

SECTION VI. ADMINISTRATION

A. LAND USE PERMITS.

1. A land use permit shall be obtained prior to erecting, installing, altering or remodeling, or moving any building, deck, patio or structure, or part thereof, in Douglas County outside the corporate limits of cities. All terms of this Ordinance shall be met before a land use permit is issued.
 - a. Exempt: land use permit shall not be required for normal maintenance such as painting, siding, roofing and other similar improvements which do not involve exterior structural changes to the building.
 - b. The following structures are exempt from the zoning or land use permit requirements providing all setback requirements are met:
 - i. Satellite dishes, sidewalks, underground sprinkler and/or irrigation systems, hot tubs, currently licensed fish houses/dark houses, and pump houses no larger than 4' x 4' x 4'.
 - c. Grain bins, decks and patios in non-platted Agricultural Districts are exempt from zoning or land use permits provided all setback requirements are met.
2. A dwelling on a parcel of land in all zoning districts must meet the width and depth requirement of 24 feet, but a parcel of land containing five (5) acres or more in an Agricultural District shall be exempt from the minimum width requirements of this Ordinance.
3. A permit fee payable to the County shall be required for each land use, in accordance with the Douglas County Permit and License Fee Schedule.
 - a. Permits applied for after the work has begun must comply in accordance with the provisions of the Douglas County Zoning Ordinance and permit and License Fee Schedule.
4. A land use permit issued under the terms of this Ordinance shall be valid for one (1) year from the date of issuance. The project must be completed in one (1) year from date of issuance.
5. A land use 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 sewage treatment system is installed and operating.

6. Prior to the issuance of a land use permit, a conditional use permit may be required by the Director of Land and Resource Management for a used building being moved or placed on a tract of land.
 - a. If the building is being moved from the community with building codes, the applicant must provide written documentation from the appropriate official of that community that the building substantially meets the building code and is not currently subject to condemnation as a dilapidated or substandard building.
7. Prior to the issuance of a land use permit within all districts, the onsite sewage treatment systems must be verified for compliance with the sanitation code as adopted by reference in this ordinance, with the exception of those buildings in the Agricultural District that are repaired or constructed which are not used for human habitation and do not contain plumbing of any sort. Prior to the issuance of a land use permit a system which is identified as nonconforming/failing must be upgraded to conform with the Minnesota Individual Sewage Treatment System standards (Minnesota Rules Chapter 7080) within a time frame not to exceed two years or ten months if such system is declared to be an imminent health threat.
8. A verification of connection to a central sewage treatment system, a certificate of compliance for an existing individual sewage treatment system or an individual sewage treatment system design must be submitted and approved by the Land and Resource Management Department prior to the issuance of any land use permit for a building/structure containing plumbing. Additional requirements are set forth in Section V., Performance Standards.
9. Prior to the issuance of a land use permit within all districts, all conditional use and variance conditions on the property must be rectified.
10. No contractor or individual shall perform work upon a project requiring a permit under this Ordinance unless such permit has been issued and posted on the premises and until such contractor has first verified all conditions of the permit.
11. An elevation certificate may be required if the project is located within a flood plain as determined by FEMA maps.
12. Prior to issuance of a land use permit County Sanitarian approval may be required.
13. A Land Use Permit may be denied administratively by the Director of Land and Resource Management if it is considered to be inconsistent with the protection of health, safety and welfare.

B. CONTRACTORS.

1. License Requirements.

- a. No person, firm or corporation shall engage in the business of excavator or landscaping contractor within Douglas County and outside the corporate limits of cities without obtaining a license therefore from the County Commissioners, and shall procure and post with the County Director of Land and Resource Management a bond in an amount as specified in the Douglas County Permit and License Fee Schedule in favor of the County and the public, conditioned upon the faithful compliance with the provisions of this Ordinance. Such license shall be renewable annually on or before December 31 and may be revoked or refused renewal by the County Commissioners for cause. Any construction in violation of any terms of this Ordinance shall be cause for revocation of or refusal to renew a license.
 - b. An annual license fee shall be required. Application for such license shall be made annually on a form furnished by the Director of Land and Resource Management or other designated official.
 - c. Before any license issued under the provisions of this section may be revoked or its renewal refused, the licensee shall be given a hearing to show cause why such licenses should not be revoked or refused. Notice of the time, place and purpose of such hearing shall be in writing.
 - d. Building contractors shall be licensed with the State of Minnesota.
2. No contractor or individual shall perform work upon a project requiring a permit under this Ordinance unless such permit has been issued and posted on the premises and until such contractor has first verified all conditions of the permit.

C. ADMINISTRATIVE OFFICER.

1. Duties and Responsibilities.

The Board of County Commissioners hereby delegates to the Director of Land and Resource Management/representative the duties and responsibilities as follows:

- a. Administer the terms of this Ordinance subject to any required approval of the Planning Advisory Commission and County Board.
- b. Issue permits.
- c. Receive applications for conditional use permit requests, provide proper notification and forward, along with recommendations, to the Planning Advisory Commission.

- d. Receive applications for variance requests, provide proper notification and forward, along with recommendations to the Board of Adjustment.
- e. Receive applications for zoning amendments, provide proper notification and forward, along with recommendations, to the Planning Advisory Commission.
- f. Inspect construction and development to insure that the standards of this Ordinance are being complied with. Land and Resource Management or its agent may require an on-site inspection of any property before, during or after construction has begun and after completion.
- g. Provide and maintain a public information bureau relative to matters arising out of this Ordinance.
- h. Maintain the Douglas County official zoning maps.
- i. File all matters required by Minnesota Statutes 394.27, Subdivision 8 and 394.301, Subdivision 4.
- j. Perform any additional duties required in the administration and enforcement of this Ordinance and the Douglas County Subdivision Controls Ordinance.
- k. Serve as staff to the Planning Advisory Commission and Board of Adjustments.
- l. Undertake such other matters and responsibilities as the County Board may assign from time to time.
- m. Right of entry upon land.
- n. Notice of Abatement to landowners in violation of any provision of this Ordinance.

D. PLANNING ADVISORY COMMISSION.

1. Establishment.

- a. The Board of County Commissioners hereby establishes a Planning Advisory Commission which shall be composed of five (5) members appointed and approved by the County Board. One (1) County Commissioner shall also reside on the Planning Advisory Commission as appointed by the County Board Chairperson. No more than one (1) member shall be a resident of an incorporated area of the County and each member shall serve for a one (1) year period. No more than one (1) voting member of the Planning Advisory

Commission shall be an officer or employee of the County. No voting member of the Commission shall have received, during the two (2) years prior to appointment, any substantial portion of his/her income from business operations involving the development of land within the County for urban and urban-related purposes.

- b. The following County officers or employees shall be ex-officio members of the Planning Advisory Commission without vote and shall serve at the pleasure of the County Board of Commissioners: County Attorney, County Engineer, County Surveyor, County Auditor, and County Director of Land and Resource Management.
- c. The County Director of Land and Resource Management shall act as recording secretary of the Commission and the Commission shall elect a chairperson from among its members and any other such officers as it deems necessary and proper.

2. Duties and Responsibilities.

- a. The Planning Advisory Commission shall review all applications for zoning amendments, conditional use permits, plans for subdivision of land and all categories of planned unit development and make its recommendations to the County Board. The County Board shall be the final authority for the approval or disapproval of all applications of zoning amendments, conditional use permits, plans for subdivision of land and all categories of planned unit developments. The Commission may review all comprehensive plan and official controls and any plans for public land acquisition and development sent to the County for that purpose by any local unit of government or any State or Federal agency and shall make its recommendations to the County Board. The Planning Advisory Commission shall hold public hearings pursuant to law to assist it in making any decision or recommendation. The Commission may view the property before or after the public hearing.

3. Removal and Vacancies.

- a. Removal.

(1.) The County Board of Commissioners may, by a majority vote, remove any members of the Planning Advisory Commission from office for nonperformance of duty or misconduct in office. Nonperformance of duty shall include non-attendance at two (2) consecutive meetings of the Planning Advisory Commission without a valid reason.

b. Vacancies.

- (1.) Vacancies on the Planning Advisory Commission shall be filled by a majority vote of the County Board of Commissioners on the proposed appointment for the remainder of the term of office.

E. BOARD OF ADJUSTMENT.

1. Establishment.

- a. A Board of Adjustment is hereby authorized to be established by the County Board. The Board of Adjustment shall consist of five (5) members appointed by the County Board of Commissioners. At least one (1) member shall be selected from the membership of the Planning Advisory Commission and no more than one member shall be appointed from residents living in the incorporated territory of the County. The Board of Adjustment shall elect a chairperson and vice chairperson from among its members and shall appoint a secretary who need not be a member of the Board. Each member shall serve for a one (1) year period. The meeting of the Board shall be held at the call of the chairperson and at such other times as the Board in its rules of procedure has specified. The Board shall keep a public record of its transactions, finding and determinations.

2. Duties and Responsibilities.

- a. The Board of Adjustment shall have the authority to issue variances, hear and decide appeals from and review any order, requirement decision or determination made by any administrative official charged with enforcing this Ordinance, order the issue of permits for buildings or areas designated for future public use on an official map and perform such other duties as required by this Ordinance. The Board may view the property before or after the public hearing.

3. Removal and Vacancies.

a. Removal.

- (1.) The Board of County Commissioners may, by a majority vote, remove any member of the Board of Adjustments from office for non-performance of duty or misconduct in office. Non-performance of duty shall include non-attendance at two (2) consecutive meetings of the Board of Adjustment without a valid reason.

b. Vacancies.

- (1.) Vacancies on the Board of Adjustment shall be filled by majority vote of the County Board of Commissioners on the proposed appointment for the remainder of the term of office.

F. ZONING AMENDMENTS.

1. 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 community as reflected in the Policies Plan or changes in conditions in the County. The following procedures shall be followed in issuing zoning amendments:
- a. The Planning Advisory Commission, County Board of Commissioners or property owner may initiate an amendment. Property owners wishing to initiate an amendment which would affect their property shall make application to the Director of Land and Resource Management, no amendments will be made unless the request is adjacent to property of a similar zoning classification, central sewer is servicing the property or the request is in accordance with the Comprehensive Plan. The application shall be accompanied by a fee in the amount specified in the Douglas County Permit and License Fee Schedule to be used for the cost of processing the application.
 - b. The Director of Land and Resource Management shall set a date for the hearing of the application before the Planning Advisory Commission and cause notice of such hearing to be properly published in the legal newspaper ten (10) days prior to the hearing. The Director of Land and Resource Management shall also give written notification of the hearing to the governing bodies of all cities located within the County, the affected Town Board and governing body of a city within two (2) miles of the affected property, and to property owners of record within one-half (2) mile of the affected property.
 - c. The hearing on the amendment application shall be held by the Planning Advisory Commission at the first regular meeting after the requirements of the proper notice are complied with.
 - d. The Planning Advisory Commission shall make its recommendation to the County Board of Commissioners within ninety (90) days after the date of the hearing.
 - e. The County Board shall take action on the amendment application within ninety (90) days following receipt of recommendations by the Planning

Advisory Commission. Said action taken 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 Board's action. A certified copy of any amendment shall be filed with the County Recorder or Registrar of Titles.

- f. No application of a property owner for an amendment to the text of the Ordinance or the zoning map shall be considered by the Planning Commission within the one (1) year period following a denial of such request, except the Director of Land and Resource Management may permit a new application if, in the opinion of the Director of Land and Resource Management, new evidence or a change of circumstances warrant it.

G. CONDITIONAL USE PERMIT.

1. Criteria for Granting Conditional Use Permits.

- a. In granting a conditional use permit, the Douglas 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 or surrounding lands. Among other things, the following findings may be considered:
 - (1.) The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
 - (2.) The use will be sufficiently compatible or separated by distance or screening from adjacent agricultural or residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
 - (3.) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
 - (4.) The use in the opinion of the County Board is reasonably related to the overall needs of the County and to the existing land use.
 - (5.) The use is consistent with the purposes of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - (6.) The use is in conformance with the Land Use Plan of the County.
 - (7.) The use will not create a traffic hazard or congestion.

- b. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures of this subsection along with the following additional evaluation criteria and conditions:
 - (1.) Evaluation Criteria. A thorough evaluation of the water body and the topographic, vegetation, and soils conditions on the site must be made to ensure:
 - (a.) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
 - (b.) The visibility of structures and other facilities as viewed from public waters is limited.
 - (c.) The site is adequate for water supply and on-site sewage treatment.
 - (d.) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
- c. Conditions Attached to Shoreland Conditional Use Permits. The Planning Advisory Commission, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions may include, but are not limited to, the following:
 - (1.) Increased setbacks from the ordinary high water level.
 - (2.) Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
 - (3.) Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- d. Conditions attached to Adult Uses Conditional Use Permits. The Planning Advisory Commission, upon consideration of the criteria listed above and the purposes of this Ordinance, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this Ordinance. Such conditions shall include, but are not limited to, a requirement that no adult use shall be located within five hundred (500) feet of:

- (1.) Any area zoned as Residential District or Residential Shoreland District.
- (2.) Any school, as defined in Minnesota Statutes Section 120.101.
- (3.) Any church.
- (4.) Any daycare facility.
- (5.) Any residential or nonresidential program, as defined in Minnesota Statutes Section 245A.02.
- (6.) Any hotel or motel.
- (7.) Any public park.
- (8.) Hospitals as defined by Minnesota Statutes, Section 144.50.
- (9.) Nursing homes as defined by Minnesota Statutes, Section 144.50.

2. Procedure.

- a. Any proposed conditional use shall be presented to the Planning Advisory Commission for the determination of its applicability to the zoning district wherein permitted. In support of such determination of applicability, the Planning Advisory Commission may require preliminary architectural drawings or sketches on all buildings or groups of buildings, showing the front, side and rear elevations of the proposed building, structure or other improvements, and the proposed location of such buildings on the lot as the same will appear after the work has been completed. Such drawings or sketches shall be considered by the Planning Advisory Commission in an endeavor to ascertain that such buildings, structures and other improvements shall be so designed or constructed that they will not be of unsightly, undesirable or obnoxious appearance. The following procedure shall be used in issuing conditional use permits:

- (1.) The applicant for a conditional use permit shall file an application in writing in the office of the Director of Land and Resource Management and pay a fee as listed in the Douglas County Permit and License Fee Schedule when the application is filed.
- (2.) The Director of Land and Resource Management shall refer the application to the Planning Advisory Commission for a public hearing and cause notice of such hearing to be properly published in

the legal newspaper not less than ten (10) days prior to the hearing. Property owners within one-quarter (1/4) mile of the affected property or the ten (10) properties nearest the affected property (whichever would provide notice to the greatest number of owners) shall be given notice of the date the Planning Advisory Commission will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notice shall be given the governing body of any city the incorporated limits of which lie within two (2) miles of the proposed conditional use and to the Town board of the Township wherein the conditional use is proposed.

- (3.) The applicant or a representative shall appear before the Planning Advisory Commission and answer any questions concerning the proposed conditional use. The Planning Advisory Commission shall consider possible adverse effects of the proposed conditional use and what additional requirements may be necessary to prevent such adverse effects.
 - (4.) The recommendations of the Planning Advisory Commission shall be referred to the County Board of Commissioners within ninety (90) days after the public hearing and placed on the agenda of the Board at its regular meeting following referral from the Planning Advisory Commission.
- b. The County Board of Commissioners shall take action on the application within ninety (90) days after receiving the report of the Planning Advisory Commission. If it grants the conditional use permit, the Board may impose any special conditions it considers necessary to protect the public health, safety and welfare. An appeal from any decision of the County Board of Commissioners may be taken by any person or persons, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, officer, department, board or bureau of the municipality to the Court of Appeals by petition for writ of certiorari within sixty (60) days as delineated in Minnesota Statute 606.01 and applicable court rules, as amended.
 - c. A certified copy of the granted conditional use permit shall be filed with the County Recorder or Registrar of Titles by the Director of Land and Resource Management.
 - d. No application for a conditional use permit shall be resubmitted for a period of one (1) year from the date that the request is denied except the Director of Land and Resource Management may allow a new application if in the opinion of the Director of Land and Resource Management new evidence or a change in circumstances warrant it.

- e. Work on any project requiring a conditional use permit shall begin within one (1) year of the issuance of the permit and completed within eighteen (18) months of permit issuance or it shall expire.
- f. If any conditions of the conditional use permit are not adhered to the conditional use permit shall be nullified.
- g. A conditional use permit shall be deemed to authorize only one particular use and shall expire if the conditional use ceases for more than one year for any reason.

H. VARIANCES.

1. Criteria for Granting of Variances.

- a. The Board of Adjustment shall have the exclusive power to order the granting of variances from the terms of this Ordinance, including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of this Ordinance in cases when there are practical difficulties or particular hardships. Hardship in the granting of a variance means:
 - (1.) The property in question cannot be put to a reasonable use if used under the conditions allowed by this Ordinance.
 - (2.) The plight of the landowner is due to circumstances unique to the property and not created by the landowner.
 - (3.) The variance is proved necessary in order to secure for the applicant a right or rights that are enjoyed by other owners in the same area.
 - (3.) The variance, if granted, will not alter the essential character of the locality.
 - (4.) No variance shall be granted simply because there are no objections or because those who do not object outnumber those who do, nor for any other reason than a proved hardship. Economic considerations alone shall not constitute a hardship if a reasonable use for the property exists under the terms of this Ordinance. 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 impose-conditions in granting a variance to insure compliance and to protect adjacent properties and the public interest.

- (5.) For existing developments within the shoreland, the application for variance must clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property. The variance, if issued, must require reconstruction of a nonconforming sewage treatment system.

2. Procedure.

- a. Any proposed variance shall be presented to the Board of Adjustment for determination. In support of such determination of applicability, the Board of Adjustment may require preliminary architectural drawings or sketches on all buildings or groups of buildings, showing the front, side and rear elevations of the proposed building, structure or other improvements, and the proposed location of such buildings on the lot as the same will appear after the work has been completed. Such drawings or sketches shall be considered by the Board of Adjustment in an endeavor to ascertain that such buildings, structures and other improvements shall be so designed or constructed that they will not be of unsightly, undesirable or obnoxious appearance. The following procedure shall be used in granting variances:
 - (1.) The applicant for a variance shall file an application in writing in the office of the Director of Land and Resource Management and pay a fee as listed in the Douglas County Permit and License Fee Schedule when the application is filed.
 - (2.) The Director of Land and Resource Management shall refer the application to the Board of Adjustment for a public hearing and cause notice of such hearing to be properly published in the legal newspaper not less than ten (10) day prior to the hearing. Property owners within five hundred (500) feet of the affected property or the ten (10) properties nearest the affected property (whichever would provide notice to the greatest number of owners) shall be given notice of the date the Board of Adjustment will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notice shall be given the governing body of any city the incorporated limits of which lie within two (2) miles of the proposed variance and to the Town Board of the Township wherein the variance is proposed.
 - (3.) The applicant or a representative shall appear before the Board of Adjustment and answer any questions concerning the proposed variance.

- b. A decision shall be made by the Board of Adjustment within ninety (90) days after the public hearing. All decisions by the Board of Adjustment in granting variances shall be final except that any aggrieved person or persons or any department, board or commission of the jurisdiction of the State shall have the right to appeal to the District Court in the county in which the land is located on questions of law and fact within thirty (30) days of the decision of the Board of Adjustment.
- c. A certified copy of the granted variance shall be filed with the County recorder or Registrar of Titles by the Director of Land and Resource Management.
- d. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance required in Section VI.I.2. shall also include the Board of Adjustment's summary of the public record/testimony and the findings of fact and conclusions which supported the issuance of the variance.
- e. No application for a variance shall be resubmitted for a period of one (1) year from the date that the request is denied, except the Director of Land and Resource Management may allow a new application if, in the opinion of the Director of Land and Resource Management, new evidence or a change in circumstances warrant it.
- f. Work on any project requiring a variance shall begin within one (1) year and shall be completed within eighteen (18) months of the issuance of the variance or it shall expire.

I. NOTIFICATIONS TO THE DEPARTMENT OF NATURAL RESOURCES.

- 1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
- 2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the Commissioner or the Commissioner's designated representative and postmarked within ten (10) days of final action.

J. APPEALS.

1. General.

- a. An appeal from any order, requirement, decision or determination of any administrative official charged with enforcing this Ordinance may be made to the Board of Adjustment. An appeal must be filed within thirty (30) days after the time the administrative determination is made. The appeal stops all proceedings on the action appealed unless the Board of Adjustment certifies that the stay would cause imminent threat 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 may direct the issuance of a permit.

2. Procedure.

- a. Appeals shall be filed with the Director of Land and Resource Management.
- b. The Director of Land and Resource Management shall refer the appeal to the Board of Adjustment for a public hearing and cause notice of such hearing to be properly published in the legal newspaper not less than ten (10) days prior to the hearing. Property owners within five-hundred (500) feet of the affected property or the ten (10) properties nearest the affected property (whichever would provide notice to the greatest number of owners) shall be given notice of the date the Board of Adjustment will consider said application, although failure of any property owner to receive such notification shall not invalidate the proceedings. Notice shall be given the governing body of any city the incorporated limits of which lie within two (2) miles of the appeal and to the Town Board of the Township.
- c. The applicant or a representative shall appear before the Board of Adjustment and answer any questions concerning the appeal.
- d. A decision shall be made by the Board of Adjustment within ninety (90) days after the public hearing. All decisions by the Board of Adjustment in hearing appeals from any administrative order, requirement, decision or determination shall be final except that any aggrieved person or persons or any department, board of commission of the jurisdiction of the State shall have the right to appeal to the District Court in the County in which the land is located on questions of law and fact within thirty (30) days after the approval or denial of the variance.
- e. A certified copy of any order resulting from the Board's decision on an appeal shall be filed with the County Recorder or Registrar of Titles by the Director of Land and Resource Management.

K. ENFORCEMENT AND PENALTIES.

Definitions: The following definitions will be codified alphabetically in Section VII of the Douglas County Zoning Ordinance:

MISDEMEANOR - Misdemeanor means a criminal infraction punishable by up to 90 days incarceration, a \$700 fine, or both.

VIOLATION - Violation means a failure to comply with any directive of this ordinance or with any conditions lawfully placed on any property right by Douglas County, by one of its agents or by the State of Minnesota, including but not limited to, conditions or stipulations on a conditional use permit, variance, plat or any other permit.

PERSON - Person includes any natural person acting either personally or in any representative capacity, a corporation, firm partnership, limited liability company, trust or other recognizable legal entity.

1. POLICY STATEMENT.

- a. Through systematic and fair enforcement of this ordinance, it is the intent of the Douglas County Board of Commissioners to promote the safety and well being of the citizens of this county by enforcing reasonable land use regulations on conduct that is potentially injurious or detrimental to the value and enjoyment of property. While it is the responsibility of every person to be aware of laws enacted in their jurisdiction, Douglas County, through the Land and Resource Management Office, will make every effort to educate people as to the regulations present in this ordinance. By enforcing this ordinance against not only landowners, but also contractors, builders, landscapers and excavators, it is the intent of the Board to encourage those who make a living through the modification of real property in Douglas County to be aware of the provisions of this ordinance, follow those provisions, and advise their clients accordingly.

2. ENFORCEMENT.

- a. Who may be charged with a violation: This Ordinance may be enforced against any person who violates any of its provisions. This includes a person who owns the property on which the violation takes place and knowingly allows that violation to occur, a person who has authority or implies that he or she has the authority to direct actions on the property and knowingly allows or encourages a violation to occur, or any person who in any way acts in accomplishing a violation, whether physically, by arrangement or direction or otherwise.

- b. Enforcing agency: This Ordinance shall be administered and enforced by the Director of Land and Resource Management or an agent thereof who is hereby designated the enforcing officer.
- c. Penalties: Any person who violates any of the terms and provisions of this ordinance, including the failure to comply with the stipulations or conditions on a conditional use permit, variance or plat shall, after approval by the Douglas County Attorney's office, be charged with a misdemeanor. Each day that a violation occurs or continues shall constitute a separate offense. All fines paid as a result of violations of this ordinance shall be paid to the County and shall be credited to the general revenue fund.
- d. Civil Remedies: In addition to any possible criminal penalties imposed for violations of this ordinance, Douglas County reserves the right to enforce this ordinance through any legal civil means, including but not limited to civil penalties, injunctions, law suits and the withholding of deeds for the transfer of any property right, if that property right was conveyed in violation of this ordinance. Entities that are licensed by Douglas County for landscaping, construction, excavation or other functions may have that license revoked under Section M of this ordinance.
- e. Citations for violations:
 - (1.) Who may issue: Any certified peace officer having probable cause to believe any person has violated any provision of this ordinance may issue a citation to said entity, citing the provision that has been violated, and directing the person to appear in Court, or pay the appropriate fine if a fine schedule is adopted by District Court.
 - (2.) Process: Citations shall be issued to the person alleged to have committed the violation either by personal delivery or by registered or certified mail. In the case of a public, private or municipal corporation, the citation shall be issued to any officer or agent, expressly or impliedly authorized to accept such citation. Citations shall be made out in quadruplicate. One copy shall be issued to the person alleged to have committed the violation, one copy shall be filed with the County Land and Resource Management Director, one copy shall be filed with the County Attorney's Office, and one copy shall be filed with the District Court, in Douglas County.
 - (3.) Form: Citations shall be on such form(s) as approved by the County and shall contain at least the following:

The name and address of the person alleged to have committed the violation and, when known, the owner or person in charge of the premises at which the violation occurs.

The date and place of violation

A short description of the violation followed by reference to the section of this ordinance violated.

The name of the person who issued the citation.

The date and place at which the person receiving the citation shall appear and a notice that if such person does not respond, a warrant may be issued for such persons arrest.

Such other information as the County District Court may specify.

- f. No arrests or detention: No representative of the County shall be permitted to physically arrest or take into custody any violator. In the event that the person cited fails to appear in court, the citation shall be forwarded by the Court Administrator to the County Attorney who shall issue a long form complaint for review by a judge prior to any warrant being issued.
- g. Additional remedies: The penalties and provisions provided herein are in addition to and supplemental to any other provisions authorized by this ordinance or authorized by law, and shall not be considered to exclude other remedies.
- h. Threatened violations: In the event of a violation or a threatened violation of any provision of this ordinance, or any provision or condition of a permit issued pursuant to this ordinance, the County Board of Commissioners, or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations or threatened violations, and it shall be the duty of the County Attorney to institute such actions.

L. DENIAL, REFUSAL TO RENEW, SUSPENSION AND/OR REVOCATION PROCEDURES.

a. Authority.

- (1.) The Douglas County Board of Commissioners, or in the case of a variance the Douglas County Board of Adjustment, may, by Order, deny, refuse to renew, suspend or revoke the application, license, variance, or conditional use permit of a person if the Board finds that it is in the public interest in that, based upon a preponderance of the evidence.

- (2.) The person violated a statute, ordinance, or condition that the Board is empowered to enforce, including all conditions set forth on variances, licenses and permits; or
- (3.) The person committed a violation, as stated above, on a previous application, license, variance or permit; or
- (4.) The person employed fraud or deception obtaining license, permit or variance or renewal or reinstatement of the same; or
- (5.) A person failed to meet any requirement for the issuance or renewal of the persons license, permit or variance; or
- (6.) The person has committed an act, engaged in conduct, or committed practices that may result or may have resulted, in the opinion of the Board, in an immediate threat to the public.

b. Procedure for Denial of Applications.

- (1.) The procedure for denial of an application for a license, variance, or permit shall be the procedure stated generally throughout this Ordinance. The foregoing reasons for denial of the license shall be in addition to any other criteria listed throughout this ordinance for the granting and/or denial of licenses, variances and permits.

c. Procedure for Revocation, Suspension or Refusal to Renew.

- (1.) Jurisdiction: Upon obtaining information that will indicate a basis for revocation, suspension or refusal to renew, the Director of Land and Resource Management or the Director's designee shall initiate proceedings for revocation, suspension, or refusal to renew. The matter shall be heard by the authority that originally granted the applicable license, variance or permit. A decision on whether to revoke, suspend or refuse to renew a permit or license that was originally issued by the Director of Land and Resource Management shall be made by the Director of Land and Resource Management.
- (2.) Hearing: The issuing authority shall establish a time, date and location for a hearing for revocation, suspension, or refusal to renew, at the request of the Director of Land and Resource Management or the Director's designee. The Director or designee shall mail notice of the date of the hearing to the affected party no less than ten (10) days prior to the date of the hearing. At the hearing, the issuing entity will take such evidence as it deems appropriate. In all cases, the affected party shall be entitled to present such evidence as they deem appropriate either personally, or through an attorney. Should the

affected party fail to appear either in person, or through counsel, the issuing entity shall still have the authority to take evidence and make a decision upon the request for revocation, suspension or refusal to renew.

- (3.) Findings at hearing: Should the issuing authority find, by a preponderance of the evidence, that the affected party has failed to comply with the conditions set forth on the variance, license, or permit, the issuing party shall make that finding and state the reasons for its determination.
- (4.) Remedies: Upon finding that the affected party has failed to comply with the conditions set forth in the license, variance or permit, the issuing entity will then ascertain the appropriate sanction to impose. Sanctions include revocation, suspension for a stated period of time, or the refusal to renew the license. Suspensions may also be conditional upon the conduct of the affected party. A license, variance, or permit may be suspended until such time as the affected party comes into compliance with the terms of the license, variance, or permit. The criteria for determining the appropriate sanction shall include, but are not limited to the length of time of the violation, the severity of the violation, and risk to the health, welfare, and safety of the neighboring residents and/or community as a whole.

d. Appeals.

- (1.) Appeals from the decision of the Douglas County Board of Adjustment shall be made to the District Court. Appeals of decisions of the Douglas County Board of Commissioners shall be made by Writ of Certiorari to the Minnesota Court of Appeals, unless other law specifically grants the aggrieved party the authority to appear in District Court.
- (2.) Appeals of decisions of the Director of Land and Resource Management shall be taken to the Douglas County Board. All requests for appeals of the decision of the Director shall be made in writing and shall be presented to the Douglas County Auditor within ten (10) days of the mailing of the Director's decision to the affected party. Appeals to the Douglas County Board shall be scheduled by the Chair of the Board, or the Chair's designee. At an appeal of the decision of the Director, the Board shall hear an explanation for the decision from the Director or the Director's designee, and shall hear the basis for requesting the Board to overturn the Director's decision from the appealing party or that party's legal representative. The Board may take such evidence as it deems appropriate, including but not limited to reasonable hearsay. The Board shall either sustain the

decision of the Director, or overturn the decision of the Director, and it shall state its reasons on the record for its decision. Any appeal of the Douglas County Board's decision as to the propriety of the Director's actions may be taken by Writ of Certiorari to specifically stated in statute or state law.