ORDINANCE NO. 99-_____

CHAPTER 1

TITLE AND APPLICATION

SECTION:

1.01: Title and Application
1.02: Standard Requirements
1.03: Conditional Uses
1.04: Uses Not Provided For Within Zoning Districts
1.05: Separability

1.01: TITLE AND APPLICATION:

A. Title: This title shall be known as the Clear Lake Zoning Ordinance, except as referred to herein, where it shall be known as "this Ordinance".

B. Intent and Purpose: The intent of this Ordinance is to protect the public health, safety, and general welfare of the community and its people through the establishment of minimum regulations in regard to location, erection, construction, alteration and use of structures and land. Such regulations are established to protect such use areas; to promote orderly development and redevelopment; to provide adequate light, air and convenience of access to property; to prevent congestion in the public right-of-way; to prevent overcrowding of land and undue concentration of structures by regulating land, building, yards and density of population; to provide for compatibility of different land uses; to provide for administration of this Ordinance. To provide for amendments; to prescribe penalties for violation of such regulations; and to define powers and duties of the City staff, the Board of Adjustment and Appeals, and the City Council in relation to this Ordinance.

C. Relation to Comprehensive Plan: It is the policy of the City that the enforcement, amendment, and administration of this Ordinance be accomplished with due consideration of the recommendations contained in the City Comprehensive Plan as developed and amended from time to time by the City Council of the City. The Council recognizes the City Comprehensive Plan as the policy for responsibility to regulate land use and development in accordance with the policies and purpose herein set forth.

1.02: STANDARD REQUIREMENTS:

A. Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirements shall prevail.

B. In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and welfare.

C. No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with the provisions of this Ordinance.

D. Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted that does not conform to the requirements of this Ordinance.

E. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimensions or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

F. In their application, these regulations shall not abrogate any easement, covenant, or any other private agreement where such is legally enforceable, provided that where the regulations of this Ordinance are more restrictive, o impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Ordinance shall be controlling.

1.03: CONDITIONAL USES: Any established use or building legally existing prior to the establishment of this Ordinance and which is now classified as a conditional use may be continued in like fashion and activity and shall automatically be considered as having received conditional use permit approval. Any change to such a use, or any other subsequently approved conditional use shall, however, require a new conditional use permit be processed according to this Ordinance.

1.04: USES NOT PROVIDED FOR WITHIN ZONING DISTRICTS: Whenever in any zoning district a use is neither specifically permitted nor denied, the use shall be considered prohibited. In such case, the City Council, on their own initiative or upon request, may conduct a study to determine if the use is acceptable and if so, what zoning district would be most appropriate and the determination as to conditions and standards

relating to development of the use. The City Council or property owner, upon receipt of the staff study shall, if appropriate, initiate an amendment to this Zoning Title to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

1.05: SEPARABILITY: It is hereby declared to be the intention of the City that the several provisions of this Ordinance are separable in accordance with the following:

A. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgement shall not effect any other provisions of this Ordinance not specifically included in said judgement.

B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or other structure, such judgement shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgement.

CHAPTER 2

RULES AND DEFINITIONS

SECTION:

2.01: Rules
2.02: Definitions

2.01: RULES: The language set forth in the text of this Ordinance 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. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be construed as set forth in such definition thereof.

F. All measured distances expressed in feet shall be the nearest tenth of a foot.

2.02: DEFINITIONS: The following words and terms, wherever they occur in this Ordinance, shall be interpreted as herein defined:

Abutting: Making contact with or separated only by public thoroughfare, railroad, public utility right-of-way, or navigable waters.

Accessory Building or Use: A subordinate building or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

Addition: A physical enlargement of an existing structure.

Agriculture Uses: Those uses commonly associated with the growing of product 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 in season of

products grown on premises; and livestock raising and feeding, but not including fur farms, commercial animal feedlots, 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.

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

Animal Unit (AU): A unit of measure used to compare differences in the production of animal manures that employs as a standard the amount of manure produced on a regular basis by a slaughter steer or heifer. For purposes of this Ordinance, the following equivalents shall apply:

Animal	AU Per Animal
One mature dairy cow	1.40
One slaughter steer or heifer	1.00
One horse	1.00
One swine over 55 pounds	.40
One duck	.20
One sheep	.10
One swine under 55 pounds	.05
One turkey	.018
One chicken	.01

Animals:

A. Domestic Animals: For purposes of this Ordinance, a domestic animal shall be defined as house pets such as dogs, cats, and birds which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit from the City. In addition, it includes birds and rabbits normally sheltered outside the home.

B. Farm Animals: Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as farm animals in the State of Minnesota.

Apartment: A room or suite of rooms which is designed for, intended for, or occupied as a residence by a single family or an individual and is equipped with cooking facilities. Apartment includes dwelling unit and efficiency unit.

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.

Artificial Obstruction: Any obstruction which is not a natural obstruction. (See definitions of Obstruction and Natural Obstruction.)

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 steam cleaning.

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 "Automobile Repair, Major".

Automobile Wrecking or Junk Yard: Any place where two (2) 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.

Bluff: A topographic feature such as a hill, cliff, or embankment having the following characteristics:

A. Part or all of the feature is located in a shoreland area.

B. The slope rises at least twenty-five (25) feet above the ordinary high water level of the water body.

C. 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.

D. The slope must drain toward the water body.

Bluff Impact Zone: A bluff and land located within twenty (20) feet from the top of a bluff.

Boarding House: A building other than a hotel where, for compensation and by pre-arrangement 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.

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 yards have been provided.

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

Building Height: A distance to be measured from the mean ground level to the top of a flat roof, to the mean distance of the highest gable on a pitched or hip roof, to the deck line of a mansard roof, to the uppermost point on all other roof types.

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.

Carport: A canopy constructed of metal or other materials supported by posts either ornamental or solid and completely open on one or more sides.

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.

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

Church: A building, together with its accessory buildings and uses; where persons regularly assemble for religious worship and which building, together with its accessory

buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

City Building Official: The person designation by the City Council to be the City Building Official for the City of Clear Lake.

City Clerk: The person designated by the City Council to be the City Clerk for the City of Clear Lake.

City Council: The governing body for the City of Clear Lake.

City Engineer: The person designated by the City Council to be the City Engineer for the City of Clear Lake.

City Planner: The person designated by the City Council to be the City Planner for the City of Clear Lake.

Clear Cutting: The removal of an entire stand of trees.

Club or Lodge: A club or lodge is a non-profit association of persons who are bonafide members paying annual dues, with the use of premises being restricted to members and their guests.

Commercial Recreation: Bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, trampoline, tavern, theater, indoor firearms range, boat rental, amusement rides, campgrounds, park, and similar uses.

Commercial Use: The principal use of land or buildings for the sale, lease, rental or trade of products, goods, and services.

Comprehensive Plan: The group of maps, charts and texts that make up the comprehensive long range plan of the City.

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 Ordinance, 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 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, Section 515.01 through 515.29.

Convenience Food Establishment: An establishment which serves food or in on disposable or edible containers in individual servings for consumption on or off the premises.

Cooperative (Housing): A multiple family dwelling owned and maintained by the residents. 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.

Day Care Facility: Any State licensed facility, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habitation, rehabilitation, or developmental guidance on a regular basis, or periods of less than twenty-four (24) hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and other "non-residential 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.

Department Store: A business which is conducted under a single owner's name wherein a variety of unrelated merchandise and services are housed, enclosed and are exhibited and sold directly to the customer for whom the goods and services are furnished.

Deposition: Any rock, soil, gravel, sand or other material deposited naturally or by man into a waterbody, watercourse, floodplain or wetlands.

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.

Dwelling, Unit: A residential building or portion thereof intended for occupancy by one family but not including hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, tourist homes or trailers.

Efficiency Apartment: A dwelling unit consisting of one principal room exclusive of bathroom, hallway, closets, or dining alcove.

Elderly Senior Citizen Housing: A public agency owned or controlled multiple dwelling building with open occupancy limited to persons over sixty (60) years of age.

Elevator Penthouse: An enclosure located on the top of a building which houses the working mechanisms of an elevator.

Equal Degree of Encroachment: A method of determining the location of encroachment lines so that floodplain 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 floodplain along both sides of a stream for a significant reach.

Essential Services: The erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems by public utilities, municipal or other governmental agencies, but not including buildings.

Exterior Storage: The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

Extractive Use: The use of the land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other non-metallic minerals, and peat not regulated under Minnesota Statutes, Sections 93.44 through 93.51.

Family: An individual or two (2) or more persons each related to the other by blood, marriage, adoption, 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 ten (10) or more 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 generally 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. A hobby farm shall not qualify for exemptions provided in this Ordinance for farms.

Dog Kennel: Any place where more than three (3) dogs over six (6) months of age, are kept, except hospitals, clinics, and other premises operated by a licensed veterinarian exclusively for the care and treatment of animals.

Domestic Animal Disclosure: Any accessory building or portion thereof, accessory structure or area of any kind, including without limitation, pens, runs, kennels and domestic animal houses, that is principally used or designed for use as a place for keeping domestic animals. An electronic pet containment system is not considered a domestic animal enclosure.

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

Dredging: To enlarge or clean out a waterbody, watercourse or wetland.

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.

Duplex, Triplex, and Quad: A dwelling structure on a single lot, having two (2), three (3), and four (4) units, respectively being attached by common walls and each unit equipped with separate sleeping, cooking, eating, living and sanitation facilities.

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, mobile homes or trailers.

Dwelling, Multiple (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, Single Family: A dwelling unit designed exclusively for occupancy by one family.

A. Attached: A dwelling which is joined to another at one or more sides by a party wall.

B. Detached: A dwelling unit not attached to another dwelling or structure.

Dwelling, Two Family: A dwelling designed exclusively for occupancy by two (2) families living independently of each other.

A. Double Bungalow: A two family dwelling with two (2) units side-by-side.

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

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.

Feedlot, Animal: 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. For purposes of these parts, 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 under these parts, nor shall any area as above described which contains ten (10) animal units or less.

Fence: A fence is defined for the purpose of this Ordinance as any partition, structure, wall or gate erected as a dividing mark, barrier or enclosure.

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

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

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

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

Flood Frequency: The average frequency, statistically determined, for which it is expected that a specific flood stage of 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 or discharge is usually expressed as having a probability of occurring once within a specific number of years.

Flood Fringe: That portion of the floodplain outside of the floodway.

Flood Profile: A graph or a longitudinal plot of water surface elevation of a flood event along a reach of a stream or river.

Floodplain: The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

Floodway: The channel of the watercourse and those portions of the adjoining floodplains which are reasonably required to carry and discharge the regional flood.

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.

Garage, Private: An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles and trucks not exceeding twelve thousand (12,000) pounds gross weight, of the family or families resident upon the premises, and in which no business service or industry is carried on.

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 renumeration or hire and in which any sale of gasoline, oil and accessories is only incidental to the principal use.

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 (5) feet from the building, between the building and a line five (5) feet from the building.

Grading: Changing the natural or existing topography of land.

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.

Hardship: The same as that term is defined in Minnesota Statutes, Chapter 462.

Hazardous Waste: Any refuse, sludge, or other waste material or combination of refuse, sludge, or other waste materials in solid, semi-solid, liquid, or contained gaseous form which because of its quantity, concentration, or chemical, physical, or infectious characteristics may: 1) cause or significantly contribute to an increase in mortality or an increase in serious or irreversible, or incapacitating reversible illness; or 2) pose a substantial present or potential hazard to human health or the environment when improperly 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.

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.

Hotel: Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing six (6) or more guestrooms, 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.

Impervious Surface: An artificial or natural surface through which water, air, or roots cannot penetrate.

Industrial Use: The use of land or buildings for the productions, manufacture, warehousing, storage or transfer of goods, products, commodities, or other wholesale items.

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

Intensive Vegetation Clearing: The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.

Interlock: This is the painted line or 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.

Junk Yard: 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. A junk yard includes an auto wrecking yard, but does not include uses established entirely within closed buildings.

Land Reclamation: The process of the re-establishment of acceptable topography (i.e., slopes), vegetative cover, soil stability and the establishment of safe conditions appropriate to the subsequent use of the land.

Lodging House: A building other than a hotel, where the compensation for definite periods, lodging is provided for three (3) or more persons not of the principal family but not including a building providing this service for more than ten (10) persons.

Lodging 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 lodging room.

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 Ordinance, having not less than the minimum area required by this Ordinance 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: Except as may be otherwise required by this Ordinance, the area of a horizontal place within the lot lines.

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 (135) degrees or less.

Lot, Depth: The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree 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.

Lot, Interior: A lot, other than corner lot, including through 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 as of 1 July 1999, 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 Ordinance and having its principal frontage upon a street.

Lot, Through: A lot fronting on two (2) parallel streets.

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.

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 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 homes park.

Medical and Dental Clinic: A structure intended for providing medical and dental examinations and service available to the public. This service is provided without overnight care available.

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 water, sludge, 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.

Motel/Motor Hotel: A building or group of detached, semi-detached 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.

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.

Motor Fuel Station: A place where gasoline is stored only in underground tanks, 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 automobile major repairs and rebuilding.

Natural Drainage System: All land surface areas which by nature of their contour configuration, collect, store and channel surface water runoff.

Natural Obstruction: Any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within a waterbody, watercourse, or wetland by a non-human cause.

Non-Conforming Structure or Use: Any lawfully established structure or use which on the effective date of this Ordinance does not conform to the applicable conditions if the structure or use was to be erected under the guidance of this Ordinance.

Obstruction (Floodplain): 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 floodplain.

Off-Street Loading Space: A space accessible from the street, alley or way, in a building or on the lot for the use of trucks while loading or unloading merchandise or materials.

Open Sales Lot: Any open land used or occupied for the purpose of buying, selling, and/or renting merchandise and for the storing of same prior to sale.

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 leave evidence upon the landscape, commonly that point where the natural vegetatoin 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.

Out-Patient Care: Medical examination or service available to the public in a hospital. This service is provided without overnight care and shall be considered a separate, independent, principal use when combined or operated in conjunction with a hospital.

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

Parking Space: An area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one automobile, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.

Permitted Use: A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and performance standards (if any) of such districts.

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.

Pole Building: Any structure possessing the following characteristics: structural wood poles or timbers buried in ground on individual footings; metal wall coverings hung vertically of less than twenty-eight (28) gauge. Such definition shall not include or apply to decks, sign supports, earth retention structures, playground equipment, electric utilities, or any similar structure not covering or enclosing a specific area.

Principal Use: The main use of land or buildings as distinguished from subordinate or accessory uses. A "principal use" may be either permitted or conditional.

Public Uses: Uses owned or operated by municipal, school districts, county, state, or other governmental units.

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.

Recreation, Field or Building: An area of land, water, or any building in which amusement, recreation or athletic sports are provided for public or semi-public 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, circus or gymnasium is a recreation field or building for the purpose of this Ordinance.

Recreational Vehicle: A self-propelled vehicle which is used primarily for recreational purposes.

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.

Regional Flood: 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.

Regulatory Flood Protection Elevation: A point not less than one (1) foot above the elevation of the floodplain, plus any increases in flood heights attributable to encroachments on the floodplain. It is the elevation to which uses regulated by this Ordinance are requried to be elevated or flood proofed.

Restaurant: An establishment whch serves food in or on non-disposable dishes to be consumed primarily while seated at tables or booths within the building.

Roof Line: The top of the coping; or, when the building has a pitched roof, the intersection of the outside wall with the roof.

Satellite Dish: Shall mean a combination of: 1) antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; 2) a low noise amplifier (LNA) which is situated at the focal point of the receiving component and whose purpose is to magnify and transfer signals; and 3) a coaxial cable whose purpose is to carry the signals into the interior of the building.

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.

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 buildng and lot line. Distances are to be measured from the most outwardly extended portion of the structure at ground level, except as provided hereinafter.

Sewage Treatment System: A sewage treatment system, or part thereof, serving a dwelling, or other establishment, or group thereof, which utilizes subsurface soil treatment and disposal.

Sewer System: Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

Sexually Oriented Uses: Sexually oriented uses include adult bookstores, adult motion picture theaters, adult motion picture sales/rentals, 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 617.241, as may be amended, are not included.

1. Specified Anatomical Areas:

    a. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola; and

    b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. Specified Sexual Activities:

    a. Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-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 or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty; or

b. Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence; or

c. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation; or

d. Fondling or touching of nude human genitals, pubic region, buttocks, or female breast; or

e. Situations 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 of any such persons; or

f. Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or

g. Human excretion, urination, menstruation, vaginal or anal irrigation.

3. 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.

4. 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:

a. Sexually Oriented Use - Body Painting Studio. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "specified anatomical areas".

b. Sexually Oriented Use - Bookstore. A building or portion of a building uses for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tape, videotape, or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public extending any minor by reason of age or if a substantial or significant portion of such items are distinguished or

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

c. Sexually Oriented Use - Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

d. Sexually Oriented Use - Companionship Establishment. A companionship establishment 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".

e. Sexually Oriented Use - 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, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

f. Sexually Oriented Use - Health/Sport Club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

g. Sexually Oriented Use - Hotel or Motel. Adult hotel or motel means 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 sexually activities" or "specified anatomical areas".

h. Sexually Oriented Use - 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".

i. Sexually Oriented Use - Mini-Motion Picture Theater. A building or portion of a building with a capacity for less than 50 persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

j. Sexually Oriented Use - Modeling Studio. An establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

k. Sexually Oriented Use - Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated 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".

l. Sexually Oriented Use - Motion Picture Theater. A building or portion of a building with a capacity of 50 or more persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age or if such material is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

m. Sexually Oriented Use - Novelty Business. A business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designed for sexual stimulation.

n. Sexually Oriented Use - 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 of characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

o. Sexually Oriented Use - Steam Room/Bathhouse Facility. A building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age of if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Shopping Center: An integrated grouping of commercial stores, under single ownership or control.

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.

Sign: The use of any words, numerals, figures, devices, or trademarks by which anything is made known such as are used to show an individual, firm, profession, or business, and are visible to the general public.

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

Solid Waste: Garbage, refuse, sludge from a water supply treatment plant or air containment treatment facility, and other discarded waste materials and sludge, in solid, semi-solid, liquid, or contained gaseous form, resulting from industrial, commercial mining, and agricultural operations, and from community activities, but does not include hazardous waste; animal waste used as fertilizer; earthen fill, boulders, rock; sewage sludge; solid or dissolved material in domestic sewage or other common pollutants in water resources, such as silt, dissolved or suspended solids in industrial waste water effluents or discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended, dissolved materials, in irrigation return flows; or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended.

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 Ordinance. Where specific information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet 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 underfloor space is more than six (6) feet above "grade" as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above "grade" as defined herein at any point, such basement, cellar, or unused underfloor space shall be considered a story.

Street Frontage: The proximity of a parcel of land to one or more streets. An interior lot has one street frontage and a corner lot has two (2) frontages.

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

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 conduct of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

Toe of the Bluff: The lower point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.

Townhouses: Structures housing three (3) or more dwelling units contiguous to each other only by the sharing of one common wall, such structures to be of the townhouse or rowhouse type as contrasted to multiple dwelling apartment structures. No single structure shall contain in excess of eight (8) dwelling units and each dwelling unit shall have separate and individual front and rear entrances.

Trailer, Construction: A trailer temporarily located on a construction site for storage of equipment and other materials used in connection with development of property.

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.

Usable Open Space: A required ground area or terrace area on a lot which is graded, developed, landscaped and equipped and intended and maintained for either active or passive recreation or both, available and accessible to and usable by all persons occupying a dwelling unit or rooming unit on the lot and their guests. Such areas shall be grassed and landscaped or covered only for a recreational purpose. Roofs, driveways and parking areas shall not constitute usable open space.

Use: The purpose of 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 Ordinance.

Variance: The waiving by Board action of the literal provisions of this Ordinance in instances where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property under consideration.

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.

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, such as rivers, streams, or creeks, and may flow year around or intermittently.

Watershed: The area drained by the natural and artificial drainage system, bounded peripherally by a bridge or stretch of high land dividing drainage areas.

Wetlands. An area where water stands near, at, or above the soil surface during a significant portion of most years, saturating the soil and supporting a predominantly aquatic form of vegetation, and which may have the following characteristics:

A. Vegetation belonging to the marsh (emergent aquatic), bog, fen, sedge meadow, shrub land, southern lowland forest (lowland hardwood), and northern lowland forest (conifer swamp) communities. (These communities correspond roughly to wetlands types 1, 2, 3, 4, 6, 7 and 8 described by the United States Fish and Wildlife Service, Circular 39, "Wetlands of the U.S. 1956".)

B. Mineral soils with gley horizons or organic soils belonging to the Histosol order (peat and mulch).

C. Soil which is waterlogged or covered with water at least three (3) months of the year.

D. Swamps, bogs, marshes, potholes, wet meadows, and sloughs are wetlands, and such property, may be shallow water bodies, the waters of which are stagnant or actuated by very feeble currents, and may at times be sufficiently dry to permit tillage, but would require drainage to be made arable. The edge of a wetland is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Yard: An open space on the lot which is unoccupied and unobstructed from its lowest level to the sky. A yard extends a lot line at right angles to such lot line to a depth or width required in the yard regulations for the zoning district in which such lot is located.

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 major roads, both yards shall be considered front yards. A major road is any road that is of a collector designation or greater.

Yard, Rear: A yard extending across the full width of the lot and lying between the rear 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.