

regulatory purposes in Minnesota, wetlands are identified by all three of the following criteria:

1. Having a predominance of hydric [having or characterized by excessive moisture] soils;
2. Being inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic [growing wholly or partially in water] vegetation typically adapted for life in saturated soil condition; and
3. Under normal conditions, actually supporting a prevalence of hydrophytic vegetation.

These features will be present except where special physiochemical, biotic [of or relating to living organisms], or human-influence factors have removed them or prevented their development.

Wetland Banking – Compensatory mitigation carried out in advance of the actual loss of wetlands, and the associated system of recording and facilitating the exchange of “wetland credits”.

Wetland Credit – A quantifiable unit of restored or created wetland and associated land resources used to offset land losses, often referred to in the context of wetland banking. In Minnesota, the unit measure is acres, characterized by wetland type.

Wetland Function – A physical, chemical, or biological process or attribute to a wetland. Theoretically, all wetland functions can be measured or quantified objectively. Example: the flood storage function of a wetland can be measured on cubic feet of water stored.

Wetland Hydrogeomorphology – The combined hydrologic and landscape setting of a wetland. An understanding of these physical characteristics of a wetland is useful in determining how a wetland is formed and how it functions.

Wetland Hydrology – The presence of recurrent, sustained inundation or saturation at or near the surface of the substrate sufficient to produce physical, chemical, and biological features reflective of anaerobic conditions. The source and dynamics of wetland hydrology can vary. Some examples include overbank flooding from streams, upwelling of groundwater, or surface runoff from precipitation.

Wetland Value – The extent to which a physical, chemical, or biological process or attribute of a wetland is beneficial or valuable to individuals or society. Since wetland values are culturally derived, they may be difficult to quantify and may change over time. Example: the extent to which a wetland stores surface water and thereby reduces downstream flooding is a wetland value, possibly measured in dollars of damage reduction (See also “wetland function”).

Will - A written document properly witnessed, providing for the distribution of property owned by the deceased.

Z

Zoning - The right of a municipality to regulate and determine the compatible character and use of property.

The terms contained in this booklet are defined in their most commonly used form.

These definitions are intended for the help of people not normally involved in real estate.

Should precise definitions of these terms be necessary you are advised to seek the counsel of an attorney.

management appointed by the local government unit (LGU); a technical professional representing the country soil and water conservation district, and a technical professional representing the Minnesota Board of Water & Soil Resources.

Tenancy in Common - An estate or interest in land held by two or more persons each having equal rights of possession and enjoyment but without any right of survivorship between the owners.

Tenant - Any person in possession of real property with the owner's permission.

Testament - Another term for a will. Commonly referred to as "last will and testament."

Testate - The estate or condition of leaving a will at death. "To die testate."

Testator - A man who makes or has made a testament or will.

Testatrix - A woman who makes or has made a testament or will.

Thence - In surveying and in metes and bounds descriptions, the term designates that the course and distance given thereafter is a continuation of the course and distance given before.

Title - The evidence or right which a person has to the ownership and possession of land. Commonly considered as a bundle or history of rights.

Title Defect - Any legal right held by others to claim property or to make demands upon the owner.

Title Insurance - Insurance against loss or damage resulting from defects or failure of title to a particular parcel of real property.

Title Plant - The total facilities - records, equipment, fixtures and personnel - required to function as a title insurance operation. Technically, the organization of official records affecting real property into a system which allows quick and efficient recovery of title information.

Title Search - An examination of public records, laws and court decisions to disclose the current facts regarding ownership of real estate.

Township - A division of territory 36 miles square, containing 36 sections or 36 square miles.

Tract - An area of land.

Trust - A right of property held by one for the benefit of another. **T**

Trustee - A person holding property in trust.

U

Utility - A sanitary sewer, storm sewer, potable water distribution, and transmission, distribution, or furnishing, at wholesale or retail, of natural or manufactured gas, electricity, telephone, or radio service or communications.

V

Variable Rate Mortgage - A loan in which the interest rate fluctuates with the cost of funds or some other index.

Vendee - A purchaser of real property.

Vendor - A seller of real property.

Vest - To pass to a person an immediate right. Title may be said to vest in John Brown.

Vestee - A non-legal term coined by title insurers and used by them to indicate the owner of real property.

W

Warranty - An agreement and assurance by the grantor of real property for himself and his heirs, to the effect that he is the owner and will be responsible.

Watershed - A region or area drained by a river or stream.

Wetland - According to the Wetland Conservation Act from the Minnesota Statutes of 2000, the term "wetlands" means an ecosystem that depends on constant or recurrent, shallow inundation [the rising of a body of water and its overflowing onto normally dry land] or saturation at or near the surface of the substrate [soil]. The minimum essential characteristics of a wetland are recurrent, sustained inundation or saturation at or near the surface and the presence of physical, chemical, and biological features reflective of such inundation or saturation (National Research Council, 1995). For

Remediation – The action of cleaning up polluted property.

Replacement, Replacement Wetland – See “mitigation”.

Restoration – The re-establishment of an area that was historically a wetland but currently provides no or minimal wetland functions due to manmade alteration such as filling or drainage.

Right-of-Way - The right which one has to pass across the lands of another. An easement.

Riparian - Rights to use of water in lakes or rivers.

S

Second Mortgage - A second loan on real estate that already has a mortgage. It is subordinate to the first mortgage. Usually of shorter term and at higher interest rate.

Section or Section of Land - A parcel of land comprising one square mile or 640 acres.

Section 1031 of The Internal Revenue – Allows investors to defer the payment of taxes on the proceeds of sales by exchanging investment properties of “like kind” –that is, properties held for investment or for productive use in trade or business.

Sequencing – A requirement for wetland permit applicants to reasonably avoid and minimize wetland impacts and to provide compensatory mitigation, or replacement for the unavoidable loss of wetlands.

Self-sustaining – Maintaining or able to maintain itself.

Set Back Lines - Those lines which delineate the required distances for the location of structure in relation to the perimeter of the property.

Shoreland Wetland Protection Zone – Shoreland wetland protection zone means;(1) for local government units that have a shoreland management ordinance approved under sections 103F.201 to the shoreland wetland protection zone is:

(i) 1,000 feet from the ordinary high water level of a

waterbasin that is a *public water* identified in the shoreland management ordinance or the shoreland area approved by the commissioner as provided in the shoreland management rules adopted under section 103F.211, whichever is less; or

(ii) 300 feet from the ordinary *high water level* of a watercourse identified in the shoreland management ordinance or the shoreland area approved by the commissioner as provided in the shoreland management rules adopted under section whichever is less; and

(2) for local government units that do not have a shoreland management ordinance approved under sections 103 F.201 to

(i) 1,000 feet from the ordinary high water level of a waterbasin that is a public water that is at least ten acres in size within municipalities and at least 25 acres in size in unincorporated areas; or

(ii) 300 feet from the ordinary high *water level of a watercourse* identified by the public waters inventory under section 103G.201.

Sub-surface Right - The right to ownership of everything beneath the physical surface of the property.

Subwatershed –A local watershed within one of the 81 major watersheds in Minnesota.

Survey - The process of measuring land to determine its size, location and physical description.

T

Tax Increment Financing(TIF) – The capture of real estate taxes from new development and application of that money to assist or stimulate that development.

Technical Evaluation Panel, Technical Panel (TEP) –Established by the Minnesota Wetland Conservation Act to address technical issues related to wetland functions, values, locations, type, and size and to make recommendations on wetland replacement plans, exemption and no-loss determinations, sequencing determinations, local comprehensive wetland plans, and wetland banking plans. A panel is comprised of a technical professional with expertise in water resource

O

Ownership - The right to possess and use property to the exclusion of others.

Ordinary High Water Level –The boundary of waterbasins, watercourses, public waters and public waters wetlands and: **1** the ordinary high water level is an elevation delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly the point where the natural vegetation changes from predominately aquatic to predominantly terrestrial; **2** for watercourses, the ordinary high water level is the elevation of the top of the bank of the channel; and **3** for reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

P

Pasture – An area that was grazed by domesticated livestock or that was planted with annually seeded crops in a crop rotation seeding of grasses or legumes in six of the last ten years prior to January 1, 1991.

Patent - A document issued for the purpose of granting public lands to an individual.

Palustrine – Non-tidal wetlands dominated by trees, shrubs, or emergent vegetation; marshes, bogs, fens....

Phase I –A preliminary environmental audit report that investigates the history of the subject and the surrounding neighborhood to assess the potential for an environmental hazard to exist on a property.

Phase II – Actual testing of the site –including soil tests, well monitoring, etc. and analysis of results to determine the degree and extent of an environmental hazard.

Perched – A localized unconfined aquifer where the ground water body is above the general surrounding regional water table and is controlled by structure or stratigraphy; the upper surface of the ground water body is called a “perched water table”.

Plat or Plot - A map representing a piece of land subdivided into lots with streets shown thereon.

Points - A one-time special fee or extra charge paid to a lender in order to secure a loan. Expressed as a percentage of face amount of mortgage.

Policy - A written contract of title insurance.

Policyowner - One who owns a title insurance policy

Political Subdivision – A county, city, town, school district, or other local government jurisdiction to which the state provides state aids or on which the state imposes state mandates.

Power of Attorney -An instrument authorizing another to act on one's behalf as his agent or attorney.

Power of Sale - A clause inserted in a will, deed of trust or trust agreement authorizing the sale or transfer of land in accordance with the terms of the clause.

Pro-Rate- To allocate between seller and buyer their proportionate share of an obligation paid or due. "For example, a pro-rate of real property taxes or fire insurance."

Q

Quiet Title - An action in District Court to remove record defects.

R

Range - A part of the government survey, being a strip of land 6 miles in width, and numbered east or west of the principal meridian.

Real Property - Land and that which is affixed to it.

Realty - A brief term for real property.

Redeem - Literally "to buy back." The act of buying back lands after a mortgage foreclosure, tax foreclosure, or other execution sale.

Reinsurance - To insure again by transferring to another insurance company all or part of an assumed liability, thus spreading the loss risk any one company has to carry.

Lessee - One who takes lands upon a lease.

Lessor - One who grants lands under a lease.

Letter of Permission(LOP) –An alternative review and approval process the Corps of Engineers has implemented in Minnesota and Wisconsin to replace the Nationwide Permit system.

Lien - A hold, a claim or a charge allowed a creditor upon the lands of a debtor. Some examples are mortgage liens, judgment liens, mechanics liens.

Life Estate - A grant or reservation of the right of use, occupancy and ownership for the life of an individual.

Link - A term of land measurement being Y1 ooth of a chain or 66/looths of a foot.

Lis Pendens - A notice recorded in the official records of a county to indicate that a suit is pending affecting the lands where the notice is recorded.

Loam, loamy – Soil consisting of an easily crumbled mixture of varying proportions of clay, silt, and sand.

Local Government Unit – 1 Outside of the seven-county metropolitan area, a city council or county board of commissioners or their delegate **2** in the seven-county metropolitan area, a city council, a town board under section 368.01, or a watershed management organization under section 103B.211, or their delegate; and **3** on state land, the agency with administrative responsibility for the land.

Lot - A measured parcel of land having fixed boundaries.

M

Majority - The age at which a person is entitled to handle his own affairs.

Marketable Title - A good title about which there is no fair or reasonable doubt.

Mechanics Lien - A lien allowed by statute to contractors, laborers and material-men on buildings, or other structures upon which work has been performed or materials supplied.

Metes and Bounds -A description of land by courses and distances.

Metropolitan Urban Services Area(MUSA)
–Was adopted in the mid-1970s to achieve an orderly pattern of contiguous growth. The policy objective is to synchronize infrastructure and growth and maximize efficiency, accommodating growth in a way that maximizes regional investments in roads, sewers and transit.

Mitigation, Compensatory Mitigation, Mitigation Wetland- Mitigation refers to the restoration, creation enhancement, and in exceptional circumstances, preservation of wetlands expressly for the purposes of compensating for the loss of other wetlands due to human activities. Compensatory mitigation as is synonymous with the term “replacement” and is the last step in the process of “sequencing”.

Monument of Survey - Visible marks or indications left on natural or other objects indicating the lines and boundaries of a survey. May be posts, pillars, stones, cairns, and other such objects but may also be fixed natural objects, blazed trees, roads and even a water course.

Moraine – A rolling land form composed primarily of glacial till which has been deposited by a glacier(see “glacier till” and “glacial outwash”).

Mortgage -An instrument used to encumber land as security for a debt.

Mortgage Revenue Bonds - Issued by communities as a means of providing lower cost mortgage funds to certain qualified borrowers.

Mortgagee - A designation for the mortgage lender on lands.

Mortgagor - A designation for the mortgage borrower on lands.

Municipality –A home rule character or statutory city.

N

Nationwide Permits – A form of Corps of Engineers general permit under which certain activities are “pre-approved”, in that they can be undertaken with minimal specific review and/or written agency approval.

Notary - One authorized to take acknowledgments. (See acknowledgments)

Graduated Payment Mortgage - A loan in which monthly payments are relatively small in the beginning years and gradually increase in dollar amount over the life of the mortgage.

Grantee - A person who acquires an interest in land by deed, grant, or other written instrument.

Grantor - A person who, by a written instrument, transfers to another an interest in land.

Guardian - One appointed by the court to administer the affairs of an individual not capable of administering his own affairs.

H

Harbor Line - An arbitrary line set by authorities on navigable rivers, beyond which wharves and other structures may not be built, also designated as line of navigation.

Heir - One who might inherit or succeed to an interest in lands under the rules of law applicable where an individual dies without leaving a will.

Hiatus - A gap or space unintentionally left between, when attempting to describe adjacent parcels of land.

High Quality Wetland - Self-sustaining wetland that exhibits the full range of elements (biological and chemical) and processes characteristic of its type.

Home Repair Loan - Used for repairs and additions to existing structures without affecting existing mortgage. Typically 10 years or less in length.

I

Improvements - Those additions to raw lands tending to increase value such as buildings, streets, sewer, etc.

Inchoate Dower - The imperfect interest which the law gives a wife in the lands of her husband, "This is an interest which upon the death of the husband may ripen into possession and use."

Inchoate Curtesy - The imperfect interest which the law gives a husband in the lands of his wife. This is an interest which upon the death of the wife may ripen into possession and use.

Indemnify - To make payment for a loss.

Ingress - The right to enter a tract of land. Often used interchangeably with access. (See Access)

Insurance - A contract of indemnity against specified perils.

Insurance of Title - Insurance as to who owns a specified interest in designated real estate, and showing as exceptions to the insured interest the defects, liens and encumbrances which exist as against that insured interest.

Insurance Loan - When cash value of life insurance policy is borrowed by insured.

Interim Financing - Temporary or short term loans. Often used with new construction. Usually replaced with a permanent, long term mortgage.

Intestate - Designates the estate or condition of failing to leave a will at death. "To die intestate."

J

Joint Tenancy - Where two or more persons hold real estate jointly for life, the survivors to take the interest of the one who dies.

Judgment - A decree of a court. In practice this is the lien or charge upon the lands of a debtor resulting from the Court's award of money to a creditor (See Judgment Lien).

Judgment Docket - The record book of a County Clerk where a judgment is entered in order that it may become a lien upon the property of the debtor.

Judgment Lien - The charge upon the lands of a debtor resulting from the decree of a court properly entered in the judgment docket.

L

Lakeshed - 1 The area around a lake, including the watersheds of in-flowing streams, which contribute surface water to the lake. 2 The watershed of a lake.

Landmark - Any conspicuous object that helps establish land boundaries. Lease - A grant of the use of lands for a term of years in consideration of the payment of a monthly or annual rental.

Easement - An interest in land owned by another that entitles its holder to a specific limited use, such as laying a sewer, putting up electric power lines, or crossing the property

Ecology – **1** Science concerned with the interrelationship of organisms and their environments. **2** The totality or pattern of relations between organisms and their environment.

Ecosystem –The complex of a community and its environment functioning as an ecological unit in nature.

Egress - The right to leave a tract of land. Often used interchangeably with access(See Access).

Eminent Domain - The power of the state to take private property for public use upon payment of just compensation.

Encroachment - A fixture, such as a house, wall or fence, which intrudes upon another's property.

Encumber - To burden a parcel of land with a lien or charge such as a mortgage.

Encumbrance - A lien, liability or charge upon a parcel of land.

Environmental Assessment Worksheet(EAW)
–A document providing basic information about a project that may have the potential for significant environmental effects. The EAW is prepared by the Responsible Government Unit to determine whether and Environmental Impact Statement should be prepared.

Environmental Impact Statement(EIS) – A thorough study of a project with potential for significant environmental impacts, including evaluation of alternatives and mitigation.

Environmental Quality Board(EQB) – State Agency that adopts environmental review rules, monitors their effectiveness and revises as appropriate; provides technical assistance to interpret and apply rules.

Escheat -A reversion of property to the state in those cases where an individual dies without heirs or devisees and without a will.

Escrow - A procedure whereby a disinterested third party handles legal documents and funds on behalf of a seller and buyer.

Estate - A person's possessions.

Examination of Title - The interpretation of the record title to real property based on the title search or abstract.

Exception - In legal descriptions that portion of lands to be deleted or excluded. The term is often used in a different sense to mean an objection to title or encumbrance on title.

Executor - A person appointed by the probate court to carry out the terms of a will. The term is executrix if such person be a women.

Extended Mortgage - That in which completion date of mortgage is extended for longer period. Usually at higher interest rate than original mortgage.

F

Fee Simple Estate - The greatest interest in a parcel of land that it is possible to own. Sometimes designated simply as Fee.

Financing Statement - A document prepared for filing with the Register of Deeds or Secretary of State indicating that personal property or fixtures is encumbered with a debt.

Fixtures - Any item of personal property so attached to real property that it becomes a part of the real property.

G

General Permit –General permits are a means of entrusting some permitting decisions to lower levels of government. Such a permit can run from the Corps of Engineers to the DNR or LGUs, or from the DNR to LGUs. A wetland impact acreage cap is generally used to put a routine limit on the entrusted permitting and the higher government authority reserves its right to intercede on any permit application as it deems appropriate and necessary.

Glacial Till – Unstratified glacial deposits which were in direct contact with the ice and consisting of clay, sand, gravel, and builders in any proportions.

Glacial Outwash –Stratified deposits of sand and gravel, deposited by melt waters of a glacier.

Bureau of Land Management - The branch of government in charge of surveying public lands.

C

Chain - A term of land measurement being 66 feet in length.

Chain of Title - A term applied to the past series of transactions and documents affecting the title to a particular parcel of land.

Clear Title - One which is not encumbered or burdened with defects.

Clouded Title - An encumbered title.

Commitment to Insure - A report issued by a title insurance company, or its agent, showing the condition of the title and committing the title insurance company to issue a form policy as designated in the commitment upon compliance with and satisfaction of requirements set forth in the commitment.

Company Loan - Loan by employer to facilitate relocation of employee. Usually short term.

Condemnation - Taking private property for public use through court proceedings.

Condition or Conditions - A proviso in a deed or a will that upon the happening or failure to happen of a certain event, the title of the purchaser or devisee will be limited, enlarged, changed or terminated.

Conditions and Restrictions - A common term used to designate the uses to which land may not be put and providing penalties for failure to comply. Commonly used by land subdividers on newly platted areas.

Condominium - A system of individual fee ownership of units in a multi-unit structure, combined with joint ownership of common areas of the structure and land.

Consolidated Mortgage - Occurs in refinancing. Remaining balance from original mortgage is incorporated into new mortgage.

Contract - An agreement to sell and purchase under which title is withheld from the purchaser until such time as the required payments to the seller have been completed.

Convey - The act of deeding or transferring title to another.

Conveyance - An instrument by which title to property is transferred; a deed.

Cooperative - A residential multi-unit building owned by and operated for the benefit of persons living within.

Covenant - An agreement written into deeds and other instruments promising performance or non-performance of certain acts, or stipulating certain uses or non-uses of the property

Creation - Construction of wetlands in an area that was not wetlands in the past.

Cul De Sac - The terminus of a street or alley, usually laid out by modern engineers to provide a circular turn around for vehicles. In French "the bottom of the sack."

D

Deed - A written document by which the ownership of land is transferred from one person to another.

Degradation - The decline or loss of one or more wetland functions due to human activities.

Delivery - The final and absolute transfer of a deed from seller to buyer in such a manner that it cannot be recalled by the seller. A necessary requisite to the transfer of title.

Devise - The disposition of land by will. "A term used for land alone and never for personal property."

Ditch - An open channel constructed to conduct the flow of water.

Drainage Authority - The county board of commissioners or joint county drainage authority having jurisdiction over a drainage system or project.

E

Earnest Money - Advance payment of part of the purchase price to bind a contract for property.

A

Abstract of Title - A condensed history or summary of all transactions affecting a particular tract of land.

Access - The right to enter and leave a tract of land from a public way. Oftentimes the right to enter and leave over the lands of another.

Accretion - The slow build up of lands by natural forces such as wind, wave or water.

Acknowledgment - The act by which a party executing a legal document goes before an authorized officer or notary public and declares the same to be his voluntary act and deed.

Acre - A tract of land 208.71 feet square and containing 43,560 square feet of land.

Administrator - A person appointed by a probate court to settle the affairs of an individual dying without a will. The term is administratrix if such a person is a woman.

Adverse Possession - A claim made against the lands of another by virtue of open and notorious possession of said lands by the claimant.

Affidavit - A sworn statement in writing.

Agricultural Land – Land used for horticultural, row, close grown, pasture, and hayland crops; growing nursery stocks, animal feedlots; farm yards; associated building sites; and public and private drainage systems and field roads located on any of the foregoing.

Air Rights - The right to ownership of everything above the physical surface of the land.

ALTA - American Land Title Association, a national association of title insurance companies, abstractors and attorneys specializing in real property law which speaks for the title insurance and abstracting industry and establishes standard title policies and procedures, with headquarters in Washington, D.C.

Alternative Urban Areawide Review(AUAR) –A substitute review process based on review of development scenarios for an entire geographic area rather than for a specific project.

Appurtenance - Anything so annexed to land or used with it that it will pass with the conveyance of the land.

Assessment - The imposition of a tax, charge or levy, usually according to established rates.

Assessor - A public official who evaluates property for the purpose of taxation.

Assignee - One to whom a transfer of interest is made. For example, the assignee of a mortgage or contract.

Assignor - One who makes an assignment. For example, the assignor of a mortgage or contract.

Assumed Mortgage – A loan in which the buyer assumes the obligations of an already existing mortgage on a property.

Attachment - Legal seizure of property to force payment of a debt.

Attorney in Fact - One who holds a power of attorney from another allowing him to execute legal documents such as deeds, mortgages, etc. on behalf of the grantor of the power.

B

Banking – See “wetland banking”.

Bankrupt - A person who, through a court proceeding, is relieved from the payment of all his debts after surrender of all his assets to a court appointed trustee.

Bench Mark - A mark on a permanent object indicating elevation and serving as a reference in land surveys.

Benefits –Qualitative and quantitative services and improvements to the quality of life for individuals, communities, and to overall conditions provided through the integrity of land and water systems. Many of these benefits cannot or have not been measured in monetary terms, so the “term” benefits is not limited to economic evaluation in this plan.

Best Management Practice(BMP) – A procedure or action taken to prevent or minimize potential adverse effects of human activity on a wetland or other water resource, e.g., installation of silt fencing at a construction site to contain erosion.