



City of Lake Elmo

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NOTICE OF MEETING

The City of Lake Elmo
Planning Commission will conduct a meeting on
Monday, November 13, 2006, at 7:00 p.m.

AGENDA

1. Pledge of Allegiance
2. Agenda Approval
3. Minutes
 - a. September 11, 2006
4. Zoning Ordinance
 - a. Zoning Districts
5. City Council Update
6. Adjourn

MEMO

(November 9, 2006 for the Meeting of November 13, 2006)

To: Lake Elmo Planning Commission

From: Kelli Matzek, Assistant Planner

Subject: Zoning Code Rewrite

We will be discussing the following topics:

- Definitions

Definitions

I have included thirty-five out of the sixty pages of definitions. I hope to bring the rest of the pages to the next meeting.

Wireless Telecommunication Tower Permit and Amateur Radio Tower Antenna

This code is pulled from the existing text found in Chapter 13 of the Lake Elmo City Code. Proposed text regarding this topic was brought to the October 23rd meeting. The existing text was found to be sufficient and is presented here.

Manufactured Home Park Closings

At the November 6th meeting, there was some question as to whether the amount of relocation costs for manufactured homes was sufficient. I began with the dollar amounts originally adopted in the code from 1997 and updated the amounts up to 2007 by following the process outlined in 154.595.D. The resulting numbers were rounded up and can be found in 154.595 A and B.

I have utilized the legislative formatting suggested by the Planning Commission at a previous meeting. The regular text is the existing Lake Elmo Code. The bold text identifies from where the existing Lake Elmo code was pulled. The underlined text is proposed and the striken text is removed. The proposed language I have pulled from other city codes (Oak Park Heights and Plymouth primarily).

Changes were made to correct generic spelling mistakes and the format was changed.

The next meeting will be held on **Monday, November 27th at 7:00 p.m.** At that time we will be discussing the following topics:

- Remaining Definitions
- Fees
- Accessory Structures - Revised
- Any outstanding items

DEFINITIONS

154.031 DEFINITIONS.

For the purpose of this code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABUTTING. Making direct contact with or immediately bordering.

ACCESSORY BUILDING. A subordinate building, or a portion of the main building, which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building.

ACCESSORY STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

ACCESSORY USE. A use incidental or subordinate to the principal use of the same land.

ADDITION. A physical enlargement of an existing structure.

ADJACENT LANDS. ~~Lands within 300 feet of the normal high water mark or any identified wetland.~~

ADJACENT. In close proximity to or neighboring, not necessarily abutting.

ADULT ESTABLISHMENT. Adult Establishment means:

(1) **Adult Patronage.** Any business that is conducted exclusively for the patronage of adults and that excludes minors from patronage, either by operation of law or by the owners of the business;

(2) **Receipts; Floor Area; Types of Merchandise.** Any business that (i) derives 25% or more of its gross receipts during any calendar month from, or (ii) devotes 25% or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, describing, discussing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or

(3) **Adult Usage.** Any business that engages in any Adult Use.

ADULT USES, GENERALLY. “Adult Uses” are 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, heard, or

smelled by members of the public. Adult Uses include, but are not limited to, the following:

(1) Adult Body Painting Studio. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of "Specified Anatomical Areas."

(2) Adult Bookstore. A building or portion of a building used for the barter, rental or sale of items consisting of printed matter specifically included, but not limited to, greeting cards, pictures, slides, records, audio tape, videotape or motion picture film if such building or portion of a building is not open to the public generally but only to one or more classes of the public excluding any minor by reason of age or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

(3) Adult Cabaret. A building or portion of a building used for providing dancing or other live entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of Specified Sexual Activities or Specified Anatomical Areas.

(4) Adult Companionship Establishment. A companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(5) Adult Conversation/Rap Parlor. A conversation/rap parlor which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk or discussion, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(6) Adult Health/Sport Club. A health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(7) Adult Hotel or Motel. Adult hotel or motel means a hotel or motel from which minors are specifically excluded from patronage by reason of age and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to Specified Sexual Activities or Specified Anatomical Areas.

(8) Adult Massage Parlor, Health Club. A massage parlor or health club which restricts minors by reason of age, or which provides the services of massage, if such service is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(9) Adult Motion Picture Theater. A building or portion of a building used for presenting material if such building or portion of a building as a prevailing practice excludes minors by reason of age, or if such material is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons therein.

(10) Adult Modeling Studio. A modeling studio which restricts minors by reason of age, or whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers, or who engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

(11) Adult Motion Picture Arcade. Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated, still or motion picture machines, projectors or other image-producing devices (including, but not limited to images from CD-ROM and/or the Internet) are maintained to show images to five or few persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

(12) Adult Novelty Business. An establishment or business engaged in the sale of novelty items which:

(a) Restricts minors by reason of their age; or

(b) Has as its principal activity the sale of devices and other products which:

1. Stimulate human genitals or devices which are designed to create sexual stimulation or excitement; or,

2. Are otherwise designed to stimulate or arouse sexual excitement in any manner whatsoever, specifically including, but not limited to, items such as inflatable dolls or similar devices; or,

3. Is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(13) Adult Sauna. A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

(14) Adult Steam Room/Bathhouse Facility. A building or portion of building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

AGRICULTURAL BUILDING. A structure on agricultural land, as defined below in the definition for **FARM, RURAL** of this section, designed, constructed, and used to house farm implements, livestock; or agricultural produce or products grown by the owner, lessee, or sub-lessee of the building and members of their immediate families, their employees, and persons engaged in the pickup or delivery of agricultural produce or products or livestock raised on the premises. The term "agricultural building" shall not include dwellings.

AGRICULTURAL MUSEUMS. The keeping, restoration, maintenance and display of the structures, tools and equipment utilized in the production of agricultural products. Restoration and maintenance activity shall be limited to those structures, tools, and equipment permanently kept on display on the premises. Retail or wholesale sales of any product are specifically excluded.

AGRICULTURE. A rural farm is a commercial food-producing use on 10 or more contiguous acres and as now defined under a portion of Minnesota Agricultural Property Tax Law (Green Acres Law) § 273.111 Agricultural Property Tax, Subdivision 6, as it may be amended from time to time, to wit: Real property shall be considered to be in agricultural use provided that annually:

(1) At least 33 - 1/3 percent of the total family income of the owner is derived from the farm, or the total family income, including rental from property is \$300.00 plus \$10.00 per tillable acre; and

(2) It is devoted to the production of sale of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, apiary products, by the owner.

AIRCRAFT. Any contrivance now known or hereafter invented, used or designed for navigation of or manned flight in the air, including without limitation, airplanes, helicopters, and ultra lights.

AIRPORT/HELIPORT. Any premises which are used, or intended for use, for the landing and takeoff of aircraft, together with any appurtenant areas which are used or intended for use for buildings, structures or facilities incidental to aircraft services such as those for refueling, maintenance, or repair.

ALL-TERRAIN VEHICLE. A motorized floatation-hired vehicle of not less than 3 low pressure tires, but not more than 6 tires, that is limited in engine displacement of less than 800 cubic centimeters and total dry wet less than 800 pounds.

ALLEY. ~~A public or private right of way primarily designed to serve as secondary access to the side or rear of those properties where the principal frontage is on a street. Any public space or thoroughfare less than sixteen (16) feet but not less than ten (10) feet in width which has been dedicated or deeded to the public for public use and designed to provide secondary property access.~~

ANIMALS, DOMESTIC FARM. Cattle, hogs, horses, bees, turkeys, geese, sheep, goats, chickens, and other animals commonly accepted as farm animals in the State of Minnesota. ~~kept for commercial food producing purposes.~~

ANIMALS, DOMESTIC PETS. ~~For purposes of this Chapter, a domestic animal shall be defined as house pets such as dogs, cats, birds, and similar animals, commonly kept in a residence, which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit from the City. In addition, it includes birds and rabbits normally sheltered outside the home.~~

ANIMAL FEEDLOTS. ~~A lot or building 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.~~

ANIMALS, WILD. ~~Any animal that is wild, ferocious, or vicious by nature, habit, disposition or character. Animals in this category include any ape (including chimpanzee, gibbon, gorilla, orangutan, or siamang), baboon, bear, bison, bobcat, cheetah, crocodile, coyote, deer (including members of the deer family such as elk, antelope and moose), elephant, ferret, fox, hippopotamus, hyena, jaguar, leopard, lion, lynx, monkey, puma, also known as cougar, mountain lion or panther, rhinoceros, a snake which is poisonous, or any constrictor snake, snow leopard, tiger, wolf, or hybrid mix of any of the wild animals such as wolf/dog mixes.~~

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.~~

ANTENNAE. ~~The portion of any equipment used to radiate or receive radio frequency energy for transmitting or receiving radio or television waves. ANTENNAE may consist of metal, carbon fiber, or other electromagnetically conductive rods or elements.~~

ANTENNAE. The portion of any equipment used to radiate or receive radio frequency energy for transmitting or receiving radio or television waves. **ANTENNAE** may consist of metal, carbon fiber, or other electromagnetically conductive rods or elements.

APARTMENT. A room or suite of rooms with cooking facilities designed to be occupied as a residence by a single family.

APPLICANT. ~~A person that makes an application to the city on an application form provided by the City Administrator.~~ The owner, their agent or person having legal control, ownership and/or interest in land which the provisions of this Chapter are being considered for or reviewed.

ATTORNEY. The City Attorney.

AUTO OR MOTOR VEHICLE REDUCTION YARD. A lot or yard where 1 or more unlicensed motor vehicles, or the remains of an unlicensed motor vehicle, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment.

AUTOMOBILE DETAILING SHOP. A service providing extensive exterior and interior hand-operated cleaning, shampooing, polishing, and waxing of automobiles, including engine cleaning, where the cleaning and detailing operation may take several hours.

AUTOMOBILE REPAIR, MAJOR. Any building or premises or portion thereof where the primary use involves engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service including body, frame, or fender straightening or repair; and overall painting of vehicles.

AUTOMOBILE REPAIR. ~~The replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission, or differential, incidental body and fender work, minor painting, and upholstering service when the service is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross vehicle weight.~~

AUTOMOBILE REPAIR, MINOR. Any building or premises or portion thereof where the primary use involves incidental repairs, replacement of parts, including tires, brakes, transmissions, mufflers and exhaust systems, batteries, etc., lubrication and motor service to automobiles. Services offered may include engine rebuilding and reconditioning accessory to the primary use, but shall not include any other operation specified under "automobile repair, major".

AUTOMOBILE WASH (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.

AUTOMOBILE SERVICE STATION (GAS STATION). A place where any motor fuel, lubricating oil, or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing and oiling and sale of automobile accessories on the premises. This definition also includes minor repairs and replacement of parts and motor services to passenger vehicles and small trucks not exceeding 1 and 1/2 ton capacity. This definition shall not include major repair, rebuilding, or conditioning of engines, motor vehicles, or trailers; collision service, including body, frame, or fender straightening or repair; overhaul, painting or paint job, vehicle steam cleaning, or automatic car or vehicle washing devices.

AUTOMOBILE SERVICE USES. Those uses catering to the traveling public. These include auto and truck laundry, service station, repair garage, public garage, motel, hotel, seasonal produce sales, motor vehicle sales, trailer sales and rental, boat sales, rental services, and restaurants. The sale of groceries and dry goods is also included in this section when the sale of the goods is an accessory use to the above automobile service uses.

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, having its floor or base subgrade (below ground level) on all 4 sides, regardless of the depth of excavation below ground level. Any floor level below the first story in a building, except that a floor level in a building having only one (1) floor shall be classified as a basement unless such floor level qualifies as a first story as defined herein. In the floodplain, a basement is 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.

BAY. Cantilevered area of a room.

BEAUTY SALON. Any commercial establishment, residence, or other establishment, place, or event wherein cosmetology, including hair care, nail care, and skin care, is offered or practiced on a regular basis for compensation.

BED AND BREAKFAST ESTABLISHMENT. A single family dwelling in which six (6) or fewer transient guest rooms are rented on a nightly basis for periods of less than one (1) week and where at least one (1) meal is offered in connection with the provision of sleeping accommodations only.

BEDROOM. Any room within a dwelling unit which, by virtue of its design and location, might reasonably be used as a sleeping room.

BLOCK. An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

BLUFF IMPACT ZONE. A bluff and land located within 20 feet from the top of a bluff.

BLUFF. A topographic feature such as a hill, cliff, or embankment having the following characteristics. (An area with an average slope of less than 18% over a distance of 50 feet or more shall not be considered part of the bluff.)

- (1) Part or all of the feature is in a Shoreland area;
- (2) The slope rises at least 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 25 feet or more above the ordinary high water level averages 30% or greater; and
- (4) The slope must drain toward the water body.

BOARDING HOUSE. A building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for 3 or more unrelated persons, but not to exceed 8 persons.

BOATHOUSE. A structure designed and used solely for the storage of boats and boating equipment.

BODY ART. Physical body adornment, including but not limited to, piercing of body parts other than ears, and tattooing.

BODY ART ESTABLISHMENT. Any premises where body art is offered or performed.

BONA FIDE CLUB. A club organized for social or business purposes, for intellectual improvement, or for the promotion of sports, where the serving of 3.2% malt liquor is incidental to and not a major purpose of the club.

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

BUFFER. The use of land, topography, difference in elevation, space, fences, or landscape planting to screen or partially screen a use or property from the vision of another use or property, and thus reduce undesirable influences such as: sight, noise, dust and other external effects.

BUFFER STRIP. An area of vegetated ground cover abutting a wetland that, either in its condition or through intervention, has the characteristics identified in Section 21670.08 of this Chapter.

BUILDABLE LAND AREA. The gross land area less the unbuildable land area that includes hydric and restrictive soils, land with slopes over 25%, wetlands, and areas that cannot accommodate septic systems. The space remaining on a lot after the minimum setback and open space requirements of this Chapter have been met.

BUILDING. Any structure having a roof and built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

BUILDING CODE. Minnesota State Building Code.

BUILDING DRAIN. The part of the lowest piping of the drainage system which receives the sewage discharge inside the walls of the building and conveys it to the building sewer which begins at least 1 foot outside the building line.

BUILDING HEIGHT. The vertical distance from the average of the highest and lowest point of grade for that portion of the lot covered by building to the highest point of the roof for flat roofs; to the roof deck line of mansard roofs; and to the mean height between eaves and highest ridge for gable, hip, and gambrel roofs.

BUILDING LINE. A line parallel to a lot line, street easements, or the ordinary high water level at the required setback beyond which a structure may not extend. In the case of street easements, the building line shall be the required front yard plus one-half (1/2) the easement width measured from the centerline.

BUILDING OFFICIAL. The officer or other designated authority, certified by the state, charged with the administration and enforcement of the State Building Code, or officer's duly authorized representative.

BUILDING SETBACK LINE. A line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluff line, or a high water mark or line, behind which buildings or structures must be placed.

BUILDING SETBACK. The minimum horizontal distance between the building and the lot line.

BUILDING. Any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or movable property of any kind. When any portion of a building is completely separated from every other part of a building by area separation, each portion of the building shall be deemed as a separate building.

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

BUSINESS OF REFUSE COLLECTION. Operating a refuse collection service for hire.

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

CALIPER INCHES. The diameter of a tree measured at six inches above the ground (usually used for trees whose trunks are less than 4 inches in diameter).

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

CARPORT. An automobile shelter having 1 or more sides open.

CELLAR. The portion of the building having more than 1/2 of the clear floor-to-ceiling height below the average grade of the adjoining ground or with a floor-to-ceiling height of less than six and one-half (6.5) feet.

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

CEMETERY, PET. A site set apart for the burial of pets.

CHURCH. A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

CIGARETTE VENDING MACHINE. Any automatic vending machine used for the sale of cigarettes and matches, and controlled by the insertion of a coin or coins; it shall not include machines or devices used solely for the vending of service, food, or confections.

CITY. The area within the corporate boundaries of the City of Lake Elmo, Minnesota, as presently established or as amended by ordinance, annexation, or other legal actions at a future time. The term **CITY** when used in this code may also be used to refer to the City Council and its authorized representatives.

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

CITY BUILDING OFFICIAL. The person designated by the City Administrator to be the City Building Official for the City of Lake Elmo.

CITY COUNCIL. The governing body for the City of Lake Elmo.

CITY ENGINEER. The person designated by the City Administrator to be the City Engineer for the City of Lake Elmo.

CITY FORESTER. The person designated by the City Administrator to be the City Forester for the City of Lake Elmo.

CITY'S TRADE AREA. The area located within the city limits and the area located within the limits of all Minnesota cities and townships which are contiguous to the city.

CLEAR CUTTING. The removal of an entire stand of trees and/or vegetation.

CLOSURE STATEMENT. A written statement prepared by the park owner which includes the following information:

(1) A statement that the manufactured home park, or a portion of the manufactured home park, is closing and the anticipated date of closing;

(2) A statement addressing the availability, location, and potential cost of other manufactured home park lot sites located within a 25 mile radius of the manufactured home park that is being closed; and

(3) A statement of the probable relocation costs within a reasonable range which will be incurred by the park residents in order to relocate the park resident's manufactured home to a manufactured home park within a 25 mile radius.

CLUB or LODGE. A nonprofit association or persons who are bona fide members paying annual dues.

CLUB, PRIVATE. A place of assembly and activity where membership is required and directed toward and limited to people with specific interests or of a specific group.

CLUB, PUBLIC. A place of assembly and activity where membership typically is required and is directed toward the general public, and where the sponsoring organization is non-profit.

CLUB, SPORTS AND FITNESS. A club or activity where membership may be required and is directed toward the general public with the commercial promotion of sports and physical fitness.

~~**CLUB.** Any corporation duly organized under the laws of Minnesota for civic, fraternal, social, or business purposes, or for intellectual improvement or for the promotion of sports or a congressionally chartered veterans' organization if it meets all of the following conditions:~~

~~—— (1) It shall have more than 50 members.~~

~~—— (2) For more than a year, it shall have owned, hired, or leased a building or space in a building of the extent and character as may be suitable and adequate for the reasonable and comfortable accommodation of its members.~~

~~(3) Its affairs and management shall be conducted by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.~~

~~(4) None of its members, officers, agents, or employees shall be paid directly or indirectly any compensation by way of profit from the distribution or sale of beverages to the members of the club, or to its guests, beyond the amount of the reasonable salary or wages as may be fixed and voted each year by the governing body of the club.~~

CODE, THIS CODE, or THIS CODE OF ORDINANCES. This city code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COFFEE HOUSE. An informal restaurant primarily offering coffee, tea and other beverages, and where light refreshments and limited menu meals may also be sold.

COMMERCIAL FOOD PRODUCING FARM OPERATIONS. See **FARM/RURAL.**

COMMERCIAL LUMBERING OR HARVESTING OF FOREST PRODUCTS. Any removal of trees that may result in the commercial sale of any wood or product of the tree.

COMMERCIAL USE. The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

COMMISSIONER (SHORELAND). The Commissioner of the Department of Natural Resources.

COMMON GARDENS. Land used by residents of a development for the production of trees, vegetables, fruits, and flowers.

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 CENTER. A building or room or group of rooms within a building designed specifically as a gathering place for the general public or for a specific segment of the general public and operated on a non-profit basis.

COMMUNITY SERVICE AGRICULTURE. Horticulture and floriculture that serves the local area.

COMPREHENSIVE PLAN. The policies, statements, goals, and interrelated plans for private and public land and water use, transportation, and community facilities, including recommendations for planned execution; documented in texts, ordinance, and maps, which constitute the guide for the future development of the community or any portion of the community.

CONDITIONAL USE. ~~A specific type of structure or land use listed in individual zoning districts that may be allowed but only after an in depth review procedure and with appropriate conditions or restrictions as provided in the zoning code. Those occupations, vocations, skills, arts, businesses, professions, or uses specifically designated in each zoning district, which for the respective conduct or performance in such designated districts may require reasonable, but special, unusual or extraordinary limitations peculiar to the use for the protection, promotion and preservation of the general public welfare, health and safety, and the integrity of the City Comprehensive Plan and for which a conditional use permit is required.~~

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

CONDOMINIUM. See *DWELLING, MULTIPLE OR APARTMENT BUILDING*.

CONFERENCE CENTER. A facility used for business or professional conferences and seminars, often with accommodations for sleeping, eating, and recreation.

CONSERVATION EASEMENT. An interest in real property created in a manner that imposes limitations or affirmative obligations regarding the use of property, including the retention, protection, and maintenance of open space.

CONTRACTOR MAINTENANCE SHOP. An area and/or building devoted to use by a person who contracts to do certain work in the fields of building or construction trades. If there is outside storage of construction equipment, it shall be placed to the rear of the contractor's maintenance shop, and screened from adjacent properties by a landscape plan approved by the City Council.

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.

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

COUNCIL. ~~The governing body of the city.~~

COUNTY. Washington County, Minnesota.

CURB LEVEL. The grade elevation of the established curb in front of the center of the building—a building measured at the center of such front. Where no curb has been

established, the ~~community engineer~~ City Engineer shall determine a curb level or its equivalent for the purpose of this section.

CURRENCY EXCHANGE. Any person, except a bank, trust company, savings bank, savings association, credit union, or industrial loan and thrift company, engaged in the business of cashing checks, drafts, money orders, or travelers' checks for a fee. The term does not include a person who provides these services incidental to the person's primary business if the charge for cashing a check or draft does not exceed \$1 or one percent of the value of the check or draft, whichever is greater.

CURRENT LAND USE. Land use as it appears on tax statement.

CURRENT RESIDENT LIST. ~~A list of names and addresses of adult residents of the manufactured home park.~~

DBH. Diameter at breast height – diameter of a tree measured at a point approximately 54 inches above the ground.

D.N.R. The Minnesota Department of Natural Resources.

DANGEROUS DOG. Any dog that has:

- (1) Without provocation, inflicted substantial bodily harm on a human being on public or private property;
 - (2) Killed a domestic animal without provocation while off the owner's property;
- or
- (3) Been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

DAY CARE FACILITY, STATE LICENSED. Any facility licensed by the State Department of Human Services or Department of Health, public or private, which for gain or otherwise regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation or developmental guidance on a regular basis, for periods of less than twenty-four (24) hours per day, in a place other than the person's own home. Day care facilities include but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, day time activity centers, day treatment programs and day services, nursery and preschools and Montessori schools, as defined by Minnesota State Statutes, Chapter 245A, as may be amended.

DAY SPA. A ~~safe, clean~~ commercial establishment, which employs professional licensed therapists whose services include massage and body or facial treatments. Treatments may include body packs and wraps, exfoliation, cellulite and heat treatments, electrolysis, body toning, waxing, aromatherapy, cleansing facials, medical facials, nonsurgical face lifts, electrical toning, and electrolysis. Services may also include Hydrotherapy and steam and sauna facilities, nutrition and weight management. No services or facilities may be offered or constructed that would include customer over night stay.

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 3 feet above ground.

DEDICATED CONSERVATION EASEMENTS. A non-possessory interest in real property imposing limitations on a parcel of land for the purposes of retaining and protecting natural or open space values of real property, assuring its availability for agricultural, forest, recreational, or other open space uses, and protecting natural resources. A conservation easement must be granted to a qualified land trust and the City of Lake Elmo. At the city's discretion, the conservation easement may go to the City of Lake Elmo if a qualified land trust does not accept the easement.

DELICATESSEN. A shop where ready to serve cold food, such as cooked meats, smoked fish, salads, relishes, etc. which are prepared in advance, is sold typically for consumption off the premises.

DENSITY. The net acreage of the site (which excludes wetlands and areas below the 100-year ordinary high water level) divided by the number of dwelling units. For proposed developments, net acreage is based on the pre-development conditions of the site.

DEPARTMENT STORE. A retail store carrying a general line of men's and women's apparel, such as suits, coats and dresses, and furnishings; home furnishings, such as furniture, floor coverings, curtains, draperies and linens; and housewares, such as table and kitchen appliances, dishes and utensils. These and other merchandise lines are generally arranged in separate sections or departments.

DEPTH OF LOT. ~~The horizontal distance between the frontage right of way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.~~

DEPTH OF REAR YARD. ~~The horizontal distance between the rear building line and the rear lot line.~~

DESIGN STANDARDS. The specifications to landowners or subdividers for the preparation of plats, both preliminary and final, indicating, among other things, the optimum, minimum, or maximum dimensions of the items as rights-of-way, blocks, easements, and lots.

DIRECT LIGHT. Light emitted directly from a lamp, off a reflector, or through a refractor of a luminaire.

DIRECTOR OF PUBLIC SAFETY. The person designated by the City Administrator to be the Director of Public Safety for the City of Lake Elmo.

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 issued pursuant to this Chapter.

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 area 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 or a portion thereof located on a single lot.

DOG KENNEL, COMMERCIAL. Any premises requiring a kennel license as provided by Chapter 915 of the City Code.

DOG KENNEL, PRIVATE. An outside area designed, intended, or used specifically for the keeping of dogs, including fenced dog runs and enclosures, dog houses, and the like.

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

DREDGING. The process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening ~~the body of water.~~ a waterbody, watercourse, or wetland.

DRIVE-IN. Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile occupants is offered regardless of whether service is also provided within a building.

DRIVE THROUGH BUSINESS. A business that by design, physical facilities, service or by packaging procedures encourages or permits customers to receive services, obtain goods or be entertained while remaining in their motor vehicles, excluding gasoline service stations as defined in this subdivision.

DUPLEX. A residential structure containing 2 dwelling units located on 1 parcel of land.

DWELLING, 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, 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, ELDERLY (SENIOR CITIZEN). Multiple family dwelling designed for and occupied primarily by persons over 55 years of age, and which may include on-site recreational, social or health care services for the benefit of the residents.

DWELLING, DUPLEX OR 2-FAMILY. A residential building containing 2 complete dwelling units.

DWELLING, MULTIPLE OR APARTMENT BUILDING. A residential building or portion of a building, containing 3 or more dwelling units served by a common entrance.

DWELLING, SEASONAL. A residential building not capable of year-round occupancy due to non-winterized construction or inadequate non-conforming year-round on-site sewage treatment systems.

DWELLING, SINGLE-FAMILY ATTACHED. Two single-family dwellings sharing 1 or more common wall, each on its own individual lot.

DWELLING, SINGLE-FAMILY DETACHED. A single-family dwelling that is surrounded by yards on all sides, is located on its own individual lot, and which is not attached to any other dwelling by any means.

DWELLING, SINGLE-FAMILY. A residential structure designed for or used exclusively as 1 dwelling unit of permanent occupancy.

DWELLING, SINGLE. A residential building containing 1 detached dwelling unit.

DWELLING, TOWNHOUSE. A residential building containing 3 or more dwelling units with at least 1 common wall between adjacent residences and each unit so oriented as to have all exits directly to the out-of-doors.

DWELLING UNIT. ~~A residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used, or intended for use exclusively as living quarters for 1 family.~~ A residential building or portion thereof intended for occupancy by one (1) or more persons with facilities for living, sleeping, cooking and eating, but not including hotels, motels, nursing homes, tents, seasonal cabins, boarding or rooming houses, motor homes, or travel trailers.

DWELLING. ~~A building, or 1 or more portions of a building, occupied or intended to be occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boarding houses, nor trailers, tents, cabins, or trailer coaches. (Also, see DWELLING UNIT.)~~ A building or portion thereof, designated exclusively for residential occupancy, but not including hotels, motels, nursing homes, boarding or rooming houses, tents, seasonal cabins, or motor homes or travel trailers.

DWELLING GROUPS – A group of two or more one-family, two-family, or multiple dwellings occupying a parcel of land in one ownership and having a yard or court in common, but not including motels.

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

EARTH SHELTERED BUILDING. A building so constructed that fifty (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. The right granted by a property owner to another or to the public to use a tract of land for the purpose of constructing and maintaining drives, utilities, including, but not limited to, sanitary sewers, water mains, electric lines, telephone lines, storm sewer or storm drainage ways, and gas lines.

EFFICIENCY APARTMENT (DWELLING UNIT). A one (1) room dwelling unit consisting of one (1) principal room having cooking facilities and used for combined living, dining and sleeping purposes.

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

ELIGIBLE PARK RESIDENT. A park resident who satisfies the following criteria:

(1) Park lot rent is current within 30 days of the anticipated park closing date and personal property taxes have been paid for the current and prior years. The owner's performance of the agreement shall be secured by a bond or a cash deposit filed with the Administrator in the amount of \$1,000;

(2) Manufactured home has been maintained (including the roofing, siding, windows, flooring, and frame pursuant to the manufactured home park standards) for the year in which the manufactured home was constructed and the manufactured home is in good repair as determined by the city's Building Inspector;

~~(3) Park resident is unable to locate space in a manufactured home park within a 25 mile radius which as the same or less restrictive standards; and~~

(4) Personal credit history is not the reason the park resident's inability to relocate to another manufactured home park.

ENGINEER. The City Engineer.

EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of ~~flowery~~ flowage boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportional share of flood flows.

EROSION. The wearing away of land surface by the action of natural elements.

ESSENTIAL SERVICES (PUBLIC UTILITY USES). ~~Underground or overhead gas, electric, steam or water distribution systems; collection, communication, supply or disposal system, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, or other similar equipment and accessories, but not including buildings, or transmission 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, waste, or water transmission, distribution, collection, supply or disposal systems, including 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. Essential services shall not include waste facilities.~~

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, lift stations. Essential service structures shall not include transmission/reception antennas.

EXCLUSIVE LIQUOR STORE. An establishment used exclusively for the sale of intoxicating liquor at retail either "on-sale" or "off-sale" or both.

EXTERIOR STORAGE (INCLUDES OPEN STORAGE). The storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.

~~***EXTERIOR STORAGE.*** The storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed in a building.~~

EXTRACTIVE USE. The use of land for surface or subsurface removal of sand, gravel, rock, industrial materials, other nonmetallic minerals, and peat not regulated under M.S. §§ 93.44 to 93.51, as they may be amended from time to time.

FAMILY. An individual, or 2 or more persons each related by blood, marriage, adoption, or foster care arrangement living together as a single housekeeping unit, or group of not more than 4 persons not so related, maintaining a common household, exclusive of servants.

FAMILY ENTERTAINMENT CENTER. Amusement facilities that may include indoor miniature golf, child play areas, arcade games, batting cages, birthday party and family celebration rooms, indoor soccer/field hockey, children's adventure play gardens, indoor

paint ball, and laser tag. Also typically included are a small food and beverage area and a small retail area. All facilities are non-alcoholic and smoke free.

FARM/RURAL. A commercial food-producing use on 10 or more contiguous acres and as now defined under a portion of Minnesota Agricultural Property Tax Law (Green Acres Law) § 273.111 Agricultural Property Tax, Subdivision 6, as it may be amended from time to time, to wit: Real Property shall be considered to be in agricultural use provided that annually:

(1) At least 33 and 1/3% of the total family income of the owner is derived from the farm, or the total family income, including rental from property is \$300 plus \$10 per tillable acre; and

(2) It is devoted to the production of sale of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit of all kinds, vegetables, forage, grains, bees, apiary products, by the owner.

FARM, SUBURBAN. A suburban farm is a non-commercial food-producing use primarily intended for the use of the residents, and usually on less than 10 contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, and vegetables, ~~and domestic pets~~.

FARMER. Person permanently residing on a tract of land of not less than 75 acres in the city and who farms the land for a livelihood.

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

FARMSTEAD. A dwelling unit surrounded by or connected to a farming operation, all under single ownership.

FENCE. A partition, structure, wall, hedge, row(s) of continuous plantings, or gate erected as a dividing marker, visual or physical barrier, or enclosure.

FENCE HEIGHT. The distance from the adjacent finished grade to the highest projection of a fence structure, not including support posts, provided that the support posts are no more than four (4) inches above the fence structure.

FILLING (FLOODPLAIN, SHORELAND, WETLAND RELATED). The act of depositing any rock, soil, gravel, sand or other material so as to fill a waterbody, watercourse, or wetland (see also landfill and land reclamation).

FINAL PLAT. A drawing or map of an approved subdivision, meeting all requirements of the subdivision ordinance, and in the form as required by law for purposes of recording.

FITNESS STUDIO. A place or building where passive or active exercises and related activities are performed for the purpose of physical fitness, improved circulation or flexibility, and/or weight control. The activities shall be conducted entirely within an enclosed building. **FITNESS STUDIO** may include exercise equipment; and shall exclude massage in any form. The maximum allowable floor area is 5,000 square feet.

FIXTURE. The assembly that holds the lamp. It may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor of lens.

FLOOD FREQUENCY. The average frequency, statistically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

FLOOD FRINGE. The portion of the flood plain outside the floodway. **FLOOD FRINGE** is synonymous with the term "floodway fringe" used in the flood insurance study for the city.

FLOOD PLAIN. The beds proper and the areas adjoining a wetland, lake, or water course which have been or hereafter may be covered by the regional 100-year flood.

FLOOD-PROOFING. A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

FLOOD. A temporary increase in the flow or stage of a stream or in the state of a wetland or lake that results in the inundation of normally dry areas.

FLOODWAY. The bed of a wetland or lake and the channel of a water course and those portions of the adjoining flood plain which are reasonably required to carry or store the regional flood discharge.

FLOOR AREA, GROSS. The sum of the gross horizontal area of the various floors of a building or portion thereof devoted to a particular use and measured in square feet. The basement floor area shall not be included unless the area constitutes a story.

FLOOR AREA RATIO. The numerical value obtained through dividing the gross floor area of a building or buildings by the net area of the lot or parcel of land on which the building or buildings are located.

FLOOR AREA. The sum of the gross horizontal area of the main floor of a residential building measured in square feet and not an attached garage, breezeway, or similar attachment.

FLOOR PLAN, GENERAL. A graphic representation of the anticipated use of the floor area within a building or structure.

FLORICULTURE. The cultivation and management of ornamental and flowering plants for sale on site from a wayside stand.

FOOT CANDLE. An illuminance equal to 1 lumen per square foot.

FOREST LAND CONVERSION. The clear cutting of forested lands to prepare for a new land use other than re-establishment of a subsequent forest stand.

FORESTED AREA. Any unit of land which has a density of trees greater than 10 trees per acre.

FRONTAGE. The boundary of a lot which abuts an existing or dedicated public street, watercourse or similar barrier.

FULL CUTOFF LUMINAIRE. Luminaire that allows no direct light emissions higher than 15 degrees below a horizontal plane through the luminaire's lowest light-emitting part.

GARAGE, PRIVATE. A detached 1 story accessory building or portion of the principal building, including a carport, which is used primarily for the storage of passenger vehicles, trailers, or farm trucks.

GARAGE, REPAIR. A building or space for the repair or maintenance of motor vehicles, but not including factory assembly of the vehicles, auto wrecking establishments, or junk yards.

GARAGE, STORAGE. Any premises, except those described as a private or repair garage used exclusively for the storage of power-driven vehicles.

GARBAGE. Solid waste resulting from the domestic and commercial preparation, cooking, and dispensing of food and from the handling, storage, or sale of meat, fish, fowl, fruit, or vegetable and condemned food.

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.

GLARE. Direct light emitted from a luminaire that causes reduced vision or momentary blindness.

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

GRADING. Changing the natural or existing topography of land.

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

GROCERY, CONVENIENCE MARKET. A retail establishment having a gross floor area of more than one hundred twenty (120) square feet and less than seven thousand five hundred (7,500) square feet which offers for sale pre-packaged food products, household items and other goods associated with the same. Convenience markets are intended to draw customers from surrounding neighborhoods and not the entire community.

GROSS ACRES. The total area of a parcel of land including wetlands, hydric soils, steep slopes, streets, and dedicated easements.

HARDSHIP. The proposed use of the property and associated structures in question cannot be established under the conditions allowed by the city's zoning regulations and no other reasonable alternative use exists; that the plight of the landowner is due to the physical conditions unique to the land, structure, or building involved and are not applicable to other lands, structures, or buildings in the same zoning district; and that these unique conditions of the site were not caused or accepted by the landowner after the effective date of the city's zoning regulations.

HEIGHT OF BUILDING. The vertical distance between the lowest grade level at the building line and the uppermost point on the roof.

HELISTOP. Any premises which are used, or intended for use, in an incidental capacity for the landing and take-off of helicopters engaged in transporting passengers and/or packages, and which does not include any appurtenant areas, building, structures, or facilities for helicopter services such as those for refueling, maintenance, or repair.

HISTORIC STRUCTURE. A structure that is at least 50 years old, in its original state. Structure shall add to the visual integrity of the landscape.

HISTORICAL SITE. Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historical Sites, or is determined to be an unplatted cemetery that falls under the provisions of M.S. § 308.08, as it may be amended from time to time. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota State Archaeologist or the director of the Minnesota Historic Society. All unplatted cemeteries are automatically considered to be significant historic sites.

HOME OCCUPATION. Any gainful occupation or profession engaged in by the occupant, only, of a dwelling when carried on within a dwelling unit or in an accessory building, provided that no signs other than those normally utilized in a residential district are present, no stock in trade is stored on the premises, that no over-the-counter retail sales are involved, and entrance to the home occupation is or can be gained from within the structure. Uses include professional office, hairdressing, or teaching limited to 3 students at any time, and similar uses. A **HOME OCCUPATION** shall not be interpreted to include barber shops, beauty shops, tourist homes, restaurants, disorderly house as defined by M.S. § 609.33, Subd. 1, as it may be amended from time to time, or similar uses. No **HOME OCCUPATION** shall be permitted that creates the need for more than 3 parking spaces at any given time in addition to the parking spaces required by the occupants. **HOME OCCUPATIONS** shall not be carried on except between the hours of 7:00 a.m. and 10:00 p.m.

HORTICULTURE. The cultivation and management of trees, plants, grasses, vegetables, and fruits for sale on site from a wayside stand.

HOSPITAL. A licensed facility for the hospitalization or care of human beings within the meaning of Minnesota Statute Chapter 144.50, as may be amended.

HOTEL. A building having provision for 9 or more guests in which lodging is provided with or without meals for compensation, and which is open to transient or permanent guests or both, and where no provision is made for cooking in any guest room, and which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge.

ILLUMINANCE. The level of light measured at a surface.

IMPERVIOUS SURFACE. An artificial or natural surface that is highly resistant to infiltration by water. It includes surfaces such as compacted sand or clay as well as most conventionally surfaced streets, driveways, roofs, sidewalks, stoops, tennis courts, swimming pools, parking lots, and other similar structures. Impervious surface shall include any portion of an eave overhang that projects more than thirty (30) inches out from the wall. Impervious surface shall also include cantilevered areas located less than six (6) feet above the adjacent grade, and any portion of cantilevered areas together with any related eave overhang that projects more than thirty (30) inches out from the wall.

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

INSTITUTIONAL HOUSING. Housing for students, mentally ill, infirm, elderly, nurses, physically retarded, and similar housing of a specialized nature.

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

INTOXICATING LIQUOR and LIQUOR. Ethyl alcohol and distilled, fermented, spirituous, vinous, and malt beverages containing in excess of 3.2% alcohol by weight.

JUNK YARD. An area where discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber products, bottles, and used building materials. Storage of the material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

JUNK. All exterior storage not permitted by § 150.002 or included as a permitted accessory use, a permitted use, or included as part of a conditional use permit, or otherwise permitted by the provisions of this code, is defined as **JUNK** within the meaning of § 96.03(B)(11).

KENNEL; ANIMALS. Any place where 4 or more of any type of domestic pets, over 4 months of age, are owned, boarded, bred, or offered for sale.

LAMP. The component of a luminaire that produces the light.

LAND ALTERATION. The excavation or grading of land involving movement of earth and materials in excess of 50 yards.

LAND RECLAMATION. The reclaiming of land by depositing material so as to elevate the grade. Depositing of a total of more than 50 cubic yards of material per lot or parcel, either by hauling in or re-grading the area.

LANDFILL. A type of operation in which earth is deposited in alternate layers of specified depth in accordance with a definite plan on a specified portion of open land, with each layer being compacted by force applied by mechanical equipment.

LANDSCAPING. Planting trees, shrubs, flowers, and turf covers such as grasses and shrubs.

~~**LICENSEE.** Any park operator licensed by the State of Minnesota to maintain and operate a manufactured home park.~~

LIFT. The mechanical system designed to elevate or lower someone or something up or down a topographical slope.

LIGHT TRESPASS. Light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

LOADING SPACE. ~~A space, accessible from a street, alley, or way, in or outside of a building, for the use of trucks~~ 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 and unloading merchandise or materials.

LODGING ROOM. A room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as 1 lodging room.

LOT AREA MINIMUM PER FAMILY. The minimum number of square feet or acres of lot area required per dwelling unit.

LOT AREA. The ~~minimum~~ total land area of a horizontal plane within the lot lines.

LOT BASE. Lots meeting all specifications in the zoning district prior to being subdivided into a two family dwelling, townhouse, or manor home subdivision.

LOT, BUILDABLE. A lot which meets or exceeds all requirements of the community land use and development ordinances without the necessity of variances.

LOT CONSOLIDATION. The combining of 2 or more existing parcels into 1 parcel and recorded as 1 parcel with the County Recorder's Office.

LOT, CORNER. A lot situated at the junction of and abutting on 2 or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle or which does not exceed 135 degrees.

~~**LOT, CORNER.** A lot situated at the intersection of 2 streets, the interior angle of the intersection not exceeding 135 degrees.~~

LOT COVERAGE. The area of a lot occupied by the principal building or buildings and all accessory buildings, but not including uncovered porches, decks, ground level landings, or landscape structures.

LOT DEPTH. The mean horizontal distance between the front and rear lines of a lot. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser front is its width.

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

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

LOT LINE, FRONT. ~~The boundary of a lot which abuts a public street.~~ The lot line separating a lot from the street right-of-way along the lot frontage. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner. In the case of a corner lot in a non-residential area, the lot shall be deemed to have frontage on both streets.

LOT LINE, REAR. The boundary of a lot which is opposite to the front lot line. If the rear lot line is less than 10 feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line 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 LINE. A lot line is the property line bounding a lot except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of the public right-of-way shall be the lot line.

LOT, NON-RIPARIAN. A separate parcel of land within a designated shoreland area but which does not have frontage along a lake or tributary stream.

LOT, RIPARIAN. A separate parcel of land within a designated shoreland area having frontage along a lake or tributary stream.

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

LOT, THROUGH. Any lot other than a corner lot which abuts more than 1 street. On a **THROUGH LOT**, all the street lines shall be considered the front lines for applying this section.

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

LOT WIDTH. ~~The horizontal distance between the side lot lines of a lot measured at the setback line.~~ right angles to the lot depth, at the minimum building setback line. If no setback line is established, the distance between the side lot lines measured along the public right-of-way.

LOT. 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 the description for the purpose of sale, lease or separation.

LOT, MANUFACTURED HOME. MANUFACTURED HOME LOT. A parcel of land for the placement of a single manufactured home and the exclusive use of its occupants within a manufactured home park.

~~**LOT, MANUFACTURED HOME.** An area within a manufactured home park designed or used for the accommodation of a manufactured home.~~

LUMEN. A unit of measurement of the light emitted from a source.

LUMINAIRE. The complete lighting system, including the lamp and the fixture.

M.H.D. The Minnesota Department of Health.

M.P.C.A. The Minnesota Pollution Control Agency.

MANOR HOME. A residential structure with three (3) or more units with each unit having a separate entrance/exit. There may be more than one (1) floor and an attached garage space.

MANUFACTURED HOME. A structure, transportable in 1 or more sections, which in the traveling mode, is 8 body feet or more in width or 40 body feet or more in length, or, when erected on side, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. The term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily filed a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under this section. The term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under the M.S. Ch. 327.31, Subd. 3, as it may be amended from time to time. No manufactured dwelling shall be moved into the city that does not meet the Manufactured Home Building Code as defined in M.S. Ch. 327.31, Subd. 3. This does not include recreational vehicles as regulated in the zoning code.

~~**MANUFACTURED HOME.** A structure, not affixed to or a part of real estate, transportable in 1 or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or when placed on a lot, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical system contained in it.~~

MANUFACTURED HOME PARK. Any site, lot, field, or tract of land upon which 2 or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle, or enclosure used or intended for use as part of the equipment of the manufactured home park. This does not include facilities which are open daily during 3 or fewer seasons of the year.

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

~~**MANUFACTURED HOME PARK** does not include facilities which are open daily during 3 or fewer seasons of the year.~~

MANUFACTURING; GENERAL. All manufacturing, compounding, processing, packaging, treatment, or assembly of goods or materials which involve a risk of offensive or dangerous noise, odor, or pollution beyond the lot on which the use is located. Uses include, but are not limited to, the following: sawmill, refineries, commercial feedlots, acid, cement, explosives, flour, feed, and grain milling or storage, meat packaging, slaughter houses, coal or tar asphalt distillation, rendering of fat, grease, lard, or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster of pans, tanneries, automobile parts, paper and paper products including storage, electric power generation facilities, vinegar works, junk yards, auto reduction yards, foundry, forge, casting of metal products, rock, stone, and cement products.

MANUFACTURING; LIMITED. All compounding, processing, packaging, treating, or assembling of goods and materials, provided the use will not constitute a nuisance because of offensive odors, glare, smoke, dust, noise, vibrations, or other pollution extending beyond the lot on which the use is located. Uses include, but are not limited to, the following: machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair (repair garage), body work and painting, contractor shops and storage yards, food and non-alcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles, used auto parts, warehousing, and wholesale business.

MANURE. Any solid or liquid containing animal excreta.

MARQUEE. A permanent canopy and roof structure which is attached to and supported by a primary building; which is constructed of durable material compatible with the primary structure; and which projects over the entrance to the building.

MASSAGE THERAPY (THERAPEUTIC). The process by which a practitioner applies massage therapy techniques, and may apply adjunctive therapies, with the intention of positively affecting the health and well being of the client. The rubbing, stroking, kneading, tapping, positioning, causing movement and applying ~~touch~~ touch and pressure to the body. Adjunctive therapies may include (1) Application of heat, cold, water, mild abrasives, ~~heliotherapy~~ heliotherapy, topical preparations not classified as ~~prescription~~ prescription drugs; (2) the use of mechanical devices and tools which mimic or enhance ~~manual~~ manual actions; and (3) instructed self-care and management. Massage therapy shall not include techniques traditionally practiced by chiropractors. Therapeutic Massage shall be performed only by a person who has provided the City with proof of Professional Liability Insurance and/or National Certification.

MAY. The act referred to is permissive.

MEDICAL USES. Those uses concerned with the diagnosis, treatment, and care of human beings. These include: hospitals, dental services, medical services or clinic, nursing or convalescent home, orphan's home, rest home, and sanitarium.

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

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

MINING. The excavation, removal, or storage of sand, gravel, rock, soil, clay, and other natural deposits from the land within the city, except:

(1) For the purpose of the foundation, cellar, or basement of some pending structure, for which a permit has been issued, and which is to be erected immediately following the excavation, removal, or storage;

(2) For the purpose of construction of sewer lines, storm sewers, water mains, surface water drainage, agricultural or conservation purposes, and sod removal;

(3) For the moving of dirt for landscaping purposes on a lot used or to be used for residential purposes; or

(4) For the moving of dirt within the construction limits of a road project. (1997 Code, § 900.02)

~~**MINING.** The extraction of sand, gravel, rock, soil, or other material from the land and the removal thereof from the site. **MINING** shall not include the removal of materials associated with the construction of a building, the removal of excess materials in accordance with approved plats, or utility highway construction, minor agricultural, and sod removal.~~

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

MODULAR OR PREFABRICATED HOME. A non-mobile dwelling unit for year-round occupancy constructed or fabricated at a central factory and transported to a building site where final installations are made permanently affixing the dwelling to the site. The dwelling unit shall be equivalent to a unit constructed on the site, meeting all requirements of the Minnesota Building Code.

MONTH. A calendar month.

MOTOR COURTS, MOTOR HOTEL, or MOTEL. A building or group of detached, semi-detached or attached buildings containing three (3) or more guest rooms or units, each of which has a separate entrance directly from the outside of the building, or corridor, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of transient guests traveling by automobile. ~~other than a hotel used primarily as a temporary residence of a motorist.~~

MOTOR FREIGHT TERMINAL. A building or area in which freight brought by motor truck is transferred and/or stored for movement by motor truck.

MOTOR FUEL STATION. Any building or premises used for the dispensation, sale or offering for sale at retail of any motor fuels, oils or lubricants. When the use is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

MOTORBOAT. A watercraft propelled in any manner by machinery, including watercraft temporarily equipped with detachable motors.

NATIVE WOODY UNDERSTORY VEGETATION. Shrubs and small trees which are components of natural (unplanted) woodland and brushland areas in Minnesota and which provide important benefits in terms of wildlife habitat, prevention of soil erosion and slowing of runoff.

NATURAL OUTLET. Any outlet into a water course, pond, ditch, lake, or other body of surface or ground water.

NATURAL SOIL. Soil which exists undisturbed in its natural state; fill shall be considered as natural soil after it has been in place for a minimum of 12 months.

NATURAL RESOURCE ANALYSIS. A report in map and text form identifying the existing natural features of a parcel of land and the relationship of a proposed use to the existing natural conditions of the parcel; used in the determination of appropriate means to preserve and manage areas unsuitable for development in their natural state due to physical constraints or special protection status.

NATURAL TERRAIN. Areas other than roadways or driveways (private or public), parking lots, and other areas the surface of which has been intentionally modified for motor vehicle operation.

NATURE FARMS. The keeping of animals and/or the growing and keeping of agricultural products for the purpose of display to the public, not including the breeding and keeping of animals for boarding or sale. Examples of this use would include "petting

farms," or the display of unique horticulture. Retail or wholesale sales of any product are specifically excluded.

NOISE; AMBIENT. The all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from any sources near and far or a single predominate source.

NON-AGRICULTURAL LOW IMPACT. The outdoor storage of off-road mobile construction equipment of any weight, excluding semi-truck trailers, or any vehicle over 26,000 pounds capable by design of being licensed for use on public roadways; the indoor storage of the aforementioned items and other goods and materials which, in the determination of the City Council, do not jeopardize the health, safety, or welfare of the city; nature farms; agricultural museums; farmer's markets; small engine repair shops; contractor maintenance shops; or office space as an accessory use to the aforementioned uses.

NONCONFORMITY; NONCONFORMING STRUCTURE, USE OR LOT, LEGAL.
A lot, building, structure, premises, or use lawfully established when it was initiated, created, or constructed, which does not now conform with the applicable conditions or provisions of this Chapter for the district in which the structure or use is located. Any legal use, structure, or parcel of land already in existence, recorded, or authorized before the adoption of zoning regulations or amendments to the zoning regulations that would not have been permitted to become established under the terms of the zoning regulations as now written, if the zoning regulations had been in effect prior to the date it was established, recorded, or authorized.

NONCONFORMITY; NONCONFORMING STRUCTURE, USE OR LOT, ILLEGAL.
A lot, building, structure, premises, or use illegally established when it was initiated, created, or constructed, which did not conform with the applicable conditions or provisions of the City Code for the district in which the structure or use is located.

NOXIOUS MATTER OF MATERIAL. Material which is capable of causing injury or is in any way harmful to living organisms or is capable of causing detrimental effect upon the physical or mental health of human beings by chemical reaction.

NURSERY, DAY. A use where care is provided for 3 or more children under kindergarten age for periods of 4 hours or more per day for pay.

NURSERY, LANDSCAPE. ~~A business growing and selling~~ An enterprise which conducts the retail and wholesale sale of plants grown on the site such as trees, flowering and decorative plants, and shrubs, and which may be conducted within a building or without, as well as accessory items directly related to their care and maintenance. The accessory items normally sold include clay pots, potting soil, fertilizers, insecticides, hanging baskets, rakes, and shovels, and the like but do not include power equipment such as gas or electric lawnmowers and farm implements.

NURSING HOME. A state licensed facility or that part of a facility which provides nursing care pursuant to Minnesota Statute Chapter 144A.01. A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. The nursing home shall be licensed by the state as provided by law.

O.P. PERMIT(S). Generally, all of the permits issued in connection with the city's review and approval of a development within an O.P.

OBSTRUCTION (FLOOD PLAIN). 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, water course, or regulatory flood plain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water.

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. The person or persons living in an individual home dwelling unit.

OFFICE USE. Those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired, including, but not limited to, banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting, and similar uses.

OFFICIAL CONTROL. Legislatively defined and enacted policies, standards, precise detailed maps, and other regulations and performance standards all of which control the physical development of the city or any part of the city, for the purpose of accomplishing the general objectives of the comprehensive plan. The official controls may include, but are not limited to, ordinances establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps.

OFFICIAL MAP. A map adopted in accordance with the provisions of M.S. § 462.359, as it may be amended from time to time.

OPEN SALES LOTS. Lands devoted to the display of goods for sale, rent, lease, or trade, where the goods are not enclosed within a building.

OPEN SPACE. A tract of land used for agricultural, natural habitat, walkways (sidewalks) and pathways, and/or neighborhood recreational purposes.

OPEN SPACE, PRIVATE. Any open space owned by a person or persons.

OPEN SPACE, PUBLIC. Any open space publicly owned.

OPEN STORAGE. Storage of any material outside of a building.

ORDINARY HIGH WATER MARK OR ELEVATION (O.H.W.). 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 water courses, 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 is the operating elevation of the normal summer pool.

OUTLOT. A lot remnant or irregular parcel of land included in a plat, which may be used as open space; the outlot may be a large tract that could be subdivided in the future or may be too small to comply with the minimum size requirements of city zoning and subdivision ordinances and not usable as a building site.

OWNER. ~~Includes all persons interested in the property as fee simple owner, life estate holder, encumbrancer, or otherwise.~~ 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.

PADDLE BOAT. A non-motorized watercraft 19 feet in length or less that is propelled solely by a paddle wheel peddled by an operator or passenger.

PARCEL. An individual lot or tract of land.

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

PARK (MANUFACTURED HOME) CLOSING. The conversion of all or a portion of the occupied lots of a manufactured home park to another use or the termination of use of the manufactured home park.

PARK (MANUFACTURED HOME) OPERATOR. The person who owns, maintains, or operates a manufactured home park properly licensed under state law.

PARK (MANUFACTURED HOME) OWNER. The owner of a manufactured home park.

PARK (MANUFACTURED HOME) RESIDENT. An owner of a manufactured home located on a lot in a manufactured home park within the city who rents the lot and occupies the manufactured home as a principal residence.

PARK, PRIVATE. A tract of land presently owned or controlled and used by private or semi-public persons, entities, groups, etc. for active and/or passive recreational purposes.

PARK, PUBLIC. A tract of land publicly owned and used by the public for active and/or passive recreational purposes.

PARKING GARAGE. A structure, building or portion thereof designed and utilized for the temporary storage of motor vehicles.

PARKING LOT (RAMP). A structure utilized for the temporary storage of motor vehicles.

PARKING LOT, SURFACE. An at grade, uncovered area, utilized for the temporary storage of motor vehicles.

PARKING SPACE. ~~A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size, to store 1 standard automobile, 10 feet by 20 feet. An area of such shape and dimensions as provided by this Chapter, enclosed in the principal building, in an accessory building, or unenclosed, sufficient in size to store one (1) motor vehicle, which has adequate access to a public street or alley and permitting satisfactory ingress and egress of an automobile.~~

PARKS and PLAYGROUNDS. Public land and open spaces in the city dedicated or reserved for recreation purposes.

PATIO. A level, surfaced area directly adjacent to a principal building at or within three (3) feet of the finished grade, without a permanent roof which is intended for outdoor lounging, dining and the like.

PEDESTRIAN WAY. A public right-of-way or private easement across a block or within a block to provide access for pedestrians and which may be used for the installation of utility lines.

PERCENTAGE OF GRADE. The slope of a surface, such as a vertical rise or fall expressed as a percentage of the horizontal distance.

PERFORMANCE STANDARDS. The minimum development standards as adopted by the governing body and on file in the office of the Building Official. Criterion established for, but not limited to, setbacks, fencing, landscaping, screening, drainage, accessory buildings, outdoor 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.

PERMANENT OUTDOOR LUMINAIRE. Any luminaire or system of luminaries that is outdoors and that is intended to be used for 7 days or longer.

MEMO

(November 9, 2006 for the Meeting of November 13, 2006)

To: Lake Elmo Planning Commission

From:  Chuck Dillerud

Subject: New Zoning Ordinance

I have enclosed the following draft district text drafts for review on November 13:

1. PF (Public Facilities)
2. BP (Business Park)
3. NC (Neighborhood Conservation)]

You will see that there are very few real modifications to BP and PF – mostly deletions reflecting inclusion of some standards at a single point elsewhere in the ordinance rather than repeated in every zoning district.

The NC district is, of course, new in total. Rather than go with some of the more dramatic strategies we have discussed in the past, I have drafted NC in a very conventional format – not unlike the current R-1, but with reduced standards. It is those numerical standards that the Commission should ponder carefully – particularly minimum lot area.

We have also completed a draft zoning map which reflects the adopted Comprehensive Plan. We will review the map with the Commission using the projector on Monday. It is too early to have printed copies in circulation.

Since a Hearing Notice regarding the zoning districts and zoning map (only) has been published for November 27, 2006, it will be important to have these two items in at least hearing draft form after Monday night so we have text and graphics to share with the public well in advance of the Hearing date.

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Public Facilities, Quasi-Public Facilities (PF)

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Subd 1. Purpose and Intent:

The purpose and intent of the "PF" zoning district is to allow uses and structures that are incidental and subordinate to the overall land uses permitted in the City. While - allowing certain uses within the City, general performance standards have been established. This is intended to assure maintenance and preservation of the established rural character of the City by preserving agricultural land, woodlands, corridors, and other significant natural features, and provide buffering between PF and residential or other uses.

Subd. 2. Uses Allowed by Conditional Use Permit

In addition to the specific standards and criteria which may be cited below for respective uses, each application shall be evaluated based on the standards and criteria set forth in Chapter of the Lake Elmo City Code. Uses allowed herein that are in existence within the City at the effective date of this Ordinance may continue such use as a Permitted Use. The following uses are Allowed by Conditional Use Permit in the PF Zoning District:

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(a) Cemeteries provided that:

1. Direct access is provided to a public street classified by the Comprehensive Plan as Major Collector or Arterial
2. No mausoleum, crematorium, or other structure is permitted, except a one story tool or storage shed of 160 square feet floor maximum floor area.

(b) Places of Worship provided that:

1. Direct access is provided to a public street classified by the Comprehensive Plan as Major Collector or Arterial
2. No use may exceed 235 gallons wastewater generation per day per net acre of land.
3. No on-site sewer system shall be designed to handle more than 5,000 gallons per day.
4. Exterior athletic fields shall not include spectator seating, public address facilities or lighting.

5. No free-standing broadcast or telecast antennas are permitted. No broadcast dish or antenna shall extend more than 6 (six) feet above or beyond the principal structure.

(c) Facilities for Local, County and State Government, provided that:

1. Direct access is provided to a public street classified by the Comprehensive Plan as Major Collector or Arterial.
2. The use and location is consistent with the Community Facilities Element of the Comprehensive Plan.
3. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive.

(f) Libraries, and Museums (Public and Private), provided that:

1. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive.
2. For private facilities, a Plan is provided, together with a Declaration and Covenants to run with the title to the land, that prescribes perpetual maintenance, insurance and ownership responsibilities for all facilities and land area.
3. Direct access is provided to a public street classified by the Comprehensive Plan as a Major Collector or Arterial.

(g) Public and Private Schools (except licensed day care), provided that:

1. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive.
2. Direct access is provided to a public street classified by the Comprehensive Plan as a Major Collector or Arterial.

(h.) Historic Sites and Interpretive Centers provided that:

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1. Direct access is provided to a public street classified by the Comprehensive Plan as a Major Collector or Arterial.
2. No use may exceed a ratio of 3.0 SAC units per 3.5 acres or 235 gallons per day per net acre of land based on design capacity of all facilities, whichever is more restrictive.

Subd. 4. Accessory Uses and Structures

Uses and structures, which are clearly incidental and subordinate to the principal permitted uses and structures. All exterior materials of accessory structures must be the same as those of the principal structure.

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Subd. 5. Minimum District Requirements

District Requirements in PF Zoning District		
	With Structure	Without Structure
Maximum Parcel Area	- 20 Acres	N.A.
Lot Width – Minimum	100- Feet	N.A.
Lot Depth – Minimum	150 Feet	N.A.
Primary Structure Setback from Property Lines		
Front – Minimum	50- Feet	N.A.
Side (Interior) – Minimum	50- Feet	N.A.
Side (Corner) – Minimum	50- Feet	N.A.
Rear – Minimum	50- Feet	N.A.
Accessory Structure Setback from Property Lines		
Front – Minimum	50- Feet	N.A.
Side (Interior) – Minimum	50- Feet	N.A.
Side (Corner) – Minimum	50 Feet	N.A.
Rear – Minimum	50- Feet	N.A.
Principal Structure Height – Maximum	50 Feet - Structure Side Walls Not to Exceed 35 feet	N.A.
Accessory Structure Height – Maximum	35 Feet – Structure Side Walls Not to Exceed 18 Feet	N.A.
Unoccupied Structure Above the Highest Point of the Roof	25 Feet	-

Maximum lot area, buffer width and impervious coverage shall be in compliance with the following table:

Maximum Site Area	Buffer Width (Feet)	Maximum Impervious Site Coverage
0 to 5 acres	50	39.5%
5.1 to 10 acres	100	38%
10.1 to 20 acres	150	35%

Subd. 6. Performance Standards

a. Landscaping. All yard area shall either be landscaped green areas or open and left in a natural state. Yards to be landscaped shall be

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 i. Elevations of all sides of the buildings,¶
 ¶
 ii. Type and color of exterior building materials,¶
 ¶
 iii. Typical general floor plans,¶
 ¶
 iv. Dimensions of all structures,¶
 ¶
 v. Location of trash containers, heating, cooling and ventilation equipment and systems,¶
 ¶
 vi. Description of unique architectural features specific to the particular request.¶
 ¶
 <#>The exterior surfaces of all buildings shall be faced with brick, stone, or glass. In all cases examples of the proposed finish are to be submitted for review by the Planning Commission. No building shall be constructed with a main exterior surface of sheet aluminum, steel corrugated aluminum, or similar products; these materials are acceptable only as trim. Metal roofs are permitted only if they are non-structural standing seam roofs. No accessory building shall exceed the height of a principal building. All exterior equipment and trash and recycling storage areas and dock areas shall be screened with materials used in the principal structure. Low profile, self-contained HVAC units, which blend in with the building architecture, are exempt from the screening requirement. Underground utilities shall be provided for all structures. These standards may be waived in reference to Historical Structures.¶
 <#>Additions to buildings existing as of the effective date of this Ordinance may be of materials matching that of the existing structure so as to blend.¶
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landscaped attractively with lawn, trees and shrubs in accordance with a plan prepared by a landscape architect. Areas left in a natural state shall be kept free of litter, debris and noxious weeds. Yards adjoining any residential zone shall contain a buffer area consisting of berming, landscaping and/or fencing for the purpose of screening noise, sight, sound and glare.

b. **Buffering.** Where areas abut residential districts, a buffer area and setback in compliance with Subdivision 5 of this Section is required. The buffer requirement shall be applicable to any interior parcel property line, and not applied to property lines abutting improved public streets.. No public/private streets or driveways, or off street parking facilities may be located in the buffer area. The buffer area shall be completely defined and designed, and approved by the City prior to all final City approvals for construction on site. Prior to the issuance of a building permit or commencement of any improvements on site, the owner shall provide the City with a financial security for a minimum of 24 months unless a shorter term of security is specifically approved by the City Council, approved by the City Attorney, to assure construction of the buffer area. All landscaping shall comply with Section 520.01.

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c. **Traffic.** All applications for a -Building Permit responsive to the requirements of this Section shall include a detailed report, certified by a registered engineer, demonstrating the extent of, and quantitative impact on public roads from forecasted traffic of the use, based on ITE average daily and peak hour/event traffic. Forecasted traffic generation - within- - the design capacity of an impacted public street, as determined by the City Engineer, shall be the primary determinant for approval of the site plan.-

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Deleted: **Signage.** All signs shall comply with Section 535.07, Subd. 2 of the City Code.¶
¶
f. **Lighting.** All lighting shall comply with -Chapter 1350 of the City Code.¶
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L. BP - Business Park.

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1. **Purpose.** The purpose of the Business Park district is to establish a Comprehensive Planned framework for development along I-94. The City has determined that it is in the best interest of the City and the region to responsibly manage growth in this district. It is the intent of this district to promote a high quality of business design and development that produces a positive visual image and minimizes adverse impacts from traffic congestion, noise, odor, glare, and similar problems. Specific development goals within the district include the following:

- a. To protect the natural environment, in accordance with City ordinances;
- b. To provide adequate space for off-street parking of automobiles and, where appropriate, off-street loading of trucks;
- c. To allow development that is consistent with the capacity of regional and local road systems;
- d. To stimulate local economic development within the business park district area, while minimizing the demands of additional City services;

e. To provide users with an attractive working environment that is unique in the eastern metropolitan area with immediate access to I-94.

Deleted: e. To permit occupancies of a more intense use than are possible outside the MUSA;¶

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2. Permitted Uses.

Business Park
Banks and similar Financial Institutions
Medical Clinics and Offices
Offices for Administrative, Executive, Professional and Management Functions
Schools: Business, Professional Private Trade Schools

3. Conditional Uses.

Business Park

Business Services	Uses normally associated with office developments (photocopy and printing shops, travel agencies, etc.) and containing limited retail activity.
Conference Centers	
Health Clubs	Tennis, racquetball, aerobics, weight lifting, swimming, weight loss clinics
Hotels and Motels	Must incorporate a full-service restaurant and rooms accessible only through interior corridors to be subordinate to a main business complex
Licensed Dependent Care Centers	
Limited Retail Uses clearly accessory to the permitted principal use of the land	The compounding, dispensing or sale of drugs, prescription items, patient or proprietary medicine, sick room supplies, prosthetic devices or items relating to any of the conditionally permitted uses when conducted in the building occupied primarily by medical, dental, osteopathic, chiropractic or optometric offices.
Medical, Dental and Research Laboratories	
Pre-School Facilities	
Recording Studios	
Restaurants and Cafeterias	Must be incorporated within a principal structure and oriented predominantly towards serving the needs of employees of the surrounding area, but excluding drive-up and exterior walk-up facilities

Business Park (Conditional Uses <i>con't</i>)	
Restaurants and Cafeterias	Full Service where food is served to a customer and consumed while seated at a counter or table
Theaters	Excluding drive-in theaters
Transmission Facilities for Teleconferencing	Cannot be free-standing and cannot extend more than 20 feet above the building to which they are attached
Veterinary Clinics	No crematorium, outdoor kennels or storage
Other Uses Similar to Uses Permitted by this Section, as determined by the Council	

4. **Accessory Uses.** Within the business park district, the following are allowed provided they are subordinate to and associated with a permitted use.

Business Park

Within the Business Park District, the following are allowed provided they are subordinate to and associated with a permitted use:	
Satellite Dish Antennas to permit teleconferencing	
Landscape Buffers, Wildlife Areas, Internal Picnicking Areas, Walking/Jogging Trails	
Internal Privately Owned and Maintained Roads for off-street parking and loading areas, between building within a single platted lot	
Other Uses Customarily Associated with, and clearly incidental to a permitted use, as determined by the Council.	

Deleted: Note: Facilities for the operation of helicopters and STOL aircraft are expressly forbidden.

5. Minimum District Requirements.

Business Park	
Plat Size:	A subdivision within the business park district (other than existing plats) cannot be platted if less than 20 acres in size
Minimum Lot Requirements:	
Lot Area:	3.0 Acres
Minimum Lot Width:	200 Feet
Width/Depth Ratio:	1/3.5 This assumes rectangular lots. Other shapes would generally conform to this ratio.

Business Park (Minimum District Requirements (con't))	
Minimum Building Setback from Property Lines:	
Front:	50 Feet, plus 25 feet for each story above the first
Side, Side (street) and Rear	30 Feet, plus 20 feet for each story above the first
Any line adjacent to a residential zone	150 Feet (This area is to be reserved for landscaping)

Minimum Parking Setback from Property Lines:	
Front:	30 Feet
Side:	15 Feet
Side (street):	30 Feet
Rear:	15 Feet
Maximum Building Height:	60 Feet – Proposals for buildings higher than 60 feet would be subject to separate technical and planning evaluation by C.U.P.
Maximum area to be covered by buildings, parking lots, driveways, sidewalks and other impervious surfaces:	75%
Minimum building foundation size:	10,000 S.F.
Sanitary Sewer Flow	No use may exceed a sanitary sewer usage rate of 335 gallons per day per gross acre of land. The City will require the installation of water meters and may require other documentation and testing in order to ensure compliance with this standard.

Deleted: a. Minimum Architectural Standards. It is in the best interest of the City to promote high standards of architectural design. New building proposals shall include architectural and site plans prepared by registered architect and shall show the following as a minimum: ¶

- ¶ i. Elevations of all sides of the buildings;¶
- ¶ ii. Type and color of exterior building materials;¶
- ¶ iii. Typical general floor plans;¶
- ¶ iv. Dimensions of all structures;¶
- ¶ v. Location of trash containers, heating, cooling and ventilation equipment and systems;¶
- ¶ vi. Description of unique architectural features specific to the particular request.¶

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6. Performance Standards.

- ¶ **a. Landscaping.** All yard area shall either be landscaped green areas or open and left in a natural state. Yards to be landscaped shall be landscaped attractively with lawn, trees and shrubs in accordance with a plan prepared by a landscape architect. Areas left in a natural state shall be kept free of litter, debris and noxious weeds. Yards adjoining any residential zone shall contain a buffer area consisting of berming, landscaping and/or fencing for the purpose of screening noise, sight, sound and glare. A reasonable attempt shall be made to preserve as many existing trees as is practical and to incorporate them into the site plan. Where areas abut residential districts, a buffer area of a minimum depth of 150

feet will be required. The buffer area shall be completely defined and designed, and approved by the City prior to all final City inspections for construction on site. Prior to the issuance of a building permit or commencement of any improvements on site, the owner shall provide the City with a financial security for a minimum of 24 months, approved by the City Attorney, to assure construction of the buffer area. All landscaping shall comply with Section 520.

- ¶ **b.c. Traffic.** No use shall be allowed unless the property owner provides a road plan acceptable to the City, which shall demonstrate, at a minimum, that the proposed use and resulting traffic will not

¶ The exterior surfaces of all buildings shall be faced with brick, stone, glass or equivalent. The City may allow architecturally enhanced and integrally colored block, in all cases examples of the proposed finish are to be submitted for review by the Planning Commission. No building shall be constructed with a main exterior surface of sheet aluminum, steel, corrugated aluminum, or similar products; these materials are acceptable only as trim. Non-structural metal standing seam roofing is permitted. No accessory building shall exceed the height of a principal building. All exterior equipment and trash and recycling storage areas and dock areas shall be screened with materials used in the principal structure. Low profile, self-contained HVAC units which blend in with the building architecture are exempt from the screening requirement. Underground utilities shall be provided for all structures.¶

... [1]

Deleted: d.

Deleted: Signage. All signs shall be of a design and material approved by the City. Unless otherwise approved by the City, all signs must be attached to a building, parallel to and contiguous with its walls and not projecting above its roof line. All signs shall comply with Section 535.¶

¶ **e. City Facility Expansion Impact Fee.** The City may assess a public facilities impact fee on a proposed development within the business park district in those cases where it can demonstrate that:¶

- ¶ i. The expansion of public facility ... [2]

Deleted:

adversely affect the then existing traffic of the City. All private roads must comply with existing City regulations, with construction and maintenance being the sole responsibility of the property owner.

NC (Neighborhood Conservation) Zoning District.

1. Purpose

The purpose of the NC zoning district is the preservation, restoration and enhancement of neighborhoods within the City that have been developed over time responsive to earlier or nonexistent zoning standards of the City or East Oakdale Township. The goal of NC zoning is the retention of the existing physical environment of these pre-existing neighborhoods with a minimum of zoning non-conformities created by NC district standards, as well as to regulate "in-fill" development/redevelopment in those pre-existing neighborhoods. It is not the intent or purpose to apply the NC district standards to platting of undeveloped lands, or the division of existing tax parcels to create additional buildable tax parcels.

2. Permitted Uses

a. One family detached dwellings;

3. Accessory Uses.

a. Uses which are customarily accessory and clearly incidental and subordinate to permitted uses;

b. Home occupations.

3. Minimum District Requirements.

<u>NC Zoning District</u>	
<u>Lot Size</u>	<u>18,500 square feet</u>
<u>Lot Width</u>	<u>75 feet at front yard setback line</u>
<u>Building setback from property lines</u>	
<u>Front:</u>	<u>30 Feet, or adjacency averaged, whichever is greater</u>
<u>Side (Interior):</u>	<u>10 Feet</u>
<u>Side (Corner):</u>	<u>25 Feet, or adjacency averaged, whichever is greater</u>
<u>Rear:</u>	<u>40 Feet</u>
<u>Arterial Street:</u>	<u>50 Feet, or adjacency averaged, whichever is greater</u>
<u>Primary Building Height</u>	<u>35 Feet</u>
<u>Accessory Structures Height</u>	<u>14 feet</u>
<u>Septic and Water Supply</u>	<u>All lots must connected with the municipal water supply and served by a community septic treatment system or municipal sanitary sewer.</u>
<u>Maximum Impervious Surface Coverage</u>	<u>25%</u>
<u>Maximum Floor Area Ratio</u>	<u>0.25</u>

CITY OF LAKE ELMO
COUNTY OF WASHINGTON
STATE OF MINNESOTA

ORDINANCE NO. 97-186

AN ORDINANCE RELATING TO DEFINITIONS CONTAINED IN THE LAKE ELMO CITY
CODE.

The Lake Elmo City Council hereby ordains that the following definitions contained in Chapter 150 of the Lake Elmo City Code are amended to read:

“Agriculture” means the production or sale of livestock, dairy animals, dairy products, fur-bearing animals, horticultural and nursery stock, fruits of all kinds, vegetables, forage, grains, bees, and apiary products.

“Farm, Rural” The portion of a ten (10) or more acre parcel of land in the Rural Residential Zoning District which is devoted to agriculture by the property owner or by a lessee of the property owner.

Effective Date. This Ordinance shall be effective the day following its publication.

Adoption Date. Passed by the Lake Elmo City Council on the 8th day of November, 2006.

Dean Johnston, Mayor

Chuck Dillerud, Assistant City Administrator

Publication Date: This Ordinance was published in the

*Distributed at P2 meeting
on 11-13-06. KAA.*