

SECTION 5 - DEFINITIONS AND RULES OF LANGUAGE CONSTRUCTION

Subdivision 1: Rules of Language Construction

Subdivision 2: Definitions

Subdivision 1: Rules of Language Construction

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application. Certain terms or words used herein shall be interpreted as follows:

1. The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
2. The words “shall” and “must” are mandatory and not discretionary; the word “may” is permissive.
3. Words used in the present tense shall include the future; words used in the singular shall include the plural, and the plural the singular.
4. The word “used for” shall include the phrases “arranged for,” “designed for,” “intended for,” “maintained for” and “occupied for.”
5. All stated and measured distances shall be taken to the nearest integral foot. If a fraction is one-half ($\frac{1}{2}$) foot or less, the integral foot next below shall be taken.

Subdivision 2: Definitions

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

Adult Business. Any establishment having as a substantial or significant portion of its stock in trade or business activity in a use such as, but not limited to the following: Adults-Only Bookstores, Adults-Only Motion Picture Theatres, Adult Entertainment Centers, Massage Parlors, Rap Parlors, Adults-Only Cabarets or Adults-Only Saunas, where explicit sexual conduct is depicted and or sexual activity is explicitly or implicitly encouraged or tolerated.

Agriculture. The cultivation of land for crops to include animal husbandry, tree nurseries, and orchards.

Aircraft. Any machine for flying as defined by the Federal Aviation Administration.

Automobile Service Station. Any building or premises, or portion thereof, used or intended to be used for the retail dispensing or sale of automobile fuels, which activity may be accompanied by accessory uses such as sale of lubricants, tires, accessories or supplies, or minor repairing of automobiles.

Bed-and-Breakfast Inn, Retreat Center. An existing house or portion thereof, where short-term lodging rooms and meals may be provided. The owner/operator of the establishment need not reside at the facility.

Billboard. See Advertising Sign.

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 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 25 feet above the ordinary high water level of the waterbody; (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 percent or greater; and (4) the slope must drain toward the waterbody.

Board of Adjustment. A quasi-judicial body, created by this Ordinance, whose responsibility it is to hear appeals from decisions of the Zoning Administrator and to consider requests for variances permissible under the terms of this Ordinance.

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

Buffer. The use of land, topography (differences in elevation), space, fences, or landscape plantings to screen or partially screen a tract of property from another tract of property and thus reduce undesirable influences such as sight, noise, dust and other external effects which a land use may have upon other adjacent or nearby land uses.

Building. Any structure designed or intended for the shelter, support or enclosure of persons, animals, chattel or property of any kind.

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

Building Setback Line. A line within a lot or other parcel of land parallel to a public road, street or highway right-of-way line defining that distance between the building and property line in which buildings or structures may not be placed.

Business. Any occupation, employment, or enterprise wherein merchandise is exhibited or sold or rented, or which occupies time, attention, labor, or materials, or where services are offered for compensation.

Cellar. A portion of a building located partly or wholly underground and having half or more than half its clear floor to ceiling height below grade.

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 Department of Natural Resources.

Comprehensive Plan. Unless otherwise stated, it is the general plan for land use, transportation, and community facilities prepared and maintained by the County.

Conditional Use. A use of land not normally allowed in a particular zoning district but which may be allowed under certain conditions.

Convenience Store. A store selling on a retail basis food for consumption off the premises along with other items, sometimes including gasoline; differentiated from a grocery store by its size of not more than 5,000 square feet.

County. McLeod County, Minnesota.

County Board. Includes the County Commissioners, the Board of County Commissioners or any other word or words meaning the McLeod County Board of Commissioners.

Day Care Center. A business in which ten or more children receive adult supervision and meals in the temporary daily absence of their parents. A similar business with fewer than ten children is considered a home occupation.

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 above ground.

Depth of Lot. The mean horizontal distance between the mean front lot line and the mean rear lot line.

Dwelling Unit. Two or more rooms within a structure which are arranged, designed or used as living quarters for one (1) family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall be included for each dwelling. A mobile home with the above accommodations located in areas approved for mobile homes shall be considered a dwelling unit. A house trailer, camper trailer, camper, bus or tent, are not considered dwelling units.

- A. **Dwelling, farm.** A dwelling located on a farm which *one or more* of the residents of said dwelling either owns, operates or is employed thereon.
- B. **Dwelling, non-farm.** A dwelling located on a parcel of land contiguous to or surrounded by farmland which is under separate ownership and which the resident(s) of said dwelling neither operates nor is employed thereon.
- C. **Dwelling Single-Family.** A detached building designed for and occupied by not more than one family.

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. Any surface, overhead or underground electric, gas transportation, hydro-carbon, steam, water, or refuse transmission, distribution or collection system operated by any utility company or governmental agency.

- A. Minor Essential Service Facilities - Any essential service line or structure located within any county easement or county right-of-way and providing single service distribution lines, i.e., single service electrical distribution lines (less than 35 KV), other single service distribution lines (telephone and gas), shall not require a conditional use permit, however, such service facilities shall be governed by the procedures described herein.
- B. Major Essential Service Facilities - Any essential service line or structure providing transmission services, i.e., utility service such as high voltage (greater than 35 KV) electrical power or bulk gas or fuel being transferred from station to station and not intended for end route consumption shall require a conditional use permit as regulated in Section 18 of this Ordinance in addition to being governed by the procedures described herein.

Essential Service Line. Any primary or subsidiary conductor designed or utilized for the provision or maintenance of essential services including any pole, wire, drain, main, sewer, pipe, conduit, cable, fire hydrant, fire alarm box, police call box, right-of-way, but not including any structure.

Essential Service Structure. Any pertinent structure required to be on line to accommodate the proper provision or maintenance of essential services, including any electric substation, water tower, sewage lift station, or other similar facility.

Extraction of Minerals. The use of land for surface or subsurface removal of sand, gravel, rock, earth, industrial minerals, other nonmetallic minerals, and peat not regulated under Minnesota Statutes, sections 93.44 to 93.51.

Family. Any number of individuals related by blood, marriage, adoption or foster care, or not more than five (5) persons not so related, maintaining a common household and using common cooking and kitchen facilities; as distinguished from a group occupying a boarding house, lodging house, hotel or motel.

Family Day Care Home. A single-family home providing day care in accordance with State Statutes.

Farm. A forty-acre or larger parcel of land used primarily for commercial agricultural production, except that it does not include non-farm agricultural activities. A farm may include related structures required for the agricultural operations and the secondary processing, selling, storage or transport of the farm produce.

Farm-related business. A commercial or industrial enterprise providing goods or services exclusively to the local agricultural economy.

Feedlot. A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of this ordinance, open lots for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures

shall not be considered to be animal feedlots. Other definitions relating to feedlots as regulated in Section 19 of this Ordinance are found in the Minnesota Pollution Control Agency's Rules For the Control of Pollution from Animal Feedlots, which are adopted by reference in this Ordinance.

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 average 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 McLeod County.

Flood Plain. The areas adjoining a watercourse which have been or hereafter may be covered by the regional 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.

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

Frontage. All the property fronting on one side of a street, measured along such street, between an intersecting street and another intersecting street, a right-of-way, waterway, end of a dead-end street, or municipal boundary.

Gross Floor Area. The sum of the gross horizontal areas of the several floors of a building measured from the exterior walls, the exterior faces of exterior walls, or from the center line of party walls separating two buildings; the term does not include basements used for storage purposes or enclosed spaces used for off-street parking.

Hardship. The condition when the property in question cannot be put to a reasonable use under the conditions allowed by this ordinance. Economic considerations alone shall not constitute a hardship if any reasonable use for the property exists under the terms of this ordinance. (As used in connection with a variance under this ordinance.)

Home Occupation. Any occupation of a service character which is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of a secondary use.

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

Junk Yard. An area where used, waste, 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, used building material and products resulting from the wrecking of automobiles or other vehicles, providing further, that the storage of five (5) or more inoperative or unlicensed motor vehicles shall also be considered a junk yard.

Kennel. A place where four (4) or more dogs over four (4) months of age, are owned, boarded, bred or offered for sale.

Lot. A parcel of land occupied or to be occupied by a principal structure or group of structures and accessory structures together with such yards, open spaces, lot width and lot area as are required by this Ordinance, and having the required frontage upon the street, either shown and identified by lot number on a plat of record or considered as a unit of property and described by metes and bounds.

A. Lot, corner - A lot located at the intersection of two streets having two adjacent sides abutting streets; the interior angle of the intersection does not exceed 135 degrees.

Lot Area. The area of a lot on a horizontal plane bounded by the lot lines.

A. Lot area, buildable - That portion of the lot remaining after the deletion of floodplains, road right-of-way, wetlands and excessive slopes.

Lot Frontage. See **Frontage**.

Lot Lines. The lines bounding a lot as defined in this Ordinance.

Lot width. The shortest distance between lot lines measured at the building front setback line.

Lot of Record. Any lot which has been recorded in the office of the County Recorder prior to October 17, 1981.

Manufactured (Mobile) Home. A structure, transportable in one or more sections, which in the traveling mode, is 8 feet or more in width or 40 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. The term includes any structure that meets all the requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under State law.

Mining - Refer to "Extraction of Minerals"

Non-Conforming Use. Any building or land lawfully occupied by a use at the time of the approval of this Ordinance, or any amendment to it rendering such use non-conforming, which does not comply with all of the regulations of this Ordinance, or any amendment hereto, governing use for the zoning districts in which such use is located.

Non-Conforming Building or Structure. Any building or structure lawfully existing at the time of the approval of this Ordinance, or any amendment to it rendering such building or structure non-conforming, which: (a) does not comply with all of the regulations of this Ordinance, or any amendment hereto, governing bulk, height and yard requirements for the zoning district in which such building or structure is located; or (b) is designed or intended for a non-conforming use.

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.

Obstruction, waterway. 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.

Open Sales Lot. An open area other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition or other materials or equipment, and where no repair work is done.

Ordinary high water level. The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural 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.

Principal Use. The purpose for which land or a building or structure thereon is designed, arranged, intended or maintained or for which it is or may be used or occupied.

Principal Building. A building in which is conducted the principal use of the lot on which it is situated.

Public water. A body of water capable of substantial beneficial public use. This shall be construed to mean, for the purposes of this Ordinance, any body of water, which has the potential to support any type of recreational pursuit or water supply purpose. However, no lake, pond or flowage of less than 25 acres in size and no river or stream having a total drainage area of less than two (2) square miles need be regulated by the County for the purposes of this Ordinance. A body of water created by a private user where there was no previous shoreland, as defined herein, for a designated private use authorized by the Commission shall be exempt from the provisions of the statewide standards and criteria.

Reach - a hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most typically constitute a reach.

Regional Flood - a flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in the Flood Insurance Study.

Regulatory Flood Protection Elevation - An elevation no lower than 3 feet above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the flood plain that result from designation of a floodway.

Replacement Dwelling. A newly constructed or moved in structure to replace a previous existing dwelling which is in any various degrees of disrepair which is located on an existing building site that may include the following: an existing access and driveway, electrical services, established trees or windbreak and existing accessory structures.

Restaurant. An establishment where food is available to the general public for consumption on the premises.

Road. A public right-of-way affording primary access by pedestrians and vehicles to abutting properties whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, or however, otherwise designated.

Salvage and Wrecking Yard. An outdoor facility used by a business engaged in the reclamation of parts or materials from used motor vehicles or trailers, machinery or buildings.

Screened. When a structure is built to be placed on a lot or vegetation is planted such that when the structure is built it is visually inconspicuous as viewed from the shoreland during the summer months. Visually inconspicuous means difficult to see or not readily noticeable in summer months.

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 the McLeod County Individual Sewage Treatment System 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.

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 50 percent of the structure setback.

Shoreland. Land located within the following distances from public waters: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances and when approved by the Commissioner of the Department of Natural Resources and the County Commissioners.

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

- A. Advertising (off-premise sign) - A billboard, poster panel, painted bulletin board, or other communicative device which is used to advertise products, goods, or services which are not exclusively related to the premises on which the sign is located.
- B. Business Sign - Any sign which identifies a business or group of businesses, either retail or wholesale, or any sign which identifies a profession or is used as the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where such sign is located.

- C. Construction Sign - A sign placed at a construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.
- D. Directional Sign - Sign erected on public or private property which bears the address and name of a business, institution, church, or other use or activity plus directional arrows or information on location.
- E. Directory Sign - A wall sign which identifies the business, owner, manager, or resident occupant and sets forth the occupation or other address information but contains no advertising.
- F. Free Standing Sign - Any stationary or portable, self-supported sign not affixed to any other structure.
- G. Government Sign - A sign, which is erected by a governmental unit.
- H. Illuminated Sign - Any sign which is lighted by artificial light source either directed upon it or illuminated from an interior source.
- I. Institutional Sign - A sign or bulletin board, which identifies a name or other characteristics of a public or private institution on the site where the sign is located.
- J. Integral Sign - A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like carved into stone, concrete or similar material made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.
- K. Nameplate Sign - A sign indicating the name and address of a building or the name of an occupant thereof and the practice of a permitted occupation therein.
- L. Portable Sign - A sign structure with or without copy and/or graphics so designed as to be movable from one location to another and which is not permanently attached to the ground or any structure.
- M. Real Estate Sign - A business sign placed upon a property advertising that particular property for sale, or for rent or lease.
- N. Sign Area - 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 sign structure shall be used in computing the total surface area.
- O. Temporary Signs - A sign designed to be displayed for a limited period of time that is not permanently fixed to the land or a structure. Banners, pennants, sandwich or curb signs, portable signs, balloons, or similar objects constitute temporary signage when displayed outside on a premises.

Special Event/Rallies. Any motorized rally consisting of 2 or more vehicles in the immediate area.

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 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground, or to something having permanent location on the ground, including advertising devices or other construction or erection with special function or form, except fences or walks, and for the purposes of this Ordinance, manufactured homes which are otherwise herein defined and restricted.

Structural alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

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

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

Toe of the bluff. The lower point of a 50-foot segment with an average slope exceeding 18 percent.

Top of the bluff. The higher point of a 50-foot segment with an average slope exceeding 18 percent.

Travel Trailer. A trailer mounted on wheels that (1) is designed to provide temporary living quarters during recreation, camping or travel (2) does not require a special highway movement permit based on its size or weight when towed by a motor vehicle and (3) complies with Minnesota Statutes, Chapter 169.

Truck Terminal. A warehouse and distribution business specializing in the shipment of goods or materials and which generates significant numbers of semi-trailer trucks.

Unit. See **Dwelling Unit**.

Use. The purpose for which land or premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied or maintained.

A. Permitted Use - A public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of a particular district.

Variance. The waiving by the Board of Adjustments of the literal provisions of all McLeod County Ordinances in cases where their strict enforcement would cause undue hardship because of physical circumstances unique to the individual property involved. Variances shall be limited to height, bulk, density and yard requirements.

Warehousing. The storage of materials, goods, or equipment within an enclosed building as a principal use.

Water-Oriented Accessory Structure or Facility. A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks.

Wetland. Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this Ordinance, wetlands must (1) have a predominance of hydric soils; (2) be inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and (3) under normal circumstances, support a prevalence of hydrophytic vegetation.

"A wetland" or "the wetland" means a distinct hydrologic feature with characteristics of the preceding paragraph, surrounded by non-wetland and including all contiguous wetland types except those connected solely by riverine wetlands. "Wetland area" means a portion of "a wetland" or "the wetland."

Wetlands also include public waters wetlands and public waters that are designated on the public waters inventory maps prepared under Minnesota Statutes, Section 103G.201.

Width of Lot. The mean horizontal distance between the side lot lines of a lot, measured within the lot boundaries on corner lots the lesser frontage is the width.

Wooded. A tract of land that has tree canopy over at least 30 percent of it, with trees confirmed to be of desirable species, healthy and mature, with 30 percent of trees having a minimum diameter of 6 inches measured to a point two (2) feet above ground level..

Yard. The space in the same lot with a building open and unobstructed from the ground to the sky.

- A. Front Yard - The area extending across the front of the lot between the side yard lines and lying between the center line of the road or highway and the nearest line of the building.
- B. Rear Yard - The space unoccupied except for accessory buildings on the same lot with a building between the rear lines of the building and the rear line of the lot, for the full width of the lot.
- C. Side Yard - An open unoccupied space on a lot between the main building and the sideline of the lot, extending from the front to the rear of the main building.

Zoning Administrator. The duly appointed person charged with the enforcement of this Ordinance.

Zoning District. An area or areas within the limits of McLeod County for which the regulations and requirements governing land use are uniform.