necessary improvements required by this Section.

Manufactured Home Park. Any park, court, lot, parcel or tract of land, designed, improved, maintained or intended for the purpose of supplying a location for manufactured home units or upon which any manufactured homes are parked. It shall include all buildings used or intended for use as part of the equipment thereof, whether a charge is made for the use of the manufactured home park or not.

Mining. The extraction of sand, gravel, or other material from the land in the amount of fifty cubic yards or more and removal from the site.

Municipal Water and Sewer Systems. Utility systems serving a group of buildings, lots, or an area of the city, with the design and construction of such utility systems as approved by the City Engineer.

Natural Resource Analysis. A report in map and text form identifying the existing natural features of a parcel of land and the relationship of a proposed use to the existing natural conditions of the parcel.

Non-Conforming Structure, Use or Lot - Illegal. A lot, building, structure, premise, or use unlawfully established and in violation of regulations applicable at the time of development or initiation.

Non-Conforming Structure, Use or Lot - Legal. A lot, building, structure, premise, or use lawfully established prior to the adoption of this Chapter or any amendment thereto which does not now conform with the applicable conditions or provisions of this Chapter for the district in which the structure or use is located.

Nursery School. A non-residential facility exclusively providing activities of an educational or enriching nature for six or more children of up to the age of six and licensed by the State of Minnesota.

Nursing Home. A private building with facilities for the care of children, the aged, or the infirm, or a place of rest for those suffering bodily disorders, but not containing equipment for surgical care or for treatment of disease or injury. The nursing home shall be licensed by the State Board of Health as provided for in Minnesota State Statutes.

Occupancy. The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

Open Space. Any open area not covered by structures, but not limited to the following uses: required or established yard areas, parking areas, sidewalks, school walks, trails, recreation areas, water bodies, shorelands, watercourses, wetlands, groundwater recharge areas, floodplain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitation for development.

Parcel. An individual lot or tract of land.

Performance Standard. Criterion established for setbacks, fencing, landscaping, screening, drainage, accessory buildings, outside storage and to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat or other nuisance elements generated by or inherent in uses of land or buildings.

Person. A natural person, his heirs, executors, administrators, or assigns, and also includes a firm, partnership, or corporation, its or their successors or assigns, or the agent of any of the aforementioned.

¹⁴ **Planned Unit Development.** A zoning district that allows a mixing of buildings and uses can occur which cannot be otherwise addressed under this section and/or whereby internal site design standard deviations from this section may be allowed to improve site design and operation.

Prefabricated Home. A non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to a foundation on the site.

Railroad Right-of-Way. A strip of land with railway tracks and auxiliary facilities for track operation.

Recreational Vehicle. Includes manufactured homes less than thirty-five (35) feet in overall length, including those with telescope or fold down, chassis, mounted campers, house cars, motor homes, tent trailers, slip-in-campers (those mounted in a pickup truck or similar vehicle), converted buses, and converted vans used primarily for recreational purposes. Cars used for racing shall not be included within this definition.

Restaurant (Class I) Traditional Restaurant. Food is served to a customer and consumed by him/her while seated at a counter or table. Cafeteria – Food is selected by a customer while going through a line and taken to a table or counter for consumption.

Restaurant (Class II) Fast Food Restaurant. A majority of customers order and are served their food at a counter and take it to a table or counter where it is consumed. However, a significant number may take the food outside to eat in an automobile or off the premises. Drive-In Restaurant – Most customers consume their food in an automobile, regardless of how it is served. Carry Out and Delivery Restaurant – Food is prepared for consumption off the premises only.

School. A building used for the purpose of elementary or secondary education, which meets all the requirements of compulsory education laws of the State of Minnesota, and not providing residential accommodations.

Secondary Use. A use which ordinarily is not essentially a permitted or conditional use within the district; which is within a building containing an allowable use, which is intended primarily for an allowable use, which is intended primarily for the use, convenience, and benefit of the principal use of persons residing, employed, or somehow engaged in activities of the principal use.

Semi-Public Use. Uses owned by private or private non-profit organizations which are open to some, but not all of the public, such as denominational cemeteries, private schools, clubs, lodges, recreational facilities, churches, etc.

Sexually Oriented Uses. Sexually oriented uses include sexually oriented bookstores, sexually oriented motion picture theaters, sexually oriented motion picture sales/rentals, sexually oriented mini-motion picture theaters, sexually oriented massage parlors, sexually oriented steam room/bathhouse/sauna facilities, sexually oriented companionship establishments, sexually oriented rap/conversation parlors, sexually oriented health/sport clubs, sexually oriented cabarets, sexually oriented novelty businesses, sexually oriented motion picture arcades, sexually oriented modeling studios, sexually oriented hotels/motels, sexually oriented body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas"

which are capable of being seen by members of the public. Activities classified as obscene as defined by Minnesota Statutes §617.241, as may be amended, are not included.

A. Specified Anatomical Areas.

1. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

B. Specified Sexual Activities.

1. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or
2. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or
3. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or
4. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or
5. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons; or
6. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
7. Human excretion, urination, menstruation, vaginal or anal irrigation.

C. Sexually Oriented Uses - Accessory. The offering of retail goods for sale which are classified as Sexually oriented uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of Sexually-oriented

magazines, the sale and/or rental of Sexually-oriented motion pictures, the sale of Sexually-oriented novelties, and the like.

D. Sexually Oriented Uses - Principal. The offering of goods and/or services which are classified as Sexually oriented uses as a primary or sole activity of a business or establishment and include but are not limited to the following:

1. Sexually Oriented Use - Body Painting Studio. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".
2. Sexually Oriented Use - Bookstore. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas".
3. Sexually Oriented Use - Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".
4. Sexually Oriented Use - Companionship Establishment. A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
5. Sexually Oriented Use - Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
6. Sexually Oriented Use - Escort Service. A business that provides one or more persons to accompany a customer to places and/or activities that occur off-premises of the escort service operation, if such service is

distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.

7. Sexually Oriented Use - Health/Sport Club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
8. Sexually Oriented Use - Hotel or Motel. Sexually oriented hotel or motel means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or “specified anatomical areas”.
9. Sexually Oriented Use - Massage Parlor. Health Club. A massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”.
10. Sexually Oriented Use – Mini-Motion Picture Theater. A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas” for observation by patrons therein.
11. Sexually Oriented Use - Modeling Studio. An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or display “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.
12. Sexual Oriented Use - Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing “specified sexual activities” or “specified anatomical areas”.

13. Sexually Oriented Use - Motion Picture Theater. A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
14. Sexually Oriented Use - Novelty Business. A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.
15. Sexually Oriented Use - Sauna. A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

⁵ **Sexually Oriented Use - Steam Room/Bathhouse Facility.** A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

²⁷ **Shoreland Related:**

Building line. A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

Bluff. A topographic feature such as a hill, cliff, or embankment having all of the following characteristics. An area with an average slope of less than 18 percent over a distance for fifty (50) feet or more shall not be considered part of the bluff:

- a. Part of all of the feature is located in a shoreland area.
- b. The slope rises at least twenty-five (25) feet above the ordinary high water level of the water body.
- c. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater.
- d. The slope must drain toward the water body.

Drainage. The removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply and the prevention or alleviation of flooding.

Drainageway. Any natural or artificial watercourse, trench, ditch, swale or similar depression into which surface water flows.

Easement. A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Impervious Surface. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, storage areas, and concrete, asphalt or gravel driveways.

Shoreland. Land located within the following distances from public waters: one thousand (1000) feet from the ordinary high water level of a lake, pond or flowage and three hundred (300) feet from a river or stream or the landward extent of a floodplain down a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of Natural Resources.

Shoreland Impact Zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the structure setback.

Watercourse. Any natural or man-made passageway on the surface of the earth so situated and having such a topographical nature that surface water stands or flows through it from other areas. The term includes ponding areas, drainage channels, swales, waterways, creeks, rivers, lakes, streams, wetland areas, and any other open surface water flow which is the result of storm water or ground water discharge. This term does not include man-made piping systems commonly referred to as storm sewers.

Sign Related:

²⁸ **Abandoned Sign.** Any sign and/or its supporting sign structure which remains without a message or whose display surface remains blank for a period of one (1) year or more, or any sign which pertains to a time, event or purpose which no longer applies, shall be deemed to have been abandoned. Signs applicable to a business temporarily suspended because of a change in ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of one (1) year or more. Any sign remaining

after demolition of a principal structure shall be deemed to be abandoned. Signs which are present because of being legally established nonconforming signs or signs which have required a conditional use permit or a variance shall also be subject to the definition of abandoned sign.

²⁸ **Awning.** A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, walk, or the like. Any part of an awning which also projects over a door shall be counted as an awning.

²⁸ **Awning Sign.** A building sign or graphic printed on or in some fashion attached directly to the awning material.

²⁸ **Balloon Sign.** A sign consisting of a bag made of lightweight material supported by helium, hot, or pressurized air which is greater than twenty-four (24) inches in diameter.

²⁸ **Building Sign.** Any sign attached or supported by any building.

²⁸ **Canopy.** A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway.

²⁸ **Canopy Sign.** Any sign that is part of or attached to a canopy, made of fabric, plastic, or structural protective cover over a door or entrance. A canopy sign is not a marquee and is different from service area canopy signs.

²⁸ **Changeable Copy Sign.** A sign or portion thereof with characters, letters, or illustrations that can be changed or rearranged without altering the face or the surface of the sign. Changeable copy signs do not include signs upon which characters, letters, or illustrations change or rearrange only once in a 24-hour period.

²⁸ **Commercial Speech.** Speech advertising a business, profession, commodity, service or entertainment.

²⁸ **Elevation.** The view of the side, front, or rear of a given structure(s).

²⁸ **Elevation Area.** The area of all walls that face any lot line.

²⁹ **Erect.** Activity of constructing, building, raising, assembling, placing, affixing, attaching, creating, painting, drawing or any other way of bringing into being or establishing.

²⁸ **Flag.** Any fabric or similar lightweight material attached at one end of the material, usually to a staff or pole, so as to allow movement of the material by

atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia, or other symbolic devices.

²⁸ **Flashing Sign.** A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling.

²⁸ **Freestanding Sign.** Any sign which has supporting framework that is placed on, or anchored in, the ground and which is independent from any building or other structure.

²⁸ **Grade.** Grade shall be construed to be the final ground elevation after construction. Earth mounding criteria for landscaping and screening is not part of the final grade for sign height computation.

²⁸ **Ground Sign.** Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and which has a total height not exceeding eight (8) feet.

²⁸ **Height of Sign.** The height of the sign shall be computed as the vertical distance measured from the base of the sign at grade to the top of the highest attached component of the sign.

²⁸ **Illuminated Sign.** Any sign which contains an element designed to emanate artificial light internally or externally.

²⁸ **Marquee.** Any permanent roof-like structure projecting beyond a theater building or extending along and projecting beyond the wall of that building, generally designed and constructed to provide protection from the weather.

²⁸ **Marquee Sign.** Any building sign painted, mounted, constructed or attached in any manner, on a marquee.

²⁸ **Non-Commercial Speech.** Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

²⁸ **Off-Premises Sign.** A commercial speech sign which directs the attention of the public to a business, activity conducted, or product sold or offered at a location not on the same lot where such sign is located. For purposes of this sign ordinance, easements and other appurtenances shall be considered to be outside such lot and any sign located or proposed to be located in an easement or other appurtenance shall be considered an off-premises sign.

²⁸ **Owner.** In the case of a lot, the legal owner of the lot as officially recorded by the applicable county, and including fee owners, contract for deed purchasers and ground lessees. In the case of a sign, the owner of the sign including any lessees.

²⁸ **Pole Sign.** See Pylon Sign.

²⁸ **Portable Sign.** Any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support is converted to another sign or attached temporarily or permanently to the ground since this characteristic is based on the design of such a sign.

²⁸ **Projecting Sign.** Any sign which is affixed to a building or wall in such a manner that its leading edge extends more than two (2) feet beyond the surface of such building or wall face.

²⁸ **Public Notices.** Official notices posted by public officers, employees or their agents in the performance of their duties, or as directed by such officers, employees or agents.

²⁸ **Public Street Right-of-Way.** The entire right-of-way of any public street.

²⁸ **Pylon Sign.** Any freestanding sign which has its supportive structure(s) anchored in the ground and which has a sign face elevated above ground level by pole(s) or beam(s) and with the area below the sign face open.

²⁸ **Residential District.** Any district zoned for residential uses.

²⁸ **Roof.** The exterior surface and its supporting structure on the top of a building or structure. The structural make-up of which conforms to the roof structures, roof construction and roof covering sections of the International Building Code.

²⁸ **Roof Line.** The upper-most edge of the roof or in the case of an extended facade or parapet, the upper-most height of said facade.

²⁸ **Roof Sign.** Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

²⁸ **Roof Sign, Integral.** Any building sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

²⁸ **Rotating Sign.** A sign or portion of a sign which turns about on an axis.

²⁸ **Shimmering Sign.** A sign which reflects an oscillating sometimes distorted visual image.

²⁸ **Sign.** Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

²⁸ **Sign Face.** The surface of the sign upon, against, or through which the message of the sign is exhibited.

²⁸ **Sign Structure.** Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

Sign, Surface Area. The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside of the limits of such sign and not forming an integral part of the display. Only one side of a double-face or V-shaped sign structure shall be used in computing total surface area.

²⁸ **Site.** A lot or combination of contiguous lots which are intended, designated, and/or approved to function as an integrated unit.

²⁸ **Suspended Sign.** Any building sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

²⁸ **Total Site Signage.** The maximum permitted combined area of all signs allowed on a specific lot.

²⁸ **Visible.** Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

²⁸ **Wall.** Any structure which defines the exterior boundaries or courts of a building or structure and which has a slope of sixty (60) degrees or greater with the horizontal plane.

²⁸ **Wall Sign.** Any building sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

²⁸ **Window Sign.** Any building sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity,

event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

¹³ **Significant Tree.** A healthy tree measuring at least six inches (6") in diameter for deciduous trees or twelve (12) feet in height for coniferous trees.

Site Plan. A map drawn to scale depicting the development of a tract of land, including, but not limited to, the location and relationship of structures, streets, driveways, recreation areas, parking areas, utilities, landscaping, and walkways, as related to a proposed development.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, including below ground portions of earth sheltered buildings, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, or unused under floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twenty (12) feet above grade as defined herein at any point, such basement or unused under floor space shall be considered as a story.

Street. A public right-of-way for vehicular traffic, whether designated as a highway, thoroughfare, arterial, parkway, collector, through-way, road, avenue, boulevard, lane, place, drive, court or otherwise designated, which has been dedicated or deeded to the public for public use and which affords principal means of access to abutting property.

Street-Collector. Collector roadways connect neighborhoods within and between sub-regions and distribute traffic between arterials and local streets. Parking is restricted as necessary and posted speed limits typically range between 30 and 45 mph. Collector streets typically should have two driving lanes, two parking lanes, and a bicycle/pedestrian surface if necessary. Collector streets are typically spaced 0.25-1.0 miles apart. Traffic control typically involves local street stops, four-way stops, and some traffic signals. Collectors typically carry 1,000 - 15,000 vehicles per day.

Street-Local. Local streets provide direct land access within neighborhoods and other homogeneous land use areas and provide connections to collector streets. Parking is usually unrestricted, the posted speed limit is 30 mph or less, and streets are two lanes wide plus space for parking. Traffic control is most likely to involve strategies such as stop signs, cul-de-sacs, and diverters. Local streets typically carry about 1,000 vehicles or less per day. Residential streets typically carry about ten (10) trips per household per day.

Street-Minor Arterial. Minor arterials connect adjacent sub-regions and activity centers within sub-regions. Land access is usually restricted and trips are somewhat longer than on collector streets. Parking is often restricted and the posted speed limit is 35-45 mph. Width is dependent on the volume carried. Minor arterials are typically

spaced 0.5 - 2.0 miles apart. Traffic control typically includes traffic signal timing and land access spacing. Typical traffic volumes range from 5,000 to 30,000 ADT.

Street-Intermediate Arterial. Intermediate arterials function at a level between the minor arterial and major arterial categories. Intermediate arterials are not limited access facilities but serve primarily trips between rather than within sub-regions.

Street Pavement. The wearing or exposed surface of a street or roadway used by vehicular traffic.

Street-Principal (Major, Arterial). Major arterials provide a high level of mobility between sub-regions, serving medium to long distance trips. Principal arterials are grade separated or have high capacity controlled at-grade intersections. No parking is permitted, the posted speed limit is typically 40-55 mph and traffic volumes range from 10,000 to 50,000 ADT. Major arterials are typically spaced one to three miles apart.

Street Width. The shortest distance between the lines delineating the right-of-way of a street.

Structure. Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character. Among other things, structures include buildings, manufactured homes, walls, fences, swimming pools, billboards and poster panels.

Townhouses. Structure housing three (3) or more dwelling units contiguous to each other only by the sharing of one (1) common wall, such structures to be of the town or row houses type as contrasted to multiple apartment structures.

¹³ **Tree Protection.** Snow fencing or polyethylene laminar safety netting placed at the drip-line of the significant trees to be preserved. Tree protection measures shall remain in place until all grading and construction activity is terminated.

Use. The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Chapter.

Variance. A variance is a relaxation of the terms of the Zoning Ordinance where such deviation will not be contrary to the public interest and where, owing to conditions unique to the individual property under consideration and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

Yard. An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the mean horizontal distance between the lot line and main building shall be used.

Yard, Depth of. The mean horizontal distance between the line of a building and the street or alley right-of-way where one exists; otherwise, a lot line.

Yard, Front. A yard extending across any street frontage of a lot between the side lot lines and being the minimum horizontal distance between any street line and main building or any projections thereof other than the projections of the usual steps, entrance-way, unenclosed balconies, or open porch.

Yard, Rear. A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies, or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

Yard, Required. That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

Yard, Side. A yard between the principal building and the side line of the lot extending from the front lot line of the lot to the rear yard.

Yard Waste Compost Facility. A site used to compost yard waste materials, including all structures or processing equipment used to control drainage; collect and treat leachate; and storage areas for the incoming waste, the final product, and residuals resulting from the composting process.

Yard Waste Materials. Garden wastes, leaves, lawn cuttings, weeds and pruning generated by residential or commercial properties.

Zoning Administrator. The duly appointed officer charged with the administration and enforcement of this Chapter.

Zoning District. An area or areas of the City (as delineated on the Zoning Map) set aside for specific uses with specific regulations and provisions for use and development as defined by this Chapter.

Zoning District Overlay. A zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

Zoning District Underlying (Base). All zoning districts except overlay zoning districts.

Zoning Map. The map or maps incorporated into this Chapter as part thereof, designating the zoning districts.