

**TITLE 12**

**Zoning Ordinance**

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**CHAPTER 1**

**Purpose and Definitions**

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**SEC. 12-1-1 INTENT AND PURPOSE**

This Ordinance is adopted for the following reasons:

- (a) To provide for the citizens of Thorp adequate light, pure air, safety from fire and other dangers; to conserve the value of land and buildings; to lessen or avoid congestion of traffic in the public street; and to promote the public health, safety, comfort, convenience, morals and general welfare.
- (b) To promote the character and stability of residential, business and manufacturing areas within the City of Thorp and to promote the orderly and beneficial development of such areas.
- (c) To preserve the aesthetic quality, historic and cultural areas of the City.
- (d) To establish restrictions in order to attain these objectives by adopting a zoning ordinance which will create districts into which the city is divided, and provide for the requirements upon the intensity of the use of land and buildings, off-street parking facilities, and provision for administration and enforcement, the penalties for violation of the Ordinance, and the procedure, powers

and duties of the Board of Appeals, Planning Commission and Council.

**SEC. 12-1-2      DEFINITIONS**

For purposes of this Ordinance, certain terms are defined as follows:

(a)      Words used in the present tense include the future, words in the singular number include the plural number, and words in the plural number include the singular number. The word "shall" is mandatory and not directory. The word "persons" included an individual, all partnerships, associations and bodies political and corporate. The word "lot" includes the word "plot" or "parcel" or "tract". The word "used" or "occupies" as applied to any land or building shall be construed to include the words "intended", "arranged" or "designed to be used or occupied".

- 1) Accessory Structure or Use. An accessory structure or use means a use or structure subordinate to the principal use of a building, or to the principal use of the land and which is located on the same lot and serving a purpose customarily incidental to the use of the principal building or land use. Accessory uses or structures to residential principal purposes include detached private garages, carports, other parking spaces, swimming pools, tennis courts, and sheds.
- 2) Adult Book Store. An establishment having as the predominant portion of its stock in trade, books, magazines, other periodicals, photograph and video media, which are distinguished or characterized by their emphasis on matter depicting, describing the or relating to *Specified Sexual Activities* or *Specified Anatomical Areas* as defined herein.
- 3) Adult Cabaret. A nightclub, bar, theater, restaurant or similar establishment which frequently features live performances by topless or bottomless dancers, go-go dancers, exotic dancers, strippers or similar entertainers, where such performances are distinct racist or characterized by an emphasis on *Specified Sexual Activities* or by exposure of *Specified Anatomical Areas* or which regularly feature films, motion pictures, videocassettes, slides or other photographic reproductions which are distinguished or characterized by an emphasis upon the depiction or description of *Specified Sexual Activities* or *Specified Anatomical Areas* for observation by patrons. An Adult Cabaret does not include theaters, performing arts

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- centers, civic centers and dinner theaters were alive dance, ballet, music and dramatic performances of serious artistic merit are offered on a regular basis and which the predominant business or attraction is not the offering to customers of entertainment which is intended to provide sexual stimulation or sexual gratification to such customers and where the establishment is not distinguished by an emphasis on, or the advertising or promotion of, in employees engaging in nude erotic dancing.
- 4) Alley. A way which affords only a secondary means of access to abutting property.
  - 5) Apartment. A portion of a multiple dwelling used as a separate housing unit and having cooking facilities and private bath.
  - 6) Automobile Wrecking Yard. Any premises on which two or more self-propelled vehicles not in running order or operating condition are stored in the open.
  - 7) Basement. A portion of a building with the floor located below the mean grade level. For the purpose of this Ordinance, any such basement with more than four (4) feet above grade level shall be counted as a story.
  - 8) Beer Garden. An open air, roofed or unroofed area, adjacent or accessory to a "Class B" intoxicating liquor and/or fermented malt beverage licensed premises, where beer and other alcohol beverages are served or consumed, but not including areas within the premises and the time period described in a "Temporary Class B" fermented malt beverage picnic license.
  - 9) Board of Appeals. The Board of Appeals is appointed by the Mayor and confirmed by the City Council pursuant to §62.23 Wis. Stats. The jurisdiction and authority of the Board of Appeals is listed in Sections 12-2-12 and 12-6-3 of this Ordinance.
  - 10) Boarding House. A building, other than a hotel, where meals or lodging and meals are provided for compensation for not more than six (6) persons.
  - 11) Building. A structure used designed or intended for the protection, shelter, or enclosure of persons, animals, or property.

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- 12) Building, Alterations of. Any change or rearrangement of the supporting members (such as bearing walls, beams, columns, or girders) of a building, an addition to a building or movement of a building from one location to another.
- 13) Building, Height of. The vertical distance from the average elevation of the finished grade at the building line to the highest point of a flat roof, or the deck line of a mansard roof, or the average height of the highest gable or gambrel, hip or pitch roof.
- 14) Building, Principal. The main building (including attached garage) on a lot, intended for primary uses permitted by the regulations of the district in which it is located. Any building intended for human habitation shall constitute the principal building.
- 15) Building Line, Front. A line parallel to the street, intersecting the foremost point of the building, excluding uncovered steps.
- 16) Class 2 Notice. Publication of a public hearing notice in a newspaper of circulation in the affected area, which notice shall be published once each week for two consecutive weeks, the last publication of which shall be at least one week before the act or event.
- 17) Clinic. A building or part of a building used by physicians or dentists for the examination and treatment of patients, but without provisions for keeping such patients overnight on the premises.
- 18) Club. A building owned, leased or hired by a non-profit association of persons, the use of which is generally restricted to dues paying members and their guests. Such club may periodically be rented or leased to non-members for gathering such as weddings, anniversaries, and dances, but no portion of the building shall continuously be used for business purposes.
- 19) Conditional Use. A use which is permitted by this ordinance provided that (a) certain conditions specified in the ordinance are met and (b) a permit is granted by the Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.
- 20) Development. Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of additional, or substantial alterations to, buildings, structures or accessory structures; the

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- placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.
- 21) Drainage System. One or more artificial ditches, tile drains or similar devices which collect surface run-off or groundwater and convey it to a point of discharge.
  - 22) Dwelling Unit. Any room or group of rooms located within a dwelling and forming a single habitable unit, with facilities which are used or intended to be used for living, sleeping, cooking, and eating.
  - 23) Dwelling, Single Family or Residential Dwelling. A detached building designed for and occupied exclusively by one family.
  - 24) Dwelling, Multiple. A building or portion thereof used or designated as a residence for more than one family as separate housekeeping units, including duplexes, apartments, apartment hotels and townhouses.
  - 25) Environmental Control Facility. Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.
  - 26) Family. Any number of individuals living and cooking together on the premises as a single housekeeping unit.
  - 27) Garage, Attached. A garage beneath a principal building or a garage adjoining a principal building and connected by a roof and sharing at least one common wall.
  - 28) Garage, Private. An accessory structure, or that part of the principal building, capable of storing an automobile and having at least one entrance which allows automobile access.
  - 29) Garage, Public. A building or portion thereof used for the housing or care of motor vehicles for the general public or where such vehicles are equipped or repaired for remuneration or kept for hire or sale. This may include premises commonly known as "gasoline stations" or "service stations".

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- 30) Gasoline Station. Any area of land, including structures thereon, that is used for the sale of gasoline or other motor vehicle fuel, oil or other lubricating substances; and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning or otherwise cleaning motor vehicles.
- 31) Ground Floor Area. The area of a lot under the roof of the principal building and enclosed by permanent walls but not including attached garages.
- 32) Home Occupation. A home occupation is any gainful occupation customarily conducted within a dwelling solely by the residents thereof that is clearly secondary to the residential use and does not change the character of the structure as a residence.
- 33) Hospital. A building or part thereof used for the diagnosis, treatment or other care of human ailments having provisions for keeping such patients overnight on the premises, and including, unless otherwise specified, sanitariums, sanatoriums, preventoriums, rest homes, nursing homes, convalescent homes, and any other place for the diagnosis, treatment or other care of human ailments.
- 34) Hotel. A building used to house six (6) or more transient persons for compensation which has sleeping rooms without individual cooking facilities.
- 35) Interchange. A grade-separated intersection with one (1) or more direct connections for vehicular travel between intersecting streets or highways.
- 36) Junk Yard. An open space outside of closed buildings where waste, used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled including but not limited to scrap iron and other metals, paper, rags, rubber, tires and bottles.
- 37) Loading Area. A completely off-street space or berth on the same lot for the loading or unloading of freight carriers having adequate ingress and egress to a public street or alley.
- 38) Lot. A parcel of contiguous land with described boundaries and abutting or having access via an approved easement to a public street or other approved way and exclusive of any lands lying in a public right-of-way, mill tax roads, public streams or other public bodies of water.

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- 39) Lot Coverage. The percent of area of a lot occupied by buildings or structures, including accessory buildings or structures.
- 40) Mobile Home. A pre-fabricated detached single or multiple family dwelling unit designed for long-term occupancy and containing sleeping accommodations, with a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems, which is or was designed transported on its own wheels and is not specifically designed to be mounted on its own foundation.
- 41) Mobile Home Park. Any lot on which two (2) or more mobile homes are parked for the purpose of permanent habitation, and including any associated service, storage, recreation, and other community service facilities designed for the exclusive use of park occupants.
- 42) Modular Units. A detached single or multiple family dwelling unit designed for long-term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems; which is or was designed to be mounted on a permanent foundation.
- 43) Motel. A building or group of buildings containing rooms which are offered for compensation for the temporary accommodation of transients.
- 44) Navigable Waters. Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under §144.26(2)(d) Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under §§61.351 or 62.221 Wis. Stats. and Chapter NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:
- i. Such lands are not adjacent to a natural navigable stream or river;
  - ii. Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
  - iii. Such lands are maintained in nonstructural agricultural use.

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- 45) The Wisconsin Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the shallowest draft on an annually recurring basis [Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGaynor and Co., Inc. v. Department of Natural Resources, 70 Wis.2d 936 (1975)]. For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable, in fact, under the laws of this state though it may be dry during other seasons.
- 46) Nonconforming Lot. A lot of record existing on the date of passage of this Ordinance which does not have the minimum width or contain the minimum area for the zone in which it is located.
- 47) Nonconforming Structure. A lawful structure which exists on the date of passage of this Ordinance that could not be built under the terms of this Ordinance by reasons of restrictions on area, lot coverage, height, yard setbacks, or other characteristics of the structure.
- 48) Nonconforming, Use. The lawful use of land which exists at the time of the adoption or amendment of this Ordinance that would not be a lawful use in the district in which it is situated after such adoption or amendment.
- 49) Nursing Home, Rest Home, Convalescent Home. A place which undertakes through its ownership or management to provide maintenance, personal or nursing care for three or more persons who by reason of illness, physical handicap or old age are unable to care for themselves.
- 50) Open Sales Area. Any open land or area used or occupied for the purpose of displaying for sale new or second-hand merchandise, including but not limited to, passenger cars or trucks, farm machinery, motor scooters or motorcycles, boats, trailers, aircraft, and monuments. No repair work is done in such area except for incidental repair of items to be displayed and sold on the premises.
- 51) Ordinary High-Water Mark. The point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

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- 52) Outdoor Storage Areas. Any open land or area used for the purpose of storage of any product or part of a product either before, during or after manufacture, servicing, or repair, and not displayed for retail sale. This does not include open sales areas.
- 53) Parking Space. An off-street space available for the parking of a motor vehicle and which is held to be an area the dimensions of which are 10 feet by 20 feet or which covers 200 square feet, exclusive of passageways and driveways appurtenant thereto and giving access thereto.
- 54) Places of Assembly. Places where people gather or congregate for amusement, worship, learning, etc. This includes schools, churches, theaters, playgrounds, etc.
- 55) Planning Commission. Where the phrase "Planning Commission" appears, this refers to the Planning Commission of the City of Thorp. The Planning Commission is appointed by the mayor and confirmed by the City Council pursuant to §62.23 Wis. Stats. The duties of the Commission in regard to this Ordinance are delineated in Sections 12-6-5 and 12-6-6 of this Ordinance.
- 56) Restaurant. A building or part thereof used to prepare and serve food to be eaten on the premises for compensation.
- 57) Restaurant, Drive-In. A building or part thereof used to prepare, package, and serve food to be eaten either off the premises or within automobiles parked on the premises.
- 58) Roadside Stand. A structure having a ground area of not more than 300 square feet, not permanently fixed to the ground, readily removable in its entirety, not fully enclosed and to be used solely for the sale of farm products produced on the premises.
- 59) Rooming House. A building, other than a hotel, where rooming units but no meals are provided for compensation for not more than six (6) persons.
- 60) School. A building or group of buildings maintained by the public or a private organization for the purpose of education and which is accredited by the State of Wisconsin. Schools include grades kindergarten through twelve (12) but does not include trade schools that fail to teach the state-required courses for high school graduation in addition to the vocational instruction.
- 61) School, Commercial. A school limited to special instructions such as business, art, music, trades, handicraft, dancing, or riding.

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- 62) Setback. The minimum horizontal distance from the front line of the lot, the right-of-way line of the highway or the center line of the highway, as designated in the Ordinance, to the front wall of the building, exclusive of permitted projections. The setback shall be measured at right angles to such front lot line, right-of-way line, or center line highway.
- 63) Shorelands. Lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond, or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.
- 64) Sign. Anything erected, hung, suspended, painted or attached to any other structure carrying words, letters, figures, phrases, sentences, names, designs, trade names or trademarks or any other devices placed so as to be visible from a street or highway and calling attention to a business, trade, profession, commodity, product, persons, firm or corporation.
- 65) Sign, Advertising. An advertising sign, billboard or poster panel which directs attention to a business, commodity, service or entertainment not exclusively related to the premises which such "advertising sign" is located or to which it is affixed, but does not include those business signs which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.
- 66) Sign, Business. A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises on which such sign is located or to which it is affixed.
- 67) Sign, Temporary. A sign that is in public view for a period of no more than 14 consecutive days.
- 68) Sign, Permanent. A sign that is in public view for a period greater than 14 consecutive days.
- 69) Sign, Freestanding. A sign that is not attached to a building.
- 70) Specified Anatomical Areas. Specified Anatomical Areas means (a) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; (b) Human

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- male genitals in a discernible turgid state, even if completely and opaquely covered.
- 71) Specified Sexual Activities. Specified Sexual Activities means (a) Human genitals in a state of sexual stimulation or arousal; or (b) Acts of human masturbation, sexual intercourse or sodomy; or (c) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- 72) Street. A right-of-way established by a recorded plat to provide the primary means of access to abutting property.
- 73) Street, Arterial. A public street or highway intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways, as well as major thoroughfares, highways, and parkways.
- 74) Structure. Anything constructed, installed or portable, the use of which requires location on a parcel of land, or attachment to something having a permanent location on the ground. It includes a movable structure, fences, billboards, swimming pools, poles, pipelines, transmission lines, tracks, and street graphics.
- 75) Structural Alterations. Any change in the supporting members of a structure such as bearing walls, columns, beams or girders, foundations and poles.
- 76) Swimming Pool. Any temporary or permanent artificial above or below ground structure or receptacle designed to contain water with a depth of thirty-six (36) inches or greater exclusively for the private use of residents and guests of either single-family dwellings or multiple-family dwellings. However, it shall not include wading pools under thirty-six (36) inches, fish ponds, hot tubs, whirlpools or Jacuzzi's.
- 77) Travel Trailer or Motor Home. A vehicular portable structure designed as a temporary dwelling for travel, recreation and vacation use, which does not fall within the definition of mobile home or modular unit.
- 78) Unnecessary Hardship. That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing area, setbacks, frontage height or density unnecessarily burdensome or unreasonable in light of the purposes of this ordinance.

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- 79) Variance. A relaxation of or departure from the terms of this Ordinance allowed by the Board of Appeals when the literal application of this Ordinance would deny to the property owner a use of his property enjoyed as a right by other property owners within the same zoning district.
- 80) Vision Clearance. An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highways or streets with railroads. Such vision clearance triangle shall be bounded by the intersection highway, street, or railroad right-of-way lines by measurement from their intersection as specified in the Ordinance.
- 81) Yard. An open space on the same lot with a structure, unoccupied and unobstructed from the ground upward, except for vegetation as permitted, and except for permitted accessory buildings in rear yards.
- 82) Yard, Front. A yard fronting on any street extending across the full width of a lot, having a depth equal to the minimum horizontal distance between the front property line and the nearest point of the principal structure, excluding permitted projections.
- 83) Yard, Rear. A yard, unoccupied, except by accessory buildings, extending from the rear line of the main building to the rear lot line for the entire width of the lot, excluding such projections as are permitted herein.
- 84) Yard, Side. A yard or open space on each side of the main building extending from the side lot line to the side wall of the building, exclusive of permitted projections and from the front yard to the rear yard. When an accessory building is constructed as part of the main building, the side yard requirements shall be the same for the main building.
- 85) Zoning Administrator. The person authorized by the City Council of the City of Thorp with the responsibility of administering this Ordinance. The powers and duties of the Zoning Administrator are outlined in Section 12-6-2 of this ordinance.
- 86) Zoning Lot. A lot which may or may not conform to a lot of record which is needed to meet the lot size requirement of this Ordinance.