

- (127) Nonconforming Structure: A structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to the current zoning ordinance but which fails by reason of adoption, revision or amendment, to conform to the present requirements of the zoning district.
- (128) Nonconforming Use: The use of a building, structure or parcel of land existing at the time of enactment of this zoning ordinance or any amendments thereto, and which does not conform to the regulations of the district or zone in which it is situated.
- (128.1) Nudity or State of Nudity: Means the quality or state of being naked. The appearance of a human bare, unclothed buttock, anus, male genitals, female genitals, or female breasts. The showing of a) the female or male genitals, pubic area, or buttocks with less than a fully opaque covering, or b) the female breast with less than a fully opaque covering of any part of the nipple. (Ord. 1994-32. Passed 4/20/94)
- (129) Nursery - Nursing Home: A home or facility for the care of persons requiring extended special care.
- (130) Nursery - Plant Materials: Land, building, structure or combination thereof for the storage, cultivation, transplanting of live trees, shrubs, or offered for retail sale on the premises including products used for gardening or landscaping.
- (131) Occupancy: The residing of an individual(s) overnight in a dwelling unit, or the installation, storage or use of equipment, merchandise or machinery on the premises or in any public, commercial or industrial building. (Ord. 1985-26. Passed 5-15-85.)
- (131.1) Open Air Market: A periodic market, held out of doors, in an open area or vacant lot where groups of individual sellers offer goods for sale to the public. (Ord. 1986-11. Passed 3-5-86.)
- (132) Usable Open Space: The required portion of a lot excluding the required front yard area which is unoccupied by principal or accessory buildings and available to all occupants of the building for use for recreational and other leisure activities normally carried on outdoors. The area should be unobstructed to the sky and not include any driveways or off-street parking and loading areas. The aforementioned space is subject to the following guidelines:
- A. Minimum Requirement - Thirty percent (30%) of lot size to be used as open space.
 - B. Accessibility - The designated area shall be proximate to the dwelling unit(s) and be linked to the dwelling unit(s) by a continuous access path. The Planning Commission shall determine adequacy based on site and project design characteristics. The area shall be at least twenty feet from all first story dwelling unit windows.

- C. Configuration - Usable open space area shall have a least dimension of fifty feet, an average dimension of 100 feet, and a minimum area of 10,000 square feet.
- D. Natural Features - Site characteristics of natural significance which may offer aesthetic or ecological value (for example, stands of old trees or wetlands) may substitute for traditional usable open space; the application of this guideline is subject to the judgment of the Planning Commission.
- E. Acceptable Water Body Surfaces -Up to twenty percent (20%) of retention ponds may substitute for usable open space, and up to sixty percent (60%) of natural ponds may substitute. The Planning Commission has the ability to determine that retention basins may account for more than twenty percent (20%) if the basin design potentially offers some recreational utility (for example, volleyball court).
- F. Balconies and Decks - Fifty percent (50%) of the area of balconies at least four feet six inches wide, decks at least ten feet wide, and roof areas which are improved for and suitable as recreational areas may be counted as usable open space.
- G. Obscuring Fences and Walls - Side and rear yards abutting lot lines which have obscuring fences or walls at least five feet high between the open spaces and adjacent property lines may also be counted as usable open space.
- H. Recreational Facilities - The Planning Commission may determine that certain recreational facilities can substitute as open space. The substitution shall be approved provided that the facility is planned and built according to certain standards. For example, a volleyball court's dimensions shall meet those required by a national volleyball court authority.
- I. Steep Slopes - Slopes over fifteen percent (15%) may account for only ten percent (10%) of usable open space requirements.
- J. Exceptions to Standards - The Planning Commission may permit minor deviations from open space standards when it can be determined that:
1. The objectives underlying these standards can- be met without strict adherence to them; and/or
 2. Because of peculiarities in the tract of land or facilities proposed, it would be unreasonable to require strict adherence to these standards.

If a developer applies for a variance that substantially reduces the required usable open space for a project, in addition to showing compliance with subsection (132)J. hereof, the developer shall be required to notify all property owners adjacent to and abutting the proposed project, as is required under Section 1115.10, prior to a hearing on the application. Substantial variances shall be defined, for purposes of this section, to mean a request of more than a ten percent (10%) reduction of the required usable open space for any given project. (Ord. 1992-02. Passed 1-15-92.)

- (133) Outdoor Advertising Sign: A fixed or portable appliance, structure, or surface, including the supporting structure made necessary thereby, which is, or is to be erected upon the ground, or wall of a building, or above the roof of a building, and which is used, erected, intended and/or designed to be used for the public display of posters, painted displays, electrical displays, pictures or other pictorial or reading matter, for the benefit of a person, organization, business or cause located or not residing on the lot or in the building or on a lot adjoining the lot or building where such appliance, structure or surface is or is to be located. An outdoor advertising sign shall include any card, cloth, paper, metal, painted glass, wood, plaster, stone or other sign of any kind or character whatsoever, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term "placed" as used in the definition of "outdoor advertising sign" and "outdoor advertising structure" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or otherwise fastening, affixing or making visible in any manner whatsoever.
- (134) Parking Lot. Commercial: An off-street, ground level area, surfaced and improved, for the temporary storage of motor vehicles, with the control of access to such an area being operated as a profit-making activity by the property owner or an agent for the property owner. (Ord. 1992-44. Passed 6-17-92.)
- (135) Performance or Surety Bond: An agreement by a subdivider or developer with the City for the amount of the estimated construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the subdivider's agreement.
- (136) Personal Services: Any enterprise conducted for gain which primarily offers services to the general public such as shoe repair, watch repair, barber shops, beauty parlors and similar activities but excluding massage parlors, adult book stores and other adult entertainment services.
- (137) Principal Use: The primary or predominant use of any lot.