

Chapter 2

Rules and Definitions

SECTION:

- 01-2-1 : Rules
- 01-2-2 : Definitions

01-2-1 : RULES: The language set forth in the text of this Article shall be interpreted in accordance with the following rules of construction:

- A. The singular number includes the plural, and the plural the singular.
- B. The present tense includes the past and the future tenses, and the future the present.
- C. The word “shall” is mandatory while the word “may” is permissive.
- D. The masculine gender includes the feminine and neuter.
- E. All measured distances expressed in feet shall be to the nearest tenth of a foot.
- F. For terminology not defined in this Article, the City Code, the Minnesota State Building Code, or the Webster’s Dictionary shall be used to define such terms.

01-2-2 : DEFINITIONS: The following words and terms, wherever they occur in this Article, shall be interpreted as herein defined:

ABUTTING: Making contact with or separated only by public thoroughfare, railroad, or public utility right of way.

ACCESSORY BUILDING: A subordinate building which is located on the same lot on which the principal building is situated and which is reasonably necessary and incidental to the conduct of the principal building or use.

ADDITION: A physical enlargement of an existing structure.

AGRICULTURE USES: Those uses commonly associated with the growing of produce on farms, these include: field crop farming; pasture for hay, fruit growing; tree, plant, shrub, or flower nursery without building; truck gardening; roadside stand for sale of in season products grown on premises; and livestock raising and feeding, but not including fur farms, commercial animal feedlots, retail nurseries and garden centers, and kennels.

ALLEY: A public or private right of way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street.

AMUSEMENT CENTER: A business at one (1) location devoted primarily to the operation of amusement machines and open for public use and participation at a location where the primary use is five (5) or more amusement machines and is open for public use and participation.

ANIMAL FEEDLOTS: A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for feeding and rearing of poultry (poultry ranges), and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and zoos, shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

ANIMAL KENNEL: Any place where three (3) or more domestic animals of one type, over six (6) months of age, are commercially kept, sold, boarded, bred, or exhibited, except hospitals, clinics, and other premises operated by a licensed veterinarian exclusively for the care and treatment of animals.

ANIMAL SHELTER: A fully enclosed building where domestic animals are cared for on a temporary basis. Boarding, grooming, kenneling or similar activities of animals other than those surrendered or impounded shall not be permitted.

ANIMALS, FARM: Unless otherwise defined, such animals shall include members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stables. This also includes Cervidae, Ratitae and Llama animal groups as defined by Minnesota state statute. (These animals include, but are not limited to elks, ostriches, emus, rheas and llamas and under state law all are considered to be livestock and raised for agricultural pursuits).

ANIMALS, DOMESTIC: Those animals commonly accepted as domesticated household pets. Unless otherwise defined, such animals shall include dogs, cats, caged birds (not including pigeons, chickens, geese, turkeys or other domestic fowl), gerbils, hamsters, guinea pigs, domesticated rabbits, tropical fish, non-poisonous, non-venomous and non-constricting reptiles or amphibians (contained within a terrarium) that can be housed within a principal structure throughout the entire year, provided that the containment can be accomplished without special modification to the structure that would require a building permit, excluding wild or domesticated wild animals.

ANTENNA RELATED:

- A.** Accessory and/or Secondary Use: Those antennas including radio and television receiving antennas, satellite dishes, TVROs two meters (2 m) or less in diameter, short-wave radio dispatching antennas, or those necessary for the operation of electronic equipment such as radio receivers, ham radio transmitters and television receivers that are customary and incidental to allowed principal uses within the various zoning districts of the City.

- B.** Personal Wireless Service: A device consisting of metal, carbon fiber, or other electromagnetically conductive rods or elements, usually arranged in a circular array on a single supporting pole or other structure, and used for the transmission and reception of wireless communication radio waves including cellular, personal communication service (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services and including the support structure thereof.
- C.** Public Utility Microwave: A parabolic dish or cornucopia shaped electromagnetically reflective or conductive element used for the transmission and/or reception of point to point UHF or VHF radio waves in wireless telephone communications, and including the support structure thereof.
- D.** Radio and Television, Broadcast Transmitting: A wire, set of wires, metal or carbon fiber rod or other electromagnetic element used to transmit public or commercial broadcast radio, or television programming, and including the support structure thereof.
- E.** Radio and Television Receiving: A wire, set of wires, metal or carbon fiber element(s), other than satellite dish antennas, used to receive radio, television, or electromagnetic waves, and including the support structure thereof.
- F.** Satellite Dish: A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device is used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas and the support structure thereof.
- G.** Satellite Dish Height: The height of the antenna or dish measured vertically from the highest point of the antenna or dish when positioned for operation, to the top of the foundation which supports the antenna.
- H.** Short-Wave Radio Transmitting and Receiving: A wire, set of wires or a device, consisting of a metal, carbon fiber, or other electromagnetically conductive element used for the transmission and reception of radio waves used for short-wave radio communications, and including the support structure thereof.
- I.** Support Structure: Any building or other structure other than a tower which can be used for location of antennas.
- J.** Temporary Mobile: Any mobile tower, pole, or structure located on a trailer, vehicle, or temporary platform intended primarily for the purpose of mounting an antenna or similar apparatus for personal wireless services, also commonly referred to as cellular on wheels (COW).
- K.** Tower: A self-supporting lattice, guyed or monopole structure constructed from grade which supports personal wireless service antennas. The term antenna tower shall not include amateur radio operators' equipment, as licensed by the FCC.

APPLICANT: The owner, their agent or person having legal control, ownership and/or interest in land for which the provisions of this Article are being considered or reviewed.

AQUIFER RECHARGE AREAS: All land surface areas which by nature of their surface and/or subsurface soil characteristics are determined to contribute to the replenishment of subsurface water supplies.

AUTOMOBILE WRECKING, REDUCTION YARD, OR JUNKYARD: Any place where three (3) or more vehicles not in running condition and/or not licensed, or parts thereof, are stored in the open and are not being restored to operation or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof, and including any commercial salvaging and scavenging of any other goods, articles or merchandise.

BASEMENT: That portion of a building between floor and ceiling, which is partly below and partly above grade, but so located that the vertical distance from grade to the floor below is more than the vertical distance from grade to ceiling. (See definition of Story.)

BAY: Cantilevered area of a room.

BOARDING HOUSE: A building other than a hotel where, for compensation and by prearrangement for definite periods, meals or lodging and meals are provided to three (3) or more persons, not of the principal family therein, pursuant to previous arrangements and not to anyone who may apply, but not including a building providing these services for more than ten (10) persons.

BOARDING (HOUSE) HOME, FOSTER CHILDREN: A family dwelling where children out of their own homes are cared for.

BOARDING ROOM: A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodation shall be counted as one boarding room.

BODY PIERCING: Penetrating or making a hole in or through the human body to place jewelry or objects of metal, plastic, wood, bone, or other foreign material on any area for cosmetic purposes.

BOULEVARD: The portion of the street right of way between the curb and the property line.

BUFFER: The use of land, topography, difference in elevation, space, fences or landscape plantings to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights or other impacts.

BUFFER YARD: A strip of land utilized to screen or partially screen a use or property from another use or property or to shield or mitigate noise, lights, or other impacts.

BUILDABLE AREA: The portion of a lot remaining after required yards have been provided.

BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING HEIGHT: The vertical distance to be measured from the average ground level prior to construction at the building line corners to the cornice of a flat roof, to the deck line of a mansard roof, to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or other arch type roof or to the mean distance of the highest gable on a pitched or hip roof.

BUILDING LINE: A line parallel to a lot line or the ordinary high-water level at the required setback beyond which a structure may not extend.

BUSINESS: Any establishment, occupation, employment or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

CANOPY: An accessory roof-like structure, which is either attached to or detached from an allowable primary building; which is open on all sides, other than where attached; and, which is located over and designed to provide cover for entrances, exits, walkways, and approved off-street vehicle service areas.

CARPORT: An automobile shelter having one (1) or more sides open continuously.

CELLAR: The portion of a building between floor and ceiling which is wholly or partly below grade and so located that the vertical distance from grade to the floor below is equal to or greater than the vertical distance from grade to ceiling.

CEMETERY: A parcel or tract of land used or intended to be used for the burial of the dead including columbariums, crematories, mausoleums and mortuaries when operated within the boundaries of such cemetery.

CHANNEL: A natural or artificial depression of perceptible extent, with definite bed and banks to confine and conduct water either continuously or periodically.

CITY ATTORNEY: The person designated by the City Council to be the City Attorney for the City of Howard Lake.

CITY BUILDING OFFICIAL: The person designated by the City Council to be the City Building Official for the City of Howard Lake.

CITY COUNCIL: The governing body for the City of Howard Lake.

CITY ENGINEER: The person designated by the City Council to be the City Engineer for the City of Howard Lake.

CLEAR-CUTTING: The removal of an entire stand of trees.

CLUB OR LODGE: A nonprofit association of persons who are bona fide members paying annual dues, with the use of premises being restricted to members and their guests for receptions, social recreation, and other gatherings.

COMMERCIAL EQUIPMENT: Any equipment, including trailers, used for the alteration, demolition, construction, maintenance, or excavation of a building, structure or property.

COMMERCIAL USE: The principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services, including, but not limited to, the following:

- A.** Automobile Repair (Major): General repair, rebuilding or reconditioning engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting or paint job; vehicle steamcleaning.
- B.** Automobile Repair (Minor): Minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor services to passenger automobiles and trucks not exceeding twelve thousand (12,000) pounds gross weight, but not including any operation specified under the definition of "automobile repair (major)".
- C.** Automobile Sales: The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, trailers or recreational vehicles including any major or minor automobile repair or service uses conducted as an accessory use.
- D.** Drive-In Establishment: An establishment which accommodates the patron's automobile from which the occupants may receive a service or in which products purchased from the establishment may be consumed.
- E.** Motel/Motor Hotel: A building or group of detached, semidetached or attached buildings containing guest rooms, or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests traveling by automobile.
- F.** Motor Fuel Facility: A place where gasoline, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including major automobile repairs.
- G.** Office Business (General): An establishment located within a building or portion of a building for the conduct of business activities involving predominantly professional, administrative or clerical service operations including attorneys, financial advisors, consultants, insurance, travel and other uses of similar character.
- H.** Office Business (Clinical): An establishment located within a building or portion of a building providing outpatient health services to patrons, including general medical clinics, mental health providers, chiropractors, dentists, orthodontists, oral surgeons, opticians and other uses of similar character.

- I.** Recreational Business: Health club, bowling alley, cart track, golf course, billiard (pool) hall, dance hall, skating rinks, swimming pools, firearms range, boat rental, amusement rides, campgrounds, private parks, and uses of similar character, which may be further distinguished as indoor or outdoor uses.
- J.** Restaurant (Convenience): An establishment that serves food in or on disposable or edible containers in individual servings for consumption on- or off-premises, including drive-in restaurants, and including drive-through facilities.
- K.** Restaurant (General): An establishment which serves food in or on non-disposable dishes to be consumed primarily while seated at tables or booths within the building.
- L.** Retail Business: An establishment engaged in the display and sale of products produced off-site directly to consumers within a building or portion of a building, excluding any exterior display and sales.
- M.** Service Business (Off-Site): A company that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the service is provided at the customer's location, including delivery services, catering services, plumbing and sewer services, and other uses of similar character.
- N.** Service Business (On-Site): An establishment that provides useful labor, maintenance, repair and activities incidental to business production or distribution where the customer patronizes the location of the operation, such as banks, copy centers, barber/beauty salons, laundromats, dry cleaners, funeral homes and mortuaries, animal clinics, appliance repair, tailor shops, travel bureaus.
- O.** Shopping Center: An integrated grouping of commercial stores, under single ownership or control.

COMMERCIAL VEHICLE: A vehicle used for commercial purposes either greater than eight feet (8') in height or greater than twenty two feet (22') in length, including, but not limited to: boom trucks, cargo trucks, dump trucks, farm implements, fire trucks, ambulances, limousines, hearses, semi-tractor trailers, tank trucks and tow trucks.

COMMISSIONER: The Commissioner of the Department of Natural Resources.

COMMON OPEN SPACE: Any open space including parks, nature areas, playgrounds, trails and recreational buildings and structures, which is an integral part of a development and is not owned on an individual basis by each owner of the dwelling unit.

COMPREHENSIVE PLAN: A compilation of policy statements, goals, standards, and maps for guiding the physical, social and economic development, both private and public, of the Municipality and its environs, including air space and subsurface areas necessary for mined underground space development as pursuant to Minnesota statutes, and may include, but is not limited to, the following: statements of policies, goals, standards, a land use plan, a community facilities plan, park/trail/recreation plan, a transportation plan, stormwater management plan, sanitary sewer and water system plan, and recommendations for plan execution.

CONDITIONAL USE: A use, which because of special problems of control the use presents, requires reasonable, but special, unusual and extraordinary limitations peculiar to the use for the protection of the public welfare and the integrity of the City Comprehensive Plan.

CONDITIONAL USE PERMIT: A permit issued by the City Council in accordance with procedures specified in this Article, as a flexibility device to enable the City Council to assign dimensions to a proposed use or conditions surrounding it after consideration of adjacent uses and their functions and the special problems which the proposed use present.

CONDOMINIUM: A multiple-family dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the provisions of the Minnesota Condominium Law, Minnesota Statutes sections 515.01 through 515.29.

COOPERATIVE (HOUSING): A multiple-family dwelling owned and maintained by the residents and subject to the provisions of Minnesota Statutes 290.09 and 290.13. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

COURT: An unoccupied open space other than a yard which is bounded on two (2) or more sides by the walls of the buildings.

CROWDING POTENTIAL: The ratio of total acreage to shore miles.

DAYCARE FACILITY: Any State licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty four (24) hours per day, in a place other than the person's own home. Daycare facilities include, but are not limited to: family daycare homes, group family daycare homes, daycare centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and other "nonresidential programs" as defined by Minnesota Statutes section 245A.02, subdivision 10.

DECK: Horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending above grade.

DENSITY: The number of dwelling units per gross acre of land.

DENSITY, NET: The number of dwelling units per buildable acres of land.

DEPOSIT: Any rock, soil, gravel, sand or other material deposited naturally or by man into a water body, watercourse, flood plains or wetlands.

DISTRIBUTION LINES: All those wires, poles, and appurtenant equipment used to carry electricity, generally rated below 115 kilovolts, located between a customer and a transmission line.

DISTRICT: A section or sections of the City for which the regulations and provisions governing the use of buildings and lands are uniform for each class of use permitted therein.

DIVERSION: A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream.

DRAINING: The removal of surface water or ground water from land.

DREDGING: To enlarge or clean-out a water body, watercourse, or wetland.

DRIVE-THROUGH FACILITY: An establishment (principal or accessory use) at which patrons may purchase products or receive service without having to leave the motor vehicle.

DWELLING: A building or portion thereof, designated exclusively for residential occupancy, including one-family, two-family, and multiple-family dwellings, but not including hotels, motels, boarding houses, bed and breakfast, mobile homes or trailers.

DWELLING, EFFICIENCY APARTMENT: A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets, or dining alcove.

DWELLING, ELDERLY (SENIOR CITIZEN) HOUSING: A public agency owned or controlled multiple dwelling building with open occupancy limited to persons over fifty five (55) years of age.

DWELLING, MANOR HOMES: A residential structure with five (5) to eight (8) units with each unit having a separate entrance/exit. There may be more than one floor and an attached garage space.

DWELLING, MULTIPLE-FAMILY (APARTMENT): A building designed with three (3) or more dwelling units exclusively for occupancy by three (3) or more families living independently of each other, but sharing hallways and main entrances and exits.

DWELLING, NURSING HOME: A State licensed facility or that part of a facility which provides nursing care pursuant to Minnesota Statutes chapter 144A.01.

DWELLING, QUADRAMINIUM: A single structure which contains four (4) separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure.

DWELLING, SINGLE-FAMILY: A dwelling unit designed exclusively for and occupied exclusively by one family.

DWELLING, TOWNHOUSES: Structures housing three (3) or more dwelling units contiguous to each other only by the sharing of one or more common walls with each unit having a separate entrance/exit, such structures to be of the townhouse or row house type as contrasted to multiple-family dwelling apartment structures.

DWELLING, TOWNHOUSES, DETACHED: A structure having the characteristics of a multiple unit townhouse structure that has been separated into single dwelling units at the common side wall, typically with structure dimensions that have a narrow front and deep side walls and are typically without windows or features on at least one of the side walls.

DWELLING, TWO-FAMILY: A structure designed exclusively for occupancy by two (2) families living independently of each other.

A. Duplex: A two-family dwelling with one unit above the other.

B. Twinhome: A two-family dwelling with two (2) units side-by-side.

DWELLING UNIT: A residential building or portion thereof intended for occupancy by one or more persons with facilities for living, sleeping, cooking and eating, but not including hotels, motels, nursing homes, tents, seasonal cabins, boarding or rooming houses, motor homes, or travel trailers.

EARTH BERM (HOUSE CONSTRUCTION): An earth covering on the above grade portions of the building walls.

EARTH SHELTERED BUILDING: A building so constructed that fifty percent (50%) or more of the completed structure is covered with earth. Earth covering is measured from the lowest level of the livable space in residential units and of usable space in nonresidential buildings. An earth sheltered building is a complete structure that does not serve just as a foundation or substructure for above grade construction. A partially covered building shall not be considered earth sheltered.

EASEMENT: A grant by a property owner for the use of a strip of land and for the purpose of constructing and maintaining streets, trails, sidewalks, drives, and/or utilities, including, but not limited to, wetlands, ponding areas, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainageways, and gaslines.

ENGINEER: An electrical, mechanical, civil, or other professional engineer licensed by the State of Minnesota.

EQUAL DEGREE OF ENCROACHMENT: A method of determining the location of encroachment lines so that flood plain land on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance by private or public utilities, or Municipal departments of underground or overhead telephone, gas, electrical, steam, hot water, communication, waste, or water transmission, distribution, collection, supply or disposal systems, including water towers, wells, poles, wires, radio receivers and transmitters, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment, accessories and related structures in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Essential services shall not include waste facilities or personal wireless service antennas or support structures.

EXTRACTIVE USE: The use of the land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota statutes sections 93.44 through 93.51 exceeding fifty (50) square feet or an area of two feet (2') in depth or greater.

FAMILY: An individual or two (2) or more persons each related to the other by blood, marriage, adoption, domestic partnership, or foster care, or a group of not more than three (3) persons not so related maintaining a common household and using common cooking and kitchen facilities.

FARM: A tract of land of more than ten (10) acres in size usually with a house and barn plus other buildings on which crops and often livestock are raised for a principal source of livelihood.

FARM, HOBBY: A tract of land consisting of ten (10) or less acres in size with a house and accessory buildings on which crops and often livestock are raised but not as a principal source of income.

FARMING: Process of operating a farm for the growing and harvesting of crops which shall include those necessary accessory buildings, related to operating the farm, and the keeping of common domestic farm animals.

FENCE: Any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

A. Fence, Boundary Line: All fences located within five feet (5') of a property line.

B. Fence, Interior Yard: All fences located five feet (5') from a property line.

FILLING: The act of depositing any rock, soil, gravel, sand or other material so as to fill a water body, watercourse, or wetland.

FLOOD RELATED:

A. Flood: A temporary rise in a stream flow or stage which results in inundation of the areas adjacent to the channel.

- B. Flood Frequency: The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded. By strict definition, such estimates are designated "exceedence frequency", but in practice the term "frequency" is used. The frequency of a particular stage of discharge is usually expressed as having a probability of occurring once within a specific number of years.
- C. Flood Fringe: That portion of the flood plain outside of the floodway.
- D. Floodplain: The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.
- E. Flood Profile: A graph or a longitudinal plot of water surface elevation of a flood event along a reach of a stream or river.
- F. Floodway: The channel of the watercourse and those portions of the adjoining flood plains which are reasonably required to carry and discharge the regional flood.
- G. Obstruction: Any storage of material, or equipment, any dam, wall, wharf, embankment, levee, road, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, wire, fence, stockpile, refuse, fill, deposit, clearing of trees or vegetation, structure or matter in, along, across, or projecting, in whole or in part, into any flood plain.
- H. Regional: A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year reoccurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.
- I. Regulatory Flood Protection Elevation: A point not less than one foot (1') above the elevation of the flood plain, plus any increases in flood heights attributable to encroachments on the flood plain. It is the elevation to which uses regulated by this Article are required to be elevated or floodproofed.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space such as counters, racks or closets, and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement or cellar floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. The floor area of a residence shall not include the cellar area.

FORESTRY: The use and management, including logging, of a forest, woodland or plantation and related research and educational activities including the construction, alteration or maintenance of wood roads, skidways, landings, and fences.

FRONTAGE: The boundary of a lot which abuts an existing or dedicated public street or private drive.

GARAGE, PRIVATE (RESIDENTIAL): An accessory building or accessory portion of the principal building which is primarily intended for and used to store the private passenger vehicles and trucks not exceeding twelve thousand (12,000) pounds gross weight, of the family resident upon the premises.

GARAGE, PUBLIC: A building or portion of a building, except any herein defined as a private garage or as a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire.

GARDEN SUPPLY STORE: A place of business where retail and wholesale products and produce are sold to the retail customer. These centers import the majority of the items sold. These items may include soils, wood chips, decorative rock, brick, retaining wall block, plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hoses, rakes, shovels, and other garden and farm tools and utensils.

GRADE (ADJACENT GROUND ELEVATION): The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than five feet (5') from the building, between the building and a line five feet (5') from the building.

GRADING: Changing the natural or existing topography of land.

GREENHOUSE: An enclosed building, permanent or portable, which is used for the growing of small plants. Retail or accessory sales are prohibited.

GUEST ROOM: A room occupied by one or more guests for compensation and in which no provision is made for cooking, but not including rooms in a dormitory for sleeping purposes primarily.

HOME OCCUPATION: Any occupation or profession engaged in by the occupant of a residential dwelling unit, which is clearly incidental and secondary to the residential use of the premises and does not change the character of said premises.

HOME OFFICE: A home occupation consisting of a room or group of rooms used for conducting affairs of a recognized business, profession or service solely by the occupant of the dwelling and which does not involve the on-site sale of products or client/patron site visitations.

HOTEL: Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six (6) or more guest rooms, used, designated, or intended to be used, let or hired out to be occupied, or which are occupied by six (6) or more individuals for compensation, whether the compensation be paid directly or indirectly.

HOUSE PET ENCLOSURE: Any accessory building or portion thereof, accessory structure or area of any kind, including, without limitation, pens, runs, kennels and pet houses, that is principally used or designed for use as a place for keeping house pets. An electronic pet containment system is not considered a house pet enclosure.

IMPERVIOUS SURFACE: An artificial or natural surface through which water cannot easily penetrate.

INDIVIDUAL SEWAGE TREATMENT SYSTEM: A sewage treatment system or part thereof, serving a dwelling, building, structure or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. Individual sewage treatment system includes holding tanks.

INDUSTRIAL USE: The use of land or buildings for the production, manufacture, warehousing, storage or transfer of goods, products, commodities, or other wholesale items.

INTENSIVE VEGETATION CLEARING: The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

INTERIM USE: A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer allow it.

INTERIM USE PERMIT: A permit issued in accordance with procedures specified in this Article, as a flexible device to enable the City Council to assign time limits and conditions to a proposed use after consideration of current or future adjacent uses and their functions.

INTERLOCK: The painted line or a barrier in a parking lot that separates two (2) facing rows of parking from one another.

INTERMITTENT: A stream or portion of a stream that flows only in direct response to precipitation.

JUNKYARD: An open area where waste, used, or second hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber, tires, and bottles. Junkyard includes an auto wrecking yard but does not include uses established entirely within enclosed buildings. Junkyard does not include sanitary landfills.

LAND RECLAMATION: The process of the reestablishment of acceptable topography (i.e., slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

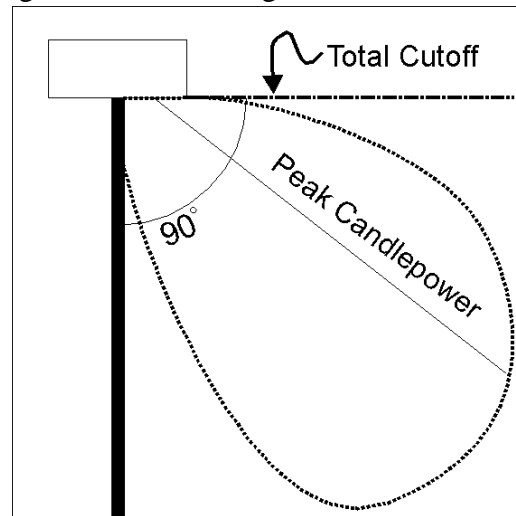
LAND/SEA CONTAINERS: Fully enclosed metal or other prefabricated material structures, containers, holders, or receptacles greater than five feet (5') in length with an opening for access, which may or may not have a door attached, and which are used for purposes of, but not limited to, storage, transportation of freight, or holding for sale or lease.

LAND SURVEYOR: Such persons licensed by the State of Minnesota as a land surveyor.

LANDSCAPING: Plantings such as trees, grass, and shrubs.

LIGHTING RELATED:

Figure 1. Cut Off Angle



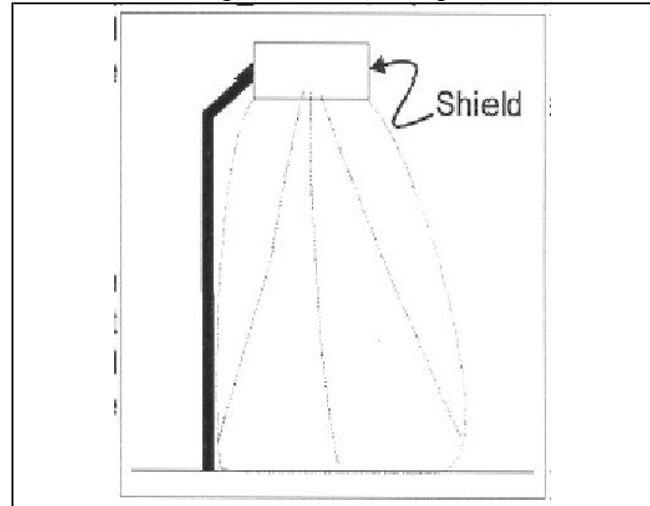
- A. Cutoff. The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated at a specific angle above the ground.
- B. Cutoff Angle. The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above which no light is emitted (see Figure 1).
- C. Cutoff Type Luminaire. A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.
- D. Flashing Light. A light source which is not constant in intensity or color at all times while in use.
- E. Foot candle. A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one (1) candle.
- F. Light Source. A single artificial point source of luminescence that emits measurable radiant energy in or near the visible spectrum.
- G. Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts.
- H. Outdoor Lighting. Any light source or collection of light sources, located outside a building, including but not limited to, light sources attached to any part of a structure, located on the surface of the ground or located on freestanding poles.
- I. Outdoor Light Fixture. Outdoor electrically powered illuminating devices, outdoor lighting or reflective surfaces, lamps and similar devices, permanently installed or portable, used for illumination or advertisement. The fixture includes the hardware that houses the illumination source and to which the illumination source is attached including, but not limited to, the hardware casing. Such devices shall include, but are not limited to, search, spot, and flood lights for:
1. Buildings and structures.
 2. Recreational areas.
 3. Parking lot lighting.
 4. Landscaping lighting.
 5. Signs.
 6. Street lighting.

7. Product display area lighting.
 8. Building overhangs and open canopies.
- J. Security Lighting. Outdoor lighting fixtures installed exclusively as a measure to reduce the possible occurrence of a crime on the property.

- K. Shielding. A technique or method of construction permanently covering the top and sides of a light source by a material which restricts the light emitted to be projected below an imaginary horizontal plane passing through the light fixture (see Figure 2).

- L. Spillage. Any reflection, glare or other artificial light that emits onto any adjoining property or right-of-way and is above a defined maximum illumination.

Figure 2 - Shielding



LOADING SPACE (OFF-STREET): A formally delineated space, area, or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a vehicle or truck while loading or unloading merchandise or materials.

LOT: Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of this Article, having not less than the minimum area required by this Article for a building site in the district in which such lot is situated and having its principal frontage on a public street.

LOT AREA: The area of a horizontal plane within the lot lines.

LOT AREA, MINIMUM (Lots Of Record And Preliminary Platted Lots Having Legal Standing On February 10, 2003): Except as may be otherwise required by this Article, the area of a horizontal plane within the lot lines.

LOT AREA, MINIMUM (Lots Of Record Established After February 10, 2003): Except as may be otherwise expressly allowed in this Article, the area of a horizontal plane within the lot lines excluding major drainageways, wetlands, water bodies, road rights of way, required buffer strips, regional utility/pipeline easements, and slopes steeper than three to one (3:1).

LOT, BASE: Lots meeting all the specifications in the zoning district prior to being subdivided into a two-family dwelling or quadraminium subdivision.

LOT, CORNER: A lot situated at the junction of and abutting on two (2) or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is one hundred thirty five degrees (135°) or less.

LOT, DEPTH: The mean horizontal distance between the front lot line and the rear lot line measured from a ninety degree (90°) angle from the street right of way within the lot boundaries.

LOT, FRONTAGE: The narrowest lot boundary abutting a public street that meets minimum lot width requirements. If none of the boundaries abutting a public street meet minimum lot width requirements, then the lot frontage is the widest boundary abutting a street. In areas where a lot has two (2) or more boundaries of equal length that abut a public street, the Zoning Administrator shall determine the lot frontage based upon the character of the area.

LOT IMPROVEMENT: Any building, structure, place, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

LOT INTERIOR: A lot, other than a corner lot, including through or double frontage lots.

LOT LINE: A property boundary line of any lot held in single or separate ownership except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right of way.

LOT LINE, FRONT: The lot line separating a lot from the street right of way along the lot frontage.

LOT LINE, REAR: The lot line opposite and most distant from the lot frontage which connects the side lot lines.

LOT LINE, SIDE: Lot lines extending away from the lot frontage, which connects the front and rear lot lines.

LOT OF RECORD: A parcel of land, whether subdivided and/or otherwise legally described and recorded or approved by the City as a lot subsequent to such date and which is occupied by or intended for occupancy by one principal building or principal use together with any accessory buildings and such open spaces as required by this Article and having its principal frontage upon a street.

LOT, SUBSTANDARD: A lot or parcel of land which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Article.

LOT, THROUGH: A lot fronting on two (2) parallel streets. Also defined as a "double frontage lot".

LOT, TRIANGULAR: A lot in which the side lot lines converge into a single vertex. The vertex shall be deemed to be the rear lot line.

LOT, UNIT: Lots created from the subdivisions of a two-family dwelling or quadraminium having different minimum lot size requirements than the conventional base lots within the zoning district.

LOT, WIDTH: The minimum required horizontal distance between the side lot lines measured at right angles to the lot depth, at the front setback line. For cul-de-sac lots, "lot width" shall mean the minimum required horizontal distance between the side lot lines, measured along a straight line at the midpoint of the front setback line.

LOT, ZONING: A single tract of land which consists of one or more lots of record and which, at the time of filing for a building permit, is designated by its owner or developer as a tract to be used, developed or built upon as a separate unit under single ownership or control. A zoning lot may or may not coincide with a single lot of record, but in no case shall a zoning lot include a portion of a lot of record.

MANUFACTURED HOME: A structure, transportable in one or more sections, which in the traveling mode is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on-site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of State and complies with the standards established under Minnesota Statutes chapter 327.

MANUFACTURED HOME PARK: Any site, lot, field, or tract of land upon which two (2) or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured home park.

MANUFACTURING: All manufacture, compounding, processing, packaging, treatment, or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Such uses include but are not limited to, sawmills, refineries, commercial feedlots, acid, cement, explosives, flour, feed, and grain milling or storage, meat packing, slaughter houses, coal or tar asphalt distillation, rendering of fat, grease, lard or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of paris, tanneries, automobile parts, paper and paper products, glass, chemicals, crude oil and petroleum products including storage, electric power generation facilities, foundry forge, casting of metal products, rock, stone, and cement products.

MASSAGE THERAPY (THERAPEUTIC): The process by which a practitioner applies massage therapy techniques, and may apply adjunctive therapies, with the intention of positively affecting the health and well being of the client. The rubbing, stroking, kneading, tapping, positioning, causing movement, and applying touch and pressure to the body. Adjunctive therapies may include: a) application of heat, cold, water, mild abrasives, heliotherapy, topical preparations not classified as prescription drugs, b) the use of mechanical devices and tools which mimic or enhance manual actions, c) and instructed self-care and stress management. Massage therapy shall not include techniques traditionally practiced by chiropractors.

METES AND BOUNDS DESCRIPTION: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearings and distances of the lines forming the boundaries of the property or delineating a fractional portion of a section, lot or area by described lines or portions thereof.

MINERALS: Soil, clay, stone, sand and gravel and other similar solid material or substance to be mined from natural deposits.

MINING: All or any part of the process involved in the extraction of minerals by removing the overburden and extracting directly from the mineral deposits thereby exposed.

MIXED MUNICIPAL SOLID WASTE: Garbage, refuse, and other solid waste from residential, commercial, industrial, and community activities that the generator of the waste aggregates for collection, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil and other materials, collected, processed, and disposed of as separate waste streams.

MODEL HOME: A home which is similar to others in a development and which is open to public inspection for the purpose of selling said other homes.

MOTOR FREIGHT TERMINAL (TRUCK TERMINAL): A building in which freight brought by motor truck is assembled and sorted for routing in intrastate and interstate shipment.

NATURAL DRAINAGE SYSTEM: All land surface areas which by nature of their contour configuration, collect, store and channel surface water runoff.

NON-CONFORMING STRUCTURE OR USE, ILLEGAL: A structure or use that has been established in a manner that does not conform to the applicable conditions required by the regulations in place at the time the structure or use was established.

NON-CONFORMING STRUCTURE OR USE, LEGAL: Any lawfully established structure or use which on February 10, 2003 does not conform to the applicable conditions if the structure or use was to be erected under the guidance of this Article.

NURSERY, COMMERCIAL: A business involving retail sales of trees, flowering and decorative plants, and shrubs for purposes of transplanting which may be conducted within a building or without.

NURSERY, WHOLESALE: An enterprise which conducts exclusively wholesale sale of plants grown on the site to retailers and jobbers. The only accessory items allowed are pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, shovels, and other hand held tools, but not including power tools or equipment such as gas or electric lawn mowers and farm implements.

OPEN SALES LOT (EXTERIOR STORAGE): Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

OPEN SPACE: Open areas including parks, nature areas, playgrounds, and trails.

OUTLOT: A parcel of land, included in a plat, which is smaller than the minimum size permitted for lots and which is thereby declared unbuildable until combined through platting with additional land; or, a parcel of land which is included in a plat and which is at least double the minimum size and which is thereby subject to future platting prior to development; or a parcel of land which is included in a plat and which is designated for public or private open space, right of way, utilities or other similar purposes.

OVERBURDEN: The earth, rock and other materials that lie above a natural deposit of mineral.

PARKING RAMP: A structure designed and used for the storage of motor vehicles at, below and/or above grade.

PARKING SPACE: An area enclosed in the principal building, in an accessory building, or unenclosed, sufficient in size to store one motor vehicle, which has adequate access to a public or private street, alley or driveway permitting satisfactory ingress and egress of an automobile.

PERSON: An individual, firm, partnership, association, corporation, or organization of any kind. "Person" also means an adult who is handicapped by reason of mental retardation, mental illness, chemical dependency, or physical handicap, and a child, whether handicapped or not, as defined by Minnesota Statutes section 245A.02, subdivision 4.

PET SHOP: A place kept or maintained for the exhibition for sale, or sale or purchase of live dogs, cats, rabbits or other small animals, or any birds, reptiles or fish. Pet shops may include incidental animal grooming and adoption activities, but not animal hospitals, veterinary clinics, or places selling live bait for fishing.

PLANNED UNIT DEVELOPMENT: A zoning designation which allows a mixing of buildings and uses which cannot be otherwise addressed under this Article, and/or whereby internal site design standard deviations from this Article may be allowed to improve site design and operation.

PLANNING COMMISSION: The Howard Lake Planning Commission.

PRINCIPAL USE/BUILDING: The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted, interim, conditional, or allowed by administrative permit.

PUBLIC USES AND LANDS: Uses or properties owned or operated by Municipal, school districts, County, State, or other governmental units.

PUBLICATION: Notice placed in the official City newspaper stating time, location and date of meeting and description of the topic.

RECREATION, FIELD OR BUILDING: An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semipublic use, whether temporary or permanent, except a theater, whether provision is made for the accommodation of an assembly or not. A golf course, arena, baseball park, stadium, or gymnasium is a recreation field or building for the purpose of this Article.

RECREATIONAL CAMPING AREA: Any area, whether privately or publicly owned, used on a daily, nightly, weekly, or longer basis for the accommodation of tents or recreational camping vehicles free of charge or for compensation.

RECREATIONAL EQUIPMENT: Includes, but is not limited to, operable and licensed, as required by State law, house trailers including those which telescope or fold down, chassis mounted campers, house cars, motor homes, tent trailers, slip in campers, converted buses, converted vans, snowmobiles, boats and trailers. House trailers, chassis mounted campers, house cars, motor homes, tent trailers, slip in campers, converted buses and converted vans are units designed and used for human living quarters and meeting the following qualifications:

- A. Are not used as the residence of the owner or occupant.
- B. Are used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities.
- C. Are self-propelled or towed on the public streets or highways incidental to such recreational or vacation activities.

RECYCLABLE MATERIAL: Materials that can be readily separated from mixed Municipal solid waste for the purpose of recycling, including, but not limited to, paper, glass, plastics, metals, automobile oil and batteries. Recyclable materials that have been separated from the waste stream, processed, and sold or given away for reuse are no longer considered waste.

RELIGIOUS INSTITUTION: A building, together with its accessory buildings and use, where persons regularly assemble for religious purposes and related social events and which building is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

RESIDENTIAL FACILITY, STATE LICENSED: Any program, defined by Minnesota Statutes section 245A.02, subdivision 14, that provides twenty four (24) hour a day care, supervision, food, lodging, rehabilitation, training, education, habilitation, or treatment outside a person's own home, including a nursing home or hospital that receives public funds, administered by the commissioner of the Department of Human Services to provide services for five (5) or more persons whose primary diagnosis is mental retardation or a related condition or mental illness and who do not have a significant physical or medical problem that necessitates nursing home care; a program in an intermediate care facility for four (4) or more persons with mental retardation or a related condition; a nursing home or hospital that was licensed by the commissioner of the Department of Human Services on July 1, 1987, to provide a program for persons with a physical handicap that is not the result of the normal aging process and considered to be a chronic condition; and chemical dependency or chemical abuse programs that are located in a hospital or nursing home and receive public funds for providing chemical abuse or chemical dependency treatment

services under Minnesota Statutes 254B. Residential programs include home and community-based services for persons with mental retardation or a related condition that are provided in or outside of a person's own home.

RESIDENTIAL SHELTER: A facility providing short-term housing, food, and protection for individuals, not including State licensed residential care facilities, community correctional facilities, daycare facilities, hotels, motels, or nursing homes.

ROOFLINE: That line at which an exterior wall surface of a building departs from the vertical plane and, typically, where the horizontal plane of the roof commences. Mansard- like roof treatments may be considered as extensions of a building wall surface when the mansard-like treatment is considered as part of the roof.

SCHOOL: A building used for the purpose of elementary or secondary education, which meets all the requirements of compulsory education laws of the State of Minnesota, and not providing residential accommodations.

SCHOOL, PRIVATE: Any building or group of buildings, not operated by a public agency or unit of government, the use of which meets compulsory education laws of the State of Minnesota, for elementary school, middle school (junior high school), secondary (senior high school), or higher education and which use does not secure the major part of its funding directly from any governmental source.

SCHOOL, PUBLIC: Any building or group of buildings, the use of which meets compulsory education laws of the State of Minnesota, for elementary school, middle school (junior high school), secondary (senior high school), or higher education and which secures all or the major part of its funding from governmental sources and is operated by a public agency or governmental unit.

SENSITIVE RESOURCE MANAGEMENT: The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SETBACK: The minimum horizontal distance between a structure and lot line, ordinary high-water mark, or right-of-way easement. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided hereinafter.

SEXUALLY ORIENTED ACTIVITIES, RELATED TERMS:

- A. Sexually Oriented Uses: Uses which include adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult massage parlors, adult steam room/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified

anatomical areas" which are capable of being seen by members of the public. Activities classified as "obscene" as defined by Minnesota Statutes section 617.241 are not included.

1. Specified Anatomical Area: Human genitals in a state of sexual arousal.
2. Specified Sexual Activities: Includes any of the following:
 - a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - c. Masturbation, actual or simulated; or
 - d. Excretory functions as part of or in connection with any of the activities set forth in subsections A.2.a through A.2.c of this definition.
- B. Sexually Oriented Uses, Accessory: The offering of retail goods for sale which are classified as sexually oriented uses on a limited scale and which are incidental to the primary activity and goods and/or services offered by the establishment. Examples of such items include the sale of adult magazines, the sale and/or rental of adult motion pictures, the sale of adult novelties, and the like.
- C. Sexually Oriented Uses, Principal: The offering of goods and/or services which are classified as sexually oriented uses as a primary or sole activity of a business or establishment and include, but are not limited to, the following:
 1. Escort: A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
 2. Escort Agency: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.
 3. Establishment: Means and includes any of the following:
 - a. The opening or commencement of any sexually oriented business as a new business;
 - b. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - c. The addition of any sexually oriented business to any other existing sexually oriented business; or

- d. The relocation of any sexually oriented business.
- 4. Nude Model Studio: Any place where a person who appears in a state of nudity or displays "specified anatomical area" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
- 5. Nudity Or State Of Nudity: Nudity or state of nudity is described as follows:
 - a. The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or
 - b. A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.
- 6. Seminude: A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- 7. Sexual Encounter Center: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:
 - a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.
- 8. Sexually Oriented Arcade: Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".
 - a. Sexually Oriented Bookstore, Sexually Oriented Video Store, Or Sexually Oriented Store: A commercial establishment which as a principal business purpose offers for sale or rental for any form of consideration any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, compact discs, computer software, digital recordings, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or

- b. Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities".
- 9. Sexually Oriented Cabaret: A nightclub, bar, restaurant, or similar commercial establishment which regularly features:
 - a. Persons who appear in a state of nudity; or
 - b. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - c. Films, motion pictures, videocassettes, slides, compact discs, computer software, digital recordings or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".
- 10. Sexually Oriented Conversation/Rap Parlor: A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- 11. Sexually Oriented Massage Parlor: A massage parlor which excludes minors by reasons of age, or which provides for any form of consideration, the rubbing, stroking, kneading, tapping, or rolling of the body, if the service provided by the massage parlor is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- 12. Sexually Oriented Motel: A hotel, motel or similar commercial establishment which:
 - a. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexually activities" or "specified anatomical areas" and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
 - b. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
 - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.
- 13. Sexually Oriented Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or

similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

14. Sexually Oriented Sauna: A sauna which excludes minors by reason of age, or which provides for any form of consideration, a steam bath or heated bathing room used for the purpose of bathing, relaxing, or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
15. Sexually Oriented Theater: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

SHORE IMPACT ZONE: Land located between the ordinary high-water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback.

SHORELAND RELATED:

- A. Bluff. A topographic features such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than eighteen (18) percent over a distance for fifty (50) feet or more shall not be considered part of the bluff):
 1. Part or all of the features is located in a shoreland area.
 2. The slope rises at least twenty-five (25) feet above the ordinary high water level of the waterbody.
 3. The grade of the slope from the toe of the bluff to a point twenty-five (25) feet or more above the ordinary high water level averages thirty (30) percent or greater.
 4. The slope must drain toward the waterbody.
- B. Bluff, Toe of the. The lower point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.
- C. Bluff, Top of the. The higher point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.
- D. Bluff Impact Zone. A bluff and land located within twenty (20) feet from the top of the bluff.

- E. Boathouse. A structure designed and used primarily for the storage of boats or boating equipment.
- F. Commissioner. The Commissioner of the Department of Natural Resources.
- G. Development. The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any land disturbance, and any use or extension of the use of land.
- H. Impervious Surface Coverage. Any surface impervious or resistant to the free flow of water or surface moisture. Impervious cover shall include, but not be limited to, all paved driveways and parking areas, tennis courts, sidewalks, patios and swimming pools. Open decks and stairways, which are fifty (50) percent or more open surface, shall not be counted as impervious cover, provided they are installed over a permeable surface. Gravel or rock surfaces shall be counted as fifty (50) percent impervious, provided they are installed over a permeable surface.
- I. Intensive Vegetation Clearing. The complete removal of trees or shrubs in a contiguous patch, strip, row or block.
- J. Ordinary High Water Level. The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to have evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowage, the ordinary high water level is the operating elevation of the normal summer pool. At the time of adoption of this Ordinance, the ordinary high water level of Lake Minnetonka was 929.4 feet.
- K. Public Waters. Any waters as defined in Minnesota Statutes, Section 105.37, Subdivisions 14 and 15.
- L. Public Waters.
 - 1. General Development (GD). Large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development. These lakes often are extensively used for recreation and, except for the very large lakes, are heavily developed around the shore. Second and third tiers of development are fairly common. The larger examples in this class can accommodate additional development and use.
 - 2. Public Waters, Natural Environment: Generally small, often shallow lakes with limited capacities for assimilating the impacts of development and recreational use. They often have adjacent lands with substantial constraints for development such as high-water tables, exposed bedrock, and unsuitable soils. These lakes, particularly in rural areas, usually do not have much existing development or recreational use.

3. Public Waters, Recreational Development: Generally medium-sized lakes of varying depths and shapes with a variety of landform, soil and ground water situations on the lands around them. They often are characterized by moderate levels of recreational use and existing development. Development consists mainly of seasonal and year-round residences and recreational- oriented commercial uses. Many of these lakes have capacities for accommodating additional development and use.
 4. Public Waters, Tributary Rivers: Segments consisting of watercourses mapped in the Protected Waters Inventory that have not been assigned one of the river classes. These segments have a wide variety of existing land and recreational use characteristics. The segments have considerable potential for additional development and recreational use, particularly those located near roads and cities.
- M. Sensitive Resource Management. The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.
- N. Sewer System. Pipelines or conduits, pumping stations, and force main, and all other constructions, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.
- O. Shore Impact Zone. Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty (50) percent of the structure setback.
- P. Shoreland. Land located within the following distances from public waters: one thousand (1,000) feet from the ordinary high water level of a lake, pond, or flowage; and three hundred (300) feet from a river or stream, or the landward extent of a floodplain designated by Ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner.
- Q. Steep Slope. Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of the Ordinance. Where specific information is not available, steep slopes are lands having slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.
- R. Surface Water-Oriented Commercial Use. The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

- S. Water-Oriented Accessory Structure or Facility. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached docks.

SIGN RELATED:

- A. Combination Sign. A sign incorporating any combination of the features of pole, projecting, and roof signs.
- B. Curb Line. The line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the jurisdiction's engineer (see Legal Setback Line).
- C. Display Surface. The area made available by the sign structure for the purpose of displaying the advertising message.
- D. Electric Sign. Any sign containing electrical wiring, but not including signs illuminated by an exterior light source.
- E. Fin Sign. A sign which is supported wholly by a one story building of an open air business or by poles placed in the ground or partly by such a pole or poles and partly by a building or structure.
- F. Freestanding Sign. A sign not attached and self-supporting.
- G. Ground Sign. A billboard or similar type of sign which is supported by one or more uprights, poles or braces in or upon the ground other than a combination sign, fin sign, or pole sign, as defined by this Article.
- H. Marquee. A permanent roofed structure attached to and supported by the building and projecting over public property.
- I. Non-Combustible. Applied to building construction material means a material which, in the form in which it is used, is either one of the following:
1. Material of which no part will ignite and burn when subjected to fire. Any material conforming to UBC Standard No. 4-1 shall be considered non- combustible within the meaning of this section.
 2. Material having a structural base of non-combustible material as defined in Item 1, above, with a surfacing material not over one-eighth (1/8) thick which has a flame spread rating of fifty (50) or less.

Non-combustible does not apply to surface finish materials. Materials required to be non-combustible for reduced clearances to flues, heating appliances, or other sources of high temperature shall refer to material conforming to Item 1. No material shall be classed as non-combustible which is subject to increase in combustibility or flame spread rating beyond the limits herein established, through the effects of age, moisture or other atmospheric condition. Flame spread rating as used herein refers to rating obtained according to tests conducted as specified in UBC Standard No. 4-1.

- J. Non-structural Trim. The molding, battens, caps, nailing strips, latticing, cutouts or letters and walkways which are attached to the sign structure.
- K. Plastic Materials, Approved. Those having a self-ignition temperature of six hundred fifty (650) degrees Fahrenheit or greater and smoke density rating not greater than four hundred fifty (450) when tested in accordance with UBC Standard No. 42-1, in the way intended for use, or a smoke density rating no greater than seventy-five (75) when tested in the thickness intended for use by UBC Standard No. 52-2. Approved plastics shall be classified and shall meet the requirements for either CC1 or CC2 plastic.
- L. Pole Sign. A sign wholly supported by a sign structure in the ground.
- M. Portable Display Surface. A display surface temporarily fixed to a standardized advertising structure which is regularly moved from structure to structure at periodic intervals.
- N. Projecting Sign. A sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.
- O. Projection. The distance by which a sign extends over public property or beyond the building line.
- P. Roof Sign. A sign erected upon or above a roof or parapet of a building or structure.
- Q. Sign. Any medium, including its structure and component parts, which is used or intended to be used to attract attention to the subject matter for advertising purposes other than paint on the surface of a building.
- R. Sign Structure. Any structure which supports or is capable of supporting a sign as defined in this Article. A sign structure may be a single pole and may not be an integral part of the building.
- S. Temporary Sign. Any sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, with or without frames, intended to be displayed for a limited period of time only.
- T. Wall Sign. Any sign attached to or erected against the wall of a building or structure, with the exposed face of the sign in a plane parallel to the plane of said wall.

SLOPE: The degree of deviation of a surface from the horizontal, usually, expressed in percent or degrees.

STEEP SLOPE: Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil; characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Article. Where specific information is not available, steep slopes are lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty feet (50') or more, that are not bluffs.

STORAGE, OUTDOOR: Storage of any property not fully enclosed in a building or completely screened so as not to be visible from adjoining properties or street rights of way.

STORY: The portion of a building including beneath the upper surface of a floor and upper surface of floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the top-most floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar, or unfinished under floor space is more than six feet (6') above "grade" as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve feet (12') above "grade" as defined herein at any point, such basement, cellar, or unused under floor space shall be considered a story.

STREET: A public right-of-way which affords primary means of access to abutting property, and shall also include an avenue, highway, road, or way, or however otherwise designated.

STREET, COLLECTOR: A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

STREET, FRONTAGE: The proximity of a parcel of land to one or more streets. An interior lot has one street frontage and corner lots and through lots have two (2) frontages.

STREET, LOCAL: A street intended to serve primarily as an access to abutting properties.

STREET, MINOR ARTERIAL: Streets which serve as transitions between principal arterials and local collector streets.

STREET PAVEMENT: The wearing or exposed surface of the roadway used by vehicular traffic.

STREET, PRINCIPAL ARTERIAL: A street which is the major interconnection within a community transportation system providing major access routes within the community and its environs.

STREET WIDTH: The width of the right-of-way, measured at right angles to the centerline of the street.

STRUCTURAL ALTERATION: Any change, other than incidental repairs, which would prolong or modify the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

STRUCTURE: Anything which is built, constructed or erected; an edifice or building of any kind; or any piece of work artificially built up and/or composed of parts joined together in some definite manner whether temporary or permanent in character.

TATTOO, TATTOOING: Any method of placing designs, letters, scrolls, figures, symbols or any other mark upon, under or in the skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instruments which puncture any portion of the skin to any degree.

TEMPORARY COMMERCIAL STRUCTURE: A structure used on a temporary basis for an occupation, employment, or enterprise that is carried on by the owner, lessee, or licensee.

TEMPORARY STRUCTURE: A structure not permanently erected on a site with a foundation that is used for emergency purposes or used on a construction site for offices and equipment storage during construction of a permanent structure.

TRAILER, SEMI-TRACTOR: A trailer with a set or sets of wheels at the rear only, which may be supported in front by a truck, tractor or towing vehicle, and which is used for the purpose of, but not limited to, storage, transportation of freight, or holding freight for sale or lease.

TRANSIT STATION: A building or area which serves as a regular stopping place for buses and/or other forms of urban public transportation.

TRANSMISSION LINE: Those high capacity conductors generally rated 115 kilovolts and above and associated structures which are used to carry electricity from points of generation to distribution points such as substations and distribution lines.

TRUCK STOP: Any building, premises or land in which or upon which a business, service or industry involving the maintenance, cleaning, servicing, storage or repair of commercial vehicles is conducted including the dispensing of motor fuel, the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations, restaurant facilities, a car wash and truck wash or other ancillary uses.

UNDUE HARDSHIP: The same as that term is defined in Minnesota Statutes chapter 462.357, as may be amended, meaning that the property in question cannot be put to a reasonable use if used under the conditions allowed by this Article, the plight of the landowner is due to circumstances unique to the property not caused by the landowner and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute an undue hardship if a reasonable use of the property exists under the terms of this Article. Undue hardship may also include inadequate access to direct sunlight for solar energy systems.

USABLE OPEN SPACE: A required ground area or terrace area on a lot which is graded, developed, landscaped and/or equipped, and which is intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling on the lot or a development project and their guests. Such areas shall be grassed and landscaped or covered only for recreational purposes. Roofs, driveways, and parking areas shall not constitute usable open space. Required front and side yards shall be excluded from the usable open space area calculation.

USE: The purpose or activity for which the land or building thereon is designated, arranged, or intended or for which it is occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Article.

USE, ACCESSORY: A use subordinate to and servicing the principal use or structure on the same lot and customarily incidental thereof.

USE, NON-CONFORMING: Use of land, buildings, or structures legally existing at the present time or at the time of a subsequent amendment to this Article which does not comply with the regulations as set forth.

USE, PERMITTED: A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

USE, PRINCIPAL: The main use of land or buildings as distinguished from subordinate or accessory uses. A principal use may be either permitted or accessory.

USE, SECONDARY: A use of land or of a building or a portion thereof which is subordinate to and does not constitute the primary use of the land or building.

VARIANCE: A modification of or variation from the provisions of this Article consistent with the State enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this Article, except that a variance shall not be used for modification of the allowable uses within a district and shall not allow uses that are prohibited.

VEGETATION: The sum total of plant life in some area; or a plant community with distinguishable characteristics.

VERTEX: The corner point of a triangle, rectangle, or other geometric figure bounded by lines.

VETERINARY CLINIC: A clinic operated by a licensed veterinarian exclusively for the diagnosis, treatment, correction, relief, or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; the performance of obstetrical procedures for animals, including determination of pregnancy and correction of sterility or infertility; and the rendering of advice or recommendations with regard to any of the above.

WASTE: Infectious waste, nuclear waste, pathological waste, sewage sludge, solid waste, and hazardous waste.

WASTE FACILITY: Property used for the accumulation, storage, processing, or disposal of waste.

WASTE, HAZARDOUS: Any refuse, sludge, or other waste material or combination of refuse, sludge, or other waste materials in solid, semisolid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may:

- A. Cause or significantly contribute to an increase in mortality or an increase in serious or irreversible, or incapacitating reversible illness; or
- B. Pose a substantial present or potential hazard to human health or the environment when not properly treated, stored, or transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammable, oxidizers, poisons, irritants, and corrosives. Hazardous waste does not include source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

WASTE, INFECTIOUS: Laboratory waste, blood, regulated body fluids, sharps, and research animal waste that have not been decontaminated.

WASTE, PATHOLOGICAL: Human tissue and body parts removed accidentally or during surgery or autopsy intended for disposal. Pathological waste does not include teeth.

WATER BODY: A body of water (lake, pond) or a depression of land or expanded part of a river, or an enclosed basin that holds water and is surrounded by land.

WATERCOURSE: A channel or depression through which water flows year-round or intermittently, such as rivers, streams, or creeks.

WETLANDS:

- A. Hydric Soils: Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upperpart.
- B. Hydrophytic Vegetation: Macrophytic plant life growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.
- C. Wetlands: Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this Article, wetlands must have the following three (3) attributes:
 - 1. Have a predominance of hydric soils.
 - 2. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
 - 3. Under normal circumstances, support a prevalence of such vegetation.

WIND ENERGY CONVERSION SYSTEM (WECS): Any device that is designed to convert wind power to another form of energy such as electricity or heat (also referred to by such common names as wind charger, wind turbine and windmill).

YARD: Any open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the mean horizontal distance between the lot line and the main building shall be used except in the case of a lot containing or adjacent to all or a portion of a wetland, in which case the distance between the nearest edge of the wetland and the main building shall be as provided by Section 01-16-5 of this Article.

YARD, FRONT: The area extending along the full length of a front lot line between side lot lines and to the depth required in the yard regulations for the district in which it is located. In the case of a corner lot abutting one or more streets, both yards shall be considered front yards.

YARD, REAR: A yard extending across the full width of the lot lying between the rear lot line of the lot and the nearest line of the principal building.

YARD, REQUIRED: That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

YARD, SIDE: A yard between the side line of the lot and the nearest line of the principal building and extending from the front lot line of the lot to the rear yard.

ZONING ADMINISTRATOR: The person designated by the City Administrator to be the zoning administrator for the City of Howard Lake.

ZONING DISTRICT: An area or areas of the City (as delineated on the zoning map) set aside for specific uses with specific regulations and provisions for use and development as defined by this Article.

ZONING DISTRICT OVERLAY: A zoning district containing regulations superimposed upon other zoning district regulations and superseding the underlying zoning district use regulations.

ZONING DISTRICT UNDERLYING (BASE): All zoning districts except overlay zoning districts.

ZONING MAP: The map or maps incorporated into this Article as part thereof, designating the zoning districts.