

Section 515 - Zoning code: policy; definitions

515.01. Zoning code: title. Sections 515 to 570 are the zoning code of the city. In Sections 515 to 570 the zoning code is referred to as "this code"; the city code of ordinances is referred to as "the city code."

515.03. Intent and purpose. The purpose of this code is to:

- a) protect the public health, safety, morals, comfort, convenience and general welfare;
- b) divide the city into zones and districts restricting and regulating therein the location, construction, reconstruction, alteration and use of structures and land;
- c) promote the orderly development of the residential, business, industrial, recreational and public areas;
- d) provide for adequate light, air and convenience of access to property by regulating the use of the land and buildings and the bulk of buildings in relation to surrounding properties;
- e) limit congestion in the public right-of-way;
- f) provide for the compatibility of different land uses and the most appropriate use of the land throughout the city;
- g) provide for the administration of this code;
- h) define the powers and duties of city administrative officers and bodies in the administration of this code; and
- i) identify land within the flood plain to regulate development therein to minimize erosion, pollution, flooding, loss of life and property.

515.05. Rules of construction. This code shall be interpreted in accordance with the rules of construction set forth in the city code, section 105. Terms not defined in this code have the meanings given them in the city code. Measured distance expressed in feet is to the nearest one-tenth of a foot.

515.07. Definitions. Subdivision 1. For purposes of this code the terms defined in this subsection have the meanings given them.

Subd. 2. Abutting: making contact with or separated only by public-rights-of-way, railroad or other public utility or navigable water which does not exceed 120 feet in width.

Subd. 3. Addition: a physical enlargement of an existing structure.

Subd. 4. Adult-oriented business: any business as defined in Section 1165.03, Subd. 2, of the City Code. (Amended 95-762)

Subd. 5. Airport; heliport: land, water or structure which is used or intended for use, for the landing and take-off of aircraft and appurtenant land or structure used or intended for use for airport buildings or other airport structures or right-of-way.

Subd. 6. Alley: public right-of-way, which affords a secondary means of access to abutting property.

Subd. 7. Amusement devices: coin operated pinball or video and electronic games or other similar machines.

Subd. 8. Animal: means any warm blooded mammal, inclusive of, but not limited to dogs and cats, as well as any reptiles or birds of prey. For purposes of this ordinance, when the specific animal type is not described, such as dog, the term animal shall apply to all forms of animals as described herein. (Amended Ord. 89-642)

Subd. 9. Antenna: a system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves, which system is external to or attached to the exterior of any structure. (Amended Ord. 91-672)

Subd. 10. Antique shops: A place offering primarily antiques for sale. An antique for the purpose of this ordinance shall be a work or art, piece of furniture, decorative object, or the like, of or belonging to the past, at least 30 years old. (Added Ord. 2000-841)

Subd. 11. Applicant: Any person who wishes to obtain a building permit, zoning, or subdivision approval. (Added Ord. No. 96-779)

Subd. 12. Architectural concrete: A building construction material consisting of concrete that has a surface design, pattern, and texture that enhances the architectural design of the building and is available in a variety of colors. (Added Ord. 97-795)

Subd. 13. Automobile or motor vehicle reduction yard: a lot or yard where one or more unlicensed vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale of scrap, storage or abandonment.

Subd. 14. Automobile repair - major: general repair, rebuilding or reconditioning of engines, motor vehicles, trailers, including body work, frame work, welding and major painting service.

Subd. 15. Automobile repair - minor: the replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission or differential, incidental body and fender work, minor painting and upholstery service when said service above stated is applied to passenger automobiles, motor cycles, snowmobiles, small engines and trucks not exceeding 9000 pounds rated capacity.

Subd. 16. Automatic teller machine. An automated device that performs banking or financial function at a location remote from the controlling financial institution. (Added Ord. 2000-841)

Subd. 17. Automobile wash: a building or portion thereof, containing mechanical facilities for washing motor vehicles for profit.

Subd. 18. Bank: a corporation under public control, having a place of business where credits are opened by the deposit or collection of money and currency, subject to be paid or remitted upon draft, check or order, and where money is advanced, loaned on stocks, bonds, bullion, bills of exchanges, and promissory notes, and where the same are received for discount or sale; and all persons and co-partnerships, respectively, so operating, are bankers. (Added Ord. 2002-874)

Subd. 19. Basement: any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level. (Amended Ord. 90-682)

Subd. 20. Bed and Breakfast: a lodging facility operated by the resident and owner of a single-family dwelling that provides up to three guest rooms without individual kitchens that are rented on a nightly basis and in which only breakfast is included as part of the basic compensation. The bed and breakfast may also include conducting special events open to a limited number of people as specified in a conditional use permit. (Added Ord. 08-1000)

Subd. 21. Board: the board of adjustments and appeals established in section 525.

Subd. 22. Boardinghouse: a building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodging are provided for three or more persons, but not to exceed eight persons.

Subd. 23. Buffer area: a landscaped or natural area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. (Added Ord. 94-747)

Subd. 24. Building: a structure having a roof which may provide shelter or enclosure for persons, animals, or chattel; when the structure is divided by a wall without openings, each portion of such building so separated is a separate building.

Subd. 25. Building; accessory: a building, the use of which is incidental or complimentary to the principal use on a lot; an accessory building is (i) detached if it is located more than six feet from the nearest wall of the principal building or (ii) attached if located six feet or less therefrom.

Subd. 26. Building height: the distance measured from the mean ground level for all of that portion of the building having frontage on a public right-of-way or approved private road, to the top of the cornice of a flat roof, or to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, or to the uppermost point on a round or other arched type roof or to the midpoint of the highest gable on a gable, pitched or hip roof.

Subd. 27. Building - principal: the main building, or in the case of a Planned Unit Development, the main buildings in which the intended allowable use is conducted. (Amended Ord. No. 93-722)

Subd. 28. Carport. (See garage.)

Subd. 29. Cellar: that portion of the building having more than one-half of the floor to ceiling height below the average grade of the adjoining ground.

Subd. 30. Channel: a natural or constructed depression with a bed and banks to confine and conduct, either continuously or periodically, the water in a creek or stream.

Subd. 31. Church or place of religious worship: an institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term "church" shall not carry secular connotation and shall include buildings in which religious services of any denomination are held. (Added Ord. 94-747)

Subd. 32. Clinic: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities. (Added Ord. No. 96-787)

Subd. 33. Club: A non-profit association of persons who are bona fide members paying annual dues, which owns, hires or leases the building or portion thereof, the use of such premises, being restricted to members and their guests.

Subd. 34. Co-location. The use of a wireless communications facility by more than one wireless telecommunications provider. (Added Ord. 03-902)

Subd. 35. Commercial kennel: a premises which is not a dwelling unit where three or more animals, at any one time, over six months of age are owned, boarded, bred or offered for sale. (Amended Ord. 89-642)

Subd. 36. Commercial recreation: a private business enterprise offering facilities for participatory physical, cultural or entertainment purpose or related leisure time activities.

Subd. 37. Commercial vehicles: A motor vehicle is a commercial vehicle if:

1. The vehicle is a dump truck, a step van, a tow truck, a semi tractor or trailer, a tank truck, a tractor, a bus, a construction vehicle or equipment, an earth moving vehicle or equipment, van or pickup with a manufacturer's nominal rated carrying capacity of more than one ton.;
 2. Commercial equipment has been added to the vehicle such as winches or snow plows;
 3. The vehicle is a pickup with a non-standard pickup box; or
 4. The vehicle is a trailer loaded with another commercial vehicle or commercial equipment.
- (Added Ord. 2002-873)

Subd. 38. Commission: the zoning and planning commission of the city.

Subd. 39. Commissioner: the commissioner of the department of natural resources (DNR) State of Minnesota.

Subd. 40. Comprehensive municipal plan: that compilation of material, statements, goals, standards and maps adopted by the commission and used by the commission in making recommendations for guiding the orderly development of the private and public sectors of the city.

Subd. 41. Completed application. An application for a zoning request that contains the following: 1) submitted and completed all applicable application forms; 2) submittal of all required supporting application information; 3) submittal of all required fees. (Added Ord. 97-797 [4-15-97])

Subd. 42. CUP: (See Conditional use permit).

Subd. 43. Conditional use permit: a permit specially and individually granted by the council after public hearing thereon by the commission for purposes specified in this code.

Subd. 44. Continuous scrolling: to move electronic text across a display screen. (Added Ord. 2003-912)

Subd. 45. Copy shop. A retail establishment that provides duplicating services using photocopying, blueprint, and offset printing equipment and may include the collating and binding of booklets and reports. (Added Ord. 2000-841)

Subd. 46. Condominium: a form of individual ownership within a building, which entails joint ownership and responsibility for maintenance and repairs of the land and other common property of the building. (Added Ord. No. 93-722)

Subd. 47. Control measure: A practice or combination of practices to control erosion and attendant pollution. (Added Ord. No. 96-779)

Subd. 48. Credit union: a cooperative society, incorporated for the twofold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rate of interest for provident purposes. (Added Ord. 2002-874)

Subd. 49. Currency exchange: any person, except a bank, trust company, savings bank, savings and loan association, credit union, industrial loan and thrift company, who is engaged in the business of cashing checks, drafts, money orders or traveler's checks for a fee. Currency exchange does not include a person who provides their services incidental to the person's primary business if the charge for cashing a check or draft does not exceed one dollar (\$1.00) or one percent of the value of the check or draft, whichever is greater, as defined in Minnesota Statutes, Section 53A.01. (Added Ord. 2004-920)

Subd. 50. Day care facility: a licensed facility in which care is provided for one or more children as defined and regulated per M.S.A.245.781 (Amended Ord. No. 87-601)

Subd. 51. Decorative block: a building block of cast concrete and aggregate rock that has a split-rock, brick-like, burnished, or ribbed texture on the side to be exposed, and is available in a variety of colors. (Added Ord. 97-795)

Subd. 52. Department store: a business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed and are exhibited and sold directly to the customer for whom the goods and services are furnished. (Added Ord. No. 93-722)

Subd. 53. Detention facility: A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff, which contains a permanent pool of water. (Added Ord. No. 96-779)

Subd. 54. Domestic Animal Day Care Facility: a facility providing such services as domestic animal day care for all or part of a day, obedience classes, training, grooming and/or behavioral counseling, provided that overnight boarding is not permitted. (Added Ord. 08-1002)

Subd. 55. Drive-in: means a facility, structure or use affording transactions of a business or service while occupying a vehicle.

Subd. 56. Driveway: An improved access which connects an off-street parking space to the public right-of-way. (Added Ord. 2002-873)

Subd. 57. Dwelling: that part of a building intended to be occupied for residence purposes, but not including rooms in motels, hotels, nursing homes, boarding houses, trailers, cabins or mobile homes.

Subd. 58. Dwelling - attached: a dwelling joined to another dwelling at one or more abutting walls.

Subd. 59. Dwelling - detached: a single dwelling having a yard on all sides.

Subd. 60. Dwelling - group: a home approved by the state where not more than ten persons live which are not a family as defined in this code.

Subd. 61. Dwelling - multiple: a structure or portion thereof intended and designed for three or more dwellings.

Subd. 62. Dwelling - townhouse: a single structure consisting of three or more dwelling units having one or more walls abutting with another dwelling and designed to have all exits open directly to the outside.

Subd. 63. Dwelling - zero lot line: a single family dwelling attached by party walls with other single family dwellings in such a manner that the common party walls is located on the common lot line(s) including but not limited to such common references as twin homes. (Added Ord. No. 87-601)

Subd. 64. Dwelling unit: a single family dwelling having permanently installed cooking and sanitary facilities.

Subd. 65. Dwelling for the elderly: wholly or partly publicly financed dwelling units, the occupancy of which is limited to not more than two persons related to each other by blood or marriage, at least one of whom is 62 years of age.

Subd. 66. Easement: is a grant by a property owner of the use of a strip of land, for the purpose of constructing and maintaining, utilities, including but not limited to, wetlands, ponding areas, sanitary sewers, water mains, electric line, telephone lines, storm sewer drainage way and gas lines. (added Ord. No. 94-742)

Subd. 67. Equal degree of encroachment: a method determining the location of encroachment lines so that the hydraulic capacity of flood plain lands on each side of a stream are reduced by an equal amount when calculating the increases in flood stages due to flood plain encroachment.

Subd. 68. Equipment shelter or cabinet/ground equipment. An enclosed structure at the base of or near a tower or antennae within which are housed, among other things, batteries, wireless communications facilities or electrical equipment, which may be connected to the antenna or tower by cable. (Added Ord. 03-902)

Subd. 69. Exercise facilities: (See health club.)

Subd. 70. Face brick: a masonry building block or clay baked in a kiln until hard. (Added Ord. 97-795)

Subd. 71. Family: an individual or two (2) or more persons each related to the other by blood, marriage, adoption, or foster care, or a group of not more than four (4) persons not so related maintaining a common household and using common cooking and sanitary facilities. (Amended Ord No. 87-601)

Subd. 72. 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. (Amended Ord. No. 93-722)

Subd. 73. 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.

Subd. 74. Flood frequency: the frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Subd. 75. 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 of Hopkins.

Subd. 76. Flood Plain: the beds proper and the areas adjoining a wetland, lake or watercourse, which have been or hereafter may be covered by the regional flood.

Subd. 77. Flood proofing: a combination of structural provisions, changes or an adjustment to properties and structure, subject to flooding, primarily for the reduction or elimination of flood damage.

Subd. 78. Regulatory Flood Protection Elevation: the regulatory flood protection elevation shall be an elevation no lower than one 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.

Subd. 79. Floodway: the channel and those portions of the flood plain adjoining the channel which are reasonably required to carry and discharge the regional flood.

Subd. 80. Floor area: when used in establishing required parking spaces means that part of the gross floor area devoted to that portion of the structure designed and used for the business and services offered, available and accessible to the public and to those employees directly involved.

Subd. 81. Floor area ratio: the numerical value obtained through dividing the floor area of a building or buildings by the lot area on which such building or buildings are located.

Subd. 82. Foster home: a family home approved by the state for not more than four children unrelated to the family.

Subd. 83. Franchise architecture: a building design that is trademarked or identified with a particular franchise, chain or corporation and is generic or standard in nature. (Added Ord. 03-900)

Subd. 84. Garage - private: a detached or attached accessory building or carport, used primarily for storage of passenger vehicles or one truck of a rate capacity not exceeding 9000 pounds.

Subd. 85. Garage - public: a building used for the repair, maintenance, storage, display, sale, lease or hire of motor vehicles and parts.

Subd. 86. Garage sale: the irregular display and purveyance of goods, wares, and merchandise in or on any residential area.

Subd. 87. Health club: a service where athletic facilities such as handball, swimming, track, exercise devices, etc. are provided and may in addition include a whirlpool, sauna or massage service for members who shall register each time they utilize the club.

Subd. 88. High-rise apartment. A multi-dwelling building with four or more floors in height. (Added Ord. 03-902)

Subd. 89. Home occupation: a gainful enterprise, skill or profession, not including garage sales, conducted in a dwelling or accessory buildings by residents family thereof, provided no evidence of such activity is visible from the public street and no permanent revolving inventory of merchandise is maintained and no material, equipment, products, or other items related to the home occupation are stored or displayed outside.

Subd. 90. Hotel: a facility offering transient lodging accommodations on a daily rate to the general public and providing additional services, such as restaurant, meeting rooms, conference facilities, and recreational facilities. (Amended Ord. 97-795)

Subd. 91. Hydric soils: Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part. (Added Ord. No. 96-779)

Subd. 92. Hydrophytic vegetation: Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content. (Added Ord. No. 96-779)

Subd. 93. Ice fishing house: A shelter on ice for the catching of fish. A fishing house may also be referred to as a dark house. (Added Ord. 2002-873)

Subd. 94. Interim use: a temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it. (Amended Ord. 89-656)

Subd. 95. Junk vehicle. Any motor vehicle which is not in operable condition, partially dismantled, used for sale of parts or as a source of repair or replacement parts for other vehicles, kept for scrapping, dismantling, or salvage of any kind or which is not properly licensed for operation. (Added Ordinance 2002-873)

Subd. 96. Junk yard: an area where used, waste, discarded, salvaged materials or other personal property is bought, sold, exchanged, stored, baled, cleaned, abandoned, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, rubber products, bottles and lumber: the term includes storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building.

Subd. 97. Land disturbing or development activities: Any change of the land surface including removing vegetative cover, excavation, filling grading, and the construction of any structure. (Added Ord. No. 96-779)

Subd. 98. Land reclamation: the depositing of 400 cubic yards or more of earth material so as to elevate the grade.

Subd. 99. Livable space: An area that is habitable for the entire year. (Added Ord. 2000-841)

Subd. 100. Loading berth: an unobstructed area provided and maintained for the temporary parking of trucks and other motor vehicles for the purpose of loading and unloading goods, wares, materials and merchandise.

Subd. 101. Lot: means a designated parcel of land separately established and described by plat, subdivision, registered land survey or as otherwise permitted by law. "Lot" also means and refers to any single parcel of land that is assigned an individual property identification number for real estate taxation purposes. (Amended Ord. Nos. 94-742; 2000-833; and 2004-916)

Subd. 102. Lot area: the area of a lot in a horizontal plane bounded by the lot lines.

Subd. 103. Lot area per dwelling: the number of square feet of lot area required per dwelling unit.

Subd. 104. Lot - corner: a lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed 135 degrees.

Subd. 105. Lot - depth: the mean horizontal distance between the front and the rear lot lines of a lot.

Subd. 106. Lot line: the property line bounding a lot, except that where any portion of the lot extends into any proposed or existing public right-of-way the line farthest from the center line of such public right-of-way is the lot line.

Subd. 107. Lot line - front: the boundary of a lot which abuts an existing or proposed public street, and in the case of a corner lot, it is the shortest dimension on a public street. If the dimensions of a corner lot are within 10% of being equal, the front lot line is that street line designated by the owner and filed in the office of the building official.

Subd. 108. Lot line - rear: the boundary line of a lot which is opposite the front lot line; if the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, connecting the side lot lines and parallel to the front lot line.

Subd. 109. Lot line - side: any boundary of a lot which is not a rear or front lot line.

Subd. 110. Lot of record: means a lot, the legal description of which was lawfully established prior to August 11, 1966, in the office of the Hennepin County recorder or registrar of titles, and which has lot lines identical to those described as of August 11, 1966. (Amended Ord. No. 2004-916)

Subd. 111. Lot - through: a lot, not a corner lot, which has a pair of opposite lot lines which abut upon street other than alleys. (amended Ord. No. 94-742)

Subd. 112. Lot - width: the maximum distance between the side lot lines of any lot measured parallel to the front lot line and within the required front yard.

Subd. 113. Manufactured home: Means a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, 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; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary and complies with the standards established under this chapter. (Added Ord. 89-658)

Subd. 114. Manufactured home lot: a parcel of land for the placement of a single manufactured home and the exclusive use of its occupants. (Added Ord. 89-658)

Subd. 115. Manufactured home park: a contiguous parcel of land which has been developed for the placement of manufactured homes and is owned by an individual, a firm, trust, partnership, public or private association or corporation. (Added Ord. 89-658)

Subd. 116. Manufacturing: to bring something into being by forming, shaping, combining, or altering materials. (Added Ord. 97-795)

Subd. 117. Manufacturing - light: A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, which activities are conducted wholly within an enclosed building. (Added Ord. 03-898)

Subd. 118. Mid-rise apartment: A multi-dwelling building with three floors in height. (Added Ord. 03-902)

Subd. 119. Mining: the extraction and removal of materials from land in an amount more than 400 cubic yards.

Subd. 120. Motel: a building or group containing apartments and/or rooming units, each of which maintains a separate outside entrance. Such a building or group of buildings is designed, intended, or used primarily for the accommodation of automobile travelers and provides automobile parking conveniently located on the premises. (Amended Ord. 97-795)

Subd. 121. Motor fuel station: a place where gasoline, kerosene or any other motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public.

Subd. 122. Motor vehicle. Every vehicle that is self-propelled. This does not include lawn mowers or snow blowers. (Added Ordinance 2002-873)

Subd. 123. Noise: unwanted sound not occurring in the natural environment.

Subd. 124. Non-conforming building: a building which lawfully existed prior to the adoption, revision or amendment of this ordinance, but now such building does not meet the limitations on building size and/or location on a lot, for the district in which such building is located. (Added Ord. 94-747)

Subd. 125. Non-conforming use: a use or activity which lawfully existed prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the use district in which it is located. (Amended Ord. 94-747)

Subd. 126. Non-passenger vehicle. A commercial, military, or recreational vehicle or trailer. (Added Ordinance 2002-873)

Subd. 127. Nonresidential program: means care, supervision, rehabilitation, training or habilitation of a person provided outside the person's own home and provided for fewer than 24 hours a day, including adult day care programs; a nursing home that receives public funds to provide services for five or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a nursing home or hospital and receive public funds for providing chemical abuse or chemical dependency treatment services under chapter 254B. Nonresidential programs include home and community-based services and semi-independent living services for persons with mental retardation or a related condition that are provided in or outside of a person's own home. (Added Ord. No. 93-722)

Subd. 128. Noxious matter or material: material which is capable of causing detrimental effects to the physical or economic well being of individuals, animals or other living organisms.

Subd. 129. Obstruction: a dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into the flood plain, water course, or regulatory flood hazard area 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, or that is placed where the flow or water might carry same downstream to the damage of life or property: the term does not include trees in an upright and natural growing position located in the channel.

Subd. 130. Office: A use wherein services are performed involving predominately administrative, professional, or clerical operations. (Added Ord. 97-795)

Subd. 131. Open sales lot: land devoted to the display of goods for sale, rent, lease, advertising or trade where such goods are not enclosed within a building.

Subd. 132. Open space: areas of the lot not less than 25' x 25', which are not designed for use as the building site, parking or loading areas, or utility sites.

Subd. 133. Open space ratio: the amount of open space, after excluding required drives and parking areas in residential areas, which open space is required and based or calculated for each square foot of coverage by the principal building or buildings.

Subd. 134. Open space, private: areas of the lot which are not designed for use as the building site, parking or loading areas or utility sites which are designated for the use of a particular family.

Subd. 135. Open storage: The keeping in an unroofed and open area a substantial part of which is visible to the public view from a street right-of-way 50 feet or more in width, or adjacent to a residentially-zoned area used for such purposes, any equipment, machinery, inventory, junk, parts, and other such items in the same location for more than 24 hours. (Added Ord. 95-758)

Subd. 136. Outlot: A parcel of land, included in a plat, which is smaller than the minimum size permitted for lots and which is thereby declared unbuildable until combined through platting with additional land; or a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or a parcel of land which is included in a plat and which is designated for public or private open space, right-of-way, utilities or other similar purposes. An outlot is unbuildable and no permits to construct upon or improve an outlot may be issued. (Added Ord. No. 93-722) (Amended Ord No 94-742)

Subd. 137. Parapet: a low wall or railing at the edge of a platform, roof, or bridge. (Ord. 03-900)

Subd. 138. Parking areas: those structures or parcels of land set aside, maintained and available for vehicle parking.

Subd. 139. Park management: the person to whom a license for a manufactured home park is issued shall operate the park in compliance with this ordinance and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition. (Added Ord. 89-658)

Subd. 140. Parking space. An improved paved or gravel area on a lot or within a building intended for parking of a motor vehicle, which has a means of access to a public street. This term is used interchangeably with parking stall and parking facility. (Added Ordinance 2002-873)

Subd. 141. Passenger vehicle. An automobile, station wagon, van, sports utility vehicle, minivan, pickup truck, or motorcycle designed and primarily intended for on-street operation. Passenger vehicles do not include commercial vehicles, military, recreational vehicles, racing cars, limousines, or stock cars. (Added Ordinance 2002-873)

Subd. 142. Person: Any individual, firm, corporation, partnership, franchisee, association, or governmental entity. (Added Ord. No. 96-779)

Subd. 143. Pet Grooming. A business used for grooming of domestic animals, other than a veterinary hospital or a commercial kennel. (Added Ord. 07-985)

Subd. 144. Pinball machine: (See amusement devices.)

Subd. 145. Plain concrete block: a building block of cast concrete that has no additional surface texturing. (Added Ord. 97-795)

Subd. 146. Planned unit development (PUD): A planned unit development is to provide for the integration and coordination of land parcels as well as the combination varying types of residential, commercial and industrial uses. (Amended Ord. No. 93-722)

Subd. 147. Porch: a one story, covered area adjoining an entrance to a building, with a separate roof, that may or may not have a railing or partial wall extending no more than 42 inches from the floor, and that is not used for livable space. (Added Ord. 99-823) (Amended Ord. 2002-882)

Subd. 148. Portable storage unit: A self-contained unit that is used for temporary storage. (Added Ord. 03-898)

Subd. 149. Precast panel: a building wall section of concrete poured into a form at the manufacture facility and shipped to the construction site for installation. (Added Ord. 97-795)

Subd. 150. Public waters: a body of water capable of substantial beneficial public use; the term does not mean any body of water which has the potential to support any type of recreational pursuit or water supply purpose; a body of water created by a private user where there was no previous shore land for a designated private use authorized by the commissioner is not included.

Subd. 151 Railroad right-of-way: a strip of land with tracks and auxiliary facilities for track operations but not including depots, loading platforms, LCL tracks, train sheds or other support structures.

Subd. 152. Racing car. Any motor vehicle designed or intended for operation on a speedway, racetrack, or other facility used or designed for high speed contests between two (2) or more vehicles or for timing of speed. (Added Ordinance 2002-873)

Subd. 153. Reach: a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive abridge crossings would most typically constitute a reach.

Subd. 154. Recreational vehicle.

1. Travel trailers including those that telescope or fold down, chassis-mounted campers, house cars, motor homes, tent trailers, slip-in campers and converted vans that are motor homes as defined herein.
2. Motor Home. A vehicle that provides temporary living quarters. A vehicle provides temporary living quarters if it (a) is not used as the residence of the owner or occupant; (b) is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities; and (c) is self-propelled or capable of being towed on public roads.
3. A non-motorized trailer intended and generally used for transporting boats.
4. Snowmobiles, all terrain vehicles, boats and any type of watercraft. Such vehicles which are placed on a utility trailer shall, together with the trailer, be considered a single recreational vehicle. (Added Ordinance 2002-873)

Subd. 155. Residential facility: means a program that provides 24 hour-a-day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner, to provide services for five or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in an intermediate care facility for four or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the commissioner on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment service under Chapter 254B. Residential programs include home and community-based services and semi-independent living services for persons with mental retardation or a related condition that are provided in or outside of a person's own home. (Added Ord. No. 93-722)

Subd. 156. 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.

Subd. 157. Restaurant - Traditional: food is served to a customer and consumed by him while seated at a counter or table. (Added Ord. No. 87-601)

Subd. 158. Restaurant - Cafeteria: food is selected by a customer while going through a serving line and taken to a table for consumption. (Added Ord. No. 87-601)

Subd. 159. Restaurant - Fast Food: Any establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carry-out, and where either: 1) foods, frozen desserts, or beverages are usually served in paper, plastic, or other disposable containers, and where customers are not served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter where the items are consumed; or 2) the establishment includes a drive-up or drive-through service facility or offers curb service. (Amended Ord. No. 96-787)

Subd. 160. Restaurant - Drive-in most customers consume their food in an automobile regardless of how it is served. (Added Ord. No. 87-601)

Subd. 161. Restaurant - Carry Out and Delivery: food is prepared for consumption off the premises only. (Added Ord. No. 87-601)

Subd. 162. Retention facility: A permanent natural or man made structure that provides for the storage of storm water runoff by means of a permanent pool of water. (Added Ord. No. 96-779)

Subd. 163. Right-of-way: a parcel of land where the public has been given certain rights by easement or dedication.

Subd. 164. Satellite dish antenna: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially- and/or orbitally-based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas. (Added Ord. 96-787)

Subd. 165. 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. (Added Ord. No. 93-722)

Subd. 166. Sediment: Solid matter carried by water, sewage, or other liquids. (Added Ord. No. 96-779)

Subd. 167. Self-service station: an establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products. (Amended Ord. 96-787)

Subd. 168. Service station: Any premises where gasoline and other petroleum products are sold and/or light maintenance activities such as engine tune-ups, lubrication, minor repairs, and carburetor cleaning are conducted. Service stations shall not include premises where heavy automobile maintenance activities such as engine overhauls, automobile painting, and body fender repair are conducted. (Amended Ord. No. 96-787)

Subd. 169. Setback: the minimum distance from any lot line that an improvement may be placed, measured perpendicularly from the lot line to the closest point of the improvement. (Added Ord. 94-747)

Subd. 170. Setback line: a line, which is the specified setback distance from and parallel to any lot line. (Added Ord. 94-747)

Subd. 171. Sign. See Section 570.

Subd. 172. Stealth design. A wireless communication facility that is designed to be screened or to blend in with its surroundings and appropriately models or mimics the size, shape and color of something in the immediately surrounding area which could be legally placed there at the time the application is submitted. Examples of stealth design include architecturally screened and roof-mounted antennas, facilities integrated into architectural elements, and facilities designed to blend with or be integrated into light poles, utility poles, trees, steeples, or flag poles. (Added Ord. 03-902)

Subd. 173. Stock car. A motor vehicle of standard design and construction which is modified, adapted or altered in any manner to increase its speed or safety, and designed or intended for operation on a speedway, racetrack, or other facility used or designed for high speed contests between (2) or more vehicles or for timing of speed. (Added Ordinance 2002-873)

Subd. 174. 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; a basement is counted as a full story; a cellar is not counted as a story.

Subd. 175. Street: a public right-of-way not less than 50 feet in width, which affords a primary means of access to, abutting property. The terms include avenues, highways, or roads excepting existing public right-of-way of lesser width.

Subd. 176. 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 545.06 Subd. 5. of the ordinance and other similar items. (Amended Ord. 90-682)

Subd. 177. Swimming pool: is any permanent or temporary structure, basin, chamber, or tank containing water used for swimming, diving, or recreational bathing and having a depth of more than two feet at any point and a surface area exceeding 250 sq. ft., or a total volume in excess of 3,000 gallons. (Added Ord. No. 88-613)

Subd. 178. Swimming Pool - Private: is any swimming pool permanent or temporary located on private property and under the control of the owner of a single family dwelling or owner-occupant of a two dwelling unit and for the exclusive use by his family or invited guests. (Added Ord. No. 88-613)

Subd. 179. Synthetic stucco: a nonbearing exterior wall cladding system providing both insulating value and finished exterior surface. (Added Ord. 97-795)

Subd. 180. Tech: a business that produces or manufactures a technical product. (Added Ord. 97-795)

Subd. 181. Theater, multiplex: A multiplex is a complex structure with multiple movie theaters in which each theater is capable of showing movies independent of the others in the complex. Structurally, theaters in a multiplex are grouped in a manner that allows them to share box or ticket offices, parking facilities, lobby area, restrooms, concession stands, signs, and marquee displays, and other service and maintenance facilities. (Added Ord. 2000-841)

Subd. 182. Telecommunications tower or "tower". A self-supported lattice, guyed or monopole structure constructed from grade that supports wireless communication facilities. (Added Ord. 03-902)

Subd. 183. Thoroughfare - major: those streets as shown on the city major thoroughfare plan.

Subd. 184. Trailer. Any vehicle designed for carrying property on its own structure and for being drawn by a motor vehicle. (Added Ordinance 2002-873)

Subd. 185. Trailer bed. That portion of a trailer that is designed to make contact with and bear the weight of the load to be carried. (Added Ordinance 2002-873)

Subd. 186. Transmission Tower - commercial: a structure situated on a nonresidential site on which transmitting and/or receiving antennas are located, excluding those used exclusively for public safety communications. An AM radio tower is its own transmitting antenna. (Amended Ord. 91-672)

Subd. 187. Transmission tower - height: The height of a transmission tower shall be the total maximum to which it is capable of being raised and shall be measured from the highest point of the finished grade adjacent to the structure if ground-mounted or roof-mounted. (Amended Ord. 91-672)

Subd. 188. Undue Hardship: as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to his property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. (Added Ord. No. 93-722)

Subd. 189. Use - accessory: a use subordinate to the principal use on a lot and exclusively used for purposes incidental to those of the principal or conditional use.

Subd. 190. Use - conditional: 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 a 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. (Amended Ord. 90-682)

Subd. 191. Use - permitted: a use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards if any of the district.

Subd. 192. Use - principal: the main use of land or buildings as distinguished from subordinate or accessory uses; a principal use may be either permitted or conditional.

Subd. 193. Variance: a modification or variation from the provisions of this code or variation from its provisions granted by the board and applying to a specific parcel of property because of undue hardship due to circumstances peculiar and unique to such parcel.

Subd. 194. Vending machine: a coin-operated device, which dispenses a product or service without an attendant.

Subd. 195. Video rental store: An establishment primarily engaged in the retail rental or lease of video tapes, films, CD-ROMs, laser discs, electronic games, cassettes or other electronic media. Sale of film, videotapes, laser discs, CD-ROMs, and electronic merchandise associated with VCRs, video cameras, and electronic games are permitted accessory uses. (Added Ord. 2000-841)

Subd. 196. Warehousing and distribution: A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are inflammable or explosive or that create hazardous or commonly recognized offensive conditions. (Amended Ord. 97-795)

Subd. 197. Waste Facility: all property, real or personal, including negative and positive easements and water and air rights, which is or may be needed or useful for the processing, disposal, transfer and/or storage of hazardous and/or solid wastes. Waste facility includes but is not limited to transfer and storage stations, process facilities, and disposal sites and facilities. Waste Facility does not include drop-off centers which are accessory to allowable uses and which are operated by a governmental unit, civic organization or similar non-profit group expressly for the collection of recyclable waste including paper, clean glass and metal containers, and other eligible household wastes from individuals. (Added Ord. No. 93-722)

Subd. 198. Wetlands: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following three attributes:

- a) Have a predominance of hydric soils;
- b) Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and
- c) Under normal circumstances support a prevalence of such vegetation.

(Added Ord. No. 96-779)

Subd. 199. Wireless communication facility. A facility for the provision of wireless communications services, as defined by the Telecommunications Act of 1996, including all hardware that provides wireless communication services including antennas, towers and all associated equipment. (Added Ord. 03-902)

Subd. 200. Wireless communications antenna or antenna. A physical device attached to and supported by a building or structure other than a tower through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received. Antennas used by amateur radio operators are excluded from this definition. (Added Ord. 03-902)

Subd. 201. Yard: that open space on any lot which is unoccupied by a building or structure from its lowest ground level indefinitely upward; a yard is measured from the lot line to the vertical wall of the principal structure or structures.

Subd. 202. Yard - front: a yard extending along the full width of the front lot line between side lot lines and extending from the abutting front street right-of-way line to a depth at its shallowest width required in the yard regulations for the district in which such lot is located.

Subd. 203. Yard - rear: a yard extending along the full width of the rear lot line between the side lot lines and extending toward the front lot line for a depth as specified in the yard regulations for the district in which such lot is located.

Subd. 204. Yard - side: a yard extending along the side lot line between the front and rear yards, having a width as specified in the yard regulations for the district in which such lot is located.

Subd. 205. Zoning administrator: the person appointed by the city manager as provided by this code.

Subd. 206. Zoning district: an area or areas within the limits of the city for which the regulations and requirements governing use, lot and size of building and premises are uniform.