CHAPTER 8

DEFINITIONS

1-8-1: RULES OF CONSTRUCTION:

The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:

A. The singular number includes the plural and the plural the singular.

B. The present tense includes the past and future tenses and the future the present.

C. The word "shall" is mandatory and the word "may" is permissive.

D. The masculine gender includes the feminine and neuter genders.

E. Whenever a word or term defined hereinafter appears in the text of this Ordinance, its meaning shall be constructed as set forth in such definition. If no set definition is given in the Ordinance, the word may be interpreted according to the dictionary definition.

1-8-2: DEFINITIONS:

As used in this Ordinance, the following words and terms shall have the meanings ascribed to them in this Section:

ACCESS: A means of providing vehicular entrance or exit to a property or parcel from an abutting property, public road or right-of-way. Access types include permanent, temporary or field openings.

ACCESS PERMIT: Any field opening, Driveway, public or private street/roadway that provides reasonable access for the movement of vehicles between the county road system and an abutting property.

ACCESS PLAN: A plan reviewed by the County Planning Commission and approved by the County Board of Commissioners upon recommendation of the County Highway Engineer establishing a coordinated plan for Access Connections to the county roadway system as part of an application for subdivision, conditional use permit or a development permit.

ACCESS, PRIVATE: An Access Connection that is privately owned and maintained and which provides the principal means of access to an abutting property.

ACCESS, PUBLIC: An Access Connection under the jurisdiction of a public authority that provides the principal means of access to an abutting property.

ACCESSORY STRUCTURE OR FACILITY: Any building or improvement which is incidental and subordinate to a principal use on the same lot or parcel, which, because of the nature of its use, can reasonably be located at or greater than normal structure setbacks.

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

ADULT ENTERTAINMENT: Any adult bookstore, strip club, adult hotel or motel, adult motion picture arcade, adult motion picture theater, cabaret, sexual encounter center, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter

depicting, describing, or related to specific sexual activities or specified anatomical areas, but not included those uses or activities, the regulation of which is preempted by state law. Any establishment in which adult videos comprise more than fifty percent (50%) of the video products in stock shall be considered an adult entertainment use.

AGENCY: The Minnesota Pollution Control Agency as established in Minnesota Statutes Annotated Chapter 116.

AGRICULTURAL SERVICE ESTABLISHMENT: Any service establishment primarily engaged in performing animal husbandry or horticultural services, including businesses performing agricultural milling and processing, harvesting or agricultural land preparation, farm equipment sales and service, veterinary services, boarding or training of horses and agricultural produce stands.

AGRICULTURAL USE: The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for storing the products. The term shall include incidental retail sales by the producer of products raised on the farm.

AIRPORT: Any area of land or water used, or intended to be used, for the landing and taking off of aircraft, and any appurtenant areas used or intended to be used for airport buildings or other airport facilities or right-of-ways, including all necessary taxi ways, aircraft storage and tie-down areas, hangars, and other necessary buildings and open spaces.

AIRPORT HAZARD: Any structure or tree or use of land which obstructs the airspace required for flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft.

AIRPORT HAZARD AREA: Any area of land upon which an airport hazard might be established.

AMENDMENT: A change in the wording of this Ordinance or change in the zone boundaries upon the Zoning Map.

ANNEXATION: The incorporation of a land area into an existing municipality with a resulting change in the boundaries of that municipality.

ANIMAL FEEDLOT: A lot or building or combination of lots or buildings used for a period of at least forty-five (45) consecutive days during any calendar year for the confined feeding, breeding, raising, or holding of animals and specifically designed as 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. Also included are all adjacent manure storage facilities and areas used for storage and/or disposal of dead animals. For the purposes of this Ordinance, open lots used for the feeding and rearing of poultry shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

ANIMAL MANURE: Poultry, livestock, or other animal excreta or a mixture of excreta with feed, bedding, or other materials.

ANIMAL UNIT: The unit of measure used to determine the appropriate density at which livestock and poultry can be raised subject to the restrictions imposed by this Ordinance. For purposes of this Ordinance, the multiplications factors as set forth in Minnesota Rules Chapter 7020.0300, as currently set and as amended from time-to-time, shall apply.

APPROACH AREA: That part of an airport hazard area as designated on the height zone map, along each side of the extended center line of a runway and lying below the normal glide path of aircraft approaching the runway to land.

AUTOMOBILE SERVICE STATION: Any building, structure or land used primarily for the dispersal, sale, or offering for sale of automotive fuels, oils, automobiles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement or rebuilding, body and fender repair, or painting.

AUTO WRECKING AND JUNKYARD: An open area where waste, used or secondhand materials or automobiles are bought, sold, exchanged, stored, baled, packed, disassembled or handled. A "junkyard" includes an auto wrecking yard, but does not include uses established entirely within an enclosed building.

BAR: An area primarily devoted to the serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

BASEMENT: (residential and non-residential) Any area of a structure, including crawl spaces, having the upper surface of its floor or base subgrade (below ground level) on all four (4) sides, regardless of the depth of excavation below ground level.

Base Flood Elevation (BFE): The elevation of surface water resulting from a flood that has a one (1) percent probability of equaling or exceeding that level in any given year as determined by the Federal Emergency Management Agency. The BFE is shown on the Flood Insurance Rate Map (FIRM) as Zone AE. Base Flood, regional flood, and 100-year flood are synonymous.

BED AND BREAKFAST: A private residence that offers sleeping accommodations for rent to lodgers in four (4) or fewer rooms, in the innkeeper’s (owner or operator) principal residence, and serves breakfasts to its lodgers. For the purpose of this definition, a lodger means a person who rents a room in a bed-and-breakfast establishment for fewer than fourteen (14) consecutive days.

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 percent over a distance for 50 feet or more shall not be considered part of the bluff):

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

C. The grade of the slope from the toe of the bluff to a point twenty-five feet (25') or more above the ordinary high water level averages thirty percent (30%) or greater; and

D. The slope must drain toward the water body.

BLUFF, TOE: The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from gentler to steeper slope above. If no break in the slope is apparent, the toe of the bluff shall be determined to be the lower end of the lowest ten (10) foot segment that exceeds eighteen (18) percent slope.

BLUFF, TOP: The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in the slope is apparent, the top of the bluff shall be determined to be the upper end of the highest ten (10) foot segment that exceeds eighteen (18) percent slope.

BLUFF IMPACT ZONE: Land located within a bluff.

BOARD OF ADJUSTMENT: The Hawley Township Board of Adjustment as described in the administrative section of this Ordinance and authorized under Minnesota Statutes Section 462.354.

BOARD OF COMMISSIONERS: See TOWNSHIP BOARD

BUILDABLE AREA: The upland area of a lot remaining after the minimum yard setback requirements of this Ordinance have been complied with.

BUILDING: A structure, either temporary or permanent, having a roof or other covering, and designed for the shelter or enclosure of any person, animal or property of any kind, including tents, awnings or vehicles situated on private property and used for purposes of a building.

BUILDING HEIGHT: The vertical distance between the highest adjoining ground level at the building, or ten feet above the lowest ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

BUILDING LINE: A line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend.

BUILDING SETBACK LINE: A line parallel with the street right-of-way line, private road, property line, ordinary high water mark, or access easement, at the required setback beyond which a building may not extend.

CAMPGROUND: An area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind.

CEMETERY: Land used or intended to be used for the burial of human remains and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries if operated in connection with, and within the boundaries of such cemetery.

CENTRALIZED WATER AND SEWER SYSTEMS; CENTRALIZED UTILITIES: Utilities systems serving a group of buildings, lots, or an area of the Township, with the design and construction of such utility systems as approved by the Township, County and/or the State of Minnesota. A centralized sewer system may include, but is not limited to, a community mechanical treatment system or a shared mound septic system.

CERTIFICATE OF COMPLIANCE: A letter from the Director or County Feedlot Pollution Control Officer to the owner of an animal feedlot stating that the feedlot meets agency requirements.

CHANGE IN OPERATION: An increase beyond the permitted maximum number of animal units, an increase in the number of animal units which are confined at an unpermitted animal feedlot requiring a

construction investment, or a change in the construction operation of an animal feedlot that would affect

the storage, handling, utilization, or disposal of animal manure.

CLUSTER DEVELOPMENT: A pattern of subdivision development which places housing units into compact groups.

COMMERCIAL AGRICULTURE: The use of land for commercial agricultural purposes including farming, dairying, pasturage, horticulture, floriculture, animal and poultry husbandry and the necessary accessory buildings and accessory uses for packing, treating or storing produce; provided agricultural revenues shall be the principal source of income from any operations.

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

COMMISSIONER: The Commissioner of the State Department of Natural Resources.

COMMUNICATION TOWER: A structure that is used primarily as a communication antenna or as a communication antenna support structure.

COMPREHENSIVE PLAN: A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development, both public and private of the Township and its environs and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

CONDITIONAL USE: A specific type of structure or land use listed in the official control that may be allowed but only after an in-depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls and upon a finding that:

A. Certain conditions as detailed in Section 1-4-7 of this Ordinance exist; and

B. The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood.

CONSERVATION EASEMENT: A legal agreement restricting development of farmland or natural areas. Lands subject to a conservation easement are generally restricted to farming and open space uses. A conservation easement does not imply any right of public access, except for periodic monitoring by the agency or entity holding the easement.

CORRECTIVE OR PROTECTIVE MEASURE: A practice, structure, condition, or combination thereof which prevents or reduces the discharge of pollutants from an animal feedlot to a level of conformity with Agency rules.

COUNTY: Clay County, Minnesota.

COVENANTS: Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

CROP EQUIVELANCY RATING: The weighted average per quarter-quarter section of land that

represents the relative net economic return per acre of soil as reflected by the differences in productivity

between soils, as determined by the University of Minnesota.

DAY CARE: Any facility operated for the purpose of providing care, protection and guidance to seven (7) or more individuals during only part of a 24-hour day, outside their place of residence. This term includes nursery schools, preschools, day care centers for adults, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period.

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 three feet (3') above ground.

DEVELOPMENT: The performance of any building or mining operations, the making of any material change in the use of any structure or land, the parceling of land into one or more lots, tracts or parcels and the creation or termination of rights of access or riparian rights.

DEVELOPMENT ORDER: Any approval, conditional approval or denial of a development permit by the Township Board of Commissioners, Planning Commission, Board of Adjustment, administrative officer or employee, board or individual responsible for administration of this Ordinance.

DEVELOPMENT PERMIT: Any permit customarily called a building permit, zoning certificate, conditional use permit, subdivision plat, zoning amendment, certification, variance or other action having the effect of permitting development.

DIRECTOR: The Executive Director of the Minnesota Pollution Control Agency whose duties are defined in Minnesota Statutes Annotated Section 116.03.

DOMESTIC FERTILIZER:

1. Animal manure that is put on or injected into the soil to improve the quality or quantity of plant growth; or

B. Animal manure that is used as compost, soil conditioners, or specialized plant beds.

DRINKNG WATER SUPPLY MANAGEMENT AREA (DWSMA): An area, including the entire wellhead protection area, determined using identifiable landmarks such as roads and property boundaries within which drinking water supply activities are managed.

DRIVEWAY: A roadway or opening constructed for vehicular travel and which is privately owned and maintained; and provides the principal means of access to three (3) or fewer abutting parcels or residences.

DWELLING OR DWELLING UNIT: A residential building or portion thereof including mobile homes, intended for occupancy by a single person or family but not including hotels, motels, boarding or rooming houses or tourist homes.

DWELLING, SINGLE FAMILY: A building containing one dwelling unit only, including a manufactured home with one dwelling unit.

DWELLING SITE: A designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

DWELLING, TWO FAMILY: A building containing two (2) dwelling units. Also a duplex.

EQUAL DEGREE OF ENCROACHMENT: A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate

share of flood flows.

ESSENTIAL SERVICES: Underground or overhead gas, electrical, steam, water, television, telephone, sanitary or storm sewer distribution systems, including poles, wires, pipes, conduits, cables and accessory equipment in conjunction therewith, except buildings as are required for the protection of the public health, safety and general welfare.

EXTRACTIVE USE: The use of land for surface or subsurface removal of sand, gravel, rock, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes Annotated Sections 93.44 to 93.51.

FAMILY: An individual or two (2) or more persons related by blood, marriage or adoption, living together, or a group of not more than five (5) persons who need not be related by blood, marriage or adoption living together as a single housekeeping unit in a dwelling unit.

FARM: Real property used for commercial agriculture or horticulture comprising at least thirty-five (35) contiguous acres and which may contain other contiguous or noncontiguous acreage, all of which is owned, rented and operated by a single family, family corporation, individual, corporation or partnership.

FARM BUILDING: Any building or accessory structure other than a farm or nonfarm dwelling which is used in a farm implement storage building or milk house.

FARMER: Any individual, partnership, association or corporation that cultivates, operates or manages a farm either as an owner or tenant.

FARM HOMESTEAD: The site used for a farm dwelling and associated farm buildings occupied by a farmer or farm dwelling. All building sites classified by the County Assessor as farm homesteads shall be considered to meet the requirements of this provision.

FARM STAND: A structure used seasonally from which agricultural products grown by the owner of the site on which the farm stand is located are sold.

FEEDLOT OPERATOR: An individual, a corporation, a group of individuals, a partnership or joint venture or any other entity having charge or control of one or more feedlots.

FEMA: Federal Emergency Management Agency

FIELD ACCESS/OPENING: An Access Connection to an agricultural field used for the movement of farm vehicles and equipment. Access to a farmstead, feedlot, farm-related structures or uses contemplated under the AGRICULTURAL USE definition, exclusive of any uses that fall within this definition, are not considered a field access or opening.

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

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

FLOOD FRINGE: That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Clay County, Minnesota and Incorporated Areas.

FLOOD INSURANCE RATE MAP (FIRM): The Flood Insurance Rate Map, “Clay County, Minnesota and Incorporated Areas”, dated April 17, 2012 and prepared by the Federal Emergency Management

Agency.

FLOOD INSURANCE STUDY: The Flood Insurance Study, “Clay County, Minnesota and Incorporated Areas”, dated April 17, 2012 and prepared by the Federal Emergency Management Agency.

FLOOD PLAIN: The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the 100-year flood as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.

FLOODPROOFING: A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages. For the purpose of this Ordinance, the classification of buildings and structures (FP-1 through FP-4) shall be as defined in section 210.1 of the 1972 edition and any amendments thereto of "Flood Proofing Regulations," as developed by the office of the Chief Engineers, U.S. Army, Washington, D.C.

FLOODWAY: The bed of a wetland or lake and the channel of a watercourse and those portions of the adjoining flood plain which are reasonably required to carry, store, and discharge the regional flood as determined by the use of the 100-year flood profile and other supporting technical data in the Flood Insurance Study.

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

FOREST MANAGEMENT: Activities conducted on or directly pertaining to forest land relating to the growing, managing, harvesting, and interim storage or merchantable timber for commercial value.

GARAGE, PRIVATE: An accessory building housing non-commercial motor driven vehicles that are the property of and for the private use of the occupants of the lot on which the private garage is located.

GEOLOGIC SENSITIVITY: The Minnesota Department of Natural Resources (DNR) identifies sensitive areas as geographic areas defined by natural features where there is significant risk of ground-water degradation from activities conducted at or near the surface (Minn. Stat. Sec. 103H.005). The natural features are the geologic conditions in the area. This approach is called intrinsic or geologic sensitivity.

GOLF COURSE: A tract of land laid out with at least nine holes for playing a game of golf and improved with tees, greens fairways, and hazards. A golf course includes a clubhouse and shelters as accessory uses.

GOVERNMENTAL FACILITY: A building or structure owned, operated, or occupied by governmental

agency to provide a governmental service to the public.

HARDSHIP: The same as that term is defined in Minnesota Statutes Annotated Chapter 394, as amended.

HISTORIC SITE: A location set aside for no other purpose than to commemorate a historical event, activity, or person.

HOME OCCUPATION: An occupation, profession or craft which is customarily incidental to or carried on at a residential dwelling site or farm homestead and serving a local service area.

IRRIGATION SYSTEM: A permanent, artificial watering system designed to transport and distribute

water to plants.

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

INTERIM PERMIT: A permit issued by the Director or County Feedlot Pollution Control Officer which expires no longer than ten (10) months from the date of issue.

KENNEL: Any lot or premises on which four (4) or more dogs or cats of over three (3) months of age are kept or raised.

LANDFILL: A State licensed site used for disposing of solid wastes, including organic materials such as garbage.

LAND USE: The development existing on land.

LEVEE: A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

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 said description for the purpose of sale, lease, or separation, and which is of sufficient size to meet minimum requirements of this Ordinance or, when used in reference to a feedlot, is an open air space designed to confine livestock.

LOT AREA: The area of a lot in a horizontal plane within the lot lines.

LOT CORNER: A lot which occupies the interior angle at the junction of two (2) intersecting street lines, which make an angle not exceeding one hundred thirty-five degrees (135°).

LOT DEPTH: The mean horizontal distance between the front lot lines and the rear lot line of a lot.

LOT LINE, FRONT: That boundary of a lot which abuts an existing or dedicated public street and in the case of a corner lot, the shortest dimension on a public street which meets Township specifications. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner.

LOT LINE, REAR: That boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet (10') in length or if the lot forms a point at the rear, the rear lot line shall be a line ten feet (10') 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 rear lot line.

LOT OF RECORD: Any lot that has been recorded in the office of the County Recorder of Clay County, Minnesota, prior to the effective date hereof.

LOT WIDTH: The width of a lot along a line parallel to the frontage thereof and lying at a distance therefrom equal to the required setback on such lot.

LOWEST FLOOR (Floodplain definition): The lowest floor of the lowest enclosed area (including

basement). An unfinished or flood resistant enclosure, used solely for the parking of vehicles, building access, or storage in an area other than the basement area, is not considered a building’s lowest floor.

MAINTENANCE OR MINOR REPAIRS: Includes nonstructural repair and structural alteration which does not expand the external dimensions of a building or structure.

MANUFACTURED HOME (Floodplain Definition): A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” does not include the term “recreational vehicle.”

MANUFACTURED HOME: A structure, transportable in one or more sections, which in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that the term includes any structure which meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development (HUD) and complies with the standards established in Minnesota Statutes Chapter 327.31 through 327.36.

MANURE STORAGE AREA: An area associated with an animal feedlot where animal manure or runoff containing animal manure is stored, temporarily, until it can be utilized as domestic fertilizer applied at agronomic rates or removed to a permitted animal manure disposal site. Examples include, but are not limited to; earthen basins or lagoons, concrete basins or lagoons, or commercial storage tanks. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage for these parts.

MARINA: A dock or basin where slips, moorings and often supplies, repairs, and other services are available for craft.

MARKET VALUE: An estimate of what is a fair, economic, just and equitable value under normal local market conditions as arrived at by a consideration of prior sales of the property being acquired, reasonably recent and not forced. In the absence of accurate comparables (basis for past scales), market values may be determined through other means including calculations of replacement costs less depreciation.

METES AND BOUNDS: A description of real property which is not described by reference to a lot or

block shown on a map or a recorded plot, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property.

MOBILE HOME: A dwelling unit that does not meet the standards for a manufactured home and is designed for transportation after fabrication on streets and highways on its own wheels or on a flatbed or other trailer and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundation connections to utilities and the like. See MANUFACTURED HOME.

MOTEL: A building or group of attached or detached buildings containing individual sleeping or living

units primarily for transient occupancy. A "motel" furnishes customary services such as maid service and

linen laundering and desk service, and with parking facilities conveniently located to each unit.

MOTOR SPORTS FACILITY: A track or course, paved or unpaved, and associated facilities for the racing or driving of automobiles, tractors, motorcycles, motorized bicycles, or any other motorized vehicle.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP): The program of flood insurance coverage and floodplain management administered under the National Flood Insurance Act and applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations, Subchapter B.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT: A permit issued by the Agency for the purpose of regulating the discharge of pollutants from point sources including concentrated animal feeding operations.

NEW ANIMAL FEEDLOT: An animal feedlot constructed and operated at a site where no animal feedlot existed previously or where a pre-existing animal feedlot has been abandoned or unused for a period of five (5) years or more.

NIGHTCLUB: Any room, place, or space maintained for general patronage where food and drink are served or dispensed and where patrons are permitted to engage in dancing.

NONCONFORMING ACCESS: An Access Connection to a property or parcel that existed prior to the effective date of this ordinance that does not conform with the requirements of this ordinance.

NONCONFORMING STRUCTURE: A structure or portion thereof lawfully existing on the effective date of this amendment and that does not conform to the dimensional and flood protection regulations (i.e., bulk, yard, setbacks, height, floodproofing, etc.) of the district in which it is located.

NONCONFORMING USE: A use of land, building or structures lawfully existing at the time of adoption of the Ordinance codified in this Ordinance or amendment thereof which does not comply with all the provisions of this Ordinance the applicable use regulations of the district in which it is located.

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

NURSERY, RETAIL: The retail handling of any article, substance, or commodity related to the planting, maintenance, or harvesting of garden plants, shrubs, trees, packaged fertilizers, soils, chemicals, or other nursery goods and related products in small quantities to the consumer.

OBSTRUCTION: Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory 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 such water.

OFFICE: Non-residential space that is used primarily for administrative, clerical, professional or similar activities.

ORDINARY HIGH WATER LEVEL (OHWL): The boundary of public waters and wetlands, and shall

be an elevation delineating the highest water level which has been maintained for a sufficient period of

time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. For watercourses, the ordinary high water level

is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

OWNER: All persons having possession, control, or Ordinance to an animal feedlot or other parcel of land as described in each specific section.

PARCEL OF LAND: Any quantity of land capable of being described with such definiteness that its location and boundaries may be established which is designated by its owner or developer as land to be used or developed as a unit or which has been used or developed as a unit. Parcel includes an easement supporting or related to a primary parcel.

PARK: Any public or private land available for recreational, educational, cultural, or aesthetic use.

PARKING SPACE: An off-street area of motor vehicles not less than ten feet by twenty feet (10' x 20') in area, having access to a public street or alley or private driveway. In determining the gross area required for a specified number of off-street parking places including driveways and aisles three hundred (300) square feet per space shall be used.

PASTURES: Areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetation cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices, corrals and pasture lanes.

PICNIC GROUND: Two or more picnic tables reserved for use by 10 or more persons equipped with picnic tables, barbecue stands, and may be provided with a roofed shelter.

PLAYHOUSE: A freestanding structure, exclusively for the use of children, with a maximum height of 12 feet and an area not to exceed 120 square feet.

POOL HALL: A business establishment containing more than two pool or billiard tables for the use of patrons.

POTENTIAL POLLUTION HAZARD: A condition which indicates a potential for pollution of the land

or waters of the State including:

1. An animal feedlot or manure storage area whose boundaries are located within shoreland, flood plain, or are located in an area draining directly to a sinkhole or draining to an area with shallow soils overlying a fractured or cavernous rock, or are located within one hundred feet (100') of a water well; or

B. An animal feedlot or manure storage area whose construction or operation will allow a discharge of pollutants to surface waters of the State in excess of applicable standards, including, but not limited to, Minnesota Rules Chapter 7050, during a rainstorm event of less magnitude than the 25-year, 24-hour event, or will allow uncontrolled seepage of pollutants into ground water, or will violate any applicable State rules.

POULTRY LOT: A confined area or structure used intensively for raising, feeding, breeding or holding

chickens, turkeys and other poultry for eventual sale or the production of eggs, not including areas

normally used for the growing of crops.

PRESERVE: Open space that preserves or protects endangered species, a critical environmental feature, or other natural feature.

PRINCIPAL USE OR STRUCTURE: All uses or structures that are not accessory uses or structures.

PUBLIC WATERS: Any waters as defined in Minnesota Statutes Annotated Section 103G.005, subdivision 15.

QUARTER/QUARTER SECTION: An approximately forty (40) acre parcel of land constituting the

northeast, northwest, southeast or southwest quarter of a quarter section in the United States Government System of Land Survey.

REACH: A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a reach.

RECREATIONAL VEHICLE: a vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Ordinance, the term recreational vehicle shall be synonymous with the term travel trailer/travel vehicle.

REGIONAL FLOOD: A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what has a one (1) percent probability of occurring in any given year and can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study, the term 100-Year Flood or the term one (1) percent annual chance flood.

REGULATORY FLOOD PROTECTION ELEVATION (RFPE): An elevation not less than one (1) foot (freeboard) above the water surface profile associated with the 100-year flood as determined by the use of the 100-year flood profile and supporting technical data in the Flood Insurance Study plus any increase in

flood heights attributable to encroachment in the floodplain due to designation of the floodway (stage increase). It is the elevation to which uses regulated by this Ordinance are required to be elevated or floodproofed except for certain residential basements as stipulated in this Ordinance.

RELIGIOUS INSTITUTION: A building, together with its accessory buildings, where persons regularly assemble for religious purposes and related social events and which building, together with its accessory buildings, is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

REPLACEMENT COSTS: The current cost of rebuilding a structure to its pre-damaged condition.

RESTAURANT: A commercial establishment where food and beverages are prepared, served, and consumed primarily within the principal building and where food sales constitute more than 80 percent of the gross sales receipts for food and beverages.

RESTAURANT, DRIVE-IN: An establishment whose primary business is serving food to the public for

consumption on the premises by order from and service to vehicular passengers outside the structure,

where revenues from the sale of food equal at least 40 percent of the gross revenue.

RETAIL: The selling of goods, wares, or merchandise directly to the ultimate consumer or persons without a resale license.

RETREAT CENTER: A semipublic use oriented to using the natural features and outdoor character of the area for short term stays and featuring educational, contemplative and human development workshops and related training activities, which may include the following: religious worship and workshops; life events (i.e. weddings, reunions, birthdays); passive recreation (non-motorized) oriented to appreciating the outdoor and natural character of the area; a nature center, conservatory, interpretive center, exhibit, museum or library space; residential building(s) (rooms or cabins) for short term occupancy by a single family or unrelated individuals attending an educational or life event or workshop at the retreat (but not designed or intended for use as a residence); and/or having limited communal facilities for dining, sanitation, meeting, educational or worship purposes.

RIGHT-OF-WAY: Land in which the Township or County has an interest (including, but not limited to, by fee title, easement or plat dedication), which is primarily intended, directly or indirectly, to be used for a highway, street, road, alley or drainage facility.

ROAD: A public thoroughfare twenty feet (20') in width or more in which supporting access by pedestrians and motor vehicles to abutting properties including without limitation streets, highways, freeways, parkways, thoroughfares, roads, avenues, boulevards, lanes or places, however described; however, not including privately owned driveways and access routes.

SALVAGE YARD: A lot or portion thereof where waste, discarded or salvaged materials are bought, sold, exchanged, baled, stored, packed, disassembled or handled, including auto wrecking activities, building wrecking activities, used lumber places and places for storage of salvaged building materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building.

SCHOOL: An institution for the teaching of children or adults including public, private or religious primary and secondary schools, colleges, professional schools, dance schools, business schools, trade

schools, art schools, and similar facilities.

SEMI-PUBLIC USE: The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization.

SENSITIVE AREAS:include shorelands; delineated flood plains (along Red River only includes 1,000 feet from bank); federal, state or local wild and scenic river districts; within 1,000 feet of a karst feature (sinkhole, cave, disappearing spring, resurgent spring, karst window, dry valley or blind valley); within 1,000 feet of a fen, spring or flowing well; sites listed on the Clay County Biological Survey; vulnerable parts of delineated drinking water supply management areas; and those areas having a “very high” sensitivity rating to pollution as shown on Plate 4 of 4, “Sensitivity of Surficial Aquifers to Pollution” from the MN DNR Regional Hydrogeologic Assessment Southern Red River Valley, Minnesota, 2000.

SENSITIVE RESOURCE MANAGEMENT: The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over ground water or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

SERVICE BUSINESS: A retail business offering services, rather than products, as the primary business.

Products may be sold that are incidental to the service. Examples include, septic cleaning, catering, rug and carpet cleaning, accounting, etc.

SETBACK: The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility.

SEWAGE TREATMENT SYSTEM: A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Section 1-1-6 of this Ordinance.

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

SHELTERBELT: A linear area of trees and/or shrubby vegetation designed to shelter buildings from wind and snow accumulation.

SHOOTING RANGE: An area or structure specially designed for the safe discharge and use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder, or any similar firearm for the purpose of sport shooting or military/law enforcement training.

SHORE IMPACT ZONE: Land located between the ordinary high water level of a public water and a line parallel to it at a setback of fifty percent (50%) of the structure setback.

SHORELAND: Land located within the following distances from public waters:

1. One thousand feet (1,000') from the normal high water mark or a lake, pond, or flowage; and

B. Three hundred feet (300') from a river or stream.

The limits of shoreland may be reduced whenever the waters involved are bounded by natural

topographic divides which extend landward for a lesser distance and when approved by the Commissioner of the Department of Natural Resources.

SIGN: A name, identification, description, display, illustration or device which is affixed to or represented directly or indirectly upon a building, structure or land in view of the general public and which directs attention to a product, place, activity, person, institution or business.

SIGN, OFF-SITE: A sign which directs attention to a business, commodity, service, activity or entertainment not conducted, sold or offered upon the premises where the sign is located.

SIGNFACE: The entire area within a single, continuous perimeter enclosing the extreme limits of the actual sign surface. It does not include any structural elements outside the limits of such sign and not forming an integral part of the display. Only one side of a double-face V-type sign structure shall be used in computing the total surface area.

SIGN, TEMPORARY: A banner, pennant, poster, or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wall board or similar material and intended to be displayed for a limited period of time but does not include candidate advertisements.

SIGN, WALL: A sign attached to a wall and not projecting away from the wall more than 12 inches.

SIGNIFICANT HISTORIC 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 Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes Annotated Chapter 306. An 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 Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

SINKHOLE: A surface depression which is connected to cavernous bedrock (generally limestone) by a channel or collapse of the overlying formation.

SPECIAL FLOOD HAZARD AREAS: Any of the areas delineated on Flood Insurance Rate Maps as Zone AE or Zone A.

START OF CONSTRUCTION: The first placement of permanent construction on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation or the affixing of any prefabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading or filling; excavation for basement, footings, piers or foundations; installation of sewer, gas and water pipes or electric or other service lines from the street or existence on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not a part of the main structure.

STEEP SLOPE: Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available County soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of this Ordinance. Where

specific information is not available, steep slopes are lands having average slopes over twelve percent (12%), as measured over horizontal distances of fifty feet (50') or more, that are not bluffs.

STORAGE STRUCTURE, RESIDENTIAL: A structure to be used, or intended to be used, for the private noncommercial, nonindustrial storage uses by the property owner prior to the construction of a residence on the property.

STREET CLASSIFICATION: All streets are to be considered classified under the following categories in the Township Comprehensive Plan:

Arterial Street and Highways: Those which are used primarily for fast or heavy traffic.

Collector Street: Those which carry traffic from minor streets to the major system of arterial streets and highways, including principal entrance streets of a residential development and streets for circulation within such a development.

Minor Streets: Those which are used primarily for access to and adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.

STRUCTURAL ALTERATION: Any change, other than maintenance and minor repairs which would prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders

or foundations.

STRUCTURE: Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, decks, manufactured homes recreational vehicles not meeting the exemption criteria specified elsewhere in this Ordinance and other similar items.

SUBDIVISION: Land, vacant or improved, which is divided or proposed to be divided into lots, parcels, sites, units, plots or interests for the purpose of offer, sale, lease or development either on the installment plan or upon any and all other plans, terms and conditions, including re-subdivision. Subdivision includes the division or development of residential and nonresidential zoned land excluding a division of land for commercial agricultural purposes into lots or parcels of five (5) acres or more, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument.

SUBSTANTIAL DAMAGE: Means damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT: Within any consecutive 1,825 day (five year) period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other improvement of a structure, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the initial improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

b. Any alteration of an “historic structure,” provided that the alteration will not preclude the structure’s continued designation as an “historic structure.” For the purpose of this Ordinance, “historic structure” shall be as defined in 44 Code of Federal Regulations, Part 59.1.

SURFACE WATER-ORIENTED COMMERCIAL USE: The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conducting of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use.

SWIMMING POOL, PRIVATE: An accessory use established or maintained on any premises by an individual for personal or family use or for guests of the individual or family.

SWIMMING POOL, PUBLIC: A swimming pool, admission to which may be gained by the general public with or without payment of a fee.

SWIMMING POOL, SEMI-PRIVATE: A swimming pool on the premises of, or part of, a hotel, motel, mobile home or travel trailer park, apartment house, private club, association or similar establishment, where admission to the use of the pool is included in the fee, or consideration paid or given for the general use of the premises.

TEMPORARY USE:Those land uses and insubstantial structures that are needed or are in place for only short periods of time not exceeding three (3) months and not intended for long-term or permanent use.

TOWNSHIP BOARD: The Hawley Township Board of Commissioners.

TRAIL: A publicly owned or maintained trail/path system, including trailheads as defined in the parks and recreation master plan. Trailheads may include parking lots, drinking fountains, restrooms, and signage.

TRANSIENT AGRICULTURAL LABOR: Person employed in farming operations on the premises where housed or other lands owned by the owner of the premises, provided that said persons may be employed a maximum of eight (8) weeks.

VARIANCE: A modification of a specific permitted development standard required in an official control including this Ordinance to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a practical difficulty or unique circumstance, but not including a use not allowed in the applicable zoning district.

WELLHEAD PROTECTION AREA (WHPA): The surface and subsurface area surrounding a well that supplies a public water system, through which contaminants are likely to move through and reach the well. WHPA boundaries are scientifically calculated using the following criteria: time of travel of substances; flow boundaries; daily volume of water pumped; groundwater flow field; and aquifer transmissivity.

WETLAND: A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39, 1971 Edition and any amendments thereto.

WHARF: Any structure built or maintained for the purpose of providing a berth place for vessels.

WHOLESALE BUSINESS:A business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or

acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

WIND BREAK: A linear area of trees and/or shrubby vegetation designed to decrease wind flow and accumulate snow away from roads.

YARD: An open space on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this Ordinance.

YARD, FRONT: A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such a lot is located.

YARD, REAR: A space extending between the rear line of the main building and the rear line of the lot and extending the full width of the lot. In the case of through lots and reversed frontage corner lots, there will be no rear yard. In the case of corner lots with normal frontage, the rear yard shall extend from the inner side yard line of the side yard adjacent to the interior lot at the rear building line to the rear line of the half-depth front yard. Depth of required rear yards shall be measured at right angles to a straight line joining the rearmost points of the side lot lines. The forward rear yard line (rear building line) of a required rear yard shall be parallel to the straight line so established.

YARD, SIDE: An open, unoccupied space on the same lot with a building, located between the building and the side lot line of the lot and extending from the front lot line to the rear lot line.