

## **ARTICLE I. IN GENERAL**

### **Sec. 126-1. Rules.**

- (a) The term "building" shall include "structures" of every kind, regardless of similarity to buildings.
- (b) The term "lot" shall include the word "plot," "piece," and "parcel."
- (c) The term "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- (d) All measured distances shall be taken to the nearest integral inch. If a fraction is one-half inch or less, the integral inch next below shall be taken.

(Code 1977, § 13-103.1)

### **Sec. 126-2. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building* means a subordinate building or structure on the same lot, or part of the main building, exclusively occupied by or devoted to a use incidental to the main use and which is reasonably compatible to the main use.

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

*Active parks* means publicly owned recreational land that by their nature and design provide high intensity active recreational opportunities. Such parks contain aboveground facilities intended for recreational activities. Active parks may generally include, but not be limited to, baseball/softball fields, hockey and other skating rinks, picnic areas, playground equipment and other similar uses. Active park vegetation shall be sod, sand, or other human-placed material, and require governmental agency maintenance (moving, irrigation, and other similar maintenance practices). For the purpose of this chapter, all parks, except Elm Creek Park Reserve and Oxbow Park, shall be classified as active parks.

*Adult body painting studio* means an establishment or business which provides the service of applying paint or other substances whether transparent or nontransparent to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.

*Adult bookstore* means a business engaging in the barter, rental, or sale of items consisting of printed matter and film, if such shop is not open to the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

*Adult companionship establishment* means a companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

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*Adult entertainment establishments* means an establishment or business that is open only to adults and that presents live performances that are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas.

*Adult establishment* means any business which is conducted exclusively for the patronage of adults and as to which minors are specifically excluded from patronage there either by law or by the operators of such business.

*Adult hotel or motel* means a hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

*Adult massage parlor or health club* means a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

*Adult mini-motion picture theater* means a business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual media material if such business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult modeling studio* means an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customer and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

*Adult motion picture arcade* means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor 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 and with emphasis on depicting or describing specified sexual activities or specified anatomical areas.

*Adult motion picture theaters* means a business premises within an enclosed building with a capacity of 50 or more persons used to present visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas for observation by patrons therein.

*Adult sauna* means a business which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.

*Adult uses* means and includes adult bookstores, adult motion pictures theaters, adult mini-motion picture theaters, adult massage parlors, adult saunas, adult companionship establishments, adult health clubs, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels or motels, adult body painting studios, and other adult establishments, except adult entertainment establishments as defined in this section.

*Agriculture* means the use of land for agricultural purposes, including farming, dairying, agriculture pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

*Airport (landing strip, heliport, or aircraft stop)* means any premises, which are used, or intended for use, for the landing and taking-off of aircraft; and any appurtenant areas which are used or intended for use or buildings incidental to aircraft services, together with all buildings and structures thereon.

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*Alley* means a public right-of-way that affords a secondary means of access to abutting property.

*Amusement devices* means any game of skill or chance requiring the payment of money to play or operate.

*Antenna*. See section 126-440.

*Apartment* means a room or suite of rooms located in a one-family or two-family structure or a multiple dwelling, which shall include bath and kitchen accommodations, intended or designed for use as an independent residence by a single family or individual.

*Apartment building* means a multiple-family dwelling originally designed and constructed to accommodate three or more apartments, designed with more than one dwelling unit connecting to a common corridor or entranceway, in contrast to a single-family or two-family dwellings converted for multiple-family use or attached row dwelling (party wall type) as defined herein.

*Automobile court or motel* means a combination or group of two or more detached, semidetached or connected permanent dwellings occupying a building site integrally owned and used as a unit to furnish overnight transient living accommodations.

*Automobile service station* means any building or premises used for the dispensing or sale of automobile fuels, lubricating oil or grease, tires, batteries, or minor automobile accessories. Services offered may include the installation of tires, batteries and minor accessories; minor automobile repairs; and greasing or washing of individual automobiles. When sales, services and repairs as detailed here are offered, as incidental to the conduct of a public garage, the premises shall be classified as a public garage. The term "automobile service stations" shall not include the sale or storage of vehicles, as provided for in article II of chapter 34, and shall not include premises offering major automobile repairs, automobile wrecking, automobile sale or automobile laundries. In connection with automobile service stations, fuels offered for sale shall be stored only in underground tanks located wholly within the lot lines.

*Automobile wash* means a building or portion thereof, containing facilities for washing more than two automobiles, using production line methods with a steam cleaning device or other mechanical devices.

*Automobile wrecking* means the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts. See "Junkyard."

*Auto repair, major*, means engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers, collision service including body, frame, or fender straightening or repair, and overall painting of vehicles.

*Auto repair, minor*, means incidental repairs, replacement of parts, and motor service to automobiles, but not including any operation specified under the term "Auto repair, major."

*Basement* means any story of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on any side, regardless of depth of excavation below ground level.

*Block* means an area of land within a subdivision that is entirely bounded by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or body of water.

*Bluff line* means the high elevation of a steep bank adjacent to a body of water.

*Board* means the city board of zoning adjustments.

*Boardinghouse* means a building other than a hotel, where for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three or more persons, but not exceeding ten persons.

*Buildable area* means the space remaining on a lot after the minimum setback and open space requirements of this chapter have been met.

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*Building* means any structure that is roofed and walled and used or intended for supporting or sheltering any use or occupancy.

*Building, detached*, means a single structure separated by open space from another structure on a single zoning lot.

*Building, height of*, means the vertical distance measured from the average elevation of the finished grade along the front of the building having frontage on a public right-of-way to the top at 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 arch type or to the midpoint of the highest gable on a pitched or hip roof.

*Building line* means an imaginary line separating the buildable area and required yards.

*Building line setback* means the distance between the building line and the property line.

*Building official* means the officer or other designated authority charged with the administration and enforcement of the state building code, or his duly authorized representative.

*Building, principal*, means a nonaccessory structure in which the primary use of the zoning lot is conducted.

*Building, unit group*, means two or more buildings (other than dwellings) grouped upon a lot and held under one ownership such as universities, hospitals, institutions and industrial plants.

*Bulk* means the size and setbacks of buildings or structures and location of same with respect to one another and includes the following:

- (1) The size and height of buildings;
- (2) The location of exterior walls at all levels in relation to lot lines, streets or to other buildings;
- (3) The gross floor area of buildings in relation to lot area (floor area ratio);
- (4) All open spaces allocated to buildings; and
- (5) The amount of lot area per dwelling unit.

*Bulk materials* means uncontained solid matter such as power, grain, stone, sand, sulphur, etc., which has a tendency to become airborne.

*Church* means a building or structure, or group of buildings or structures, which, by design and construction, are primarily intended for the conducting of organized religious services and associated accessory uses.

*Cluster development* means a type of development that, through the planned unit development process, may group single-family lots in a manner varying from the strict application of the minimum requirements of this chapter.

*Commercial amusement establishment* means any building, area, or place whose principle purpose is providing entertainment derived from the operation of amusement devices.

*Community development director* means the officer or other designated authority charged with the administration and enforcement of chapter 122, pertaining to subdivision regulations and this chapter, or his duly authorized representative.

*Comprehensive plan* means the group of maps, charts, and texts that make up the long range plan for the city.

*Conditional use* means uses that, although generally compatible with the basic use classification of a particular zone, should not be permitted to be located as a matter of right in every area included with the zone because of hazards inherent in the use itself or special problems, which its proposed location may present. Such uses may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions.

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*Condominium (dwelling)* means a multifamily dwelling whereby the fee title to each dwelling unit is held independently of the others.

*Convalescent homes* means facilities that are staffed by medical professionals and provide short-term care and recovery for patients after surgeries and long-term illness. These facilities can be freestanding hospitals or hospital-based units and are a lower level extension of hospital care.

*Crown cover* means the ratio between the amount of land shaded by the vertical projection on a horizontal plane of the branches and foliage of standing trees to the total area of land, usually expressed as a percentage.

*Curb level* means the level of the established curb in front of the building measured at the center of such front. Where a building faces on more than one street, the curb level shall be the average of the levels of the curbs at the center of the front of each street. Where no curb elevation has been established, the city engineer shall establish such curb levels.

*Day care facility* means a facility licensed by the state in which care is provided for one or more children.

*Day care, in-home* means a state licensed residential facility or a housing services establishment registered under chapter 144D serving six or fewer persons, a state licensed "family day care" or "group family day care" as defined in Minnesota Rules, part 9502.0315, but does not include care provided by an individual who is related, as defined in Minnesota Rules, part 9502.0315, to the person being cared for or care provided by an unrelated individual to persons from a single family of persons related to each other.

*Debris trailer* means a trailer containing construction or demolition debris, yard waste or other similar waste and/or debris items.

*Development* means the construction, installation or alteration of any structure, the extraction, grading or filling, clearing or other alteration of terrestrial or aquatic vegetation, land or the current course of any water body or watercourse; or the division of land into two or more parcels.

*Displacement (vibration)* means the amount of motion involved in a vibration.

*District* means a zoning district as defined herein.

*Donation collection bin* means any container that is used for the holding of charitable donated items by the general public, including, but not limited to, clothing, toys and books, with the collection of those donated items made at a later date or time and which is located for such purposes outside an enclosed building.

*Dwelling* means a building or portion thereof, but not including a house trailer or mobile home, designed or used exclusively for residential occupancy, including one-family, two-family, and multiple-family dwelling units, but not including hotels, motels, boardinghouses or lodginghouses.

*Dwelling, attached*, means a dwelling joined to one or more other dwellings by a party wall or walls.

*Dwelling, multiple-family*, means a dwelling containing three or more dwelling units.

*Dwelling, single-family*, means a detached dwelling containing accommodations for and occupied by a single-family unit.

*Dwelling, two-family*, means a dwelling designed exclusively for occupancy by two families living independently of each other.

*Dwelling unit* means one or more rooms in a dwelling or apartment hotel designed for occupancy by one family for living purposes and having its own permanently installed cooking and sanitary facilities.

*Efficiency dwelling unit* means a dwelling unit containing only one habitable room.

*Equal degree of encroachment* means a method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

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*Extended-stay hotel* means any structure consisting of one or more buildings, with more than five dwelling units with provisions for living, sanitation, and sleeping, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary residence is offered for pay to persons for non-transient extended stays or stays longer than 30 days within 180 day period, regardless of the presence of rentals or leases for shorter periods of time.

*Family* means an individual or two or more persons related by blood or marriage or a group of not more than five persons (excluding servants) who need not be related by blood or marriage living together in a dwelling unit.

*Firearms* means any device from which a projectile is propelled by, but not limited to, gunpowder, CO<sub>2</sub>, spring action or air. This definition shall be deemed to include, but not limited to, shotguns, rifles, pellet/BB guns, pistols, revolvers, slingshots, blowguns, and bows and arrows.

*Flood* means 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.

*Flood frequency* means the average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

*Flood fringe* means that portion of the floodplain outside of the floodway. The term "flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study for the city.

*Floodplain* means the beds proper and the areas adjoining a wetland, lake or watercourse, which have been or hereafter may be covered by the regional flood.

*Floodproofing* means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding primarily for the reduction and elimination of flood damages to properties, water and sanitary facilities, structures, and contents of buildings in a flood hazard area.

*Flood protection elevation* means a point not less than one foot above the water surface profile associated with the regional flood plus any increases in flood heights attributable to encroachments on the floodplain. It is the elevation to which uses regulated by this section are required to be elevated or floodproofed.

*Flood, regional*, means a flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval.

*Floodway* means the bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain that are reasonably required to carry or store the regional flood discharge.

*Floor area* means:

- (1) For the purpose of calculating the number of off-street parking spaces required, the sum of the gross horizontal area of the floors of a building measured to the centers of all partitions, except those areas used for storage, building, maintenance, toilets, window show cases, dressing rooms, employee's cafe, conference rooms, or utilities; and
- (2) For all other purposes, the sum of the gross horizontal area of the floors of a building measured to the centers of all partitions.

*Floor area ratio (FAR)* means 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.

*Footcandle* means a unit of illumination intensity.

*Frequency* means the number of oscillations per second in a sound wave; and index of the pitch of the resulting sound.

*Frontage* means that part of a lot abutting any street right-of-way, waterway, or similar barrier.

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*Garage, private*, means an accessory building designed or used for the storage of not more than three automotive, motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

*Garage, public*, means any building except those described as a private garage used for the storage or care of motor-driven vehicles, or premises where any such vehicles are equipped for operation, are repaired, or are kept for remuneration, for hire, or for sale.

*Garage, truck*, means a building which is used or intended to be used for the storage of motor trucks, truck trailers, tractors, and commercial vehicles exceeding one and one-half tons capacity.

*Grade (adjacent ground elevation)* means the lowest point of elevation of a finished surface of the ground, paving or sidewalk within an area between a building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

*Grade, street*, means the elevation of the established street in front of the building measured at the center of such front. Where no street grade has been established, the city engineer shall establish such street grade or its equivalent for the purpose of this chapter.

*High-rise building* means any structure, designed for a specific use that exceeds four floors of elevation.

*Home occupation* means any gainful occupation, profession or commercial activity conducted within a dwelling unit or accessory building that clearly is secondary to the residential use of the property. In-home day cares are not considered home occupations.

*Hotel or motel* means any structure consisting of one or more buildings, with more than five dwelling units with provisions for transient living, sanitation, and sleeping, that is specifically constructed, kept, used, maintained, advertised, and held out to the public to be a place where temporary lodging of 30 days or less within 180 day period is offered for pay to guests, is not intended for long-term occupancy, and does not otherwise meet the definition of an extended-stay hotel as defined in this section.

*Kennel* means any premises where more than two dogs, cats, or any combination thereof at any one time, over six months of age are present as owner's pets, except for boarding, breeding, training or sale, except when located in a pet shop or veterinary clinic.

*Loading space* means 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.

*Lodging house* means a house with rooms that can be rented.

*Lot* means a portion of a subdivision or other parcel of land intended for building development or for transfer of ownership.

*Lot, corner*, means 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.

*Lot coverage* means the area of a zoning lot occupied by the principal building or buildings and accessory buildings.

*Lot depth* means the mean horizontal distance between the front and rear lot lines.

*Lot, double frontage*, means a lot having frontage on two nonintersecting streets as distinguished from a corner lot.

*Lot, interior*, means a lot other than a corner lot.

*Lot line, front*, means the boundary of a lot abutting a public street right-of-way. In case of a corner lot, the front shall be the lot side having the shortest dimension on a public street.

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*Lot line, rear*, means that boundary of a lot that 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.

*Lot line, side*, means any boundary of a lot that is not a front lot line or rear lot line.

*Lot of record* means any lot which is a part of a subdivision, the plat of which has been recorded in the office of the registrar of deeds, or registrar of titles, or a lot described by metes and bounds, the deed to which has been recorded in the office of the registrar of deeds or registrar of titles at the time the ordinance from which this section is derived was adopted.

*Lot width* means the horizontal distance between the side lot lines measured at right angles to the lot depth at the required minimum front yard setback.

*Mobile home* means living quarters, at least 12 feet in width and 50 feet in length, designed for transportation after fabrication on streets and highways on its own wheels, flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or similar foundations, connection to utilities and the like.

*Modular, manufactured or prefabricated home* means a non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site.

*Municipal water and sewer systems* means utility systems serving a group of buildings, lots, or an area of the city, with the design and construction of such utility systems as approved by the city engineer.

*Nameplate* means a sign indicating the name and/or address of a building, or the name of an occupant thereof and/or the practice of a permitted occupation therein.

*Nonconforming lot* means a lot that does not comply with the minimum lot area or frontage requirements of the district in which it is located.

*Nonconforming structure* means a structure that does not comply with the bulk, yard, setback or height regulations of the district in which it is located.

*Nonconforming use* means use of a building or of land that does not conform to the regulations as to use for the district in which it is situated.

*Normal high-water mark* means a line which the water impresses on the soil by covering it for sufficient periods of time to deprive it of vegetation or a mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape and is commonly that point where the natural vegetation changes from aquatic to predominately terrestrial. In the absence of any statement to the contrary, it must be construed to mean "ordinary high-water mark."

*Obstruction* means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain 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.

*Old town overlay district* means the area legally described as follows: beginning at the point of intersection with the centerline of French Lake Road and the centerline of Dayton Road in the City of Champlin, Minnesota, County of Hennepin; thence southerly from said point along said centerline of French Lake Road to the point of intersection with said centerline of Garfield Avenue, as extended; thence easterly from said point along said centerline to a point of intersection with the centerline of Cartway Road; thence southerly from said point along said centerline to a point of intersection with the centerline of West Dean Avenue; thence easterly from said point along said centerline to a point of intersection with Colburn Street; thence southerly from said point along said centerline to a point of intersection with West Sunset Drive, as extended; thence southerly, more or less, from said

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point along said centerline to a point of intersection with the centerline of Ghostly Street; thence southerly from said point along said centerline to a point of intersection with the northerly plat line of Elm Creek Terrace, Hennepin County, as extended; thence easterly along the north plat line of said plat to a point approximately 200 feet east of the northeasterly most point of said plat; thence southeasterly along a line between Lots 4-6, Block 4 and Lots 7-9, Block 4, Champlin, to a point of intersection with the centerline of Downs Road; thence southerly along said centerline to a point of intersection with the southerly lot line of Lot 1, Block 5, Champlin, as extended; thence southeasterly along said lot line to a point of intersection with the eastern right-of-way line of U.S. Highway No. 169; thence south from said point along said line, as extended, to a point of intersection with the centerline of Hayden Lake Road; thence easterly along said centerline to the centerline of West River Road; thence northerly along said centerline to the centerline of Hennepin Landing, as extended; thence northeasterly to the southerly shoreline of the Mississippi River; thence northwest, more or less, along said southern shoreline of the Mississippi River to the point of intersection with the centerline of Cartway Road, as extended; thence south, more or less, from said point along said centerline to its intersection with the centerline of Dayton Road; thence west from said point along said centerline to the point of beginning.

*Open space* means any open area not covered by structures owned by a person or persons including, but not limited to, the following uses: required or established yard areas, parking areas, sidewalks, school walks, trails, recreation areas, water bodies, watercourses, wetlands and wildlife management areas, groundwater recharge areas, floodplains, floodways, flood fringes, erodible slopes, woodlands, and soils with severe limitations for development.

*Outdoor vending machines* means any self-contained appliance or machine located outside a structure that dispenses a product via an automated process. Outdoor vending machines do not include vacuum machines, air dispensers or pay phones.

*Parking space* means a land area exclusive of driveways and aisles, of such shape and dimensions and so prepared as to be usable for the parking of a motor vehicle, and so located as to be readily accessible to a public street or alley.

*Passive parks* means publicly owned recreational land that by their nature and design provide low intensity passive recreational opportunities. Such parks do not contain aboveground facilities intended for recreational activities (except they may contain trail bridges). The term "passive parks" may generally include, but is not limited to, walking trails, natural habitat and other similar uses. Passive park vegetation shall be natural and not require governmental agency maintenance. For the purpose of this chapter the only passive parks in the city shall be Elm Creek Park Reserve and Oxbow Park.

*Performance standard* means a criterion established to control environmental affects such as, but not limited to, noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazard, or glare, runoff or heat generated by, or inherent in, uses of land or building.

*Planned unit development* means a tract of land developed as a unit rather than as an individual development wherein two or more buildings may be located in relationship to each other rather than to lot lines with regard to use and location and in accordance with definite requirements as well as provisions agreed to between the city and developer.

*Plat* means a method of land subdivision by which lots are described by lot and block legal descriptions.

*Play and recreational facilities* means accessory structures and/or uses that are customary and incidental to the principal use of the site, including swing sets, play structures, sand boxes, skateboard ramps, tennis courts, sport courts, trampolines, and the like, intended for the enjoyment and convenience of the residents of the principal use and their occasional guests.

*Portable storage container* means a purpose-built transportable, fully enclosed container designed for temporary storage of materials and/or equipment. For the purposes on this article, the trailer portion of a tractor trailer shall be considered a portable storage container when expressly used for the purpose of on-site storage.

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*Public open space* means any publicly owned open area, including, but not limited to, the following: parks, playgrounds, school sites, parkways, and streets.

*Public utility* means any person, firm, corporation, municipal department, or board fully authorized to furnish and furnishing under municipal regulation to the public, electricity, gas, steam, communication services, telegraph services, transportation, or water.

*Public waters* means a body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of these regulations, any body of water that 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 shoreland, as defined herein, for a designated private use authorized by the commissioner of natural resources shall be exempt.

*Reach* means, in hydraulic engineering, the longitudinal segments of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

*Regional flood* means a flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. The term "regional flood" is synonymous with the term "base flood" used in the flood insurance study.

*Regulatory flood protection elevation* means an elevation no lower than one foot above the elevation of the regional flood plus any increase in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

*Rest home, convalescent home or nursing home* means a home for the care of the aged or infirm, or a place of rest for those suffering a bodily disorder.

*Restrictive soils* means soils which have permeability rates of less than five minutes per inch; or in which bedrock is less than five feet below the ground surface; or in which the water table is permanently or seasonably less than five feet below the ground surface; or where the slope of the surface is greater than 12 percent.

*Riparian lot* means a lot having a front, rear, or sideline adjacent to any body of water.

*Roadway centerline, ultimate*, means the future midpoint of a roadway based on the required right-of-way stated within section 122-59(b)(14), or as determined by the city engineer.

*Roll-off debris container* means an open-top metal box specifically used for the containment of construction or demolition debris, yard waste or other similar waste and/or debris items commonly transported by flatbed.

*School* means a public school as defined in Minn. Stats. § 120.5 or a nonpublic school as defined in Minn. Stats. § 123.932.

*Semipublic uses* means uses owned by private organizations or private nonprofit organizations which are open to some but not all of the public such as denominational cemeteries, private schools, clubs, lodges, recreational facilities, churches, etc.

*Setback line* means the mean horizontal distance between the property line and the line of the building or the allowable building line as defined by the yard regulations of this chapter.

*Shopping center, community*, means a retail center designed for the purpose of retailing and providing a wide range of goods and services of both the convenience and the shoppers and/or durable nature such as apparel, furniture, banking and financial services, for a trade area comprised of several residential areas.

*Shopping center, neighborhood*, means a retail center designed for the purpose of retailing convenience goods such as foods and pharmaceutical products and providing personal services such as harbor shops and

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laundry stations for the accommodation of the basic day-to-day shopping or service needs of persons living or working within the nearby area.

*Shopping center, regional*, means a retail center designed to serve a trade area of several communities and to provide a depth of convenience and shoppers and durable goods and services comparable to that found in the central business district of the city of Minneapolis or the city of St. Paul.

*Shooting range or range means an area or facility designated or operated primarily for the use of firearms, as defined in section 97A.015, subdivision 19, or archery, and includes shooting preserves as described in section 97A.115 or any other Minnesota law.*

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

*Slope* means the inclination of the natural surface of the land from the horizontal, usually measured in one or three ways:

- (1) As a ratio, the horizontal distance to the vertical distance;
- (2) As a percentage, the vertical distance over the horizontal distance; or
- (3) By degrees, measured from the horizontal to the vertical.

*Specified anatomical areas* means anatomical areas consisting of:

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

*Specified sexual activities* means activities consisting of the following:

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

*Story* means 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.

*Story, half*, means a space under a sloping roof which has the line intersection of roof decking and wall face not more than three feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.

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*Street* means a public right-of-way or roadway, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or however other designated.

*Structural alterations* means any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or any substantial changes in the roof and exterior walls.

*Structure* means anything constructed or erected, the use of which requires more or less permanent location on the ground or attachment to something having a permanent location on the ground; including, but not limited to, buildings, factories, sheds, cabins, modular or prefabricated homes, mobile homes, and other similar items.

*Subdivision* means the division of a parcel of land into two or more lots or parcels any of which resultant parcel is less than five acres in area for the purposes of transfer of ownership or building development. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided. The term "subdivision" does not include those separations:

- (1) Where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
- (2) Creating cemetery lots; or
- (3) Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

*Townhouse* means a single structure consisting of three or more dwelling units with no other dwelling unit connected to the other dwelling unit except by a party wall with no openings.

*Trailer house* means any trailer as defined herein used for residential purposes. See "Mobile home."

*Tree* means any woody plant that has at least one trunk with a diameter of four inches or greater at a point four feet above the ground.

*Use* means the purpose for which land or premises or a building thereon is designated, arranged, or intended, or for which it is or may be occupied or maintained.

*Use, accessory*, means a use incidental or accessory to the principal use of a lot or a building located on the same lot as the accessory use.

*Use, permitted (or principal)*, means the main use of land or buildings as distinguished from a subordinate or accessory use.

*Variance* means a modification or variation of a specific permitted development standard required in an official control including this chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in the planning and zoning enabling legislation.

*Wetland* means any low area permanently or seasonably covered with shallow water including a marsh, swamp, bog, wet meadow, or slough.

*Woodland* means a group of trees at least one-half acre in area and with a crown cover of 50 percent or greater.

*Yard* means an open space on the same lot with a building or structure, which yard is unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in this chapter.

*Yard, front*, means the portion of the yard lying between a front lot line and the front line of the principal building, or if there is no principal building, the required front setback line across the full width of the lot between the side lot lines.

*Yard, rear*, means that portion of the yard lying between the rear lot line and the rear line of the principal building, or if there is no principal building, the required rear setback line across the full width of the lot between

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the side lot lines. For the purpose of calculating setbacks, any yard area between the building and a stream, river, wetland, or lake, will be considered the rear yard.

*Yard, side*, means that portion of the yard lying between a side lot line and the sideline of the principal building, or if there is no principal building, the required side setback line between the front and rear yard.

*Youth facility* means a public playground, public swimming pool, public library, or licensed day care facility.

*Zoning administrator* means the community development director or agent.

*Zoning districts* means areas of the city (as defined on the zoning map) set aside for specific uses with specific requirements for use of development.

*Zoning map* means the map or maps incorporated into this chapter as a part thereof, designating the zoning districts.

(Code 1977, § 13-103.2; Ord. No. 604, 1-24-2005; Ord. No. 614, 10-24-2005; Ord. No. 619, 1-9-2006; Ord. No. 632, § 13-103.2, 1-8-2007; Ord. No. 635, § 13-103.2, 3-12-2007; Ord. No. 642, § 13-103.2, 6-25-2007; Ord. No. 717, 11-14-2011; Ord. No. 825, § 2, 5-26-2020)

### **Sec. 126-3. Purpose of this chapter.**

This chapter is enacted for the following purposes:

- (1) To provide for the orderly, economic, and safe development of land and urban services and facilities, and to promote the public health, safety, morals, and general welfare of the inhabitants of the city;
- (2) To promote the character and preserve and enhance the stability of properties and areas within the city;
- (3) To divide the city into zones or districts as to the use, location, construction, reconstruction, alteration business and industrial purposes;
- (4) To provide adequate light, air, privacy and safety;
- (5) To prevent the overcrowding of land, undue concentration of population;
- (6) To promote the proper use of land and structures;
- (7) To fix reasonable standards to which buildings, structures and land shall conform for the benefit of all;
- (8) To prohibit the use of buildings, structures and lands that are incompatible with the intended use or development of lands within the specified zones;
- (9) To promote the safe, rapid and efficient movement of people and goods;
- (10) To facilitate the provision of public services;
- (11) To limit congestion in the public streets and protect the public health and welfare by providing for the off-street parking of vehicles and vehicle loading areas;
- (12) To protect against fire, panic, explosion, noxious fumes, offensive noise, vibration, dust, odor, heat, flare, and other pollution of the air, and other hazards in the interest of the public health, comfort and general welfare; and
- (13) To define and limit the powers and duties of the administrative officers and bodies provided for herein.

(Code 1977, § 13-101.2)

State law reference(s)—General purposes of zoning, Minn. Stats. § 462.357, subd. 1.

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## **Sec. 126-4. Conformity.**

From and after the effective date of the ordinance from which this section is derived, the use of all land and every building or portion of a building erected, altered with respect to height and area, added to, relocated, and every use within a building or use accessory thereto, in the city shall be in conformity with the provisions of this chapter. Any existing building or structure and any existing use of properties not in conformity with the regulations herein prescribed shall be regarded as nonconforming properties or uses.

(Code 1977, § 13-102.1)

## **Sec. 126-5. Interpretation.**

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals, convenience and general welfare. Where the provisions of this chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this chapter shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this chapter, the provisions of such statute, other ordinance or regulation shall be controlling.

(Code 1977, § 13-102.2)

## **Sec. 126-6. Private agreements.**

This chapter is not intended to abrogate any easement, covenant, or any other private agreement; provided that where the regulations of this chapter are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other ordinance shall govern.

(Code 1977, § 13-102.3)

## **Sec. 126-7. Lots of record.**

Any lot which was legally recorded with the registrar of titles at the time of adoption of the ordinance from which this section is derived, and which does not meet the requirements of this chapter as to area, width or open space, may, nevertheless, be utilized for single-family detached dwelling purposes; provided the measurements of such area, width, or open space are within 70 percent of the requirements established by this chapter.

Lots of record that are subsequently combined under one tax parcel may be split back to original lot configuration provided that the measurements of area, width, and open space are within 70 percent of the requirements established by this chapter. The splitting of combined lots is subject to provisions in section 122-133 of the Subdivision Ordinance.

(Code 1977, § 13-102.4; Ord. No. 739, 6-9-2014 )

## **Sec. 126-8. Scope of regulations.**

- (a) No application for a building permit or other permit or license, or for a certificate of occupancy shall be approved by the building official and no permit or license shall be issued by any department which would authorize the use or change in use of any land or building contrary to the provisions of this chapter, or the erection, moving, alteration, enlargement, or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this chapter.

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- (b) No lot area shall be so reduced or diminished that the lot area, yards, or other open spaces shall be smaller than prescribed by this chapter, nor shall the density of population be increased in any area regulations as hereinafter provided.

(Code 1977, § 13-104.1)

**Sec. 126-9. Opt-out of Minnesota Statutes, section 462.3593.**

Pursuant to authority granted by Minn. Stats. § 462.3593, subd. 9, the City of Champlin opts-out of the requirements of Minn. Stats. § 462.3593.

(Ord. No. 769 , 8-22-2016)

**Secs. 126-10—126-34. Reserved.**