

Chapter 503 Zoning Administration

503.01 Planning and Zoning Department

The Rice County Board of Commissioners hereby establishes the Planning and Zoning Department, for which the Board may appoint a Director and employ such other staff as deemed necessary to discharge the duties of this department.

A. Duties and powers of the Planning and Zoning Director. The Rice County Planning and Zoning Director (Planning Director) shall have the following duties and powers:

1. Coordinate activities between the Planning and Zoning Department and other County and state departments.
2. Administer and enforce the Zoning Ordinance and the Subdivision Regulations.
3. Issue, deny or enforce building permits, certificate of occupancy, certificates of compliance, and other permits and certificates as required by the terms of this Ordinance.
4. Receive and forward to the County Board, County Planning Commission, Board of Adjustment and other appropriate agencies appropriate applications, documents, and proposed actions.
5. Supervise the keeping of all necessary records and maps.
6. Maintain a record of all conditional use permits issued including information on the use, location, and conditions imposed by the County Board and time limits, review dates, and such other information as may be appropriate.
7. Delegate such duties as provided for in this Ordinance to a Zoning Administrator, Building Official, or other staff.

503.02 Permits and Certificates

The following permits and certificates are required in Rice County for land use and construction activities and may be issued by the Planning Director or designee.

A. Building Permits. The following provisions shall apply to the issuance of building permits in all zoning districts in Rice County:

1. **Building permit required prior to action.** A building permit shall be obtained prior to erecting, installing, altering, converting, remodeling, moving or demolishing any building or structure or part thereof.
 - a. **Exceptions.** The following structures shall be exempt from the requirement to obtain a building permit, but must meet zoning requirements:
 - i. Storage buildings 120 square feet or less in size outside of Shoreland and floodplain districts or areas.
 - ii. Agricultural structures that obtain an Agricultural Structures permit as provided for in Section B, below.
2. **Must meet sewage requirements.** Before a building permit for construction of a new residence or addition, or remodeling that results in increased water usage (including, but not limited to, adding a bedroom or bathroom) is issued, the provisions of the Rice County Sewage and Wastewater Treatment Ordinance shall be met. Before a building permit for any other activity is issued within a Shoreland area, Shoreland district, or Floodplain district, the applicant must provide evidence of a conforming sewage treatment system or evidence that one will be provided if the building permit is issued.
3. **Setbacks from proposed roads.** A permit shall not be issued where a proposed setback does not comply with the planning of future road construction as determined by the County Highway Engineer. Structure setbacks from proposed roads shall be equal to setback requirements for existing roads as specified in §505.10.
4. **Building code compliance.** Activities undertaken subject to a building permit shall conform to the most current state building code as adopted by Rice County.

5. **Site plan.** A site plan conforming to the provisions of §505.16 shall be submitted with all building permit applications.
- B. **Agricultural Structure Permit.** In all zoning districts, an Agricultural Structure Permit shall be obtained for the construction of new agricultural buildings and structures or for additions to such structures. Buildings and structures must meet the following criteria to be defined as an agricultural building or structure for the purposes of this provision:
 1. The building or structure must be on a parcel at least ten (10) acres in size and used exclusively for storage of agricultural goods or equipment; or
 2. The building or structure must be used exclusively to house animals.
- C. **Flood Plain District Permit.** In the Flood Plain District, a permit shall be obtained prior to the use or change of use of a building, structure or land, prior to the change or extension of a nonconforming use, and prior to excavation or the placement of an obstruction within the flood plain.
- D. **Certificate of Zoning Compliance.** A Certificate of Zoning Compliance issued by the Planning Director, or designee, shall be required prior to any construction or change in use. This certificate will specify that the proposed use of land conforms to the requirements of this Ordinance. Failure to obtain a Certificate of Zoning Compliance for any use, arrangement, or construction shall be deemed a violation of this Ordinance.
- E. **Certificate of Occupancy.** A Certificate of Occupancy shall be required for any building erected or structurally altered after final inspection and approval by the Rice County Building Official, after final inspection and approval by Rice County Environmental Health Services, and before the building is occupied or the use is altered. Approval for temporary occupancy may be granted by the Rice County Building Official when full septic facilities and potable water supplies are available.
- F. **Grading/Filling Permit.** Topographic alterations not associated with another permit or approval, that propose to move greater than 50 cubic yards of material, or greater than 10 cubic yards of material within a shore impact zone, steep slope, or bluff impact zone must obtain a grading/filling permit as specified in §506.11.B. Active agricultural operations shall not be required to obtain a grading and filling permit.
- G. **Wildlife Pond Permit.** Excavations for the purpose of wildlife ponds must obtain a wildlife pond permit. The requirements to receive a wildlife pond permit shall include:
 1. A completed Minnesota local/state/federal application for water/wetland projects.
 2. Compliance with all grading/filling standards as specified in §506.11.B.
 3. A design that will enhance the wildlife habitat of the proposed project area.
- H. **Application Procedure for Permits.** The following provisions shall be met when applying for a building or structure permit or certificate:
 1. **Owner's signature required.** The application shall be signed by the owner of the land that is the subject of the permit.
 2. **Forms.** Applications shall be made on forms furnished by the County.
 3. **Information required.** Each application shall be accompanied by:
 - a. A plan **drawn to scale** showing the dimension of the lot to be built upon and the size and location of the building or use and accessory buildings to be erected
 - b. Other information as may be deemed necessary by the Planning Director or designee
 4. **Standard of review.** The Planning Director or designee may issue the permit or certificate only after determining that the building, site plans and proposed use, together with the application, comply with the terms of this Ordinance.
 5. **Time limited.** A building or structure permit issued under the terms of this Ordinance shall be valid for one hundred and eighty (180) days from the date of issuance,

- a. **Extension.** If construction has not been completed within one hundred and eighty (180) days after a permit has been issued, the permit may be extended by the Rice County Building Official an additional one hundred and eighty (180) days where reasonably diligent construction could not complete the proposed structure within the first period.
- b. **Expiration.** A building or structure permit shall expire and be considered null and void one (1) year after the date of issuance of the permit if no construction has begun. For the purposes of this section, construction shall include the installation of footings, slab, foundation, posts, walls or other portions of a building. Land clearing or the installation of utilities shall not constitute construction.

503.03 Planning Commission

The Rice County Board of Commissioners hereby establishes the Planning Commission.

- A. **Number and geographic distribution of members.** The Planning Commission shall consist of five (5) members appointed by the County Board and representing each Board of Commissioners district. At least two (2) members shall be residents of that portion of the County outside the corporate limits of municipalities.
- B. **County Board member.** An ex-officio County Board member shall be without voting rights.
- C. **Non-voting seats.** The County Board may designate any county officer or employee as a non-voting member of the Planning Commission.
- D. **Eligibility limitation.** No voting member of the Planning Commission shall have received, during the two years prior to appointment, any substantial portion of his or her income from business operations involving the development of land within Rice County.
- E. **Term length and reappointment.** The term of each member shall be for three years. Each member may be eligible for reappointment, but not more than three (3) consecutive three (3) year terms.
- F. **Staggered terms.** Appointments shall be made so that no more than three (3) and no less than two (2) terms are filled at the beginning of each calendar year.
- G. **Removal.** The County Board of Commissioners remove any member for non-performance of duty, misconduct in office, or to comply with Section A above. If a member has four unexcused absences in any one year, the secretary shall certify this fact to the Commission and the Commission shall notify the County Board along with suggested action. The County Board shall appoint a replacement for the unexpired term, as if the member had resigned.
- H. **Vacancy.** Should any vacancy occur among the members by reason of death, resignation, disability, or otherwise, immediate notice thereof shall be given to the Chair of the County Board and the County Board shall appoint a replacement. Should any vacancy occur among the officers, the vacant office shall be filled in accordance with the Planning Commission rules, such officer to serve the unexpired term of the office in which such vacancy shall occur.
- I. **Officers.** The Planning Commission shall elect a chair, vice-chair/secretary from among its members.
- J. **Compensation.** The members of the Commission may be compensated in an amount determined by the County Board and may be paid their necessary expenses in attending meetings of the Commission and in the conduct of the business of the Commission.
- K. **Functions of the Planning Commission.** The Planning Commission is authorized to perform the following functions:
 - 1. **Rules and public record.** The Planning Commission shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings, and recommendations.
 - 2. **Comprehensive plan and official controls.** The Planning Commission shall cooperate with the Planning Director and other employees of the County in preparing and recommending to the Board for adoption or amendment, comprehensive plans and recommendations for plan implementation in the form of official controls and other measures.

3. Administration of Ordinance. The Planning Commission shall provide assistance to the County Board and Planning Director in the administration of this Ordinance.

4. Rezoning, zoning amendments and conditional use permits. The Planning Commission shall review, hold public hearings, and make recommendations to the County Board on all applications for zoning amendments and conditional use permits using the criteria established in this ordinance.

503.04 Zoning Amendments

The County Board may adopt amendments to the zoning ordinance and zoning map. Amendments to the zoning ordinance or zoning map shall conform to the following provisions.

- A. **General Criteria for Amendments.** Amendments may be adopted to reflect changes in the goals and policies of the community as reflected in the Rice County Comprehensive Land Use Plan or changes in conditions in the County.
- B. **Special Criteria for Amendments to Flood Plain Regulations.** All amendments to the Flood Plain Regulations, including revisions to the Official Flood Plain Zoning District Map, shall comply with all of the following:
 - 1. **DNR approval required.** The proposed amendment shall be submitted to and approved by the Commissioner of the Department of Natural Resources prior to adoption by Rice County. The notice provisions in §503.08 shall be followed.
 - 2. **FEMA approval required.** Changes in the Official Flood Plain Zoning District Map must meet the Federal Emergency Management Agency's (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before adoption.
 - 3. **Flood protection elevation must be met.** The flood plain designation on the Official Flood Plain Zoning District Map shall not be removed unless the area is filled to an elevation at or above the Regulatory Flood Protection Elevation and is contiguous to lands outside of the flood plain.
- C. **Required information and exhibits for Ordinance text amendments.** Applications to change the wording of this Ordinance shall include the following:
 - 1. Reason for requested change
 - 2. Statement on compatibility with the Rice County Comprehensive Land Use Plan
 - 3. Text of portion of the existing ordinance to be amended
 - 4. Proposed amended text and statements outlining any other effects that the amendment may have on other provisions of this Ordinance
 - 5. Additional information as may be requested by the Planning Commission or County Board
- D. **Required information and exhibits for rezoning or land use amendments.** Applications to change zoning district boundaries or permitted or conditional land uses shall include:
 - 1. The names and addresses of the petitioner or petitioners, and their signatures to the petition as verified by the Zoning Administrator
 - 2. A specific description of the area proposed to be rezoned or amended and the names and addresses of all owners of property lying within five hundred (500) feet of such area, and a description of the property owned by each
 - 3. The present district classification of the area and the proposed district classification
 - 4. Proposed use of the land including a statement of the type of use, extent of the use, and area to be covered by the use
 - 5. Reason for requested change
 - 6. Statement on compatibility with the Rice County Comprehensive Land Use Plan
 - 7. A legal description of the property(ies) to be rezoned or amended

8. Map, plat plan, or survey drawing, drawn to scale, of property to be rezoned or amended showing:
 - a. Location
 - b. Dimensions
 - c. Zoning of adjacent properties
 - d. Existing uses and buildings on adjacent properties within five hundred (500) feet in incorporated areas, and within one-half (1/2) mile in unincorporated area
9. Additional information as may be requested by the Planning Director, Planning Commission or County Board
- E. **Procedure.** The following procedure shall be followed in reviewing ordinance or map amendments:
 1. **Who may initiate.** An amendment to the text of the Ordinance may be initiated by the County Board, the Planning Commission or by application of an affected property owner or County resident. An amendment to the zoning map may be initiated by the County Board, the Planning Commission or by application of a property owner. Individuals wishing to initiate an amendment to the zoning ordinance or zoning map shall fill out a zoning amendment application form and submit it to the Planning Director.
 2. **Completeness required.** If the application is deemed complete, the application shall be referred to the Planning Commission for review. If the application is not complete, the Planning Director shall send a letter to the applicant, with the application attached, stating the information that must be provided to complete the application.
 3. **Planning Commission review.** An amendment not initiated by the Planning Commission shall be referred to the Planning Commission for review and may not be acted upon by the County Board until it has received the Planning Commission's recommendations.
 4. **Public hearing.** A public hearing on the application for amendment shall be held by the Planning Commission after the application has been certified as complete. The Planning Commission shall make its report to the County Board recommending approval, disapproval or modified approval of the proposed amendment.
 5. **Notice to public.** Notice of the hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing.
 6. **Notice to governing bodies of towns and municipalities.** Written notice of public hearings on the proposed amendment shall be sent by the Planning Director to the **governing bodies of all towns and municipalities located** within the County.
 7. **Notice to property owners.** In unincorporated areas, property owners of record within one-half (1/2) mile of the property in question shall be notified in writing of the proposed zoning amendment. In incorporated areas, property owners within five hundred (500) feet of the property in question shall be notified in writing of the proposed zoning amendment.
 8. **Review by agencies.** The Planning Commission may require a review of the proposed zoning amendment when appropriate by the Commissioner of the Department of Natural Resources, the Minnesota Pollution Control Agency, Minnesota Department of Health, Rice County Soil and Water Conservation District, County Surveyor, County Highway Engineer and County Environmental Health Services or other county, state or federal agencies, or local governments.
 9. **Form of decision - Findings.** The report from the Planning Commission to the County Board shall take the form of formal findings on the record. The decision by the County Board to approve, modify or deny the amendment shall also take the form of formal findings on the record. The report and decision shall make the following findings:
 - a. That all of the general and special criteria in §503.04 A. and B. above have been met by the applicant
 - b. If criteria have not been met that denial of the amendment be recommend

10. **County Board action required.** The County Board shall take action on the proposed amendment following receipt of the recommendations from the Planning Commission. Said action for approval by the County Board shall be not less than a four-fifths (4/5) vote of its members. The person making application for the amendment shall be notified in writing of the Board's action.

11. **Frequency of application for amendments limited.** No application of a property owner for an amendment to the text of this 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 Planning Commission may permit a new application, if in the opinion of the Planning Commission it is warranted by new evidence or a change of circumstances.

503.05 Conditional Use Permits

This Ordinance allows certain uses that are not permitted uses to be processed as conditional uses. Allowed conditional uses are listed in this Ordinance; uses that are not listed are prohibited. Conditional uses may be allowed only under the following regulations:

- A. **Conditional uses listed.** Only those uses listed as conditional uses within the applicable zoning district may be allowed through the issuance of a conditional use permit.
- B. **Existing uses.** All uses existing at the time of adoption of this Ordinance that now require a conditional use permit may continue subject to the General Development Standards contained in Chapter 505 and the Environmental Performance Standards in Chapter 506 of this Ordinance. Any change, enlargement, structural alteration, modification, addition, or intensification of the use shall require a conditional use permit and the use shall be subject to all the criteria and procedures for conditional use permits in this Ordinance.
- C. **Term.** A conditional use permit shall remain in effect only for the period specified in the permit and only so long as all the conditions attached to the permit are met, except that:
 - 1. **Expiration.** A conditional use permit shall expire and be considered null and void one (1) year after the County Board of Commissioner's final decision to grant the conditional use permit if no construction has begun. For the purposes of this section, construction shall include the installation of footings, slab, foundation, posts, walls or other portions of a building. Land clearing or the installation of utilities shall not constitute construction.
- D. **Required information and exhibits.** An application for a conditional use permit shall include a site plan that meets the requirements in §505.16.
- E. **Criteria for granting conditional use permits.** The following criteria shall be met before a conditional use permit may be granted or renewed by the Rice County Board:
 - 1. **Criteria in other sections.** This Ordinance may contain specific criteria for conditional uses in other sections. Any criteria relating to a proposed conditional use contained in other sections of this Ordinance shall be met, in addition to the review criteria in this section, before a conditional use permit may be granted or renewed.
 - 2. **Review criteria for all conditional use permits.** In granting or renewing a conditional use permit, the Rice County Board of Commissioners shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use upon the health, safety and general welfare of occupants of surrounding lands. Among other things, the following findings shall be made:
 - a. **Burden on public facilities.** The use will not create an excessive burden on existing parks, schools, streets and other public facilities and utilities that serve or are proposed to serve the area.
 - b. **Sewer and water.** The site is adequate for water supply and on-site sewage treatment.
 - c. **Compatible with surrounding uses.** 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.

- d. **Appearance.** The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
 - e. **County needs.** The use is reasonably related to the overall needs of the County and to the existing land use.
 - f. **Zoning district purposes.** The use is consistent with the purposes of this Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - g. **Comprehensive Plan.** The use is in conformance with the Rice County Comprehensive Land Use Plan of the County.
 - h. **Traffic.** The use will not cause traffic hazard or congestion.
 - i. **Effect on businesses.** Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of noise, glare or general unsightliness.
 - j. **Soil erosion.** The use shall provide for the prevention of soil erosion or other possible pollution of public waters, both during and after construction.
 - k. **Visual Impact.** The visibility of structures and other facilities as viewed from public waters is limited.
 - l. **Watercraft.** The types, uses and number of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
 - m. **Other.** Any other factors bearing on public health, safety or welfare.
- F. **Conditions.** Standards and conditions that must be attached to specific conditional uses as part of the issuance or renewal of a conditional use permit are found in Chapter 507. In addition to those specific standards and conditions, the Planning Director may recommend the imposition of additional conditions that the Planning Commission considers necessary to protect the best interest of the surrounding area or the County as a whole. These conditions may include, but are not limited to the following:
- 1. Increasing the required lot size or yard dimension
 - 2. Limiting the height, size or location of buildings
 - 3. Requiring environmental protection measures exceeding those specified in this Ordinance
 - 4. Controlling the location and number of vehicle access points
 - 5. Road improvements necessary to meet increased traffic demand generated by the use
 - 6. Increasing the number of required off-street parking spaces
 - 7. Limiting the number, size, location or lighting of signs
 - 8. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property
 - 9. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted
 - 10. Designating sites for open space
 - 11. Limiting the time period of the conditional use permit
 - 12. Requiring periodic review by County staff of the site and use
 - 13. Increased setbacks from the ordinary high water level.
 - 14. Special provisions for the location, design and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
 - 15. Other conditions necessary to protect the public health, safety and welfare

- G. **Denial of CUP application.** A conditional use permit application will be denied if the Board of Commissioners cannot impose conditions that mitigate impacts to the extent necessary to meet the criteria for granting a conditional use permit for the proposed use.
- H. **Procedure.** The following procedure shall be followed in reviewing applications for a new or renewal of a conditional use permit:
1. **Application.** The person applying for a conditional use permit shall complete and submit to the Planning Director a conditional use permit application. The application shall be signed by the owner of the property on which the conditional use is proposed.
 2. **Completeness required.** If the application is deemed complete, the application and any recommended conditions shall be referred to the Planning Commission for review. If the application is not complete the Planning Director shall send a letter to the applicant, with the application attached, stating the information that must be provided to complete the application. Applications shall not be accepted for uses other than those listed in Table 508-1.
 3. **Public hearing.** A public hearing on the application shall be held by the Planning Commission after the application has been certified as complete. The Planning Commission shall make its report to the County Board recommending approval with conditions, or disapproval of the proposed conditional use permit.
 4. **Notice to public.** Notice of the public hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing.
 5. **Notice to governing bodies of towns and municipalities.** Notice of the hearing shall also be submitted to the governing bodies of all towns and municipalities within two (2) miles of the affected property.
 6. **Notice to property owners.** In unincorporated areas of the County, property owners of record within one-quarter (1/4) mile of the affected property or the ten (10) properties nearest to the affected property, which ever is the greatest number of property owners, shall be notified in writing of the public hearing on the request for a conditional use permit. In incorporated areas of the County, property owners of record within five hundred (500) feet of the property in question shall be notified in writing of the public hearing on the request for a conditional use permit.
 7. **Review by agencies.** The Planning Commission may require a review of the proposed conditional use when appropriate by the Commissioner of the Department of Natural Resources, the Minnesota Pollution Control Agency, Minnesota Department of Health, Rice County Soil and Water Conservation District, County Surveyor, County Highway Engineer and County Environmental Health Services or other county, state or federal agencies, or local governments.
- 5.
8. **Form of decision - Findings.** The report from the Planning Commission to the County Board shall take the form of formal findings on the record. The decision by the County Board to approve, modify or deny the permit shall also take the form of formal findings on the record. The report and decision shall make the following findings:
- a. That all of the criteria in §503.05. E. and H. above have been met by the applicant
 - b. If any of the criteria in §503.05. E. and H. above have not been met, that conditions allowed under §503.05. F. and H. above have been imposed
 - c. If criteria have not been met and sufficient conditions can not be imposed, that denial of the conditional use permit be recommend
8. **County Board action required.** The County Board shall take action on the conditional use permit application following receipt of the findings and recommendations by the Planning Commission. Said action for approval by the County Board shall be by majority vote of its members. The person making application for the conditional use permit shall be notified in writing of the Board's action.
9. **Request for change in CUP.** A request for a change in conditions attached to the granting of a conditional use permit or a request to carry out activities not allowed by the conditional use permit

shall be subject to reapplication and to the procedures required for a new conditional use permit application.

10. Frequency of application for CUP limited. 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 Planning Commission may permit a new application, if in the opinion of the Planning Commission it is warranted by new evidence or a change of circumstances.

503.06 Board of Adjustment

The Rice County Board of Commissioners hereby establishes the Board of Adjustment, which shall comply with the following rules and procedures:

- A. **Number and geographic distribution of members.** The Board of Adjustment shall consist of five (5) members, appointed by the County Board, representing an even distribution of geographic areas in the County, including at least one (1) member from the unincorporated area of the County.
- B. **County employees and officers not allowed.** No elected officer of the County nor any employee of the County shall serve as a member of the Board of Adjustment.
- C. **Planning Commission designated seat.** One member of the Board of Adjustment shall also be a member of the Planning Commission.
- D. **Term length and reappointment.** The term of each member shall be for three (3) years. Each member may be eligible for reappointment, but not more than three (3) consecutive three-year terms.
- E. **Staggered terms.** Appointments shall be made so that no more than two (2) and no less than one (1) term are filled at the beginning of each calendar year.
- F. **Removal.** The County Board may remove any member of the Board of Adjustment for nonperformance of duty or misconduct in office. If a member has four consecutive unexcused absences in any one year, the secretary shall certify this fact to the Board of Adjustment and the Board of Adjustment shall notify the County Board along with suggested action. The County Board shall appoint a replacement for the unexpired term, as if the member had resigned.
- G. **Vacancy.** Should any vacancy occur among the members by reason of death, resignation, disability or otherwise, immediate notice thereof shall be given to the Chair of the County Board and the County Board shall appoint a replacement. Should any vacancy occur among the officers, the vacant office shall be filled in accordance with the Board of Adjustment rules, such officer to serve the unexpired term of the office in which such vacancy shall occur.
- H. **Officers.** The Board of Adjustment shall elect a chair and vice chair from among its members and shall appoint the Zoning Administrator as secretary.
- I. **Meetings.** The meetings of the Board of Adjustment shall be held at the call of its chairperson and at such other times as its rules of procedure may specify.
- J. **Compensation.** Members of the Board of Adjustment may be paid compensation in an amount determined by the County Board and may be paid their necessary expenses in attending meetings of the Board and in the conduct of the business of the Board of Adjustment.
- K. **Functions and authority of the Board of Adjustment.** The Board of Adjustment is authorized to perform the following functions:
 - 1. **Rules and public record.** The Board of Adjustment shall adopt rules for the transaction of its business and shall keep a public record of its transactions, findings and determinations.
 - 2. **Variances.** The Board of Adjustment shall have the authority to order the issuance or denial of variances from the provisions of this Ordinance using the criteria and procedures in §503.07. The Board may impose conditions in the granting of a variance to insure compliance and to protect adjacent properties and the public interest. The following variances are prohibited and may not be granted by the Board of Adjustment:

- a. No variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located.
 - b. No variance may be granted which would allow for a lesser degree of flood protection than required in this Ordinance.
3. **Appeals.** The Board of Adjustment shall have the authority to hear and decide appeals from and review any order, requirement, decision, or determination made by any administrative official charged with administering and enforcing this Ordinance. Such appeals shall be governed by the following provisions:
- a. **Who may appeal.** An appeal may be taken by any aggrieved person or by any officer, department, town board, municipality, county, or state.
 - b. **Time frame for appeal.** An appeal shall be taken within thirty (30) days from the date of issuance of the order, requirement, decision or determination by filing with the Board of Adjustment a notice of appeal specifying the grounds of the appeal.
 - c. **Hearing and notice.** The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the appellant and the officer from whom the appeal is taken and to the public.
 - d. **Decision.** A decision shall be issued within ninety (90) days from the date of the hearing. The Board of Adjustment may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination appealed from and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit. The reasons for the Board's decision shall be stated in writing.
 - e. **Stay of action.** An appeal stays all proceedings in furtherance of the action appealed from unless the Board of Adjustment to whom the appeal is taken certifies that by reason of the facts stated in the certificate a stay would cause imminent peril to life or property.
 - f. **Appeal orders recorded.** The Planning Director shall file for record with the County Recorder/Registrar of Titles a certified copy of any order issued by the Board of Adjustment acting upon an appeal from an order, requirement, decision or determination by an administrative official, or a request for a variance. The order issued by the Board of Adjustment shall include the legal description of the property involved.

503.07 Variances

A variance to the provisions of this Ordinance may be issued to a landowner upon application to the Board of Adjustment under the following procedures and criteria:

- A. No use variances may be issued.
- B. **Runs with the land.** A variance shall run with the land and remain in effect so long as all conditions imposed by the Board of Adjustment are met, except that:
 - 1. **Expiration.** A variance shall expire and be considered null and void one (1) year after the Board of Adjustment's final decision to grant the variance if no construction has begun. For the purposes of this section, construction shall include the installation of footings, slab, foundation, posts, walls or other portions of a building. Land clearing or the installation of utilities shall not constitute construction.
- C. **Required information and exhibits.** An application for a variance shall include the following:
 - 1. Printed names, addresses and signatures of the petitioner or petitioners
 - 2. A description of the site and all land uses within one-quarter (1/4) mile of the subject property
 - 3. The existing land use and the proposed use of land for which variance is requested
 - 4. A statement of whether the property is used seasonally or year-round
 - 5. A statement of the compatibility of the proposed variance with the Rice County Comprehensive Land Use Plan

6. A legal description of the property for which the variance is requested
 7. A detailed map of the property showing the location of proposed buildings, dimensional variances requested, and existing land uses and buildings of adjacent properties within five hundred (500) feet in incorporated areas, and within one-quarter (1/4) mile in unincorporated areas
 8. The application shall clearly demonstrate whether a conforming sewage treatment system is present for the intended use of the property.
- D. Criteria for granting variances.** The following criteria must be met before a variance may be granted:
1. No variance may be granted unless a nonconforming sewage system on the site is made compliant with the Rice County Sewage and Wastewater Treatment Ordinance.
 2. Variances shall only be permitted if all of the following criteria are met:
 - a. The variance meets the general purposes and intent of this Ordinance.
 - b. The variance is consistent with the Rice County Comprehensive Land Use Plan.
 - c. There are practical physical difficulties or particular physical hardships when the strict letter of this Ordinance is imposed. "Hardship" as used in connection with the granting of a variance means the property in question cannot be put to any reasonable use if used under the conditions allowed by this Ordinance. Agricultural use shall be considered a reasonable use. Economic hardship alone shall not be considered sufficient hardship for granting a variance.
 - d. Exceptional or extraordinary circumstances apply to the property that do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of property have had no control.
 - e. The literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance.
 - f. The variance requested is the minimum variance that would alleviate the hardship.
 3. No variance shall be granted where any of the following conditions are present:
 - a. Adequate sewage treatment systems or water supply capabilities cannot be provided
 - b. The plight of the landowner or hardship is due to circumstances created by the landowner
 - c. The variance would allow a use prohibited in that district
 - d. The variance would result in a lower degree of flood protection than the Regulatory Flood Protection Elevation. Variances may be used to modify permissible methods of flood protection.
 - e. The essential character of the locality would be altered or there would be a significant adverse effect on the surrounding properties
 - f. There would be a significant adverse effect on the public health or safety
 - g. No variance shall confer on the applicant any special privilege that is denied by this Ordinance to owners of other lands, structures or buildings in the same district.
 4. Variances shall be granted for earth sheltered construction as defined in Minnesota Statutes Section 216C.06, Subdivision 2.
- E. Notification to applicants for variances in Flood Plain Districts.** The Planning Director shall notify the applicant for a variance in a Flood Plain District that the issuance of a variance to construct a structure below the base flood level will result in substantial premium rates for flood insurance coverage, and that such construction below the one hundred (100) year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions. A community shall maintain a record of all variance actions, including

justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program.

- F. **Procedure.** When considering a variance, the Board of Adjustment shall adhere to the following procedures:
1. **Application.** The landowner shall complete and submit a signed variance request form to the Planning Director.
 2. **Completeness required.** If the application is deemed complete, the application shall be referred to the Board of Adjustment for review. If the application is not complete the Planning Director shall send a letter to the applicant, with the form attached, stating the information that must be provided to complete the variance request form.
 3. **Public hearing and decision.** A public hearing on the variance request shall be held by the Board of Adjustment after the application has been certified as complete. The Board of Adjustment shall take action on the variance request after receiving the application.
 4. **Notice to public.** Notice of the public hearing shall be published in the official newspaper designated by the County Board at least ten (10) days prior to the hearing.
 5. **Notice to governing bodies of towns and municipalities.** Notice of the hearing shall also be submitted to the governing bodies of all towns and municipalities within two (2) miles of the affected property.
 6. **Notice to property owners.** In unincorporated areas of the County, property owners of record within one-quarter (1/4) mile of the affected property or the ten (10) properties nearest to the affected property, which ever is the greatest number of property owners, shall be notified in writing of the public hearing on the variance request. In incorporated areas of the County, property owners of record within five hundred (500) feet of the property in question shall be notified in writing of the public hearing on the variance request.
 7. **Review by agencies.** The Board of Adjustment may require a review of the variance request when appropriate by the Commissioner of the Department of Natural Resources, the Minnesota Pollution Control Agency, Minnesota Department of Health, Rice County Soil and Water Conservation District, County Surveyor, County Highway Engineer and County Environmental Health Services or other county, state or federal agencies, or local governments.
 8. **Conditions may be imposed.** If the variance is granted, the Board of Adjustment may impose conditions it considers necessary to protect the public health, safety and welfare, and such conditions may include a time limit for the use to exist or operate.
 9. **Form of decision - Findings.** The decision by the Board of Adjustment to approve, modify or deny the variance request shall take the form of formal findings on the record. The decision shall make the following findings:
 - a. That all of the criteria in §503.07 D. above have been met by the applicant
 - b. The findings shall include any conditions imposed by the Board of Adjustment and the reasons for imposing conditions.
 10. **Frequency of application for amendments limited.** 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 Board of Adjustment may allow a new application, if new evidence or a change in circumstances warrant it.
 11. **Variance decisions recorded.** The Planning Director shall file for record with the County Recorder/Registrar of Titles a certified copy of any approved variance or record of denial of a variance. The decision issued by the Board of Adjustment shall include the legal description of the property involved

503.08 Notification to the Department of Natural Resources

The Department of Natural Resources requires the following notification for actions by the Rice County Planning Commission and Board of Adjustment.

- A. **Notices.** Copies of all notices of any public hearing to consider variances, amendments, conditional uses in Shoreland Districts, Wild and Scenic River Districts, and Floodplain Districts must be sent to the Commissioner of the Department of Natural Resources and postmarked at least ten (10) days before the hearings. Notices of hearings sent pursuant to this paragraph shall include a copy of the variance application, proposed amendment, conditional use application, or flood plain technical study.
- B. **Approvals.** A copy of approved amendments, subdivisions or plats, and final decisions granting variances or conditional uses in Shoreland Districts, Wild and Scenic River Districts and Floodplain Districts must be sent to the Commissioner of the Department of Natural Resources and postmarked within ten (10) days of final action. If the Department of Natural Resources formally recommended denial of a variance, and the County subsequently approved such variance, the notification of the approved variance shall also include the Board of Adjustment summary of the public record/testimony and the findings of fact and conclusions that supported the issuance of the variance.

503.09 Fees

Fees for permits, certificates, applications, reviews, inspections, investigations, after-the-fact permits or other activities performed by County staff pursuant to provisions of this Ordinance shall be set by resolution of the County Board.

503.10 Violations

Persons or organizations that violate the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine, imprisonment or both. Unless otherwise provided, each act of violation and every day on which such violation occurs or continues shall constitute a separate offense. All of the following shall be deemed violation of this Ordinance:

- A. Failure to comply with any of the provisions of this Ordinance
- B. Failure to obtain any required permit or certificate
- C. Failure to pay a required fee
- D. Making a false statement in any document required to be submitted under the provisions of this Ordinance
- E. Violating a condition of a permit
- F. It is a violation for an owner to maintain, permit or otherwise allow any non-compliance with the provisions of this ordinance or the conditions of a permit on the owner's property.
- G. It is a violation for a permit applicant to instruct, permit or otherwise allow a subordinate person or entity to violate the provisions of this ordinance or the conditions of a permit.

503.11 Enforcement

The provisions of this Ordinance may be enforced by Rice County through the following methods.

- A. **Stop work order.** The Planning Director or designee shall investigate all alleged violations of the Ordinance and determine if a violation has occurred. If a violation of this Ordinance has occurred, the Planning Director, Zoning Administrator or Building Official may issue a Stop Work Order and immediately halt construction or the use until a proper permit or approval is obtained.
 - 1. **Violations.** A violation of this Ordinance that may result in a Stop Work Order includes, but is not limited to:
 - a. A violation of a condition of a permit
 - b. Beginning construction without the proper permit
 - c. Undertaking a use or a change in use without the proper permit
 - 2. **Investigation fee.** In addition to any permit fee, an investigation fee shall be charged to the owner of land where a violation occurs and the structure or use is under construction or development.

3. **If construction complete.** If the construction or development is already completed, the Planning Director shall either:
 - a. Issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
 - b. Notify the responsible party to apply for an after-the-fact permit or development approval within a specified period of time not to exceed thirty (30) days; or
 - c. Remove the use or structure within a specific period of time.
 4. **Failure to comply.** Failure to comply with a Stop Work Order, order to undertake corrective actions, order to remove the use or structure, or an order to apply for an after-the-fact permit constitutes a violation of this Ordinance, and each day the Stop Work order is violated constitutes a separate offense.
- B. Clean-up or demolition order.** The Planning Director or designee shall investigate all alleged violations of the Ordinance and determine if a violation has occurred. If a violation of this Ordinance results in a public nuisance or an unsafe or unhealthy condition, the Planning Director may issue a Clean-up Order or a Demolition Order stating a reasonable time frame for the landowner to clean up the violation or demolish the structure, and stating that if the landowner fails to comply in the stated time the County shall enter and enforce the order.
1. **Costs charged to landowner.** If the landowner fails to correct a situation subject to a Clean-up or Demolition Order, the County undertakes clean-up or demolition, the costs of clean-up or demolition shall be charged to the landowner or placed as a lien upon the property.
 2. **Investigation fee.** An investigation fee shall be charged to the owner of land where an investigation by County staff identifies a violation under this section.
- C. Other legal actions**
The County Board, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct or abate violations or threatened violations of this Ordinance, and it shall be the duty of the County Attorney to institute such action.
- D. Mandamus Proceedings**
Any taxpayer or taxpayers of the County may institute mandamus proceedings in the District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.