

## Article 13-6

### DEFINITIONS

#### Sections:

#### 13-601 Definition of Terms.

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Except as specifically defined herein, all words in this Ordinance shall have their customary dictionary definitions. For the purposes of this Ordinance certain words and terms used herein are defined as follows:

Words used in the present tense include the future tense; words used in the singular include the plural, and words used in the plural include the singular; the word "shall" is always mandatory, the word "person" includes a firm, association, organization, partnership, trust, corporation or company, as well as an individual; the word "lot" includes the words "plot" or "parcel;" the word "building" includes the word "structure;" the words "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied;" the words "map" or "zoning map" mean the Zoning Map of the City of Rock Springs that delineates the area to be governed by these regulations.

##### Accessory Building or Use:

a. A subordinate building, or a subordinate use of land, which is customarily incidental to the principle building or to the principle use of land. Subject to the exception in subsection (b), all accessory buildings or uses shall be on the same lot as the principal building or use. Where any part of an accessory building is connected to part of the principal building, such accessory building shall be deemed to be a part of the principal building. Local public utility installations above ground are considered accessory buildings.

b. An accessory building or use may be conditionally permitted on a lot other than the lot in which the principal use or building

is located if; (1) the same person or entity owns or leases both the "principal lot" and the "accessory lot", and (2) the lot containing the accessory building or use is contiguous with the lot containing the principal building or use. (Ord. No. 00-26, 01-16-01).

**Accessory Dwelling:** A detached structure which is accessory to a single family dwelling, located on the same lot as a single-family dwelling, and placed on a permanent foundation, with no more than one bedroom and provides basic requirements for living, sleeping, and sanitation. (Ord. 2014-09, 10/7/14)

**Adult Day Care/Adult Day Care Center:** A use where care is provided for adults during the daytime hours. (Ord. No. 93-15, 9-7-93), (Ord. No. 09-03, 2-3-2009).

**Agricultural/Ranching:** The cultivation of the soil or the raising of livestock and all activities incidental thereto. The terms "farming" and "ranching" shall be interchangeable for purposes of this Ordinance.

**Alley:** A permanent public thoroughfare providing a secondary means of access to abutting lands.

**Antenna:** See 13-814, Wireless Telecommunications Ordinance. (Ord. No. 2009-15, 10-6-09).

**Apartment Building:** A building other than a hotel or motel containing five (5) or more dwelling units which have primary entrances from common hallways.

**Appeal:** Means any request for a review of the Zoning Administrator's interpretation of any provision of this ordinance.

**Assisted Living:** State regulated rental properties that provide the same services as independent living communities but also provide, in a majority of the units, supportive care from trained employees to residents who are unable to live independently and require assistance with activities of daily living (ADLs), including management of medications, bathing, dressing, toileting, ambulating, and eating. These properties may have some nursing beds, but the majority of the units are licensed for assisted living. Many of these

properties include wings or floors dedicated to residents with Alzheimer's or other forms of dementia. A property that specializes in the care of residents with Alzheimer's or other forms of dementia that is not a licensed nursing facility should be considered an assisted living property. (Ord. 2011-01, 3/1/11)

**Auto Reduction Yard:** A lot or yard where two or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, sale of parts, sale as scrap, storage, or abandonment.

**Automotive Repair, Major:** A use engaged in repair and maintenance of motor vehicles which shall include automobile engine, transmission and drive train repair and overhaul, including brake, muffler, upholstery work, tire repair and change, lubrication and tune-ups, and including repair of large trucks and trailers and body work and painting. (Ord. No. 92-09, 5-5-92).

**Automotive Repair, Minor:** A use engaged in repair and maintenance of motor vehicles which shall include automobile engine, transmission and drive-train repair and overhaul, including brake, muffler, upholstery work, tire repair and change, lubrication and tune-ups, and excluding large truck repair and body and paint work. (Ord. No. 92-09, 5-5-92).

**Automobile Service Station:** An establishment with the primary business function of the retail sale of gasoline for passenger car use and the minor service and repair work incidental to the operation of passenger automobiles.

**Automobile Washing Establishment:** A building which has its primary purpose as washing automobiles. Such facilities shall be considered incidental to automobile service stations if no more than one auto may be washed at one time and if the service station is clearly the principal use.

**Basement:** A portion of a building located partly underground but having not less than half its floor-to-ceiling height below the average grade of the adjoining ground.

**Bed and Breakfast Inn:** An owner occupied dwelling unit that contains no

more than two guest rooms where lodging, with or without meals, is provided for compensation. (Ord. No. 90-11, 1-15-91).

**Block Frontage:** All of the property of a given lot or any portion thereof lying adjacent to a public street or highway.

**Board:** The Board of Adjustment of the City of Rock Springs, Wyoming.

**Boarding House:** See Lodging House. (Ord. No. 09-03, 2-3-2009).

**Building:** Any structure used or intended for supporting or sheltering any use or occupancy having enclosed space and a roof for the housing and/or enclosure of persons, animals or chattels, except mobile homes and mobile offices.

**Building Area:** The maximum horizontal projected area of the principal and accessory building, excluding open steps, terraces, unenclosed porches of one story, and architectural appurtenances projecting not more than two feet. Building area, as that portion of a lot upon which construction is permitted, is as follows: That area of a lot that lies within the boundaries of the front, side and rear yard setback requirements measured from the actual lot line.

**Building, Attached:** A building having one or more party walls in common with another building when the principal use of each building is independent of the other and when there is no interior access from one building to another.

**Building, Detached:** A building having no party wall in common or structural connection with another building.

**Building, Envelope:** That area of a lot lying between the front, rear, and side yard setback lines and between ground level and the maximum allowable building height.

**Building, Front Line Of:** The line of the face of a building nearest the front lot line.

**Building, Height Of:** The vertical distance from the average contact ground level at the front wall of the building to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and ridges for gable and hip or gambrel roofs.

**Building Lines:** The perimeter of that portion of a building or structure nearest a

property line, including cantilevered projections therefrom, but excluding open steps, terraces, cornices and other ornamental features projecting from the walls of the building or structure.

**Building, Nonconforming:** A legally existing building which fails to comply with the regulations set forth in this Ordinance applicable to the zone in which the building is located.

**Building Principal:** A building in which is conducted the main, or principal, use of the lot on which said building is situated.

**Building, Public:** A building, supported by government funds, to be used in an official capacity on the behalf of the entire community.

**Business:** The engaging in of the purchase, sale, barter or exchange of goods, wares, merchandise or service; the maintenance or operation of offices or recreational or amusement enterprises.

**Camp Ground:** Any area of land used to temporarily accommodate two or more camping parties, including cabins, tents, house trailers or other camping outfits.

**Carport:** A roofed structure open on at least two sides and used for the storage of vehicles. (Ord. No. 92-09, 5-5-92).

**Cemetery:** Land used for the burial of the dead and dedicated for cemetery purposes, including columbarium, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**Childcare and Preschools:** See §13-816.

**Church:** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

**City:** The City of Rock Springs, Wyoming.

**Clinic or Medical Center:** An establishment where patients are admitted for special study and treatment by one or more licensed physicians and/or dentists and their professional associates, as distinguished from a "professional office"

for general consultation purposes.

**Club, Private (Non-Profit):** A non-profit association of persons who are bona fide members paying annual dues which owns, hires, or leases a building, or a portion thereof; the use of such premises being restricted to members and their guests.

**Commission:** The City of Rock Springs Planning and Zoning Commission.

**Conditional Use Permits:** Legal authorization to undertake a conditional use as defined by this Ordinance.

**Contractor, Subcontractor or Builder:** Any person, firm, corporation or other organization who or which is in the pursuit of an independent business undertaking to construct, alter, repair, add to, subtract from, improve, move, wreck, or demolish, for another, any building structure, highway, road, lot or area within the city of Rock Springs. (Ordinance 2015-04, 5-5-15)

**Corporation Counsel:** The City Attorney of the City of Rock Springs or any assistant or special counsel of said City.

**Deck:** An open platform that adjoins a structure and is supported by a means other than the principal structure. (Ord. No. 09-03, 2-3-2009).

**Development:** Means any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**Development, Nonconforming:** A legally existing structure or lot which does not meet the height, size, setback or other requirements of this Ordinance. (Ord. No. 10-04, 4-6-10).

**Display Area:** An area designated for the purpose of displaying open goods and merchandise for direct sale to the consumer.

**Drive-In Business:** Any business in which people are provided a service or a product, where a sale is made without the customer being required to leave the vehicle. Such businesses include, but are not limited to, the following: drive-in theater, drive-in bank, drive-in laundry or dry-cleaning pickup station, drive-in restaurant, and any business offering "take-home" food services.

**Driveway Access:** The area within a public street right-of-way extending from the curb to the common right-of-way/property line, which provides an ingress/egress point for a vehicle (recreation vehicles included) to access private property from a public street whether for short term parking or long term storage. The driveway access is the only area within which the property can be accessed from the public street. Gaining access into private property from a public street is allowed only through an approved driveway access regardless of the presence of 'L' Type Curb or "Rolled" Type Curb. (Ord. No. 87-28, 12-1-87, revised Ord. 2015-06, 10-20-15).

**Dwelling:** A building, or portion thereof, used primarily for residential occupancy, including one-family, two-family, and multiple dwellings, but not including hotels, motels, or tourist homes.

**Dwelling, Four-Family:** A building, or portion thereof, used for occupancy by four families living independently of each other. (Ord. 2014-09, 10/7/14)

**Dwelling, Three-Family:** A building or portion thereof, used for occupancy by three families living independently of each other. (Ord. 2014-09, 10/7/14)

**Dwelling, Two-Family:** A building, or portion thereof, used for occupancy by two families living independently of each other.

**Dwelling, Multi-Family:** A building, or portion thereof, used for occupancy by three or more families living independently of each other.

**Dwelling, Single-Family:** a dwelling designed for one (1) family occupancy, site-built or manufactured elsewhere as in compliance with these ordinances. A manufactured home placed on a permanent foundation and converted to real property prior to occupancy shall be considered a single-family dwelling.

**Dwelling, Single-Family Site-Built:** A detached dwelling built on-site using applicable City building codes and standards.

**Dwelling Unit:** A dwelling, or portion of a dwelling, used by one family for cooking, living, and sleeping purposes.

**Equestrian Arena:** An improved area, generally fenced, within which equestrian activities involving horse riding or driving occurs. (Ord. 2014-09, 10/7/14)

**Family:** Any number of individuals living together as a single housekeeping unit.

**Fence:** A barrier constructed of materials erected for the purpose of protection, confinement, enclosure or privacy.

**Garage, Private:** A detached accessory building, or portion of a main building, situated on the same lot of the principal building, used for the storage of motor vehicles. (Ord. No. 94-26, 8-2-94).

**Garage, Public:** Any building or premises, except those defined herein as a private garage, used for the storage or care of motor vehicles; or where such vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

**Greenhouse, Private:** An accessory building or structure constructed chiefly of glass, glasslike or translucent material, cloth, or lath, which is devoted to the protection or cultivation of flowers, shrubbery, vegetables, trees or other horticultural and floricultural products for private, residential purposes. (Ord. 2014-09, 10/7/14)

**Ground Floor Area:** The square foot area of a building within its largest outside dimension computed on a horizontal plan at the ground floor level, exclusive of unenclosed porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.

**Group Home:** Deleted. (Ord. No. 90-10, 9-18-90).

**Habitable Floor:** Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof.

**Heliport:** An area of land, water, or structure used or intended to be used for the landing and takeoff of helicopters.

**Heliport Approach Surface:** An imaginary surface beginning at the end of the heliport primary surface with the same width as the primary surface and extending outward and upward at an 8:1 slope for a

horizontal distance of 4,000 feet where its width is 500 feet.

**Heliport Instrument Procedure Surface:** The imaginary surface upon which a series of predetermined maneuvers for the orderly landing of a helicopter under instrument flight takes place.

**Heliport Primary Surface:** That imaginary surface coinciding in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.

**Home Occupation or Profession:** Any use conducted entirely within a dwelling and carried on solely by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and which meets the requirements of this Ordinance.

**Hospital:** Includes sanitarium, preventorium, clinic, provided such institution is operated by or treatment given under direct supervision of a physician licensed to practice by the State of Wyoming.

**Hotel or Motel:** A building or portion thereof, or a group of buildings, in which lodging is provided and offered to transient guests for compensation; shall not include a lodging house.

**Indoor Shooting Range:** A totally enclosed facility designed to offer a controlled shooting environment designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any other similar sport or law enforcement training purpose that includes impenetrable walls, floor and ceiling, adequate ventilation and lighting systems, and acoustical treatment for sound attenuation suitable for the range's approved use. (Ord. 2017-07, 7/5/17)

**Industry, Heavy:** Those industries whose processing of products results in the emission of any atmospheric pollutant, light flashes, or glare, odor, noise, or vibration which may be heard and/or felt off the premises and those industries which constitute a fire or explosion hazard.

**Industry, Light:** Those industries whose

processing of products results in none of the conditions described for heavy industry.

**Junk Yard:** Any place at which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted, including but not limited to: use of salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, rags, glass, rubber, lumber, millwork, brick, and similar property which are used, owned, or possessed for the purpose of wrecking or salvaging parts therefrom.

**Kennel:** Any lot or premises on which five (5) or more animals, dogs and/or cats, or other animals combined over the age of twelve (12) weeks are kept. A non-commercial kennel at, in, or adjoining a private residence where hunting or other dogs are kept for the hobby of the householder (i.e., hunting, tracking, or exhibiting) or for guarding or protecting the householder's property is permitted in residential zoning districts, however, no more than five (5) animals (dogs, cats, and small animals combined) may be allowed as a non-commercial kennel. (Ord. No. 84-08, 7-84; Ord. No. 93-29, 1-18-94).

**Landscaping:** An area devoted to any or all of the following: lawn or grass areas; trees, shrubs, ground cover or other plantings; decorative rock, natural or manmade; decorative lighting benches, table fountains, planters or other similar outdoor furniture; decorative fences; detention and retention ponds; and waterfalls and manmade streams. (Ord. No. 09-03, 2-3-2009).

**Land Reclamation:** The reclaiming of land by depositing material so as to elevate the grade and the process of depositing more than 1000 cubic yards of material on any lot or parcel.

**Loading and Unloading Berths:** The off-street area required for the receipt of or distribution by vehicles of material or merchandise.

**Lodging House:** A building with more than two but not more than ten guest rooms where lodging with or without meals is

provided for compensation.

**Lot:** A piece, parcel, plot, tract, or area of land occupied or capable or being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required under this Ordinance, and having its principal lot frontage on a street. A lot may contain both principal and accessory buildings or uses if the Planning and Zoning Commission conditionally approves the accessory building or use. (Ord. No. 00-26, 01/16/01).

**Lot, Corner:** A lot abutting on and at the intersection of two streets. For setback purposes, a corner lot shall contain a front yard, corner side yard, and two interior side yards. A corner lot shall be considered to have no rear yard. (Ord. No. 92-09, 5-5-92).

**Lot Coverage:** Determined by dividing the area of a lot which is occupied or covered by buildings or roofed areas, including covered porches and accessory buildings, by the gross area of the lot. (Ord. No. 92-09, 5-5-92).

**Lot Depth:** The horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and rear lot line of a lot.

**Lot Ground Level:** For buildings having walls fronting on only one street, the elevation at the front lot line at the center of a wall fronting on the street; for buildings having walls fronting on more than one street, the average of the elevation of the front lot line at the center of all walls fronting on the streets; for buildings having no walls fronting on the street, the average level of the ground adjacent to the exterior walls of the building.

**Lot, Interior:** A lot other than a corner or through lot.

**Lot Line, Front:** In the case of an interior lot, a line separating the lot from the street, and in the case of a corner lot, a line separating the narrowest street frontage of the lot from the street.

**Lot Line, Rear:** A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, 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 lot boundary line not a front lot line or a rear lot line.

**Lot, Through:** A lot having frontage on two substantially parallel streets. A through lot shall be considered to have a front lot line and a rear lot line. (Ord. No. 93-08, 7-6-93).

**Lot Width:** The distance as measured in a straight line, between side lot lines at the points of intersection with the building line.

**Manufactured Home:** A transportable structure, designed to be used with or without a permanent foundation as a dwelling unit when connected to public utility facilities and which is built in a factory in accordance with local building standards or the United States Department of Housing and Urban Development's manufactured home construction safety standards, latest revision. (Ord. No. 90-01, 4-3-90).

**Manufactured or Mobile Home Park or Subdivision:** Means a parcel (or contiguous parcels) of land divided into two or more manufactured or mobile home lots for rent or sale.

**Manufactured or Mobile Home Space or Lot:** A plot of ground within a manufactured or mobile home park or subdivision designed for the accommodation of one manufactured or mobile home.

**Manufactured or Mobile Home Stand:** That portion of an individual manufactured or mobile home space which has been reserved for the placement of a manufactured or mobile home and structures or additions appurtenant to the manufactured or mobile home.

**Manufacturing:** The creation of products either with machinery or by hand according to an organized plan and with the division of labor.

**Mini-Storage/Mini-Warehouse:** A building or group of buildings containing varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the storage of household and personal goods or wares and may include outdoor storage of recreational

vehicles. (Ord. No. 09-03, 2-3-2009).

**Mining:** The extraction of sand, soil, or other similar material from the land in the amount of 400 cubic yards or more and the removal thereof from the site without processing. For purposes of this ordinance, mining shall not include extraction of minerals, oil, gas, precious metals, ore or gravel, said extraction not being permitted within the city limits of Rock Springs. (Amended Ord. 2011-01, 3/1/11)

**Mobile Home:** A transportable structure built on a chassis and designed to be used without a permanent foundation as a dwelling unit when connected to public utility facilities and which is not compliant with the provisions for a Manufactured Home as defined herein. Such unit's overall length shall be thirty-two feet or more and it shall have a flush toilet, bath and/or shower and all other usual home facilities. The term "mobile home" does not include a "recreational vehicle".

**Mobile Office:** A factory-assembled structure or structures exceeding 8 feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as an office without a permanent foundation, whether or not said running gear has been removed.

**Model Home:** A dwelling unit located in and permitted as a regular part of a residential subdivision under construction which is temporarily used for the purpose of showcasing said development as a housing product permitted in said subdivision, and through which interested buyers may tour during permitted business hours. (Ord. No. 08-11, 7-1-08).

**Model Home Sales Office:** An office located in a Model Home for a residential subdivision under construction; said Model Home Sales Office being used for on-site sales only during the duration of the residential development. (Ord. No. 08-11, 7-1-08).

**Modular Home:** A transportable structure, usually in one or more sections, designed for use with a permanent

foundation, as a dwelling unit, when connected to public utilities, and has been built in a factory in accordance with the adopted building codes and standards of the City of Rock Springs, Wyoming. (Ord. No. 09-03, 2-3-2009).

**New Construction:** Structures for which the "start of construction" commenced on or after the effective date of this Article.

**New Manufactured or Mobile Home Park or Subdivision:** A manufactured or mobile home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured or mobile homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community. (Ord. No. 90-01, 4-3-90).

**Noxious Matter or Material:** Material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

**Nursing Home:** A state regulated and licensed facility for the aged or chronically or incurably ill persons in which five or more such persons not of the immediate family are provided with food and shelter or care on a 24-hour per day basis, but not including hospitals, medical clinics, medical centers, surgical centers, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured. (Ord. 2014-09, 10/7/14)

**Offices:** Structures, or portions of structures, in which commercial activities take place but where goods are not produced, sold, or repaired. These include: banks; general and professional offices; governmental offices; insurance offices; real estate offices; taxi-cab offices, but not taxi stands; travel agency or transportation ticket offices; telephone exchange, utility offices; radio broadcasting and similar uses.

**Open Sales (or Rental) Lot:** Any land used or occupied for the purpose of buying, selling, or renting for use away from the

premises, any goods, materials, or merchandise, and for the exterior storing of same prior to sale or rental.

**Overlay Zone:** A zone superimposed upon underlying zone and which establishes special requirements in addition to those of the underlying zone. Development or use of land or structures must conform to the requirements of both zones or the more restrictive of the two if in conflict.

**Park, Public:** A natural or landscaped area, with or without buildings or structures, provided by a unit of government, to meet the active or passive recreational needs of the community. (Ord. 2014-09, 10/7/14)

**Parking Area, Public:** An open area, other than a street or alley designated for use or used for temporary parking of four (4) or more vehicles when available for public use, whether free or for compensation or as an accommodation for clients or customers.

**Parking Space, Off-Street:** A space designated for the temporary parking of a motor vehicle not on the right-of-way of a street or alley but accessible from a street or alley.

**Party Wall:** Any wall of a building or structure which is common to two or more buildings.

**Paved Parking Space or Surface:** An area covered by an impervious dust free surface of asphalt or concrete designed to specifications of the Director of Engineering and Operations.

**Permanent Foundation:** a site-built foundation, constructed of durable materials, i.e., concrete, or mortared masonry, built in accordance with applicable building standards adopted by the City.

**Personal and Convenience Services:** Business offering services such as barber shops, beauty shops, laundromats, laundry and dry cleaning pickup and delivery stations (but excluding actual laundry operations), and similar uses.

**Persons:** Includes any individual or group of individuals, corporations, partnerships, associations, or any other organized group of persons including state and local governments and agencies thereof.

**Porch:** A covered area adjoining an

entrance to a building and usually having a separate roof.

**Porch, unenclosed:** A porch lacking walls and a roof.

**Portable Storage Container:** A box-like container used for storage and transported by truck to a desired location for drop off. (Ord. No. 09-03, 2-3-2009).

**Prefabricated Construction:** A building method used to construct or build assemblies in standardized sections for shipment and assembly at the building site (Ord. No. 87-28, 12-1-87).

**Property, Personal:** Property other than real property consisting of things temporal and moveable.

**Property, Real:** Property in buildings and land.

**Recreational Vehicle:** Any vehicle designed primarily for use as a portable temporary dwelling unit for travel, recreational, or camping purposes, either self-propelled or mounted on or towed by another powered vehicle. (Ord. No. 09-03, 2-3-2009).

**Residential Storage Warehouse:** See Mini-Storage/Mini-Warehouse. (Ord. No. 09-03, 2-3-2009).

**Restaurant:** Any restaurant (except a drive-in restaurant or a convenience food restaurant as defined in this Section), coffee shop, cafeteria, short-order cafe, luncheonette, tavern, sandwich stand, drugstore, and soda fountain serving food, and all other eating or drinking establishments provided that at least one-half of the total sales are derived from the sale of food.

**Restaurant, Convenience Food:** An establishment with the principal business being 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 orders are not generally taken at the customer's table; or 2) the establishment includes a drive-up or drive-through service facility or offers curb service.



**Retaining Wall:** A vertical wall designed to resist the lateral displacement of soil or other materials. (Ord. No. 86-11, 8-5-86; Ord. No. 89-20, 9-19-89).

**Sales or rental lots:** A service establishment with outdoor storage/rental yards which may provide a variety of materials and equipment for rental or sale, including construction equipment. (Ord. 2011-01, 3/1/11)

**Salvage Yard:** Any location whose primary use is where waste or scrap materials are stored, bought, sold, accumulated, exchanged, packaged, disassembled or handled, including, but not limited to, materials such as scrap metals, paper, rags, tires and bottles. (Ord. No. 92-09, 5-5-92).

**School:** Any pre-primary, primary or grammar, public, parochial or private school, high school; preparatory school or academy, public or founded, or owned or conducted by or under the sponsorship of a religious or charitable organization; private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; junior college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or private school when not conducted as a commercial enterprise for the profit of individual owners or stockholders.

**Screening:** A solid or nearly solid barrier (i.e. wall, fence, plantings) constructed or installed for the purpose of visual separation.

**Setback:** The minimum required horizontal distance of separation, measured perpendicular from a building line to a lot line.

**Sexually Oriented Business:** An adult arcade, adult bookstore, adult cabaret, adult motel, or any combination of such businesses, more specifically defined as follows:

(1) "Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or

electronically, electrically, or mechanically controlled 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 the depicting or describing of "specified sexual activities" or "specified anatomical areas."

(2) "Adult bookstore" means a commercial establishment:

(a) Which as one of its principal business purposes offers for sale or rental, for any form of consideration, any one or more of the following:

(i) Books, magazines, periodicals, or other printed matter, which depict or describe "specified sexual activities" or "specified anatomical areas"; or

(ii) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities," excluding condoms and other birth control and disease prevention products.

(b) Which regularly excludes all minors from the premises or a section thereof because of the sexually explicit nature of the items sold, rented, or displayed therein.

(3) "Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment or any other commercial establishment which regularly features:

(a) Persons who appear in a state of nudity; or

(b) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(4) "Adult motel" means a hotel, motel, or similar commercial establishment which:

(a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than 8 hours; or

(c) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 8 hours.

(5) "Specified Anatomical Areas" means the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals.

(6) "Specified Sexual Activities" means: (a) human genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; or (c) Fondling or other erotic touching of human genitals, pubic region, buttocks or female breast; or (d) Any exhibition, performance or dance which is intended to sexually stimulate any member of the public. (Ord. No. 2007-25, 1-2-08)

Shopping Center: Any grouping of two or more principal retail uses, whether on a single lot or on abutting lots under multiple or single ownership and whether contained in one building or multiple buildings.

Site Plan: A drawing to a scale not less than 1 inch equals 100 feet showing the accurate location of all structures, streets, alleys, and parking areas existing and proposed on subject property or any other information as may be required by this Ordinance.

Soil Processing: The alteration of material mined from the earth.

Solar Collector: One (1) of the following which is capable of collecting, storing, or transmitting at least twenty-five thousand (25,000) BTU's on a clear winter solstice day:

1. A wall, clerestory or skylight window designed to transmit solar energy into a structure for heating purposes;

2. A greenhouse attached to another structure and designed to provide part or all of the heating load for the structure to which it is attached;

3. A trombe wall, drum wall or other wall or roof structural element designed to collect and transmit solar energy into a structure;

4. A photovoltaic collector designed to convert solar energy into electric energy;

5. A plate-type collector designed to use solar energy to heat air, water or other fluids for use in hot water or space heating or other applications;

6. A massive structural element designed to collect solar energy and transmit it to internal spaces for heating; or

7. Other devices or combination of devices which rely upon sunshine as an energy source.

Solar Right: A property right to an unobstructed line-of-sight path from a solar collector to the sun which permits radiation from the sun to impinge directly on the solar collector. The extent of the solar right shall be described by that illumination provided by the path of the sun on the winter solstice day which is put to a beneficial use or otherwise limited by these regulations.

Stable, Private: Any building located on a lot which is designed, arranged, used or intended to be used for not more than four horses for the private use of the owner of the lot but shall not exceed 6000 square feet in area.

Stable, Public: A stable where horses are kept for remuneration, hire or sale.

Start of Construction: Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair,

reconstruction, rehabilitation, addition, placement or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building. (Ord. No. 9001, 4-3-90).

**Storage Area:** An area designated for the purpose of storing excess goods, supplies or stock for future use.

**Storage Shed, Residential:** A detached accessory building or structure used for residential storage purposes.

**Street:** A right-of-way, other than an alley, dedicated or otherwise legally established for public use, usually affording the principal means of access to abutting property.

**Street Frontage:** Any property line separating a lot from a street.

**Street, Public:** Any street which has been dedicated to the City or is otherwise publicly owned by the City and is improved and constructed to the appropriate standards as required by the Subdivision Ordinance. (Ord. No. 92-09, 5-5-92).

**Street, Right-of-Way:** Any street which has been dedicated to the City, or is otherwise publicly owned by the City and is unimproved as opposed to a public street which is improved and constructed to

Subdivision Ordinance standards. (Ord. No. 92-09, 5-5-92).

**Structural Alteration:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any change in the exterior walls or the roof.

**Structure:** Means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." (Ord. No. 90-01, 4-3-90).

**Swimming Pool, Private or Jointly Owned:** A recreation facility designed and intended for water contact activities that serves residential uses, including pools owned or controlled by a homeowners association, neighborhood club, or similar organization. (Ord. 2014-09, 10/7/14)

**Tennis Court, Private or Jointly Owned:** A recreation facility designed for tennis or similar activities that serve residential uses, including tennis courts owned or controlled by a homeowners association, neighborhood club, or similar organization. (Ord. 2014-09, 10/7/14)

**Tourist Home:** A building in which more than one, but not more than five, guest rooms are used to provide or offer overnight

accommodations for transient guests for compensation.

**Townhouse:** A single family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent building and/or buildings by party walls, or are located immediately adjacent thereto with no visible separation between walls or roof; all of which dwellings may be located on individual and separate lots, if individually owned, or upon a single lot, if under common ownership. (Ord. No. 09-03, 2-3-2009).

**Townhouse Cluster:** A building consisting of three or more non-communicating, attached one-family units placed side by side having a common wall between each two adjacent dwelling units.

**Transmission Tower:** See 13-814, Wireless Telecommunications. (Ord. No. 90-11, 1-15-91, Ord. No. 2009-15, 10-6-2009).

**Transmitter:** See 13-814, Wireless Telecommunications. (Ord. No. 2009-15, 10-6-2009).

**Use:** The employment or occupation of a building, structure or land for a person's service, benefit, or enjoyment.

**Use, Conditional:** Either a public or private use as listed herein which, because of its unique characteristics, cannot be properly classified as a Permitted Use in a particular district. After consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, a permit for such Conditional Use may or may not be granted pursuant to the requirements of this Ordinance. A Conditional Use may be a Principal Use or an Accessory Use.

**Use, Non-Conforming:** An existing use of land or building which was legal prior to the effective date of this Ordinance but which fails to comply with the requirements set forth in this Ordinance applicable to the zone in which such use is located.

**Use, Permitted:** A use which is lawfully established in a particular district or districts and which conforms with all requirements, regulations, and performance standards of such district. A Permitted Use may be a

Principal Use or an Accessory Use.

**Use, Principal:** A use or structure which determines the predominant or major use of the lot on which it is located. A Principal Use may be either a Permitted or a Conditional Use.

**Variance:** To vary or adjust the strict application for the set back, yard and height requirements of this ordinance in the case of a physical condition to a lot or building but only if strict application would deprive the owner of the reasonable use of the land or building involved. This definition does not apply to a "Floodplain Variance" under Section 13813. (Ord. No. 89-20, 9-19-89).

**Variance Floodplain:** Means a grant of relief from the requirements of Section 13-813 of this Ordinance which permits construction in a manner that would otherwise be prohibited by Section 13813. (Ord. No. 89-20, 9-19-89).

**Wall, Retaining:** Repealed (Ord. No. 89-20, 9-19-89)

**Warehouse:** An enclosed building designed and used primarily for the storage of goods and material.

**Warehouse, Residential Storage (Mini-Warehouse):** A building or group of buildings in a controlled access and fenced or screened compound that contains relatively small storage spaces of varying sizes, having individual, compartmentalized and controlled access for the dead storage of excess personal property of an individual or family generally stored in residential accessory structures, when such building or group of buildings are not located on the lot of the residence.

**Wind Energy Conversion System:** See §13-817 of this ordinance. (Ord. 2011-05, 5/3/11)

**Winter Solstice Day:** The day on or about December 21 which marks the beginning of winter in the northern hemisphere and is the time when the sun reaches its southernmost point.

**Wireless Telecommunications:** See 13-814. (Ord. No. 2009-15, 10-6-2009).

**Yard:** A space on the same lot with a principal building, open, unoccupied other than by steps, walks, terraces, driveways,

lamp posts and similar structures, and unobstructed by structures, except as otherwise provided in this Ordinance.

**Yard, Corner Side:** A yard on a corner lot the area of which is bounded by a line extending from the front of the principal building (the front building line) to a point intersecting the side street right-of-way line (side lot line), then along said side lot line to a point intersecting the rear lot line, then along said rear lot line to a point intersecting the line formed by extending the wall of the nearest principal building paralleling the side lot line.

**Yard, Front:** A yard extending across the full width of the lot between two side lot lines the depth of which is the least distance between the street right-of-way and the building line.

**Yard, Rear:** A yard extending across the full width of the lot between the two side lot lines and between the rear line and a parallel line tangent to the rear of the principal building and the depth of which is the least distance between the rear lot line and the parallel line.

**Yard, Side:** A yard extending between the front building line and the rear building line, the width of which is the least distance between the side lot line and the nearest part of the principal building.

(97-12, Amended, 12/02/1997; 96-10, Amended, 07/02/1996; 95-21, Amended, 01/16/1996; Amended 2010-09, 1/4/11, Amended 2012-05, 6/5/12; Amended Ord. 2014-02, 4/15/14; Amended Ord. 2018-15, 12/18/18)