

Sign, Roof. Any sign erected and constructed wholly on and above the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

Sign, Roof, Integral. Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, so that no part of the sign extends vertically above the highest portion of the roof and so that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

Sign, Shimmering. A sign which illuminates an oscillating sometimes distorted visual image.

Sign, Structure. Any structure including the supports, uprights, bracing and framework which supports or is capable of supporting any sign.

Sign, Suspended. Any sign that is suspended from the underside of a horizontal plane surface and is connected to this surface.

Sign, Wall. Any sign attached parallel to, but within two (2) feet of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

Sign, Window. Any sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Signage, Total Site. The maximum permitted combined area of all freestanding and wall identification signs allowed on a specific property.

Solid Waste. Garbage, refuse, and other discarded solid materials, including solid waste materials, resulting from industrial, commercial, agricultural operations, residential uses, and community activities, but does not include earthen fill, boulders, rock and other materials normally handled in construction operations, animal waste used as fertilizer, any permitted material disposed of as soil amendment, solids, or dissolved material in domestic sewage or other significant pollutants in water resources, such as silt, wastewater effluent, dissolved materials, suspended solids in irrigation return flows, or other water pollutants.

Speech, Non-commercial. Dissemination of messages not classified as commercial speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

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. Where specific information is not available, steep slopes are lands having average slopes over twelve (12) percent, as measured over horizontal distances of fifty (50) feet or more.

Stoop. A porch, platform, entrance, stairway, or small veranda at a house door.

Structure. Any building or appurtenance constructed or erected on the ground or attached to the ground or on-site utilities, including additions, decks, concrete slabs-on-grade, satellite antenna dishes, and signs, except aerial or underground utility lines, such as sewer, electric, telephone, telegraph, gas lines, towers, poles, and other supporting facilities.

Subdivision. Land that is divided for the purpose of sale, rent, or lease, including conventional planned unit developments and conservation based designed developments.

Temporary Building. Building incidental to construction work on the premises, which is not of a permanent nature and is removed once construction is completed. Such buildings may include mobile homes or recreational vehicles for temporary living not to exceed one year. An interim use permit will be required for temporary living structures.

Theater, Indoor. A building or room fitted with a stage or screen and seats for spectators.

Theater, Outdoor. A stage or screen located outdoors for spectators.

Town Board. The Board of Supervisors for the Town of Todd, Hubbard County, Minnesota.

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, and shall include the performance of such activity as defined by the performance standards of this ordinance.

Variance. Pursuant to Minnesota Statute § 462.357, Subd 6, (2) or successor amendments. Requests for a dispensation from the requirements of the zoning ordinance including restrictions placed on nonconformities. A modification or variation of the provisions of this zoning code to a specific piece of property.

View Sheds. The lots of a neighborhood may be arranged such that a majority of the principal structures will take visual advantage of an identifiable feature, building, structure, greenway, wetland, woods, lake, stream, or other open space which could be described as a view shed or an area harmonious for viewing.

Visible. Capable of being seen by a person of normal visual acuity (whether legible or not) without visual aid.

Water supply purpose. Includes any uses of water for domestic, commercial, industrial, or agricultural purposes.

Wellhead Protection Area. The surface and subsurface area surrounding a well or well field that supplies a public water system, through which contaminants are likely to move toward and reach the well or well field.

Wetland. A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition), as amended.

Yard. An open space on the lot, which does not contain structures.

Zoning Administrator. The Zoning Administrator for Todd Township, the duly appointed person responsible for the administration and enforcement of this ordinance.

Zoning (Land Use) District. An area of Todd Township defined on the official map, having uniform zoning provisions. Also known as a land use district.

Zoning (Land Use) Permit. See Construction Site Permit

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ADMINISTRATION

3.01 **Application Procedure**

Applications for permits such as construction site permits, conditional use permits, zoning ordinance amendments, variances, preliminary and final plats, planned unit development/conservation design development, or any other actions required by the planning commission, board of adjustment, township board, and/or their designated representatives shall be processed in accordance with the following procedures below:

3.02 **Application Time Frames**

3.02.01 **Sixty Day Rules**

Notwithstanding any statute or law to the contrary, the township planning commission, board of adjustment and township board will in the case of recommendations for conditional use permits, zoning ordinance amendments, variances, preliminary plats, final plats or any other action required by the planning commission, board of adjustment, township board or other designated representatives, will approve or deny an application within sixty calendar (60) days of the receipt of a completed application. For purposes of this section, a complete application will include all necessary documentation as required by this ordinance, completed on an approved application form and the payment of the appropriate fees. Notification of an incomplete application to the applicant will be made by the zoning administrator in writing within fifteen calendar (15) days of receipt of the incomplete application.

3.02.02 **Extensions**

The time frame referenced above may be extended, if

- A. A state law, federal law or court order requires a process to occur prior to the township review of the application or if the federal or state law or court order makes it impossible to act within sixty calendar (60) day; or
- B. The township provides written notice within the sixty calendar (60) days to the applicant that it intends to extend the time period, states the reasons for the extension and the anticipated length of the extension, not to exceed an additional sixty calendar (60) days; or
- C. The applicant consents in writing to a longer period of time.

3.02.03 **Failure to Act.**

Failure to act on the completed application within the prescribed time frame will constitute approval of the request. An approval granted due to failure to act will be deemed to include any conditions imposed by this ordinance, or subject to conditions similar to previously granted like applications.

3.02.04 **Township Reasons for Denial**

If the township denies the application, it will state in writing the reasons for the denial at the time it denies the application. The written statement must be provided to the applicant.

3.02.05 **Application Form(s)**

Applications shall be filed with the zoning administrator on an official application form(s) of the township, accompanied by a fee as established by the town board by ordinance after a public hearing. The application shall include detailed written and graphic materials fully explaining the proposed change, development or use as required by the relevant sections of this ordinance. The total number of copies provided and any additional data shall be determined by the zoning administrator. Applications shall be complete before they are accepted.

3.03 **Zoning Administrator**

The zoning administrator shall be appointed or employed by the township board. The town board may designate one or more persons to assist the zoning administrator. The duties of the zoning administrator shall be:

- 3.03.01 Receive and review applications and determine whether or not applications are complete and comply with the terms of this ordinance and determine when a statutory extension of time is needed for review and properly notify applicant(s) of the same.
- 3.03.02 In coordination with the Todd Township Board of Supervisors and the township attorney, to perform such duties as may be necessary to enforce the provisions of this ordinance.
- 3.03.03 The zoning administrator, along with the township attorney, may enforce the provisions of this ordinance either through criminal prosecution, civil remedies, cease and desist orders, or all of the above. Use of a civil or other remedy shall not bar a criminal prosecution for the same violation(s). A criminal prosecution on a violation shall not be a bar to a civil or other remedy.
- 3.03.04 Conduct inspections of buildings and other uses of the land to determine compliance with the terms of this ordinance.
- 3.03.05 Maintain the township's permanent and current records of this ordinance including but not limited to maps, amendments, structure permits, variances, appeals and applications, and a separate file for future conditions or expirations of permits.
- 3.03.06 Review, file, and forward applications for appeals, variances, conditional uses, plats, and zoning amendments.
- 3.03.07 Enforce the provisions of this ordinance:
 - A. By reviewing complaints; and
 - B. By pursuing contacts with any violator in accordance with standard

- procedures as adopted and modified from time to time; and
- C. By instituting with the township board and/or the township attorney in the name of the township any appropriate actions or proceedings against any violator.

- 3.03.08 Attend meetings and provide research and findings of fact to the board of adjustment, planning commission, and township board.
- 3.03.09 Communicate with the public and provide guidance for different kinds of applications.
- 3.03.10 Maintain education and training and report changes in law, for the township.
- 3.03.11 Issue permitted construction site permits upon application for structures on lots conforming to this ordinance when the conditions of this ordinance are met; to issue conditional use permits and variances when directed by the board of adjustment or township board; to issue notices of zoning change when directed by the township board.
- 3.03.12 Mail a certified letter of the final findings of fact within the required time period of sixty days to the applicant(s).
- 3.03.13 File copies of fully approved conditional use permits, variances and plats with the Hubbard County Recorder.
- 3.03.14 Where and when required, send notifications of public hearings and approvals of Conditional Uses, Variances, Ordinances, Plan Amendments, and Plat notifications to the following agencies:
- A. Minnesota Department of Transportations
 - B. Minnesota Pollution Control Agency
 - C. Natural Department of Natural Resources
 - D. Hubbard County
- 3.03.15 Maintain records of all actions taken pursuant to the provisions of this ordinance.
- 3.03.16 Assist the public in complying with and understanding their responsibilities and rights under this ordinance.

3.04 **Planning Commission**

The Planning Commission, appointed by the Todd Township Board, as provided in Minnesota Statutes 462.354, will consist of three (3) appointed members and one (1) non-voting member from the Todd Town Board of Supervisors, and shall have the following duties:

- 3.04.01. Hold hearings after proper public notices in the official newspaper and individual notice by regular mail to any property owners within five-hundred (500) feet and/or the nearest ten (10) adjoining landowners in question, whichever is greater. Such notices shall be given at least ten (10) calendar days before the hearing date, one of which will not be the date of public hearing.

- 3.04.02 Preview preliminary and final plats and provide recommendations to the Town Board.
- 3.04.03 Periodically review the zoning ordinance and the official map and determine its role in shaping the growth of the community and to recommend changes in these documents to guide growth and current land use towards the goals of the comprehensive plan and amendments.
- 3.04.04 Review and make recommendations to the town board on applications for:
 - A. Changes in zoning districts
 - B. Changes in the zoning ordinance
 - C. Recommend approval or denial of Todd Township preliminary and final plats
 - D. Conditional Use permits
- 3.04.05 Keep a record of its proceedings.

3.05 **Board of Adjustment**

The Board of Adjustment will consist of two Todd Town Board of Supervisors along with one appointed planning commission member, and shall have the following duties as provided by Minnesota Statutes § 462.354.

- 3.05.01 Hold variance hearings after proper notices in the official newspaper and individual notice by regular mail to any property owners within 500 feet and/or the nearest ten adjoining (10) landowners, whichever is greater. Such notices shall be given at least ten (10) calendar days before the hearing date, one of which will not be the date of said Hearing.
- 3.05.02 Decide the following:
 - A. To order the issuance or denial of variances to the provisions of this ordinance.
 - B. To hear and decide appeals from and review any order, requirement, decision or determination made by the zoning administrator with respect to the administration of this ordinance
 - C. Keep a record of its proceedings, notifications and justifications for its actions.

3.06 **Township Board**

The Township Board will have the following duties under this Ordinance:

- 3.06.01 Appoint a zoning administrator
- 3.06.02. Appoint the planning commission
- 3.06.03 Decide the following:

- A. Grant or deny applications for changes in zoning districts
- B. Grant or deny applications for changes in the zoning ordinance
- C. Grant or deny applications for conditional use permits
- D. Grant or deny applications for approval of preliminary and final plats

3.07 Construction Site Permits (CSP) Required

- 3.07.01 A construction site permit is valid for a period of one (1) year.
- 3.07.02 A construction site permit is required prior to preliminary site work, or the construction or placement of any structure, or manufactured home under this ordinance. This section shall not prohibit the collection of soil borings for a wastewater treatment system prior to construction site permits being issued
- 3.07.03 A construction site permit will be valid for a period of one year after which said applicant must have completed the exterior of a permitted structure authorized by the permit. Where a construction site permit has been issued but the applicant has failed to complete the work authorized by the permit within twelve (12) months from the date of permit issuance, said permit shall be null and void. A new permit application, with a determined time frame for completion must be submitted.
- 3.07.04 For any application required by this Ordinance there must be a certification by the applicant that there are no delinquent property taxes, special assessments, penalties, interest, and utility fees due on the parcel to which the application relates. Property taxes which are being paid under the provisions of a stipulation, order, or confession of judgment, or which are being appealed as provided by law, are not considered delinquent for purposes of this subdivision if all required payments that are due under the terms of the stipulation, order, confession of judgment, or appeal have been paid.
- 3.07.05 The Todd Township Zoning Administrator has the authority to;
 - A. Require restoration of any work done beyond the scope of the application and/or permit with or without a required permit and,
 - B. Will assess application fees for an after the fact permit application as stated per the Township Fee Ordinance Schedule, as adopted from time to time.

3.08. Wastewater Systems

A construction site permit authorizing a new home or an addition to an existing structure to an existing dwelling shall stipulate that a **non-conforming** wastewater treatment system, shall be reconstructed or replaced in accordance with all applicable rules and regulations including the provisions of the MPCA Minnesota Rules, Chapter 7080, as amended, and the provisions of the Hubbard County Sanitary Ordinance, and all acts amendatory thereof. Applicant (Owner) will be responsible for providing a Certificate of Compliance prior to issuance of permit.

3.09. Cease and Desist Orders

The Todd Township Zoning Administrator may issue a "cease and desist" order when the zoning administrator has probable cause to believe, a) that an activity regulated by this ordinance is being or has been conducted without a permit, or b) is in violation of a permit or, c) in violation of a provision of this ordinance. Any work stopped by a cease and desist order shall not be resumed until the reason for the work stoppage has been satisfied, administrative fees and/or fines paid, and the cease and desist order is lifted.

In the event that an affected party believes that a cease and desist order has been issued improperly, or upon an incomplete record, said affected party may appeal to the zoning administrator for reconsideration. If dissatisfied with the decision of the zoning administrator, appeal may be made to the board of adjustment, and the appeal will be heard as soon as practicable. The cease and desist order shall remain in place until a contrary decision is made by either the zoning administrator or the board of adjustment.

3.10. Proposed Use Requiring Prior Approval before Construction site permit

Where a proposed use requires review, recommendations and approval of the planning commission, board of adjustment, or township board, said action shall occur and the conditional use permit, variance, amendment change, zoning district change, or final plat approval shall be issued before the construction site permit is issued.

3.11 VIOLATIONS

Granting of a construction site permit shall not be considered a statement of compliance with regional, state, county, or federal codes, statutes, or laws, or approval of the design of the structure or accessories. If the zoning administrator determines that any violation of the permit or other section of this ordinance has occurred; the zoning administrator will take the following steps;

3.11.01. Enforcement

The town board, the board's designee (i.e. Township Zoning Administrator, Right of Way Director, Township Road Authority, or duly authorized representatives) shall enforce this ordinance. The duly authorized representative shall initiate appropriate action for any violations of this ordinance at the direction of the board and through the township attorney as deemed necessary.

3.11.02. Existing Violation

Whenever the town board or the board's designee determines that a violation has occurred or exists on property within the township, the owner or occupant of such property shall be notified of the fact in writing. The notice shall be served in person or by certified or registered mail. If the property is not occupied and ownership of the property cannot be ascertained, or in the event that personal service cannot be made, or certified or registered mail is returned, notice is deemed served when posted on the property or deposited in the U.S. Mail addressed to where property tax statements are sent by the County.

3.11.03.

Immediate Violation

In the event that the violation is deemed by the township to constitute an immediate danger, the township may initiate immediate removal of such hazard without prior notification of the owner or occupant of such property. As soon thereafter as practical the township shall provide written notice to the owner or occupant of the premises of the actions taken. If the property is not occupied and ownership of the property cannot be ascertained, or in the event that personal service cannot be made, or certified or registered mail is returned, notice is deemed served when posted on the property or deposited in the U.S. Mail addressed to where property tax statements are sent by the County. All expenses incurred by the township to remove the hazard will be charged against said parcel and will be the responsibility of the owner pursuant to M.S. § 429, 366.012 and any other relevant statute.

The property owner shall be invoiced for the Township's costs which shall be paid within 30 days of the date of the invoice, should property owner not reimburse the Township within said time, the Township shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the owner's property taxes.

3.11.04.

Thirty Days Written Notice

A written notice shall specify the violation and the steps required to correct said violation and the time limit, not to exceed thirty days (30 days) within which the corrections must be completed. If the violation is not corrected, then the township may take actions necessary to bring the violation into compliance and seek redress pursuant to M.S. § 429, 366.012 and any other relevant statute.

The property owner shall be invoiced for the Township's costs which shall be paid within 30 days of the date of the invoice, should property owner not reimburse the Township within said time, the Township shall be authorized to certify said unreimbursed costs to the County Auditor for payment with the owner's property taxes.

3.11.05.

Appeals

A person served with a written notice may appeal to the board of adjustment for a hearing. A hearing notice shall be given at least ten days (10 days) prior to the date of the hearing, of which the public hearing date cannot be counted, before the board of adjustment and will be served in the manner as described in this Ordinance. In order to expedite matters, the township may at its discretion, include notice of the aforementioned hearing in the original notice of violation.

3.11.06

Hearing

If after conducting a hearing on the matter the board of adjustment determines that correction of the violation is necessary to protect the public health, safety and welfare, then the township may correct the violation, or cause the same to occur, in any manner and using any method that it finds appropriate as outlined in this ordinance.

3.11.07

Appeals of Board of Adjustment

Any person aggrieved by the decision of the board of adjustment shall have the right to seek review within thirty (30) days of the decision with a court of record of such decision in a manner provided by the laws of the State of Minnesota, and pursuant to Minnesota Statute Section § 462.

3.11.08 **Prosecution**

Any person who violates a section, subdivision, paragraph, or provision of this ordinance shall be subject to prosecution. Each day of non-compliance with any terms of this ordinance shall be considered a separate violation.

3.12

VARIANCES

Variances may only be granted in accordance with Minnesota Statutes, Chapter 462, as applicable. No variance may be granted that would allow any use that is not permitted in the zoning district in which the subject property is located. Conditions may be imposed in the granting of a variance to ensure compliance and to protect adjacent properties and the public interest. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body may impose conditions in the granting of variances. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

3.12.01

Applications

Pursuant to section 3.02.05, the request for a variance, as provided within this ordinance, shall be filed with the zoning administrator on an official application form with the required supporting documentation and fees. Such application shall also be accompanied by a list of property owners located within five hundred feet (500') of the subject property obtained from and certified by Hubbard County or the Township. A copy of the deed or abstract for the property on which the variance is proposed, that lists the current property owners and the comprehensive legal description of the property. Applications for a variance will only be accepted by the owner(s) of the property for which the application is made. The request for variance shall be placed on the agenda of the first possible board of adjustment meeting occurring after twenty-one (21) days from the date of submission. The request shall be considered as being officially submitted when all the information and fee requirements are complied with.

Upon receipt of said application, the zoning administrator shall set a public hearing following proper hearing notification. The board of adjustment shall hear and decide requests for variances in accordance with the rules that it has adopted for the conduct of business. Notice of said hearing shall consist of a legal property description of the request, and be published in the official newspaper at least ten (10) days prior to the hearing, and written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within five hundred feet (500') of the boundary of the property in question and/or the ten (10) nearest adjoining property owners around the affected property.

Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this ordinance.

The zoning administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the town board.

The planning commission and township staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this ordinance. Failure of an applicant to supply all necessary supportive information may be grounds for denial of the request.

The applicant or representative thereof shall appear before the planning commission to answer questions concerning the proposed variance.

The planning commission shall make findings of fact and recommend approval or denial of the request. The planning commission shall reach a decision within sixty (60) days after the first regular meeting at which the variance request was considered by the commission. The commission's recommendation and the township staff's report, if any, shall be presented to the town board.

Upon receiving the report and recommendation of the planning commission, the zoning administrator shall place the report and recommendation on the agenda for the next regular town board meeting. Such reports and recommendations shall be entered in and made part of the permanent written record of the town board meeting.

The town board, sitting as the board of adjustment, shall review the application and may, at its option, conduct a public hearing on the request.

The town board shall make findings of fact and approve or deny a request for variance.

A variance of this ordinance shall be granted by a majority vote of the town board.

All decisions by the town board involving a variance request shall be final; except, that an aggrieved person or persons shall have the right to appeal within thirty (30) days of the decision to the Hubbard County district court.

Variances shall only be permitted when they are in harmony with the general purposes and intent of this ordinance and when strict enforcement of this ordinance as applied to a particular piece of property if the enforcement would cause the property owners "practical difficulties" as defined in Minnesota Statutes § 462.357, subd. 6. Economic conditions alone do not constitute practical difficulties.

3.12.02 **Existing Developments**

For existing developments, the application for variances must clearly demonstrate a conforming wastewater treatment system is present for the intended use.

3.12.03 **Conditions for Variance**

The Board of Adjustment should adopt findings addressing the following questions:

- A. Is the variance in harmony with the purposes and intent of this ordinance?
- B. Is the variance consistent with the comprehensive plan?
- C. Does the proposal put property to use in a reasonable manner not permitted by this Ordinance?
- D. Are there unique circumstances to the property not created by the landowner?
- E. Will the variance, if granted, alter the essential character of the locality?
- F. Additional conditions may be imposed on the granting of a variance if those conditions are directly related to and bear a rough proportionality to the impact created by the variance. Economic considerations alone do not constitute practical difficulties.
- G. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- H. Variances shall be granted for earth sheltered construction as defined in M.S. § 216C.06, subdivision 14, when in harmony with this ordinance.

3.12.04 **Variance issued to Property**

Variances will be issued to the property and are not transferable and shall remain in effect so long as any condition imposed by the board of adjustment is met.

3.12.05 **Failure to Implement Variance**

Failure by the owner or applicant to complete the improvements for which the variance was sought, or to comply with the conditions attached to the variance within twelve (12) months of the date of its approval shall void the variance. The board of adjustment, solely at its discretion, may extend the variance upon one occasion for sixty (60) additional calendar days beyond the date of expiration. Any additional extension shall require a new public hearing and approval by the board of adjustment.

3.12.06

Recording of Variance

Variances will be recorded with the Hubbard County Recorder or if Torrens property with the Registrar of Titles.

3.13

CONDITIONAL USES

All applications for conditional use permits will be submitted to the zoning administrator for presentation to the planning commission. The zoning administrator will notify all property owners within five-hundred (500) feet and/or the ten (10) nearest adjoining landowners near the affected property, whichever is greater. The zoning administrator shall publish notice of the public hearing in the official newspaper at least ten (10) calendar days prior to the date of the public hearing of which the Hearing date cannot be counted. The planning commission will hear requests for conditional use permits in accordance with the rules that it has adopted for the conduct of business.

3.13.01

Conditional Use Review Criteria

In reviewing an application for a conditional use permit; the planning commission will evaluate the effects of the proposed use using criteria including but not limited to the following:

- A. The maintenance of safe and healthful conditions as well as the general health, safety and welfare of the residents; and
- B. The prevention and control of water pollution including sedimentation; and
- C. The impact on existing topographic and drainage features and vegetative cover on the site; and
- D. The location of the site with respect to existing or future access roads; and
- E. The compatibility with uses on adjacent land; and
- F. The compatibility with a desirable pattern of development in the area and in the township; and
- G. The adequacy of the proposed wastewater treatment system for the new use; and
- H. The compliance with the Todd Township Community Comprehensive Plan and other Todd Township Ordinances, as amended or any other ordinance, rule or statute; and
- I. The proposed use can be accommodated with existing public services and will not overburden the town's service capacity; and
- J. The traffic generated by the proposed use is within the capabilities of the roads serving the property; and
- K. The effect of the proposed use on groundwater, surface water and air quality; and
- L. Whether such use will tend to or actually depreciate the value of other properties in the area in which it is proposed; and

3.13.02

Additional Information for Conditional Use

In considering the application for a conditional use permit, the planning commission may recess the hearing to a future time and may defer action or consideration until further information from the applicant is submitted as required by either the planning commission and/or the town board. Such information may include, but is not limited to, the following:

- A. A plan of the area showing contours, soil types, ordinary high-water level, groundwater conditions, bedrock, slope and vegetative cover.
- B. Location of buildings, parking areas, traffic access, driveways, walkways, open spaces and landscaping.
- C. Plans of buildings, wastewater treatment systems, water supply systems, and arrangements of operations.
- D. Specifications for areas of proposed filling, grading, lagoons, or dredging.
- E. Other pertinent information necessary to determine whether the proposed use meets the requirements of this ordinance.

3.13.03

Conditional Use for Unusual Conditions

In recommending a conditional use permit, the planning commission may recommend additional conditions, in addition to the requirements specified by this ordinance, which the planning commission considers necessary to protect the best interest of the surrounding area and the township as a whole. Violation of any of these conditions will be a violation of this Ordinance. Such conditions may include, but are not limited to the following, specifications for type of shore cover, increased setbacks, screening, wastewater treatment and water supply systems, landscaping and screening, period of operation, operational control, sureties, deed restrictions, parking and signs, type of construction or any other requirements necessary to fulfill the purpose and intent of this Ordinance.

3.13.04

Failure to Act

Failure to act on a conditional use permit or establish the use by the property owner within six (6) months, unless extended by the township board prior to expiration, will void the permit. Applicant must submit in writing one month prior to expiration a request for an extension. The township, at its discretion, shall determine whether or not the property owner(s) has acted or failed to complete work.

3.13.05

Authority to Grant Conditional Use

Town board grants conditional use permit upon review and recommendation with findings and by the town board passing a resolution granting the conditional use permit from the planning commission. Conditions may be applied to the granting of the permit.

3.13.06 **Recording of Conditional Use Approval**

The zoning administrator will file a copy of all approved conditional use permits with the Hubbard County Recorder or the Registrar of Titles if Torrens property. Any significant changes in an approved use will require that a new application for a conditional use permit be applied for and approved.

3.13.07 **Amended Conditional Use Permit**

Amended conditional use permits shall be requests for changes in conditions of the existing permit or modifications of any approved plan. An amended conditional use permit shall be administered in the same manner to that required for a new conditional use permit.

3.13.08 **Revocation of Conditional Use Permit**

3.13.09 **Violation**

A violation of any condition set forth in a conditional use permit shall be a violation of the permit itself and this ordinance.

3.13.10 **Failure to act on Violation**

Failure to correct a violation within thirty (30) days of written notice from the township shall be grounds to revoke a conditional use permit through the following procedure:

- A. The planning commission may recommend, and the town board may initiate proceedings to the revocation of any conditional use permit for cause upon an initial determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of this ordinance or other applicable regulations.
- B. The zoning administrator shall notify the responsible person and property owner of the public hearing and that they have an opportunity to show cause why the permit should not be revoked.
- C. The planning commission shall hold a public hearing in the same manner as that required for a new conditional use permit. Within twenty-one (21) days of closing the public hearing the planning commission shall submit findings of fact and recommendations to the town board.
- D. The town board shall a) revoke the conditional use permit, b) make a finding of fact that a violation does not exist, or c) modify the conditions of the conditional use permit so that a violation no longer exists.
- E. The zoning administrator shall provide written notice of the town board's decision to the permit holder.

3.13.11

Reapplication

Whenever an application for a conditional use permit has been considered and denied by the town board, a similar application and proposal for a variance affecting either a portion or all of the same property shall not be considered again by the planning commission or the town board for at least one year from the date of its denial, except as follows:

1. Applications are withdrawn prior to the town board taking action on the matter.
2. If the town board determines that the circumstances surrounding a previous application have changed significantly.
3. If the town board decides to reconsider such matter.

3.14. **INTERIM USE PERMITS**

The purpose of an interim use permit is to allow a use that is not a permitted, provisional or conditional use, for a limited period of time, subject to conditions set forth in this ordinance.

3.14.01

Application for Interim Use Permit

The application for an interim use permit shall be the same as for a conditional use permit as provided for in *Section 3.13 of this ordinance*.

3.14.02

Criteria for Considering an Interim Use Permit

The criteria for considering an interim use permit shall be the same as for a conditional use permit as provided for in *Section 3.13 of this ordinance*.

3.14.03

Notice of Public Hearing

The notice of public hearing for an interim use permit shall be the same as for a conditional use permit as provided for in *Section 3.13 of this ordinance*.

3.14.04

Standards for Issuing an Interim Use Permit

The board may issue an interim use permit only if it finds that such use at the proposed location:

- A. Meets the standards of a conditional use permit contained in *Section 6 and Section 7 of this ordinance*;
- B. Will terminate upon a date or event that can be identified with certainty;
- C. Will be subject to any conditions that the board deems appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit; and

3.14.05 **Notice and Certification of Final Action**

The notice of final action for an interim use permit shall be the same as for a conditional use permit as provided for in *Section 3.13 of this Ordinance*.

3.14.06 **Status of Interim Use Permit**

The status of an interim use permit shall be the same as for a conditional use permit as provided for in *Section 3.13 of this Ordinance*

3.14.07 **Termination**

An interim use permit shall terminate upon the occurrence of any of the following events, whichever occurs first:

- A. The termination date or event stated in the permit; or
- B. The interim use permit is revoked following the same procedures for the revocation of a conditional use permit pursuant to *Section 3.13 of this Ordinance*; or
- C. The use has been discontinued for a minimum period of one (1) year.

3.14.08 **Recording of Interim Use Approval**

The zoning administrator will file a copy of all approved conditional use permits with the Hubbard County Recorder or the Registrar of Titles if Torrens property. Any significant changes in an approved use will require that a new application for a conditional use permit be applied for and approved.

3.14.09 **Amended Interim Use Permit**

Amended conditional use permits shall be requests for changes in conditions of the existing permit or modifications of any approved plan. An amended conditional use permit shall be administered in the same manner to that required for a new conditional use permit.

3.14.10 **Revocation of Interim Use Permit**

3.14.01 **Violation**

A violation of any condition set forth in an interim use permit shall be a violation of the permit itself and this ordinance.

3.14.02 **Failure to act on Violation**

Failure to correct a violation within thirty (30) days of written notice from the township shall be grounds to revoke an interim use permit through the following procedure:

- A. The planning commission may recommend, and the town board may initiate proceedings to the revocation of any interim use permit for cause upon an initial determination that the authorized interim use is not in conformance with the conditions

of the permit or is in continued violation of this ordinance or other applicable regulations.

- B. The zoning administrator shall notify the responsible person and property owner of the public hearing and that they have an opportunity to show cause why the permit should not be revoked.
- C. The planning commission shall hold a public hearing in the same manner as that required for a new conditional use permit. Within twenty-one (21) days of closing the public hearing the planning commission shall submit findings of fact and recommendations to the town board.
- D. The town board shall a) revoke the conditional use permit, b) make a finding of fact that a violation does not exist, or c) modify the conditions of the interim use permit so that a violation no longer exists.
- E. The zoning administrator shall provide written notice of the town board's decision to the permit holder.

3.14.03 **Reapplication**

Whenever an application for an interim use permit has been considered and denied by the town board, a similar application and proposal for a variance affecting either a portion or all of the same property shall not be considered again by the planning commission or the town board for at least one year from the date of its denial, except as follows:

- 1. Applications are withdrawn prior to the town board taking action on the matter.
- 2. If the town board determines that the circumstances surrounding a previous application have changed significantly.
- 3. If the town board decides to reconsider such matter.

3.15. **Environmental Review**

The Minnesota State Environmental Policy, Minnesota Statutes, Chapter 116 D, and the rules of the Minnesota Environmental Quality Board, together with the provisions of this Ordinance, shall be followed as the Environmental Review operating procedures.

3.15.01 **Preparation and review**

- A. The applicant for a permit for any action for which environmental documents are either required by the Environmental Quality Board or ordered by the township board shall, in the manner prescribed by the zoning administrator, provide all unprivileged data or information reasonably requested by the township that the applicant has in his possession or to which he has reasonable access.

- B. The applicant requesting a permit for any action for which an Environmental Assessment Worksheet (EAW) is mandated or is deemed required by the township board when it has been designated as the Responsible Governmental Unit (RGU) by the Environmental Quality Board through the petition process, or by statute, shall pay all costs of preparation and review of the EAW. Upon the request of and in the manner prescribed by the zoning administrator, the applicant shall prepare a draft EAW and supply all information necessary to complete that document.
- C. A petitioned or mandated EAW shall be produced and paid for by the applicant prior to the commencement of the review or any stage of review by the planning commission and/or the township board.
- D. The applicant for a permit for any action for which an Environmental Impact Statement (EIS) is mandated shall pay all costs of the scoping and preparation of the EIS until such time as either the Responsible Governmental Unit or the Environmental Quality Board deems the final EIS adequate.
- E. When the EIS is mandatory, the applicant shall deposit funds in an escrow account with the township from time to time an amount determined by the zoning administrator to be necessary to cover such costs prior to commencement of the review stage of the Environmental Review. The applicant shall reimburse the escrow account for any deficits caused if the amount actually expended or billed to the township by the consultants exceeds the fund balance. The township shall refund any amount deposited in the escrow account not expended within thirty (30) calendar days after final action on the application. The township shall not pay interest on such security fund deposits.

3.15.02 Administration

The zoning administrator shall be the person responsible for the administration of the Environmental Review Program.

- A. The zoning administrator shall be responsible for determining whether an action for which a permit is required is an action for which an EAW or an EIS is mandatory and shall report his/her findings to the planning commission and/or the township board.
- B. The zoning administrator shall make a recommendation on all EAW petition requests to the township board.
- C. EAW's and EIS's shall be prepared under the supervision of the zoning administrator and reviewed by the planning commission prior to review and approval by the township board.
- D. When reviewing any EAW or EIS, the zoning administrator and the planning commission may suggest design alterations which could lessen the environmental impact of this action. The township board may require these design alterations to be made as a condition for issuing the permit when it finds that the design alterations are necessary.
- E. No permits shall be issued for a project for which environmental documents are required until the entire environmental review procedure established by this ordinance is completed. No work shall commence and any work in progress on any project for which environmental documents