

DIVISION 5. VARIANCES

Sec. 10-1937. Authority.

In accordance with the procedures and standards set forth in this section, the board of adjustments and appeals shall have the authority to grant variances from the provisions of this article in instances where their strict enforcement would cause ~~practical difficulties~~ ~~undue hardship~~ because of circumstances unique to the individual property.

(Code 2015, § 10.94(1))

Sec. 10-1938. Purpose.

The variance procedure is intended to provide a narrowly circumscribed means by which relief may be granted from unforeseen particular applications of this article that create practical difficulties ~~or particular hardships~~.

(Code 2015, § 10.94(2))

Sec. 10-1939. Parties entitled to seek variances.

Applications for variances may be filed by the owner of, or any person having contractual interest in, the property.

(Code 2015, § 10.94(3))

Sec. 10-1940. Procedure.

An application for a variance shall be processed in accordance with the following procedures:

- (1) *Application.* An application for a variance shall be filed with the zoning administrator and shall include, at least, the following information:
 - a. The applicant's name, address, and proof of interest in the property.
 - b. The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
 - c. The names and addresses of all professional consultants advising the applicant with respect to the proposed development.
 - d. The street address and legal description of the property.
 - e. The present use of the subject property.
 - f. A site plan showing existing lot lines and dimensions as well as lot area, all easements, all public streets and private rights-of-way bordering and adjacent to the site, the use and location of all adjacent property.

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- g. The specific feature or features of the proposed use, construction, or development that require a variance.
 - h. The specific provisions of this article from which a variance is sought and the precise variance therefrom being sought.
 - i. Statement of the characteristics of the property that prevent compliance with the provisions of this article.
- (2) *Action of zoning administrator.* Upon receipt of a properly completed application for an appeal, the zoning administrator shall forthwith transmit to the board of adjustments and appeals the application together with all papers and plans attached thereto.
 - (3) *Public hearing.* Upon receipt of a properly completed application for a variance, the board of adjustments and appeals shall set a date for a public hearing.
 - (4) *Notice.* Notice of the public hearing shall be given by the zoning administrator by one publication in one or more newspapers of general circulation. Notice shall be published a minimum of ten days prior to the hearing date and a maximum of 30 days to the hearing. Notice shall also be given by first class mail to all owners of property within 200 feet from the proposed location of the variance. The notice shall describe the particular variance and shall contain a brief description thereof. County assessment records and street addresses shall be deemed sufficient for the location or certification of ownership for notification purposes.
 - (5) *Board of adjustments and appeals action.* The board of adjustments and appeals shall render its decision in accordance with the board's adopted rules of procedures. The board of appeals may grant the variance, grant the variance subject to conditions, or deny the variance.

(Code 2015, § 10.94(4))

Sec. 10-1941. Standards.

In considering an application for a variance, the board of adjustments and appeals may approve such variance only upon the finding that the application complies with the standards set forth below.

- (1) ~~*General standard.* No variance shall be granted unless the applicant shall establish that conforming to the strict letter of the provisions of this article would create a unique and particular hardship. Zoning. The proposed variance is in harmony with the general purposes and intent of the zoning ordinance as amended from time to time.~~
- (2) ~~*Unique and particular hardship.* Unique and particular hardship is defined as the property is exceptional as compared to other property subject to the same provisions by reason of a unique physical condition, including the presence of an existing use or structure, whether conforming or nonconforming; irregular or substandard shape or size; exceptional topographical features; or other extraordinary physical conditions peculiar to and inherent in the subject lot. The hardship shall amount to more than a mere inconvenience to the owner and the hardship shall relate to the physical situation of the lot rather than the personal situation of the current owner of the lot. Comprehensive Plan. The proposed variance is consistent with the comprehensive plan as amended from time to time.~~
- (3) ~~*Not self-created.* The unique physical condition and hardship shall not be the result of any action or inaction of the property owner or its predecessors in title. The unique physical condition shall have existed at the time of the enactment of the provisions from which a variance is sought or was created by natural forces or was the result of governmental action, other than the adoption of the ordinance from which this chapter is derived. Practical Difficulties. The property owner establishes that there are~~

practical difficulties in complying with the zoning ordinance. Practical difficulties, as used in connection with the granting of a variance require the following findings:

- a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
 - b. The plight of the property is due to circumstances unique to the property not created by the property owner.
 - c. The variance, if granted, will not alter the essential character of the locality.
- (4) *Denied substantial rights.* The carrying out of the strict letter of the provision from which a variance is sought would deprive the owner of the subject lot of substantial rights commonly enjoyed by owners of other property subject to the same provisions. Economic considerations alone do not constitute practical difficulties.
- (5) *Not merely special privilege.* The alleged hardship shall not include the inability of the owner or occupant to enjoy some special privilege or additional right not available to owners or occupants of other lots subject to the same provision. The alleged hardship shall not include the inability of the property owner to realize a greater profit than if the variance were not granted. Practical difficulties also include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- (6) *No other remedy.* There are no means other than the requested variance by which the alleged hardship can be avoided or remedied to a degree sufficient to permit a reasonable use of the lot.
- (7) *Variance less than requested.* A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.
- (8) *Essential character of the area.* The variance would not result in a development on the lot that:
- a. Would be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development, or value of property or improvements permitted in the vicinity.
 - b. Would materially impair an adequate supply of light and air to the properties and improvements in the vicinity.
 - c. Would substantially increase congestion in the public streets due to traffic or parking.
 - d. Would unduly increase the danger of flood or fire.
 - e. Would unduly tax public utilities and facilities in the area.
 - f. Would endanger the public health or safety.
 - g. Would not be in harmony with the general and specific purposes of this article and the comprehensive planning policies and objectives of the city.

(Code 2015, § 10.94(5))

Sec. 10-1942. Conditions on variances.

The board of adjustments and appeals may impose specific conditions and limitations upon the granting of a variance as are necessary to achieve the purpose and objectives of this article. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance. Such conditions and limitations may include, but are not limited to, those concerning the use, construction, character, location, landscaping, screening, parking, and other matters relating to the purpose and objectives of this article and shall be expressly set forth in the resolution granting the variance. Violation of any such condition or limitation shall be a violation of

this article and shall constitute grounds for revocation of the variance pursuant to article X, division 10, of this chapter.

(Code 2015, § 10.94(6))

Sec. 10-1943. Effect of grant of variance.

The approval of a proposed variance by the board of adjustments and appeals shall not authorize the development, construction, reconstruction, alteration, or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for such permits or approvals as may be required by the regulation of the city, including, but not limited to, a building permit and a certificate of occupancy.

(Code 2015, § 10.94(7))

Sec. 10-1944. Limitations on variance.

Subject to an extension of time granted by the board of adjustments and appeals, no variance shall be valid for a period longer than 12 months unless a building permit is issued, or unless a certificate of occupancy is issued and a use commenced within that period of time. Except when otherwise provided in the resolution approving a variance, a variance shall be deemed to relate to, and be for the benefit of, the lot in question, rather than the owner of such lot.

(Code 2015, § 10.94(8); Ord. of 2-9-2004)

Sec. 10-1945. Prohibited variances.

Notwithstanding any other provision in this section, no variance shall be granted to establish a use not permitted in the zoning district where the property subject to the application is located. In case of an emergency, the City Council may grant a variance to permit the temporary use of a one-family dwelling as a two-family dwelling. Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, subd. 14, when in harmony with this ordinance.

(Code 2015, § 10.94(9))

Sec. 10-1946. Fee.

An applicant for a variance shall pay a nonrefundable filing fee in connection with the submittal of the application in accordance with a fee schedule as established, from time to time, by the city council.

(Code 2015, § 10.94(10))

Secs. 10-1947—10-1975. Reserved.

PART II - CODE OF ORDINANCES
Chapter 10 - LAND USE AND DEVELOPMENT
ARTICLE XII. - SUBDIVISION AND DEVELOPMENT REGULATIONS (PLATTING)
DIVISION 6. VARIANCES

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Sec. 10-2267. General conditions.

- (a) The planning commission may recommend to the council a variance from the provisions of division 5 of this article when, in its opinion, practical difficulties ~~undue hardship~~ may result from strict compliance. In granting any variance, the council shall take into account the nature of the proposed use of land, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the council finds:
- (1) ~~That there are special circumstances or conditions affecting the property such that strict application of the provisions of this article would deprive the applicant of the reasonable use of his land.~~ The variance is in harmony with the purposes and intent of this ordinance.
 - (2) ~~That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.~~ The variance is consistent with the comprehensive plan, as amended from time to time.
 - (3) ~~That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the territory in which the property is situated.~~ The proposal puts the property to use in a reasonable manner.
 - (4) ~~That strict application of the subdivision regulations would create an undue hardship on a property owner as opposed to a mere inconvenience.~~ There are unique physical characteristics of the property not created by the property owner.
 - (5) The variance will not alter the essential character of the locality.
- (b) Recommendations of variances to the council shall list findings of fact and reasons substantiating the finds of fact.

(Code 2015, § 11.08; Ord. of 4-28-1980)

Secs. 10-2268—10-2287. Reserved.

Sec. 10-2. 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 structure means a structure detached from, but located on the same lot as the principal structure or principal use, the use of which is incidental and accessory to that of the principal structure or principal use.

Accessory use means a use incidental to and on the same lot as a principal use.

Adjacent means adjoining, bordering, touching, or contiguous. If two lots are separated by a public street, they shall not be deemed to be adjacent. If separated by a public alley or public walk, they shall be deemed adjacent.

Agriculture means the use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for storing the products. The term "agriculture" shall include incidental retail sales by the producer of products raised on the farm.

Airport means an area of land designated and set aside for the landing and take-off of aircraft, including all necessary facilities for the maintenance and upkeep of aircraft.

Alley means any public right-of-way or private way whose primary function is to furnish vehicular access to the side or rear of properties having their main frontage on a street. The term "alley" shall not be considered the same as the term "street."

Apartment means a dwelling unit within a house or building containing two or more similar units. Each apartment is intended to be occupied by a single housekeeping unit. (See *Family*.)

Apartment house/building means a building containing three or more apartments. (See *Dwelling, multifamily*.)

Arcade means an area contiguous to a street or plaza that is open and unobstructed to a height of not less than 12 feet, and which is accessible to the public at all times. Any portion of an arcade occupied by building columns, landscaping, statuary, pools, or fountains shall be considered part of the arcade for the purpose of computing a floor-area premium credit. The term "arcade" shall not include off-street loading areas, driveways, off-street parking areas or open pedestrian walkways. The floor of any arcade shall be level with the adjoining street or plaza.

Arcade, internal, means a street arcade that fronts on and adjoins a plaza or other space internal to a building lot rather than the front lot line.

Arcade, street, means an arcade that adjoins a front lot line, is not less than ten feet nor more than 30 feet in depth (measured perpendicular to the front lot line), and extends the full length of, or at least 50 feet along the front lot line, whichever is the greater distance; or on a corner lot, is bounded on two sides by the two intersecting street lines, and has an area of not less than 500 square feet and a minimum linear dimension of ten feet.

Automobile repair garage means any building or premises primarily used for the repair or mechanical maintenance of motor vehicles or trailers.

Automobile service station means any building or premises primarily used for dispensing gasoline or diesel fuel.

Automobile wrecking yard and junkyard mean land or buildings where discarded or salvaged materials from wrecked motor vehicles or other vehicles or machinery are bought, sold, stored, exchanged, packed, assembled, disassembled, or handled, including, but not limited to, scrap metal, rags, paper, tires, and rubber products.

Bed and breakfast residence means an owner-occupied, single-family residence situated either in a unique locale or in a historically or architecturally significant structure and provides lodging and meals to registered guests.

Bed and breakfast, accessory use, means an activity which is permitted in the same underlying residential district and which is incidental and secondary to the bed and breakfast residence.

Bedroom means any room used principally for sleeping purposes and does not contain separate kitchen and sanitary facilities.

Board of adjustments and appeals means the city council sitting as a governing board exercising the authority to grant variances from the numeric requirements of this chapter, and to hear and decide appeals from an administrative decision or enforcement order of the zoning administrator.

Buffer area means a landscaped area intended to separate or partially obstruct the view of adjacent land uses or properties from one another.

Building means a structure built upon the surface of the earth and used, or intended to be used, for any use or occupancy. A fence shall not be considered a building for setback purposes. The term "building" is also referred to as a structure.

Building height means the vertical measurement of a structure measured from the average elevation of the finished ground grade within ten feet of the building to the highest point of the roof surface of a flat roof, to the deck line of mansard roofs, and to the mean height level between eaves and ridge of gable, hip, and gambrel roofs.

Building line means a line parallel to or concentric with the street right-of-way line, or any other property line, at the foundation level of a building and representing the distance which the building is set back from the street right-of-way line or other property line.

Bulk materials means uncontained solid matter such as powder, grain, stone, sand, etc.

Campground means an area or tract of land used or occupied by campers using tents or other portable shelters or vehicles designed specifically as their temporary housekeeping accommodations.

Canopy and *awning* mean any projecting structure, moveable or stationary, that is attached to and supported by a building. The terms "canopy" and "awning" do not include canopies covering fuel-dispensing islands at automobile service stations.

Carwash means a building that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor. The term "carwash" is also referred to as an automobile wash.

Cemetery means land used for the burial of the dead, including crematories and mausoleums when operated in conjunction within the boundaries of such cemetery.

Child care (commercial) means a building or portion of a building where care, protection, and supervision are provided for a fee on a regular basis for children of any age.

Child care (home) means a private residence where care, protection, and supervision are provided for a fee for children of any age, and the persons providing care reside at the residence.

Church or place of religious worship means an institution that people regularly attend to participate in or hold religious services, meetings, and other related activities.

Clinic means a place used for the diagnosis and treatment of sick, ailing, infirm, injured persons, and those persons who are in need of medical attention. Overnight care facilities are not provided at the clinic.

Club or lodge means land, buildings, or premises owned or operated by a corporation, association, or group of individuals for a social, educational, recreational, charitable, political, or patriotic purpose and such land, buildings, or premises are not available for unrestricted public access and use.

Commercial use means an occupation, employment, or enterprise that is carried on for profit by the owner, lessee, or licensee.

Commercial vehicle means any vehicle used in connection with a commercial use.

Community center means a place, structure, area, or other facility used for and providing religious, fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community. The term "community center" may also be referred to as a convention center or civic center.

Conditional use means a use that, owing to some special circumstances pertaining to its location or operation, may be permitted in a district subject to approval by the city council and is subject to conditions approved by the council.

Congregate housing means a residential facility for four or more elderly persons (aged 60 years or older) within which are provided living and sleeping facilities, meal preparation, laundry services, and room cleaning. Such facilities may also provide other services, such as transportation for routine social and medical appointments, and counseling. The term "congregate housing" may also be referred to as an assisted living facility.

Convenience store means a retail establishment, having a maximum gross floor area of 7,500 square feet, offering for sale prepackaged food products, household items, and other goods commonly associated with this type of store. A convenience store may also be combined with an automobile service station.

Cul-de-sac means a local street, one end of which is closed and consists of a circular turnaround.

Deck, attached, means a structure within six feet of the main building that may or may not have railings or access to the ground but does not contain walls or a roof. The term "attached deck" may also be referred to as a balcony.

Deck, unattached, means a structure six feet or more from the main building that may or may not have railings or access to the ground but does not contain walls or a roof.

Density means the number of dwellings or principal buildings or uses permitted per net acre of land. The term "net acres of land" shall not include land required for public streets.

Development means all structures and other human modifications of the natural landscape.

Dormitory means a building used as group living quarters for a student body, religious order, or other group as an associated use to a college, university, boarding school, orphanage, convent, monastery, farm labor camp, or similar use. Dormitories do not contain separate dwelling units.

Drinking establishments means any premises where alcoholic or nonalcoholic beverages are sold at retail for consumption on the premises. Snack foods may be available, but not as a complete meal. The term "drinking establishments" also refers to bars or saloons, coffee houses, or teen centers.

Drive-in facility means any portion of a building from which business is transacted, or is capable of being transacted, directly with customers located in a motor vehicle, also referred to as a drive-through.

Driveway means a private way used by vehicles to gain access to an individual lot or parcel of land. For one- and two-family dwellings, the driveway shall be defined as the length and width of a driving surface that is used to gain access to a private garage.

Dwelling means a building or portion thereof designed or used exclusively for residential occupancy, including one-family, two-family and multiple-family dwelling units, and apartment buildings, but not including

units used for occupancy in hotels or motels. The term "dwelling" may also refer to a residence or residential building.

Dwelling, multifamily, means a residential building used for occupancy by three or more families living independently of each other and containing three or more dwelling units, but not including group houses, row houses, townhouses, or dormitories.

Dwelling, one-family, attached, (group, row, or townhouse) means one of two or more residential dwellings joined to other dwellings by a common wall without openings and with individual entrances to each dwelling from the exterior. Each dwelling unit shall have principal access onto the ground floor and shall be occupied by not more than one family.

Dwelling, one-family, detached, means a residential building containing not more than one dwelling unit and entirely surrounded by open space and yards located on the same lot.

Dwelling, two-family, means a residential building containing not more than two dwelling units, but not including group, row, or townhouses. The term "two-family dwelling" may also be referred to as a duplex.

Dwelling unit means one or more rooms physically arranged so as to create an independent housekeeping unit for occupancy by one family. A dwelling unit contains separate toilet, cooking, and sleeping accommodations. Dwelling units may be rented or owner-occupied and may also be called a residence or roominghouse dwelling unit.

Easement means the right of a person, government agency, or public utility to use public or private property for a specific purpose.

Emergency shelter means a nonprofit, charitable, or religious organization providing boarding or lodging and ancillary services on the premises to primarily indigent, needy, homeless, or transient persons.

Essential service utility structure and facility includes, but is not limited to, a structure or facility used for the location, maintenance or service of communication lines, natural gas, petroleum pipelines, television cables, or electrical transmission lines.

Family means an individual or two or more persons related by blood, marriage, or adoption, or a group of not more than five unrelated persons, living together as a single housekeeping unit within a dwelling unit, as distinguished from individuals or a group occupying a hotel, motel, club, lodge, sorority, fraternity, or dormitory.

Family, functional, means a collective group of unrelated persons residing in a single dwelling unit, limited to not more than two adult persons, together with their traditional family members of any age.

Family, traditional, means one or more persons related by blood or marriage residing in a single dwelling unit.

Fence means any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

Floor area means the sum of the gross horizontal area of all floors of a building as measured from the exterior faces of the exterior walls.

Floor area, livable or usable, means the sum of the gross horizontal area of all floors of a building as measured from the interior faces of the interior walls, excluding the areas of unoccupied cellars, accessory garages, porches, attics, basements, stairways, bathrooms, and utility and heating rooms.

Floor area ratio (FAR) means the floor area of the buildings on a lot divided by the area of that lot or, in the case of planned developments, the sum of the floor area of all buildings divided by the gross site area.

Fraternity or sorority house means a building that is occupied solely by a group of university or college students who are associated together in a fraternity or sorority chartered by a national or international fraternity

or sorority, or officially recognized by the university or college, and who receive from the fraternity or sorority their lodging or meals on the premises for compensation.

Frontage means the length of any one property line of a lot that abuts a public street. All sides of a lot adjacent to public streets shall be considered frontage, and yards shall be provided as indicated in this chapter.

Funeral home means a building or part thereof used for human funeral services. Such building may contain space and facilities for:

- (1) Embalming and the performance of other services used in the preparation of the dead for burial.
- (2) The performance of autopsies and other surgical procedures on the dead.
- (3) The storage of caskets, funeral urns, and other related funeral supplies.
- (4) The storage of funeral vehicles.

A funeral home shall not include facilities for cremation, unless allowed by a conditional use permit. A funeral chapel shall be considered an accessory use to a funeral home.

Garage, private, means an accessory use situated on the same lot of the principal use, and designed for the private storage of motor vehicles owned by the occupant of a principal use. No facilities for mechanical service or repair of a commercial or public nature are provided in the private garage. Such garage may be attached to the principal building or detached from the principal building. When a private garage is attached to a principal building, it shall be considered part of the principal building for setback and yard purposes.

Garage, public, means a building designed and used for the storage of automobile vehicles and operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles. Parking ramps shall be included within this definition.

Grade, ground, means the average elevation of the finished ground levels measured at the center of all exterior walls of a building.

Ground coverage. See *Lot coverage*.

Group home means a state-licensed residential facility as defined by state law.

Grouped housing project means two or more dwellings located on a single lot or parcel. See *Planned unit development*.

Home occupation means an accessory use of a dwelling unit, conducted entirely within the dwelling unit, carried on by one or more persons, all of whom reside within the dwelling unit, and no persons are employed at the dwelling unit other than the residents living therein. The home occupation shall be clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof or adversely affect the uses permitted in the residential zoning district.

Hospital means an institution providing health services for human in-patients and medical or surgical care for the sick or injured. The term "hospital" includes related facilities such as laboratories, outpatient departments, training facilities, central service facilities, staff offices, and overnight accommodations for patients.

Hotel means an establishment where food and lodging are regularly furnished to transients, and which has:

- (1) A dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; or
- (2) Guest rooms in the following minimum numbers: in first class cities, 50; in second class cities, 15; in all other cities and unincorporated areas, ten.

Illustrations. The illustrations in this chapter are not a part of this chapter, but are included herein for the purposes of explanation and clarification.

Impervious surface means a constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include, but are not limited to, rooftops, sidewalks, patios, storage areas, roads, streets, driveways, and parking lots constructed of concrete, asphalt, or compacted aggregate.

Industrial park means a planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis with special attention given to on-site vehicular circulation, parking, utility needs, building design, orientation, and open space.

Industry, heavy, means a use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of or manufacturing process using flammable, or explosive materials, or a storage or manufacturing process that potentially involves hazardous or commonly recognized offensive conditions.

Industry, light, means a use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, storage, sales, and distribution of such products.

Junkyard means land or buildings at which waste material, refuse material, inoperative motor vehicles, inoperative machinery, and inoperative appliances, are collected, stored, salvaged, or sold.

Kennel means an establishment licensed to operate a facility housing dogs, cats or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business or commercial use.

Kennel, private, means any accessory use arranged for the care and sheltering of household pets belonging to the owner of the property on which the kennel is located.

Laundry, self-service, means a business that provides home-type washing and drying machines to be used by customers on the premises.

Lot means a piece of land occupied or intended to be occupied by a principal use and its accessory uses together with such open space and yards as is required by this chapter, and having at least the minimum area, frontage, and width as required by this article and as required in article XII of this chapter. The term "lot" is also referred to as a parcel, tract, property, or piece.

Lot area means the total horizontal area within the lot lines of a lot.

Lot coverage means the area of the lot covered by buildings or roofed areas, excluding permitted projecting eaves.

Lot depth means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no rear lot line.

Lot of record means a lot whose existence, location, and dimensions have been legally recorded or registered in a deed or on a plat.

Lot width means the horizontal distance between the side lot lines measured at the required front yard setback line.

Lot, conforming, means a lot that conforms to the minimum width, area, and frontage requirements of this article and article XII of this chapter.

Lot, corner, means a lot abutting, and at the intersection, of two or more streets. A corner lot shall be considered as having primary frontage abutting the required front yard and secondary frontage abutting a corner side yard.

Lot, interior, means an interior lot is a lot other than a corner lot or through lot.

Lot, nonconforming, means a lot or parcel of land that has less than the required minimum area, width, and frontage as required by this article and article XII of this chapter, also referred to as a substandard lot.

Lot, through, means a lot having front and rear lot lines abutting a public street.

Manufactured home means a structure, not affixed to or part of real estate, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected onsite, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it.

Manufactured housing applies to either:

- (1) A factory-built one-family structure built and transported in sections to a permanent site and not intended for additional transportation once it has been placed on a permanent site.
- (2) A transportable, factory-built home, designed to be used as a year-round, residential dwelling. Such structure has wheels or axles permanently attached to its frame. Such structures, built prior to June 15, 1976, are referred to as manufactured homes.

Motor vehicle means the same as defined by section 11-35. The term "motor vehicle" may also be referred to as an automobile, vehicle, car, truck, or trailer.

Nonconforming building means any building that does not meet zoning district regulations for building size, building height, lot coverage, or setback.

Nonconforming use means a use of land that does not comply with the use regulations of this chapter.

Nursing home means a place, residence, or home used for the boarding and care of the elderly or infirm who are dependent upon the services of others.

Office means a building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

Open space, common, means open space within or related to a development designed and intended for the common use or enjoyment of the occupants of the development. Parking or driveways shall not be considered permitted open space.

Outside storage means the keeping in an unroofed area of any goods, bulk material, other materials, merchandise, or products for more than 24 hours, also referred to as unenclosed storage.

Park means any public or private land available for recreational, educational, cultural, or aesthetic use.

Parking, joint, means the development and use of a parking space or parking lot by two or more separate developments.

Parking lot means an unenclosed or enclosed area used for the temporary parking of four or more motor vehicles.

Parking space or stall means an obstructed space or area of such dimension and construction in conformance with this chapter that is permanently reserved and maintained for the parking of one motor vehicle.

Patio means an attached or unattached structure at ground level that does not contain walls or a roof, and is not used for parking purposes.

Performance guarantee means a financial deposit to ensure that all improvements, facilities, or work required will be completed in conformance with the approved plan.

Performance standards means a set of minimum and maximum design and performance requirements applied to permitted and conditional uses.

Planned unit development (planned development) means an area for which a unitary development plan has been prepared indicating, but not being limited to, the following land uses: open space, on-site circulation for both pedestrians and vehicles, parking, setbacks, housing densities, building spacing, land coverage, landscaping, relationships, streets, building heights, accessory uses, and architectural treatment. A planned unit development also includes cluster developments. The term "cluster developments" means a development design technique that concentrates buildings in a specific area on a site to allow the remaining land to be used for recreation, common open space, or preservation of environmentally sensitive areas.

Planning agency means the planning commission and the planning department as they function together.

Plaza means an open area at ground level, which is accessible to the public at all times and is unobstructed from its lowest level to the sky. Any portion of a plaza occupied by landscaping, statuary, pools, and open recreation facilities shall be considered to be part of the plaza for the purpose of computing a floor area premium credit. The term "plaza" shall not include off-street loading areas, driveways, off-street parking areas or pedestrian ways accessory thereto. Plazas shall be continuous areas of not less than 750 square feet and not more than 8,000 square feet. A plaza shall not at any point be more than five feet above, nor more than 12 feet below, the curb level of the nearest adjoining street, and shall be unobstructed from its lowest level to the sky, except for arbors or trellises, awnings or canopies, railings not less than 50 percent open and not exceeding three feet eight inches in height, flagpoles, open terraces or porches, steps, ornamental fountains or statuary, or unenclosed balconies.

Pool means any structure, chamber, or tank containing an artificial body of water for swimming, diving, relaxation, or recreational use, including special purpose pools and wading pools.

Private residential pool means a pool connected with a single-family residence or owner-occupied duplex, located on private property under the control of the homeowner, the use of which is limited to family members or the family's invited guests. The term "private residential pool" does not include a pool used as part of a business.

Public pool has the meaning given in M.S.A. § 144.1222, subd. 4, para. (d).

Recycling center means a building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

Recycling collection point means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of items is permissible.

Restaurant, bar, and drinking establishment.

Bar means any premises where alcoholic and nonalcoholic beverages are sold at retail for consumption on the premises. The liquor license for a bar shall be classified as Class RB or Class B as defined by chapter 3, also referred to as a saloon, club, pub, or other use similar to this definition.

Nonalcoholic drinking establishment means any premises where nonalcoholic beverages are sold at retail for consumption on the premises. Snack foods may be available, but not as a complete meal, also referred to as a coffee house, dance club, teen center, or similar use.

Restaurant means a business that sells unpackaged food to the customer in a ready-to-consume state, in individual servings, where the customer consumes these foods in the building, picks up food from the building to consume elsewhere, or the food is delivered to the customer by employees of the restaurant and establishments. If liquor is served in the establishment, the liquor license shall be classified as a Class R license as defined by chapter 3. Kitchen facilities shall be capable of service the permitted occupancy. The term "restaurant" includes, but is not limited to, fast food restaurants, sit down restaurants, pick-up or carry-out restaurants, delivery restaurants, drive-in restaurants, drive-through restaurants, cafes, tea rooms, delis, and any combination thereof. The term "restaurant" may also refer to an eating establishment.

School means a public or private facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary, junior high schools, and high schools.

Screen means the utilization of a fence, wall, vegetation, or other device or means, in order to conceal from view.

Self-service storage facility means a commercial building or group of buildings that contain varying sizes of individual compartmentalized and controlled access stalls or lockers for the storage of customers' goods or wares.

Setback means the required minimum horizontal distance between a building line and the related front, side, or rear property lines.

Shopping mall means two or more commercial or business uses joined to each other by a common wall without openings and each with individual entrances. Each use shall have principal access to the outside (strip mall) or to a common enclosed area (enclosed mall).

Sign means any name, identification, description, display, illustration, structure, emblem, or device which is affixed to, painted, or represented upon a building, bench, or other outdoor structure, vehicle, or piece of land, which is intended to direct attention to an object, product, place, activity, person, organization, or business. The structure supporting or intended to support a sign shall be considered part of the sign.

Site plan means a document or group of documents containing sketches, text, drawings, maps, photographs, and other material intended to present and explain certain elements of a proposed development, including physical design, siting of buildings and structures, interior vehicular and pedestrian access, parking lots, the provision of improvements, and the interrelationship of these elements.

State-licensed residential facility means a dwelling operated under state license to provide supervision, food, lodging, or other services to a dependent population living and cooking together in a single cooperative housekeeping unit. The term "state-licensed residential facility" includes state-licensed day care facilities and group day care facilities.

Street means a public or private thoroughfare used, or intended to be used, for travel by motor vehicles. Streets are further classified by the function they perform as follows: local, collectors, and arterials. Public alleys shall not be considered streets.

Townhouse means one of a group of one-family attached dwellings all fronting on a public right-of-way or private driveway, and occupying either individual lots or a common lot when developed in grouped housing projects or planned unit developments.

Trash enclosure means an accessory use of a property where trash or recyclable material containers, or any other type of waste or refuse container is stored.

Unrelated individuals means two or more individuals who are not related by blood, marriage, or adoption. The term "related by blood" shall mean whole or half relation between a common ancestor or descendant, husband, wife, son, daughter, father, mother, brother, sister, uncle, aunt, niece, nephew, stepchildren, legally adopted children, grandmother, grandfather, state assigned foster children, first cousin, or any combination of the above persons.

Used for includes the phrases "arranged for," "designed for," "intended for," and "occupied for."

Variance means the adjustment by the board of adjustments and appeals of the literal provisions of this chapter in cases where the literal provisions would cause practical difficulties ~~undue hardship~~ because of physical circumstances unique to an individual property. ~~Variances shall be limited to height, bulk, density, and yard requirements.~~

Water retention device or area means any constructed control device, ponding area or stormwater pond, or a natural depression or wetland installed or planned for under a state approved surface water management plan which provides for the temporary storage of stormwater runoff, with the purpose of replicating pre-development hydrologic conditions and retaining sediment or nutrients.

Yard means an open space on the same zoning lot with a building that is occupied by that building or any other structure, and excluding loading and parking areas, except as otherwise permitted in this chapter.

Yard, corner side, means a yard extending across the full depth of a corner lot and having a width equal the shortest distance between the right-of-way line along the lot's secondary frontage and the building line of the main building.

Yard, front, means a yard extending across the full width of a lot and having a depth equal to the shortest distance between the front lot line and the building line of the main building, including any enclosed or covered porches, as measured from the existing or future right-of-way on which the lot has primary frontage. The front yard depth shall be measured at right angles to the front property line.

Yard, rear, means a yard extending across the full width of a lot and having a depth equal to the shortest distance between the rear lot line and the building line of the main building, or a depth equal to the shortest distance between the most distant point on any other lot line and the building line of the main building in instances where there is no rear lot line. The rear yard depth shall be measured at right angles to the main building.

Yard, side, means a yard between the side lot line and the building line of the main building, which extends from the front yard to the rear yard and has a width equal to the shortest distance between the side lot line and the building line of the main building. The required side yard width shall be calculated at the front building line and the side yard width shall be measured at right angles to the side lot lines.

Zoning administrator means the staff or persons to whom the city manager has assigned the administrative responsibilities under this chapter.

Zoning lot means one or more lots which are used for a single principal use or planned unit development.

Zoning map, official, means the map incorporated into this chapter.

(Code 2015, § 10.02; Ord. of 3-27-2006; Ord. of 11-26-2007; Ord. No. O-2022-0509-2, § 10.02(114)—(116), 5-9-2022)

Sec. 10-1700. Administration and enforcement.

- (a) This section shall be enforced pursuant to article XI, division 7, of this chapter.
- (b) The zoning administrator may grant administrative variances from the monument sign requirements for uses in existence on the effective date of the ordinance from which this chapter is derived if practical difficulties ~~are a valid hardship is~~ constituted by article XI, division 5, of this chapter. The zoning administrator's decision may be appealed to the city council.

(Code 2015, § 10.87(7); Ord. of 10-22-1990; Ord. of 11-26-1990; Ord. of 10-12-1992; Ord. of 2-23-1998; Ord. of 4-25-1999; Ord. of 1-14-2013)

Sec. 10-440. Urban design guidelines.

The following shall apply to development proposals and plans submitted after the adoption of the ordinance from which this chapter is derived:

- (1) *New development.* Development plans for new development on vacant parcels shall be required to demonstrate conformance to the general design principles and recommendations or general site development guidelines of the Urban Design Framework Manual.
- (2) *Existing development.* Development and structures that exist before the adoption of the ordinance from which this chapter is derived shall not be considered nonconforming under this subsection and shall be permitted to continue and expand in a manner consistent with existing conditions, designs, and approvals granted under this article.
- (3) *Redevelopment.*
 - a. When the principal use of property changes and is accompanied by a change in the ground coverage of existing buildings or structures, development plans shall demonstrate conformance to the General Design Principles and Recommendations and General Site Development Guidelines of the Urban Design Framework Manual. The site plan review committee or planning agency may grant or recommend variances from this subsection, as appropriate; when it is determined that practical difficulties hardships exist because of site conditions or the character of other structures in the vicinity.
 - b. Redevelopment plans that include demolition of the existing principal structure to an extent of 50 percent or more of the floor area shall be considered new development and shall be subject to subsection (1) of this section.

(Code 2015, § 10.41(10); Ord. of 7-10-2000)

Sec. 10-940. Urban design guidelines.

The following shall apply to development proposals and plans submitted after the adoption of the ordinance from which this chapter is derived:

- (1) *New development.* Development plans for new development on vacant parcels shall be required to demonstrate conformance to the general design principles and recommendations or general site development guidelines of the Urban Design Framework Manual.
- (2) *Existing development.* Development and structures that exist before the adoption of the ordinance from which this chapter is derived shall not be considered nonconforming under this section and shall be permitted to continue and expand in a manner consistent with existing conditions, designs, and approvals granted under this article.
- (3) *Redevelopment.*
 - a. When the principal use of property changes and is accompanied by a change in the ground coverage of existing buildings or structures, development plans shall demonstrate conformance to the general design principles and recommendations and general site development guidelines of the Urban Design Framework Manual. The site plan review committee or planning agency may grant or recommend variances from this article, as appropriate, when it is determined that practical ~~difficulties~~ ~~hardships~~ exist because of site conditions or the character of other structures in the vicinity.
 - b. Redevelopment plans that include demolition of the existing principal structure to an extent of 50 percent or more of the floor area shall be considered new development and shall be subject to subsection (1) of this section.

(Code 2015, § 10.61(10); Ord. of 7-10-2000)