

155.006 DEFINITIONS.

(A) *Rules of construction.* Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular. The word "shall" is always mandatory. The word "person" includes a firm, association, organization, partnership, trust, corporation or company, as well as an individual. The word "lot" includes the words "plot" and "parcel." The word "building" includes the word "structure." The words "used" and "occupied." as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied." The words "map" and "zoning map" mean the official zoning map of the City that delineates the area to be governed by this chapter.

(B) *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. Except as specifically defined in this chapter, all words used in this chapter shall have their customary dictionary definitions.

ACCESSORY BUILDING or USE. A subordinate building, or portion of the principal building, located on the same lot as the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of land. Where part of an accessory building is connected to part of the principal building in a substantial manner, as by a roof, such accessory building shall be counted as part of the principal building. Local public utility installations above ground are considered accessory buildings. **ACCESSORY BUILDINGS** in residential districts shall not exceed 120 square feet or 10% of the size of the principal building whichever is larger.

ADVANCED INFESTATION. Any insect, pest, fungal growth, parasite, or other infestation which threatens the life of a tree

according to United States Forest Service standards.

AGRICULTURAL/RANCHING. The cultivation of the soil or the raising of livestock and all activities incidental thereto. The terms FARMING and RANCHING shall be interchangeable for purposes of this chapter.

ALLEY. A permanent public thoroughfare providing a secondary means of access to abutting lands.

APARTMENT BUILDING. A building other than a hotel or motel containing five or more dwelling units that have primary entrances from common hallways.

AREA OF SHALLOW FLOODING means a designated AO zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet, a clearly defined channel does not exist, the path of flooding is unpredictable and indeterminate, and velocity flow may be evident.

AUTO REDUCTION YARD. A lot or yard where three or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, sale of parts, sale as scrap, storage or abandonment.

AUTOMOBILE SERVICE STATION. An establishment with the primary business function of the retail sale of gasoline for passenger car use and the minor service and repair work incidental to the operation of passenger automobiles.

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

BANNER. A sign of temporary construction of lightweight, flexible materials such as cloth, canvas, plastic or paper on which letters, numbers, symbols or pictures are printed or painted, with or without a frame.

BASAL AREA. The cross-sectional area in square feet of each tree in a stand of timber as measured at breast height (4.5 feet). The equation for basal area per tree is:

$$\text{Basal Area} = 0.005454 \times \text{DBH} \times \text{DBH}$$

Where DBH is the tree diameter at breast height measured in inches. Or:

$$\text{Basal Area} = 0.0005526 \times \text{CBH} \times \text{CBH}$$

Where CBH is the tree circumference at breast height measured in inches.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. Base flood is also commonly known as 100-year flood.

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

BED AND BREAKFAST HOME STAY. A private, owner occupied residence with one to five guest rooms that have a separate bathroom for each guest room and separate bathroom for owner/manager, where lodging and morning meal is provided for compensation on a daily rate basis with length of stay not to exceed 14 consecutive days.

BLOCK FRONTAGE. All of the property of a given lot or any portion thereof lying adjacent to a public street or highway.

BOARDINGHOUSE. An establishment in a private dwelling in which more than one guestroom is used to provide or offer overnight accommodations and meals for transient guests.

BUILDING. Any structure having enclosed space and a roof for the housing and/or enclosure of persons, animals or chattels, except mobile homes and mobile offices.

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

BUILDING, ATTACHED. A building having one or more party walls in common with another building when the principal use of each building is independent of the other and when no interior access exists from one building to another.

BUILDING, DETACHED. A building having no party wall in common or structural connection with another building.

BUILDING ENVELOPE. That area of a lot lying between the front, rear, and side yard setback lines and between ground level and the maximum allowable building height.

BUILDING, FRONT LINE OF. The line of the face of a building nearest the front line.

BUILDING, HEIGHT OF. The vertical distance from the average contact ground level of the front and rear walls of the building to the highest point of the coping of a flat roof or to the deck of a mansard roof, or to the mean height level between eaves and ridges for gable and hip or gambrel roofs.

BUILDING LINE, FRONT. The line nearest to the front across a lot establishing the minimum open space to be provided between the front line of a building and the front lot line.

BUILDINGLINE, REAR. The line nearest to the rear across a lot establishing the minimum open space to be provided between the rear line of a building and the rear lot line.

BUILDING, NONCONFORMING. A legally existing building which fails to comply with the regulations set forth in this chapter applicable to the zone in which the building is located.

BUILDING, PRINCIPAL. A building in which is conducted the main or principal use of the lot on which the building is situated.

BUILDING, PUBLIC. A building, supported by government funds, to be used in an official capacity on the behalf of the entire community.

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

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

CANNABIS. All parts of the plant genus *Cannabis* containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight manufacture, salt, derivative, mixture or preparation of the plant, its seeds, or its resin; and does not include:

(A) The mature stalks of the plant; basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake; or the sterilized seed of the plant that is incapable of germination

(B) the weight of any other ingredient combined with cannabis products to prepare topical or oral administrations, food, drink, or another product.

CANNABIS CONSUMPTION AREA. An area where cannabis products may be served and consumed.

CANNABIS COURIER. A person that transports cannabis products to qualified patients, primary caregivers, reciprocal participants, or directly to consumers.

CANNABIS MANUFACTURER. A person that:

(1) Manufactures cannabis products

(2) Packages cannabis products

(3) Has cannabis products tested by a cannabis testing laboratory; or

(4) Purchases, acquires, sells, or transports wholesale cannabis products to other cannabis establishments.

CANNABIS PRODUCER. A person that:

(1) Cultivates cannabis plants.

(2) Has unprocessed cannabis products tested by a cannabis testing laboratory.

(3) Transports unprocessed cannabis products only to other cannabis establishments.

(4) Sells cannabis products wholesale.

CANNABIS PRODUCER MICROBUSINESS. A cannabis producer at a single licensed premises that possesses no more than two hundred total mature cannabis plants at any one time.

CANNABIS RESEARCH LABORATORY. A facility that produces or possesses cannabis products and all parts of the plant genus Cannabis for the purpose of studying cannabis cultivation, characteristics or uses.

CANNABIS RETAILER. Means a facility where cannabis or cannabis products are offered, either individually or in any combination, for retail sale, including an establishment that delivers cannabis and cannabis products as part of a retail sale or conducts sales exclusively by delivery (non-storefront retailers). For purpose of this chapter, (cannabis retailer” also includes medical cannabis dispensaries, patient collectives and cooperatives operating, or proposing to operate, pursuant to the Compassionate Use and /or the Medical Marijuana Program Act.

CANNABIS TESTING LABORATORY. A person that samples, collects, and tests cannabis products and transports cannabis products for the purpose of testing.

CARPORT. A structure consisting of a roof and either walls or columns for the purpose of housing automotive vehicles and other chattels. The structure shall be considered as an accessory building when detached from the principal building and as a part of the principal building when attached to the principal building along one or more sides of the carport or principal building.

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

CHURCH. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and

which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CLINIC AND MEDICAL CENTER. An establishment where patients are admitted for special study and treatment by one or more licensed physicians and/or dentists and their professional associates, as distinguished from a professional office for general consultation purposes.

CLUB, PRIVATE (NONPROFIT). A nonprofit association of persons who are bona fide members paying annual dues which owns, hires, or leases a building or a portion thereof, the use of such premises being restricted to members and their guests.

CODE ENFORCEMENT OFFICER. City staff designated by the City Mayor and/or City Manager to enforce provisions of the ordinances of the City.

COMMERCIAL CANNABIS ACTIVITY. The cultivation, production, possession, manufacture, storage, testing, researching, labeling, transportation, couriering, purchase for resale, sale, or consignment of cannabis products; and does not include activities related only to the medical cannabis program, to cannabis training and education programs or to the personal cultivation or use of cannabis.

CONDITIONAL USE PERMIT. Legal authorization to undertake a conditional use as defined by this chapter.

CONDOMINIUM. A building or group of buildings in which units are owned individually and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis. CONDOMINIUMS may be residential, commercial or industrial in nature.

CONDOMINIUM HOTEL (TIMESHARE CONDOMINIUM). A condominium set up like a hotel in which each room is individually owned and in which some or all rooms are available to transients for rent.

CONFINED ANIMAL FEEDING OPERATION (CAFO). As defined in 40 C.F.R. parts 122.23 and 412, are agricultural enterprises where animals are kept and raised in confined situations. CAFOs congregate animals, feed, manure and urine, dead animals, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures or fields. The CAFO is defined in EPA regulations as a lot or facility where animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period and crops, vegetation, forage, growth or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. There are either, more than 1,000 "animal units" (as defined by the regulation) that are confined at the facility; or more than 300 animal units that are confined at the facility and:

(a) Pollutants are discharged into navigable waters through a manmade ditch, flushing system, or other similar man-made device; or

(b) Pollutants are discharged directly into waters that originate outside of and pass over, across, or through the facility or come into direct contact with the confined animals.

(c) Poultry operations that remove waste from pens and stack it in areas exposed to rainfall or an adjacent watercourse have established a crude liquid manure system for process wastewater that may discharge pollutants.

CONVENIENCE FOOD RESTAURANT. An establishment whose principal business is the sale of foods, frozen

desserts, or beverages to the consumer in a ready-to-eat state for consumption either within the premises or for carryout with consumption either on or off the premises and whose design or principal method of operation includes both of the following characteristics:

(a) Foods, frozen desserts or beverages are usually served in edible containers or in paper, plastic or other disposable containers.

(b) The customer is not served food at his or her table by an employee but receives it at a counter, window or similar facility for carrying to another location for consumption either on or off the premises.

CORPORATION COUNSEL. The City Attorney or any assistant or special counsel of the City.

DAYCARE CENTER. A use where care is provided for pay for five or more unrelated children subject to the requirements of the State.

DEFENSIBLE SPACE. An area, either natural or manmade, where materials capable of allowing a fire to spread unchecked have been treated, cleared or modified to slow the rate and intensity of advancing wildfire and create an area for fire suppression operations to occur.

DENSITY, GROSS RESIDENTIAL. The number of dwelling units per unit of land calculated with no exclusion.

DENSITY, NET RESIDENTIAL. The number of dwelling units per unit of land, excluding streets, alleys, and publicly owned property.

DEVELOPMENT. Any manmade change to improve or alter real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or cutting of

trees whose circumference is greater than 60 inches.

DISEASED TREE. A tree that shows signs of severe damage, structural unsoundness, or advanced infestation.

DRIVE-IN BUSINESS. Any business in which people are provided a service or a product where a sale is made without the customer being required to leave the vehicle. Such businesses include but are not limited to the following: drive-in theater, drive-in bank, drive-in laundry or dry cleaning pickup station, drive-in restaurant, and any convenience food restaurant.

DWELLING. A building, or portion thereof, used primarily for residential occupancy, including single-family, two-family and multiple-family dwellings, and dwelling rentals, but not including hotels, motels or tourist homes.

DWELLING, MULTIFAMILY. A building, or portion thereof, used for occupancy by three or more families living independently of each other.

DWELLING, RENTAL. Dwelling units that may be rented on a nightly, weekly, monthly, or long term basis, provided there is no onsite advertisement; density may not exceed district regulations.

DWELLING, SINGLE-FAMILY. A building used for residential occupancy by one family.

DWELLING, TWO-FAMILY. A building, or portion thereof, used for occupancy by two families living independently of each other, also referred to as a **DUPLEX**.

DWELLING UNIT. A dwelling or portion of a dwelling, used by one family for cooking, living, and sleeping purposes.

FAMILY. One or more persons related by blood, marriage or adoption, or not more than three unrelated persons living as a single housekeeping unit, as distinguished from a group occupying a hotel, motel, club, fraternity, sorority or lodging house.

FARM. An area which is used for growing, raising, producing and storage of agricultural products on a commercial basis, such as timber, livestock, poultry, and foodstuffs, including the residence of those conducting and engaged in the operation. A **FARM** shall not include commercial feedlots or sanitary landfills.

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

FLOOD INSURANCE RATE MAP (FIRM). The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and risk premium zones applicable to the community. For Ruidoso Downs, the applicable map is Community-Panel Number 350034 0001.

FLOOD INSURANCE STUDY. The official report in which the Federal Emergency Management Agency has provided flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood. For Ruidoso Downs, this study is designated Community Number 350034.

FLOODPLAIN, 100-YEAR. That area encompassing the floodway area and the floodway fringe.

FLOODPROOFING. Any combination of structural and nonstructural additions, changes or adjustments to properties and structures which reduce or eliminate flood damage or potential flood damage to lands, water and sanitary facilities, structures, and contents of buildings.

FLOODWAY, 100-YEAR. The channel of a river or other watercourse and the adjacent land areas which must be kept free of encroachment in order to carry and discharge a flood of 100-year magnitude without substantial increases in flood height.

FLOODWAY ENCROACHMENT LINES. The lines marking the limits of floodways on the zoning map.

FLOODWAY FRINGE, 100-YEAR. The area between the floodway and the 100-year flood boundary.

FOREST/URBAN INTERFACE. An area where development and forested area meet at a well-defined boundary.

FOREST/URBAN INTERMIX. An area where development and forested area meet with no well-defined boundary.

FUEL BREAK. Generally, a wide strip of land on which native vegetation has been permanently modified so that fires burning into it can be more readily controlled. Some fuel breaks contain narrow fire breaks, which may be roads or narrow hand-constructed lines. During fires these line breaks can quickly be widened either with hand tools or firing out.

FUEL MODIFICATION. A method of modifying fuel load by reducing the amount of non-fire-resistive vegetation to reduce the fuel loads.

GARAGE, PRIVATE. A detached accessory building, or portion of a main building, used for the storage of self-propelled vehicles, where the capacity does not exceed three vehicles per family housed in the building to which such garage is accessory. Not more than one of the total number of vehicles stored in such garage shall be commercial vehicles.

GARAGE, PUBLIC. Any building or premises, except a private garage, used for the storage or care of motor vehicles, or where such

vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

GREENSPACE. A designated area that cannot be developed because it is: within the floodway, or in a historical district, or has been set aside to remain in its natural state.

GROUND FLOOR AREA. The square foot area of a building within its largest outside dimension computed on a horizontal plane at the ground floor level, exclusive of open porches, breezeways, terraces, garages, exterior stairways and secondary stairways.

GROUP HOME. A single residential structure having common kitchen facilities occupied by persons having physical, mental, emotional or social problems and living together for the purpose of training, observation and/or common support.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof.

HEALTHY TREE. A tree that shows no signs of severe damage, structural unsoundness, or advanced infestation.

HOME OCCUPATION or PROFESSION. Any use conducted entirely within a dwelling and carried on solely by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and which meets the requirements of this chapter.

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

HOTEL and MOTEL. A building or portion thereof, or a group of buildings, in which lodging is provided and offered to

transient guests for compensation; this shall not include a lodging house.

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

INDUSTRY, LIGHT. Those industries who's processing of products results in none of the conditions described for heavy industry.

INTEGRATED CANNABIS MICROBUSINESS. A person that is authorized to conduct one or more of the following:

(A) Production of cannabis at a single licensed premises, provided that the person shall not possess more than two hundred total mature cannabis plants at any one time.

(B) Manufacture of cannabis products at a single licensed premises.

(C) Sales and transportation of only cannabis products produced or manufactured by that person.

(D) Operation of only one retail establishment.

(E) Couriering of cannabis products to qualified patients, primary caregivers, or reciprocal participants or directly to consumers.

JUNKYARD. Any place at which personal property is or may be salvaged for reuse, resale or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted, including but not limited to use of salvaged base metals or their compounds or combinations; and used or salvaged rope, bags, rags, glass, rubber, lumber, mill-work, brick, automobiles and similar property which is used, owned or possessed for

the purpose of wrecking or salvaging parts therefrom.

KENNEL. Any lot or premises on which are kept ten or more dogs, cats or small animals over eight weeks of age, for any purpose, or on which there is commercial boarding or breeding of dogs or cats. The term does not include premises for the boarding of animals by a non-profit organization which is dedicated to permit the humane care and treatment of animals.

LADDER FUELS. Fuels which provide vertical continuity between strata. Fire is able to carry from surface fuels into the crown of trees or shrubs with relative ease and ensure initiation and continuity of crowning.

LIVESTOCK. All domestic or domesticated animals used or raised on a farm or ranch, including the carcasses thereof, and exotic animals in captivity and includes all horses and cattle. **LIVESTOCK** does not include canine or feline animals. Wild animals, poultry and birds used for human consumption shall also be included within the meaning of **LIVESTOCK**.

LOADING AND UNLOADING BERTH. The off-street area required for the receipt of or distribution by vehicles of material or merchandise.

LODGINGHOUSE. A building with more than two but not more than ten guestrooms where long term lodging with or without meals is provided for compensation.

LOT. Apiece, parcel, plot, tract or area of land occupied or capable of being occupied by one or more principal buildings, and the accessory buildings or uses customarily incidental to them, and including the open spaces required under this chapter, and having its principal lot frontage on a street.

LOT, CORNER. A lot at a junction of and fronting on two or more intersecting streets.

LOT COVERAGE. The percentage of the lot area covered by buildings.

LOT DEPTH. The horizontal distance of a line measured at a right angle to the front lot line and running between the front lot line and rear lot line of a lot.

LOT, INTERIOR. A lot other than a corner or through lot.

LOT LINE, FRONT. In the case of an interior lot, means a line separating the lot from the street, and in the case of a corner lot means a line separating the narrowest street frontage of the lot from the street, except that, where the lot is square or nearly so, the owner may choose which of the two street frontages is to be considered the front lot line.

LOT LINE, REAR. A lot line which is opposite and most distant from the front lot line and, in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

LOT LINE, SIDE. Any lot boundary line not a front lot line or a rear lot line.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets.

LOT WIDTH. The distance, measured in a straight line, between side lot lines at the points of intersection with the setback line.

MANUFACTURED HOUSING. A manufactured home or modular home that is a single-family dwelling with a heated area of at least 36 by 24 feet and at least 864 square feet, constructed in a factory to the standards of the United States Department of Housing and Urban Development (HUD), the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.) and the Housing and Urban Development Zone Code II and the Uniform Building Code, all as

amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act (SS 60-14-1 et seq. NMSA 1978) and sited on a permanent foundation in accordance with HUD Handbook 4145.1 as amended to the date of the unit's installation.

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

MATURE TREE. A tree measuring ten inches or more in diameter at four and one-half feet above ground level.

MINIMUM. Not less than the requirement indicated, but may be greater, if necessary, to meet the development standards of this chapter.

MINING. The extraction of sand, gravel or other material from the land in the amount of 400 cubic yards or more, and the removal from the site without processing.

MOBILE HOME. A factory-assembled structure exceeding eight feet in width, originally equipped with the necessary service connections and originally made so as to be readily movable as a unit on its own running gear, and designed to be used as dwelling unit without a permanent foundation, whether or not the running gear has been removed.

MOBILE HOME PARK. Any plot of ground upon which two or more mobile homes occupied or intended to be occupied for dwelling or sleeping purposes, are located.

MOBILE HOME SPACE. Any plot of ground within a mobile home park designed for the accommodation of one mobile home.

MOBILE HOME STAND. That portion of an individual mobile home space which has been reserved for the placement of a mobile home and structures or additions appurtenant to the mobile home.

MOBILE HOME SUBDIVISION. A subdivision designed for the express purpose of placing mobile homes on the individual lots.

MOBILE OFFICE. A factory-assembled structure exceeding eight feet in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit on its own running gear and designed to be used as an office without a permanent foundation, whether or not the running gear has been removed.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the ordinance from which this chapter is derived.

NOXIOUS MATTER or MATERIAL. Material capable of causing injury to living organisms by chemical reaction or capable of causing detrimental effects on the physical or economic well-being of individuals.

OFFICES. Structures, or portions of structures, in which commercial activities take place but where goods are not produced, sold or repaired. These include banks, general and professional offices, governmental offices, insurance offices, real estate offices, taxicab offices (but not taxi stands), travel agency or transportation ticket offices, telephone exchanges, utility offices, radio broadcasting and similar uses.

ONE-HUNDRED YEAR FLOOD. The highest level of flooding that, on the average, is likely to occur once every 100 years (i.e., that has a 1% chance of occurring each year). It is also known as the base flood.

ON-SITE CANNABIS CONSUMPTION PREMISE. On-site consumption of cannabis includes the smoking, vaporizing, and ingesting of cannabis or cannabis products on a licensed premise.

OPEN SALES (OR RENTAL) LOT. Any land used or occupied for the purpose of buying, selling or renting, for use away from the premises, any goods, materials or merchandise, and for the exterior storing of such goods, materials or merchandise prior to sale or rental.

OVERLAY ZONE. A zone superimposed upon an underlying zone, which establishes special requirements in addition to those of the underlying zone. Development or use of land or structures must conform to the requirements of both zones or the more restrictive of the two, if in conflict.

PARKING AREA, PUBLIC. An open area, other than a street or alley, designated for use or used as temporary parking for four or more vehicles, when available for public use, whether free or for compensation or as an accommodation for clients or customers.

PARKING SPACE, OFF-STREET. A space designated for the temporary parking of a motor vehicle not on the right-of-way or alley but accessible from a street or alley.

PARTY WALL. Any wall of a building or structure which is common to two or more buildings.

PAVED PARKING SPACE or SURFACE. An area covered by an impervious dust free surface of asphalt or concrete designed to specifications of the City Engineer.

PERSON. Any individual or group of individuals, corporations, partnerships, associations, or any other organized group of persons, including State and local governments and agencies thereof.

PERSONAL AND CONVENIENCE SERVICES. Businesses offering services, such as barbershops, beauty shops, laundromats, laundry and dry cleaning pickup and delivery stations (but excluding actual laundry operations), and similar uses.

PLANNED UNIT DEVELOPMENT.

A type of residential, commercial, and/or industrial land development in which buildings are clustered or set on lots that are smaller than usual, and large, open, park like areas are included within the development. Individual properties are owned in fee with joint ownership of open areas.

PLANNING OFFICER. City staff designated by the City Mayor and/or City Manager to be responsible for the administration of this chapter.

PORTABLE or MOBILE VENDING STAND or BOOTH. A structure or assembly intended or designed for vending of food, beverages or general retail merchandise which is without permanent foundation and without connection to approved water and sewer systems and other required utilities and not meeting State Uniform Building Code requirements for construction.

PROPERTY, PERSONAL. Property other than real property, consisting of things temporary and movable.

PROPERTY, REAL. Property in buildings and land.

PUBLIC HEARING. A meeting announced and advertised in advance and open to the public where the public has the right, within prescribed rules, to participate and be heard.

PUBLIC MEETING. A meeting open to the public where the public has the right to attend and listen to the proceedings. Participation by the public shall be at the discretion of the public body.

RANCH. An area utilized for the primary purpose of raising and producing livestock, including the residence of those conducting and engaged in the operation. A **RANCH** shall not include commercial feedlots or sanitary landfills.

RECREATIONAL VEHICLE (RV).

The following shall be known as **RECREATIONAL VEHICLES:**

(a) Travel trailers, camping trailers, fifth-wheel trailers and all other vehicles that are constructed to include a chassis, integral wheels and a towing hitch, and are primarily designed or constructed to provide temporary, readily moveable living quarters for recreation, camping or travel uses. For purposes of this subsection, readily movable shall mean movable within 24 hours.

(b) Pickup campers, either mounted or non-mounted, or any structure designed to be mounted in the bed of a truck and providing living quarters for recreation, camping or travel uses.

(c) Chassis mount, motor home, mini-motor home or other recreational structures or vehicles constructed integrally with a truck or motor van chassis and incapable of being separated therefrom, and designed to be used for moveable living quarters for recreational, camping or travel uses.

(d) Recreational vans or converted and chopped vans or other vehicles which are either initially constructed or converted to contain living quarters for recreational, camping or travel uses.

RECREATIONAL VEHICLE PARK (RVP). A tract of land at least two acres in size, on which individual recreational vehicles are parked temporarily in rental spaces for periods not exceeding 150 days during any 12-month period. Recreational vehicles may not be stored in recreational vehicle parks.

RESTAURANT. Any restaurant (except a drive-in restaurant or a convenience food restaurant), coffee shop, cafeteria, short-order café, luncheonette, tavern, sandwich stand, drugstore or soda fountain serving food, and all other eating or drinking establishments

provided that at least one-half of the total sales are derived from the sale of food.

SALES LOT FOR AUTOMOBILES, BOATS OR RECREATIONAL VEHICLES.

A lot or area used for display and sales only of three or more automobiles, boats or recreational vehicles or any combination thereof, with or without a sales office on-site and without service facilities.

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

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

SETBACK. The minimum horizontal distance between a building and the street or lot line.

SHOPPING CENTER. Any grouping of four or more principal retail uses, whether on a single lot or on abutting lots, under multiple or single ownership, and whether contained in one building or multiple buildings.

SIGN. Any board, device or structure or part thereof used for advertising, display or publicity purposes. Signs placed or erected by governmental agencies for the purposes of showing street names or traffic directions or

regulations for other governmental purposes shall not be included in this definition.

SIGN, BILLBOARD. Any non-accessory sign, whether freestanding, wall-mounted or roof-mounted.

SIGN, NON-ACCESSORY. A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

SIGN, WALL. A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign, and which does not project more than 18 inches from such building or structure.

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

SKETCH PLAN APPROVAL. An approval of a proposed development by a property owner prior to the preparation of a final site plan. The purpose of this approval is to provide relief for the property owner or developer from the expense of the required professionally prepared documents prior to reaching general agreement with the Planning Commission and the affected property owners of the proposed development.

SLASH. The debris created from cutting trees and forest growth.

SPECIAL EXCEPTIONS. SPECIAL EXCEPTIONS to this chapter shall be limited to variances, conditional uses, and expansion of nonconforming uses, and shall not be granted except as prescribed in this chapter.

SPOT ZONING. Rezoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the comprehensive plan.

STABLE, PRIVATE. Any building located on a lot which is designed, arranged, used or intended to be used for not more than four horses for the private use of the owner of the lot, but shall not exceed 6,000 square feet in area.

STABLE, PUBLIC. A stable where horses are kept for remuneration, hire or sale.

START OF CONSTRUCTION. The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the state of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the excavation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not a part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, the **START OF CONSTRUCTION** is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

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

STREET, ARTERIAL. A major street of exceptional continuity that is intended to carry the greater portion of through traffic from one area of the City to another.

STREET, COLLECTOR. A Street designed to accommodate traffic within residential neighborhoods with the primary purpose of collecting and distributing traffic to and from the arterial streets.

STREET FRONTAGE. Any property line separating a lot from a street.

STREET, PUBLIC. Any street which has been dedicated or is otherwise publicly owned by the City.

STRIP DEVELOPMENT. Commercial or retail development, usually one store deep, that fronts on a major street.

STRUCTURAL ALTERATION. Any change in the supporting members of a building such as bearing walls or partitions, columns, beams or girders, or any change in the exterior walls or the roof.

STRUCTURE. Anything constructed, erected, or assembled which requires location on the ground.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started, or, if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either:

(a) Any project for improvement of a structure to comply with

existing or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions; or

(b) Any alteration of a structure listed on the National Register of Historic Places.

TEMPORARY or PORTABLE CARPORT. Those which are designed to be portable, are prefabricated off-site for assembly and/or installation on-site, having exterior finish of fabric, fiberglass, plastic, thin metal or like materials, whether or not carport is set on permanent foundation.

TEN-FOOT ZONE. The area within ten feet of a structure, as measured from a line drawn perpendicular from the roofline of the structure to the ground.

TOURIST HOME. An establishment in a private dwelling that supplies a building in which more than one but not more than five guestrooms are used to provide or offer overnight accommodations for transient guests for compensation.

TOWNHOUSE. A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent buildings by party walls or are located immediately adjacent thereto with no visible separation between walls or roof, all of which dwellings may be located on individual and separate lots if individually owned, or upon a single lot if under common ownership.

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

TRAVEL TRAILER. Any vehicular or similar portable structure designed as a temporary dwelling for travel, recreational and vacation uses and having maximum size of eight feet in width and 27 feet in overall length.

TRAVEL TRAILER PARK. A parcel of land designed and intended principally for short term occupancy for periods of less than 30 days by travel trailers, tents, automobiles, trucks or buses that have been adapted for vacation use and where lots are rented.

TREE MANIPULATION ACTIVITY. Cutting or thinning of mature trees.

TREE PROTECTIVE ZONE. The portion of any lot or parcel covered by the front, rear, and side yard requirements of this chapter.

TREE REMOVAL. Any act which causes a tree to die within a period of two years, including but not limited to damage inflicted upon the root system by machinery, storage of materials and soil compaction; changing the natural grade above the root system or around the trunk; damage inflicted on the tree permitting infection or pest infestation; excessive pruning; or paving with concrete, asphalt or other impervious material within such proximity as to be harmful to the tree.

UNOBSTRUCTED UTILITY EASEMENT. No utility easement shall have trees or shrubbery growing into, around, or over, or have branches that threaten with a snow or ice load, any above ground utility line.

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

USE, CONDITIONAL. Either a public or private use as listed in this chapter which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. After consideration in each case of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, a permit for such conditional use may or may not be granted pursuant to the requirements of this chapter. A **CONDITIONAL USE** may be a principal use or an accessory use.

USE, NONCONFORMING. An existing use of land or buildings which was legal prior to the effective date of the ordinance from which this chapter is derived but which fails to comply with the requirements set forth in this chapter applicable to the zone in which such use is located.

USE, PERMITTED. A use which is lawfully established in a particular district, and which conforms to all requirements, regulations, and performance standards of such district. A **PERMITTED USE** may be a principal use or an accessory use.

USE, PRINCIPAL. A use or structure which determines the predominant or major use of the lot on which it is located. A **PRINCIPAL USE** may be either a permitted or a conditional use.

VARIANCE. A modification or variation of the provisions of this chapter as applied to a specific piece of property. Dimensional variances only may be allowed, and only as prescribed by § 155.020(E)(1)(g). No variance regarding use of property shall be permitted. No variances decreasing lot area requirements shall be allowed.

VARIANCE, DIMENSIONAL. Departure from the terms of this chapter pertaining to height or width of structures and size of yards and open spaces where such departure will not be contrary to the public interest and where, owing to conditions peculiar to the property because of its size, shape, or topography, and not as a result of the action of the applicant, the literal enforcement of this chapter would result in unnecessary and undue hardship.

VERTICALLY INTEGRATED CANNABIS ESTABLISHMENT. A person that is authorized to act as any of the following:

- (A) a cannabis courier**
- (B) a cannabis manufacturer**

- (C) a cannabis producer**
- (D) a cannabis retailer**

WAREHOUSE. An enclosed building designed and used primarily for the storage of goods and materials.

WAREHOUSE, RESIDENTIAL STORAGE and MINIWARE-HOUSE. A building or group of buildings in a controlled-access and fenced or screened compound that contains relatively small storage spaces of varying sizes, having individual, compartmentalized and controlled access for the storage of excess personal property of an individual or family generally stored in residential accessory structures, when such building or group of buildings is not located on the lot of the residence.

YARD. A space on the same lot with a principal building, which is open and unoccupied other than by steps, walks, terraces, driveways, lampposts and similar structures, and unobstructed by structures, except as otherwise provided in this chapter.

YARD, CORNER SIDE. A yard on a corner lot, the area of which is bounded by a line extending from the front of the principal building (the front building line) to a point intersecting the side street right-of-way line (side lot line), then along the side lot line to a point intersecting the line formed by extending the wall of the nearest principal building paralleling the side lot line.

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

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

YARD, SIDE. A yard extending between the front building line and the rear building line, the width of which is the least distance between the side lot line and the nearest part of the principal building.

ZONING AUTHORITY. The City Council.
(1988 code, §9-10-1)