

CHAPTER 11
MUNICIPAL PLANNING
Article 2. Zoning Regulations

S11-211 DEFINITIONS. For the purpose of this Chapter, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word "shall" is mandatory.

The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."

The word "lot" includes the words "plot" or "parcel."

ACCESSORY USE OR STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and sub-ordinate to, the principal use or structure.

ADULT CABARET. A nightclub, bar, restaurant or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical area or by specified sexual activities, or films, motion pictures, video cassettes, slides, or other photographic reproductions in which more than 10 percent of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon

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the depiction of specified sexual activities or specified anatomical area.

ADULT COMPANIONSHIP ESTABLISHMENT. An establishment which provides the service of engaging in or listening to conversation, talk, 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."

ADULT ESTABLISHMENT. Any business which offers its patrons services or entertainment characterized by an emphasis on matter depicting, exposing, describing, discussing or relating to "specified sexual activities" or "specified anatomical areas, "including, but without limitation, adult bookstores, adult motion picture theaters, saunas, adult companionship establishments, adult health clubs, adult cabarets, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotel or motel, and adult body painting studios.

ADULT HOTEL OR MOTEL. A hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas."

ADULT INTERNET INDUSTRIES. Any business within an enclosed building or outdoors that is producing materials for distribution on the Internet of an adult nature, including live video streaming, tape delayed video broadcasts, live simulcasting, still photographs, audio broadcasts, animated video or hard copy. Said uses are intended for viewing by other parties while on-line and for a specified charge.

ADULT MASSAGE PARLOR, HEALTH CLUB. A massage parlor or health club, which restricts minors by reason of age, and which provides the services of massage, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas."

ADULT MINI-MOTION PICTURE THEATER. A business premises within an enclosed building with a capacity for less than 50 persons used for presenting visual-media material if such business as a prevailing practice excludes minors by virtue of age, or if said

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material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT MOTION PICTURE ARCADE. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

ADULT MOTION PICTURE THEATERS. A business premises within an enclosed building with a capacity of 50 or more persons used for presenting visual media material if said business as a prevailing practice excludes minors by virtue of age, or if said material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

ADULT NOVELTY BUSINESS. A business which has a principal activity of the sale of devices which simulate human genitals or devices which are designed for sexual stimulation.

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

A. Specified anatomical area shall mean anatomical areas consisting of:

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

B. Specified Sexual activities shall mean activities consisting of the following:

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

ALTERATION. Repair of structures which have been destroyed or damaged to the extent of fifty (50%) per cent or more of the fair market value and the modification of any structure in size or shape which would materially affect flood flows.

ARTIFICIAL OBSTRUCTION. Any obstruction which is not a natural obstruction.

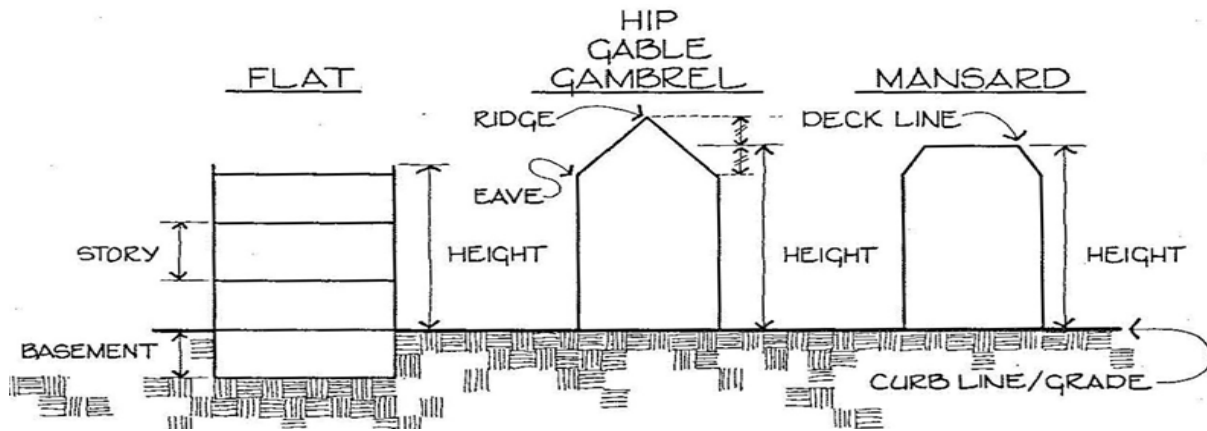
BUILDING ACCESSORY. Any detached subordinate building which serves a function customarily incidental to that of the main building or main use of the premises. Customary accessory building includes farm buildings, garages, carports, and small storage sheds.

BUILDABLE AREA. The buildable portion of the lot remaining after the yard setbacks have been determined on all sides of the lot.

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BUILDING. An enclosed structure, anchored to permanent foundation, and having exterior or party walls and a roof, designed for the shelter of persons, animals or property. When divided by other than common or contiguous walls, each portion or section of such building shall be regarded as a separate building, except that two buildings connected by a breezeway shall be deemed one building. The term "Building" includes "structure".

BUILDING HEIGHT. The vertical distance to the highest point of the roof; to the deck line of mansard roofs; and to the average height between eaves and the ridge for gable, hip, and gambrel roofs, measured from the average grade line of the building.



Average Grade

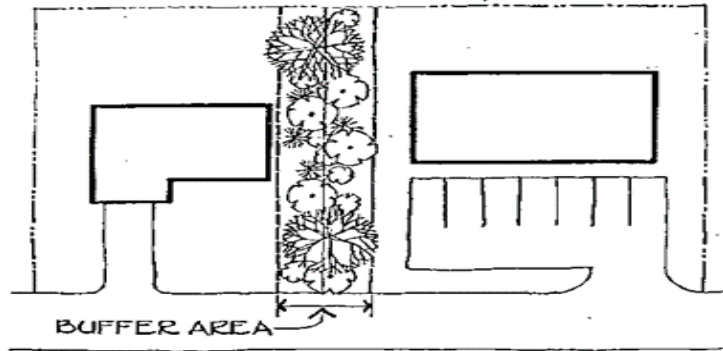
Source: "A Survey of Zoning Definitions", Planning Advisory Service Report Number 421, American Planning Association, December 1989.

BUILDING, PRINCIPAL. Any building within which the main or primary use of the lot or premises is located.

BUILDING, TEMPORARY. Any portable or demountable building, or any building not securely and permanently anchored or bounded to a substantial foundation and which is used primarily for temporary office or storage space or for emergency enclosure purposes.

BUFFER AREA. A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

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Source: "A Survey of Zoning Definitions", Planning Advisory Service Report Number 421, American Planning Association, December 1989.

CHANNEL. The geographical area within the natural or artificial banks of the watercourse or drain way.

CHILD CARE CENTER: A facility which is or should be licensed by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska, as provided and defined under the Title 474 of the Nebraska Administrative Code, Chapter 6, Section 002.

CHILD CARE HOME: A private home providing care (for children) for compensation. No person shall operate a Child Care Home for four (4) or more children without being licensed by the Nebraska Department of Health and Human Services under the authority of Sections 71-1908 through 71-1918, Revised Statutes of Nebraska.

CIVIC USE: Of or related to municipal activities.

COMMISSION FLOODWAY. A floodway whose limits have been designated and established by order of the Nebraska Natural Resources Commission, and shall be contiguous with the floodway of a flood of one hundred (100) year frequency.

COMMUNITY UNIT PLAN. A flexible plan for the development of properties within a zoning district, as distinguished from subdivisions of standard lot sizes and standard street systems; provided, that the plan must meet the basic intent of the zoning district for which it is planned.

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COMPOSTING FACILITY. A solid waste facility licensed by the State of Nebraska Department of Environmental Quality which utilizes a controlled biological process of degrading non-hazardous solid waste.

CONVENIENCE STORE. A retail store that carries a limited selection of basic items, as packaged foods and drugstore items, and is open long hours for the convenience of shoppers.

DRAINWAY. Any depression two (2) feet or more below the surrounding land serving to give direction to a current of water less than nine (9) months of the year, having a bed and well-defined banks; Provided, that in the event of doubt as to whether a depression is a watercourse or drain way it shall be presumed to be a watercourse.

DWELLING: One of a group or row of not less than two (2) nor more than twelve (12) attached, single family dwellings designed and built as a single structure facing upon a street in which the individual townhouse may or may not be owned separately. For the purpose of the side yard regulations, the structure containing the row or group of townhouses shall be considered as one building occupying a single lot.

DWELLING, SINGLE-FAMILY. A detached residential dwelling unit other than a mobile home, designed for and occupied by one (1) family only.

DWELLING, TWO-FAMILY. A building having accommodations for and occupied exclusively by two (2) families.

DWELLING, MULTIPLE-FAMILY. A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

DWELLING, RANCH AND FARM. Residential dwellings including mobile home dwellings appurtenant to agricultural operations including living quarters for persons employed on the premises (but not including labor camps or dwellings for transient labor), guest houses not rented or otherwise conducted as a business, and private garages, stables and barns.

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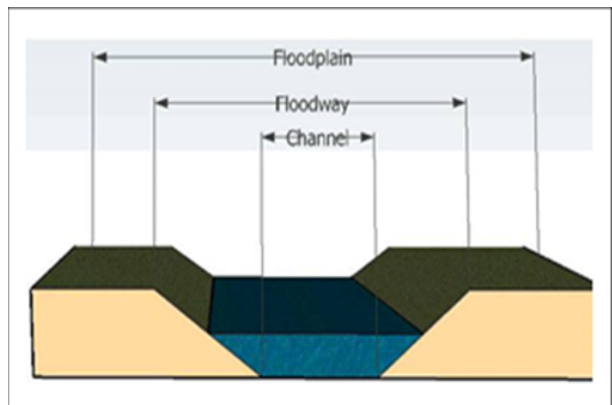
DWELLING UNIT. One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

FAMILY. One or more persons, related or unrelated, living together as a single family housekeeping unit with or without domestic servants, caregivers, foster children and supervisory personnel in a group living arrangement. The term "family" shall not include occupancy of a residence by persons living in fraternities, sororities and clubs. Also excluded are nursing and convalescent homes.

FARMSTEAD. An area of twenty (20) acres (8.09 hectares) or more on which is located at least one (1) dwelling unit and on which farm products of a value of one thousand (\$1,000.00) dollars or more are normally produced each year.

FLOODPLAIN. Floodplain shall mean those lands which are subject to a one percent (1%) or greater chance of flooding in any given year.

FLOODWAY. The channel of a watercourse or drain way and those portions of the land areas normally expected to be inundated by the discharge of flood waters from that watercourse or drain way.



FLOODWAY ENCROACHMENT LINES. The lines limiting a Commission floodway.