

**SECTION 1000 - TITLE AND APPLICATION**

SECTION

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**1000.01: TITLE :** Sections 1000 through 1066, inclusive, shall be known, cited and referred to as the “Big Lake Zoning Ordinance” except as referred to herein, where it shall be known as “this Ordinance.”

**1000.02: INTENT AND PURPOSE:** The intent of this Ordinance is to protect the public health, safety, and general welfare of Big Lake and its people through the establishment of regulations governing the development and use of property within the City. Such regulations are established to:

1. Implement the Comprehensive Plan;
2. Promote orderly development and redevelopment;
3. Provide adequate light, air and convenience of access to property;
4. Prevent congestion in the public right-of-way;
5. Prevent overcrowding of land and undue concentration of structures and population by regulating land, building, yards, setbacks, and density of development;
6. Provide for the compatibility of different land uses, and protect use area from incompatible uses;
7. Provide for the administration of this Ordinance and any amendments;
8. Prescribe penalties for violation of such regulations;
9. Define powers and duties of the City Staff, the Planning Commission, and the City Council in relation to this Ordinance.

**1000.03: RELATION TO THE COMPREHENSIVE PLAN:** It is the policy of the City of Big Lake that the enforcement, amendment, and administration of this Ordinance be accomplished consistent with the policies and guidelines contained in the City Comprehensive Plan, as developed and amended from time to time. The City Council recognizes the City Comprehensive Plan as the official policy for the regulation of land use and development in

accordance with the policies and purpose of this Ordinance. In accordance with Minnesota Statutes Chapter 473 as amended, the City will not approve any rezoning or other change in these regulations that are inconsistent with the City Comprehensive Plan.

**1000.04: AUTHORITY:** This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.363 as amended.

**1000.05: 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:

**Subd. 1.** Invalid Provision. If any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.

**Subd. 2.** Adjudication if Invalid Application. 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 judgment shall not affect the application of said provision to any other property, building, or structure not specifically included in said judgment.

**1000.06: SCOPE:** From and after the enactment of this Ordinance, the use of all land and every building and the erection or structural alteration of any building or portion of a building in the City shall be in conformity with the provision of this Ordinance. Any structure or use lawfully existing at the enactment of this Ordinance, but not in conformity with the regulations of the appropriate zoning district, may be continued subject to the regulations of this Ordinance.

**1000.07: JURISDICTION:** The geographic jurisdiction of this Ordinance includes the entire area within the corporate limits of Big Lake, Minnesota. Land areas which may be added to the City by annexation, merger or other means shall be classified “A”, Agricultural District which shall be considered an interim step pending permanent classification at such time that the City Council may establish a Comprehensive Plan land use designation and rezone the added territory to more appropriate classifications.

**1000.08: RESTRICTIVE INTERPRETATION:** Where the conditions imposed by any provisions of this Ordinance are either more or less restrictive than comparable conditions imposed by another ordinance, rule or regulation of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard, or requirements shall prevail.

**1000.09: MINIMUM REQUIREMENTS:** In their interpretation and application, the provision of this Ordinance shall be held to be the minimum requirement for the promotion of the public health, safety and welfare.

**Subd. 1.** Permits Controlled. No application for a building permit or other permit or license, or for a zoning certificate shall be approved by the Zoning Administrator, and no permit or license shall be issued by any other City department or officer which would authorize the use or change in use of any land or building contrary to the provisions of this Ordinance, or the erection, moving, alteration, enlargement, or occupancy of any building designed or intended to be used for a purpose or in a manner contrary to the provisions of this Ordinance. Nothing in this Ordinance shall prevent the regulation of uses of property by means of restrictive covenants which are valid except for this Ordinance.

**Subd. 2.** Yard Reduction. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after July 20, 2002 (effective date of Ordinance) shall meet at least the minimum requirements established by this Ordinance.

**Subd. 3.** Application. 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, or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirement of this Ordinance shall be controlling.

**Subd. 4.** Prohibition of Uses Not Specifically Authorized. 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, or the Planning Commission 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, Planning Commission or property owner, upon receipt of the staff study shall, if appropriate, initiate an amendment to this Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

**Subd. 5.** Monuments. For the purpose of this Ordinance, all federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to insure that these markers are maintained in good condition during and following construction and development. All section, one-quarter section and one-sixteenth section corners shall be duly described and tied.

**Subd. 6.** Comprehensive Revision. The City Council intends this Ordinance to be a comprehensive revision to Chapter 10 of the City Code, Sections 1000.01 to 1090.02, and all other ordinances inconsistent with this Ordinance, as amended. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to July 20, 2002 (effective date of Ordinance) is not affected by its enactment.

**Subd. 7.** Vested Rights. Nothing in this Ordinance shall be interpreted or construed to give use to any permanent vested rights in the continuation of any permissible activities herein, and they are hereby declared to be subject to subsequent amendment change or modification as may be necessary to the preservation of protection of public health, safety and welfare.

**SECTION 1001 – RULES AND DEFINITIONS**

SECTION

- 1001.01: Rules
- 1001.02: Definitions

**1001.01: RULES:** The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction and definitions.

1. The singular number includes the plural, and the plural the singular.
2. The present tense includes the past and the future tenses, and the future the present.
3. The word “shall” is mandatory while the word “may” is permissive.
4. The masculine gender includes the feminine and neuter.
5. For terminology not defined in this Ordinance, the City Code, the Minnesota State Building Code or the Webster’s Dictionary shall be used to define such term(s).
6. All measured distances expressed in feet shall be the nearest tenth of a foot.

**1001.02: 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 Structure.** A structure subordinate to, incidental to, and/or serving the principal structure on the same lot which is not authorized to be used for living or sleeping by human occupants. Examples of accessory structures include detached garages, greenhouses, gazebos, ice-fishing shacks, storage sheds, tool sheds, platforms, trash enclosures, etc.

**Accessory Structure (Attached).** Accessory buildings or structures that are attached to the principal building or structure shall have the same architectural features such as roof lines and exterior building materials. Attached means wall-to-wall or any permanent “covered passageway.” Said structures, along with attached decks, shall be considered as building additions and shall require building permits and compliance with the applicable setback standards for the principal building or structure. For purposes of this section, the term "covered passageway" shall mean a room or enclosed corridor of similar quality construction. (ord. 2009-03; 02/11/09)

**Accessory Use or Structure (Floodplain).** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. (Ord. 2004-09, 4/14/04).

**Accessory Structure or Facility (Shoreland).** Any building or improvement subordinate to a principal use which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

**Addition.** A physical enlargement of an existing structure.

**Adjacent.** When referring to adjacent lots or land, adjacent shall mean a lot that shares all or part of a common lot line with another lot. For the purposes of this definition, adjacent shall also refer to those properties separated only by a railroad; utility right-of-way; public street or a trail corridor less than one hundred (100) feet wide.

**Adult Day Care.** Personal care during the day (for less than 24 hours) in a protective setting licensed by the State of Minnesota providing companionship education, recreational or developmental activities, as well as integral but subordinate medical services in the form of medical examinations, dental screening, and immunizations.

**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 the seasonal sale of products grown on premises; and keeping and raising of ten (10) or fewer farm animals, but not including fur farms, wholesale nurseries and garden centers, and kennels.

**Agricultural Building or Structure.** Any building or structure existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.

**Alcohol Production.** See Brewery. (Ord. 2014-01; 03/26/14)

**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.

**Alternative energy system.** A geothermal, wind or solar energy system (Ord. 2010-04, 7/28/10).

**Animals.** See City Code Section 380.01 for animal definitions.

**Antenna.** Any of the below described uses requiring an antenna shall be subject to the regulations of this Ordinance.

1. **Antenna, Personal Wireless Service.** A device consisting of a metal, carbon fiber, or other electromagnetically conducive 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 radio waves in wireless communications including cellular, personal communication services (PCS), enhanced specialized mobilized radio (ESMR), paging and similar services, and including the support structure thereof.
2. **Antenna, 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 supporting structure thereof.
  3. **Antenna, 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.
  4. **Antenna, 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 supporting structure thereof.
  5. **Antenna, 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 shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses and including the support structure thereof. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVRO's (television receive only) and satellite microwave antennas.
  6. **Antenna, 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 supporting structure thereof.
  7. **Antenna Support Structure.** Any pole, telescoping mast, tower, tripod, or any other structure which supports a device used in the transmitting or receiving of radio frequency energy.
  8. **Antenna Tower.** A self-supporting lattice, guyed or monopole structure constructed from grade which supports wireless service antennas. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.
  9. **Antenna Tower – 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 service, which is commonly referred to as cellular on wheels (COW).

**Apartment.** See Dwelling, Multi-family (Apartment).

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

**Arterial.** A type of road that is characterized by limited access and a design capacity to move relatively large volumes of traffic in an expedient manner. Arterials are divided into principal arterials and minor arterials based on their access, the traffic volume they carry and the areas they serve. The roadway classification system is further defined and illustrated in the Transportation Chapter of the City Comprehensive Plan as amended. (Ord. 2004-19, 8/11/04)

**Automobile Repair Services – Major.** General repair, rebuilding, or reconditioning of engines, motor vehicles or trailers, including bodywork, framework, welding, and major painting service.

**Automobile Repair Services – Minor.** The replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work, minor painting and upholstering service. Above stated is applied to passenger automobiles and trucks not in excess of 9,000 pounds gross weight.

**Automobile Service Station.** See “Motor Fuel Station.”

**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.

**Average Ground Level.** The average ground elevation at least five (5) years prior to construction at the corners of a principal or accessory building footprint. Said average ground elevation shall be established from topographic maps on file at City Hall or as determined by the City Engineer.

**Awning.** A roof-like cover that is temporary in nature and that projects from the wall of a building for the purpose of shielding a doorway or window from the elements.

**Basement.** Any area of a structure, including crawl spaces located partly underground but having half or more of its floor-to-ceiling height below the average grade of the adjoining ground.

**Basement (Floodplain).** Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level. (Ord. 2004-09, 4/14/04).

**Bay.** Cantilevered area of a room.

**BB or bb.** An abbreviation meaning balled and burlapped and used to describe the root treatment of certain plant materials.

**Beer Store.** An establishment for the sale of beer, cigars, cigarettes, all forms of tobacco, beverages and soft drinks at retail.

**Berm.** A landscaped mound of earth used to separate incompatible uses, screen offsite views of development, mitigate noise impacts and create aesthetic interest.

**Best Management Practices.** A technique or series of techniques which, when used in an erosion control plan, is proven to be effective in controlling construction-related runoff, erosion and sedimentation.

**Big Box (large commercial-retail; establishment).** Shall mean a commercial establishment, or any combination of commercial-retail establishments in a single building or in a separate but abutting buildings (less than 20 feet apart), or a movie theater or an indoor recreational use, occupying more than twenty thousand (20,000) gross square feet of floor area.

**Black Dirt (as used for top soil).** Organic soils added on top of existing soil that are darker in color and richer in organic materials compared to the existing topsoil.

**Block.** Means a tract of land bounded by streets or a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines, unsubdivided acreage or boundary line of the corporate limits of the City.

**Bluff (Shoreland).** A topographic feature such as a hill, cliff, or embankment having all of the following characteristics:

1. Part or all of the feature is located in a shoreland area.
2. The slope rises at least twenty-five (25) feet above the ordinary high water level of the water body.
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 water body.
5. 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.

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

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

**Bluff, Top of (Shoreland).** The higher point of a fifty (50) foot segment with an average slope exceeding eighteen (18) percent.

**Board of Appeals and Adjustments.** The City Council sitting as a review board for zoning matters as provided in Minn. Stat. 462.351 Subd. 6 as amended.

**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.

**Bollard.** A thick post used for securing ropes.

**Boulevard.** That portion of the dedicated street or right-of-way lying between the back of a curb, or traveled portion of the right-of-way if there is no curb, and the lot or property line (typically landscaped with grass and/or street trees).

**Brewery.** A facility used for the production of malt liquor. Minnesota Statute 340A Rules apply. (Ord. 2014-01; 03/26/14)

**Brewpub.** An establishment offering a food menu in addition to alcohol produced by an associated brewery. (Ord. 2014-01; 03/26/14)

**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 to shield or mitigate undesirable influences such as: sight, noise, dust, lights and other external impacts.

**Buffer Strip.** An area of vegetated ground cover abutting a wetland that is maintained in its natural condition.

**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 the lot above the ordinary high watermark of a waterbody, outside of steep slope areas of twelve (12) percent or greater, electrical or pipeline easements, remaining after required yards and setbacks have been provided. (Ord. 2004-19, 8/11/04).

**Building** - Any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind, and when said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

**Building Coverage.** The term building coverage, as referenced in this Ordinance, shall include the principal building and any attachments thereto which contain a roof. Accessory buildings

and structures which contain a roof and are in excess of one hundred twenty (120) square feet in dimension shall also be included.

**Building Envelope** - The boundaries on a lot of record within which all construction requiring a building permit may occur.

**Building Height.** The vertical distance to be measured from the mean ground level of the building footprint area before construction, 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 or detached garage roof, to the uppermost point on a round or other arch type roof, to the highest gable on a pitched or hip roof.

**Building Height (Shoreland).** The vertical distance between the highest adjoining ground level at the building or ten (10) feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof. Accessory building heights (Shoreland) shall be measured to a point on the roof directly above the highest wall.

**Building-integrated solar energy system.** A solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building including, but not limited to, photovoltaic or hot water solar systems contained within roofing materials, windows, skylights and awnings (Ord. 2010-04, 7/28/10).

**Building Line.** A line parallel to a lot line, street right-of-way, street easement, or ordinary high water level at the required setback beyond which any story level of a building may not extend.

**Building Setback.** The minimum horizontal distance between the building and a lot line, right-of-way or the ordinary high water mark of a waterbody.

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

**Caliper.** The diameter of a tree trunk measured six inches above the ground for trees less than four (4) inches in diameter, and twelve (12) inches above the ground for trees more than four (4) inches in diameter.

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

**Carport.** A canopy constructed of metal or other material supported by posts either ornamental or solid and having one or more sides open.

**Car Wash.** A building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor.

**Cemetery.** A parcel or tract of land used or intended to be used for the burial of the dead including 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.** “City” shall mean the City of Big Lake.

**City Attorney.** The person designated by the City Council to be the City Attorney for the City of Big Lake.

**City Administrator.** The person designated by the City Council to be the City Administrator for the City of Big Lake.

**City Building Official.** The person designated by the City Council to be the City Building Official of the City of Big Lake.

**City Clerk.** The person designated by the City Council to be the City Clerk of the City of Big Lake.

**City Code.** The Municipal Code of the City of Big Lake, as amended from time to time. Also referred to as the City of Big Lake Newly Codified Ordinances. This Zoning Ordinance is part of the City Code.

**City Council.** The governing body of the City of Big Lake.

**City Engineer.** The person designated by the City Council to be the City Engineer for the City of Big Lake.

**City Planner.** The person designated by the City Council to be the City Planner for the City of Big Lake.

**City Zoning Administrator.** The person designated by the City Council to be the Zoning Administrator of the City of Big Lake.

**Civil Engineer.** A professional engineer registered in the State of Minnesota to practice in the field of civil works.

**Civil Engineering.** The application of the knowledge of the forces of nature, principles of mechanics and the properties of materials to the evaluation, design and construction of civil works for the beneficial uses of mankind.

**Clear-Cutting.** The removal of an entire stand of vegetation.

**Clear View Triangle.** The area around the convergence of two streets or a street and an access driveway where visibility is not impeded. The Clear View Triangle shall be identified as follows: Beginning at the intersection of the of the projected curb lines adjacent to two intersecting streets, thence thirty (30) feet along one curb line, thence diagonally to a point thirty (30) feet from the point of beginning on the other curb line thence to the point of beginning.

**Closed loop geothermal system.** A system that circulates a heat transfer fluid, typically food-grade antifreeze, through pipes or coils buried beneath the land surface or anchored to the bottom in a body of water (Ord. 2010-04, 7/28/10).

**Collector Streets.** A type of road that functions to provide connections between neighborhoods and from neighborhoods to areas with concentrations of business. They typically have lower traffic volumes and speeds than arterials, but higher than local streets. Collectors are divided into those roads that are designed to distribute traffic from major generators or from minor collectors to arterial roads (major collectors) and those roads that are designed to distribute traffic from major collectors or arterials to local streets (minor collectors). The roadway classification system is further defined and illustrated in the Transportation Chapter of the City Comprehensive Plan. (Ord. 2004-19, 8/11/04).

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

**Commercial Equipment.** Any equipment, including trailers, used for the alteration, demolition, construction, maintenance, or excavation of a building, structure or property.

**Commercial Vehicle Sales.** The use of any building or land area for the display and sale of new or used commercial vehicles. See “Vehicle, Commercial” for definition of commercial vehicle.

**Commissioner (Shoreland).** Commissioner of the Department of Natural Resources.

**Common Open Space.** Any privately owned open space including private parks, nature areas, playgrounds, and trails including accessory recreational buildings and structures which are an integral part of a development.

**Community Solar Energy System (also called Solar Garden).** A solar-electric (photovoltaic) array generating no more than five (5) megawatts that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing on-site or located off-site from the location of the solar energy system or for wholesale on the commercial grid.

**Comprehensive Plan.** Sometimes referred to as “City Plan” or “Comprehensive City Plan” and consists of a compilation of goals, policy statements, standards, programs, and maps for guiding the physical, social, and economic development, both public and private, of the county and its environs, as defined in the Minnesota City Planning Act, and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

**Conditional Use (Floodplain).** A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls, floodplain regulations, or building codes and upon a finding that:

1. Certain conditions as detailed in the Big Lake Zoning Ordinance exist; and
2. The structure and/or land use conform to the Comprehensive Land Use Plan goals and are compatible with the existing neighborhood. (Ord. 2004-09, 4/14/04).

**Conditional Use (Shoreland).** A use as this term is defined in Minnesota Statutes, Chapter 462 as amended.

**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 by resolution, as a flexibility device to enable the 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 presents. Resolutions authorizing Conditional Use Permits shall be filed with the appropriate County officials as required by Minnesota Statutes. Frequently identified by its initials, CUP, or C.U.P.

**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, Section 515.01 through 515.29 as amended.

**Contractor Operation.** An area and/or building devoted to use by a person who contracts to supply certain materials or to do certain work in the field of building trades.

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

**Covenant, private.** An agreement that binds and restricts the land in the hands of present owners and subsequent purchasers. A private covenant is enforced only by the landowners involved and not by the City or other public agency.

**Curb Level** - The grade elevation of the curb in front of the center of the building. Where no curb level has been established, the City Engineer shall determine a curb level or its equivalent for the purpose of this Ordinance.

**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, habilitation,

rehabilitation, or developmental guidance on a regular basis, for periods of less than 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 centers, day treatment programs, and day services, as defined by Minnesota Statutes Section 245A.02, Subdivision 10 as amended.

**Deck.** A 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 more than thirty (30) inches above average ground level.

**Development.** Any man-made change to improved or unimproved real estate including, but not limited to, buildings and other structures, mining dredging, filling, grading, paving, excavation, drilling operations, or storage of material or equipment.

**Dispatch Center.** An office where employees manage a group of vehicles, especially for the emergency services, and send them where they are needed.

**Display, Outside.** A class of storage outside the principal building where merchandise is visible and may involve active sales as well as passive sales (where items can be taken inside for actual purchase). Outside display of merchandise may be temporary or permanent depending upon the conditions of the permit and respective zoning district requirements of this Ordinance.

**Distribution Center.** A use greater than fifty thousand (50,000) square feet in area in which typically large volumes of commodities are received and organized for transport prior to final dispersal to the consumer. For the purpose of this definition a use shall be considered to be that are utilized for the distribution-related activities, not including office, laboratory or production space, of an individual occupant, owner or tenant of one or more structures of a portion thereof located on a single lot.

**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.

**Drainage Way.** A natural or man-made channel which collects and intermittently or continuously conveys stormwater runoff.

**Draining.** The removal of surface water or groundwater from the 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. A motor fuel station is not considered to be a Drive-Through Facility.

**Duplex, Triplex and Quad (Shoreland).** A dwelling structure on a single lot, having two, three, and four 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, nursing homes, boarding or rooming houses, tents, seasonal cabins, mobile homes, motor homes or travel trailers.

**Dwelling, Attached.** A building where a dwelling unit is joined in a horizontal fashion to one or more dwelling units by party wall or walls.

**Dwelling, Detached.** A dwelling unit entirely surrounded by open space.

**Dwelling, Efficiency Apartment.** A dwelling unit consisting of one (1) principal room exclusive of bathroom, hallway, closets, or dining alcove.

**Dwelling, Elderly (Senior Citizen).** Multiple family dwelling designed for and occupied primarily by persons over fifty-five (55) years of age, and which may include on-site recreational, social or health care services for the benefit of the residents.

**Dwelling, Manufactured Home.** A residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpack and assembly operations. A motor home is not considered a manufactured home.

**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, Quadraminium.** A single structure which contains four separately owned dwelling units, all of which have individually separate entrances from the exterior of the structure. Except where otherwise noted, quadraminiums shall comply with the same conditions and standards as townhouses in this Ordinance.

**Dwelling, Single Family.** A building designed for and exclusively occupied exclusively by one (1) family.

**Dwelling, Townhouse.** Structures housing three (3) to eight (8) dwelling units contiguous to each other only by the sharing of one (1) or more common walls with each unit having a separate entrance/exit, such structures are 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 building designed exclusively for occupancy by two (2) families in separate dwelling units.

1. **Duplex.** A two-family dwelling with one unit above the other.
2. **Twinhome.** A two-family dwelling with two units side by side.

**Dwelling Unit.** A residential unit containing independent living, cooking and sleeping facilities constituting a separate, independent housekeeping establishment, and physically separated from any other rooms or units which may be in the same structure and containing independent cooking and sleeping facilities. Hotels, motels, nursing homes, seasonal cabins, boarding or rooming houses, tourist homes or trailers are not considered to be dwelling units for the purpose of this Ordinance.

**Dwelling Unit (Shoreland).** Any structure or portion of a structure, or other shelter designed as short or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, resort rooms, and cabins.

**Earth Sheltered Building.** A building so constructed that fifty (50) percent 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 non-residential buildings. An earth sheltered building is a complete structure that does not serve just as a foundation or sub-structure for above grade construction. A partially covered building shall not be considered earth sheltered.

**Easement.** A grant by a property owner of one or more property rights for the use of land for the purpose of ingress and egress, trails and pedestrian ways, constructing and maintaining utilities, including but not limited to sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

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

**Entertainment, Live.** A show or presentation involving an actual in-person appearance or performance, rather than one which has been filmed or recorded.

**Equal Degree of Encroachment (Floodplain).** A method of determine the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. (Ord. 2004-09, 4/14/04).

**Erosion.** The wearing away of the ground surface as a result of the movement of wind, water or ice.

**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, water, or sewer transmission, distribution, collection, supply or disposal systems, including towers, wells, radio receivers and transmitters, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith for the furnishing of adequate service by such private or public utilities or municipal departments. Wireless communication services, transmission/reception support structures and antennas, commercial broadcasting antennas and towers and electric transmission lines in excess of 35 KV shall not be considered an essential service.

**Essential Service Structures.** Structures and buildings necessary for the operation of essential services, including but not limited to: telephone buildings, telephone booths, gas regulator stations, substations, electrical stations, water tanks, and lift stations. Essential service structures shall not include transmission/reception antennas or electric transmission lines in excess of 35 KV and associated poles, towers and other appurtenances sixty (60) feet or more in height above the natural ground level.

**Excavation.** Any non-agricultural artificial excavation of earth exceeding fifty square feet of surface area or two feet in depth, excavated or made the removal from the natural surface of the earth, soil, sand, gravel, stone, or other natural matter, made by turning or breaking or undermining the surface the earth.

**Exterior Storage.** See Open Outdoor Storage.

**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. The number of persons herein defined are the bases upon which performance standards are established in this Ordinance.

**Farm.** An unplatted tract of land containing more than ten (10) acres, or two or more abutting parcels under the same ownership having a total area of more ten (10) acres on which crops and often livestock are raised for a principal or major source of income. Such farms may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

**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 under these parts, nor shall any area as above described which contains ten (10) farm animals or less.

**Fence.** Any lineal structure used to prevent access by persons or animals, or to prevent visual or

sound transference. Fences shall not include retaining walls and sound barriers as defined in this Ordinance.

**Fence, Ornamental.** A fence not greater than four (4) feet in height that is constructed from aluminum, wrought iron or steel, with pickets no greater than two (2) inches in width and no less than four (4) inches apart. Vertical support posts shall not exceed six (6) inches in width and shall be spaced a minimum of four (4) feet apart. Horizontal framing crosspieces shall not exceed three (3) inches in width. No other material shall obstruct visibility through the fence. Chain link fences are specifically excluded from this definition. (Ord. 2004-18; 7-14-04)

**Filling.** The act of depositing any rock, soil, gravel, sand, or other material so as to fill or partly fill a waterbody, watercourse, wetland, channel or natural or excavated hole, trench, or other swell or depression in the earth.

**Flood (Floodplain).** A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas. (Ord. 2004-09, 4/14/04).

**Flood Frequency (Floodplain).** The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded. (Ord. 2004-09, 4/14/04).

**Flood Fringe (Floodplain).** That portion of the floodplain outside of the floodway. Flood fringe is synonymous with the term “floodway fringe” used in the Flood Insurance Study for Sherburne County, Minnesota and Incorporated Areas. (Ord. 2004-09, 4/14/04; Ord. 2011-05, 09-14-11).

**Floodplain (Floodplain).** The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood. (Ord. 2004-09, 4/14/04).

**Flood Proofing (Floodplain).** A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages. (Ord. 2004-09, 4/14/04).

**Floodway (Floodplain).** The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge. (Ord. 2004-09, 4/14/04).

**Floor Area.** The sum of the gross horizontal areas of the several floors of the building or the portions thereof, devoted to a particular use, including accessory storage areas located within the 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 floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices. Floor area of residences shall not include basement area or the area of attached or unattached garages, enclosed breezeways or porches.

**Floor Plan, General.** A graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

**Flush-mounted solar energy system.** A roof-mounted system mounted directly abutting the roof. The pitch of the solar collector may exceed the pitch of the roof up to five percent but shall not be higher than ten inches above the roof (Ord. 2010-04, 7/28/10).

**Funeral Home.** A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; and (d) the storage of funeral. This classification excludes cemeteries and crematoriums.

**Garage, Private (Residential).** 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 residing upon the premises, and in which no business service or industry is carried on. Garages are further defined as attached or detached structures having four (4) walls and a roof.

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

**Garbage.** Animal and vegetable wastes and other wastes or putrescible matter including but not limited to grease, wrappings, shells, grounds, bones, entrails, and similar materials resulting from the handling, preparation, coking, service and consumption of food, and other animal wastes.

**Garden Center.** A place of business where retail and wholesale products and produce are sold to the retail customer. These centers, which may include a nursery and/or greenhouses, import the majority of the items sold. These items may include plants, nursery products and stock, fertilizers, potting soil, hardware, power equipment and machinery, hose, rakes, shovels, and other garden and farm tools and utensils.

**Gazebo.** A freestanding accessory structure or pavilion. Such structures are characterized by partly open construction, design symmetry, and the use of ornamental architectural features.

**Geothermal system.** A system that uses the relatively constant temperature of the earth or a body of water to provide heating in the winter and cooling in the summer. System components include open or closed loops of pipe, coils or plates; a fluid that absorbs and transfers heat; and a heat pump unit that processes heat for use or disperses heat for cooling; and an air distribution system (Ord. 2010-04, 7/28/10).

**Governing Body.** Big Lake City Council.

**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. Grade also means the following: The vertical location of the ground surface; existing grade means the grade prior to grading; rough grade means the stage at which the grade approximately conforms to the approved plan; final grade means stage at which the grade conforms to the approved plan.

**Grading.** Changing the natural or existing topography of the land.

**Greenhouse.** An enclosed building, permanent or portable, which is used for the growing of small plants.

**Greenway.** A linear park, alternative transportation route, or open space area that provides passive recreational opportunities, pedestrian and/or bicycle paths, and/or the conservation of open space or natural areas as indicated in the Comprehensive Plan.

**Grocery, Supermarket.** A retail establishment which offers for sale food products, household items and other goods associated with the same. In many cases, supermarkets include pharmacies, delicatessens and snack bars. Supermarkets are intended to draw customers on a community, but not regional scale.

**Gross Vehicle Weight Rating (GVWR).** Maximum to which a vehicle can be loaded, according to the manufacturer; includes dry weight of the vehicle plus all fuel, water, supplies and passengers.

**Ground Mounted Solar Energy System.** Freestanding solar energy system (panels) that are mounted to the ground by use of stabilizers or similar apparatus.

**Guest Room.** A room or rooms used, or intended to be used, by a guest for sleeping purposes, and in which no provision is made for cooking.

**Health Club.** A place of assembly and activity where membership may be required and is directed toward the general public with the commercial promotion of sports and physical fitness. Uses include, but are not limited to, personal training, gymnastics, martial arts, aerobics, exercise and dance studios (Ord. 2015-11, 10/14/15).

**Heat transfer fluid.** A non-toxic and food grade fluid such as potable water, aqueous solutions of propylene glycol not to exceed 20 percent by weight or aqueous solutions of potassium acetate not to exceed 20% by weight (Ord. 2010-04, 7/28/10).

**Home Occupation.** Any activity engaged in by the occupant of a residential dwelling unit, which is carried out for business purposes and which activity is clearly incidental and secondary to the residential use of the premises, and which activity does not change the residential character thereof.

**Home Office.** A room or rooms within a dwelling unit 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.

**Horizontal axis wind turbine.** A wind turbine design in which the rotor shaft is parallel to the ground and the blades are perpendicular to the ground (Ord. 2010-04, 7/28/10).

**Horizontal geothermal system.** A closed loop ground source heat pump system where the loops or coils are installed horizontally in a trench or series of trenches no more than 20 feet below the land surface (Ord. 2010-04, 7/28/10).

**Hotel (Including Hotel/Suites).** Any building or portion thereof occupied as the more or less temporary abiding place of individuals and containing three (3) or more guest rooms, used, designated, or intended to be used, let or hired out to be occupied, or which are occupied by three (3) or more individuals for compensation, whether compensation be paid directly or indirectly.

**House Pet Enclosure.** Any accessory building or portion thereof, accessory structure or area of any kind, including, pens, fenced enclosure, and pet houses that are principally used or designed for use as a place for keeping domestic house pets. An electronic pet containment system is not considered a domestic house pet enclosure.

**Hub.** The center of a wind generator rotor, which holds the blades in place and attaches to the shaft (Ord. 2010-04, 7/28/10).

**Hub height.** The distance measured from natural grade to the center of the turbine hub (Ord. 2010-04, 7/28/10).

**Impervious Surface.** An artificial or natural surface that is highly resistant to infiltration by water. It includes, but is not limited to surfaces such as compacted sand, clay or gravel as well as most conventionally surfaced streets, roofs, swimming pools, sidewalks in excess of three (3) feet in width, parking lots, and other similar structures, but not including decks or platforms where one quarter (1/4) inch gaps are provided between deck boards for water to drain.

**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 (Shoreland).** 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 allowed it.

**Interim Use Permit.** A permit issued in accordance with procedures specified in this Ordinance, 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.

**Kennel, Commercial.** Any place where four (4) 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 or any premises requiring a kennel license as provided by Chapter 2 (Licenses), Section 380 (Animals) of the Big Lake City Code. (Ord. 2003-05).

**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.

**Land Surveyor.** Such persons licensed by the State of Minnesota as a land surveyor.

**Landscaping.** Plantings such as trees, flowers, grass and shrubs and improvements directly related thereto.

**Large Energy Power Generating Plant (LEPGP).** Any Solar Energy System capable of producing 50 megawatts or more of power.

**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.

**Local Street.** A type of road that functions to provide access to adjacent properties and from properties to collectors and/or arterials. Speeds and traffic volumes are typically lower than collector or arterials. This roadway classification system is further defined in the Transportation Chapter of the City Comprehensive Plan.

**Long-term Care Facility.** A state licensed facility which provides nursing care and related medical services on a 24-hour per day basis for the elderly, chronically or incurably ill persons, physically or mentally challenged persons where residents are provided with food and shelter or care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

**Lot (Shoreland).** A parcel of land designated by plat, metes and bounds, registered land survey, auditors plot, or other accepted means and separated from other parcels or portions by said description for the purpose of sale, lease, or separation.

**Lot.** One unit of a recorded plat or subdivision, which unit has frontage on a public street and is occupied, or to be occupied, by a building and its accessory buildings, and including as a minimum, such spaces as are required under this Ordinance. Lots may be classified as follows:

1. **Lot, Butt.** A lot located at the end of a block, located between two corner lots.
2. **Lot, Corner.** A lot situated at the intersection of two or more streets.
3. **Lot, Interior.** A lot other than a corner lot, including through lots.
4. **Lot, Through.** A lot fronting on two parallel streets.

**Lot (of Record).** A parcel of land, whether subdivided or otherwise legally described as of September 13, 1979, 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 Area.** The area of a lot in a horizontal plane bounded by the lot lines.

**Lot, Base.** Lots meeting all specifications in the zoning district prior to being subdivided into a two family dwelling, townhouse, or quadraminium subdivision.

**Lot Coverage.** The total allowable amount of lot area, expressed as a percentage, which may be covered by a principal use and its accessory structures but not including uncovered porches, decks, ground level landings, landscape structures or recreational facilities.

**Lot Depth.** The mean horizontal distance between the front lot line and the rear lot line of a lot (the greater frontage of a corner lot shall be deemed its depth and the lesser frontage its width).

**Lot, Frontage.** The front of a lot shall be, for purposes of complying with this Ordinance, that boundary abutting a public right-of-way having the least width.

**Lot Line.** The property line bounding a lot except that where any portion of a lot extends into the public right-of-way the lot line is deemed to be the public right-of-way line for applying this ordinance.

**Lot Line, Front.** That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot, it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the City Building Official.

**Lot Line, Rear.** That boundary of a lot which is opposite the front lot line. If the rear lot line is less than ten (10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

**Lot Line, Side.** Any boundary of a lot which is not a front lot line or a rear lot line.

**Lot Substandard.** A lot or parcel of land which does not meet the minimum lot area, structure setbacks, or other dimensional standards of this Ordinance.

**Lot Width.** The horizontal distance between the side lot lines measured at right angles to the lot depth, at the minimum front building setback line.

**Lot Width (Shoreland).** The shortest distance between lot lines measured at the midpoint of the building line.

**Lowest Floor (Floodplain).** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor. (Ord. 2004-09, 4/14/04).

**Luminaries.** A light fixture.

**Luxury Garage.** A community of storage buildings governed by a Homeowner's Association, for the primary purposes of recreational storage and social gatherings. Permissible uses shall include, but not be limited to, storage of vehicles and recreational equipment, and the creation of social and entertaining spaces for use by individuals and groups, as "man caves", game rooms, wet bars, wine cellars, kitchens and display rooms, and other similar uses. Residential occupancy shall not be permitted.

**Manufactured Home.** See Dwelling, Manufactured Home.

**Manufactured Home (Floodplain).** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include the term "recreational vehicle." (Ord. 2004-09, 4/14/04).

**Manufactured Home Park (Mobile Home Park).** Any site, lot, field or tract of land upon which two 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 a part of the equipment of the manufactured home park.

**Metes and Bounds.** A method of property description 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.

**Mining.** The extraction of land, gravel, rock, soil or other material from the land in the amount of one thousand cubic yards or more and the removing thereof from the site without processing shall be mining. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building

permit.

**Model Home.** A home which is similar to others in a new residential development and is temporarily open to regular public inspections for the purpose of selling other homes in the development.

**Monopole tower.** A tower constructed of tapered tubes that fit together symmetrically and are stacked one section on top of another and bolted to a concrete foundation without support cables (Ord. 2010-04, 7/28/10).

**Motel (Motor Hotel).** A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, 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. Also sometimes described as an Automobile Service Station.

**Motor Home.** A vehicle that provides temporary living quarters and is self propelled or capable of being towed on public roads. Temporary living quarters shall mean:

1. The vehicle is not used as a residence; and.
2. The vehicle is used for temporary living quarters by the owner or occupant while engaged in recreational or vacation activities away from the property.

**Motor Vehicle Sales.** The use of any building or land area for the display and sale of new or used automobiles, trucks, vans, boats, trailers or recreational vehicles.

**MN PUC.** The Minnesota Public Utilities Commission.

**Nonconforming 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.

**Nonconforming Structure or Use, Legal.** Any lawfully established structure or use which on July 20, 2002 (effective date of Ordinance) does not conform to the applicable conditions if the structure or use was to be erected under the guidance of this Ordinance.

**Nonconformity (Shoreland).** Any legal use, structure, or parcel of land already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded, or authorized.

**Noxious Matter or Material.** Material capable of causing injury to living organisms by chemical reaction, or capable of causing detrimental effects on the physical or economic well being of individuals.

**Nursery, Farm.** A wholesale operation for the cultivating, harvesting, and sale of plants, bushes, trees, and other nursery items grown on site or established in the ground prior to sale.

**Obstruction (Floodplain).** Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water. (Ord. 2004-09, 4/14/04).

**Occupancy.** The purpose for which a building is used or designed. The term shall also include the building or room housing such use. Change of occupancy is not intended to include change of tenants or proprietors.

**Occupant.** Any person (including owner or operator) living, sleeping, cooking or eating within a dwelling unit.

**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.

**Open loop geothermal system.** A system that uses groundwater as a heat transfer fluid by drawing groundwater from a well to a heat pump and then discharging the water over land, directly in a water body or into an injection well (Ord. 2010-04, 7/28/10).

**Open Outdoor Storage (Exterior Storage).** Any open land used or occupied for the purpose of outdoor storage of material, equipment, or products accessory to the principal use of the property. Outdoor storage shall not include the temporary parking of licensed and operable motor vehicles in designated parking stalls, or trucks being serviced in designated loading areas or uses defined as Temporary Outdoor Seasonal Sales by this Section. (Ord. 2004-19, 8/11/04).

**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.

**Open Space.** Any open area not covered by structures, including but not limited to the following uses: required or established yard areas, sidewalks, trails, recreation areas, water

bodies, shorelands, watercourses, wetlands, ground water recharge areas, floodplain, floodway, flood fringe, erodible slopes, woodland, and soils with severe limitation for development.

**Open Space, Pedestrian Corridors.** Linear areas for pedestrian travel between open spaces or places of destination, such as walking trails and bicycle paths.

**Open Space, Private.** Any open space owned by a person or persons.

**Open Space, Public.** Any open space publicly owned.

**Open Space, View Shed** - A directional view or vista of an open space from a specified location.

**Ordinary High Water Level (Shoreland).** 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 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 flowages, the ordinary high water level shall be the operating elevation of the normal summer pool.

**Outdoor wood burner.** Any equipment, device or apparatus, or any part thereof, which is installed or constructed for the purpose of combustion of fuel to produce heat, hot water, and/or energy that is used as a component of a heating system providing heat for the interior of a building or for a pool, where the equipment, device, or apparatus is located outside of the building or pool for which the heat, hot water, and/or energy is to be generated. Said device shall be deemed to be outdoors, even if it is located in a building (Ord. 2010-04, 7/28/10).

**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 which is included in a plat and which is subject to future platting prior (based upon an approved preliminary plat) 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.

**Owner.** An individual, association, syndicate, partnership, corporation, trust or any other legal entity holding an equitable or legal ownership interest in land, buildings, structures, dwelling unit(s) or other property.

**Parcel.** An individual lot or tract of land.

**Parking Lot.** A structure utilized for the temporary storage of motor vehicles.

**Parking Pad.** A pad used for parking vehicles, not considered part of the driveway shall be constructed of appropriate surface materials depending on location (see ordinance 1030.07 more specifically). In cases where improved and semi-improved surface materials are required, the

pad must cover the entire area under the vehicle and cannot be placed solely under the wheels of the vehicle. Pad must be approved by the City Engineer and be suitable to control dust, drainage and prevent spillage.

**Parking Ramp.** An accessory structure designed and used for the storage of motor vehicles at, below and/or above grade.

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

**Parkway.** A divided or undivided major thoroughfare having controlled access to adjacent properties and designated as such in the Comprehensive Plan. A parkway also contains a planter strip for planting of low ground cover and street trees and may include pedestrian or bicycle trails.

**Passive solar energy system.** A system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger (Ord. 2010-04, 7/28/10).

**Patio.** A level, surfaced area directly adjacent to a principal building at or within thirty (30) inches of average ground level, without a permanent roof and detached from the principal structure, which is intended for outdoor lounging, dining and the like.

**Pawn Shop.** A business that lends money on deposit or pledge of personal property, or other valuable thing on condition of selling the same back again at a stipulated price, or that lends money secured by chattel mortgage on personal property, taking possession of the property or any part so mortgaged.

**Pedestrian Way.** A public or private right-of-way across or within a block, to be used by pedestrians.

**Performance Standard.** Criterion established for, but not limited to, setbacks, fencing, landscaping, screening, drainage, accessory buildings, outside storage, off-street parking, and to control noise, odor, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat or other nuisance elements generated by or inherent in use of land or buildings.

**Permittee.** The applicant in whose name a valid permit or license is duly issued pursuant to this Ordinance and his/her agents, employees and others acting under his/her direction.

**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 as amended.

**Personal Services.** Personal Services shall include the following: barber shops, beauty salon, electrolysis, manicurist, tanning parlor, physical therapy, therapeutic massage, body piercing, shiatsu, tattooing and complementary and alternative health care practices defined by Minn. Statutes 146A, as amended.

**Photovoltaic system.** A solar energy system that converts solar energy directly into electricity (Ord. 2010-04, 7/28/10).

**Physical Disability.** Encompasses those orthopedic, incoordinative, sight, and hearing disabilities that culminate in the significant reduction of mobility, flexibility, coordination, or perceptiveness and that, singly or in combination, interfere with the individual's ability to live and function independently; that are not the result of the normal aging process; and that are medically diagnosed as chronic conditions.

**Physically Disabled Citizen Residential Housing.** Housing within the City which is particularly suitable as to location and amenities intended solely for physically disabled persons.

**Pipeline.** This term may mean either of the following.

1. A pipe with a nominal diameter of six (6) inches or more that is used to transport hazardous liquids, but does not include pipe used to transport a hazardous liquid by gravity, and pipe used to transport or store a hazardous liquid within a refining, storage, or manufacturing facility, or
2. A pipe operated at a pressure of more than 275 pounds per square inch that carries gas.

**Planned Unit Development (PUD).** A zoning designation which allows a mixing of buildings and uses which cannot be otherwise addressed under this Ordinance, and/or whereby internal site design standard deviations from this Ordinance may be allowed to improve site design and operation. A PUD may contain multiple residential clusters along with non-residential uses that are authorized by the Zoning Ordinance.

**Planned Unit Development (Shoreland).** A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

**Planned Unit Development, Commercial (Shoreland).** Uses that typically provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented.

For example, hotel/ motel accommodations, resorts, recreation vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

**Planned Unit Development, Residential (Shoreland).** A use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example, residential apartments, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments.

**Planning Commission.** The Planning Commission of the City of Big Lake, except when otherwise designated.

**Plat.** A drawing or map of a subdivision, meeting all the requirements of Minnesota Statutes, the City and in such form as required by Sherburne County for purposes of recording. (Ord. 2004-19, 8/11/04).

**Platform.** A detached deck, having no walls or roof, that is no more than thirty (30) inches above average ground level at any point.

**Play and Recreational Facilities.** Facilities customary and incidental to the principal use of the site intended for the enjoyment and convenience of the residents of the principal use and their occasional guests. Such facilities include swing sets, play sculptures, sand boxes, picnic tables, basketball standards, tennis courts, swimming pools, barbecue grills, patios and accessory furniture and the like.

**Premises.** A platted lot or part thereof or unplatted parcel of land, and adjacent right-of-way either occupied or unoccupied non-dwelling structure, including building accessory structures.

**Principal Structure or Use (Floodplain).** All uses or structures that are not accessory uses or structures. (Ord. 2004-09, 4/14/04).

**Principal Structure or Use.** The main use of land or buildings as distinguished from subordinate or accessory uses. “Principal use” may be either permitted, interim, conditional or allowed by administrative permit. Such a use is to be interpreted in the general, broad sense of a given use classification, such as residential, commercial, industrial, etc. and is comprised of and limited to one or more activities specified in a given zoning district.

**Property Line.** The legal boundaries of a parcel of property which may also coincide with a right-of-way line of a road, cartway, and the like.

**Public Use.** Uses owned or operated by municipal, school district, county, state, or other governmental units.

**Public Utility.** Persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or landline telephone service to the general public. For the purpose of this Ordinance, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.

**Public Waters.** Any waters as defined in Minnesota Statutes 103G.005, Subd. 15 and 15a as amended.

1. **Public Waters, General Development:** Those waters whose shores are generally characterized by medium density residential development with or without limited service-oriented commercial development.
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 groundwater 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.

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

**Reach (Floodplain).** A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach. (Ord. 2004-09, 4/14/04).

**Recreation, Commercial.** An accessory use wherein a business offers indoor or outdoor recreational entertainment including such uses as amusement centers, bowling alleys, billiard halls, miniature golf, batting cages, recreational courts, driving ranges, ballrooms, roller rinks, tennis, public swimming pools, dance halls, skating, movie theaters and the like, which is privately owned and operated with the intention of earning a profit by providing entertainment for the public. (Ord 2004-32, 10-27-04).

**Recreation Equipment.** Basketball hoops and backboards, baseball pitch-backs and similar equipment intended to return a thrown or kicked ball or other object, volleyball nets, badminton nets, croquet stakes, horseshoe stakes, or similar equipment. Play apparatus such as swing sets and slides, sandboxes, poles for nets, picnic tables, lawn chairs, barbecue stands, and similar

equipment or structures but not including tree houses, swimming pools, playhouses exceeding twenty-five square feet of floor area, or sheds utilized for storage of equipment.

**Recreation, Field, Structure or Building.** An area of land, water, or any building where 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, or gymnasium is a recreational field or building for the purpose of this Ordinance.

**Recreation, Public.** Includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

**Recreational Camping Vehicles.** Includes, but is not limited to the following operable and licensed vehicles:

1. Camping Trailer. A folding structure mounted on wheels and designed for travel.
2. Motor-home. A portable, temporary dwelling to be used for travel, recreation, and vacation, constructed as an integral part of a self-propelled vehicle.
3. Pick-up Coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.
4. Travel Trailer. A vehicular, portable structure, built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses permanently identified "Travel Trailer" by the manufacturer of the trailer.

**Recreational Vehicle.** A self-propelled vehicle which is used primarily for recreational-leisure time activities and purposes, and which is operable and licensed, as required by the State of Minnesota.

**Recreational Vehicle (Floodplain).** A vehicle that is built on a single chassis, is four hundred (400) square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Chapter, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle. (Ord. 2004-09, 4/14/04).

**Recyclable Materials.** Materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, metals, automobile oil, batteries and other specifically allowed items. Refuse derived material or other material that is destroyed by incineration is not a recyclable material.

**Regional Flood (Floodplain).** 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 recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Study. (Ord. 2004-09, 4/14/04).

**Registered Land Survey.** A survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number.

**Regulatory Flood Protection Elevation (Floodplain).** An elevation no lower than one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway. (Ord. 2004-09, 4/14/04).

**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, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

**Residential Facility, Licensed (Group Home).** A facility required to be licensed by the state or county that provides one or more persons with twenty-four (24) hour per day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation or treatment that cannot be furnished in the person’s own home. Licensed residential facilities (Group Homes) are limited to those facilities licensed and/or regulated by the Department of Human Services and the Department of Health. This does not include licensed facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or facilities licensed by the Department of Corrections.

**Residential wind turbine.** A wind turbine of ten kilowatt (kW) nameplate generating capacity or less (Ord. 2010-04, 7/28/10).

**Restaurant other than Convenience, Delivery, Take-Out, Drive-In or Special Event or Catering.** An establishment which serves food in or on non-disposable dishes. Customers are generally seated at tables, booths or eating counters within the building where food is served for consumption by waiters or waitresses rather than served as pick-up stations by clerks. (Ord. 2004-19, 8/11/04).

**Restaurant, Convenience (Fast) Food.** An establishment which serves food in or on disposable or edible containers in individual servings for consumption on or off the premises. Customers are generally served at a pick-up station by clerks rather than served at tables, booths or eating counters by waiters or waitresses. Also, commonly known as fast food establishments.

**Restaurant, Delivery or Take Out.** An establishment where the exclusive operation is limited to the preparation and sale of food in disposable containers for consumption off the premises. All food sales shall be over the counter sales to customers who pick up and take out food orders

or to food sales which are delivered directly to the customer at a place designated by the customer. Over the counter pick-up and take-out food sales shall not include sales from a drive-through service window.

**Restaurant, Drive In (not drive through type).** Any place or premises used for sale, dispensing or serving of food, refreshments or beverages on the premises, typically eaten in the customer's vehicle on the site.

**Restaurant, Special Event and Catering.** An establishment having a minimum seating capacity of 160 providing food and beverages service, which may include accessory on-sale liquor and live entertainment, where meals are regularly prepared on the premises and served at tables for special events sponsored by persons or entities who are members of the general public, but which is not open for business on a daily basis, and which may provide catering services for special events for consumption off the premises.

**Retail Business.** An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**Retaining Wall.** A structure constructed and erected to prevent erosion between two areas or pieces of property of different elevations.

**Right-Of-Way.** Land acquired by reservation or dedication intended for public use, and intended to be occupied or which is occupied by a street, trail, railroad, utility lines, oil or gas pipeline, water line, sanitary sewer, storm sewer or other similar uses.

**Riparian.** Of, on or pertaining to the bank of a natural course of water.

**Road.** A public right-of-way affording primary access by pedestrians and vehicles to abutting properties, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated. Ingress and egress easements shall not be considered roads.

**Roof Line.** 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.

**Roof or Building Mounted Solar Energy System.** A solar energy system (panels) that are mounted to the roof or building using brackets, stands or other apparatus.

**Rooming House.** Any group of rooms which form single habitable units used or intended to be used for living and sleeping, but not for cooking or eating purposes.

**Rubbish.** Waste products which are composed wholly or partly of such materials as garbage, sweepings, swill, cleanings, trash, refuse, litter, industrial solid wastes or domestic solid wastes;

organic wastes or residue of animals, fruit, or other vegetable or animal matter from kitchen, dining room, market, food establishment or any place dealing or handling meat, fowl, fruit, grain or vegetables; offal, animal excreta, or the carcass of animal; tree or shrub trimmings, or grass clippings, brick, plaster, wood, metal, roofing, materials, pipe or other waste matter resulting from the demolition, alteration or construction of buildings or structures; accumulated waste materials, cans, used containers, boxes and packing materials, junk vehicles, ashes, tires, junk, Christmas trees, rocks, sod, dirt, glass, jars, bottles, auto parts, cement brick, leaves, burn barrels, household appliances, furniture, toys, floor coverings, fabric, drain oil, solvents and fluids, or other such substances which may become a nuisance.

**Scenic Easement.** An interest in land, less than fee title, that limits the use of the land for the purpose of protecting the scenic, recreational, and natural characteristics of lake, river and unique view areas of the City. Unless otherwise expressly and specifically provided by mutual agreement of the parties, the easement shall be perpetually held for the benefit of the people of Minnesota; specifically enforceable by its holder or any beneficiary; and binding on the holder of the servient estate, his heirs, successors, or assigns. Unless specifically provided by the parties, no such easement shall give the holder or any beneficiary the right to enter on the land except for enforcement of the easement.

**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, 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 secures all or the major part of its funding from governmental sources and is operated by a public agency or governmental unit.

**Screening.** A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation.

**Secondary Use.** 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.

**Selective Cutting.** The removal of single scattered trees.

**Semi-Public Use.** Uses owned by private or private non-profit organizations which are open to some, but not all, of the public.

**Semi Trailer.** 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.

**Sensitive Resource Management (Shoreland).** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

**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 service and other uses of similar character.

**Service Business (On-Site).** An establishment that provides useful labor, maintenance, repair and activities incidental to business production and distribution where the customer patronizes the location of the operation, such as banks, copy centers, laundromats, dry cleaners, funeral homes and mortuaries, animal clinics, appliances repair, tailor shops and travel bureaus.

**Setback.** The minimum horizontal distance between the foundation wall of a structure and the property line nearest thereto; within shoreland districts it shall also mean the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

**Setback, Front.** A space extending the full width of the lot between the front façade of the principal building and the public right-of-way from which the dwelling is addressed and measured perpendicular to the building at the closest point to the front lot line.

**Setback, Rear.** The area between the rear lot line and the rear setback line.

**Setback, Riparian.** The area between the ordinary-high-water mark of a water body and the rear building line.

**Setback, Side.** The area between the side lot line and the side setback line, bounded by the front yard and rear yard.

**Sewage.** Sewage is any water-carried domestic waste, exclusive of footing and roof drainage of any residence, industry, agriculture or commercial establishment, whether treated or untreated and includes the liquid wastes produced by bathing, laundry and culinary operation, and from toilets and floor drains. Raw sewage is sewage which has not been subjected-to any treatment process.

**Sexually Oriented Uses.** Uses which include a sexually oriented arcade; sexually oriented bookstore, sexually oriented video store, sexually oriented store; sexually oriented cabaret; sexually oriented conversion/rap parlor' sexually oriented massage parlor; sexually oriented motel; sexually oriented motion picture theater; sexually oriented steam room, bath house or sauna; sexually oriented theater; escort agency; nude model studio; sexual encounter center 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 Statute, section 617.241 are not included.

1. **Specified Anatomical Area.** Means any of the following:
  - a. Less than completely and opaquely covered human genitals, pubic region, buttocks, and female breast below a point immediately above the top of the areola;
  - b. Human male genitals in a discernible turgid state, even if opaquely covered.
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 a through d above.

**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 sexually oriented books or magazines, or the sale and/or rental of sexually oriented motion pictures, the sale of sexually oriented novelties.

**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 breasts; or
  - b. The state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.
5. **Semi-Nude.** 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.
6. **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 semi-nude.
7. **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.”

8. **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:
  - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes 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, video cassettes, 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 reason of age, or which provides for any form of consideration, the rubbing, striking, 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 transmission, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual 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 subrent 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, video cassettes, 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 heat bathing room used for the purpose of bathing, relaxing, 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.”
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 liver performances which are characterized by the exposure of “specified anatomical areas” or “specified sexual activities”.

**Shiatsu.** A massage in which finger pressure is applied to those areas of the body used in acupuncture.

**Shopping Center.** A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

**Shore Impact Zone (Shoreland).** 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.

**Shoreland (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.

**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, product, or business, and are visible to the general public.

**Site Plan.** A map, drawn to scale indicating the development of a tract of land including, but not limited to, the following items: color architectural renderings and building elevations (four

sides), screening, landscaping, exterior materials, signage, lighting, parking, mechanical equipment, outdoor storage and waste handling areas.

**Sketch Plan.** A rough sketch map and supportive text depicting the location, general purpose, general type of land use and circulation pattern, primary relationships between site elements and between the proposed development and surrounding development, proposed general schedule of development, and information on the proposed developer.

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

**Slope, Steep.** 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.

**Small wind turbine.** A wind turbine of 100 kW nameplate generating capacity or less (Ord. 2010-04, 7/28/10).

**Solar Access.** A view of the sun, from any point on the collector surface that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 AM and 3:00 PM Standard time on any day of the year.

**Solar Collector.** A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, mechanical, chemical or electrical energy.

**Solar Energy.** Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

**Solar Energy System.** A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation or water heating (Ord. 2010-04, 7/28/10).

**Solar Farm.** A commercial facility with a generating capacity of more than 5 megawatts that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the primary land use for the parcel on which it is located.

**Solar Garden.** A community solar energy system.

**Solar Mounting Devices.** Racking, frames, or other devices that allow the mounting of a solar collector onto a roof surface or ground.

**Solar Storage Unit.** A component of a solar energy device that is used to store solar generated electricity for later use.

**Sound Barrier.** A structure constructed of sound dampening material intended to reduce the audible noise level between two areas or pieces of property.

**Sound Source Control Plan.** A plan that identifies any potential noise source which may occur in connection with a request for zoning approval, including specific actions that will successfully mitigate the potential undesirable effects of the noise source.

**Spot Zoning.** A change in district boundaries, variances, and other amendments to the Zoning Ordinance and use and area maps that violate sound principles of zoning and are characterized by the following:

1. Individuals seek to have property rezoned for their private use.
2. Usually the amount of land involved is small and limited to one or two ownerships.
3. The proposed rezoning would give privileges not generally extended to property similarly located in the area.
4. Applications usually show little or no evidence of, or interest in, consideration of the general welfare of the public, the effect on surrounding property (including adequate buffers), whether all uses permitted in the classification sought are appropriate in the locations proposed, or conformity to the Comprehensive planning principles (including alterations to the population density patterns and increase of load on utilities, schools, and traffic).

**State.** The State of Minnesota.

**Storable Swimming Pool.** A swimming pool with nonmetallic, molded polymeric walls or inflatable fabric walls constructed on or above the ground which is so constructed that it may be readily disassembled for storage and reassembled to its original integrity.

**Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is not a floor above it, the space between the floor and the ceiling next above it.

**Story, Half.** A story with at least two exterior sides meeting a sloping roof not more than two feet above the floor of the story.

**Street.** A public right-of-way which affords primary means of access to abutting property, and shall also include avenue, highway, road, or way.

**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 and through lot have two frontages.

**Street Width.** The width of the right-of-way, measured at right angles to the centerline of the street.

**Structure.** Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, sheds, detached garages, cabins, manufactured homes and travel trailers/vehicles.

**Structure (Floodplain).** Anything constructed or erected on the ground or attached to the ground or on-site utilities including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, and recreational vehicles not meeting the exemption criteria specified in Section 1064.07, Subd. 3., Item 1 of this Chapter and other similar items. (Ord. 2004-09, 4/14/04; Ord. 2011-05, 09-14-11).

**Structure Height.** A distance to be measured from the mean ground level to the top of the structure.

**Structure (Shoreland).** Any building or appurtenance, including decks, except aerial or underground utility lines such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

**Structure, Public.** An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner which is owned or rented, and operated by a federal, state, or local government agency.

**Structural Alteration.** Any change, other than incidental repairs, which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

**Subdivision.** The separation of an area, parcel, or tract of land under single ownership into two (2) or more parcels, tracts, lots, or long term leasehold interests where the division necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

1. Where all the resulting parcels, tracts, lots, or interests shall be twenty (20) acres or larger in size and five hundred (500) feet in width for residential uses and five (5) acres or larger in size for commercial and industrial uses.
2. Creating cemetery lots.
3. Resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary.

**Subdivision (Shoreland).** Land that is divided for the purpose of sale, rent, or lease, including planned unit developments.

**Substandard Use (Shoreland).** Any use of Shoreland in existence prior to the date of enactment of this Ordinance (October 29, 1985), which shall be permitted within the applicable zoning districts, but do not meet the minimum lot area, setbacks, or other dimensional requirements of this Ordinance, shall be considered substandard uses.

**Substantial Damage (Floodplain).** Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. (Ord. 2004-09, 4/14/04).

**Substantial Improvement (Floodplain).** Within any consecutive three hundred sixty five (365) day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
2. Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Chapter, “historic structure” shall be as defined in Code of Federal Regulations, Part 59.1. (Ord. 2004-09, 4/14/04).

**Surface, Improved.** A surface that is either concrete, asphalt, or made of pavers.

**Surface, Semi-improved.** A surface that is gravel, class five gravel, crushed rock, or made of similar composite.

**Surface, Unimproved.** A surface that is grass, compacted earth, or naturally occurring.

**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.

**Surveyor.** A land surveyor registered under Minnesota State laws.

**Swimming Pool.** Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches at any point or a surface area exceeding one hundred fifty (150) square feet. This includes in-ground, above ground and on-ground swimming pools; hot tubs; portable and non-portable spas; and fixed-in-place wading pools.

**Taproom.** An establishment offering for consumption malt liquor produced in an on-premises or adjacent brewery. Minnesota Statutes 340A Rules apply. (Ord. 2014-01; 03/26/14)

**Tattooing.** The marking of the skin of a person with insertion of permanent colors by introducing them through puncture of the skin.

**Temporary Outdoor Seasonal Sales.** Sidewalk sales (maximum 14 consecutive days per calendar year), special event sales (maximum 14 consecutive days per calendar year) and the temporary sale of agricultural produce, Christmas trees, fireworks, flowers, food vendors such as ice cream, hot dogs, popcorn stands and the like, sold and conducted by the operators of a legitimate, established business within the appropriate zoning district in the City of Big Lake. (Ord. 2004-19, 8/11/04; Ord. 2010-04, 07/28/10)).

**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.

**Therapeutic Massage.** A scientific health care, health maintenance and rehabilitation technique, carried out by a massage therapist, involving the massaging and kneading of human skin, muscles and tissues for the exclusive purpose of easing mental and physical tension, alleviation of aches and pains, the breaking up of fatty tissues and muscle spasms, physical fitness, relaxation, beautification, or improvement of circulation through the body, and for no other purpose.

**Total height.** The highest point above natural grade reached by a rotor tip or any other part of a wind turbine (Ord. 2010-04, 7/28/10).

**Tower.** A vertical structure that supports a wind turbine (Ord. 2010-04, 7/28/10).

**Toxic and Hazardous Wastes.** Waste materials including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive materials and similar harmful chemicals and wastes which require special handling and must be disposed of in a manner which conserves the environment and protects the public health and safety.

**Transit-Oriented Development (TOD).** The functional integration of land use and transit via the creation of compact, walkable, mixed-use communities within walking distance of a transit stop or station.

**Transit Station.** A building or area which serves as a regular stopping place for busses, commuter rail 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.

**Tree, Significant.** Trees which are healthy, measure a minimum of eight (8) inches in diameter at a distance of fifty-four (54) inches above ground, and are a minimum of four (4) inches in diameter for conifers.

**Undue Hardship.** As used in connection with the granting of a variance, undue hardship means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes, but is not limited to, 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 equipped and intended and maintained for either active or passive recreation or both, available and accessible to and useable by all persons occupying a dwelling unit or rooming unit on the lot or a development project, 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 useable space.

**Use.** The purpose or activity for which land, premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied, utilized or maintained, and shall include the performance of such activity as defined by the performance standards of this Ordinance.

**Utility wind turbine.** A wind turbine of more than 100 kW nameplate generating capacity (Ord. 2010-04, 7/28/10).

**Variance.** A modification of or variation from the provision of this Chapter consistent with the State enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this Chapter, 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.

**Variance (Floodplain).** A modification of a specific permitted development standard required in an official control including this Chapter to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a hardship, practical difficulty or property for the purpose of alleviating a hardship, practical difficulty or unique circumstance as defined and elaborated upon in a community's respective Zoning Ordinance. (Ord. 2004-09, 4/14/04).

**Vehicle, Commercial.** A motor vehicle that meets the following:

1. The vehicle is a dump truck, a step van, a tow-truck, a truck tractor with or without a semi trailer, a tank truck, a tractor, a bus or coach, a cargo truck, a construction vehicle or equipment, a van or pickup with a manufacturer's gross vehicle weight rating (GVWR) of more than one ton; or has a GVWR of twelve thousand (12,000) pounds or more.

2. Commercial equipment has been added to the vehicle such as winches or snowplows.
3. Commercial racks have been added to the vehicle for the purpose of holding equipment or materials.
4. The vehicle is a limousine or taxi.
5. The vehicle is a trailer loaded with another commercial vehicle or commercial equipment.

**Vehicle, Motorized.** A vehicle shall include but is not limited to; any vehicle with a motor/engine, a passenger automobile, van, pickup truck, truck-tractor, converted bus, coach, rig, motorcycle, all-terrain-vehicle, snowmobile, race car, dune buggy, boat, jet-ski, lawn tractor, riding lawn mower, or other deemed a motor vehicle by the Big Lake Police Department or Zoning Administrator.

**Vehicle, Non-motorized.** A vehicle that is not strictly self-propelled; which includes a semi trailer, storage trailer, trailer used for carrying motorized vehicles, equipment or materials, traveler trailer, chassis-mounted camper, converted bus, boat, or other deemed a non-motorized vehicle by the Big Lake Police Department or Zoning Administrator.

**Vertical axis wind turbine.** A type of wind turbine where the main rotor shaft runs vertically (Ord. 2010-04, 7/28/10).

**Vertical geothermal system.** A closed loop ground source heat pump system where the loops or coils are installed vertically in one or more borings below the land surface (Ord. 2010-04, 7/28/10).

**Veterinary Clinic.** A clinic operated by a licensed veterinarian exclusively for the diagnosis, treatment, correction, relief, or prevention of animal disease, deformity, effect, 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 advise or recommendations with regard to any of the above.

**Visually Inconspicuous.** Difficult to see or not readily noticeable in summer months as viewed from public waters, assuming leaf-on conditions.

**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, 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 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.** 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. Surface water features classified as wetlands in the United States Fish and Wildlife Service Circular #39 (1971 edition), which shall hereby be incorporated by reference, and is available through out the Minitex interlibrary loan system, and is not subject to frequent change, or by applicable State law. For purposes of this Ordinance, wetlands must have the following three attributes:

1. Have a predominance of hydric soils. (Hydric Soils are defined as: soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part).
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. (Hydrophytic Vegetation is defined as: 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).
3. Under normal circumstances, support a prevalence of such vegetation.

**Wetland Transition Area.** Land area around a wetland which could be encroached upon by standing water during a heavy storm, and which provides a natural habitat for local wetland plants and animals.

**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).

**Wind energy system.** An electrical generating facility that consists of a wind turbine, feeder line(s), associated controls and may include a tower (Ord. 2010-04, 7/28/10).

**Wind turbine.** Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind (Ord. 2010-04, 7/28/10).

**Yard.** A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Ordinance. The yard extends along the lot line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

**Yard, Front.** A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such lot is located. In the case of a corner lot abutting one or more streets, both yards shall be considered front yards.

**Yard, Rear.** The portion of the yard on the same lot with the principal building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

**Yard, Required.** That distance specified in the yard requirements pertaining to setbacks. Setbacks and required yards are used interchangeably.

**Yard, Side.** The yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.

**Zoning Amendment.** A change authorized by the city either in the allowed use within a district or in the boundaries of a district.

**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 Ordinance.

**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 Ordinance as part thereof, designating the zoning districts.