

Todd County Planning & Zoning Ordinance

Effective -
Shoreland Zoning – July 1972
Rural Zoning - March 1976

Revised
July 1980
April 1992
June 2004
December 2004
July 2005
December 2005
May 2006
August 2006
September 2006
August 2007
February 2008
April 2008
February 1, 2011
April 2012
January 1, 2014
March 1, 2017
October 17, 2017
October 15, 2019
April 21, 2020
December 10, 2021
February 15, 2022

Article I. Title, Intent, and Purpose	4
Section 1.01 Title	4
Section 1.02 Purpose	4
Article II. Authority, Incorporation by Reference, Jurisdiction, and Repealor	4
Section 2.01 Authority and Incorporation by Reference	4
Section 2.02 Jurisdiction	5
Section 2.03 Repealor.....	5
Article III. Rules and Definitions.....	5
Section 3.01 Rules.....	5
Section 3.02 Definitions.....	5
Article IV. General Provisions	30
Section 4.01 Application of this Ordinance.....	30
Section 4.02 Separability and Supremacy	31
Section 4.03 Existing Lots.....	31
Section 4.04 Nonconforming Uses and Structures	31
Section 4.05 Environmental Review Procedures	34
Article V. Administration	34
Section 5.01 Enforcing Officer.....	34
Section 5.02 Board of Adjustment	34
Section 5.03 Variances	36
Section 5.04 Planning Commission.....	38
Section 5.05 Conditional Use Permits.....	40
Section 5.06 Zoning Amendments	43
Section 5.07 Permits and Fees.....	44
Article VI. Zoning Districts and District Provisions.....	45
Section 6.01 Zoning Districts	45
Section 6.02 Zoning Map	47
Section 6.03 Zoning District Dimensional and Setback Standards	47
Section 6.04 Uses Permitted in Zoning Districts.....	53
Article VII. Shoreland Management	64
Section 7.01 Policy.....	64
Section 7.02 General Provisions.....	64
Section 7.03 Shoreland Classifications & Land Use District.....	64
Section 7.04 Shoreland Lot Area, Depth and Width Standard Provisions	69
Section 7.05 Placement and Design	71
Section 7.06 Height of Structures.....	73
Section 7.07 Shoreland Alterations	73
Section 7.08 Placement and Design of Roads, Driveways and Parking Areas	78
Section 7.09 Stormwater Management.....	78
Section 7.10 Standards for Commercial, Industrial, Public and Semipublic Uses.....	79
Section 7.11 Agricultural Use Standards.....	79
Section 7.12 Forest Management Standards.....	79
Section 7.13 Extraction Use Standards (refer to Section 9.12)	80
Section 7.14 Nonconformities	80
Section 7.15 Subdivision / Plat Provisions	81
Section 7.16 Planned Unit Developments	83
Section 7.17 Site “Suitable Area” Evaluation	83
Article VIII. Floodplain Management	92
Section 8.01 Statutory Authorization, Findings of Fact	92
Section 8.02 General Provisions.....	93

Section 8.03	Establishment of Flood Zone Districts	94
Section 8.04	Floodway District (FW)	95
Section 8.05	Flood Fringe District (FF)	98
Section 8.06	General Flood Plain District and Zone A Lakes.....	101
Section 8.07	Subdivisions	103
Section 8.08	Public Utilities, Railroads, Roads, and Bridges.....	104
Section 8.09	Manufactured Homes and Manufactured Home Parks and Placement Of Recreational Vehicles	104
Section 8.10	Administration.....	106
Section 8.11	Nonconforming Uses.....	111
Section 8.12	Amendments.....	112
Article IX.	Performance Standards	113
Section 9.01	Exterior Storage.....	113
Section 9.02	Public Nuisance	113
Section 9.03	Cluster Development	116
Section 9.04	Prohibited Structures	117
Section 9.05	Tree and Woodland Preservation	117
Section 9.06	Traffic Control.....	117
Section 9.07	Access Drives and Access	118
Section 9.08	Sewage Treatment Standards	119
Section 9.09	Mobile Home Parks	127
Section 9.10	Recreation Vehicle (RV) Parks	129
Section 9.11	Feedlots	131
Section 9.12	Mining and Extraction Use.....	134
Section 9.13	Bed and Breakfast Inn	137
Section 9.14	Exotic Animals	138
Section 9.15	Home-based Business.....	138
Section 9.16	Recreational Vehicles.....	139
Section 9.17	Temporary Family Housing	139
Section 9.18	Kennels, Commercial	140
Section 9.19	Wind Energy Systems	140
Section 9.20	Solar Energy Systems.....	142
Section 9.21	Commercial Communication Tower Facilities.....	144
Section 9.22	Riparian Protection Ordinance	147
Section 9.23	Short-Term and Vacation Rentals	154
Article X.	Enforcement.....	156
Section 10.01	Violations and Penalties	156
Section 10.02	Prosecution	156
Section 10.03	Duty to Enforce	156
Section 10.04	Cease and Desist Orders.....	156
Section 10.05	Administrative Fees and Restoration.....	157
Article XI.	Regulation of Adult Use Businesses.....	157
Section 11.01	Purpose and Intent	157
Section 11.02	Findings.....	158
Section 11.03	Permit Application Requirements	160
Section 11.04	Permit Fees	161
Section 11.05	Location Restrictions, Performance Standards and Conditions of Adult Use.....	162
Section 11.06	Sign Restrictions.....	163
Article XII.	Adoption	164

A RESOLUTION ADOPTING A LAND USE ORDINANCE FOR TODD COUNTY

WHEREAS, MN Statute 394.21 authorizes the Todd County Board of Commissioners to carry on planning and zoning activities, and;

WHEREAS, The Todd County Board of Commissioners, by and through this and other ordinances are establishing land use controls.

NOW, THEREFORE BE IT RESOLVED, that the following ordinance is adopted by the Todd County Board of Commissioners.

Article I. Title, Intent, and Purpose

Section 1.01 Title

- A. This Ordinance shall be known, cited and referred to as the Todd County Zoning Ordinance.

Section 1.02 Purpose

- A. Protecting the public health, safety, comfort, convenience and general welfare.
- B. Protecting, preserving and developing economically viable agricultural land.
- C. Promoting orderly development of the residential, commercial, industrial, recreational and public areas.
- D. Conserving the natural and scenic beauty and attractiveness of the county.
- E. Conserving and developing natural resources in the county.
- F. Providing for the compatibility of different land uses and the most appropriate use of land throughout the county.
- G. Minimizing environmental pollution.

Article II. Authority, Incorporation by Reference, Jurisdiction, and Repealor

Section 2.01 Authority and Incorporation by Reference

This ordinance establishes land use regulations pursuant to Minnesota Statutes, Chapters 375.51 and 394, and the Todd County Comprehensive Land Use Plan. The shoreland management standards herein are adopted pursuant to Minnesota Statutes, Chapters 103F.201 - 103F.227, and Minnesota Rules, Chapter 6120.2500-6120.3900, which are incorporated herein by reference. The subsurface sewage treatment standards herein are adopted pursuant to Minnesota Statutes, Chapters 115.55, and 145A.01 through 145A.08 or successor statutes, and also Minnesota Rules, Chapters 7080 through 7083, which are incorporated herein by reference. The floodplain management standards herein are adopted pursuant to Minnesota Statutes, Chapter 103F.101-103F.155, and Minnesota Rules, Chapter 6120.5000-6120.6200, which are incorporated herein by reference. The campgrounds, recreational vehicle parks and manufactured housing parks standards herein are adopted pursuant to Minnesota Statutes, Chapters 327.14 to 327.28; and 145A.01 to 145A.07, which are incorporated herein by reference. The feedlot regulation standards herein are adopted pursuant to Minnesota Rules, Chapters 7020.0200-7020.2225 as amended,

Todd County Planning and Zoning Ordinance
Updated 20220215

which are incorporated herein by reference. The environmental review standards herein are adopted pursuant to Minnesota Rules, Chapters 4410.4300, 4410.4400 and 4410.4600, which are incorporated herein by reference. The Minnesota Stormwater Manual, Minnesota Pollution Control Agency (2005), is incorporated herein by reference.

Section 2.02 Jurisdiction

The provisions of this ordinance shall apply to all unincorporated areas of Todd County, Minnesota and incorporated areas by agreement, pursuant to Minnesota Statutes, Chapter 394.32. No land owned or leased by the federal or state government shall be subject to this ordinance.

Section 2.03 Repealor

This ordinance repeals all previous Todd County Zoning Ordinances. (or specify ordinances by date of adoption)

Article III. Rules and Definitions

Section 3.01 Rules

- A. The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:
- B. The singular number includes the plural and the plural the singular.
- C. The present tense includes the past and future tenses, and the future the present.
- D. The words “must” and “shall” are mandatory, and the word “may” is permissive.
- E. The masculine gender includes the feminine and neuter genders.
- F. Whenever a word or term defined hereinafter appears in the text of this ordinance, its meaning shall be construed as set forth in such definition. Words or phrases not specifically defined 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 in accordance with its intent and purpose.
- G. All measured distances expressed in feet shall be to the nearest tenth of a foot and shall be measured horizontally. In event of conflicting provisions, the more restrictive provisions shall apply.

Section 3.02 Definitions

For the purposes of this Ordinance, certain terms and words are hereby defined. Words or phrases not specifically defined in this section shall be interpreted to give them the same meaning as they have in common usage and to give this ordinance its most reasonable application in accordance with its intent and purpose.

Abandoned – any item which has ceased to be used for it’s designed and intended purpose. The following factors, among others, may be considered in determining whether or not an item has been abandoned:

- Present operability and functional utility;
- The date of last effective use;
- The condition of disrepair or damage;
- The last time an effort was made to repair or rehabilitate the item;

- The status of registration or licensing of the item;
- The cost of rehabilitation or repair of the item versus its market value; and,
- The nature of the area and location of the item.

Abate – to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the Department shall determine is necessary in the interest of the general health, safety and welfare of the community.

Access Lot – a parcel of land intended or used to provide accesses to public waters for owners of riparian lots within a subdivision.

Accessory Structure or Facility – any building, structure, use or improvement customarily incidental and subordinate to the principal use of the land or building in the zoning district in which the use or building is located and located on the same lot with the principal use.

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.

Addition – any expansion or enlargement of an existing structure including but not limited to, decks and porches but not including patios which are not enclosed and which are not elevated above ground level.

Adult Body Painting Studio – an establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude or the application of paint or other substance by a patron to the body of another person.

Adult Book Store – a building or portion of a building used for the barter, rental or sale of items consisting of printed matter, pictures, slides, records, audio tapes, videotapes, motion picture films, digital video discs, compact discs or other computer generated images, if such building or portion of a building excludes minors by reason of age or law or if a substantial portion of the items bartered, rented or sold are distinguished or characterized by an emphasis on the depiction or description of “specified sexual activities” or “specified anatomical areas.”

Adult Cabaret – a building or portion of a building which provides exotic dancing, striptease or other live entertainment, if such building or portion of a building excludes minors by reason of age or law or if such dancing or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult Companionship/Conversation/Rap Establishment – a companionship, conversation, rap establishment which excludes minors by reason of age or law, or which provides the service of engaging in or listening to conversation, talk or discussion between and adult entertainment employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Entertainment Employee – any person who performs any service on the premises of a sexually-oriented business, on a full-time, part-time, or contract basis, whether or not the person is denominated an adult entertainment employee, independent contractor, agent, or otherwise.

Adult entertainment employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

Adult Entertainment Facility – a building or space in which an admission is charged for the entrance, or food or non-alcoholic beverages are being sold or intended for consumption, and in which may be regularly observed live presentation of entertainment distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Massage Parlor, Health/Sport Club – a health club, sport club or massage parlor that excludes or restricts minors by reason of age or law, or that provides services distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Mini-Motion Picture Theater – a building or portion of a building with a capacity for less than 50 persons used for presenting still or motion pictures if such building or portion of a building excludes minors by reason of age or law, or if such pictures are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons.

Adult Modeling Studio – an establishment whose business is the provision to customers of figure models who are provided with the intent of giving sexual stimulation or sexual gratification to customers and who engage in "specified sexual activities" or display "specified anatomical areas" while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Motion Picture Arcade – a building or portion of a building wherein coin or slug-operated or electronically, electrically or mechanically controlled or operated still or motion picture machines, projectors, computers or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas.”

Adult Motion Picture Theater – a building or portion of a building with a capacity for fifty (50) or more persons used for presenting still or motion pictures if such building excludes minors by age or law, or if such pictures are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas.”

Adult Novelty Business – a building or portion of a building used for the barter, rental or sale of toys, instruments, devices, clothing or paraphernalia designed or used in connection with the stimulation of human genitals or the presentation, display, depiction, or description of “specified sexual activities” or “specified anatomical areas.”

Adult Sauna/Steam Room/Bathhouse – a business that excludes minors because of age or law, or which provides a steam bath or heat bathing room used for bathing, relaxation or reducing which utilizes steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna/steam room/bathhouse is distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".

Adult Use – Accessory – the offering for sale or rental of merchandise classified as adult uses on a limited scale that are incidental to the primary activity and goods and/or services offered by

the establishment and where the adult use portion of the business is not externally or internally advertised or otherwise distinguished or characterized by an emphasis on the offering of goods and/or services classified as adult uses. A business shall be classified as an adult use accessory if the merchandise for sale or rental occupies between ten (10) percent (or 40 square feet, whichever is smaller) and thirty (30) percent, of the total floor area of the business or consists of between ten (10) and thirty (30) percent of the inventory items displayed at any one time.

Adult Use – Business – adult body painting studios, adult book stores, adult cabarets, adult entertainment facilities, adult motion pictures theaters, adult mini-motion picture theaters, adult massage parlors, adult health/sport clubs, adult sauna/steam room/bath houses, adult companionship establishments, adult rap/conversation parlors, adult novelty businesses, adult motion picture arcades, adult modeling studios and other premises, enterprises, establishments, businesses or places open to some or all members of the public and membership clubs at or in which there is an emphasis on the presentation, display, depiction or description of “specified sexual activities” or “specified anatomical areas.” This definition does not apply to the practice of medicine, surgery, osteopathy, chiropractic, physical therapy or podiatry by State licensed registered persons. Activities classified as obscene as defined by Minnesota Statutes Section 617.241 are not lawful and are not included in the definitions of adult uses.

Adult Use – Principal – the offering of goods and/or services classified as adult uses as a primary or sole activity of a business or establishment or where the business advertises otherwise distinguishes or characterizes itself with an emphasis on the offering of goods and/or services classified as adult uses. A business providing only merchandise for sale or rental shall be classified as an adult use principal if the merchandise for sale or rental offered by the establishment occupies greater than thirty (30) percent of the total floor area of the business or consists of greater than thirty (30) percent of the inventory items displayed at any one time.

Agricultural Easement – a restrictive covenant placed on residential developments adjacent to agricultural land waiving all common law rights to object to normal and necessary agricultural management activities legally conducted on adjacent land.

Agricultural Use – real or personal property used for the production of crops, tillage, husbandry, or farming including but not limited to, fruit and vegetable production, tree farming, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products. An agricultural operation shall also include certain farm activities and uses as follows: (1) Chemical and fertilizer spraying; (2) Farm and machinery noise; (3) Extended hours of operation; (4) Storage and spreading of manure and bio-solids under state permit; (5) Open storage of machinery; (6) Odors produced from normal farm activities.

Agricultural Building or Structure – any building or structure existing or erected which is used principally for agricultural purposes, with the exception of dwelling units.

Airport or Heliport – any land or structure which is used or intended for use, for the landing and take-off of aircraft, and any appurtenant land or structure used or intended for use for port buildings or other port structures or right-of-ways.

Animal, Domestic – dogs, cats, birds and similar animals commonly kept in a residence. Animals considered wild, exotic or non-domestic, such as lions, bears, wolves and similar animals, shall not be considered domestic animals.

Animal, Wild or Exotic – any animal not normally considered domesticated which, because of its size, vicious nature or other natural characteristics would constitute a dangerous threat to human life, property or domestic animals including but not limited to venomous reptiles, bird species illegal to own under federal law, and mammals including but not limited to lions, jaguars, leopards, cougars and bears.

Animal Feedlot – See “Feedlot, Livestock”.

Apartment – a room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any unit in buildings with more than two dwelling units.

Applicant – the owner of the land or a person with authority from a landowner to conduct business for the landowners.

Athletic Facilities – facilities intended for athletic games and sport, such as football, baseball, softball, hockey, basketball and other sporting activities.

Attractive Nuisance – any condition, instrument or machine that is unsafe, unprotected and may prove detrimental to children whether in a building, on the premises of a building, or unoccupied lot. This includes abandoned wells shafts, basements or excavations; abandoned refrigerators and motor vehicles; and structurally unsound fences or structures; or any lumber, trash fences, debris, or vegetation, which may prove hazardous or dangerous to inquisitive minors.

Auction Sales, Commercial – the sale of goods or services by auction on a regular basis on the same property. For the purposes of this ordinance, any site that is advertised or regularly held out as an auction site and holds more than one auction in any one year shall be considered commercial auction sales.

Auction Sales, Non-Commercial – the sale of goods or services owned by the property owner holding the auction on a non-recurring basis.

Auto or Motor Vehicle Reduction Yard – a lot or yard where one or more unlicensed motor vehicle(s), or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding, sale of parts, sale as scrap, storage, or abandonment. (See also Junk Yard).

Basement – any area of a structure, including crawl spaces having its floor or base sub grade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

Bed & Breakfast Inn – an owner-occupied single family dwelling unit in which not more than five (5) rooms are rented for compensation within the dwelling unit on a nightly basis for a period of fourteen (14) or less consecutive days by the same person or persons. Meals may or may not be provided to residents or overnight guests.

Bedroom – any habitable space within a dwelling unit that might reasonably be used as a sleeping room and is enclosed by a doorway, having a legal egress window and is not a kitchen, bathroom, living room or dining room. An unfinished basement shall be counted as one bedroom or the actual number of bedrooms anticipated.

Best Management Practices – a practice or combination of practices for preventing or reducing diffuse or non-point source pollution to a level compatible with water quality goals.

Bituminous/Concrete Facility – a facility intended and used for the processing or recycling of bituminous materials, concrete or other similar materials.

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):

- Part or all of the feature is located in shoreland area;
- The slope rises at least 25 feet above the ordinary high water level of a public water.
- 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
- The slope must drain toward the public water.

Bluff Impact Zone – a bluff and land located within 30 feet from the top of a bluff.

Bluff, Toe -for the purpose of measuring setbacks, the point at the bottom of a bluff that is the lower end of a 10 foot segment, measured on the ground, which has an average slope of 18 percent, or is the OHW, whichever is higher.

Bluff, Top – for the purpose of measuring setbacks, the point at the upper end of a bluff that is the upper end of a 10 foot segment, measured on the ground, which has an average slope of 18 percent.

Boarding House (Rooming or Lodging House) – a building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodgings are provided for three or more persons.

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

Boat Access – a ramp, road or other conveyance that allows the launching and removal of a boat with a vehicle or trailer.

Boat Launch – See “Public Access”.

Buffer Strip – land area used to visibly separate one use from another or to screen or block structures, noise, and lights, etc.

Buildable Area – the area of a lot remaining after land below the ordinary high water level of a water body, wetlands, bluffs, severe steep slopes, non-buildable easements and the minimum required structure setbacks have been subtracted. An area shall not be considered buildable area if it is not practically buildable due to irregular shape, inadequate width or depth, or if it is not contiguous with other areas that would otherwise be considered buildable.

Building – any structure having a roof which may provide shelter or enclosure of persons, animals, chattel, or property of any kind. When said structures are divided by party walls without openings, each portion of such building so separated shall be deemed a separate building.

Building, Principal – a building in which is conducted the principal use of the lot on which it is located.

Building Line – “See Setback Line”.

Business - any occupation, employment or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

Campground – a lot, or tract of land operated either as a commercial or non-commercial enterprise in which seasonal facilities are provided for all or any of the following: camping in tents, picnicking, boating, fishing, swimming, outdoor games and sports, and activities incidental and related to the foregoing. Campground does not mean Recreational Vehicle Park nor Mobile Home Park as defined by the ordinance.

Carport – an automobile shelter having one or more sides open.

Cemetery – property used for the interring of the dead, in which columbiums and mausoleums may be used.

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

Clear-cut - the removal of an entire stand of vegetation. An area shall not be considered clear-cut if existing trees or shrubs greater than four (4) inches in diameter measured at a height two (2) feet above the ground surface and grasses greater than six (6) inches in height are allowed to remain and grow naturally with only limited trimming or pruning.

Cluster Development – a development pattern and technique whereby structures and lots are arranged in closely related groups allowing for the creation of permanent open space or other undeveloped property to make the most efficient use of the natural amenities of the land.

Commercial Planned Unit Developments – uses that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

Commercial Use – the principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services. There are several primary types:

Commercial Use, Retail – commercial uses engaged primarily in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Commercial Use, Outdoor Retail – commercial uses that display and offer for sale products and services primarily outside of a building or structure, including but not limited to vehicles, garden supplies, gas, tires and motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber yards.

Commercial Use, Services – a business establishment primarily engaged in providing a service, as opposed to products, to individuals, business, industry, government, and other enterprises. Includes but not limited to hotels and other lodging places; personal, business, repair and amusement services; health, legal, engineering, and other professional services; educational services; membership organizations; and other miscellaneous services.

Commercial Use, Food or Beverage Establishment – a commercial use primarily engaged in offering food and/or drink for retail sale.

Commissioner – the commissioner of the Department of Natural Resources.

Common Interest Community – contiguous or noncontiguous real estate that is subject to an instrument which obligates persons owning a separately described parcel of the real estate, or occupying a part of the real estate pursuant to a proprietary lease, by reason of their ownership or occupancy, to pay for real estate taxes levied against, insurance premiums payable with respect to, maintenance of, or construction, maintenance, repair or replacement of improvements located on one or more parcels or parts of the real estate other than the parcel or part that the person owns or occupies.

Communication Tower

Commercial – Towers and support structures erected to facilitate commercial communication systems. Require a Conditional Use Permit in all zoning districts. Buildings and towers are considered structures and must meet setbacks for the zoning district and communication tower standards.

Private Communication Tower – Solely for non-commercial uses, these towers support essential services during times of disaster. Private Communication Towers are allowed in all zones up to 100 feet in height and are not considered structures. If they exceed 100 feet in height a Conditional Use Permit is required and the tower is considered a structure. More restrictive covenants and rules related to Private Communication Towers may be in place for specific locations such as airport flyways and subdivisions with conditions.

Community Facility – facilities built and intended for the provision of public services and owned by a public or semi-public agency, including public utilities. Examples include fire and police stations, courthouses, the offices of local government officials, town halls, city halls and other similar facilities.

Community Solar Energy System – A solar-electric (photovoltaic) array that provides retail electric power (or a financial proxy for retail power) to multiple community members or businesses residing or located off-site from the location of the solar energy system.

Community Water and Sewer Systems – utilities systems serving a group of buildings, lot, or any area of the County, with the design and construction of such utility systems as approved by the County and the State of Minnesota.

Compliance Inspection – any evaluation, inspection, or other such process to make conclusions, recommendations or statements regarding an existing sewage treatment system to reasonably assure a sewage treatment system is in compliance as specified in this ordinance. Compliance inspections must be conducted by a State-licensed Inspector and must be independent of the owner and the installer.

Comprehensive Plan – the plan for the orderly growth of Todd County as adopted and amended by the Planning Commission and the County Board. This includes the group of maps, charts and texts that make up the comprehensive long range plan of Todd County.

Conditional Use – means 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: Certain conditions

as detailed in the zoning ordinance exist. The structure and/or land use conform to the comprehensive land use plan and are compatible with the existing neighborhood.

Condominium – a form of individual ownership with a multi-family building with joint responsibility for maintenance and repairs. In a condominium, each apartment or townhouse is owned outright by its occupant, and each occupant owns a share of the land and other common property of the building.

Controlled Access Lot – any lot which is designated by dedication, easement, or other recorded instrument for use by landowners within a plat as a means to gain access to public waters.

Cooperative – a multi-unit development operated for and owned by its occupants. Individual occupants do not own their specific housing unit outright as in a condominium, but they own shares in the enterprise.

County Board – Todd County Board of Commissioners.

Crematorium – a building containing a furnace for reducing dead bodies to ashes by burning.

Cultural Facility – facilities that provide cultural services or displays, such as museums, theaters and concert halls.

Day – calendar day. The day of the event shall not be used in counting any period of time.

Day Care Facility – a licensed establishment operated as a commercial enterprise or public facility which is operated for the purpose of providing care, protection and supervision for compensation to children. An operation shall be considered a daycare if required to be licensed by the State of Minnesota.

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 one foot above ground level.

Demolition Debris – solid waste resulting from the demolition of buildings, roads and other structures including but not limited to, concrete, brick, bituminous concrete, untreated wood, masonry, glass, rock, and plastic building parts. It does not include asbestos waste.

Demolition Debris Land Disposal Facility – a Minnesota Pollution Control Agency permitted site used to dispose of demolition debris.

Department – Planning & Zoning Office.

Development – improvement of any practice or property in any zoning district.

Director – the duly appointed person directed to administer and enforce this Ordinance.

Dock – a platform extending waterward from the shoreline intended for ingress and egress for moored watercraft or to provide access to deeper water for swimming, fishing, or other water oriented recreational activities.

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

Dwelling/Dwelling Unit – a structure or portion thereof that is designed and/or used for human habitation containing habitable space. Types of dwellings include, but are not limited to:

- **Multiple** – three or more dwellings on a single lot that are connected by common walls, walkways or ceilings/floors. The dwellings may or may not be accessible to each other from within the building;
- **Duplex** – two separate dwellings on a single lot that are connected by common walls, walkways or ceilings/floor. The dwelling may or may not be accessible to each other from within the building;
- **Rental** – a dwelling or group of dwellings designed and/or used for short-term rental or other transient lodging purposes, including accommodations such as motel, hotel or resort rooms and cabins
- **Dwelling, Class I** – a site-built or modular home intended for placement on a permanent foundation and that does not have a permanent chassis;
- **Dwelling, Class II** – a mobile home and other dwelling with a permanent chassis that is not a Class III dwelling;
- **Dwelling, Class III** – a recreational vehicle, camper unit or other unit that is required to have a vehicle license to drive on public roadways, or is designed to be placed on a vehicle required to have such a license;
- **Dwelling, Primitive** – a dwelling that is not served by a well or other device involved in the appropriation of surface or ground water to provide a continuous supply of water to the dwelling. Primitive dwellings may be served by hand carried water only.

Dwelling Site – a designated location for residential use by one or more persons using temporary or movable shelter, including camping and recreational vehicle sites.

Distinguished or Characterized by an Emphasis upon - means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films "which are distinguished or characterized by an emphasis upon the exhibition or description of "specified anatomical areas" or "specified sexual activities" the films so described are those whose dominant or principal character and theme are the exhibition or description "specified anatomical areas" or "specific sexual activities."

Easement – a grant by a property owner for a specific use of land.

Engineer – for the purpose of this ordinance, an engineer shall be a MN Licensed Professional Engineer.

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.

Erosion Control – Best Management Practices (BMPs) implemented to minimize the mobilization of sediment by runoff or in air due to wind.

Essential Services - overhead or underground electrical, gas, steam or water transmission or distribution systems and structures or collection communication, supply or disposal systems and structures used by public utilities or governmental departments or commissions or as are required for the protection of the public health, safety or general welfare, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes and accessories

in connection therewith but not including buildings. For the purpose of this ordinance, the word “buildings” does not include “structures” for essential services. Personal Communication Towers are considered “Essential Services” since they can be used during times of disaster for communication.

Event Center – A facility whose primary use is to be rented out for general public or private group activities for the benefit of someone other than the property owner involving the gathering of individuals assembled for the common purpose of attending a special event. These events may include, but not limited to: civic, educational, political, corporate or social gatherings such as meetings, weddings & receptions, dances, entertainment, or similar activities. This definition does not include: Churches, schools, parks, restaurants/dinner clubs & township halls.

Existing Violation – any on-going or completed activity which is not permitted under any Todd County Ordinance or pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F.201 – 103F.221, Minnesota Rules, Parts 6120.2500-6120.3900, and Minnesota Statutes, Chapter 394.

Exterior Storage (Includes Open Storage) - the storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building.

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, Section 93.44 to 93.51.

Failing System – a sewage treatment system that poses an imminent threat to public health or safety, as defined in MN Rules Chapter 7080.0020, subpart 19a, or that is a seepage pit, cesspool, drywell, leaching pit, other pit, a tank that leaks below the designated operating depth, or any system with less than the required vertical separation as described in MN Rules Chapter 7080.0060, subpart 3.

Family – an individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit.

Farm – a tract of land which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such farms may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

Feedlot, Livestock – 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 these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots.

Feedlot, New – a feedlot constructed and operated on a site where no feedlot existed previously, or where a pre-existing feedlot has been abandoned or unused for a period of five (5) years or more.

Fence – any partition, wall or gate erected as a divider marker, barrier or enclosure.

Fill/Filling – an act of depositing any earthen material.

Final Plat – a drawing or map of a subdivision showing the official plat to be filed in the office of the County Recorder according to Minnesota Statute, Chapter 505 and amendments and the subdivision regulations of Todd County.

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 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 Todd County, MN and Incorporated Areas.

Flood Plain – the beds proper and the areas adjoining a wetland, lake or 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 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 or store the regional flood discharge.

Floor Area – the sum of the gross horizontal areas of the several floors of the building or portion thereof devoted to a particular use, including accessory storage areas located within selling or working space and including any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, the floor area shall not include: basement floor area other than area devoted to retailing activities, the production or processing of goods, or to business or professional offices.

Floor Area Ratio – the numerical value obtained through dividing the gross floor area of a building or buildings by net area of the lot or parcel of land on which such building or buildings are located.

Floor Plan - General – a graphic representation of the anticipated utilization of the floor area within a building or structure but not necessarily as detailed as construction plans.

Forest Land Conversion – the clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

Forestry – the use and management including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidways, landings, and fences.

Frontage – the boundary of a lot which abuts an existing or dedicated public street or fronts along public waters.

Garage, Private – an accessory building or accessory portion of the principal building which is intended for and used to store vehicles.

Garbage – discarded materials.

Gazebo – a free standing accessory structure with no kitchen, sleeping, sanitary facilities, or pressurized water intended as weather and insect protection for such activities as picnicking and lake viewing.

Golf Course – any golf course, publicly or privately owned, on which the game of golf is played, including accessory uses such as golf driving ranges, and buildings customarily incidental or necessary for such facilities.

Governing Body – Todd County Board.

Grading – changing the natural or existing topography of land.

Greenhouse – an enclosure used for the cultivation or protection of plants.

Ground Water – the supply of freshwater under the ground surface in an aquifer or soil, which forms the natural reservoir for potable water.

Guest Cottage – a structure or portion of a structure containing space used as a dwelling unit in addition to the primary dwelling unit on a lot.

Hardship – the same as that term defined in Minnesota Statutes, Chapter 394.27 Subd. 7.

Height (of building or other structure) – the vertical distance to be measured from the average finished grade of a building to the highest point of a roof.

Highway – any hard surfaced thoroughfare or vehicular right-of-way with a federal, state, county or township numerical route designation.

Holding Tank – a tank for storage of sewage until it can be transported to a point of approved treatment and disposal.

Home-Based Business – an occupation or business conducted by a resident within an existing dwelling or accessory structure on the property when the business is limited in extent and incidental or secondary to use of the dwelling for residential purposes and does not change the residential character of the dwelling unit or site.

Home Occupation – any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit and not in an accessory building provided that no signs other than those normally utilized in a residential district are present, no stock in trade is stored on the premises, over-the-counter retail sales are not involved, and entrance to the home occupation is gained from within the structure. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, barber shops, beauty shops, or similar uses.

Horticulture – the science and art of growing fruits, vegetables, flowers, or ornamental plants.

Hotel - a facility offering transient lodging accommodations with common entrances, lobbies, halls and/or stairways and which may provide additional services within the same building, including restaurants, meeting rooms, entertainment, and recreational facilities.

Hydric Soils – soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper portion of the soil profile.

Immediate Family – spouse, children/step-children, parents grandparents, grandchildren, ward, brothers, sisters, son/daughter-in-law.

Impervious Surface – a constructed hard surface that either prevents or retards the entry of water into the soil or causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, paver stones, retaining walls, patios, decks, driveways and parking areas (asphalt, concrete or gravel), and areas of landscaping underlain with plastic or other impermeable liners.

Individual Sewage Treatment System (ISTS) – See “Subsurface Sewage Treatment System”.

Industrial/Manufacturing Uses – the use of land or buildings primarily for the commercial and wholesale production, distillation, chemical transformation, processing, printing/publishing, manufacture, warehousing, storage, mining, or transfer of goods, products, commodities, animals or other items. Such uses are distinguished from other commercial uses by their large scale and/or their ability to create excessive odors, large volumes of hazardous or other problem wastes, noise and/or air pollution as a normal consequence of their operation. Agricultural uses customary to the production of food, fiber or animal products, including land-spreading of manure, are not considered industrial uses.

Inspector – an individual qualified to review proposed site evaluations, designs and inspect a sewage treatment system. The individual shall meet the licensure and registration requirements of the Minnesota Pollution Control Agency.

Intensive Vegetation Clearing – the removal of trees or shrubs in a contiguous patch, strip, row, or block. See “clear-cut.”

Invasive Species – species that have been introduced, or moved, by human activities to a location where they do not naturally occur and where their presence causes ecological or economic problems. For the purposes of this ordinance, invasive species shall be those identified by the Minnesota Department of Natural Resources or the MN Department of Ag.

Irrigation System – any structure or equipment used to supplement rain fall.

Junk – scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, ferrous material, nonferrous material, inoperable automobiles, farm and construction machinery and parts thereof.

Junk Yard – See “Salvage Yard” .

Kennel – any structure or premises on which four (4) or more domestic animals over four (4) months of age are kept for sale, breeding, profit, boarding, etc.

Lake, General Development (GD) – generally large, deep lakes or lakes of varying sizes and depths with high levels and mixes of existing development.

Lake, Natural Development (NE) – generally small and often shallow lakes with limited capacities for assimilating the impacts of development and recreational use.

Lake, Recreational Development (RD) – generally medium-sized lakes of varying depths and shapes with a variety of landform, soil, and groundwater situations on the lands around them.

Land Reclamation or Land Restoration – the process of the re-establishment of acceptable topography, slopes, vegetative cover, soil stability and conditions appropriate to the subsequent reuse of the land.

Landing Strip – a strip of land intended for the landing of airplanes, whether public or private.

Land-disturbing Activities – any activity by a person or persons for the purpose of removal or significant alteration of natural vegetation or topographic alterations, including grading, filling, or excavating. Normal maintenance of vegetation, such as lawn mowing, minor trimming of tree or shrub branches, and gardening are not considered land-disturbing activities.

Landscaping – planting such as trees, grass, and shrubs.

Leachate – liquid that has percolated through refuse and may have extracted, dissolved or suspended materials in it.

Legal Access – for purposes of creating new parcels and obtaining land use permits legal access equal public road frontage of 33 feet or greater or a surveyed and recorded perpetual access easement with a minimum 33 feet width extending from a public road to a property.

Licensed Family Day Care, Licensed Group Family Day Care, Licensed Child Care Center – a facility holding a license from Todd County or Minnesota pursuant to Minnesota Statutes, Chapter 245A and/or Minnesota Rules, Chapter 9502 or Chapter 9053, as amended.

Lot – a parcel or portion of land in a subdivision or plat 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 description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

Lot of Record – any lot which is one unit of a plat heretofore duly approved and filed, or one unit of an Auditor’s Subdivision or a Registered Land Survey that has been recorded in the office of the County Recorder before the adoption of zoning standards (1972 in shoreland district and March 1976 outside shoreland district).

Lot Area – the area of a lot in a horizontal plane bounded by the lot lines.

Lot, Corner – a lot situated at the junction of, and abutting on two or more intersecting streets, or a lot at the point of deflection in alignment of a continuous street, the interior angle of which does not exceed one hundred thirty-five degrees.

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

Lot Line - the property line bounding a lot except that where any portion of a lot extends into the public right-of-way, the right-of-way shall be the lot line for applying this Ordinance.

Lot Line, Front – that boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the County Recorder.

Lot Line, Rear – that boundary of a lot which is opposite the front lot line. If the rear line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot Line, Side – any boundary of a lot which is not a front, rear or water body lot line.

Lot, Substandard – a lot or parcel of land for which a deed has been recorded in the office of the Todd County Recorder upon or prior to the effective date of this Ordinance (July 1972 in shoreland district and March 1976, outside shoreland district) which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.

Lot Width – the shortest distance between side lot lines measured at any point between the front and rear building lines (front lot line and the ordinary high water level when adjacent to public waters).

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

Maintenance – normal upkeep of a structure to include the replacement of windows, siding, external roof surfaces, or exterior finish such as paint or stain. This does not involve the alteration of the structure.

Manufactured Home – See “Mobile Home”.

Manure Storage Structure – diked or excavated structure lined with earthen materials, concrete or synthetic liner, or a concrete tank in which manure is stored.

Metes and Bounds – a method of property description by means of their direction and distance from an easily identifiable point.

Mining – the extraction of sand, gravel, rock, soil or other material from the land and the removing thereof from the site without processing shall be mining. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is as approved item in the building permit.

Mini-Storage – land and buildings used for the purposes of storage which are advertised or held out for sale, rent or lease to persons other than the property owner.

Minor – any natural person under the age of eighteen (18) years.

Mobile Home/Manufactured Home – homes are living quarters designed for transportation after fabrication on streets and highways on their own wheels or on flatbed or other trailers, and arriving at the sites 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 foundations, connection to utilities and the like. A mobile home will be defined by reference to the latest publication of the United States of America Standards Institute Standard for Mobile Homes.

Mobile Home Park – any site, lot, field, or tract of land under single ownership, designed, maintained or intended for the placement of three (3) or more occupied mobile homes. “mobile home park” shall include any buildings, structure, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.

Mobile Home Stand – the part of an individual mobile home lot which has been reserved for placement of the mobile home, appurtenant structures, or additions.

Modular Home – a non-mobile housing unit that is basically fabricated at a central factory and transported to a building site where final installations are made, permanently affixing the module to the site.

Motel (Tourist Court) – an establishment providing transient lodging units in a building or group of detached, semi-detached or attached buildings with a majority of all rooms having

direct access to the outside without the necessity of passing through a common lobby or entrance.

Municipality – a city, village, borough, county, town sanitary district, school district, or other governmental subdivision or public corporation, or agency created by the legislature.

Natural Drainage-way – all land surface areas which by nature of their contour or configuration, collect, store and channel surface or runoff water.

Noncompliant System – a sewage treatment system for which the Planning & Zoning Office does not have a valid certificate of compliance on file, as described in MN Rules Chapter 7080.0315, subpart 3 and defined in MN Rules Chapter 7080.0020, subpart 10a.

Nonconformity – any legal use, structure or parcel of land (substandard lot) 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.

Non-Riparian Lot – a lot that does not abut public waters of the State of Minnesota.

Notice of Noncompliance – a document written and signed by a state licensed inspector after a compliance inspection, which gives notice that a sewage treatment system is not in compliance as specified under Minnesota Rules, Chapter 7080.0060.

Noxious Weeds – the listing of plants deemed noxious by a governing authority.

Nudity – the showing of the human male or female genitals or pubic area with less than fully opaque covering; the showing of the female breast with less than fully opaque covering of any portion of the nipple; or the depiction or showing of the coverage of male genitals in a discernibly turgid state.

Nudity – Semi – means a state of dress in which opaque clothing covers no more than the genitals, anus, anal cleft or cleavage, pubic area, vulva, and nipple of the female breast, as well as portions of the body covered by supporting straps or devices.

Official Map – the map established by the governing body, in accordance with the County Planning Act (Minn. Stat. §394.361), showing streets, highways, parks, and drainage, both existing and proposed.

Open Space, Common – a portion of a development site that is permanently set aside for public or private use and will not be further subdivided.

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.

Outlot – an unbuildable lot that is a portion of a plat that is either: (1) A lot remnant or parcel of land left over that is intended as open space, park land, stormwater retention, or other specified

use. (2) Land held in common by an association or a group of lots governed by covenants for use by members of the subdivision; or (3) Land held in reserve for future development.

Park Model – for the purposes of this ordinance park model trailers shall be considered a residential dwelling and NOT a recreational vehicle (as here in defined). Park model trailers shall be considered any trailer over eight (8) feet six (6) inches in width, not including pop-outs, that cannot be towed by a pickup truck.

Parking Space – a suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

Pasture – areas where grass or other growing plants are used as food for grazing.

Patio – an impervious surface adjoining a structure located at ground level.

Pedestrian Way - a public or private right-of-way across or within a block, to be used by pedestrians.

Permit – a land use permit required as a prerequisite to the establishment of certain uses in certain zoning districts.

Permitted Use – a use which may be lawfully established in a particular district or districts, provided it conforms to all requirements, regulations, and performance standards of that district.

Place of Worship – a building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.

Planned Unit Development – a type of development, whether newly constructed or currently existing, characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for private ownership, sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Planning Commission – the Planning Commission of Todd County.

Plat – a delineation of one or more existing parcels of land drawn to scale showing all data as required by MN Statutes, Chapter 505 & 515B and the County Subdivision Ordinance.

Platform – a horizontal surface with no railings constructed of any material not adjoining a structure.

Principal Structure or Use - a structure or use which is the primary or predominant use of any lot or parcel.

Privy – an aboveground structure with an underground cavity which is used for the storage or treatment and disposal of toilet wastes, specifically excluding water for flushing or greywater. For the purposes of this ordinance a privy shall be considered a standard system.

Protective Covenant – restrictions contained in plats, deeds or other documents on file in the Todd County Recorder's Office which deal with the manner in which the land may be used.

Public Hearing – a public hearing is the forum at which all interested parties are heard for the record concerning a proposed action.

Public Library – any library that provides free access to all residents of a city or county without discrimination and is organized under Minnesota Statutes, Chapter 134.

Public Nuisance – a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort, or repose of the neighborhood or any considerable number of members of the public.

Public Park – a park, reservation, playground, beach, or recreation or community center in the County owned, leased, or wholly or in part by a city, county, state, school district, or federal government for recreational, educational or environmental purposes.

Public Waters – lakes, rivers, streams, and wetlands designated under Minnesota Statutes, section 103G.005, subdivision 15, any lakes or wetlands listed in the DNR Public Waters Inventory.

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.

Recreation, Public – includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

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.

Reclaimed Land – the improvement of land by deposition of material to elevate the grade. Any parcel upon which 400 cubic yards or more of fill are deposited.

Registered Land Survey – a survey map of registered land designed to simplify a complicated metes and bounds description, designating the same into a tract or tracts of a Registered Land Survey Number. See Minnesota Statutes 508.47.

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 magnitude of the 100-year recurrence interval. Regional flood is synonymous with the term “base flood” used in the Flood Insurance Rate Map.

Regular or Regularly – means a consistent, ongoing, and substantial course of conduct, such that the films, performances, or business activities so described constitute a significant and substantial portion of the films or performances offered as a part of the ongoing business of the sexually-oriented business. See FWIPBS, Inc. v. City of Dallas, 493 U.S. 215, 259-261 (1990) (Scalia, J., concurring in part and dissenting in part).

Regulatory Flood Protection Elevation – the Regulatory Flood Protection Elevation shall be an elevation no lower than one foot 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.

Residential Planned Unit Development – a use where the nature of residency is non-transient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

Resort – one or more buildings, together with accessory buildings, available for rent or lease as a temporary residence to transient visitors and rented on a daily or weekly basis and used for the purpose of providing recreational opportunities for guests. Any facility required to be licensed by the State of Minnesota as a resort shall be considered a resort.

Riding Stable – a facility that is operated for the purpose of providing the ability to ride horses to the general public or members of an organization on a regular basis.

Riparian Lot – a lot that abuts a public water.

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. Ingress and egress easements shall not be considered roads.

Salvage Yard/Junk Yard – a place maintained for keeping, storing or piling, whether temporarily, irregularly, or continually buying or selling at retail or wholesale any old, used or second hand material of any kind including used motor vehicles, machinery and/or parts thereof, cloth, rugs, clothing, paper, rubbish, bottles, rubber, iron or other metals, or articles which from its worn condition render it practically useless for the purpose for which it was made and which is commonly classed as junk. This definition does not include sanitary landfills.

Sawmill – facilities and equipment designed for the processing of timber from the property on which it is located, from adjoining property or from other properties removed from the sawmill property.

School – a building or space that is principally used as a place where ten (10) or more persons receive a full course of educational instruction. Any post-secondary or post high school educational building, including any college or other vocational technical college shall not be deemed a school for purposes of this Ordinance.

Sediment Control – Best Management Practices (BMPs) implemented to contain and remove mobilized sediment from runoff.

Semipublic 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 Resource Management – the preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or

bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection.

Setback – the minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, a bluff, road, highway, property line, or other facility.

Setback Line – that line that is the required minimum distance from any lot line and that establishes the area within which a structure must be erected or placed.

Selective Cutting – the removal of single scattered trees.

Septage – solids and liquids removed during periodic maintenance of a sewage treatment system, solids and liquids which are removed from toilet waste treatment devices or a holding tank.

Sewage – waste produced by toilets, bathing, laundry, or culinary operations, or the floor drains associated with these sources, or any other untreated waste produced by humans.

Sewage Treatment System - the same as the term “subsurface sewage treatment system” (SSTS) as defined and described in Minnesota Rules, Chapter 7080. Sewage systems for the purposes of this ordinance are not considered a structure.

Shore Impact Zone – land located between the ordinary high water level of a public water and a line parallel to it at 50 percent of the shoreland setback.

Shoreland – land located within the following distances from public waters identified in the DNR Public Waters and Wetlands map: 1,000 feet from the ordinary high water level of a public water lake, pond, or flowage; and 300 feet from a public water river or stream, or the landward extent of a flood plain on a river or stream, whichever is greater. The limits of shoreland 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.

Shoreland Alteration – grading and filling in shoreland areas of any alteration of the natural topography where the slope of the land is toward a public water or watercourse leading to a public water.

Shoreland Setback – the minimum horizontal distance between a structure and the ordinary high-water mark.

Short-Term Rental – A dwelling structure or unit within a structure, which is planned to be rented for more than 14 days in a calendar year, rented for periods of less than 30 days and containing fewer than four units.

Sidewalk – a hard surfaced path set aside for walking, not to exceed four (4) feet wide or six (6) feet wide in Commercial & Industrial districts and constructed at ground level. A permit may not be necessary for a sidewalk.

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, Advertising – a sign which directs attention to a business, commodity, service, activity or entertainment not necessarily conducted, sold or offered upon the premises where such sign is located; a billboard.

Sign, Surface Area Of – 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 are not forming an integral part of the display. Only one side of a double face or V-type sign structure shall be used in computing total surface area.

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, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

Solar Energy System – a solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Farm – a commercial facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. A solar farm is the primary land use for the parcel on which it is located.

Specified Anatomical Areas – anatomical areas consisting of (a) Less than completely and opaquely covered human genitals, pubic region or pubic hair, buttock, anus, or female breast or breast below the point immediately above the top of the areola or any combination of the foregoing; and (b) Exposed or opaquely covered human male genitals in a discernibly turgid state.

Specified Sexual Activities – activities consisting of the following:

- Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation or fondling of unclothed genitals, pubic region, buttock, or female breast, flagellation or torture in a sexual relationship, or any of the following sexually oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, sodomy, zooerasty; or
- Presentation, display, depiction, or description of human genitals in the state of sexual stimulation, arousal or tumescence; or
- Use or acts of human or animal ejaculation, sexual intercourse, sodomy, oral copulation, coitus or masturbation; or
- Fondling or touching of human genitals, pubic regions or pubic hair, buttocks, or female breast(s); or

- Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes, who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such person; or
- Erotic or lewd touching, fondling or other sexually-oriented contact with an animal by a human being; or
- Human excretion, urination, menstruation, vaginal or anal irrigation; or
- Any combination of the above.

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. Steep slopes include any land having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more, that are not bluffs.

Steep Slope, Moderate – a steep slope having average slopes 18 percent and higher over horizontal distances of 50 feet or more, that are not bluffs.

Steep Slope, Severe – a steep slope having average slopes 30 percent and higher over horizontal distances of 50 feet or more, that are not bluffs.

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, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 9.10 of this Ordinance and other similar items.

Structure, Height – See “Height”.

Structural Alteration – any change, other than normal maintenance, which would replace or prolong the life of the supporting members of a building, such as bearing walls, columns, beams, girders or foundations.

Subdivision – any land, vacant or improved, which is divided or proposed to be divided into two (2) or more lots, parcels, sites, units, plots, condominiums, tracts, or interests for the purpose of offer, sale or development whether immediate or future unless specifically exempted by this ordinance. Subdivision includes the division or development of residentially and non-residentially zoned land, whether by deed, metes and bounds description, devise, intestacy, map, plat, or other recorded instrument. Subdivisions include all cluster subdivisions or planned unit developments.

Substantial Alterations – shall be those that require the movement or placement of more than ten (10) cubic yards of material, including excavations, fill or grading, or that would have a significant potential for destabilizing the existing slope.

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 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition, or other

improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures that have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- 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.
- 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.

Subsurface Sewage Treatment System (SSTS) – a sewage treatment system, or part thereof, serving a residential structure, or other establishment, or group thereof, and using sewage tanks or advanced treatment followed by soil treatment and disposal. SSTS includes holding tanks and privies.

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.

Swine Breeding Facility – a facility utilized for the (Primary) purpose(s) of breeding, gestating and farrowing of swine. For this definition, such a facility can house sows, gilts, boars, and nursery swine younger than 25 days.

Tier – the tract of land located by lines approximately parallel to a line that identifies the ordinary high water level, proceeding landward.

Tower, Communications – an independent structure of skeletal framework or a pole, guyed or self-supporting, used to support antennas. Guy wire, framework and other stabilizing devices are considered part of the structure or tower.

Tower, Wind – an independent structure or framework intended to capture wind and convert it to energy.

Townhouse – developments typically consisting of multiple dwellings with common walls and ownership of common areas of a subdivision and fall under the platting portion of this subdivision ordinance.

Transient Lodging – the provision of lodging accommodations to the general public or others for a period of fourteen (14) days or less at any one time.

Travel Trailer – a vehicle used or adaptable for living, sleeping, business, or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirting, which does not meet building code requirements and has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place. The term “Trailer” is defined under Recreational Vehicles.

Travel Trailer, Permanent or Semi-Permanent – a travel trailer that is placed on a lot and that is served by a well or other device involved in the appropriation of surface or ground water to provide a continuous supply of water to the trailer.

Travel Trailer, Transient – a travel trailer that is licensed by the State of Minnesota for over the road travel without any special permits and is highway ready meaning on wheels or the internal jacking system, is completely self-contained in terms of waste holding and water supply and has no permanent structural type additions attached or adjacent to it.

Use – the purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied, utilized or maintained.

Use, Accessory – a use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

Use, Permitted – a public or private use which of itself conforms with the purposes, objectives, requirements, regulations and performance standards of this ordinance and a particular district in which it is located.

Use, Principal – the main use of land or buildings as distinguished from subordinate or accessory uses. A “principal use” may be either permitted or conditional.

Use, Conditional – See “Conditional Use”.

Utility Structure, Minor – a utility service such as electrical power lines of voltage of less than 35kv, or gas or fuel lines intended for en route consumption.

Vacation Rental – See “Short-Term Rental”.

Variance – any modification or variation of official controls where it is determined that, by reason of exceptional circumstances, the strict enforcement of the official controls would cause unnecessary hardship.

Veterinary Clinic – a facility for the provision of surgical or other medical treatment to animals. Such animals may be kept in the facility during the recovery period or while under medical treatment only.

Water-Oriented Accessory Structure or Facility – a small, building, structure, patio 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. Permitted structures include boathouses, gazebos, screen houses, fish cleaning houses, pump houses and detached decks.

Water Pollution – the discharge of any pollutant or contaminant into any waters of Minnesota so as to create a nuisance or render such water unclean, toxic, or impure so as to be injurious to public health, safety or welfare, to domestic, agricultural, commercial, industrial, recreational or other legitimate uses, or to livestock, animals, birds, fish or other aquatic life; or the human-made or human induced alteration of the chemical, physical, biological or radiological integrity of the waters of Minnesota.

Water Table – the surface of the ground water at which the pressure is atmosphere, generally this is the top of the saturated zone.

Waterway – a natural or constructed channel that is shaped or graded and is established in sustainable vegetation for the stable conveyance of run-off.

Wetland – land 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 definition, wetlands must have the following three attributes: (1) have a predominance of hydric soils; (2) are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adopted for life in saturated soil conditions; and (3) under normal circumstances support a prevalence of such hydrophytic vegetation.

White Goods – an abandoned, discarded, or inoperable refrigerator, freezer, washer, dryer, dishwasher, water heater, trash compactor, air conditioner, oven, range, stove, microwave oven, dehumidifier, residential furnace, or related household appliance.

Wildlife Pond – a pond excavated for the sole purpose of providing improved habitat and or a water source for waterfowl and upland game species.

Wrecking Yard – See “Junk Yard”.

Yard - the open space on an occupied lot that is not covered by a structure.

Yard, Rear – the portion of the yard on the same lot with the principle building located between the rear line of the building and the rear lot line and extending for the full width of the lot.

Yard, Side – the yard extending along the side lot line between the front and rear yards to a depth or width required by setback regulations for the zoning district in which such lot is located.

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 lot is located.

Zoning Amendment – a change authorized by the County either in the allowed use within a district or in the boundaries of a district.

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

Article IV. General Provisions

Section 4.01 Application of this Ordinance

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, and welfare.

Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

Except as in this Ordinance specifically provided, no structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this Ordinance.

Section 4.02 Separability and Supremacy

It is hereby declared to be the intention that the several provisions of this Ordinance are separable in accordance with the following:

- A. If any court of competent jurisdiction shall adjudge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.
- C. Supremacy: When any condition imposed by any provision of this Ordinance on the location of structures, use of land or buildings or on the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by any provision of any other community ordinance or regulation, the more restrictive conditions shall prevail.

Section 4.03 Existing Lots

A lot or parcel of land in any district which was of record as a separate lot or parcel in the Office of the Todd County Recorder or Registrar of Titles on or before the original date of adoption of this Ordinance (July 1972 in shoreland and March 18, 1976 outside shoreland district) may be used for residential purposes provided that the following conditions are met:

- A. Only one dwelling structure may be built on the parcel of land;
- B. The lot must have Legal Access as defined by this ordinance.
- C. It can be demonstrated that a conforming sewage treatment system can be installed to serve such permanent dwelling, and;
- D. The dwelling and septic system can meet all applicable setbacks of the zoning district where it is located.

Section 4.04 Nonconforming Uses and Structures

- A. There exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed (July 1972 in shoreland and March 18, 1976 outside shoreland district) or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance. It is the intent of this Ordinance to allow these nonconformities to continue, but to regulate the maintenance, expansion and/or replacement of such nonconforming uses and structures in accordance with this section and to provide for their elimination when appropriate. It is further the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- B. To avoid undue hardship, if a project had been permitted prior to the date of adoption/amendment, it should be allowed to be completed under that permit, provided all the terms and conditions of the permit are met.
- C. Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of this Ordinance, lawful use of land exists that is made no longer permissible under the terms of this Ordinance as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- (i) If a nonconforming use ceases to be used for a period of twelve (12) consecutive months, or is changed to a conforming use, any subsequent use shall meet the requirements of the zoning district wherein located.
 - (ii) A nonconforming use shall not be moved to any other part of the tax parcel it is located on.
- D. Nonconforming Structures. Where a legal nonconforming structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (i) No such structure may be enlarged or altered in a way which increases the nonconformity except as allowed by this ordinance.
 - (ii) A nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an official control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. Pursuant to Minnesota Statutes, Chapter 394.36, Subdivision 4: This subdivision applies to the homestead and non-homestead residential real estate and seasonal residential real estate occupied for recreational purposes.
 - (iii) If the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming building or structure is destroyed by fire or other peril to the extent of 50 percent of its market value, and no building permit has been applied for within 180 days of when the property was damaged, any subsequent use or occupancy of the land or premises must be a conforming use or occupancy.
 - (iv) If a nonconforming building or structure is moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
 - (v) This provision shall not apply to recreational vehicles, as regulated in Section 9.16 of this Ordinance.
- E. Nonconformities Created by Density Standards
Nonconformities in AF1, AF2, and R10 zoning districts created due to residential density standards may be expanded and/or relocated with a parcel as long as the change conforms to the other regulations for the zoning district in which it is located.
- F. Nonconforming structure roof replacement or modification to existing non-conforming structures in the shoreland zone may be permitted with a Structural Alteration to Existing non-conforming structure or dwelling permit when:
- (i) The maximum height of any portion of the altered roof does not exceed the highest existing roof height of 18 feet.

- (ii) If an existing roof is less than 18 feet in height, the roof height may be increased but no portion of the roof can exceed 18 feet in height.
 - (iii) The roof replacement or modification does not result in a lateral expansion of the structure. Any lateral expansion would require a variance.
 - (iv) Proposed alterations that appear to affect the view of the lake from neighboring properties as determined by the Director must apply for a standard variance through the Board of Adjustment.
- G. Structure foundation modification, replacement or repair may be permitted with a Structural Alteration to Existing Non-Conforming Structure or Dwelling Permit when:
- (i) Construction does not create a peak roof height exceeding 18 feet above finished grade.
 - (ii) The foundation replacement, modification, or repair does not result in a lateral expansion of the structure. Any lateral expansion would require a variance.
 - (iii) Proposed alterations that appear to affect the view of the lake from neighboring properties as determined by the Director must apply for a standard variance through the Board of Adjustment.
- H. Nonconforming Uses of Structures. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
- (i) If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use by the County Board, upon recommendation of the Planning Commission, if appropriate conditions and safeguards are met in accord with the provisions of this Ordinance.
 - (ii) A nonconforming use shall not be changed or expanded except by changing the use to be consistent with the provisions of this Ordinance.
 - (iii) If a nonconforming use is discontinued for a period of more than one year, any subsequent use of the structure and/or property must be a conforming use.
 - (iv) Where nonconforming use applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming use of the land.
 - (v) Normal maintenance of a building or other structure containing or related to a legal nonconforming use is allowed without a variance or land use permit.

Section 4.05 Environmental Review Procedures

- A. Minnesota Law requires that projects that have the potential to cause significant environmental impacts must undergo special environmental review procedures prior to obtaining approvals and other needed permits. The function of the Minnesota Environmental Review Program is to avoid and minimize damage to Minnesota’s environmental resources caused by public and private actions.
- B. The mandatory and exemption categories are established in Minnesota Rules, (Chapters) 4410.4300, 4410.4400 and 4410.4600, (which are incorporated herein by reference). Proposed projects that exceed the stated thresholds must complete the required environmental review process prior to a final decision by the County. As part of completing a required environmental assessment worksheet or environmental impact statement, the proposer shall provide all information normally required by the County as part of an application for that type of project.
- C. In the event that an environmental assessment worksheet or an environmental impact statement is required for a project, the rules of the Environmental Quality board shall govern the responsibility of the costs involved with the preparation and review of the documents. The County shall assign all costs involved in the preparation and/or review of the necessary environmental assessment worksheet or environmental impact statement to the project proposer. The County may hire an independent contractor to prepare and/or review the necessary documents.

Article V. Administration

Section 5.01 Enforcing Officer

- A. The Director shall administer and enforce this Ordinance, and shall perform the following duties:
 - (i) Review applications and issue land use and other permits, and make and maintain records thereof
 - (ii) Conduct inspections of locations of buildings and use of land to determine compliance with the terms of this Ordinance.
 - (iii) Maintain permanent and current records of this Ordinance, including but not limited to: all maps, amendments, and conditional uses, variances, appeals, and applications therefore.
 - (iv) Receive, file, and forward all applications for appeals, variances, conditional uses, or other matters to the designated official bodies.
 - (v) Institute, in the name of the County, any appropriate actions or proceedings against a violator as provided for.
 - (vi) The Director shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this Ordinance.

Section 5.02 Board of Adjustment

- A. The Board of Adjustment is hereby established and vested with such authority as provided herein and in Minnesota Statutes, Chapter 394 as amended.

- B. The Board of Adjustment shall consist of five regular members, a Planning Commission Liaison, and at least one alternate member. Of the five regular members there shall be one residing in each of the five Todd County Commissioner districts.
- C. At least one member shall be a resident of the portion of the county outside the corporate limits of municipalities. No elected officer of the County or any employee of the County shall serve as a member of the Board of Adjustment.
- D. All other members of the Board of Adjustment shall be appointed by the Board of Commissioners, including alternate members. Board of Adjustment members can also serve on the Planning Commission.
- E. Regular members of the Board of Adjustment shall be appointed for four (4) year terms. Terms for each regular member of the Board of Adjustment shall begin at the mid-point of their respective County Commissioner's regular term and run until the mid-point of the next term. Alternate members shall be appointed for four (4) year terms. The Director shall keep a schedule of regular terms for members. There shall be no limit to the number of terms a member may serve.
- F. Vacancies in the Board of Adjustment due to resignation, death, serious illness, or removal of a member for cause as provided in this ordinance shall be filled for the unexpired duration of the regular term. The removal of any member for non-performance, misconduct, or malfeasance in office shall be the responsibility of the Board of Commissioners. Causes for removal may include, but not limited to, a repeated failure of the member to attend meetings, repeated attendance at meetings for such a short length of time as to render the member's services of little value to the county, or a change in residency status that would cause the makeup of the Board of Adjustment to be inconsistent with this ordinance.
- G. The members of the Board of Adjustment may be paid compensation in an amount determined by the county board and may be paid their necessary expenses in attending meetings of the board and in the conduct of the business of the board.
- H. The Board of Adjustment shall elect a chairman and vice chairman from among its members and shall appoint a secretary who need not be a member of the Board. It shall adopt rules for the transaction of its business and shall keep a public record of its transaction, findings, and determinations.
- I. The meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the Board in its rules of procedure may specify.
- J. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular board member from voting thereon shall be decided by majority vote of all regular board members except the member who is being challenged.

- K. The Board of Adjustment shall have the authority to order the issuance of variances, hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with enforcing any ordinance adopted pursuant to the provision of MN Statutes 394.21 to 394.37, order the issuance of permits for buildings in areas designated for future public use on an official map and perform such other duties as required by the official controls. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a township, municipality, county, or state. In exercising its powers under this subdivision, the Board of Adjustment shall take into consideration the township board's recommendation when the Board of Adjustment's decision directly affects land within the township.

Section 5.03 Variances

- A. Variance Application Procedure.
- (i) The applicant requesting a variance shall submit to the Director a full and complete variance request application form provided by the Director.
 - (ii) This application shall not be considered complete until all requirements of the application have been met and any application fees have been received.
 - (iii) The Director shall refer the application to the Board of Adjustment.
 - (iv) The Board of Adjustment shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper(s) designated by the County Board at least ten (10) days prior to the hearing. Property owners of record (incorporated and unincorporated areas) within 500 feet of the affected property shall be notified in writing of the public hearing on the request for a variance.
 - (v) The petitioner or his representative shall appear before the Board of Adjustment in order to answer questions concerning the proposed variance.
 - (vi) The Board of Adjustment must take action on the application within 60 days after receiving the complete application. This deadline may be extended an additional 60 days (or longer if the applicant agrees in writing) in accordance with MN Statutes, Chapter 15.99.
- B. Variance Criteria.
- (i) The Board of Adjustment shall have the exclusive power to order the issuance of variances from the terms of any official control including restrictions placed on nonconformities.
 - (ii) Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control in cases when there are practical difficulties or particular hardship in the way of carrying out the strict letter of any official control, and when the terms of the variance are consistent with the comprehensive plan.

- (iii) Variances may only be granted when there are practical difficulties in complying with the official controls. The means that the property owner proposes to use the property is in a reasonable manner not permitted by the official control.
 - (iv) Practical difficulties directly created or attributed to the applicant for the variance are deemed self-imposed and may be denied on that basis.
 - (v) Variances, if granted, will not alter the essential character of the locality.
 - (vi) Economic considerations alone do not constitute practical difficulties so as to justify granting of the variance.
 - (vii) No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located. The Board of Adjustment may consider the inability to use solar energy systems a "practical difficulty" in the granting of variances.
 - (viii) In considering the application for a variance, the Board of Adjustment shall also consider the following criteria: (a) Granting the variance shall not confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district; (b) If a variance is granted, it shall be the minimum variance that would alleviate the practical difficulty; (c) Granting the variance shall not create a safety or environmental hazard for adjacent property or ground or surface waters that did not previously exist.
 - (ix) The applicant for a variance has the burden of demonstrating that the variance criteria have been satisfied. The Board of Adjustment may request that the applicant demonstrate the nature and extent of any adverse environmental or other effects that may occur.
- C. The Board of Adjustment may impose conditions in the granting of variances to insure compliance and to protect adjacent properties and the public interest. Conditions may include, but are not limited to:
- (i) Adjusting the location of structures, wells or septic systems;
 - (ii) Removal of existing buildings;
 - (iii) Requiring approved landscaping plans;
 - (iv) Increasing setbacks from water bodies;
 - (v) Requiring vegetative or constructed storm water management;
 - (vi) Requiring that vegetation be maintained or introduced;
 - (vii) Requiring lots boundaries to be surveyed;
 - (viii) Performance bonds;
 - (ix) Imposing a time limit for the use to exist or operate, and/or;
 - (x) Requiring that the applicant allow for reasonable inspections by appropriate county officials to ensure compliance.

- D. Any variance granted by the Board of Adjustment may be periodically reviewed by the county to ensure compliance with the variance and variance conditions. The county may enter onto the premises at reasonable times and in a reasonable manner to ensure compliance. In the event that the applicant violates any of the conditions set forth in the variance, appropriate actions may be taken by the Director or County Attorney to correct the violation.
- E. A certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement, decision, or determination by an administrative official, or a request for a variance, shall be filed with the county recorder or registrar of titles for record. The order issued by the Board of Adjustment shall include the legal description of the property involved. The Director shall be responsible for meeting these requirements.
- F. An appeal from any order, requirement, decision, or determination of any administrative official shall be taken if the appellant files with the Board of Adjustment a notice of appeal specifying the grounds thereof within 30 calendar days of the action causing the appeal. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and to the public and decide the same within a reasonable time which shall be defined in the ordinance establishing the Board of Adjustment. An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment to whom the appeal is taken certifies that by reason of the facts stated in the certificate a stay would cause imminent peril to life or property. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. The reasons for the board's decision shall be stated in writing.
- G. Activities granted by a variance expire and are considered invalid unless they are substantially completed within thirty-six months of the date the variance is granted by the Board of Adjustment. "Substantially completed," for the purposes of this section shall mean that the necessary permit has been obtained to complete the work approved by the variance and the permit has been acted upon within the period that permit is valid. If a permit is not required, "substantially completed" means that the activities necessary to act upon the variance have been completed. Variances granted prior to July 1, 2005 that have been discontinued for more than thirty-six months shall be considered to have lapsed and be invalid.

Section 5.04 Planning Commission

- A. The Planning Commission is hereby established and vested with such authority as provided herein and in Minnesota Statutes, Chapter 394 as amended.

- B. The Planning Commission shall consist of six-regular members. Of the six members, one shall be a liaison from the Board of Commissioners and of the remaining five, there shall be one residing in each of the five commissioner districts. At least two members shall be residents of the portion of the county outside the corporate limits of municipalities. No more than one voting member of the commission shall be an officer or employee of the county. No voting member of the commission shall have received, during the two years prior to appointment, any substantial portion of income from business operations involving the development of land within the county for urban and urban related purposes.
- C. All members of the Planning Commission shall be appointed by the Board of Commissioners, including alternate members. The members of the Planning Commission shall be appointed by the Board of Commissioners consistent with the following provisions:
- D. The liaison from the Board of Commissioners shall be appointed by the County Board Chair, as an ex-officio or non-voting member, and serve a two (2) year term. There shall be no limit to the number of terms a liaison from the Board of Commissioners may serve.
- E. For the remaining five (5) members of the Planning Commission, each County Commissioner shall nominate a person residing in their district to be appointed to the Planning Commission. Alternate members shall be nominated by the Commissioner in the district of representation. The Board of Commissioners must approve the nomination and appoint the nominee by a majority vote.
- F. Members of the Planning Commission shall be appointed for four (4) year terms. Terms for each member of the Planning Commission shall begin at the mid-point of their respective County Commissioner's regular term and run until the mid-point of the next term. Alternate members shall be appointed for four (4) year terms. The Director shall keep a schedule of regular terms for members. There shall be no limit to the number of terms a member may serve.
- G. Vacancies in the Planning Commission due to resignation, death, serious illness, or removal of a member for cause as provided in this ordinance shall be filled for the unexpired duration of the regular term. The removal of any member for non-performance, misconduct, or malfeasance in office shall be the responsibility of the Board of Commissioners. Causes for removal may include, but not limited to, a repeated failure of the member to attend meetings, repeated attendance at meetings for such a short length of time as to render the member's services of little value to the county, or a change in residency status that would cause the makeup of the Planning Commission to be inconsistent with this ordinance.
- H. The members of the Planning Commission, may be paid compensation in an amount determined by the County Board and may be paid their necessary expenses in attending meetings of the board and in the conduct of the business of the board.
- I. The Planning Commission shall elect a chairman and vice chairman from among its members. It shall adopt rules for the transaction of its business and shall keep a public record of its transaction, findings, and determinations.
- J. The meetings of the Planning Commission shall be held at the call of the chairman and at such other times as the Planning Commission in its rules of business may specify.

- K. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a regular board member from voting thereon shall be decided by majority vote of all regular Planning Commission board members except the member who is being challenged.
- L. The Planning Commission shall provide assistance to the Todd County Board and Director in the administration of this Ordinance and the adoption and execution of a comprehensive plan. In addition, the Planning Commission shall review, hold public hearings, and make recommendations to the County Board on all applications for zoning amendments, subdivisions and conditional use permits using the criteria and procedures as set forth in this Ordinance. Hearings by the Planning Commission shall be held within such time and upon such notice to interested parties as is provided in its adopted rules for the business. The Commission shall, within a reasonable time, make its recommendation to the County Board of Commissioners (MN Statutes Chapter 15.99).

Section 5.05 Conditional Use Permits

- A. The applicant for a conditional use permit has the burden of demonstrating that the standards listed in this section have been satisfied. The applicant may be requested by the Planning Commission or Board of Commissioners to demonstrate the nature and extent of any adverse environmental or other effects that may occur, in the opinion of the Planning Commission.
- B. In granting a conditional use permit, the Todd County Board shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the County Board shall make the following findings where applicable:
 - (i) The use is in conformance with the purposes of the Comprehensive Plan of the County.
 - (ii) That the establishment of the Conditional Use will not impede the normal and orderly development and improvement of surrounding property.
 - (iii) The applicant, in the opinion of the Planning Commission, has demonstrated a need for the proposed use and is reasonably related to the overall needs of the County and to the existing land use.
 - (iv) The use will not create an excessive burden on infrastructure, including parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
 - (v) The use will not create a pollution hazard or other detrimental environmental effects both during and after construction. Effects to be considered shall include, but not be limited to, soil erosion and sedimentation, pollution or other degradation of surface waters and ground water supplies, impact on water supply, and adequacy of sewage treatment.
 - (vi) That adequate measures have been or will be taken to sufficiently minimize traffic congestion and provide sufficient off-street parking and loading space to serve the proposed use.

- (vii) That adequate measures have been or will be taken to prevent or control offensive odor, fumes, dust, noise, glare, appearance and vibration so that none of these will constitute a public nuisance.
 - (viii) The intensity of the proposed use is not inconsistent with the purposes of this ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - (ix) Any other factor relating to the proposed conditional use that the Planning Commission determines in its discretion has the potential to adversely affect the public health, safety and welfare.
- C. In permitting a new conditional use or the amendment of an existing conditional use, the Planning Commission may recommend the imposition, in addition to the standards and requirements expressly specified by this Ordinance, of additional conditions which the board considers necessary to protect the best interest of the surrounding area or the county as a whole. These conditions may include, but are not limited to the following:
- (i) Limiting the size, height, density and location of proposed buildings or land uses;
 - (ii) Requiring street and traffic improvements including, but not limited to, additional road width, additional parking spaces, paved roads, curbs, gutters, turning lanes, location and number of vehicle access points, and traffic control signs;
 - (iii) Limitations on period of use, occupancy and operation;
 - (iv) Imposition of operational controls, performance bonds, regular inspections and deed restrictions;
 - (v) Limitations on the removal of existing vegetation or requirements that additional vegetation be planted as a visual or environmental buffer;
 - (vi) Requiring diking, fencing, screening, landscaping, storm water management or other facilities to protect adjacent or nearby property;
 - (vii) Designating sites for open space or common use;
 - (viii) Any change involving structural alterations, enlargement, intensification of use, or similar change not specifically permitted by the conditional use permit issued shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued. The Director shall maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the County Board and time limits, review dates, and such other information as may be appropriate.
- D. Structural expansion permitting on properties operating under a CUP may be requested by a landowner or their designated representative to allow a building addition, expansion, or alteration without a new or amended CUP when:
- (i) The proposal does not change the originally granted use.
 - (ii) The proposal does not significantly increase or intensify the existing use.
 - (iii) The proposal does not expand activity to parcels not part of the original CUP.

- (iv) When the original CUP does not specify that future expansions or additions require CUP amendment.
 - (v) Denial of a land use permit on lands operating under a CUP is at the discretion of the Director.
- E. The applicant requesting a conditional use shall submit to the Director a full and complete conditional use permit application form provided by the Director. This application shall not be considered complete until all requirements of the application have been met and any application fees have been received.
 - F. The Director shall refer the application to the Planning Commission.
 - G. The Planning Commission shall hold a public hearing on the proposal. Notice of the public hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing. In unincorporated areas of the county, property owners of record within one quarter mile of the affected property or the ten properties nearest to the affected property, whichever is the greatest number of property owners, shall be notified in writing of the public hearing on the request for a conditional use permit. In incorporated areas of the county, property owners of record within 500 feet of the property in question shall be notified in writing of the public hearing on the request for a conditional use permit.
 - H. The petitioner or his representative shall appear before the Planning Commission in order to answer questions concerning the proposed conditional use.
 - I. The report of the Planning Commission shall be placed on the agenda of the Todd County Board at a regular meeting following referral from the Planning Commission, but not later than sixty days after the applicant has submitted the application.
 - J. The County Board of Commissioners must take action on the application within 60 days of the date the completed application was received by the Director. This deadline may be extended an additional 60 days (or longer if the applicant agrees in writing) in accordance with MN Statutes 15.99.
 - K. No application for a conditional use permit shall be resubmitted for a period of twelve (12) months from the date of said order or denial, except the Planning Commission may permit a new application if, in its opinion, new evidence or a change of circumstances warrant it.
 - L. Any conditional use permit granted by the Board of Commissioners may be periodically reviewed by the county to ensure compliance with the permit and permit conditions. The county may enter onto the premises at reasonable times and in a reasonable manner to ensure compliance. In the event that the applicant violates any of the conditions set forth in this permit, the County Board shall have the authority to revoke a conditional use permit following a public hearing of the Planning Commission. If a time limit or periodic review is included as a condition by which a conditional use permit is granted, the conditional use permit may be reviewed at a public hearing with notice of said hearing published at least ten days prior to the review. It shall be the responsibility of the Director to schedule such public hearings and the owner of land having a conditional use permit shall not be required to pay a fee for said review. A public hearing for annual review of a conditional use permit may be granted at the discretion of the Todd County Board.

- M. A certified copy of any conditional use permit shall be filed with the county recorder or registrar of titles for record. The conditional use permit shall include the legal description of the property involved. The Director shall be responsible for meeting these requirements.
- N. Activities granted by a conditional use permit expire and are considered invalid unless they are substantially completed within thirty-six months of the date the conditional use permit is granted by the Board of Commissioners. “Substantially completed,” for the purposes of this section shall mean that the necessary permit has been obtained to complete the work approved by the conditional use permit and the permit has been acted upon within the period that permit is valid. If a permit is not required, “substantially completed” means that the activities necessary to act upon the conditional use permit have been completed. Conditional use permits granted prior to July 1, 2004 that have been abandoned or discontinued for more than thirty-six months shall be considered to have lapsed and invalid.
- O. A conditional use permit that has not lapsed shall remain in effect for so long as the conditions agreed upon are observed, provided that nothing in this section shall prevent the board from enacting or amending official controls to change the status of conditional uses.

Section 5.06 Zoning Amendments

- A. The County Board may adopt amendments to the zoning ordinance and zoning map in relation both to land uses within a particular district or to the location of the district lines. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the County as reflected in the Comprehensive Plan or changes in conditions in the county. Procedures for amendment to the zoning ordinance are as follows:
 - (i) An amendment to the text of the Ordinance or zoning map may be initiated by the County Board, the Planning Commission or by application of a property owner. Any amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the Board until it has received the Planning Commission recommendation. Individuals wishing to initiate an amendment to the zoning ordinance shall fill out a zoning amendment application form and submit it to the Director.
 - (ii) Written notice of public hearings on the proposed amendment shall be sent to the governing bodies of all towns and municipalities located within the county. In unincorporated areas, property owners of record within one-half mile of the property in question shall be notified in writing of the proposed zoning amendment. In incorporated areas, property owners within 500 feet of the property in question shall be notified in writing of the proposed zoning amendment.
 - (iii) A public hearing on a zoning amendment application shall be held by the Planning Commission and County Board of Commissioners within 60 days after the completed request for the zoning amendment has been received by the Director. This deadline may be extended an additional 60 days, or longer, in

accordance with MN Statutes 15.99, Subd 3f. Notice of said hearing shall be published in the official newspaper designated by the County Board at least ten days prior to the Planning Commission hearing. The Planning Commission shall make its report to the County Board at a regular scheduled meeting of the County Board following the hearing recommending approval, disapproval or modified approval of the proposed amendment.

- (iv) The Todd County Board must take action on the application within sixty days from the date the application was received by the Director. This deadline may be extended an additional 60 days (or longer if the applicant agrees in writing) in accordance with MN Statutes 15.99, Subd 3f. Said action by the County Board shall be by four fifths (4/5) vote of its members. The person making the application shall be notified of the action taken. The Director shall maintain records of amendments to the text and zoning map of the Ordinance. A certified copy of the order shall be recorded with the County Recorder's office.
- (v) A denial of a request does not prevent an immediate submission of a same or similar request (Minnesota State Statute Chapter 15.99, Subd 2b).

Section 5.07 Permits and Fees

- A. Land Use Permit - In order to carry out the policies established in the Comprehensive Plan, a land use permit shall be required prior to erecting, installing, altering or remodeling by addition, or moving any building or structure or part thereof in the unincorporated areas of Todd County. The terms of this Ordinance shall be met before a land use permit is issued. No land use permit shall be required:
- B. For buildings or structures less than thirty-two (32) square feet in size, licensed fish houses that are designed as portable structures and deer stands, but they shall meet the same structure setbacks as buildings or structures requiring a permit.
- C. For normal maintenance such as painting, siding, singles, windows, doors or other similar improvements which do not involve exterior additions or major structural changes in the building.
 - (i) A land use permit issued under the terms of this Ordinance shall be valid for one (1) year from the date of issuance. Exterior of building must be finished in one (1) year. However, a permit may be extended by yearly intervals in instances where reasonable diligent construction could not complete the proposed structure. No such time extension shall be granted if occupancy is planned before completion of the structure unless a county approved water supply and sewage disposal system is installed and operating.
 - (ii) Persons requesting a land use permit shall fill out a land use permit form available from the Director.
 - (iii) A land use permit shall be issued or denied by the Director within a period of sixty (60) days from date the complete application is submitted. If the proposed activity involves a variance, or conditional use permit; the application shall be submitted either to the Planning Commission or Board of Adjustment for review

and appropriate action according to the procedures set forth in Section 5.02 through 5.06.

- D. A Shoreland Alteration Permit is required for all land disturbing activities according to procedures set forth in Section 7.07 & 7.09, including filling, grading, and landscaping projects within shoreland areas.
- E. Essential Services are allowed uses in all zoning districts and are not subject to height, yard, structure setback requirements.
- F. Sewer Systems - a permit shall be required to install, alter, or extend any individual sewage system, according to procedures set forth in Section 9.08 "Sewer Treatment Standards".
- G. Mining and Extraction - a permit shall be required for any mining and extraction activities that will involve one or more acres. A property owner and operator shall make application to the Planning & Zoning Department for a mining and extraction permit on a form provided by the Director. Refer to Section 9.12 "Mining and Extraction Use".
- H. Fees - the County Board shall establish a schedule for all fees required by this ordinance.
- I. Administrative Fee - when an application for a permit which is applied for after the work is commenced or completed, which requires such permit, the applicant shall be charged an Administrative fee as set by the County Board of Commissioners or legal proceedings may be taken. Refer to Section 10.01.
- J. Existing Violations - no land use or other permits may be issued to landowners or their agents on property on which there are known current or past unresolved violations.

Article VI. Zoning Districts and District Provisions

Section 6.01 Zoning Districts

- A. The zoning districts are based upon the Comprehensive Plan which has the purpose of protecting the public health, safety, and general welfare.
- B. For the purposes of this Ordinance, Todd County is hereby divided into the following Zoning Districts:
 - AF-1 Agriculture/Forestry – 1
 - AF-2 Agriculture/Forestry - 2
 - R-10 Residential – 10
 - R-2 Residential – 2
 - UG Urban Growth
 - RT Rural Townsite
 - C Commercial
 - LMI Limited Manufacturing/Industry
 - FP Floodplain
 - S Shoreland
- C. The zoning districts established herein for Todd County further the general intent of this ordinance and, in addition, are established for the specific purposes stated herein.

AF-1 Agriculture/Forestry-1. The purpose of the Agriculture/Forestry - 1 district is to provide for and protect areas of the county where commercial crop and livestock agriculture, forestry, large tract recreational activities (i.e. hunting, snowmobiling, horseback riding, etc...) and wildlife habitat/natural areas are the primary uses. The overall density may not exceed one dwelling unit per quarter-quarter section or original Government Lot. Uses that are likely to create conflicts with these primary uses, such as high densities of homes, are not allowed in this district to help maintain the value of these areas for the primary use.

AF-2 Agriculture/Forestry-2. The purpose of the Agriculture/Forestry - 2 district is to provide for and protect areas of the county where commercial crop and livestock agriculture, forestry, large tract recreational activities (i.e. hunting, snowmobiling, horseback riding, etc...) and wildlife habitat/natural areas are the primary uses. Recreational activities, such as hunting, snowmobiling, ATV riding, horseback riding, etc... can be expected. The overall density may not exceed two dwelling units per quarter-quarter section or original Government Lot.

R-10 Residential. The purpose of the R-10 district is to provide for and protect areas of the county where relatively low density housing, hobby farms, and medium tract recreational activities are the primary uses. The overall density may not exceed one dwelling unit per ten acres. Uses incompatible with the primary uses, such as large-scale feedlot operations and high densities of housing, are not allowed to help maintain the value of these areas for the primary use.

R-2 Residential. The purpose of the R-2 district is to provide for areas of the county where moderate density housing is the primary use. The overall density may not exceed one dwelling unit per two acres. Uses incompatible with the primary use, such as feedlots, "hobby farms," commercial (except for home-businesses) and industrial uses, are not allowed to help maintain the value of these areas for the primary use.

UG Urban Growth. The purpose of the UG district is to encourage orderly growth of development of an urban density and nature around incorporated municipalities rather than surrounding them with larger lots so that extension of centralized sewer and/or water becomes unfeasible.

RT Rural Townsite. The purpose of the RT district is to accommodate those areas of the county, outside of shoreland areas, that were platted as residential lots prior to the enactment of zoning regulations and have developed residentially.

C Commercial. The purpose of the C district is to provide for areas of the county where commercial or institutional uses are the primary use. Low intensity commercial or institutional uses (those that do not generate high-strength sewage or make heavy use of ground water and are generally compatible with surrounding non-commercial development) are considered allowable uses. High intensity commercial or institutional uses (those that generate high-strength wastes, make heavy use of ground water, or that generate more significant nuisance characteristics) are considered conditional uses where

special conditions may be necessary to ensure they adequately protect public health, safety and welfare.

L-MI Manufacturing/Industry. The purpose of the L-M/I district is to provide for areas of the county where light manufacturing or light industrial uses are the primary use. Light manufacturing or industrial uses are those that are compatible with surrounding non-industrial development and as such, those industrial uses that pose problems of air pollution, noise, vibrations, etc... are restricted from this district unless the area has been identified as an industrial park for such purposes.

FP Floodplain. The purpose of the FP district is to maintain the community's eligibility in the National Flood Insurance Program and to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

S Shoreland. The purpose of the S district is to provide for areas of the county where low to medium density seasonal and year-round residential uses and limited commercial uses consistent with shoreland residential uses are allowed. The shoreland district is divided into four classifications (General Development, Recreational Development, Recreational Development Limited, and Natural Environment) consistent with Minnesota Department of Natural Resource classifications or as otherwise determined by the County. The district shall include all land within 1,000 feet of any Public Water DNR-classified waters and 300 feet of any Public Water DNR-classified rivers/streams.

Section 6.02 Zoning Map

The location and boundaries of the districts established by this Ordinance are set forth on the Zoning Map which is hereby incorporated as part of this Ordinance. It shall be the responsibility of the Director to maintain and update this map and the amendments to such map shall be recorded on such map within 30 days after official adoption of zoning amendments.

Section 6.03 Zoning District Dimensional and Setback Standards

Dimensional Standards. The following table establishes the set of dimensional standards that shall be applied within the appropriate zone districts in Todd County. These standards shall be interpreted as the **minimum requirements** for each pertinent subject.

A. Ag Districts

District	AF-1 (Ag/Forestry)	AF-2 (Ag/Forestry)
Lot area	2 acres	2 acres
Max. dwelling density	One (1) dwelling per ¼ ¼ section or Govt Lot	Two (2) dwellings per ¼ ¼ section or Gov't Lot
Lot width	100 ft *	100 ft *
Lot depth	150 ft	150 ft
Frontage along a public road	33 ft or Legal Access*	33 ft or Legal Access*
Side yard setback	30 ft	30 ft
Rear yard setback	50 ft	50 ft
State/Fed road right-of-way	50 ft #	50 ft #
County/Twp road right-of-way	35 ft #	35 ft #
Maximum building height	35 ft **	35 ft **
<p>Footages given are the minimum requirement unless stated as maximum * Legal access equals 33 feet of public road frontage or 33 foot surveyed and recorded access easement as defined by this ordinance. ** This height limitation shall not apply to grain elevators, silos, windmills, elevator lags, cooling towers, water towers, personal communication towers, chimney's and smokestacks, church spires. All structures over 100 ft in height shall require a conditional use permit. #Where a lot is located at the intersection of two (2) or more roads there shall be a front yard setback on each road side of each corner lot. No building shall project beyond the front yard line of either road.</p>		

B. Residential Districts

District	R-2 (Residential)	R-10 (Residential)	UG (Urban Growth)	RT (Rural Townsite)
Lot area	2 acres*	10 acres*	***	2 acres or as is existing
Maximum dwelling density	One (1) dwelling per lot	One (1) dwelling per lot	One (1) dwelling per lot	One (1) dwelling per lot
Lot width	200 ft	200 ft	***	200 ft or as is existing.
Lot depth	150 ft	150 ft	***	150 ft or as is existing
Frontage along a public road	33 ft or Legal Access	33 ft or Legal Access	***	200 ft or as is existing
Side yard setback	10 ft	20 ft	***	10 ft
Rear yard setback	20 ft	20 ft	***	20 ft
State/Fed road right-of-way	50 ft #	50 ft #	***	50 ft #
County/Twp road right-of-way	35 ft #	35 ft #	***	35 ft #
Max. building height	35 ft**	35 ft**	***	35 ft**

Footages given are the minimum requirement unless stated as maximum

* Lot sizes may be reduced below the minimum lot size in the R-2 and R-10 districts if the development is designed as a cluster subdivision consistent with the requirements of Section 9.03 of this ordinance.

** This height limitation shall not apply to grain elevators, silos, windmills, elevator lags, cooling towers, water towers, personal communication towers, chimney's and smokestacks, church spires. All structures over 100 ft in height shall require a conditional use permit.

*** Minimum lot area, width, depth dimensions, side – rear yard and road right-of-way setbacks and max building height shall be the same as those of the adjacent municipality.

#Where a lot is located at the intersection of two (2) or more roads there shall be a front yard setback on each road side of each corner lot. No building shall project beyond the front yard line of either road.

C. Commercial and Manufacturing/Industry Districts

District	C (Commercial)	L-M/I (Manufacturing/Industry)
Lot area	2 acres	2 acres
Maximum dwelling density	One (1) dwelling per lot*	One (1) dwellings per lot*
Lot width	100 ft	100 ft
Lot depth	200 ft	200 ft
Side yard setback	20 ft**	20 ft**
Rear yard setback	20 ft**	20 ft**
Frontage along a public road	100 ft	100 ft
State/Fed road right-of-way	100 ft #	100 ft #
County/Twp road right-of-way	100 ft #	100 ft #
Maximum building height	35 ft***	40 ft***
<p>Footages given are the minimum requirement unless stated as maximum *If a dwelling existed on a lot prior to the C & L-M/I Classification) **Minimum side and rear yard setbacks increase to 50 feet when adjacent to any Ag or Residential districts ***This height limitation shall not apply to grain elevators, silos, windmills, elevator lags, cooling towers, water towers, personal communication towers, chimney's and smokestacks, church spires. All structures over 100 ft in height shall require a conditional use permit. #Where a lot is located at the intersection of two (2) or more roads there shall be a front yard setback on each road side of each corner lot. No building shall project beyond the front yard line of either road.</p>		

D. Shoreland Districts

Lot Dimension Requirements	GD General Development Lakes	RD Recreational Development Lakes	NE Natural Environment Lakes/ Rivers	RDL ** Recreational Development Limited
Single Riparian lots – total area	20,000 sq ft	40,000 sq ft	80,000 sq ft	15,000 sq ft
Single Riparian lots – buildable area	8,000 sq ft	18,000 sq ft	40,000 sq ft	
Single Riparian lot – depth	150 ft	200 ft	250 ft	150 ft
Single Riparian lot – width	100 ft	150 ft	200 ft	75 ft
Frontage along a public road	100 ft*	150 ft*	200 ft*	75 ft
Single Non-riparian lots – total area	40,000 sq ft	40,000 sq ft	80,000 sq ft	15,000 sq ft
Single Non-riparian lots – buildable area	18,000 sq ft	18,000 sq ft	40,000 sq ft	
Single Non-riparian lot – depth	100 ft	100 ft	100 ft	150 ft
Single Non-riparian lot – width	150 ft	150 ft	200 ft	75 ft
Frontage along a public road	150 ft*	150 ft*	200 ft*	75 ft
Duplex Riparian lot – total area	40,000 sq ft	80,000 sq ft	120,000 sq ft	
Duplex Riparian lot – buildable area	18,000 sq ft	40,000 sq ft	60,000 sq ft	
Duplex Riparian lot – depth	150 ft	200 ft	250 ft	
Duplex Riparian lot – width	180 ft	225 ft	300 ft	
Frontage along a public road	180 ft*	225 ft*	300 ft*	
Duplex Non-riparian lot – total area	80,000 sq ft	80,000 sq ft	160,000 sq ft	
Duplex Non-riparian lot – buildable area	40,000 sq ft	40,000 sq ft	80,000 sq ft	
Duplex Non-riparian lot – depth	100 ft	100 ft	100 ft	
Duplex Non-riparian lot – width	265 ft	265 ft	400 ft	
Footages given are the minimum requirement.				
<i>**This classification is only applicable to Sylvan Shores Subdivision</i>				
<i>*with platting this may be reduced to 50 ft</i>				

E. Shoreland Districts Setbacks

Setback Standards	GD General Development Lakes	RD Recreational Development Lakes	NE Natural Environment Lakes & Rivers	RDL Recreational Development Limited**
Structure Setback from				
Ordinary high water mark of the lake	75 ft	100 ft	150 ft	100 ft
Side property line	10 ft	10 ft	10 ft	10 ft
Rear property line (without road frontage)	20 ft	20 ft	20 ft	20 ft
County or Twp road right-of-way of at least 66 ft	20 ft	20 ft	20 ft	20 ft
County or Twp road right-of-way of less than 66 ft	35 ft	35 ft	35 ft	35 ft
State road right-of-way	50 ft	50 ft	50 ft	50 ft
Top of Bluff	30 ft	30 ft	30 ft	30 ft
Unplatted cemeteries	50 ft	50 ft	50 ft	50 ft
Sewer tanks (for dwelling structure only)	10 ft	10 ft	10 ft	10 ft
Drainfield (for dwelling structure only)	20 ft	20 ft	20 ft	20 ft
Maximum Height of Structures				
Dwellings meeting all setback requirements	35 ft	35 ft	35 ft	35 ft
Dwelling within minimum required setbacks	18 ft	18 ft	18 ft	18 ft
Accessory buildings meeting all setbacks	25 ft	25 ft	25 ft	25 ft
Accessory buildings within the minimum required setbacks	18 ft	18 ft	18 ft	18 ft
Water-Oriented Accessory Structure (maximum one per lot)				
Ordinary high water level	37.5 ft	50 ft	75 ft	50 ft
Side property line	10 ft	10 ft	10 ft	10 ft
Maximum height	10 ft	10 ft	10 ft	10 ft
Maximum square footage	250 sq ft	250 sq ft	250 sq ft	250 sq ft
Maximum Impervious Surface (Total coverage not to exceed 25%)				

Setback Standards	GD General Development Lakes	RD Recreational Development Lakes	NE Natural Environment Lakes & Rivers	RDL Recreational Development Limited**
Total lot coverage	25%	25%	25%	25%
Coverage by structures	15%	15%	15%	15%
Others				
Guest cabins (where allowed) max sq ft	700 sq ft	700 sq ft	700 sq ft	700 sq ft
Guest cabins (where allowed) max height	15 ft	15 ft	15 ft	15 ft
Shore Impact Zone	37.5 ft	50 ft	75 ft	75 ft
Structure height above OHWL	3 ft	3 ft	3 ft	3 ft
<i>**This classification is only applicable to Sylvan Shores Subdivision</i>				

Section 6.04 Uses Permitted in Zoning Districts

The following set of tables establishes the uses permitted, permitted by conditional use permit, not permitted, or exempt from a permit requirement in the zoning districts of Todd County. **All uses, including exempt uses, are subject to the requirements or performance standards of this ordinance.**

Performance standards applicable to uses in all zoning districts are given in Section 9.

Key:

- P = A use requiring a land use permit;
- A = A use allowed without a permit, subject to Performance Standards;
- CU = A use requiring a Conditional Use Permit;
- X = not permitted.

A. Accessory Uses.

ACCESSORY USES	Accessory uses are permitted in each district provided that they are necessary or customarily incidental or subordinate to the primary use on the property. All other accessory uses require a conditional use permit.								
AGRICULTURAL USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Agricultural Uses	A	A	A	A	A	A	A	A	A
Feedlot, Livestock									
0-0.9 a.u.*	A	A	A	A ²	X	X	A	A	A ²
1-9.9 a.u.*	A	A	A ¹	X	X	X	CU	CU	A ³
10 - 50 a.u.*	P	P	X	X	X	X	CU	CU	X
50.1-99.9 a.u.	P	P	X	X	X	X	X	X	X
100-499.9 a.u.	P	P	X	X	X	X	X	X	X
500 and above a.u.	CU	CU	X	X	X	X	X	X	X
Farm/Estate/Household Auction Sales (non-commercial once per year or less)	A	A	A	A	A	A	X	X	A
Forestry	A	A	CU	CU	CU	CU	CU	CU	A
Seasonal Greenhouse/Nursery Sales/Produce Stands (meeting standards of home-based business)	A	A	CU	CU	CU	CU	P	X	CU
Structures with hts. exceeding 100 feet	CU	CU	CU	CU	CU	CU	CU	CU	CU
Other uses of the same general character	As determined by the Planning Commission and County Board								

*In any district, existing, registered feedlots as of August 20, 2006 may expand up to 50 a.u. with a conditional use permit.

Domestic animals only are allowed in the RT and UG districts.

A¹ Unless a permit is required under feedlot rules

A² For parcels 1+ acres up to 25 chickens, with a Feedlot Registration.

A³ Parcels with historic feedlot use in shoreland zone may apply for historic Feedlot Registration.

**Registered feedlots in shoreland as of 7-1-06 may be allowed to expand up to 1000 animal units, per the conditional use process as clarified in the Feedlot Section of this ordinance.

***The 35 ft height limitation shall not apply to grain elevators, silos, windmills, elevator lags, cooling towers, water towers, personal communication towers, chimneys, and smokestacks, church spires which can be permitted.

B. Residential Use.

RESIDENTIAL USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Dwelling									
Single Family	P (1 per 40)	P (2 per 40)	P	P	P	P	A/X ** #	X ** #	P
Second single family on a parcel	CU	CU	CU	CU	X	X	X	X	P+
Multi-Family (2 units)	X	X	X	CU	CU	X	X	X	P
Multi-Family (3-4 units)	X	X	X	X	CU	X	X	X	X
Multi-Family (5+ units)	X	X	X	X	CU	X	X	X	X
Group & Foster Home (1-6 persons) Mn Stat, Chapter 245A.11, Subd 2	P	P	P	P	P	P	X	X	P
Group & Foster Home (7+ persons)	CU	CU	CU	CU	CU	CU	X	X	CU
Manufactured Home Park	X	X	X	CU	CU	CU	CU	X	CU
Cluster Development	*CU	*CU	CU	CU	X	CU	X	X	CU

RESIDENTIAL USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Travel Trailers/ Campers/ Recreational Vehicles (1 per lot) – Permanent or Semi-Permanent	P	P	P	P	P	P	X	X	P
Travel Trailers/ Campers/ Recreational Vehicles (1 per lot) – Transient	A	A	P	P	P	P	X	X	P
Home Occupation	A	A	A	A	A	A	A	X	A
Home-Based Business	A/CU	A/CU	A/CU	A/CU	A/CU	A/CU	X	X	CU
Day Care Facility	A	A	A	CU	CU	CU	CU	X	CU
Farm/Estate/House hold Auction Sales (non-commercial once per year or less)	A	A	A	A	A	A	X	X	A
Private Communications Tower	A	A	A	A	A	A	A	A	A
Private Wind Tower & Solar systems	P/CU	P/CU	P/CU	P/CU	P/CU	P/CU	P/CU	P/CU	P/CU
Private Swimming Pools. Year-around in & above ground.	P	P	P	P	P	P	P	P	P
Bed and Breakfast	CU	CU	CU	CU	CU	CU	X	X	CU
Residential Planned Unit Developments (under single ownership)	See “cluster development”								CU

RESIDENTIAL USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Residential Subdivision	X	X	P/Plat	P/Plat	P/Plat	P/Plat	X	X	CU & Plat
Dog Kennel -adult dogs	CU	CU	CU	CU	CU	CU	X	X	CU
Structures with a height exceeding 100 feet	CU	CU	CU	CU	CU	CU	CU	CU	CU
Other uses of the same general character	As determined by the Planning Commission and County Board								
<p>* Acreage clusters where allowed are permitted uses.</p> <p>** Houses existing prior to August 30th, 2006 shall for all intents and purposes be considered an allowed use and shall be allowed to continue until such time as the landowner wishes to discontinue the use. Additions, structural alterations or the rebuilding of an entire residential dwelling shall be allowed provided all additional ordinance requirements have been met and dwellings with their accessory buildings will follow setback regulations per AF-1.</p> <p>***The 35 ft height limitation shall not apply to grain elevators, silos, windmills, elevator lags, cooling towers, water towers, personal communication towers, chimneys, and smokestacks, church spires which can be permitted.</p> <p># Living quarters “inside” the commercial or industrial building may be allowed by CUP.</p> <p>† A second dwelling may be allowed on parcels meeting the requirements of Section 7.04(E) of this ordinance.</p>									

C. Commercial Uses.

COMMERCIAL USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Adult Use	CU	CU	X	X	X	X	P	P	X
Advertising Signs/Billboards	X	X	X	X	X	X	A	A	X
Auto Repair/Service Business	CU	CU	X	X	X	CU	CU	CU	X
Commercial Auction Sales	CU	CU	X	X	X	X	P	P	X
Campgrounds (incl. RV, tent, and other) and Youth Camps	CU	CU	X	X	X	X	CU	X	See “co. planned unit development”
Communications Towers	CU	CU	CU	CU	CU	CU	CU	CU	CU
Community Solar systems & farms	CU	CU	CU	CU	CU	CU	CU	CU	CU
Dog Kennel – Commercial (4+ adult dogs)	CU	CU	X	X	X	X	CU	CU	X
Event Centers	CU	CU	CU	CU	CU	CU	P	X	CU
Commercial Greenhouse/Nursery Sales (not meeting standards of home-based business)	CU	CU	CU	CU	CU	CU	P	P	CU
Hospital	X	X	X	X	CU	X	CU	X	X
Mini-Storage	CU	CU	X	X	CU	CU	P	P	CU

COMMERCIAL USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Outdoor Recreation Business	CU	CU	X	X	X	X	CU	CU	CU
Resort	X	X	X	X	X	X	X	X	CU PUD
Retail sales	CU	CU	CU	CU	CU	CU	P	P	CU
Outdoor Retail, including gas stations	CU	CU	CU	CU	CU	CU	P	P	CU
Commercial Services	CU	CU	CU	CU	CU	CU	P	P	CU
Retail Food and Beverage Establishment, including supper clubs and dance halls	X	X	X	X	X	X	CU	CU	CU
Off-Sale Liquor Establishment	X	X	X	X	CU	X	P	P	CU
Sawmill/ Other Wood or Fiber Processing	CU	CU	X	X	X	X	CU	P	X
Riding Stable	CU	CU	CU	CU	CU	CU	CU	CU	CU
Commercial Planned Unit Development	X	X	X	X	X	X	CU	CU	CU
Veterinary Clinic	CU	CU	X	X	X	X	CU	X	X
Short-Term/Vacation Rental	A/ CU ¹	A/ CU ¹	A/ CU ¹	A/ CU ¹	A/ CU ¹	A/ CU ¹	X ²	X	A/ CU ¹
Structures with a height exceeding 35-feet	CU	CU	CU	CU	CU	CU	CU	CU	CU

COMMERCIAL USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Other uses of the same general character	As determined by the Planning Commission and County Board								
<p>A/CU¹ Licensing required, Conditional Use Permit required if over a certain capacity- See Section 9.23</p> <p>X² Only allowed if structure was permitted prior to August 30th, 2006. See “Single-Family” within part B, Residential Uses.</p>									

D. Industrial Uses.

INDUSTRIAL USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Mining and Extraction	P	P	P	P	P	X	P	P	CU
Temporary Bituminous/ Concrete Facilities	CU	CU	CU	CU	CU	X	CU	P	CU
Permanent Bituminous/ Concrete Facilities	CU	CU	CU	X	X	X	CU	P	CU
Wrecking, Junk or Salvage Yard	CU	CU	X	X	X	X	CU	CU	X
Structures with a height exceeding 35 feet	CU	CU	CU	CU	CU	CU	CU	CU	CU
Other uses of the same general character	As determined by the Planning Commission and County Board								

E. Public/Semi Public Uses.

PUBLIC/ SEMI-PUBLIC USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Airport	CU	CU	CU	X	X	X	CU	CU	CU
Athletic Facilities	CU	CU	CU	CU	CU	CU	CU	CU	CU
Boat Launch, Public Access	X	X	X	X	X	X	X	X	CU
Cemeteries	CU	CU	CU	CU	CU	CU	CU	CU	CU
Churches and other places of worship	CU	CU	CU	CU	CU	CU	P	P	CU
Community Facilities (post office, fire hall, police station, etc.)	CU	CU	CU	CU	CU	CU	CU	CU	CU
Cultural Facilities (library, museum, etc.)	CU	CU	CU	CU	CU	CU	CU	CU	CU
Golf Course/ Country Club	CU	CU	CU	CU	CU	CU	CU	CU	CU
Landing Strip	CU	CU	CU	CU	X	X	CU	CU	CU
Minor Utility Structures and Power Substations	P	P	P	P	P	P	P	P	P
Parks, Waysides, and Historical Sites (neighborhood/municipal – no overnight camping)	A	A	A	A	A	A	A	A	A
Parks (county & regional or those with overnight camping)	CU	CU	CU	CU	CU	CU	CU	CU	CU

PUBLIC/ SEMI-PUBLIC USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Nature areas, hiking and riding trails, wildlife preserves, and designated official wetland areas.	A	A	A	A	A	A	A	A	A
Schools (private or public)	CU	CU	CU	CU	CU	CU	CU	CU	CU
Solid Waste Facilities, incl. Transfer Stations	CU	CU	X	X	X	X	CU	CU	X
Swimming Pools (public or commercial)	CU	CU	CU	CU	CU	CU	CU	CU	CU
Town Hall	P	P	P	P	P	P	P	P	CU
Utility Transmission Lines (under 35KV) and Pipelines	A	A	A	A	A	A	A	A	A
Utility Transmission Lines (35KV or more)	CU	CU	CU	CU	CU	CU	CU	CU	CU
Water or Sewage Treatment Plants	CU	CU	CU	CU	CU	CU	CU	CU	CU
Streets, Roads, Highways, Railroads, Bicycle and Pedestrian Paths	A	A	A	A	A	A	A	A	A
Structures with a height exceeding 35 feet	CU	CU	CU	CU	CU	CU	CU	CU	CU

PUBLIC/ SEMI-PUBLIC USES	AF-1	AF-2	R-10	R-2	UG	RT	C	L-MI	S
Other uses of the same general character	CU	CU	CU	CU	CU	CU	CU	CU	CU

Article VII. Shoreland Management

Section 7.01 Policy

The uncontrolled use of shorelands of Todd County, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by Todd County.

Section 7.02 General Provisions

- A. The provisions of this Article shall apply to the shorelands as defined in Section 7.03. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government’s shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Article.
- B. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this Article and other applicable regulations.

Section 7.03 Shoreland Classifications & Land Use District

- A. The public waters of Todd County have been classified below consistent with the criteria found in Minnesota Regulations, Part 6120.3300, and the Public Waters Inventory Map for Todd County, Minnesota.

Lake Identification No.	Lake Name	Township	Classification
77-2	Schreiers	Grey Eagle	NE
77-5	West Nelson	Villard	NE
77-6	Little Mound	Grey Eagle	NE
77-7	Mound	Grey Eagle	RD
77-9	Trace	Grey Eagle	NE

Lake Identification No.	Lake Name	Township	Classification
77-10	Bass	Grey Eagle	NE
77-11	Buckhead	Grey Eagle	NE
77-14	Stump	Grey Eagle	NE
77-16	Jim	Grey Eagle	NE
77-18	Goose	Grey Eagle	NE
77-19	Mary	Grey Eagle	NE
77-20	Molly	Grey Eagle & Burnhamville	NE
77-21	Twin	Grey Eagle & Burnhamville	NE
77-22	Mons	Burnhamville	NE
77-23	Big Swan	Burnhamville	RD
77-24	Bass	Burnhamville	NE
77-25	Pepin	Burnhamville	NE
77-26	Moose	Burnhamville	NE
77-27	Long	Burnhamville	RD
77-29	Buck	Burnhamville	NE
77-30	Mountain	Burnhamville	NE
77-32	Lady	Burnhamville & Grey Eagle	NE
77-34	Little Swan	Burnhamville & Bruce	RD
77-35	Beauty	Bruce	RD
77-36	Carland	Bruce	NE
77-37	Jacobs	Bruce	NE
77-38	Un-named	Bruce	NE
77-41	Mud	Bruce	NE
77-42	Little Pine	Bruce	NE
77-45	Wintergreen	Little Elk	NE
77-46	Coal	Little Elk	NE
77-48	Chain of Lakes	Little Elk	NE
77-50	Mill	Little Elk	NE
77-51	Hudallah	Little Elk	NE
77-52	Round	Little Elk & Turtle Creek	NE
77-53	Star	Turtle Creek	NE

Lake Identification No.	Lake Name	Township	Classification
77-54	Little Rice	Turtle Creek	NE
77-55	Peat	Turtle Creek	NE
77-56	Beck	Turtle Creek	NE
77-60	Stumpy	Turtle Creek	NE
77-61	Rice	Turtle Creek	NE
77-62	South Buckhorn	Turtle Creek	NE
77-63	Big Lake	Turtle Creek	RD
77-64	Loon	Turtle Creek	NE
77-66	Thunder	Turtle Creek	NE
77-67	Pine Island Lake	Turtle Creek	RD
77-68	Cranberry	Turtle Creek	NE
77-69	Long	Fawn Lake & Turtle Creek	NE
77-70	Mud	Fawn Lake	NE
77-71	Un-named	Fawn Lake	NE
77-72	Rat	Fawn Lake	NE
77-73	Rogers	Fawn Lake	NE
77-74	Little Fishtrap	Fawn Lake	NE
77-75	Jaeger	Fawn Lake	NE
77-76	Fawn	Fawn Lake	NE
77-77	Pine Island	Fawn Lake	NE
77-80	Hayden	Villard	NE
77-81	Stones	Villard	NE
77-82	Toms	Villard	NE
77-83	Lawrence	Villard	NE
77-84	Big Birch	Birchdale & Grey Eagle	RD
77-85	Dahn	Bruce & Long Prairie	NE
77-86	Long	Hartford & Little Elk	NE
77-87	Mud	Turtle Creek & Ward	NE
77-88	Turtle	Fawn Lake & Ward	NE
77-89	Little Birch	Birchdale	RD
77-90	Schafer	Birchdale	NE
77-93	Deer	Birchdale	NE
77-95	Fuller	Birchdale	NE
77-96	Hennessy	Birchdale	NE

Lake Identification No.	Lake Name	Township	Classification
77-97	Pixley	Birchdale	NE
77-101	Bunker	Birchdale	NE
77-102	Un-named	Birchdale	NE
77-103	Pauley	Birchdale	NE
77-105	Latimer	Round Prairie	RD
77-106	Lashier	Round Prairie	NE
77-111	Hansman	Round Prairie	NE
77-114	Center	Round Prairie	NE
77-115	Felix	Round Prairie	NE
77-116	Meyers	Long Prairie	NE
77-120	Charlotte	Long Prairie	RD
77-122	Sheets	Hartford	NE
77-128	Horseshoe	Ward	NE
77-129	Un-named	Moran	NE
77-130	Moonshine	Moran	NE
77-134	Little Pine	Fawn Lake & Moran	NE
77-136	Un-named	Staples	NE
77-138	Dower	Staples	NE
77-139	Tucker	Staples	NE
77-140	Un-named	Staples	NE
77-141	Un-named	Staples	NE
77-142	Edwards	Staples	NE
77-143	Jacobson	Staples	NE
77-144	Mumm	Staples	NE
77-145	Jasmer	Staples	NE
77-146	Rice	Staples	NE
77-148	Spier	Birchdale & Kandota	NE
77-149	Long	Birchdale	NE
77-150	Sauk	Birchdale & Kandota	RD
77-151	Mud	Kandota	NE
77-154	Fairy	Kandota	NE
77-157	Un-named	Kandota	NE
77-158	North Twin	Birchdale	NE
77-159	Un-named	Kandota	NE
77-160	Cedar	Kandota & Little Sauk	RD

Lake Identification No.	Lake Name	Township	Classification
77-162	Mud	Little Sauk	NE
77-163	Juergens	Little Sauk	NE
77-164	Little Sauk	Little Sauk	NE
77-166	Twin Island	Little Sauk	NE
77-168	Un-named	Reynolds	NE
77-169	Keller	Reynolds	NE
77-170	McCarrahan	Reynolds	NE
77-174	Un-named	Reynolds	NE
77-77-176	Un-named	Iona	NE
77-178	Un-named	Iona	NE
77-180	William	Kandota & West Union	NE
77-181	Maple	Gordon & Little Sauk	RD
77-182	Guernsey	West Union	NE
77-183	Un-named	West Union	NE
77-184	Selinsky	West Union	NE
77-185	Hultgren	West Union	NE
77-188	West Union	West Union	GD
77-190	Platt	Gordon	NE
77-191	Slawson	Gordon	NE
77-193	Stallcop	Gordon	NE
77-194	Randall	Gordon	NE
77-195	Faille	Gordon	GD
77-196	Un-named	Gordon	NE
77-197	Un-named	Leslie	NE
77-200	Beim	Leslie	NE
77-201	Little Osakis	Leslie	RD
77-202	Un-named	Leslie	NE
77-203	Eli	Burleene	NE
77-204	Un-named	Burleene	NE
77-207	Pendergast	Wykeham	NE
77-208	Grace	Wykeham	NE
77-214	Un-named	West Union	NE
77-215	Osakis	Gordon & Leslie	GD
77-357	Long Lake	Kandota	NE
77-358	Lily Lake	Kandota	NE

Lake Identification No.	Lake Name	Township	Classification
21-1	(Douglas Co)	Gordon	NE
49-140	(Morrison Co) Cedar	Grey Eagle	GD
56-1	(Ottertail Co) E. Annlaide	Wykeham	GD
All rivers and streams in Todd County as shown on the protected waters and wetlands map from the Dept of Natural Resources 1985 or as amended are assigned a shoreland classification of Natural Environment (NE).			

- B. Shorelands in Todd County have been divided into categories as specified in Section 7.03. General Development and Recreational Development Lakes are larger in size and potentially more suitable for all around development and recreation purposes and can thus support a higher density of residential development on the shoreland. Natural Environment Lakes are smaller, often marshy in character, and require stricter shoreland standards to protect the quality of the lake resource. The shoreland of rivers and streams will have the same standards as Natural Environmental Lakes.
- C. The land use districts in Section 655.D.2.b, and the delineation of a land use district’s boundaries on the Official Zoning Map, must be consistent with the goals, policies, and objectives of the comprehensive land use plan and the following criteria, considerations, and objectives.
- D. General Considerations and Criteria for all Land Uses:
 - (i) Preservation of natural areas;
 - (ii) Present ownership and development of shoreland areas;
 - (iii) Shoreland soil types and their engineering capabilities;
 - (iv) Topographic characteristics;
 - (v) Vegetative cover;
 - (vi) In-water physical characteristics, values and constraints;
 - (vii) Recreational use of the surface water;
 - (viii) Road and service center accessibility;
 - (ix) Socioeconomic development needs and plans as they involve water and related land resources;
 - (x) The necessity to preserve and restore certain areas having significant historical or ecological value.

Section 7.04 Shoreland Lot Area, Depth and Width Standard Provisions

The lot area/buildable lot area (in square feet) and lot width standards (in feet) for single and duplex residential lots created after the date of enactment of this ordinance for the lake and river/stream classifications – Section 7.03.

- A. Residential subdivisions with dwelling unit densities exceeding those of the tables in Section 6.03(d), can only be allowed if designed and approved as residential planned unit developments under Section 7.17 of this ordinance.
- B. Only land above the ordinary high water level of public waters can be used to meet lot area standards.
- C. Lot width standards for newly created lots must be met at both the ordinary high water level, at the building setback line from the ordinary high water level, and for a distance adequate to create the minimum required buildable area. The minimum lot width at the front lot line may be reduced to no less than fifty (50) feet.
- D. Subdivisions of duplexes on lakes must also meet the following standards:
 - (i) Each building must be set back at least 150 feet from the ordinary high water level;
 - (ii) Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
 - (iii) Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
 - (iv) No more than 25 percent of a lake's shoreline can be in duplex developments.
- E. One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Section 6.03(d), provided the following standards are met.
 - (i) A guest cottage must not cover more than 700 square feet of land surface (a basement/crawl space is allowed) and must not exceed 15 feet in height; and
 - (ii) A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or earth tone colors, assuming summer leaf-on conditions.
- F. Lots intended to be used for controlled accesses for non-riparian (second & third tier) lots shall not be permitted. Lots intended as common accesses for riparian lot owners within a subdivision are permissible and must meet or exceed the following standards:
 - (i) They must meet the width and size requirements for residential lots in the respective lake classification, and be suitable for the intended uses of controlled access lots and must not be located in bluffs, on moderate steep slopes, in flood plain;
 - (ii) If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a common access lot, then the width of the lot must be increased by twenty-five (25) percent of the requirements for riparian residential lots for each watercraft beyond six. Permanent watercraft storage shall be limited to one watercraft per lot served.
 - (iii) Covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the common access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of

the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

Section 7.05 Placement and Design

- A. Structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered with a variance, to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone.
- B. Dwellings and other roofed or enclosed buildings may not cover more than fifteen (15) percent of a lot with an additional 10% for anything beyond buildings that stop the infiltration of water (open decks, driveways, sidewalks, patios, etc.). Total impervious surface coverage of lots must not exceed 25% of the lot area.
- C. Structures, sewage treatment systems and accessory facilities, except above ground stairways and landings, must not be placed within bluff impact zones or in severe steep slopes.
- D. Structures must be placed in accordance with any floodplain regulations applicable to the site.
- E. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Section 6.03(e) of this ordinance if this water-oriented structure complies with the following provisions:
 - (i) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
 - (ii) The structure or facility must be located entirely outside of a shore or bluff impact zone or floodplain and must not be placed within a moderate or severe steep slope;
 - (iii) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or earth tone color, assuming summer leaf-on conditions;
 - (iv) The roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
 - (v) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities.
- F. Platforms and patios shall meet the following conditions:

- (i) be free standing.
 - (ii) have no railings.
 - (iii) be a maximum of one hundred fifty (150) square feet in size.
 - (iv) may not be more than one foot above natural grade;
 - (v) if located within the building setback area a shoreland alteration permit is required;
 - (vi) shall not encroach into the shore impact zone;
 - (vii) the maximum impervious surface limits for the lot shall not be exceeded;
 - (viii) platforms and patios meeting setback requirements are allowed, without a permit, provided they do not exceed the minimum allowed impervious lot surface.
- G. All decks shall require a permit and meet the structure setback standards.
- H. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements and require a shoreland access permit to install or replace:
- (i) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments, and must not exceed six (6) feet in width;
 - (ii) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments, that must not exceed 64 square feet. Stairways and lifts may be permitted within the road right of way setback. Encroachment into the right of way may be permitted if the governing road authority grants permission;
 - (iii) Canopies or roofs are not allowed on stairways, lifts, or landings;
 - (iv) Stairways, lifts and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion. Stairways located in bluffs or severe steep slopes may not be placed into the ground.
 - (v) Stairways, lifts, and landings should, whenever possible, be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
 - (vi) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of sub items (1) and (5) are complied with in addition to the requirements of Minnesota Regulations Chapter 1340.

- I. The Director must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes. When determined necessary, conditions must be attached to approved permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

Section 7.06 Height of Structures

- A. All dwelling structures, excluding guest cabins in shoreland, must not exceed thirty-five (35) feet in height.
- B. Any portion of a dwelling located within the minimum required setback of a water body, whether existing prior to the adoption of shoreland controls or allowed by variance, may not exceed eighteen (18) feet in height.
- C. Accessory structures in shoreland areas, except nonresidential agricultural structures, may not exceed twenty five (25) feet in height. Accessory Structures not meeting all applicable setbacks may not exceed eighteen (18) feet in height.

Section 7.07 Shoreland Alterations

- A. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.
- B. A shoreland alteration permit shall be required for all land-disturbing activities, including vegetative and topographic alterations, with the following exclusions, provided that the applicant adheres to the erosion and sedimentation control standards in this Section:
 - (i) Land-disturbing activities undertaken on agricultural land for the production of plants and animals, including but not limited to: forage and sod crops; grain and feed crops; dairy animals and dairy products; poultry and poultry products; livestock, including breeding and grazing of any or all such animals; bees and apiary products; and fur animals; and
 - (ii) Land-disturbing activities undertaken on forest land for the production and harvesting of timber products; and
 - (iii) Land-disturbing activities undertaken for the purpose of creating and maintaining a residential garden, provided that earthen berms, timbers, block or other materials surround the garden to prevent soil erosion;
 - (iv) Normal site preparation activities necessary for any legally permitted structure, sewage treatment system or driveway occurring within fifteen (15) feet of the outside wall of the structure, the outermost portion of the sewage treatment system, or the edge of the driveway;
 - (v) Excavations necessary to construct a permitted walk-out basement, provided that no part of the excavation area is in a severe steep slope, the excavation is no deeper than eight (8) feet below the original grade at any point and that it extends no further than thirty (30) feet from the outside wall of the dwelling or into a

shore impact zone, whichever is more restrictive. The entire excavation area must be no wider than the main living portion of the home (not including attached garages).

- C. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Section 7.12 and 7.13, respectfully, is allowed subject to 7.07 and the following standard:
- (i) Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
 - (ii) Limited clearing of trees, grasses and shrubs and cutting, pruning, and trimming of trees in a shore or bluff impact zone or in a moderate or severe steep slope are allowed to provide a view to the water from the principal dwelling site, provided that:
 - 1) The width of clear-cut areas does not exceed a total of twenty-five (25) feet within the first twenty (20) feet of lot depth from the OHWL and fifteen (15) feet wide thereafter. If a bluff impact zone or moderate or severe steep slope exist, the width of clear-cut shall be no more than fifteen (15) feet for the entire depth;
 - 2) The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
 - 3) Along rivers, existing shading of water surfaces is preserved; and
 - 4) The above provisions are not applicable to noxious weeds, invasive species, or the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
- D. Removal or alteration of topographic features shall require a shoreland alteration permit when:
- (i) The placement or movement of any material except for live trees, shrubs and grasses along the shoreline of a lake or stream, including, but not limited to, soil, beach sand, rock riprap, straw wattles and other similar materials; and
 - (ii) Excavation or fill activities that exceed a depth of twelve (12) inches or that would significantly impact drainage on or off the lot*; and
 - (iii) The placement or movement of material on steep slopes or within the shore or bluff impact zones that exposes more than 100 square feet of soil*; and
 - (iv) The placement or movement of material outside of steep slopes and shore or bluff impact zones and within the minimum building setback line that exposes more than 250 square feet of soil*; and
 - (v) The placement or movement of material outside of steep slopes and shore or bluff impact zones and outside the minimum building setback line to a distance of 300 feet from the ordinary high water level of a DNR-protected stream or 500

feet from the ordinary high water level of a shoreland classified lake that exposes more than 500 square feet of soil*; and

- (vi) The placement or movement of material between 500 and 1000 feet of a lake with a shoreland classification that exposes more than ½ acre (21,780 sq ft) of soil*;
- (vii) Proposed topographic alterations that would result in any of the following shall not be permitted:
 - 1) Increased shoreline erosion;
 - 2) Substantially increased runoff to an adjacent water body;
 - 3) Substantially increased runoff to adjacent properties or public ditches, unless agreed to in writing by the adjacent landowner or relevant ditch authority;
 - 4) Alterations of topography within a bluff impact zone, except for the purpose of constructing a permitted stairway or access path;
 - 5) Substantial alterations of topography within a shore or bluff impact zone, or in a moderate or severe steep slope unless necessary for the purpose of placing a permitted dwelling or accessory structure or to restore a destabilized slope under a restoration plan approved by the Todd Soil, Water, Conservation & Development Division.
 - 6) Excavation or exposure of less than this amount of soil does not require a shoreland alteration permit so long as it is a one-time event not part of a larger project and the landowner adheres to the erosion and sedimentation control standards in this Section. Permits may be subject to review by the Soil, Water, Conservation & Development division; affected water shed district; and the MN Department of Natural Resources.

E. Erosion and sedimentation control standards. The following considerations and conditions must be adhered to as a condition of the issuance of land use permits, shoreland alteration permits, conditional use permits, variances, subdivision approvals, and other permitted or non-permitted land-disturbing activities in the Shoreland District that are likely to lead to erosion or sedimentation:

- (i) Grading or filling of wetlands in shoreland shall follow De minimus Exemptions outlined in Minnesota Rule 8420.0115, subpart 9.
- (ii) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
- (iii) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established within twenty-four (24) hours;
- (iv) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
- (v) Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local Natural Resources Conservation Service (NRCS);

- (vi) Fill or excavated material must not be placed in a manner that creates an unstable slope;
 - (vii) Plans to place fill or excavated material on steep slopes must be reviewed by qualified Professional Engineers for continued slope stability and must not create finished slopes of 30 percent or greater;
 - (viii) Fill or excavated material must be graded landward or removed from the site and must not be placed in bluff or shore impact zones;
 - (ix) Any alterations below the ordinary high water level (OHWL) of public waters must be authorized by the MN Department of Natural Resources;
- F. Placement of rock (or other similar material) riprap including associated grading of the shoreline and placement of a filter blanket, requires a shoreland alteration permit and must be done in accordance with Minnesota Department of Natural Resources (DNR) standards.
- (i) Rock riprap will only be allowed in situations where active erosion problems exist and shall not be permitted for aesthetic purposes alone.
 - (ii) Vegetation, such as dogwood or willow, is encouraged to be planted into the rip rap to help stabilize the bank and prevent erosion.
 - (iii) Once placed with an approved shoreland alteration permit, existing riprap may be repaired after wave or ice damage without an additional permit provided that it is repaired to DNR standards.
- G. Ice ridges created annually by ice action may be regraded to their original shoreline contour with a shoreland alteration permit. No topsoil or vegetative matter may be deposited in the lake as a result of the re-grading.
- H. Established historic ice ridges with established vegetative cover may be permitted to be altered, with a shoreland alteration permit, to provide access to the water body provided that the bottom width of the alteration shall not exceed 12 feet with 2:1 side slopes at each end (25 feet bottom width for commercial or common access lots). Ice ridges may not be altered in steep slopes or bluff areas;
- I. Installation of a beach sand blanket may be permitted, with a shoreland alteration permit, provided that:
- (i) They are constructed in accordance with Minnesota Department of Natural Resources (DNR) standards, except that they shall not exceed 25 feet along the shoreline or 25 percent of the width of the lot, whichever is less (50 feet or 50 percent of the width of the lot, whichever is less, for water-oriented commercial properties);
 - (ii) Berms or other permanent structural methods must be used to prevent erosion of beach sand into the water body, either from down slope runoff or wave action;
 - (iii) Sand used for beach sand blankets must be clean and washed, free of pollutants and nutrients and shall require a separate permit to be replaced if washed away;
 - (iv) Beach sand blankets may only be replaced once after the initial placement if it is eroded or has otherwise been lost due to waves, ice or other action likely to re-

occur. In such a case the landowner shall re-establish natural soils and vegetation or use other approved methods to stabilize the shoreline;

- (v) Each sand blankets may not be placed in steep slopes or bluff areas.
- J. Constructed watercraft access ramps and/or constructed or excavated storage areas for boats, boat lifts, docks, and other water-oriented facilities are not allowed if other reasonable alternatives exist to allow for placement and/or storage of boats, docks, boat lifts or launching of boats. Reasonable alternatives include, but are not limited to, the presence of a Department of Natural Resources or other public access on the water body, the ability to create vegetated “ramps” through minor grading of natural soils, and temporary ramps or skids. If no reasonable alternatives exist, watercraft access ramps may be constructed with a conditional use permit. Watercraft access ramps and storage areas are not allowed in a bluff impact zone or moderate or severe steep slopes.
- K. Concrete block, timber or other retaining walls may be permitted:
 - (i) Within the shore impact zone only for the purpose of correcting an existing erosion hazard and if a non-structural alternative is not feasible. The retaining wall must be the minimum necessary to address the erosion hazard and shall be setback from the ordinary high water level (OHWL) at least 10 feet;
 - (ii) Between the shore impact zone and the minimum required dwelling setback for landscaping purposes provided that appropriate erosion control methods are used;
 - (iii) No retaining wall may be permitted within the minimum required dwelling setback or a shore impact zone that would exceed four (4) feet in height or three (3) feet in depth. Vegetative plantings or other methods to provide natural screening are encouraged. Methods must be employed to tie the wall into the soil behind it and to drain water from behind the wall to prevent the buildup of hydrostatic pressure;
 - (iv) Retaining walls in steep slopes or those that exceed four (4) feet in height (beyond the minimum dwelling setback) may be required to submit plans from a licensed professional engineer;
 - (v) Retaining walls are not allowed in bluff impact zones or in severe steep slopes.
- L. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, shall require a conditional use permit. Permission for excavations may be given only after the MN Department of Natural Resources has approved the proposed connection to public waters. Harbors shall not extend greater than 200 feet landward of the OHWL. Harbors are not allowed in bluff areas, moderate or severe steep slopes or wetlands.
- M. When determined necessary to ensure that a proposed topographic alterations meets all requirements, the Director may require the applicant to provide a detailed plan from a Minnesota-licensed engineer, showing elevation contours and/or direction of stormwater flow before and after the proposed work, expected increase in stormwater flow to adjacent properties, public ditches or a water body, any stormwater management facilities to be constructed, and any other information deemed necessary and appropriate.

Section 7.08 Placement and Design of Roads, Driveways and Parking Areas

- A. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified individual that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
- B. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.

Section 7.09 Stormwater Management

- A. When possible, existing natural drainage ways, wetlands, and vegetated soil surfaces shall be used to convey, store, filter, and retain storm water runoff before discharge to public waters.
- B. Development shall be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected within twenty-four (24) hours, or as soon as possible and facilities or methods used to retain sediment on the site.
- C. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and manmade materials and facilities, or as recommended by Soil & Water Conservation District and designed by an appropriate professional in the field.
- D. Proposed construction activities that would likely result in significant additional runoff to adjacent or nearby water bodies, properties or public ditches shall be required to submit a stormwater management plan by a qualified professional engineer to ensure that the activities do not adversely affect the water bodies, properties or public ditches. Best management practices for storm water management will be encouraged for any land use permit.
- E. Total maximum impervious surface coverage of lots must not exceed 25 percent of the lot area. This includes 15% for all roofed structures with an additional 10% for anything beyond buildings that stop the drainage of water (open decks, driveways, sidewalks, patios etc).
- F. When constructed facilities are used for stormwater management, documentation must be provided by a MN Licensed Professional Engineer that they are designed and installed consistent with the field office technical guide of the local NRCS Office guidelines.
- G. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

Section 7.10 Standards for Commercial, Industrial, Public and Semipublic Uses

Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

- A. In addition to meeting impervious coverage limits, setbacks, or other zoning standards in this ordinance, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures.
- B. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need.
- C. Uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
 - (i) No advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff.
 - (ii) Signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
 - (iii) Other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.

Section 7.11 Agricultural Use Standards

- A. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the Soil, Water, Conservation & Development Division or the United States Natural Resources Conservation Service. The shore impact zone for parcels with allowed agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
- B. Animal feedlots must meet the standards as prescribed in Section 9.11.

Section 7.12 Forest Management Standards

The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota”.

Todd County Planning and Zoning Ordinance
Updated 20220215

Section 7.13 Extraction Use Standards (refer to Section 9.12)

Section 7.14 Nonconformities

- A. All legally established nonconformities as of the date of shoreland regulations adopted (July 1, 1972) may continue, but they will be managed according to applicable state statutes and other regulations of this community for the subjects of alterations and additions, repair after damage, discontinuance of use, and intensification of use; except that the following standards will also apply in shoreland areas:
- (i) Construction on Nonconforming Lots of Record - Lots of record in the office of the county recorder on the date of enactment of local shoreland controls (July 1, 1972) that do not meet the requirements of Section 6.03(e) of this ordinance may be allowed as building sites without variance from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this ordinance are met, as set forth in Article IV - General Provisions.
 - (ii) If in a group of two or more contiguous lots of record under a common ownership, an individual lot must be considered as a separate parcel of land for the purpose of sale or development, if it meets the following requirements:
 - 1) The lot must be at least 66 percent of the dimensional standard for lot width and lot size for the shoreland classification consistent with MN Rules Chapter 6120;
 - 2) The lot must be suitable for the installation of a Type 1 sewage treatment system consistent with MN Rules Chapter 7080 and local Government controls;
 - 3) Impervious surface coverage must not exceed 25% of each lot;
 - 4) A lot subject to paragraph ii not meeting the requirements of paragraph ii must be combined with the one or more contiguous lots so they equal one or more conforming lots as much as possible.
- B. Contiguous nonconforming lots of record in shoreland areas under a common ownership must be able to be sold or purchased individually if each lot contained a habitable residential dwelling at the time the lots came under common ownership and the lots are suitable for or served by a sewage treatment system consistent with the requirements of MN Rules Chapter 7080.
- C. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements in Section 6.03(e) of this ordinance. Any deviation from these requirements must be authorized by a variance pursuant to Section 5.03.
- D. A sewage treatment system not meeting the requirements of Section 9.08 of this ordinance must be upgraded, as specified in E(i) below. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.

- E. Todd County will require a continuous onsite sewage treatment system program for the purpose of identifying nonconforming onsite sewage treatment systems. Evidence of a sewage treatment system compliance, as verified by a State-licensed site evaluator, must be provided upon the following:
- (i) Any application for variance, conditional use permit, for new home construction and/or addition of a bedroom to an existing home.
 - (ii) Upon sale or transfer including any dwelling, hotel, motel, boarding or rooming houses, restaurant or commercial property or other property.
 - (iii) Todd County shall conduct a systematic review of existing records to determine which systems in their jurisdiction are noncompliant.
 - (iv) A systematic onsite inspection program of all properties where adequate record of compliance is not on file with the County, identifying noncompliant or failing systems.
 - (v) Once an onsite sewage treatment system is identified to be failing the Director or designee shall require that such system be brought into conformance with the provisions of Minnesota Rules Chapter 7080 within a timeframe not to exceed two years. A sewage treatment system design from a state licensed designer showing the work necessary to bring the failing system into conformance must be submitted to the Planning & Zoning Department within 12 months of the date it was identified as failing.
 - (vi) Notification of a failing system shall be issued and copies provided to the property owner and the County within 30 days of the date of the sewage treatment system inspection.
 - (vii) A Sewage treatment system posing an imminent threat to public health or safety shall be pumped within 24 hours and managed as a holding tank until a sewage treatment system upgrade is completed.
 - (viii) Failure to comply with a notice of a sewage treatment system upgrade constitutes a violation of this ordinance and shall be prosecuted according to Article 10.
- F. The standards as found in the Department of Natural Resources, Rules and Regulations for Shoreland Areas, (Chapter 103G, Minnesota Regulations, Parts 6120.2500-6120.3900) is hereby adopted by reference.

Section 7.15 Subdivision / Plat Provisions

- A. Each lot created through subdivision, including planned unit developments authorized under Section 7.17 of this ordinance, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the County shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

- B. Subdivisions must conform to all official controls of the County. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless a sewage treatment system consistent with Section 9.08 can be provided for each lot. Each lot shall meet the minimum lot size and dimensional requirements of Section 6.03(e) including at least a minimum contiguous lawn area that is free of limiting factors sufficient for the construction of two standard soil treatment systems. Lots that would require use of holding tanks must not be approved.
- C. Sufficient information must be submitted by the applicant for the Planning Commission to make a determination of land suitability. The information shall include at least the following:
- (i) Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
 - (ii) The surface water features required in Minnesota Statutes Section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
 - (iii) Adequate soils information to determine suitability for buildings and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
 - (iv) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods of controlling stormwater runoff and erosion, both during and after construction activities;
 - (v) Location of 100 year flood plain areas and floodway districts (if applicable) from existing adopted maps or data; and
 - (vi) A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs (if applicable), and the minimum building setbacks distances from the top of the bluff (if applicable) and the lake or stream.
- D. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements or over natural drainage or ponding areas for management of stormwater and significant wetlands.
- E. All new and or replatting of old subdivisions created by metes and bounds and replatting of existing subdivisions that create three or more lots or parcels that are 2½ acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.
- F. Lots intended as controlled accesses to public waters or for recreational use areas for use by non-riparian lots within a subdivision must meet or exceed the sizing criteria in Section 6.03(e) of this ordinance.

Section 7.16 Planned Unit Developments

- A. Planned unit developments (PUD's) are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. The land use districts in which they are an allowable use are identified in the land use district descriptions in Article VI of this ordinance and the official zoning map.
- B. Planned unit developments must be processed as a conditional use, except that an expansion to an existing commercial or residential PUD involving 6 or less new dwelling units or sites since the date this ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in Section 7.18(d). Approval cannot occur until any required environmental review processes (i.e. EAW/EIS) are complete.
- C. The applicant for a PUD must submit the following documents prior to final action being taken on the application request:
 - (i) A site plan and/or plat for the project showing locations of property boundaries, surface water features, existing and proposed structures and other facilities, land alterations, sewage treatment and water supply systems (where public systems will not be provided), and topographic contours at ten-foot intervals or less. When a PUD is a combined commercial and residential development, the site plan and/or plat must indicate and distinguish which buildings and portions of the project are residential, commercial, or a combination of the two.
 - (ii) A property owners association agreement (for residential PUD's) with mandatory membership, and all in accordance with the requirements of Section 7.18(h) of this ordinance.
 - (iii) Deed restrictions, covenants, permanent easements or other instruments that:
 - 1) Properly address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUD's; and
 - 2) Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 7.18(h) of this ordinance.
 - (iv) When necessary, a master plan/drawing describing the project and the floor plan for all commercial structures to be occupied.
 - (v) Those additional documents are requested by the Todd County Planning Commission and Director that are necessary to explain how the PUD will be designed and will function.

Section 7.17 Site "Suitable Area" Evaluation

- A. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Section 7.18(d).

- B. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:

Shoreland Tier Dimensions (in feet)	
General development lakes -- first tier	200
General development lakes -- second and additional tiers	267
Recreational development lakes	267
Natural environment lakes	400
All river classes	300

- C. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level, of public waters. This suitable area and the proposed project are then subjected to either the residential or commercial planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.
- D. The procedure to determine the “base” density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the water body, but must not be transferred to any other tier closer.
- E. Residential PUD “base” density evaluation. The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth, which shall then be used to yield a base density of dwelling units or sites for each tier. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria of Section 7.18(h). “Partial” dwelling units or sites may be transferred to a tier further from the water body so long as the combination of partial dwelling units or sites equals at least one whole unit.
- F. Commercial PUD “base” density evaluation.
- (i) Determine the average inside living area size of dwelling units or sites within each tier, including both existing and proposed units and sites. Computation of inside living area sizes need not include decks, patios, stoops, steps, garages, or porches and basements, unless they are habitable space.
 - (ii) Select the appropriate floor area ratio from the following table:

Commercial Planned Unit Development Floor Area Ratios*			
Public Waters Classes			
Average unit floor area (sq ft.)	Sewered general development lakes; first tier on unsewered general development lakes	Second and additional tiers on unsewered general development lakes; recreational development lakes;	Natural environmental lakes and rivers and streams
200	.040	.020	.010
250	.044	.022	.011
300	.048	.024	.012
350	.052	.026	.013
400	.056	.028	.014
450	.061	.030	.015
500	.065	.032	.016
550	.069	.035	.018
600	.072	.038	.019
650	.077	.040	.020
700	.082	.042	.021
750	.087	.044	.022
800	.091	.046	.023
850	.095	.048	.024
900	.099	.050	.025
950	.104	.052	.026
1,000	.108	.054	.027
1,050	.112	.056	.028
1,100	.116	.058	.029
1,150	.121	.061	.031
1,200	.125	.064	.032
1,250	.129	.066	.033
1,300	.133	.068	.034
1,350	.138	.070	.035
1,400	.142	.072	.036
1,450	.146	.074	.037
1,500	.150	.075	.038

* For average unit floor areas less than shown, use the floor area ratios listed for 200 square feet. For areas greater than shown, use the ratios listed for 1,500 square feet. For recreational camping areas, use the ratios listed at 400 square feet. Manufactured home sites in recreational camping areas shall use a ratio equal to the size of the manufactured home, or if unknown, the ratio listed for 1,000 square feet.

- (iii) Multiply the suitable area within each tier by the floor area ratio to yield total floor area for each tier allowed to be used for dwelling units or sites.
- (iv) Divide the total floor area by tier computer in Item 3) above by the average inside living area size determined in Item 1) above and round down to the nearest whole number. This yields a base number of dwelling units and sites for each tier. “Partial” dwelling units or sites may be transferred to a tier further from the water body so long as the combination of partial dwelling units or sites equals at least one whole unit. Dwelling units or sites that cross a tier boundary shall be counted as they were completely located within the tier closest to the water body.
- (v) Proposed locations and number of dwelling units of sites for the commercial planned unit development are then compared with the tier, density and suitability analyses herein and the design criteria in Section 7.18(h).

G. Density increase multipliers.

- (i) Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Section 7.04 are met or exceeded and the design criteria in Section 7.17 are satisfied. The allowable density increases in Item B. below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the water body is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the County and the setback is at least 25 percent greater than the minimum setback.
- (ii) Allowable Dwelling Unit or Dwelling Site Density Increases for Residential or Commercial Planned Unit Developments:

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100

H. Maintenance and design criteria.

- (i) Maintenance and Administration Requirements.

- (ii) Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.
 - (iii) Open space preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:
 - (iv) Commercial uses prohibited (for residential PUD's);
 - (v) Vegetation and topographic alterations other than routine maintenance prohibited;
 - (vi) Construction of additional buildings or storage of vehicles and other materials prohibited; and
 - (vii) Uncontrolled beaching of watercraft prohibited.
 - (viii) Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:
 - (ix) Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
 - (x) Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
 - (xi) Assessments must be adjustable to accommodate changing conditions; and
 - (xii) The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- I. Planned unit developments must contain open space meeting all of the following criteria:
- (i) At least 50 percent of the total project area must be preserved as open space;
 - (ii) Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
 - (iii) Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
 - (iv) Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
 - (v) Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems.
 - (vi) Open space must not include commercial facilities or uses, but may contain water-oriented accessory structures or facilities;

- (vii) The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
 - (viii) The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state. For commercial PUD's, at least 50 percent of the shore impact zone must be preserved in its natural state.
- J. Erosion control and stormwater management plans must be developed and the PUD must:
- (i) Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and
 - (ii) Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area, except that for commercial PUD's 35 percent impervious surface coverage may be allowed in the first tier of general development lakes and with an approved stormwater management plan and consistency with Section 6.03.
- K. Centralization and design of facilities and structures must be done according to the following standards:
- (i) Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Section 9.08 of this ordinance. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
 - (ii) Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high

water level must be increased in accordance with Section 7.18(g) of this ordinance for developments with density increases;

- (iii) Shore recreation facilities, including but not limited to swimming areas, docks, and water craft mooring areas and launching ramps, must be centralized and located in areas suitable from them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor . Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
 - (iv) Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;
 - (v) Accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and
 - (vi) Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 6.03(f) of this ordinance and are centralized.
- L. Existing resorts, commercial planned unit developments or other land uses and facilities may be converted to residential planned unit developments if all of the following standards are met:
- (i) Proposed conversions must be initially evaluated using the same procedures for residential planned unit developments involving all new construction. Inconsistencies between existing features of the development and these standards must be identified and addressed in accordance with the requirements of this section. The developer or property owner at the time of conversion shall provide, at a minimum, a copy of this ordinance and any conditions of County approval of the conversion to those who purchase or are considering purchase of any lot to notify them of the deficiencies and what restrictions are on their use of, or changes to, the lot and/or dwelling
 - (ii) Deficiencies involving water supply and sewage treatment, structure color, impervious coverage, open space, and shore recreation facilities must be corrected as part of the conversion or as specified in the conditional use permit. For the purposes of determining and correcting sewage treatment deficiencies, the existing or replacement system must be sized to accommodate either: 1) the actual number of total bedrooms in all dwellings in the development, or 2) at least two (2) bedrooms for each dwelling, whichever results in the larger system.

- (iii) Shore and bluff impact zone and floodplain deficiencies must be evaluated and reasonable improvements made as part of the conversion. These improvements must include, where applicable, the following:
 - 1) Removal or relocation to meet all applicable setbacks and other requirements, of the following structures or facilities located wholly or partially in a shore or bluff impact zone or floodplain.
 - 2) All Class II or Class III dwellings.
 - 3) All accessory structures or facilities that do not conform with current minimum setback requirements.
 - 4) Existing Class I dwellings that are unsuitable for human habitation or represent a safety hazard. Existing Class I dwellings may remain, at the discretion of the County Board, with conditions prohibiting the expansion of such dwellings in any direction (including length, width, height) at the time of conversion or in the future. The County Board may make allowances for minor expansions as deemed appropriate at the time of conversion. Provisions shall be made for future relocation of such dwelling units, when feasible, to other locations meeting all setback and elevation requirements when they are rebuilt or replaced.
- M. Remedial measures to correct erosion and improve vegetative cover and screening of buildings and other facilities as viewed from the water.
 - (i) Existing dwelling unit or dwelling site densities that exceed standards in Section 655.H.5 shall be addressed in the following manner:
 - 1) All existing Class I dwellings not removed under Section 7.18 above may remain in accordance with this section;
 - 2) Density deficiencies that exceed standards in Section 7.18 shall require the removal of one Class II or Class III dwelling for every four dwellings that exceed the density standards (total number of dwelling units or sites exceeding the standards divided by four). Fractional units shall be rounded to the nearest whole number (0-0.49 units – round down, 0.50-0.99 units – round up). The relocation or addition of dwelling units or sites shall not be allowed in any tier where it would otherwise be allowed unless the total project density is within the standards in Section 7.18. If excess capacity exists in any tier further away from the ordinary high water level, existing dwelling units or sites in a tier that exceeds density requirements must be relocated to that tier, unless otherwise approved by the County Board.
 - 3) Lot boundaries shall be drawn to accommodate each remaining dwelling unit or site (after removal of any units under 2) above) that exists at the time of conversion. The lot boundaries shall be drawn to include any accessory structures associated with the dwelling unit (such as storage units, decks, patios), future additions to dwelling or accessory structures, parking area, and temporary outdoor storage of boats, trailers or other materials.

- 4) The use of each dwelling lot shall be specified as Class I (highest), II or III (lowest) at the time of conversion. The total number of lots identified for Class I or II dwellings may not exceed the existing number of such dwelling units or the maximum number of dwelling units allowed for new residential planned unit developments, whichever is greater. Dwellings must only be placed on lots identified for its class or a higher class and may not be placed on a lot identified for a lower class.
- 5) No more than seventy-five (75) percent of any lot may be covered by impervious surfaces. For the purposes of meeting impervious surface requirements of this ordinance, all lots shall be assumed to have 75 percent coverage at the time of conversion.
- 6) Outward expansion or replacement of any dwelling unit or related accessory structure during or after conversion, shall not extend beyond the total dwelling lot area on which it sits, including eaves, overhangs, stairs, decks, patios and other structures and appurtenances associated with the dwelling.
- 7) Bedroom additions occurring after conversion shall not be permitted unless it can be documented that the sewage treatment system is sized for the additional bedroom(s) or will be properly sized within one year of the date of the permit for the bedroom addition.
- 8) Adequate parking for at least two vehicles shall be provided for each dwelling unit or site, either adjacent to the dwelling site, in a common parking area, or a combination of the two. Paved, gravel or other parking areas shall be counted toward the impervious surface limits of this ordinance, unless the parking area remains vegetated.
- 9) The minimum setback between a dwelling lot boundary and any other dwelling lot boundary shall be ten (10) feet in all directions. If a private road is located in between dwelling lots, the minimum total setback between such dwelling lot boundaries shall be increased to twenty (20) feet. Setbacks between any two or more lots, where the existing dwellings are Class I dwellings, of less than ten (10) feet may be allowed to continue, but may not be further encroached upon at any time during or after conversion (height additions that would not further encroach horizontally may be allowed).
- 10) No structures may be placed in between dwelling units or sites in such a way that they would impede access for emergency services.
- 11) There shall be adequate space around all Class II and Class III dwellings to allow for removal and/or replacement of such units by trucks or other vehicles required to move such dwelling units.
- 12) Minimum setbacks for structures to external boundaries of the entire planned unit development site shall be the same as those required for structures in other shoreland areas, as defined in this ordinance. Existing Class I dwellings not

meeting these setbacks may be allowed to continue, but may not be expanded in any direction within the minimum setback at any time during or after conversion.

13) An approved stormwater management plan must be implemented prior to final approval of the conversion. The plan shall be designed by a Minnesota-licensed engineer to effectively manage reasonably expected quantities and qualities of stormwater runoff before reaching nearby water bodies and shall be reviewed by the Todd Soil & Water Conservation District and the appropriate watershed district, where applicable. The County Board may require culverts, piping, ditches, sediment basins, diversions or other constructed devices or vegetative buffer strips to achieve adequate stormwater management.

14) Efforts must be made during the conversion to limit impacts of high densities by requiring seasonal use, improving vegetative screening, centralizing shore recreation facilities, installing new sewage treatment systems or other means.

15) If any of the above standards cannot be met in any tier or in the development as a whole, dwelling units or sites must be removed or relocated until the standards can be met. Determination of which units to remove or relocate under this provision shall be by the County Board.

Article VIII. Floodplain Management

Section 8.01 Statutory Authorization, Findings of Fact

- A. Statutory Authorization: The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 394 delegated the responsibility to local government units to adopt regulations designed to minimize flood losses. Therefore, the Todd County Board of Commissioners does ordain as follows:
- B. Findings of Fact:
 - (i) The flood hazard areas of Todd County, Minnesota, are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures or flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
 - (ii) Methods Used to Analyze Flood Hazards. This Article is based upon a reasonable method of analyzing flood hazards which is consistent with the standards established by the Minnesota Department of Natural Resources.
 - (iii) National Flood Insurance Program Compliance. This Article is adopted to comply with the rules and regulations of the National Flood Insurance Program codified as 44 Code of Federal Regulations Parts 59 -78, as amended, so as to maintain the community's eligibility in the National Flood Insurance Program.
 - (iv) Todd County does not guarantee the accuracy of any maps. In particular, Todd County does not guarantee the accuracy of any maps depicting areas located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain, as

depicted in the Official Zoning Map, as these were not generated or verified by Todd County.

Section 8.02 General Provisions

- A. **Lands to Which Ordinance Applies:** This Article shall apply to all lands within the jurisdiction of Todd County, Minnesota shown on the Official Zoning Map and/or the attachments thereto as being located within the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.
- B. **Establishment of Official Zoning Map:** The Official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Article. The attached material shall include the Flood Insurance Study, Todd County, Minnesota and Incorporated Areas, the Flood Insurance Rate Map Index (Map Numbers 27153CIND1A and 27153CIND2A) and all Flood Insurance Rate Map panels therein indicated on the Flood Insurance Rate Map Index that apply to the unincorporated areas of Todd County, all of these documents being dated February 4, 2011 and prepared by the Federal Emergency Management Agency. The Official Zoning Map shall be on file in the Todd County Planning & Zoning office.
- C. **Regulatory Flood Protection Elevation:** The regulatory flood protection elevation shall be an elevation no lower than one foot 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.
- D. **Interpretation:**
 - (i) In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.
 - (ii) The boundaries of the zoning districts shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, as for an example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile, the ground elevations that existed on the site at the time the Community adopted its initial floodplain ordinance or on the date of the first National Flood Insurance Program map showing the area within the 100-year floodplain if earlier, and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the Board of Adjustment and to submit technical evidence.
- E. **Abrogation and Greater Restrictions:** It is not intended by this Article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other ordinances inconsistent with this Article are hereby repealed to the extent of the inconsistency only.

- F. **Warning and Disclaimer of Liability:** This Article does not imply that areas outside the flood plain districts or land uses permitted within such districts will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Todd County, Minnesota or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made there under.
- G. **Severability:** If any section, clause, provision, or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- H. **Detachments:** The Flood Insurance Rate Map panels adopted by reference into Section 8.02(B) above will include floodplain areas that lie inside of the incorporated boundaries of municipalities at the time of adoption of this Article. If any of these floodplain land areas are detached from an incorporated municipality and placed under the jurisdiction of Todd County after the date of adoption of this Article, the newly detached floodplain lands shall be subject to the provisions of this ordinance immediately upon the date of the detachment.

Section 8.03 Establishment of Flood Zone Districts

- A. 650.3.1 Districts:
 - (i) The Floodway District shall include those areas designated as floodway on the Flood Insurance Rate Map adopted in Section 8.02B. For lakes, wetlands and other basins, the Floodway District shall include those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in Section 8.02B that are below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
 - (ii) The Flood Fringe District shall include those areas designated as floodway fringe, which shall include the areas shown on the Flood Insurance Rate Map, adopted in Section 8.02B, as being within Zone AE but being located outside of the floodway. For lakes, wetlands and other basins, the Flood Fringe District shall include those areas designated as Zone A on the Flood Insurance Rate Map panels adopted in Section 8.02B that are below the 1% annual chance flood elevation (100-year flood elevation) but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005, subdivision 14.
 - (iii) The General Flood Plain District shall include those areas designated as Zone A and Zone AE (without a floodway designated) on the Flood Insurance Rate Map adopted in Section 8.02B, which are not subject to criteria in Sections 8.03A(i) and 8.03A(ii).
 - (iv) No new structure or land shall hereafter be used and no structure shall be constructed, located, extended, converted, or structurally altered without full compliance with the terms of this Article and other applicable regulations which apply to uses within the jurisdiction of this Ordinance. Within the Floodway, Flood Fringe and General Flood Plain Districts, all uses not listed as permitted

uses or conditional uses in Sections 8.04, 8.05 and 8.06 shall be prohibited. In addition, a caution is provided here that:

- (v) New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions Section 8.09.
- (vi) Modifications, additions, structural alterations, normal maintenance and repair, or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this Article and specifically Section 8.11.
- (vii) As-built elevations for elevated or flood proofed structures must be certified by ground surveys and flood proofing techniques must be designed and certified by a registered professional engineer or architect as specified in the general provisions of this Article and specifically as stated in Section 8.10.

Section 8.04 Floodway District (FW)

A. Permitted Uses:

- (i) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- (ii) Industrial-commercial loading areas, parking areas, and airport landing strips.
- (iii) Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.
- (iv) Residential lawns, gardens, parking areas, and play areas.

B. Standards for Floodway Permitted Uses:

- (i) The use shall have a low flood damage potential.
- (ii) The use shall be permissible in the underlying zoning district if one exists.
- (iii) The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

C. Conditional Uses:

- (i) Structures accessory to the uses listed in Section 8.04A and the uses listed in Section 8.04B(ii) and 8.04C(ii – viii).
- (ii) Extraction and storage of sand, gravel, and other materials.
- (iii) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- (iv) Railroads, streets, bridges, utility transmission lines, and pipelines.
- (v) Storage yards for equipment, machinery, or materials.
- (vi) Placement of fill or construction of fences.
- (vii) Recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 8.09C.

- (viii) Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

D. Standards for Floodway Conditional Uses:

- (i) All Uses. No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reach or reaches affected.
- (ii) All floodway conditional uses shall be subject to the procedures and standards contained in Section 8.10D.
- (iii) The conditional use shall be permissible in the underlying zoning district if one exists.
- (iv) Fill:
 - 1) Fill, dredge spoil, and all other similar materials deposited or stored in the flood plain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.
 - 2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long-term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.
 - 3) As an alternative, and consistent with Subsection (2) immediately above, dredge spoil disposal and sand and gravel operations may allow temporary, on-site storage of fill or other materials which would have caused an increase to the stage of the 100-year or regional flood but only after the Governing Body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The conditional use permit must be title registered with the property in the Office of the County Recorder.
- (v) Accessory Structures:
 - 1) Accessory structures shall not be designed for human habitation.
 - 2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of flood waters:
 - a) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and
 - b) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

- 3) Accessory structures shall be elevated on fill or structurally dry flood proofed in accordance with the FP-1 or FP-2 flood proofing classifications in the State Building Code. As an alternative, an accessory structure may be flood proofed to the FP-3 or FP-4 flood proofing classification in the State Building Code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood proofed accessory structures must meet the following additional standards:
- a) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;
 - b) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood proofed; and
 - c) To allow for the equalization of hydrostatic pressure, there must be a minimum of two “automatic” openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
- (vi) Storage of Materials and Equipment:
- 1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - 2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
- (vii) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statute, Chapter 103G. Community-wide structural works for flood control intended to remove areas from the regulatory flood plain shall not be allowed in the floodway.
- (viii) A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood and the technical analysis must assume equal conveyance or storage loss on both sides of a stream.

Section 8.05 Flood Fringe District (FF)

- A. Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). If no pre-existing, underlying zoning use districts exist, then any residential or non residential structure or use of a structure or land shall be a permitted use in the Flood Fringe District provided such use does not constitute a public nuisance. All permitted uses shall comply with the standards for Flood Fringe District "Permitted Uses" listed in Section 8.05B and the "Standards for all Flood Fringe Uses" listed in Section 8.05E.
- B. Standards for Flood Fringe Permitted Uses:
- (i) All structures, including accessory structures, must be elevated on fill so that the lowest floor including basement floor is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one (1) foot below the regulatory flood protection elevation and the fill shall extend at such elevation at least fifteen (15) feet beyond the outside limits of the structure erected thereon.
 - (ii) As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed 500 square feet at their largest projection may be internally flood proofed in accordance with Section 8.04(v)3.
 - (iii) The cumulative placement of fill where at any one time in excess of one-thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Section 8.05(i).
 - (iv) The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
 - (v) The provisions of Section 8.05E shall apply.
- C. Conditional Uses: Any structure that is not elevated on fill or flood proofed in accordance with Section 8.05(i – ii) and or any use of land that does not comply with the standards in Section 8.05 (iii – iv) shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards and criteria and evaluation procedures specified in Sections 8.05D-E and 8.10D.
- D. Standards for Flood Fringe Conditional Uses:
- (i) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above-grade, enclosed areas such as crawl spaces or tuck under garages. The base or floor of an enclosed area shall be considered above-grade and not a structure's basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

- 1) Design and Certification - The structure's design and as-built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
 - 2) Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
 - a) A minimum area of openings in the walls where internal flooding is to be used as a flood proofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one-foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and
 - b) That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.
- (ii) Basements, as defined in this Article, shall be subject to the following:
- 1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.
 - 2) Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry flood proofed in accordance with Section 8.05D(iii).
- (iii) All areas of non residential structures including basements to be placed below the regulatory flood protection elevation shall be flood proofed in accordance with the structurally dry flood proofing classifications in the State Building Code. Structurally dry flood proofing must meet the FP-1 or FP-2 flood proofing classification in the State Building Code and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. Structures flood proofed to the FP-3 or FP-4 classification shall not be permitted.

- (iv) When at any one time more than 1,000 cubic yards of fill or other similar material is located on a parcel for such activities as on-site storage, landscaping, sand and gravel operations, landfills, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the community is enforcing a state approved shoreland management ordinance. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year or regional flood event. The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the Governing Body. The plan may incorporate alternative procedures for removal of the material from the flood plain if adequate flood warning time exists.
 - (v) Storage of Materials and Equipment:
 - 1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.
 - 2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the Governing Body.
 - (vi) The provisions of Section 8.05E shall also apply.
- E. Standards for All Flood Fringe Uses:
- (i) All new principal structures must have vehicular access at or above an elevation not more than two (2) feet below the regulatory flood protection elevation. If a variance to this requirement is granted, the Board of Adjustment must specify limitations on the period of use or occupancy of the structure for times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.
 - (ii) Commercial Uses - accessory land uses, such as yards, railroad tracks, and parking lots may be at elevations lower than the regulatory flood protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would be inundated to a depth and velocity such that when multiplying the depth (in feet) times velocity (in feet per second) the product number exceeds four (4) upon occurrence of the regional flood.
 - (iii) Manufacturing and Industrial Uses - measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Section 8.05E(ii). In considering permit applications, due consideration shall be given to

needs of an industry whose business requires that it be located in flood plain areas.

- (iv) Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation - FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.
- (v) Flood plain developments shall not adversely affect the hydraulic capacity of the channel and adjoining flood plain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the Official Zoning Map.
- (vi) Standards for recreational vehicles are contained in Section 8.09C.
- (vii) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

Section 8.06 General Flood Plain District and Zone A Lakes

A. General Flood Plain District:

- (i) Permissible Uses:
 - 1) The uses listed in Section 8.04A shall be permitted uses.
 - 2) All other uses shall be subject to the 1% annual chance flood (100-Year Flood Elevations) and/or Floodway and Flood Fringe determinations criteria pursuant to Sections 8.06(ii). Section 8.04 shall apply if the proposed use is in the Floodway District and Section 8.05 shall apply if the proposed use is in the Flood Fringe District.
- (ii) Procedures for 1% annual chance flood (100-Year Flood Elevations) and/or Floodway and Flood Fringe Determinations for Streams Located Within the General Flood Plain District:
 - 1) Upon receipt of an application for a permit or other approval within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the regulatory flood protection elevation and whether the proposed use is within the Floodway or Flood Fringe District.
 - a) A typical valley cross-section(s) showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional

areas to be occupied by the proposed development, and high water information.

- b) Plan (surface view) showing elevations or contours of the ground, pertinent structure, fill, or storage elevations, the size, location, and spatial arrangement of all proposed and existing structures on the site, and the location and elevations of streets.
 - c) Photographs showing existing land uses, vegetation upstream and downstream, and soil types.
 - d) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
- (iii) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood (100-Year Flood Elevations), if not available, whether the proposed use is in the Floodway or Flood Fringe District and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
- 1) Estimate the peak discharge of the regional flood.
 - 2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
 - 3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- (iv) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Governing Body. The Governing Body must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary or deny the permit application. The Governing Body, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning Commission for review and comment. Once the Floodway and Flood Fringe District Boundaries have been determined, the Governing Body shall refer the matter back to the Zoning

Administrator who shall process the permit application consistent with the applicable provisions of Section 8.04 and Section 8.05.

- B. Zone A lakes: Procedures for determining 1% annual chance flood elevations (100-YR flood elevations) for lakes located in Zone A:
- (i) Upon receipt of an application for a permit or other approval within a Zone A, the Zoning Administrator will use the 1% annual chance flood elevation for that basin that has previously been determined in accordance with approved FEMA methods, if available. If the 1% annual chance flood elevation has not been previously determined, the applicant shall be required to furnish all necessary information as deemed necessary by the Zoning Administrator for the determination for the 1% annual chance flood elevation in accordance with approved FEMA methods.
 - (ii) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining the 1% annual chance flood elevation (100-year flood elevation). Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 and 44 Code of Federal Regulations Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis.
 - (iii) Once the 1% annual chance flood elevation (100-year flood elevation) has been determined, the Zoning Administrator shall process the permit application consistent with the applicable provisions of Section 8.04 and 8.05 depending on whether the use is in the Floodway district or the Flood Fringe District, respectively, as determined by the criteria in Sections 8.03A(i) and Section 8.03(ii).

Section 8.07 Subdivisions

- A. Land Suitability Review Criteria: No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the flood plain districts shall be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage treatment facilities that comply with the provisions of this Ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation. For all subdivisions in the flood plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision drawings and platting documents.
- B. 1% chance annual flood (100-Year Elevations) and/or Floodway/Flood Fringe Determinations.

- C. Applicants shall provide the information required in Section 8.06 to determine the 100-year flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site as applicable.
- D. Removal of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

Section 8.08 Public Utilities, Railroads, Roads, and Bridges

- A. All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the flood plain shall be flood proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.
- B. Public Transportation Facilities. Railroad tracks, roads, and bridges to be located within the flood plain shall comply with Sections 8.04 and 8.05. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. On-site Sewage Treatment and Water Supply Systems: Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and they shall not be subject to impairment or contamination during times of flooding. Any sewage treatment system designed in accordance with the State's current statewide standards for on-site sewage treatment systems shall be determined to be in compliance with this Section.

Section 8.09 Manufactured Homes and Manufactured Home Parks and Placement Of Recreational Vehicles

- A. New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 8.07.
- B. The placement of new or replacement manufactured homes in existing manufactured home parks or on individual lots of record that are located in flood plain districts will be treated as a new structure and may be placed only if elevated in compliance with Section 8.05. If vehicular road access for pre-existing manufactured home parks is not provided in accordance with Section 8.05E(i), then replacement manufactured homes will not be allowed until the property owner(s) develops a flood warning emergency plan acceptable to the Governing Body.
 - (i) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or

frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

Recreational vehicles that do not meet the exemption criteria specified below shall be subject to the provisions of this Article and as specifically spelled out in Sections 8.09C(iii-iv) below.

- (ii) Exemption - Recreational vehicles are exempt from the provisions of this Article if they are placed in any of the areas listed in Section 8.09C(ii) below and further they meet the following criteria:
 - 1) Have current licenses required for highway use.
 - 2) Are highway ready meaning on wheels or the internal jacking system, are attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks and the recreational vehicle has no permanent structural type additions attached to it.
 - 3) The recreational vehicle and associated use must be permissible in any pre-existing, underlying zoning use district.
- (iii) Areas Exempted For Placement of Recreational Vehicles:
 - 1) Individual lots or parcels of record.
 - 2) Existing commercial recreational vehicle parks or campgrounds.
 - 3) Existing condominium type associations.
- (iv) Recreational vehicles exempted in Section 8.09C(i) lose this exemption when development occurs on the parcel exceeding \$500 for a structural addition to the recreational vehicle or exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood proofing requirements and the use of land restrictions specified in Sections 8.04 and 8.05. There shall be no development or improvement on the parcel or attachment to the recreational vehicle that hinders the removal of the recreational vehicle to a flood free location should flooding occur.
- (v) New commercial recreational vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:
 - 1) Any new or replacement recreational vehicle will be allowed in the Floodway or Flood Fringe Districts provided said recreational vehicle and its contents are placed on fill above the regulatory flood protection elevation and proper elevated road access to the site exists in accordance with Section 8.05E(i). No fill placed in the floodway to meet the requirements of this Section shall increase flood stages of the 100-year or regional flood.

2) All new or replacement recreational vehicles not meeting the criteria of (a) above may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of 8.10D. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100 year flood. Said plan shall be prepared by a registered engineer or other qualified individual, shall demonstrate that adequate time and personnel exist to carry out the evacuation, and shall demonstrate the provisions of Section 8.09C(i-ii) will be met. All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding in accordance with Section 8.08C.

Section 8.10 Administration

- A. A Zoning Administrator or other official designated by the Governing Body shall administer and enforce this Article. If the Zoning Administrator finds a violation of the provisions of Article X, Enforcement, the Zoning Administrator shall notify the person responsible for such violation in accordance with the procedures stated in Section X.
- B. Permit Requirements:
 - (i) A Permit issued by the Zoning Administrator in conformity with the provisions of this Article shall be secured prior to the erection, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on-site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the flood plain.
 - (ii) Application for a permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.
 - (iii) Prior to granting a permit or processing an application for a conditional use permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.
 - (iv) It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Article.

- (v) Permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Article, and punishable as provided by Section X, Enforcement, of the Ordinance.
 - (vi) The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Article. Flood proofing measures shall be certified by a registered professional engineer or registered architect.
 - (vii) The Zoning Administrator shall maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the flood plain. The Zoning Administrator shall also maintain a record of the elevation to which structures or alterations and additions to structures are flood proofed.
 - (viii) The Zoning Administrator shall notify, in riverine situations, adjacent communities and the Commissioner of the Department of Natural Resources prior to the community authorizing any alteration or relocation of a watercourse. If the applicant has applied for a permit to work in the beds of public waters pursuant to Minnesota Statute, Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural Resources. A copy of said notification shall also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency (FEMA).
 - (ix) Notification to FEMA When Physical Changes Increase or Decrease the 100-year Flood Elevation. As soon as is practicable, but not later than six (6) months after the date such supporting information becomes available, the Zoning Administrator shall notify the Chicago Regional Office of FEMA of the changes by submitting a copy of said technical or scientific data.
- C. Board of Adjustment:
- (i) The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such Boards by State law.
 - (ii) The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this Article.
 - (iii) The Board of Adjustment may authorize upon appeal in specific cases such relief or variance from the terms of this Article as will not be contrary to the public interest and only for those circumstances such as hardship, practical difficulties or circumstances unique to the property under consideration, as provided for in the respective enabling legislation for planning and zoning for cities or counties

as appropriate. In the granting of such variance, the Board of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in this Article, any other zoning regulations in the Community, and in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

- 1) Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
 - 2) Variances shall only be issued by a community upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (iv) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (v) Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board of Adjustment shall fix a reasonable time for a hearing and give due notice to the parties in interest as specified by law. The Board of Adjustment shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
- (vi) The Board of Adjustment shall arrive at a decision on such appeal or variance within 60 days. In passing upon an appeal, the Board of Adjustment may, so long as such action is in conformity with the provisions of this Article, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance the Board of Adjustment may prescribe appropriate conditions and safeguards such as those specified in Section 8.10F, which are in conformity with the purposes of this Article. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Article punishable under Section 8.12. A copy of all decisions granting variances shall be forwarded by

mail to the Commissioner of Natural Resources within ten (10) days of such action.

- (vii) Appeals from any decision of the Board of Adjustment may be made, and as specified in this governing body official controls and also by Minnesota Statutes.
 - (viii) The Zoning Administrator shall notify the applicant for a variance that:
 - 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and
 - 2) Such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. The governing body shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.
- D. Conditional Uses. The Todd County Board of Commissioners shall hear and decide applications for conditional uses permissible under this Article. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Todd County Planning Commission for consideration.
- (i) Upon filing with the Todd County Planning Commission (Planning & Zoning Office) an application for a conditional use permit, the Todd County Planning & Zoning office shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed conditional use sufficiently in advance so that the Commissioner will receive at least ten days notice of the hearing.
 - (ii) The Todd County Board of Commissioners shall arrive at a decision on a conditional use within 60 days. In granting a conditional use permit the Todd County Board of Commissioners shall prescribe appropriate conditions and safeguards, in addition to those specified in Section 8.10F, which are in conformity with the purposes of this Article. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this Article punishable under Section X of the Ordinance. A copy of all decisions granting conditional use permits shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
 - (iii) Procedures to be followed by the Todd County Board of Commissioners in Passing on Conditional Use Permit Applications Within all Flood Plain Districts.
 - 1) Require the applicant to furnish such of the following information and additional information as deemed necessary by the Todd County Planning & Zoning Office for determining the suitability of the particular site for the proposed use:
 - a) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevation of the lot, existing or proposed structures, fill,

- storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel; and
- b) Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
- 2) Transmit one copy of the information described in subsection (a) to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.
 - 3) Based upon the technical evaluation of the designated engineer or expert, the Todd County Planning & Zoning office shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.
- (iv) In passing upon conditional use applications, the Todd County Board of Commissioners shall consider all relevant factors specified in other sections of this Ordinance, and:
- 1) The danger to life and property due to increased flood heights or velocities caused by encroachments.
 - 2) The danger that materials may be swept onto other lands or downstream to the injury of others or they may block bridges, culverts or other hydraulic structures.
 - 3) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
 - 4) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - 5) The importance of the services provided by the proposed facility to the community.
 - 6) The requirements of the facility for a waterfront location.
 - 7) The availability of alternative locations not subject to flooding for the proposed use.
 - 8) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
 - 9) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
 - 10) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - 11) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site.
 - 12) Such other factors which are relevant to the purposes of this Article.

- E. The Todd County Board of Commissioners shall act on an application in the manner described above within 60 days from receiving the application, except that where additional information is required pursuant to Section 8.10D(iii). The Todd County Board of Commissioners shall render a written decision within 30 days from the receipt of such additional information. The County Board of Commissioners shall act on an application in the manner described above within 60 days from receiving the application. Except where additional information is required pursuant to 8.10D(iii), this deadline may be extended an additional 60 days (or longer if the applicant agrees in writing) in accordance with MN Statutes 15.99.
- F. Upon consideration of the factors listed above and the purpose of this Article, the Todd County Board of Commissioners shall attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Article. Such conditions may include, but are not limited to, the following:
 - (i) Modification of waste treatment and water supply facilities.
 - (ii) Limitations on period of use, occupancy, and operation.
 - (iii) Imposition of operational controls, sureties, and deed restrictions.
 - (iv) Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.
 - (v) Flood proofing measures, in accordance with the State Building Code and this Ordinance. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

Section 8.11 Nonconforming Uses

- A. A structure or the use of a structure or premises which was lawful before the passage or amendment of this Article but which is not in conformity with the provisions of this Article may be continued subject to the following conditions. Historic structures, as defined in Section 8.02H, shall be subject to the provisions of Sections 8.11A(i –v).
 - (i) No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
 - (ii) Any structural alteration or addition to a nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the Regulatory Flood Protection Elevation in accordance with any of the elevation on fill or flood proofing techniques (i.e., FP-1 thru FP-4 flood proofing classifications) allowable in the State Building Code, except as further restricted in Sections 8.11A(iii – vi) below.
 - (iii) The cost of all structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed 50 percent of the market value of the structure unless the conditions of this Section are satisfied. The cost of all structural alterations and additions must include all costs such as construction

materials and a reasonable cost placed on all manpower or labor. If the cost of all previous and proposed alterations and additions exceeds 50 percent of the market value of the structure, then the structure must meet the standards of Section 8.04 or 8.05 for new structures depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

- (iv) If any nonconforming use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this Article. The Assessor shall notify the Zoning Administrator in writing of instances of nonconforming uses that have been discontinued for a period of 12 months.
- (v) If any nonconforming use or structure is substantially damaged, as defined in Section 8.08C, it shall not be reconstructed except in conformity with the provisions of this Article. The applicable provisions for establishing new uses or new structures in Sections 8.04, 8.05 and 8.06 will apply depending upon whether the use or structure is in the Floodway, Flood Fringe or General Flood Plain District, respectively.
- (vi) If a substantial improvement occurs, as defined in Section 8.08C, from any combination of a building addition to the outside dimensions of the existing building or a rehabilitation, reconstruction, alteration, or other improvement to the inside dimensions of an existing nonconforming building, then the building addition and the existing nonconforming building must meet the requirements of Section 8.04 or 8.05 of this Article for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively.

Section 8.12 Amendments

- A. The flood plain designation on the Official Zoning Map shall not be removed from flood plain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood plain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources if he determines that, through other measures, lands are adequately protected for the intended use.
- B. All amendments to this Article, including amendments to the Official Zoning Map, must be submitted to and approved by the Commissioner of Natural Resources prior to adoption. Changes in the Official Zoning Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given 10-days written notice of all hearings to consider an amendment to this Article and said notice shall include a draft of the Article amendment or technical study under consideration.

Article IX. Performance Standards

Section 9.01 Exterior Storage

- A. In residential districts, all materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying and recreational equipment, construction and landscaping materials and equipment currently being used on the premises, agricultural equipment and materials, if these are used or intended for use on the premises, off-street parking of passenger automobiles and pick-up trucks. Boats and unoccupied trailers, less than twenty (20) feet in length, are permissible if stored in the rear yard more than ten (10) feet from the property line. Existing uses shall comply with this provision within twelve (12) months following enactment of this Ordinance.
- B. In all districts, the County may require a Conditional Use Permit for any exterior storage if it is demonstrated that such storage is a hazard to the public health and safety or has a depreciating effect upon nearby property values, or impairs scenic views, or constitutes a threat to living amenities.

Section 9.02 Public Nuisance

- A. It shall be a violation of this ordinance for any property owner or other person in control of a property, premises, or right-of-way to keep or maintain that property, premises or right-of-way in such a manner that any of the following conditions are found to exist:
 - (i) Abandoned, dismantled, wrecked, inoperable, unlicensed, and discarded objects, equipment or appliances such as, but not limited to vehicles, boats, water heaters, refrigerators, furniture which is not designed for outdoor use, household fixtures, machinery, equipment, cans or containers standing or stored on property or on sidewalks or streets which can be viewed from a public street or walkway, alley or other public property which items are readily accessible from such places, or which are stored on private property in violation of any other law or ordinance.
 - (ii) Discarded putrescibles, garbage, rubbish, refuse, or recyclable items which are determined by the Department to constitute a fire hazard or to be detrimental to human life, health or safety.
 - (iii) Oil, grease, paint, other petroleum products, hazardous materials, volatile chemicals, pesticides, herbicides, fungicides or waste (solid, liquid or gaseous) and/or their containers which is determined by the Department to constitute a fire or environmental hazard, or to be detrimental to human life, health or safety.
 - (iv) Salvage materials, including but not limited to auto parts, scrap metals, tires, other materials stored on premises in excess of seventy-two (72) hours and visible from a public street, walkway, alley or other public property
 - (v) Any structure which detrimentally impacts the surrounding neighborhood because of dilapidation, deterioration or decay or is unsafe for the purpose for which it is being used or is not secured or is improperly secured.
 - (vi) Any activity which causes water, soil, or any objectionable substance is carried on to any adjacent property.

- (vii) Burning of any items in sections 9.02 (i – vi).
 - (viii) Nuisance Characteristics: No noise, odors, vibration, smoke, air pollution, liquid or solid wastes, heat, glare, dust, or other such adverse influences shall be permitted in any district that will in any way have an objectionable effect upon adjacent or nearby property. All wastes in all districts shall be disposed of in a manner that is not dangerous to public health and safety nor will damage public waste transmission or disposal facilities.
 - (ix) It shall be unlawful to create or maintain a junk yard or vehicle dismantling yard except as provided herein.
 - (x) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances.
- B. Abatement of public nuisances.
- (i) The owner, occupant, lessee or tenant of any property within the County shall be responsible for the maintenance of property and premises in a manner consistent with the provisions of this section. No person shall allow a building, mobile home/manufactured house, or other structure to be abandoned, deteriorate and become a safety hazard.
 - (ii) The Department may choose to abate any public nuisance through any of the abatement methods set forth in this ordinance, or in other local, state or federal law. Nothing contained in this section shall be construed as limiting, prejudicing or adversely affecting the Department’s ability to concurrently or consecutively use any of those proceedings as the Department may deem are applicable. Proceeding under this section will not preclude the Department from proceeding under other sections of this ordinance.
 - (iii) Nothing in this section shall be construed as requiring the Department to enforce the prohibitions in this section against all or any properties that may violate the Ordinance. In the Department’s prosecutorial discretion, and as the Department’s resources permit, this ordinance may be enforced only as to a limited number of problem properties per year.
 - (iv) Nothing in this section or the absence of any similar provisions shall be construed to impose a duty upon the Department to enforce such other provisions of law.
- C. Screening.
- (i) Screening shall be required in residential zones where any off-street parking area contains more than four (4) parking spaces and is within thirty (30) feet of an adjoining residential zone, and
 - (ii) Where the driveway to a parking area of more than six (6) parking spaces is within fifteen (15) feet of an adjoining residential use or zone.

- (iii) Where any business (structure, parking or storage) is adjacent to property zoned or developed for residential use, that business or industry shall provide screening along the boundary of the residential property.
 - (iv) Screening shall also be provided where a business, parking lot, or industry is located across the street from a residential zone, but not on that side of a business or industry considered to be the front.
 - (v) All exterior storage shall be screened. The exceptions are: (1) merchandise being displayed for sale; (2) materials and equipment presently being used for construction on the premises; (3) merchandise located on service station pump islands.
 - (vi) The screening required in this Section may consist of a fence, trees, shrubs and berms, but shall not extend within fifteen (15) feet of any street or driveway. The screening shall be placed along property lines or in case of screening along a street, twenty (20) feet from the street right-of-way with landscaping between the screening and pavement. Planting of a type approved by the County Board may also be required in addition to or in lieu of fencing. Also refer to Section 9.06.
- D. Fencing.
- (i) Fence, as herein defined. All boundary line fences shall be entirely located upon the property of the person, firm or corporation construction, or causing the construction, of such fence unless the owner of the property adjoining agrees in writing that such fence may be erected on the division line of the respective properties.
 - (ii) The Director may require the owner of the property upon which a fence now exists, or may require any applicant wishing to construct a fence to establish the boundary lines of his property by a survey thereof to be made by any Registered Land Surveyor.
 - (iii) Also check MN Statutes Chapter 344 for the construction and maintenance of boundary fences.
 - (iv) Fences shall not exceed six (6) feet in height in residential districts or ten (10) feet in height in commercial-industrial districts. Fences higher than these shall require a variance.
- E. Glare - In all districts, any lighting used to illuminate an off-street parking area, sign, or other structure, shall be arranged as to deflect light away, from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property.
- F. Bulk storage - All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids, excluding agricultural practices, shall require a conditional use permit in order that the County Board may have assurance that fire, explosion, or water or soil contamination hazards are not present (that would be detrimental to the public health, safety, and general welfare).

- G. Permitted encroachments - The following shall be considered encroachments allowed without permits on setback and height requirements except as hereinafter provided: In any yard: Posts, off-street open parking spaces, flues, belt course, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire escapes, sidewalks and fences, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter amended.

Section 9.03 Cluster Development

- A. Cluster development, the placing of residential dwelling units into compact groupings, where allowed, may be permitted following the completion and approval of a preliminary and final plat for a cluster development. The Planning Commission and County Board shall find that the proposed development plan is in compliance with the applicable standards of this Ordinance.
- B. A cluster development shall be defined in this Ordinance as a residential development in which a number of single-family dwelling units are grouped on smaller than usual or minimum lots, leaving some land undivided for common use by all residents of the development.
- C. Common land must be preserved as agricultural land, open recreation space for recreational facilities, for preservation of natural or scenic resources, or for other purposes not involving the establishment of a dwelling.
- D. Except for minimum setbacks and height limitations for the district in which the development is proposed, altered dimensional standards may be allowed as exceptions to this Ordinance for cluster development, provided that:
 - (i) The number of dwelling units allowed shall not exceed the total number of dwelling units allowed if the development was based on the minimum lot size and density requirements in the relevant zoning district.
 - (ii) Open space shall be preserved. At least forty (40) percent of the development shall be kept in its natural state or utilized for recreation, open space or agricultural purposes.
 - (iii) In areas where public sewer and water are not available, adequate soil area shall be shown on the preliminary plat for two (2) individual septic drainfields for each dwelling unit. A shared drainfield system shall be maintained and operated by a homeowner's association, public agency, or other organization acceptable to the County.
 - (iv) Complete plans and documents of the homeowners association are submitted which explain:
 - 1) Ownership and membership requirements;
 - 2) Organization of the association;
 - 3) Time at which the developer turns the association over to the homeowners;
 - 4) Approximate monthly or yearly association fee for homeowners;
 - 5) Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.

- E. Acreage cluster development.
- (i) Acreage clusters, where allowed, may be permitted following the completion of the “Acreage Cluster Checklist.” The Director shall have the authority to approve Acreage Cluster Developments provided the necessary requirements have been met.
 - (ii) The following are minimum requirements necessary to cluster dwelling sites:
 - 1) The land must be located in an area zoned AF-1 or AF-2.
 - 2) Acreage cluster developments are allowed up to three dwelling sites. Clusters involving four or more dwelling sites will fall into the platting standards and all rules and fees will be applicable.
 - 3) The applicant must own or have dwelling rights to a full Government 40
 - 4) The land set aside for the outlot must be located in the same township and section unless it abuts other land owned by the same taxpayer in an adjoining township or section.
 - 5) The government 40 will be designated as an outlot.
 - 6) Outlots may be used for any purposes other than building structures.
 - 7) All AF minimum setback, lot size and height requirements must be met.
 - 8) Each dwelling site must have adequate soil area for 2 individual drainfields and Planning & Zoning must be provided with a written statement from a state licensed septic designer.
 - 9) Applicant must submit a valid metes and bounds description or survey for all lots.
 - 10) Each dwelling must be located on a separate parcel.

Section 9.04 Prohibited Structures

- A. No garage, trailer, semi-trailers, cargo containers, railroad cars, fish house, or accessory building shall at any time be used as a residence.
- B. Semi-trailers, railroad cars, and cargo containers may be used for storage structures in AF-1, AF-2 and Commercial zones but shall be limited to two per parcel and shall require a land use permit
- C. Manufactured houses or similar structures shall not be used for storage.
- D. Abandoned manufactured homes are prohibited.

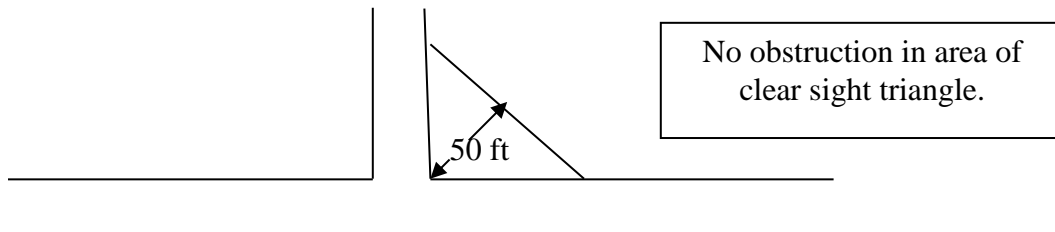
Section 9.05 Tree and Woodland Preservation

Structures within all residential development occurring in wooded areas shall be located in such a manner that the maximum number of trees shall be preserved.

Section 9.06 Traffic Control

The traffic generated by any use shall be channelized and controlled in a manner that will avoid: (a) congestion on the public streets, (b) traffic hazards, and (c) excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases

be forward moving with no backing into streets. On corner lots, (including rural areas) nothing shall be placed or allowed to grow with the exception of seasonal crops in such a manner as materially to impede vision between a height of two and one-half (2½) and ten (10) feet above the, centerline grades of the intersecting streets to a distance such that a clear line of vision is possible of the intersecting street from a distance of fifty (50) feet from the intersection of the right-of-way lines.



When determined necessary, commercial, residential or industrial uses shall be provided with a service road between thoroughfare and the use and the service roads shall have access to thoroughfare only.

- A. Each service road shall have a minimum of thirty (30) feet of right-of-way exclusive of adjoining thoroughfare right-of-way.
- B. Each service road shall be at least twenty-four (24) feet wide.

Section 9.07 Access Drives and Access

- A. Whenever possible Access drives may not be placed closer than ten (10) feet to any side lot line or twenty (20) feet to any rear lot line.
- B. Access drives onto county roads shall require a review by the County Engineer. Access drives onto township roads shall require a review by the responsible Township Board. That governing authority shall determine the appropriate location, size, and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow.
- C. Access drives to principal structures which traverse wooded, steep, or open field areas shall be constructed and maintained to a width and base material depth sufficient to support access by emergency vehicles.
- D. All lots or parcels with structures shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway or an existing private roadway.

Section 9.08 Sewage Treatment Standards

- A. **Purpose and Intent:** The purpose of the Sewage and Wastewater Treatment Section shall be to provide minimum standards for, and regulation of, sewage treatment systems and septage disposal. This includes the proper location, design, construction, operation, maintenance and repair of sewage treatment systems to protect surface water and ground water from contamination by human sewage and waterborne household and commercial waste; to protect the public's health and safety, and eliminate or prevent the development of public nuisances. It is the intent of this section to systematically identify and upgrade failing sewage treatment systems to minimize environmental pollution of both surface and underground water supplies.
- B. General Provisions
- (i) Prior to issuance of a permit, designs for the sewage treatment system must be submitted to the Department on forms provided by the county or on the MPCA/University of Minnesota Design Worksheets. All forms must be legible and contain all the required information.
 - (ii) A permit is required to install, repair, alter, extend or rejuvenate any sewage treatment system in Todd County. This permit must be obtained, and the fee paid, at the Department prior to the installation, repair, alteration or extension of the sewage treatment system. This permit shall be valid for a period of twelve months from the date of issuance.
 - (iii) Sewage Treatment system setback requirements apply to dwelling structures and not accessory structures.
 - (iv) Prior to issuance of any conditional use permit, any variance, or a building permit to add one or more bedrooms to an existing dwelling, a sewer compliance inspection shall be required.
 - (v) Prior to issuance of a building permit to add one or more bedrooms to an existing dwelling, the applicant must provide documentation from a licensed septic system designer that the existing sewer system is designed and sized for the addition of any bedrooms.
 - (vi) Any sewage treatment system identified as an imminent health threat to public health and safety or failing to protect groundwater as described in 7080.1500 subp. 4 shall be issued a certificate of noncompliance. Copies shall be provided to the property owner and to the Department within 15 days of the date of the compliance inspection.
 - (vii) Time lines for updating of non-compliant sewage treatment system:
 - 1) A sewage treatment system failing to protect groundwater shall be upgraded, replaced or its use discontinued within one year from the date of issuance of the Certificate of Noncompliance. If the system's use is discontinued, abandonment shall be conducted as described in Chapter 7080.2500.

- 2) A sewage treatment system identified as imminent threat to public health or safety must be upgraded, replaced, repaired, or its use discontinued within ten months of the date of issuance of the Certificate of Noncompliance. If the system's use is discontinued, abandonment shall be conducted as described in Chapter 7080.2500.
- (viii) Surface discharge from a SSTS is prohibited unless issued a national pollution discharge elimination permit by the MPCA.
 - (ix) All sewage generated in Todd County must be treated in a MPCA permitted facility or a system designed under Minnesota Rules 7080 and 7081 standards as adopted by this ordinance.
 - (x) An ISTS must not be located in a floodway, and whenever possible, placement within any part of the floodplain should be avoided. If no alternative exists, a system is allowed to be placed within the flood fringe. All requirements of Chapter 7080.2270 apply.
 - (xi) All Type IV and Type V and Midsized Subsurface Sewer Treatment systems require an operating permit.
 - (xii) Septic systems that are not operated under a management plan must have septic tanks pumped and assessed no less than every three years.
 - (xiii) All owners of new or replacement Class V injection wells as defined in Code of Federal Regulations, title 40, part 144, submit inventory information to the Environmental Protection Agency and the MPCA and that all Class V wells be identified as such in property transfer disclosures.
 - (xiv) On all lots created after January 23, 1996, the sewage treatment system design must include at least one designated additional soil treatment area which can support a Type 1 soil treatment system.
 - (xv) No person, company, corporation, or business shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of on-site sewage treatment system without first obtaining a license to perform such tasks from the Minnesota Pollution Control Agency (MPCA), except as provided under 7083.0700.
 - (xvi) All submitted sewer designs must include a management plan, signed by the property owner and the service professional, which describes who is responsible for maintenance of the system and the timeframe at which regular maintenance will be conducted.
 - (xvii) On all new construction or upgrading of existing systems, manhole covers on septic tanks and inspection pipes in soil treatment areas shall extend to at or above the ground surface and shall be visible and accessible for the purpose of maintenance and inspection. If the system is located in a floodplain area, Rule 7080.2270 must be adhered to.

- (xviii) Minnesota Rule 7080.1720 subp. 4 modified to require a minimum of 2 soil observations (borings) for the design of each proposed soil treatment area ≤ 500 square feet in size. One additional soils observation (boring) is required for each additional 250 square feet of any treatment area. At least one boring must be taken at the lowest elevation directly adjacent to the treatment area.
- (xix) Percolation tests must be performed for soil sizing determinations. At least two percolation tests must be completed at each soil treatment area. Time and water drop measurements must be recorded on the design sheet. The slowest percolation rate in minutes per inch must be used to determine the soil sizing factor.

C. Septic System Types

- (i) **Type I Systems (Standard Systems)** are septic systems that utilize trenches, beds, mounds, at-grades, chambers, dual field or graywater systems and provide treatment of effluent strengths for most domestic strength waste. Standard systems must be placed on natural, undisturbed soils and installed in a manner that allows for at least 36 inches of vertical separation between the bottom of the systems distribution media and seasonally saturated soils or bedrock.
- (ii) **Type II Systems** are systems designed as holding tanks, privies and septic systems installed within floodplains.
- (iii) **Type III Systems** are systems that deviate from 7080.2210 to 7080.2240. A system built on fill or disturbed soil is an example of this type of system.
- (iv) **Type IV Systems** are systems that utilize registered treatment or pretreatment technologies in order to meet various treatment requirements that standard systems may not accomplish. These systems require operating permits.
- (v) **Type V Systems** are system associated with collector systems, treatment of high strength wastes, nutrient removal and groundwater mounding. These systems require operating permits.
- (vi) **Mid Sized Subsurface Sewage Treatment Systems** are systems designed to treat 5000 to 10,000 gallons of effluent per day. These systems require operating permits.

D. General Requirements for Type I Systems

- (i) Type I systems must be designed and installed as per 7080.1700 through 7080.2240 with the following modifications referencing 7080 (2006 Rule):
 - 1) 7080 0110 (2006 Rule) may be used in lieu of 7080.1720
 - 2) 7080.0130 subp. 3 (2006 Rule) may be used in lieu of 7080.1930 subp. 1
 - 3) 7080.0150 (2006 Rule) may be used in lieu of 7080.2050
 - 4) 7080.0170 (2006 Rule) may be used in lieu of 7080.2150

E. General Requirements for Type II Systems

1. Holding Tanks:

- (i) Holding tanks must meet or exceed the qualifications of 7080.2290

- (ii) Holding tanks must be installed with manholes and inspection pipes raised at or above the ground surface unless installed in a floodplain area as described in 7080.2270. Manhole covers must be safely secured.
- (iii) Holding Tanks can be installed as a new system when:
 - 1) An upgrade to a failing sewage treatment system on a lot of record pre-existing this section when a soil treatment system cannot be installed due to lot size, topographic, or well setback limitations. Or for a dwelling in AF or R zones when a Type I system is not possible due to soil, site limitations, and electrical availability on the site.
 - 2) For a dwelling classified as a primitive dwelling. The property owner must sign a form provided by the Planning & Zoning Department certifying that the dwelling meets all the requirements for classification of a primitive dwelling, that the sewage will be properly maintained and that if at some time the dwelling is to no longer meet the definition of a primitive dwelling, a complete drainfield will be installed prior to the change.
 - 3) All holding tanks shall have a minimum capacity of 1500 gallons and, if feasible, have multiple compartments for the purpose of installing a lift pump if a drainfield area becomes available.
 - 4) A monitoring and disposal contract signed by the owner and a licensed maintainer must be submitted before a permit is issued. The contract must guarantee the removal of the tank contents prior to overflow or any discharge to the ground surface or backup into the home and be submitted as part of the permit application.
 - 5) Property owners with holding tanks shall retain records of all pumping and shall submit pumping records or other evidence to show that the system is being properly maintained when requested by the Department.

2. Privies:

- (i) Privies must meet or exceed the qualifications of 7080.2280.
- (ii) May only be used for dwellings defined as primitive dwellings.
- (iii) All applications to construct a privy shall include a design prepared by a State-licensed designer.
- (iv) The installation of privies shall be inspected according to the provisions in this section for new systems.

3. Systems in Floodplain Areas:

- (i) Systems must meet or exceed the qualifications of 7080. 2270.

F. General Requirements for Type III Systems

A system that deviates from the requirements in parts 7080.2210 to 7080.2240 is a Type III system. Deviations from the standards in parts 7080.2210 to 7080.2240 must be submitted to the county for approval or denial. However, no deviation is allowed from the following and at a minimum, a Type III system must:

- (i) Employ design flow values in parts 7080.1850 to 7080.1885.
 - (ii) Meet technical requirements of part 7080.2050.
 - (iii) Meet the requirements of 7080.1900 to 7080.2030 except 7080.0130 subp. 3 (2006 Rule) may be used in lieu of 7080.1930 (2012 Rule) for determination of the liquid capacity of septic tanks.
 - (iv) Meet the requirements of part 7080.2100 with mound and at-grade systems required to have pressure distribution.
 - (v) 7080.0170 (2006 Rule) may be used in lieu of 7080.2150 regarding rapidly permeable soils and loading rates.
- G. General Requirements for Type IV System
- (i) Refer to 7080.2350
- H. General Requirements for Type V Systems
- (i) Refer to 7080.2400
- I. General Requirements for Midsized Subsurface Sewage Treatment Systems
- (i) Refer to 7081
- J. Compliance Inspections
- (i) Compliance inspections conducted on existing systems shall require at least one soil boring for the purpose of issuing a certificate of compliance on a drainfield. Borings must be conducted adjacent to the lowest elevation of the soil treatment area. If the soils in the treatment area have been verified and documented, i.e. soil investigations logs previously completed and by two licensed septic professionals, no soil borings are required. Septic tanks must be pumped and visually inspected through the manhole cover. A copy of the pumping receipt shall be submitted with the compliance inspection report.
 - (ii) For sewage treatment systems constructed after March 31, 1996, or in a shoreland area/ wellhead protection area/serving food, beverage, or lodging establishments (SWF area), at least three feet of vertical separation distance is required. The Director may allow up to a 15 percent reduction in this distance as per Rule 7080.1500 subp. 4 D.
 - (iii) For sewage treatment systems constructed before April 1, 1996 in areas that are not SWF, at least two feet of vertical separation distance is required. There is no allowance for a 15 percent reduction in vertical separation for these systems.
 - (iv) Periodically saturated soil disagreements between disputing parties must follow the procedures outlined in 7082.0700 Subp. 5
 - (v) Compliance inspections of existing sewage treatment systems must be completed on forms provided by Todd County. Compliance inspections must be completed by an Inspector/ Designer that is licensed to inspect that particular system size and type. If sewage treatment system is issued a “Compliant” status, it is good for three years from the date of the inspection.

- (vi) Prior to the sale or transfer of any property in Todd County, the sewage treatment system must have a compliance inspection unless a valid certificate of compliance is on file with the county.
 - (vii) A paid receipt and a signed, written agreement (winter agreement) between a licensed inspector and the applicant may be submitted in lieu of a compliance inspection for property transfers and for permit applications between November 15 and April 15. The signed winter agreement must ensure that a compliance inspection be completed by the following June 1 and the applicant submits a certificate of compliance within 30 days of the inspection. Failure to fulfill all of the obligations of the winter agreement shall be a violation of this ordinance.
 - (viii) Upon submittal of a recorded easement or other binding legal agreement relating to system location and maintenance a group of property owners may install a community septic system without setbacks to internal property lines.
 - (ix) Building setbacks for a sewage tank or an absorption area shall be measured to the foundation of a dwelling or any structures attached to the dwelling (including, but not limited to, open decks, porches, entryways and bay windows).
- K. Inspection Requirements
- (i) New construction, repair, or replacement: All new repaired or replaced sewage treatment systems must be inspected by Todd County Inspectors. No part of the system may be covered until the inspector has finished the onsite inspection. It is the responsibility of the sewage treatment system contractor to notify the Department for inspections. Todd County will conduct the onsite inspection within 24 hours of the time of notification during normal business hours, Monday - Friday (excluding holidays). A Designated Registered Professional (DRP) must be onsite at the time of inspection. Onsite inspections are to verify the sewage treatment system are constructed to 7080 through 7083 (as adopted) standards. The inspection is not meant to be a guarantee or warranty that the system will function for any specific time period.
 - (ii) Re-inspections: If new, repaired or replaced sewage treatment systems are not constructed to 7080 through 7083 (as adopted) standards, the contractor must correct the deficiencies and notify Todd County for a re-inspection. Contractors responsible for correcting the deficiencies must pay the re-inspection fee as set by the Todd County Board of Commissioners.
 - (iii) Protocol for Inspections Not Made in a Timely Manner: If for unforeseen reasons Todd County inspectors cannot make the required inspection within the 24 hour time period, the contractor must provide Todd County with accurate measurements from the closest point of the tank and drainfield to: occupied building, nearest well, nearest property line, road right-of-way, lake, and, three photographs: one of the tank and two of the drainfield. Other pertinent

information will be obtained in a discussion between the inspector and contractor.

- L. Nonconforming Sewage Treatment System - upgrading requirements. A sewage treatment system not meeting the minimum requirements of Minnesota Rules Chapter 7080 through 7083 (as adopted) must be upgraded, at a minimum, upon any of the following:
- (i) Upon approval of a Conditional Use Permit.
 - (ii) Upon approval of Variance Permit.
 - (iii) The issuance of a permit to establish a dwelling
 - (iv) Prior to the sale or transfer of any property in Todd County, the sewage treatment system must have a compliance inspection unless a valid certificate of compliance is on file with the county. If not found in compliance, the system must be:
 - 1) Brought into compliance prior to transfer of property or,
 - 2) The seller shall provide the buyer sufficient security in the form of an escrow agreement to assure the installation of a fully compliant sewage treatment system, as defined in Minnesota Rule 7080 through 7083 (as adopted by this ordinance). The escrow amount shall be equal to 150 percent of a written estimate from a licensed and certified sewage treatment system installer or 110 percent of a written contract price provided by a state licensed and certified sewage treatment system installer. A copy of the estimate or contract shall be provided to the Department along with a copy of the escrow agreement prior to the property transfer. The system must be updated in accordance with Section 9.08 (iii), or
 - 3) System discontinued for use per Section 9.08 (iii).

M. Administrative Variances

1. For Setback Requirements

A property owner or their designated representative may request an administrative variance from the setback requirements of this section through application to the Planning & Zoning office. The Director shall have the authority to grant variances only under the following conditions:

- (i) When there are unique conditions present on the property due to lot size, layout, shape, topography, soil conditions or other circumstances preventing the applicant from meeting the requirements through no fault of their own;
- (ii) When the administrative variance request is related to a setback from structures on the same property;
- (iii) When the administrative variance request is related to an ordinary high water setback, provided that the variance shall not result in any part of the system being within a shore or bluff impact zone;
- (iv) If the administrative variance request is related to a side property line or a road right-of-way setback, when the Director receives written support of the variance

from the affected adjoining property owner or road authority signed by a notary public;

- (v) When the variance request involves placing the septic system completely or partially within an adjacent property or road right-of-way, provided that the applicant and relevant landowner or road authority provides documentation of a recorded easement or other legally binding agreement for such purposes to the Director and is subject to approval by the County Attorney. The easement must be permanent or run for the life of the system;
- (vi) That the administrative variance request will not reasonably be expected to adversely affect public health or safety or create an environmental hazard;
- (vii) If any of the above conditions cannot be met, the variance request must be granted only by the Board of Adjustment.

2. For Septic System Installation

A property owner or their designated representative may request an administrative variance to install a Type II holding tank in lieu of a Type I tank and drain field system for:

- (i) Accessory Structure with a workshop when not attached to the primary dwelling and when it is not feasible to connect to an existing septic system. Only standard household wastes (toilet, shower, and kitchen) are allowed to enter the installed system;
- (ii) Season dwelling with running water (non-primitive) – when not located within a shoreland zoning district and is not occupied for more than 21 business days per calendar year;
- (iii) For purposes of serving a business not associated with a dwelling;
- (iv) Granting of an administrative variance is at the discretion of the Director.

N. Septic System Setbacks

Setback Standards	GD General Devel. Lakes	RD Rec. Devel. Lakes	NE Natural Enviro. Lakes & Rivers	RDL Recreational Development Limited & Sylvan Shores	All Other Zoning
Setback For					
Sewage Tank to the Ordinary High Water Mark of the lake (OHWM)	50 ft	75 ft	150 ft	75 ft	Na
Soil Treatment Area to OHWM	75 ft	100 ft	150 ft	100 ft	Na
Side property line to septic tank or drain field	10 ft	10 ft	10 ft	10 ft	10ft
Rear property line (without road frontage) to septic tank or drain field	10 ft	10 ft	10 ft	10 ft	10 ft
County or Twp road right-of-way to septic tank or drain field	10 ft	10 ft	10 ft	10 ft	10 ft.
Sewer tanks to dwelling structure	10 ft	10 ft	10 ft	10 ft	10 ft
Drain field to dwelling structure	20 ft	20 ft	20 ft	20 ft	20 ft
Septic tank to well	50 ft	50 ft	50 ft	50 ft	50 ft
Septic drainfield to well (> 50 ft deep well)	50 ft	50 ft	50 ft	50 ft	50 ft
Septic drainfield to well (< 50 ft deep well)	100 ft	100 ft	100 ft	100 ft	100 ft

Section 9.09 Mobile Home Parks

- A. Intent: The intent and purpose of this Section is to assure quality development equal to that found in other types of residential areas throughout the County. Excellence of design, development, and maintenance is the desired objective.
- B. No mobile home park shall be permitted within the County unless it has been, approved and licensed by the Minnesota Department of Health in accordance with Minnesota Statutes, Chapter 327.
- C. No person, firm or corporation shall develop or operate a mobile home park without having first obtained a Conditional Use Permit. The application for a conditional use permit shall be accompanied by five (5) copies of plans which indicate the following:
 - (i) The name and address of the developer and a general description of the construction schedule.
 - (ii) Location and size of the mobile home park.
 - (iii) Location, size and character of all mobile home lots, mobile home stands, storage areas, recreation areas, laundry drying areas, central refuse disposal, roadways, parking spaces and sites, and all setback dimensions.
 - (iv) Detailed landscaping plans and specifications.

- (v) Location and width of sidewalks.
 - (vi) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, telephone service, and gas service.
 - (vii) Plans for an overhead street lighting system shall be submitted for approval by the community engineer.
 - (viii) The method of disposing of garbage and refuse.
 - (ix) Location and size of all streets abutting the mobile home park and all driveways from such streets to the park shall be reviewed by the Todd County Engineer.
 - (x) Plans and specifications for all road construction either within the park or directly related to park operation must be adequate for emergency vehicles. Plans must be approved by the Todd County Engineer.
 - (xi) Floor plans of all service buildings to be constructed within the mobile home park.
 - (xii) Detailed description of maintenance procedures and grounds supervision.
 - (xiii) Covenants and operating rules for the park
 - (xiv) Such other information as may be required or requested by the County.
- D. Performance standards for mobile home parks.
- (i) All mobile homes shall be properly connected to a central water supply and a central sanitary sewer system. All water and sewer systems shall be constructed in accordance with plans and specifications approved by the State Department of Health. Where a public water supply is available to the mobile home park or at the boundary of the park, a connection to said public water supply shall be provided for each mobile home.
 - (ii) Each mobile home park shall maintain an off-street overload parking lot for guests of occupants in the amount of one (1) space for each three (3) coach sites and located within three hundred (300) feet of the unit to be served.
 - (iii) A properly landscaped area shall be adequately maintained around each mobile home park. All mobile home parks adjacent to industrial, commercial or residential land uses shall have screening, such as fences or natural growth, along the property boundary lines separating the park from such adjacent uses.
 - (iv) All structures shall require a land use permit.
- E. Mobile home park lots.
- (i) Each mobile home site shall contain at least five thousand (5,000) square feet of land area for the exclusive use of the occupant and shall be at least fifty (50) feet wide.
 - (ii) Mobile homes shall be placed upon mobile home lots so that there shall be at least a twenty (20) foot clearance between mobile homes and twenty (20) feet between the front of the mobile home and the front lot line and twenty-five (25) feet between the rear of the mobile home and the rear lot line.

- (iii) The area occupied by a mobile home shall not exceed fifty percent (50%) of the total area of a mobile home site; land may be occupied by a mobile home, a vehicle, a building, a cabana, a ramada, a carport, an awning, storage closet or cupboard, or any structure.
 - (iv) The yards shall be landscaped except for necessary driveway and sidewalk needs. Driveways shall not exceed more than one-half (½) the width of the site.
 - (v) Each mobile home lot shall have off-street parking space for at least two (2) automobiles.
 - (vi) The corners of each mobile home lot shall be clearly marked and each site shall be numbered.
- F. Replacement or moving of mobile home. If for any reason a mobile home is replaced by another mobile home, new or used, a land use permit shall be obtained from the Planning & Zoning Department. A permit shall not be required to move a mobile home from one location to another within a mobile home park.

Section 9.10 Recreation Vehicle (RV) Parks

- A. No person, firm or corporation shall develop or operate any Recreational Vehicle park without having first obtained a conditional use permit.
- B. Application: The application for a conditional use permit, in addition to the requirements, shall indicate the name and address of the developer and a general description of the construction schedule. The application for a conditional use permit shall be accompanied by five (5) copies of plans, which indicate the following:
 - (i) Location and size of trailer park.
 - (ii) Location and size of all recreational vehicle lots, dead storage areas, recreation areas, laundry drying areas, roadways, parking spaces and sites, and all setback dimensions.
 - (iii) Detailed landscaping plans and specifications.
 - (iv) Detailed grading plan with two (2) foot contour intervals.
 - (v) Plans for sanitary sewage disposal, surface drainage, water systems, electrical service, and gas service.
 - (vi) The method of disposing of garbage and refuse.
 - (vii) Location, size, and character of each lot.
 - (viii) Location and size of all streets abutting the RV park.
 - (ix) Road construction plans and specifications.
 - (x) Plans for any and all structures.
 - (xi) Covenants and operating rules for the RV park.
 - (xii) Such other information as may be required or requested by the County.
- C. Designation of uses: The Recreational Vehicle park design shall designate specific areas for private tent camping, recreation vehicles/travel trailers.
- D. Lot size: The minimum lot size of each lot in the park shall be 2,000 square feet.
- E. Performance standards for recreational vehicle parks.
 - (i) All water supply and sanitary facilities must conform to the current standards of the Minnesota Department of Health and Pollution Control Agency.

- (ii) All land area shall be adequately drained and properly maintained free of dust, refuse, garbage, rubbish or debris. The proposed method of garbage, waste, and trash disposal must be approved by the County and must meet or exceed the current Minnesota Department of Health Standards.
- (iii) All structures shall require a land use permit.
- (iv) A properly landscaped area shall be adequately maintained around each recreational vehicle park. No RV or building shall be located within twenty (20) feet of the exterior boundary of any park or within forty (40) feet of any exterior existing public road right-of-way.
- (v) The corners of each lot shall be clearly marked and each lot shall be numbered. The grounds of the park shall be adequately lighted from sunset to sunrise.
- (vi) Each lot shall be no further than four hundred (400) feet from the nearest readily available drinking water supply.
- (vii) All centralized refuse collection containers and equipment, and park maintenance equipment shall be stored in a screened and fenced service yard within the park.
- (viii) Advertising shall be limited to one (1) sign not to exceed twenty-four (24) square feet, with lighting, height and location as approved by the Governing Body.
- (ix) Each recreational vehicle park must have one (1) or more central community buildings with central heating, which must be maintained in a safe, clean, and sanitary condition. Said buildings shall be adequately lighted during all hours of darkness and shall contain laundry washers, dryers and drying areas, in addition to public toilets and lavatory. Each park shall have a building for the use of the operator distinctly marked "office", and such marking shall be illuminated during all hours of darkness. An illuminated map of the park shall be displayed at the office.
- (x) An adult caretaker must be on duty at all times in the recreational vehicle park. The operator of every park shall maintain a register in the office of the park indicating the name and address of the owner and occupants of each trailer, the license number of each trailer and automobile of each occupant, and the date of arrival and departure of each trailer. The corners of each trailer lot shall be clearly marked and each lot shall be numbered. The grounds of the park shall be adequately lighted from sunset to sunrise.
- (xi) No parking spaces shall be closer than ten (10) feet to any side yard lot line.
- (xii) All recreational vehicle park projects shall be equipped with at least one (1) central toilet, bathing, and laundry building which meets or exceeds the requirements of the Minnesota Department of Health, except that in primitive tent camping areas, only toilet facilities shall be required as per the Minnesota Department of Health.

Section 9.11 Feedlots

- A. Policy - An efficient and profitable livestock industry is an economic benefit to Todd County and to the State of Minnesota. It provides a value-added opportunity to our crop based agriculture and creates service industries, which provide employment and further economic activity. An efficient industry also produces high quality food and fiber for consumers at reasonable prices. The wastes produced in livestock production have the potential, when improperly stored, transported or disposed, to contribute to air, surface water, and ground water pollution. When properly utilized such wastes contribute to soil fertility and structure and enhance efficient crop production. The following section has been promulgated to reduce risk of pollution of natural resources from feedlots.
- B. Todd County is an MPCA delegated Feedlot County.
- C. This section regulates feedlots as well as storage and land application of animal waste. All existing and future feedlots in Todd County shall comply with the standards set forth within the Minnesota Pollution Control Agency (MPCA) Chapter 7020 rules and updates, and this Ordinance.
- D. Within the agricultural preservation districts, the construction, expansion and operation of feedlots and other agricultural uses are permitted or permitted by conditional uses.
- E. There will be from time to time, sights, sounds and smells associated with the operation of farming. No property owner shall bring action(s) of Law, including without limitation claims for private nuisance under Minn. Stat § 561.01 and common law negligence, against any farming operation, because of such farming activities, as long as such farming activity is complying with local, County, State, and Federal permits, ordinances, rules, statues, and other regulations which apply to and are enforceable against the farming operation. To the extent that such an action(s) of law nevertheless arises by a property owner against any farming operation, Todd County reserves its right to remain neutral and uninvolved.
- F. More restrictive standards. Minnesota Rules Chapter 7020 are hereby modified by the following more restrictive standards.
- G. The County Board may appoint a Feedlot Officer(s) as are necessary and to designate their power and duties within the limits of this section.
- H. A land use permit shall be required for all expansions of buildings of an existing feedlot that does not increase the animal unit numbers.
- I. A land use permit with a feedlot inspection is required for all expansions of buildings or lots that increase animal unit numbers of existing registered feedlots of more than 10 animal units but less than 300 animal units. An Interim Permit may be required to correct environment hazards on feedlots.
- J. Registration- An animal feedlot capable of holding ten (10) or more animal units, or a manure storage area capable of holding the manure produced by 10 or more animal units is required to register with the County every four (4) years.
- K. Conditional Use Permit - Expansion of animal unit numbers to existing feedlots located within 300 feet of any river class or within 1,000 feet of any lake class may be approved if they do not exceed 1,000 animal units and they do not further encroach into the riparian setback or bluff impact zone.
- L. The owner of a proposed or existing animal feedlot of over 300 animal units in the Agricultural District shall make an application to the County for a Construction Short Form Permit when any of the following conditions exist:

- (i) A new feedlot is proposed where a feedlot did not previously exist;
 - (ii) Expansion of an existing feedlot beyond registered animal units;
 - (iii) Any change in species on an existing animal feedlot or facility;
 - (iv) A feedlot is to be restocked after being abandoned for five (5) or more years;
 - (v) An inspection reveals that the feedlot is creating a potential pollution hazard and due process is observed by the authorized entity Department and provides the ability to correct the infraction as listed in MPCA regulations;
 - (vi) Application for conditional use permit;
 - (vii) A National Pollutant Discharge Elimination System (NPDES) permit application is required under State or Federal rules and regulations (over 1,000 animal units of manure is produced on the farm);
 - (viii) Other actions as specified in the Ordinance.
- M. Feedlot Setbacks and Separations – feedlot setbacks. All setbacks of this section shall apply within the county and shall not cross county lines. The setback standards of the county where the feedlot is located shall apply. The setback standards do not apply if there is either (1) a variance application to and an approval thereof from the county or (2) written approval from the representatives of each of the entities within the setback recorded on the affected property parcel numbers. Unless so excepted therefrom, no new feedlot shall hereafter be erected within the following distances:

Feedlot Setbacks – Non-Swine				
New Feedlot or Manure Storage Area	Animal Units	Municipal Limits or Municipal Growth Boundaries*	Public Drainage Ditch*	School, Church, Park, or Airport*
Tier I	10-100	Half (1/2) mile	300 feet	Quarter (1/4) mile
Tier II	101-300	One (1) mile	300 feet	Half (1/2) mile
Tier III	Over 300	One (1) mile	300 feet	Half (1/2) mile
* All setbacks are reciprocal in nature				

Feedlot Setback – Swine Only				
New Feedlot or Manure Storage Area in Animal Units	Setback distance from Municipal Limits or Municipal Growth Boundaries	Setback distance from Public Drainage Ditch	Setback distance from a School, Church, Park, or Airport	Setback Distance from a Swine Breeding Facility Greater Than or Equal to 1,000 Animal Units
Tier I 10 – 100 Animal Units	Half (1/2) Mile	300 Feet	Quarter (1/4) mile	Quarter (1/4) mile
Tier II 101 – 300 Animal Units	One (1) Mile	300 Feet	Half (1/2) Mile	Half (1/2) Mile
Tier III Over 300 Animal Units	One (1) Mile	300 Feet	Half (1/2) Mile	Three Quarter (3/4) Mile
<i>All setbacks are reciprocal</i>				
<i>All existing Swine Registered Feedlots are able to expand to any level Tier</i>				

- N. All application of animal waste shall comply with all setbacks of Minnesota Statutes Chapter 7020, to minimize odor nuisance, potential point and non-point pollution.
- O. Performance Standards:
 - (i) All new liquid manure storage structures must have a minimum of twelve (12) months of storage capacity.
 - (ii) All expansions of feedlots with a liquid manure handling system must have a liquid storage capacity to accommodate the increase in animal units. The plans for this expansion must be provided to the Department prior to any construction taking place, and must be completed within two (2) years of the date that the permit was issued. This rule is not intended to be applied to any expansion that utilizes a solid manure handling system.
 - (iii) No open-air swine or poultry liquid manure storage basins will be allowed.
 - (iv) All liquid manure storage basins must be fenced to Natural Resources Conservation Service (NRCS) specifications.
 - (v) Manure application agreements must be for at least four years for all expansions or new construction.
 - (vi) All new manure storage structures (earthen basins, slurry stores, concrete manure storage, runoff ponds, sediment ponds or other similar structures) shall be a minimum of 300 feet from any property line (including a road right-of-way) unless the manure storage structure is being installed to mitigate a pollution

hazard and meeting the 300 foot setback is not feasible or is impractical. In no case shall a new manure storage structure be located within the minimum building setback for the zoning district where it is located.

- P. For parcels of land greater than 1 acre in shoreland or “R” zoning.
 - 1. Limited to up to 25 Chickens (no other fowl) and/ 20 rabbits.
 - 2. Shelter, fencing, cages must be provided – no free range animals.
 - 3. Roosters are prohibited.
 - 4. All litter must be garden applied and tilled or removed from property.
 - 5. Property owner must maintain a Livestock Registration with Todd County.
- Q. For parcels located in shoreland zoning that have historic feedlot use.
 - 1. Owner must maintain Livestock Registration with Todd County.
 - 2. May register for up to 9.9 AU maximum animal units on parcel.
 - 3. Todd County will require plans and specifications for review prior to approval of registration verifying setbacks, potential runoff, wetlands, etc.
 - 4. Final determination is made by Planning and Zoning Administrator.
- R. A violation of this section shall constitute a misdemeanor and be processed according to the procedures established in Article X.

Section 9.12 Mining and Extraction Use

- A. Mining & extraction permits. Activities permitted include washing, crushing, screening, and stockpiling of soil, rock, sand, gravel, concrete, and asphalt, removal of barrow material, temporary administrative office structures that will not be present after the permit expires, and equipment maintenance activities under the following conditions:
 - (i) Permittee signatures. Both the landowner and the contractor shall sign the application and be responsible for meeting the conditions of the permit.
 - (ii) Hours of operation. Activities related to mining and extraction shall be only during daylight hours only (½ hour before sunrise to ½ hour after sunset), Monday through Saturday.
 - (iii) Equipment setbacks. All processing equipment and structures related to mining and extraction shall be located at least 300 feet from side and rear lot lines and 100 feet from any public road right-of-way, unless written consent from the adjoining property owner is obtained.
 - (iv) Stockpile setbacks. Stockpiles may be located no closer than 100 feet from any property line, unless written consent from the adjoining property owner is obtained.
 - (v) Property line setbacks. All excavation areas must be sufficiently setback from property lines to ensure an appropriate reclamation slope can be created entirely on the property, or a minimum of 50 feet, whichever is most restrictive. These setbacks may be reduced if the adjoining property owner allows use of their land for reclamation purposes.

- (vi) Validity. Permits shall be considered valid for forty-eight (48) months from the date of issue. The permit may be renewed so long as conditions continue to be met.
 - (vii) Permitted mining and extraction activities are subject to inspections by the Department for the purpose of determining compliance with the standards set forth in this section.
- B. Conditional use permits. Conditional use permits are required for all mining and extraction activities that will not meet the conditions listed in A. These shall include, but not be limited to hard rock mines and quarries, sites involving asphalt plants, sites where structures are erected for the purpose of retail sales, and sites where blasting will occur. Both the landowner and the contractor shall sign the application and be responsible for meeting the conditions of the permit.
- C. Performance standards. All gravel mining and excavation activities, whether a standard or a conditional use permit, shall meet the following standards:
- (i) Bonding: The owner and/or operator shall submit a bond or letter of credit in the amount of \$1,500 per acre with a minimum of \$5,000. Proof of bonding must be submitted prior to the beginning of operations and by January 1st of each subsequent year that the pit is in operation. The period of the bond shall be for at least five years or otherwise so that the bond runs for at least 12 months beyond the permit expiration date.
 - (ii) Site Plan: A complete site plan shall be submitted on a form provided by the Department. This site plan shall include information on the development and management of the site as well as a reclamation and end use plan. The reclamation and end use plan shall be reviewed in accordance with the standards set forth in the MN Department of Natural Resource publication “A Handbook for Reclaiming Sand and Gravel Pits in Minnesota” or successor, in addition to the following requirements:
 - 1) Surface Grading: The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion.
 - 2) Slopes: Banks of all excavations shall be sloped at a rate which shall not be less than three (3) feet horizontal to one (1) foot vertical, unless a plan has been submitted which indicates special consideration is needed, and if said plan, with special consideration, has been approved by the County.

- 3) Vegetation and Topsoil: Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches. Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion. Excavations completed to a water producing depth shall be sloped to the water-line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.
- 4) Surface Grading: The peaks and depressions of the area shall be graded and backfilled to a surface which will result in a gently rolling topography in substantial conformity to the land area immediately surrounding, and which will minimize erosion.
- 5) Slopes: Banks of all excavations shall be sloped at a rate which shall not be less than three (3) feet horizontal to one (1) foot vertical, unless a plan has been submitted which indicates special consideration is needed, and if said plan, with special consideration, has been approved by the County.
- 6) Vegetation and Topsoil: Reclaimed areas shall be sodded or surfaced with soil of a quality at least equal to the topsoil of land areas immediately surrounding, and to a depth of at least three (3) inches. Such required topsoil shall be planted with legumes and grasses. Trees and shrubs may also be planted but not as a substitute for legumes and grasses. Such planting shall adequately retard soil erosion. Excavations completed to a water producing depth shall be sloped to the water-line at a slope no greater than three (3) feet horizontal to one (1) foot vertical.
- 7) Finished Grade: The finished grade shall be such that it will not adversely affect the surrounding land or future development of the site upon which the operations have been conducted.
- 8) Weed and vegetation control: Vegetation, weeds and any other unsightly or noxious vegetation shall be cut or trimmed as may be necessary to preserve a neat appearance and prevent the spread of noxious weeds onto nearby properties.
- 9) Water Resources: The mining and extraction operation shall not interfere with surface water drainage beyond the boundaries of the mining operation or adversely affect the quality of surface or subsurface water resources. Surface water originating outside and passing through the mining and extraction area shall, at its point of departure from the site, be of equal quality of the water at the point where it enters the site.
- 10) Fencing: Any mining and extraction operation adjacent to a residential zone or within 300 feet of any residential structure shall be bound by the following standards:

- a) Holding or ponding areas: Where collections of water occur that are one and one half feet or more in depth existing for any period of at least one month, and occupy an area of seven hundred (700) square feet or more, all access to such collections of water shall be barred by a fence or similarly effective barrier such as snow fence of at least four (4) feet in height.
 - b) Steep slopes: In locations where slopes occur that are steeper than one foot vertical to three feet horizontal existing for a period of one month or more on the property shall be posted against trespass.
- 11) Mining Access Roads: The location of the intersection of mining access roads with any public roads shall be selected such that traffic on the access roads will have a sufficient distance of public road in view so that any turns onto the public road can be completed with a margin of safety. A written agreement between the road authority and the operator must be submitted to the Planning & Zoning Office stating how existing roads will be maintained and repaired, if necessary.
- 12) Screening Barrier: A screening barrier shall be maintained for operations that will extend beyond 24 months between the excavation site and any public road within five hundred (500) feet of any mining or processing operations.
- 13) Erosion Control: All exposed areas subject to erosion shall be controlled through temporary holding ponds, culverts, berms, silt fences or other similar methods. All runoff must be contained within the site
- 14) Removal of Equipment and Structures: All buildings, structures and plants incidental to the mining and excavation operation shall be dismantled and removed by, and at the expense of, the operator last operating such buildings, structures and plants within six months of the expiration date of the permit or of the date operations cease, whichever is sooner.
- 15) In the event that a permit violation occurs, the landowner and the operator will be liable for remedying the violation, including complete reclamation of the site.

Section 9.13 Bed and Breakfast Inn

- A. In districts where permitted or allowed by conditional use, a bed and breakfast inn shall comply with the following standards:
 - (i) The bed and breakfast inn shall be part of an owner-occupied residential structure and shall be owner-operated.
 - (ii) The use shall comply with applicable Federal, State and County rules and regulations.
 - (iii) The exterior appearance of the structure shall not be altered from its single-family character.

- (iv) All guestrooms, and access to guestrooms, shall be located within the principal residential structure.
- (v) The total number of guestrooms shall be limited to five (5).
- (vi) Guests are limited to a length of stay of no more than 14 consecutive days.
- (vii) No food preparation or cooking facilities shall be conducted within any of the guestrooms.

Section 9.14 Exotic Animals

- A. The keeping of wild or exotic animals shall only be allowed with a conditional use permit in the AF-1 or AF-2 districts and shall comply with the following standards:
 - (i) Wild or exotic animals must be enclosed and sufficiently prevented from escape.
 - (ii) The keeping wild or exotic animals shall comply with all applicable feedlot regulations.
 - (iii) The applicant must notify the Todd County Sheriff's Office immediately if the animal escapes or otherwise becomes a danger to public safety.

Section 9.15 Home-based Business

- A. In districts where permitted or allowed by conditional use, a home-based business shall comply with the following standards:
 - (i) There shall be a primary residence on the property that is occupied by the business owner. The business enterprise may be conducted outside as well as within buildings attached or unattached from the residence.
 - (ii) The home-based business activities shall not exceed 1,500 square feet of lot coverage, whether inside or outside of a structure, except that businesses involving farm equipment repair or other agricultural-related businesses where large equipment needs to be stored may not exceed 3,000 square feet of lot coverage. Lot coverage shall include parking spaces but need not include driveway access. If footage limits are exceeded a CUP is required.
 - (iii) There may only be one (1) sign, with a permit, on the parcel advertising the business which shall not be illuminated, shall not exceed a height of ten (10) feet measured to the highest point, and shall not measure greater than thirty-two (32) square feet unless specifically allowed by the Planning Commission. Signs larger than 32 feet should be located on the side of an existing building whenever feasible to minimize the visual impact on the surrounding area.
 - (iv) In addition to the off-street parking requirements for the residents and employees, there shall be a minimum of one (1) off-street parking space for the business.
 - (v) The outdoor storage of items related to the business shall be screened from view from public roads, neighboring residences that may be visually impacted, public surface water and public recreational facilities, unless specifically allowed otherwise by the Planning Commission.

- (vi) The Planning Commission may impose conditions on home businesses to protect public health, safety and welfare and prevent nuisance characteristics such as, but not limited to, hours of operation, parking provisions, lighting, and equipment storage.

Section 9.16 Recreational Vehicles

- A. Recreational vehicles in R-2, UG, RT, and Shoreland districts shall comply with the following standards:
 - (i) RV units being stored (not being used for dwelling purposes) shall be located in a manner which complies with all setback requirements or shall be kept within an enclosed building.
 - (ii) RV's sited and occupied for more than 10 days must secure a permit for the vehicle from the County and must have it displayed in such a manner that it can be seen from the exterior of the vehicle.
 - (iii) RV's sited and occupied for more than ten consecutive days must follow a sewage management plan in compliance with Section 9.08.
 - (iv) RV(s) shall be served by a holding tank with a capacity of at least 1,500 gallons, owners may install a standard septic system.
 - (v) Only one recreational vehicle may be placed on any one lot at any one time with the exception of (ix).
 - (vi) All recreational vehicles, shall meet the same minimum setbacks as a permanent dwelling.
 - (vii) Section 440.E of this Ordinance does not apply to this subsection regarding recreational vehicles and all provisions in this subsection are in full force and effect sixty (60) days from the date of the adoption of this Section by the Todd County Board of Commissioners, except that provisions C and D need not be met until twelve (12) months after adoption by the Board. (Adopted August 1, 2006).
 - (viii) RV units placed on lots with no running water may be considered primitive dwellings and may not require a sewage treatment systems.
 - (ix) Lots of record as of July 1, 2007 meeting all applicable length, width and buildable area requirements may be allowed a second RV provided there are no residential dwellings on the property and the requirements of this ordinance are met. Landowners shall be required to prove additional buildings are not being used for residential dwellings.

Section 9.17 Temporary Family Housing

- A. Temporary family housing may be allowed in the AF-1, AF-2, R-10 and R-2 districts with a conditional use permit. Temporary dwellings shall comply with the following standards:
 - (i) Temporary family housing is for immediate family members only. Conditional use permits shall be issued for an individual and not the land.
 - (ii) The dwelling size shall not exceed 1280 square feet, one story, or two bedrooms.

- (iii) The dwelling, site, or combination of shall not be subdivided, sold or used as rental property.
- (iv) All temporary family housing may be subject to a biennial review by the Planning & Zoning staff.
- (v) Temporary housing shall be removed from the property within 60 days of disuse.
- (vi) Temporary housing shall be required to hook up to a compliant septic system.

Section 9.18 Kennels, Commercial

- A. The use shall comply with all applicable State and County rules and regulations and:
 - (i) Structures used for animal confinement require a minimum 100 foot setback from any property line and 500 feet from any residential structure, other than the applicants, that exists at the time of application.
 - (ii) On-site waste facilities shall be designed to accommodate all waste generated from kennels including hosing and cleanup.
 - (iii) Kennel facilities shall be designed to accommodate winter boarding including adequate heating, ventilation and lighting.
 - (iv) All outdoor kennel facilities shall provide adequate shelter from the elements including sunlight, rain, snow and cold weather.
 - (v) Kennel facilities shall be adequately drained and maintained in a healthful manner.
 - (vi) Kennel facilities shall not be located on riparian lots.

Section 9.19 Wind Energy Systems

- A. Hobbyist. This type of system is designed for small load personal use and:
 - (i) Require a permit including a site plan.
 - (ii) Towers are freestanding or guyed, non-latticed and do not exceed 100 feet in height.
 - (iii) Maximum electrical output does not exceed 10 kilowatts
 - (iv) Systems shall not be directly connected to the commercial grid.
- B. Residential/Commercial. These systems are designed primarily to supply electricity for personal use. The system may be connected to the commercial electrical grid and electricity sold and:
 - (i) Require a conditional use permit for towers greater than 100 feet in height including a site plan.
 - (ii) Non-free standing, guyed non-lattice towers shall not exceed 120 feet in height.
 - (iii) Guyed lattice towers shall not exceed 270 feet in height.
 - (iv) Maximum electrical output does not exceed 400 kilowatts.
 - (v) Wind energy structural and mechanical systems engineering plan including soil investigation shall be developed by a qualified and licensed professional engineer to conform to applicable structural and mechanical standards.
 - (vi) Systems that directly connect to the commercial electrical grid shall conform to National Electrical Code (NEC).

- (vii) Applications for wind energy systems that directly connect to the commercial electrical grid shall be accompanied by a Net Excess Generation (NEG) contract with the respective electrical power company.
- C. Commercial. These systems are designed exclusively to be connected to the commercial electrical grid and electricity sold.
 - (i) Require a conditional use permit.
 - (ii) Towers shall not exceed 300 feet in height.
 - (iii) Maximum electrical output exceeds 400 kilowatts.
 - (iv) Wind energy structural and mechanical systems engineering plan including soil investigation shall be developed by a qualified and licensed professional engineer to conform to applicable structural and mechanical standards.
 - (v) Commercial Systems shall conform to National Electrical Code (NEC).
 - (vi) Applications shall be accompanied by a Net Excess Generation (NEG) contract with the respective electrical power company.
- D. Experimental. These systems are designed and operated exclusively for research, testing, prototyping, education, demonstration, and development to supply electricity to loads isolated from the commercial grid. The system may not be connected to the commercial electrical grid and no electricity sold.
 - (i) Require a conditional use permit for towers more than 100 feet in height including a site plan.
 - (ii) Non-free standing, guyed non-lattice towers shall not exceed 120 feet in height.
 - (iii) Guyed lattice towers shall not exceed 270 feet in height.
- E. Additional standards. In addition to the standards allowed above, all wind energy systems shall comply with the following standards.
 - (i) Towers shall be constructed of, and/or treated with, corrosive resistant material.
 - (ii) Wind energy system towers and electrical equipment shall be maintained and inspected according to manufacturer's requirements by qualified personnel. Annual tower inspection reports shall be provided to the Department.
 - (iii) Wind energy system electrical and mechanical equipment that is connected to a commercial electrical grid shall be maintained and inspected according to manufacturer requirements by qualified personnel. Annual electrical equipment inspection reports shall be provided to the Department and shall include total annual energy generated, total annual energy sold, average daily generation, and instantaneous maximum generation.
 - (iv) Wind energy system electrical equipment that is connected to a commercial electrical grid shall automatically disconnect from the commercial electrical grid within 5 seconds after a grid outage.
 - (v) The use of any portion of a wind energy tower for signs/placards other than warning, identification, or equipment information sign/placards is prohibited. Signs or placards for warning, identification, or equipment information shall not exceed six square feet.

- (vi) The addition of any non-wind energy systems equipment to a wind energy systems tower is prohibited. Towers that do not exceed 75 feet in height are exempt from this requirement.
 - (vii) Wind energy system towers shall blend into the surrounding environment to a height 10 feet above the surrounding foliage through the use of color and camouflaging architectural treatment. From that point to the top of the tower, the tower color shall obviously contrast to the surrounding environment, except in instances where color is dictated by federal or state regulations.
 - (viii) No wind energy system shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction, repair, monitoring or inspection.
 - (ix) For towers over 75 feet tall, suitable protective anti-climbing fencing with a minimum height of 6 feet shall be provided around any tower and guy wires.
- F. Setbacks:
- (i) Towers shall be setback from all property lines and public road right-of-ways an amount equal to the height of towers plus 25 feet.
 - (ii) Guy wires for towers shall be setback 25 feet from all property lines and public road rights-of-way.
 - (iii) Each wind energy system permit or conditional use permit may include a utility building for protection of associated equipment not to exceed 100 square feet.

Section 9.20 Solar Energy Systems

- A. Purpose & Intent. Consistent with the Todd County Comprehensive Plan, the purpose and intent of this Section is to assure reasonable capture and use, by households, businesses, and property owners, of their solar energy resource, and encourage the development of renewable energy businesses.
- B. Types of Solar Energy Systems.
 - (i) Rooftop solar energy systems: accessory to the primary land use, designed to supply energy for the primary use.
 - 1) These systems are allowed accessory uses in all districts in which buildings are permitted.
 - 2) No land use permit is required.
 - (ii) Ground-mount solar energy systems: accessory to the primary land use, designed to supply energy for the primary use.
 - 1) Ground-mount systems are permitted accessory uses in all districts in which buildings are permitted.
 - 2) Ground-mount systems require a land use permit and are subject to the accessory use standards for the district in which it is located, including setback, height, and impervious surface coverage limits.

- 3) The collector surface of a ground-mount system is not considered impervious surface, but any foundation, compacted soil, or other component of the solar installation that rests on the ground is considered impervious surface.
- (iii) Community solar energy systems: Roof or ground-mount solar energy systems, may be either accessory or primary use, designed to supply energy for off-site uses on the distribution grid, but not for export to the wholesale market or connection to the electric transmission grid.
- 1) Rooftop community solar energy systems are permitted in all districts in which buildings are permitted.
 - 2) Ground-mount community solar energy systems are conditional uses in all districts.
 - 3) An interconnection agreement must be completed with the electric utility in whose service territory the system is located.
 - 4) All structures must comply with setback, height, and coverage limitations for the district in which the system is located.
 - 5) Ground-mount systems must comply with all required standards for structures in the district in which the system is located.
- (iv) Solar farms: ground-mount solar energy arrays that are the primary use on the lot, designed for providing energy to off-site uses or export to the wholesale market.
- 1) Solar farms require a conditional use permit.
 - 2) Stormwater management and erosion and sediment control shall meet the requirements of this ordinance.
 - 3) Foundations. The manufacturer's engineer or another qualified engineer shall certify that the foundation and design of the solar panels is within accepted professional standards, given local soil and climate conditions.
 - 4) Other standards and codes. All solar farms shall be in compliance with any applicable local, state and federal regulatory standards, including the State of Minnesota Uniform Building Code, as amended; and the National Electric Code, as amended.
 - 5) Power and communication lines. Power and communication lines running between banks of solar panels and to electric substations or interconnections with buildings shall be buried underground. Exemptions may be granted by the Department in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
 - 6) Interconnection. An interconnection agreement must be completed with the electric utility in whose service territory the system is located.

- 7) Site Plan Required. A detailed site plan for both existing and proposed conditions must be submitted, showing location of all structures, property lines, floodplains, wetlands and other protected natural resources, topography, electric equipment, and all other characteristics requested by Todd County.
- C. Additional standards. In addition to the standards allowed above, all solar energy systems shall comply with the following standards.
- (i) All electric solar energy systems that are connected to the electric distribution or transmission system, either directly or through the existing service of the primary use on the site, shall obtain an interconnection agreement with the electric utility in whose service territory the system is located. Off-grid systems are exempt from this requirement.
 - (ii) Electric solar system components that are connected to a building electric system must have an Underwriters Laboratory (UL) listing.
 - (iii) All solar energy systems must comply with the Minnesota and National Electric Code.
 - (iv) All rooftop solar systems shall comply with the Minnesota Building Code.
 - (v) All solar energy systems using a reflector to enhance solar production shall minimize glare from the reflector that affects adjacent or nearby properties. Steps to minimize glare nuisance may include selective placement of the system, screening on the north side of the solar array, reducing use of the reflector system, or other remedies that limit glare.
 - (vi) Building- or roof- mounted solar systems shall not exceed the maximum allowed height in any zoning district. For purposes of height measurement, solar systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices for the zoning district in which the system is being installed, except that solar energy systems shall not be required to be screened.
 - (vii) Commercial rooftop systems shall be placed on the roof to limit visibility from the public right-of-way or to blend into the roof design, provided that minimizing visibility still allows the property owner to reasonably capture solar energy.

Section 9.21 Commercial Communication Tower Facilities

- A. Purpose & Intent. In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the County finds that these regulations are necessary in order to:
- (i) Facilitate provision of wireless communications services to the residents and businesses;
 - (ii) Minimize adverse visual effects of towers through careful design standards;
 - (iii) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements;

- (iv) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community; and
 - (v) Minimize the adverse effects on aviation safety.
- B. Standards for Telecommunication Towers.
- (i) The tower shall be set back a distance equal to the tower height from all property lines and said setback shall not cross a public right of way. All accessory structures shall be set back a minimum of fifty (50) feet from all side yard and rear yard property lines and one hundred (100) feet from all public right of ways.
 - (ii) Proposed commercial wireless telecommunication service towers are to be designed, structurally, electrically, and in all respects to accommodate the applicant's antennas and comparable antennas for at least three additional users if the tower is over 100 feet in height, or for at least one additional user if the tower is less than 100 feet in height. Towers must be designed to allow for future rearrangement of antennae upon the tower and to accept antennas mounted at varying heights. Note that any prohibition of additional users on a tower will be considered a violation of the permit and County policy.
 - (iii) Towers and their antennae shall not be illuminated by artificial means, except for camouflage purposes or the illumination is specifically required by the Federal Aviation Administration or other authority.
 - (iv) All towers shall be reasonably protected against unauthorized climbing using anti-climb devices or fencing.
 - (v) No part of any tower or its appurtenances shall at any time extend across or over any part of the right of way, platted street, private road or sidewalk.
 - (vi) No advertising or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by Federal, State, or local authorities.
 - (vii) All obsolete or unused towers and accompanying accessory facilities shall be removed within six (6) months of the cessation of operations at the site unless a time extension is presented to and approved by the County Board. After the facilities are removed, the site shall be restored to its original or an improved state. Failure to remove the structure shall be cause for the County to remove the tower and associated equipment and assess the cost against the property for collection with the real estate taxes.
 - (viii) Towers over 100 feet in height must be designed and inspected by a qualified and licensed professional engineer (at the applicant's expense). The towers and their antenna must conform to applicable state structural building standards and/or all other applicable reviewing agencies, including but not limited to electrical

engineering methods and practices as specified in the National Electrical Code, and FCC approval of communications applications.

- (ix) No conditional use permits shall be granted prior to approval of the FAA. It is the applicant's responsibility to notify and obtain FAA approval.

C. Minimum requirements for Telecommunication Tower Conditional Use Permit application:

- (i) A completed **Todd County Conditional Use Permit Application**, such application is to be signed by the property owner and any lease agreements must be included with the application. The property lease and/or agreement must include who is responsible for removal of the tower if it is damaged or no longer in use.
- (ii) A site plan showing:
 1. North arrow.
 2. Graphic scale of the plan, not less than one inch to twenty (20) feet.
 3. Location and size of the proposed tower facility, support structures, accessory buildings and access driveways.
 4. Vicinity map showing land uses and existing residences and businesses within one-half mile of the proposed tower.
 5. Dimensions of the property (all property corners must be identified).
 6. Setback distances from all property lines, roads and lakes.
 7. Elevations.
 8. Proposed locations for tower, fence and accessory structures.
 9. Topography and drainage.
- (iii) Plans for fencing and a gate for around the tower to protect from unauthorized climbing.
- (iv) Area Served Documentation must be provided showing the area to be served including maps demonstrating size search rings for the antenna location. This documentation is to include a narrative describing a search ring of not less than a one (1) mile radius for the requested site, clearly explaining why the site was selected, what existing structures were available, and why they are not suitable as locations or co-locations.
- (v) Co-location information. Provide documentation showing that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the search ring of the service area due to one or more of the following reasons:
 - (1) The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by a qualified professional radio frequency (RF) engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned equipment at a reasonable cost, or

- (2) The planned equipment would cause interference with other existing or planned equipment, at the tower or building as documented by a qualified professional radio frequency (RF) engineer, and the interference cannot be prevented at a reasonable cost; or,
 - (3) No existing or approved towers or commercial/industrial buildings within one (1) mile radius meet the radio frequency (RF) design criteria, or
 - (4) Existing or approved towers and commercial/industrial buildings within a one (1) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified professional radio frequency (RF) engineer.
 - (5) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building. A statement showing that a good faith effort was made to co-locate on existing towers and structures within a one (1) mile radius, but an agreement could not be reached.
- (vi) Documentation providing FCC approval (or application for approval) for said tower.
 - (vii) Documentation providing FAA approval (or application for approval) for said tower.
- D. Conditions which preclude the issuance of a permit:
- (i) No permit shall be issued if the Federal Aviation Administration or the County finds that such proposed tower would pose a hazard, in any way, to air navigation.
- E. Effect of Ordinance on existing Towers and Antennas:
- Antenna and towers in existence as of the date of the adoption of this Ordinance, which do not conform to or comply with this Ordinance are subject to the following provisions:
- (i) Towers may continue in use for the purpose now used and as now existing but may not be replaced or structurally altered without complying in all respects with this Ordinance.
 - (ii) Statement of Operation and Abandonment and removal. The owner of an existing tower facility or any tower facility erected or constructed after the passage of this Ordinance shall notify the county if the tower facility is no longer in use. If the tower becomes obsolete for permitted uses the County may contract for the removal of the obsolete tower and assess the fee title owner for the charges to be assessed against the property.

Section 9.22 Riparian Protection Ordinance

A. Statutory Authorization and Policy

- (i) Statutory authorization. This buffer ordinance is adopted pursuant to the authorization and policies contained in Minn. Stat. §103F.48, the Buffer Law,

and the County planning and zoning enabling legislation in Minn. Stat. chapter 394.

- (ii) Purpose and intent. It is the purpose and intent of the County to:
 - (1) Provide for riparian vegetated buffers and water quality practices to achieve the following purposes:
 - (a) Protect state water resources from erosion and runoff pollution;
 - (b) Stabilize soils, shores and banks; and
 - (c) Protect or provide riparian corridors.
 - (2) Coordinate the implementation and enforcement of the water resources riparian protection requirements of Minn. Stat. §103F.48 with the shore land management rules and ordinances adopted under the authority of Minn. Stat. §103F.201 to 103F.227 and the management of public drainage systems established under Minn. Stat. chapter 103E where applicable; and
 - (3) Provide efficient and effective direction to landowners and protection of surface water quality and related land resources.

B. Buffer Requirements

- (i) Buffer Width. Except as provided under section (v), Alternative Practices, a landowner must maintain a buffer area on a water shown on the MN DNR Buffer Protection Map as follows:
 - (1) For waters shown on the buffer protection map requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer as measured according to section (ii), Buffer Measurement, except as provided in section (v), Alternative Practices.
 - (2) For waters shown on the MN DNR Buffer Protection Map requiring a sixteen and a half (16.5) foot minimum width buffer as measured according to section (ii), Buffer Measurement, except as provided in section (v), Alternative Practices.
- (ii) Buffer Measurement
 - (1) The measurement of the required buffer on land adjacent to a water requiring a fifty (50) foot average width and a thirty (30) foot minimum width buffer must be from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level.
 - (2) The measurement of the required buffer on land adjacent to a water requiring a sixteen and a half (16.5) foot minimum width buffer must be in the same manner as for measuring the perennial vegetation buffer strips under Minn. Statute §103E.021.
- (iii) Use of Buffer Area. A buffer may not be used for cultivation farming but may be grazed, mowed, hayed or otherwise harvested, provided that permanent growth of perennial vegetation is maintained, except as provided in section (iv), Exemptions, and section (v), Alternative Practices.

- (1) Exemptions The buffer width requirement of section (i), Buffer Width, does not apply to land that is exempted from the water resources riparian protection requirements under Minn. Stat. §103F.48, subd. 5. Exemptions include:
 - (2) :
 - (a) Enrolled in the federal Conservation Reserve Program (CRP);
 - (b) Used as a public or private water access or recreational use area including stairways, landings, picnic areas, access paths, beach and watercraft access areas, and permitted water-oriented structures as provided in the shore land model standards and criteria adopted pursuant to Minn. Stat. §103F.211 or as provide in the Todd County Shoreland Ordinance;
 - (c) Covered by a road, trail, building or other structure;
 - (d) Regulated by a national pollutant discharge elimination system/state disposal system (NPDES/SDS) municipal separate storm sewer system, construction or industrial permit under Minnesota Rules, chapter 7090, and the adjacent waterbody is provided riparian protection;
 - (e) Part of a water-inundation cropping system; or
 - (f) In a temporary non-vegetated condition due to drainage tile installation and maintenance, alfalfa or other perennial crop or plant seeding, or a construction or conservation project authorized by a federal, state or local government unit.
 - (3) Landowners claiming the applicability of an exemption to their parcel are responsible for identifying the exemption and maintaining evidence of eligibility to demonstrate qualification for the exemption.
 - (iv) Alternative Practices. As provided in Minn. Stat. §103F.48, subd. 3(b) an owner or operator of land that is used for cultivation farming may demonstrate compliance with section (i), Buffer Width, by establishing and maintaining an alternative riparian water quality practice(s), or combination of structural, vegetative, and management practice(s), based on the Natural Resources Conservation Service Field Office Technical Guide (FTOG), common alternative practices adopted and published by BWSR, or other practices approved by BWSR which provide water quality protection comparable to the water quality protection provided by a required buffer as defined in sections (i), Buffer Width, to (iii), Use of Buffer Area.
- C. Compliance Determinations. Compliance on each parcel will be determined based on the establishment and maintenance of buffers and/or alternative practices.
- (i) Compliance status will be determined:
 - (1) On a parcel basis as identified by a unique locally defined property identification number or description; and
 - (2) The compliance status of each bank, or edge of an applicable water body on an individual parcel will be determined independently.
 - (3) When a noncompliant buffer is observed or reported.

- (4) When a Conditional Use Permit or Variance application is made.
 - (ii) Notification of Noncompliance. When a potential noncompliant buffer is observed or reported the SWCD is to determine the appropriate course of action to confirm compliance status. This may include: communication with the landowner or operator, communication with the shore land management authority, inspection, or other appropriate steps necessary to verify the buffer compliance status of the parcel. On the basis of this investigation, the SWCD may issue a notification of noncompliance to Todd County; the landowner and BWSR will also receive a copy of the notification. If the SWCD does not issue such a notification, Todd County will not pursue a compliance or enforcement action under Minnesota Statutes §103F.48 and section III.
 - (iii) At any time, the landowner may provide documentation of compliance to the SWCD. The SWCD will evaluate the documentation, or review the buffer and/or alternative practices to determine if the parcel is in compliance and issue its determination in writing to the landowner and Todd County. The SWCD may issue a validation of compliance if applicable and requested by the landowner. A landowner will not be subject to enforcement action if the SWCD has issued a satisfactory written compliance determination. A copy of any written validations of compliance will be sent to BWSR.
- D. Enforcement and Penalty Procedures
- (i) Corrective Action Notice.
 - (1) On receipt of an SWCD notification of noncompliance, Todd County will send the landowner a corrective action notice that will:
 - (a) include a list of corrective actions needed to come into compliance with the requirements of Minn. Stat. 103F.48;
 - (b) provide a timeline for complying with this notice;
 - (c) provide a compliance standard against which the County will judge the corrective action; and include a statement that failure to respond to this notice will result in the assessment of financial penalties.
 - (2) Todd County may deliver or transmit the corrective action notice by any means reasonably determined to reach the landowner, and will document receipt. However, a failure to document receipt will not preclude Todd County from demonstrating receipt or knowledge of the corrective action notice in an enforcement proceeding. Todd County must send a copy of the notice to the SWCD and BWSR.
 - (3) At any time, the landowner may provide documentation of compliance to Todd County. In addition, the landowner may supply information in support of a request to modify a corrective action or the timeline for compliance. On the basis of any such submittal or at its own discretion, Todd County, in writing, may modify the corrective action notice or timeline for compliance,

and will deliver or transmit the modified corrective action notice and timeline in accordance with this section. Modifications to the corrective action notice will be sent to the SWCD and BWSR. Todd County should determine if the noncompliance has been fully corrected and issue its determination as, in writing, to the landowner. The SWCD may issue a validation of compliance if requested by the landowner and following consultation with Todd County.

(4) A corrective action notice is not considered a final decision and is not subject to appeal.

(ii) Administrative Penalty Order.

(1) Enforcement by Todd County. Todd County's authority to enforce the water resources riparian protection requirements of Minn. Stat. §103F.48 is by APO authorized under Minn. Stat. §103B.101, subdivision 12a.

(2) Todd County's Enforcement Team. Prior to issuance of an APO, Todd County staff may establish an enforcement team to review the case and develop an APO. The enforcement team exists to assure the consistent administration of APO authority. The enforcement team consists of the Division Director, the Planning and Zoning staff assigned to buffer enforcement, and the SWCD staff member assigned to buffer compliance.

(3) Amount of penalty. Todd County may issue an APO as provided for in Minn. Stat. §103B.101, subdivision 12a against a landowner that does not comply with a corrective action notice.

(a) Initial Violation. The penalty for a landowner on the same parcel that has not previously been the subject of an APO will be assessed on the following schedule:

(i) \$0 for 11 months after issuance of the corrective action notice date;
and

(ii) \$50 per parcel per month for the first six (6) months immediately following the completion of time period in (i); and

(iii) \$200 per parcel per month after six (6) months following the time period in (ii).

A modification of the corrective actions and timeline for compliance, in accordance with section III.1, will extend the compliance timeline only for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

(b) Repeat violation. The penalty for a landowner on the same parcel that has previously been the subject of an APO will be assessed on the following schedule:

(i) \$50 per parcel per day for 180 days after issuance of the corrective action notice date;

(ii) \$200 per parcel per day for 180 days immediately following the completion of time period in (i).

(c) Ongoing penalty assessment – any penalty assessed under this section shall continue until the corrective action notice has been satisfied.

A modification of the corrective actions and timeline for compliance, in accordance with section C (i), will extend the compliance timeline only for a modification that imposes a substantial new action or significantly accelerates the completion date for an action.

(4) Order.

- (i) The APO will state: The facts constituting the violation of the riparian protection and water quality practices requirements set forth in this section (D) of this ordinance or Minn. Stat. §103F.48 ;
- (ii) The specific statute and/or ordinance section(s) that has/have been violated;
- (iii) A written description of prior efforts to work with the landowner to resolve the violation;
- (iv) The amount of the penalty to be imposed;
- (v) The date the penalty will begin to accrue;
- (vi) The date that payment of the penalty is due;
- (vii) The date by which all or part of the penalty may be forgiven if the landowner has/have complied with the Corrective Action Notice; and
- (viii) A statement of the landowner’s right to appeal the APO.

(b) All or part of the penalty may be forgiven on the basis of complete correction of the noncompliance by the landowner following issuance of the APO by the landowner at the Todd County Enforcement Team’s discretion. A copy of the APO must be sent to the SWCD.

(c) An APO that is not submitted for appeal to the executive director of BWSR within 30 days of receipt by the landowner is final.

(iii) Administrative Penalty Order Procedures

- (1) Statute of limitations. According to Minn. Stat. §541.07, clause (2), Todd County has two years in which to commence an APO action after the violation is discovered. The goal is to complete the action as soon as reasonably practical, recognizing that situations for which data must be gathered, field investigations must be completed and/or modeling must be performed will require adequate time to complete the work and communicate with the person(s) involved.
- (2) Compliance verification. Once a landowner has submitted written evidence of correction of the violation, compliance must be verified. Todd County shall:
 - (a) Review and evaluate all information related to the APO to determine if the violation has been corrected;
 - (b) Verify compliance by site visit, re-inspection, examination of documentation, or other means as may be reasonable under the facts of the case; and
 - (c) Document compliance verification.

Todd County may consult with the SWCD when conducting a compliance verification.

- (3) Right to appeal. Minn. Stat. §103F.48, subdivision 9, establishes the rights and procedures for appeal of an APO issued for a violation of the water resources riparian protection requirements. A landowner may appeal, in writing, the terms and conditions of an APO issued by Todd County within 30 days of receipt of the order. The appealing party must provide a copy of the order that is being appealed, the basis for the appeal and any supporting evidence. The appeal may be submitted by U.S. mail, or electronically, to the executive director of BWSR. At the discretion of the executive director, APOs for the same or similar violations on a parcel may be combined and addressed as a single appeal. The executive director will review the appeal and supporting evidence and issue a decision with 60 days of receipt of the appeal. The executive director's decision is appealable to the Court of Appeals pursuant to Minn. Stat. §14.63 to 14.69.
- (4) Penalty due, interest assessed. Unless the landowner requests an appeal of the APO within 30 days of receipt of the APO, the penalty is due and payable to Todd County as specified in the APO. If the landowner submits written evidence, which may include a validation of compliance issued by the SWCD, within 30 days of the date specified in the APO that the violation was corrected, but Todd County determines it was not, the landowner has 20 days to pay the penalty after receipt of the letter from Todd County that the violation has not been fully corrected, or the time period specified in the APO as issued, whichever is later.

Interest will accrue at the rate established pursuant to Minn. Stat 549.09 beginning on the 1st of the 12th month after issuance of the corrective action notice.

- (5) Referral for collection of penalty. All penalties and interest assessed under an APO must be paid by the landowner within the specified time and made payable to Todd County. Penalties and interest that have not been paid by the landowner within 12 months of the date specified in the APO will be referred to the Minnesota Attorney General's Office for collection. Any penalty or interest not received in the specified time may be collected by lawful means.
- (6) Reporting and documentation. Effective compliance reporting and documentation will ensure that proper enforcement action is taken, and that a record is maintained of these actions. When Todd County identifies a violation, via site visit, of the water resources riparian protection requirements, staff will follow record keeping procedures to assess and document the following to the extent known or available:
 - (a) Cause of the violation;
 - (b) Magnitude and duration of the violation;

- (c) Whether the violation presents an actual or imminent risk to public health and safety, or the natural resources of the state;
 - (d) Past violations;
 - (e) Efforts by the SWCD, County, Watershed District or BWSR to assist the landowner to become compliant, including written and oral communications with the landowner; and
 - (f) Past and present corrective action efforts by the landowner.
- E. Definitions associated with 9.22
- (i) "BWSR" means the Board of Water and Soil Resources. "Buffer" has the meaning given in Minn. Stat. §103F.48, subd. 1(c).
 - (ii) "Buffer protection map" means the buffer map established and maintained by the commissioner of natural resources published in 2017, and as subsequently amended that is available on the department of natural resources website.
 - (iii) "Commissioner" means the commissioner of natural resources.
 - (iv) "Cultivation farming" mean practices that disturb root or soil structure or that impair the viability of perennial vegetation.
 - (v) "Landowner" means the fee title landowner or agent or operator.
 - (vi) "Normal water level" means the level evidenced by the long-term presence of surface water as indicated directly by hydrophilic plants or hydric soils or indirectly determined via hydrological models or analysis.
 - (vii) "Public waters" has the meaning given in Minn. Stat. §103F.48. The term public waters as used in this ordinance applies to waters that are on the public waters inventory as provided in Minn. Stat. §103F.48
 - (viii) "SWCD" means the Soil and Water Conservation District

Section 9.23 Short-Term and Vacation Rentals

A. Purpose, Scope, & Objectives

(i) Purpose

It is the purpose and intent of this Ordinance to regulate short-term and vacation rentals within Todd County, continuing the allowed use of these rental units, while also mitigating possible adverse impacts to health, safety, welfare, and quality of life of surrounding properties, as well as water and environmental quality, through the establishment of a licensing program for the review and approval of short-term/vacation rental unit operations.

(ii) Scope

Pursuant to Minnesota Statutes 145A.01 – 145A.11, Chapter 157, Chapter 327, Chapter 375.51- 375.55, Minnesota Rules 4625.0100 – 4625.2355 relating to lodging establishments, and Minnesota Rules, Parts 4717.0150 to 4717.3975 relating to pools/spas; including all subsequent amendments thereto, are hereby adopted by Todd County by reference.

(iii) Objectives

- 1) To provide and enforce standards for the maintenance of short-term/vacation rentals
- 2) To provide local governance to promote health, safety, and wellness to Todd County citizens and patrons of short-term/vacation rentals.

B. Effective Date

- (i) All short-term/vacation rentals existing prior to the adoption of this ordinance on February 15th, 2022, shall obtain a license at those times required by this Ordinance. No Conditional Use Permitting shall be required at their current capacity, but any expansion of capacity shall be reviewed, licensed, and if necessary, permitted by Todd County.
- (ii) An approved license provides no vested rights.

C. License and Permits

- (i) Short-term/vacation rental licenses shall be obtained pursuant to Minnesota Rule 4625.2300. No short-term/vacation rental may operate without both a valid license issued pursuant to this Ordinance and a copy of said valid license on file with Planning & Zoning.
- (ii) It shall be the responsibility of the landowner to provide a copy of a valid license to Planning & Zoning each time it is obtained.
- (iii) Each separate dwelling structure shall have its own license. Each dwelling structure may have up to 4 separate units within it.
- (iv) Conditional Use Permitting shall be required when the total capacity of all short-term/vacation rental units on a site are proposed to be greater than, either or both, 15 guests or 5 bedrooms.
- (v) This section does not exempt from compliance with Section 7.04 & 7.05 of this Ordinance.

D. Performance Standards

- (i) All Licensed short-term/vacation rental units shall have a compliant SSTS consistent with Section 9.08 of this Ordinance prior to licensing.
- (ii) Any expansion of capacity shall first be licensed and permitted if necessary.
- (iii) Any listing for the unit may not advertise more allowed guests than the licensed amount.
- (iv) All parking must be on-site and be on a driveway or other designated suitable parking surface. Parking shall not be allowed within road right-of-ways and shall not be allowed at any time to block access for emergency services, impede any ingress or egress of property owners, or encroach on neighboring properties.
- (v) Recreational Vehicles, Campers, Tents, Ice- Houses, and accessory structures shall not be allowed to be occupied or rented unless licensed and permitted separately.
- (vi) Quiet Hours are between the hours of 10 PM to 7 AM, Sunday through Thursday; and 12 AM through 7 AM, Friday and Saturday. The owner of the unit shall be expected to enforce this rule.
- (vii) The boundaries of the property shall be in some manner demarcated- via posted signage, fencing, natural vegetative buffers, or similar manner.

- (viii) The exterior appearance of the structure shall not be altered from its single-family character.
- (ix) Each separate structure with living space shall have its own assigned E-911 Address.
- (x) Each unit shall post in a prominent location so as to be easily visible and read by guests:
 - 1) Name and contact information of owner or operator.
 - 2) Local emergency contact information.
 - 3) Maximum allowed number of overnight guests of property.
 - 4) E-911 Address of the site.

Article X. Enforcement.

Section 10.01 Violations and Penalties

Any violation of the provisions of this ordinance or failure to comply with any of its requirements by a landowner or their agent, including violations of or failure to comply with conditions and safeguards established in connection with the granting of a land use permit, or contained within variances or conditional uses shall constitute a misdemeanor and shall be punishable as defined by Minnesota State Statutes. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity. Each day a violation of this ordinance or each day that a failure to comply with any requirements of this ordinance continues shall constitute a separate offense. The Department and the Todd County Sheriff shall have the power to enforce this ordinance by issuing citations for criminal violations of this ordinance upon the owner of a property and/or their agent. Todd County, through the Department may sue for injunctive relief on any violation including restoration of the premises to its condition existing prior to the violation.

Section 10.02 Prosecution

The Department may enforce the provisions of this ordinance whether through criminal prosecution, civil remedy, or both. Utilization of a civil remedy shall not prevent a criminal prosecution for the same violation. A criminal prosecution for a violation shall not be a bar to civil remedy.

Section 10.03 Duty to Enforce

It shall be the duty of the Department, the County Attorney, and the County Sheriff to perform such duties as may be necessary to enforce the provisions of this ordinance.

Section 10.04 Cease and Desist Orders

Cease and desist orders may be issued when the Department has probable cause that an activity regulated by this or any other County ordinance is being or has been conducted without a permit or in violation of a permit. When work has been stopped by a cease and desist order, it shall not again be resumed until the reason for the work stoppage has been completely satisfied, any administrative fees paid, and the cease and desist order lifted.

Section 10.05 Administrative Fees and Restoration

Any application for a permit that is made after the work has commenced and which requires a permit or is done in violation of a permit shall be charged an additional administrative fee. In addition, the Planning Commission, Board of Adjustment, or the Department may require correction and/or restoration of the property to its original state should the application for a permit be denied or if the action permitted does not include all or part of the work commenced prior to approval of said permit.

Article XI. Regulation of Adult Use Businesses

Section 11.01 Purpose and Intent

- A. In the development and adoption of this Section, it is recognized that:
 - (i) There are some adult use businesses which have serious objectionable operational characteristics, particularly when located in close proximity to residential neighborhoods.
 - (ii) These business uses have deleterious impact upon property values.
 - (iii) These business uses frequently become places of criminality.
- B. It is the further purpose of this ordinance to protect the well-being of the youth of the community from objectionable operational characteristics of these uses by regulating and restricting their close proximity to established facilities such as, but not limited to churches, parks, schools, and residential areas.
- C. In recognition of the protections afforded to the citizens of the United States under the First and Fourteenth Amendments to the Constitution of the United States, it is neither the intent nor effect of this ordinance to inhibit the freedom of speech or the press. The provisions herein have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials.
- D. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market. This ordinance represents a balancing of the legitimate ends of the County by imposing an incidental, content-neutral place, time and manner of regulation of sexually-oriented entertainment to sexually-oriented businesses without limiting alternative avenues of communication, and at the same time, requiring the businesses to carry their financial share of the law enforcement activities. The special regulations deemed necessary to control the undesirable effects arising from these enterprises are set forth in this ordinance.

Section 11.02 Findings

- A. Based on evidence and testimony presented at a public hearing before the Todd County Board, which included information about the negative secondary effects of adult entertainment establishments and adult use businesses in other communities in the United States; and on decisions in the cases of City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986); Young v. American Mini Theaters, 426 U.S. 50 (1976); City of Erie v. Pap's A.M., 120 S. Ct. 1382 (2000); California v. LaRue, 409 U.S. 109, 111 (1972); Barnes v. Glen Theater, Inc., 501 U.S. 560 (1991); Knudtson v. City of Coates, 519 N.W.2d 166 (Minn. 1994); S.O.B., Inc. v. County of Benton, 317 F.3d 856 (8th Cir., Minn, 2003); Jakes, Lt., Inc. v. City of Coates, 284 F.3d 884 (8th Cir., Minn, 2002); and Kismet Investors v. County of Benton, 617 N.W.2d 85 (Minn. App. 2000), and on the substance of and findings made or incorporated in studies accomplished in other communities and ordinances enacted in other communities (See notes section for listing of specific studies); on findings and recommendations in Everything You Always Wanted to Know About Regulating Sex Businesses, American Planning Association, Planning Advisory Service Report Number 495/496, December, 2000; along with the Board's knowledge of actual conditions within Todd County and the surrounding counties, the Todd County Board hereby finds:
- (i) Establishments exist, have existed, and may exist within the County and surrounding counties where the primary or dominant theme, of all or part of the business, is the presentation, display, depiction, or description of specified anatomical areas or specified sexual activities, as those terms are defined in the proposed amendments to Todd County Planning & Zoning Ordinance. These establishments include, but are not limited to businesses:
 - 1) Distinguished by an emphasis on or the promotion of dancers, entertainers, performers, or other individuals, who perform or are presented while displaying or exposing specified anatomical areas or are presented while simulating or engaging in specified sexual activities;
 - 2) Where workers dance or perform in consideration for tips, remuneration or compensation from or on behalf of those customers, or offer, solicit or contract to do the same, and the product, service or entertainment is intended to provide sexual excitement, sexual stimulation or sexual gratification to such customers;
 - 3) Where straddle dancing, lap dancing, private modeling, prostitution, unlawful drug transactions, or lewd and lascivious touching occurs between customers and workers or performers;
 - 4) Where sexually oriented media are offered for sale or rental;
 - 5) Where sexually oriented adult toys or novelties are offered for sale.
- B. Activities exist, have existed, or may exist within the County and surrounding counties where sexually oriented physical contact or escort services are offered for pecuniary gain. The people involved in such activities engage in physical contact or touching with customers, including acts of prostitution, or encourage or entice customers to engage in acts of lewdness.

- C. The activities described in subsections (1) and (2) above, and the establishments in which they occur, are subject to regulation by the County in the interest of the health, safety, and general welfare of the people of Todd County.
- D. When the activities described in subsections (1) and (2) are present in establishments, activities which are illegal, or unhealthful tend to accompany them, concentrate around them, and be aggravated by them. Such other activities include, but are not limited to prostitution, pandering, solicitation for prostitution, lewd and lascivious behavior, exposing minors to harmful materials, possession, distribution, and transportation of obscene materials, sale or possession of controlled substances, and violent crimes against persons and property. There is a higher correlation between incidents of crime and adult use businesses that involve on-premises entertainment of any kind, as compared to those that do not have on-premises entertainment.
- E. When the activities described in subsection (1) and (2) are present within establishments they tend to attract an undesirable number of transients, blight neighborhoods, adversely affect neighboring businesses, lower real property values, and ultimately lead residents and businesses to move to other locations.
- F. Real estate professionals believe that there is a negative impact of adult use businesses on both nearby residential and business property value. There is an inverse correlation between the level of impact and the distance between the business and other uses. In addition, the impacts on residential properties are greater than on non-residential properties.
- G. Areas with clusters of adult uses experience the greatest decline in property values. Spreading out adult uses will spread out the negative impact. Different types of adult uses have greater negative impacts. Live entertainment cause the greatest decline in neighboring property values as well as the greatest increase in crime incidence. Setback regulations are thereby needed for adult use businesses from other adult use businesses.
- H. The establishments in which the activities described in subsections (1) and (2) occur are frequently constructed, in whole or in part, of substandard materials, and are usually maintained in a manner reflecting a disregard for the health and safety of the occupants, and have exterior appearance and/or signage that depreciates the value of adjoining real property and otherwise contributes to urban decline.
- I. The concurrence of the sale and/or consumption of alcoholic beverages with the activities described in subsections (1) and (2) leads to an increase in criminal activity, decreased inhibitions, moral degradation, and disturbance of the peace and order of the County.
- J. The concurrence of the sale and/or consumption of alcoholic beverages with the activities described in subsections (1) and (2) is hazardous to the health and safety of those persons in attendance, depreciates the value of adjoining real property, harms the economic welfare of the County, and adversely affects the public's interest in the quality of life in the County.
- K. In order to preserve and safeguard the health, safety, morals, and general welfare of the people of the County, it is necessary and advisable for the County to prohibit the sale and consumption of alcoholic beverages at or near establishments where the activities described in subsections (1) and (2) occur.

- L. Establishments at which the activities described in subsections (1) and (2) result in a higher incidence of certain types of criminal behavior than that of other establishments, including prostitution and lewdness in violation of Minnesota Statute 609 and 617.
- M. The potential dangers to health, safety, and general welfare of the citizens of the County posed by permitting an establishment at which the activities described in subsections (1) and (2) occur to operate without first obtaining a license and securing a land use permit under the County's licensing and land use ordinance are so great as to require the licensure and permitting of such establishments prior to their being allowed to operate. A thorough but prompt investigation and review of the license and land use applications will facilitate this public purpose. Suspension or revocation of adult entertainment licenses or land use permits at which violations of either the licensing ordinance or the land use ordinance occur, upon adequate proof at administrative proceedings of the occurrence of such acts, will serve to protect the community from such danger by deterring or ending the use of the establishment for future specified acts which are criminal or violate this ordinance. Access to prompt judicial review for a denial, suspension or revocation of a license or land use permit will protect the rights of the licensee or applicant.
- N. Prohibiting establishments at which the activities described in subsections (1) and (2) occur, from operating within set distances of areas zoned for residential use, religious institutions, educational institutions, and parks and other areas where minors are customarily found, will serve to protect minors from the adverse secondary impacts that accompany such establishments.
- O. Adult use businesses involve activities that are pure conduct engaged in and for the purpose of making a profit, rather than speech or expressive activity, and therefore are subject to regulation to protect the health, welfare, and safety of the community.
- P. Operators or workers of adult entertainment establishments who have the authority to direct or control other workers at, or the operation of, an adult entertainment establishment, should be subject to penalties for allowing violations of either the licensing ordinance or the land use ordinance to occur. This will discourage such operators from allowing or encouraging violations of these ordinances the purpose of increasing profits at the establishment to the detriment of the community and contrary to the purposes of these ordinances.

Section 11.03 Permit Application Requirements

- A. No person, firm or corporation shall operate or allow the operation of an Adult Use Business on property under the person's ownership or control without an adult use land use permit as required by this section. A valid "sexually oriented business" license issued by Todd County Public Health pursuant to the Todd County Ordinance Regulating Sexually Oriented Businesses may also be required. This requirement is in addition to other permits required by this ordinance. The license and/or permit shall be one of two types:
 - (i) Adult use principal
 - (ii) Adult use accessory.
- B. The applicant for an adult use land use permit shall complete an application on a form provided by the county. This application shall include:

- (i) The full name, phone number and mailing address of owner(s) of the property and the applicant(s), if different from the owner;
 - (ii) The birth date of the applicant(s);
 - (iii) The parcel number and legal description of the property where the adult use business is proposed;
 - (iv) A detailed floor plan, drawn to scale, showing the type of activities which will be conducted in each area of the adult use business;
 - (v) A sewage treatment system design that meets the requirements of Section 722 of this ordinance, those sanitary system requirements identified in any Todd County Public Health ordinances and those included in Chapter 7080, MN Pollution Control Agency, Individual Sewage Treatment Systems Program.
 - (vi) A statement of the type of adult use land use permit (principal or accessory) being applied for.
 - (vii) Sufficient evidence from a licensed surveyor that all setback requirements in this ordinance will be met.
- C. Changes in design or use.
- (i) If an applicant makes any changes in the proposed design or use of the property, or any other changes to the information submitted in the application, before an adult land use permit is issued, the applicant shall submit the proposed changes in writing to the Todd County Director. Changes submitted by the applicant will automatically restart the time limit imposed by Minnesota Statute 15.99.
 - (ii) If an adult use permit holder proposes changes in the design, construction, or use of an already permitted adult use, the permit holder must submit to the Todd County Director, a detailed description of the proposed change in writing and no change can be made unless and until the Director issues a written opinion that the change complies to all requirements of this ordinance.
- D. 11.3.4 Granting of Permit.
- (i) The County shall issue an adult use land use permit only to the owner of the real property or to an applicant who has express written permission from the owner to use the land for an adult use.
 - (ii) An adult use permit shall be valid only for the specific building and type of use described in the application.
 - (iii) Adult uses are subject to the location restrictions, performance standards and conditions listed in Article IV of this ordinance.

Section 11.04 Permit Fees

Each application for an adult use land use permit shall be accompanied by a fee, as set by the resolution of the County Board of Commissioners. All fees shall be paid at time of application.

Section 11.05 Location Restrictions, Performance Standards and Conditions of Adult Use

The County may issue adult use land use permits to businesses located in AF-1, AF-2, Commercial & Industry zoning districts, subject to the following conditions:

- (i) Activities classified as obscene as defined by Minnesota Statutes, Section 617.241, or successor statutes, are not permitted and are prohibited.
 - (ii) Minimum setback requirements for an adult use principal and an adult use accessory shall be 1,320 feet from any other adult use principal or adult use accessory, a church, school, dwelling unit, pool hall, video arcade, hotel, motel, licensed day care/child care home or center, licensed group family day care home or center, public library, residential subdivision, or residential zone. Measurements shall be made in a straight line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the building or structure used as a part of the premises where an adult use principal or adult use accessory is conducted, to the nearest property line of the premises of the uses listed below.
- B. An Adult Use Principal shall not sell or dispense non-intoxicating or intoxicating liquors or hold a consumption and display permit, as those terms are defined in Minnesota Statute 340A, nor shall an adult use be located in a building that contains a business that sells or dispenses non-intoxicating or intoxicating liquors or holds a consumption and display permit, nor shall an adult use be located closer than 1,320 ft. to any building that contains a business that sells or dispenses non-intoxicating or intoxicating liquors or holds a consumption and display permit. Measurements shall be made in a straight line, without regard to city or county boundaries, intervening structures or objects, from the nearest point of the licensed premises containing the adult use to the nearest point of the licensed establishment containing alcohol use. An adult use principal sexually-oriented business shall not allow the consumption of non-intoxicating or intoxicating liquors anywhere on a parcel containing that use or business. All setbacks identified in this section are reciprocal.
 - C. Adult Uses shall be prohibited at any public show, movie, caravan, circus, carnival, theatrical or other performance or exhibition presented to the general public where minors are permitted.
 - D. No Adult Use Principal shall engage in any activity or conduct or permit any other person to engage in any activity or conduct in or about the adult use establishment that is prohibited by any ordinance of Todd County, the laws of the State of Minnesota or the United States of America. Nothing in this Ordinance shall be construed as authorizing or permitting conduct that is prohibited or regulated by other statutes or ordinances prohibiting the exhibition, sale or distribution of obscene materials generally, or the exhibition, sale, or distribution of specified materials to minors.
 - E. No adult use principal sexually-oriented business shall be conducted in any manner that permits the perception or observation from any property not approved as an adult use of any materials depicting, describing, or relating to "specified sexual activities" or specified anatomical areas" by any visual or auditory media, including display, decoration, sign, show window, sound transmission or other means.

- F. A building owner or operator may not have more than one (1) adult use present in the same building or structure.
- G. An Adult Use Principal shall prominently display at all public entrances, located within two (2) feet of the door opening device of the business establishment or section of the establishment devoted to adult uses a sign which states: "This business provides goods and/or services containing adult themes. Persons under eighteen (18) years of age shall not enter." The sign shall be in clear legible letters each letter being at least one inch high.
- H. All parking lots and exterior business premises shall be lit in such a way so that they are visible to law enforcement without the aid of flashlights and/or spotlights.
- I. Adult use principal sexually-oriented businesses shall not be open at any time on Sunday nor between the hours of 12:00am (midnight) and 4:00pm on the days of Monday through Saturday.
- J. Adult accessory uses shall be restricted from, and prohibit access to, minors by the physical separation of such items from areas of general public access:
- K. Display areas shall be physically and visually separated from general view by an opaque wall of durable material, reaching at least eight feet high or to the ceiling, whichever is less. This room must have access controlled by electronic or other means to assure that minors do not enter and/or provide continuous video or window surveillance of the room by store personnel. A sign shall be placed at the entrance to the separate room stating that persons under eighteen (18) years of age are not allowed inside.
- L. Publications characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas." shall not be accessible to minors and shall be physically separated from areas of general public access and/or covered with a opaque wrapper or other means to prevent display of any material other than the publication title.
- M. Adult Accessory Uses not specifically cited shall comply with the intent of this Section subject to the approval of the Director.
- N. Adult Accessory Uses shall be prohibited from both internal and external advertising of adult materials and products.

Section 11.06 Sign Restrictions

- A. Signs identifying or advertising adult use businesses must comply with the following restrictions:
 - (i) Each adult use establishment shall be limited to one (1) sign of not more than seventy-five (75) square feet in total surface area. No sign shall project higher than ten (10) feet above the average grade.
 - (ii) No photos, pictures, digital representations or visual depictions of any person, product, device or service relating to "specified sexual activities" or "specified anatomical area" shall be displayed on any sign.
 - (iii) No merchandise, photos, illustrations, representations or pictures of the sexually oriented products, activities or entertainment offered on the premises of the adult use may be displayed in an area where such items can be viewed from a

sidewalk, public right-of-way, or any building or structure adjoining or adjacent to the adult use business.

Effective Date: - Adult Use Business Section became effective February 3, 2004.

Article XII. Adoption

BE IT ORDAINED THAT:

The Todd County Zoning Ordinance is hereby adopted by the Todd County Board of Commissioners on this Fifteenth day of February, 2022.