



PLANNING & ZONING COMMISSION AGENDA

Date: September 16, 2024

Time: Following the adjournment of the Nicollet County Board of Adjustments & Appeals meeting (doors open at 6:45)

Location: County Board Room - Government Center, 501 S. Minnesota Avenue, St. Peter

Copies of the meeting agenda and packet are available on Nicollet County's website: www.co.nicollet.mn.us/Agendas
Questions or comments regarding the meeting can be directed to the Nicollet County Property Services Department by calling 507-934-7070, or by email to niccopermitapps@co.nicollet.mn.us.

1. Call to Order
2. Roll Call
3. Silence Your Cell Phone
4. Review of Cancellations and Additions
5. Approval of Minutes: *August 19, 2024*
6. Public Appearances
7. **Review Permits**
8. Old Business
 - Informational Presentation: **Accessory Dwelling Units**
 - Informational Presentation: **Standards for Liquid Propane Storage Tanks**
9. Other Business
10. Communications
11. Adjourn

Mission Statement

Providing efficient services with innovation and accountability.

Vision Statement

Setting the standard for providing superior and efficient county government services through leadership, accountability and innovation to a growing and diverse society.

Core Values

Leadership. Integrity.
Accountability.
Efficiency. Innovation.

PLANNING COMMISSION REGULAR MONTHLY MEETING MINUTES

AUGUST 19, 2024	8:15 PM	COUNTY BOARD ROOM
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ROLL CALL	COMMISSIONERS PRESENT	COMMISSIONERS ABSENT EXCUSED	NICOLLET COUNTY STAFF PRESENT
	☒ Lloyd Hoffmann ☒ Justin Laven ☒ Randy Schwab ☒ Jon Thoreson, <i>Vice Chair</i> ☒ Dave Ubel, <i>Chair</i> ☒ Kurt Zins, <i>Commissioner</i>	☐ Lloyd Hoffmann ☐ Justin Laven ☐ Randy Schwab ☐ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>	☒ Spencer Crawford, Zoning Specialist (ZS) ☒ John Zehnder, Zoning Specialist (ZS) ☒ Justin Hughes, Assistant County Attorney (ACA) ☒ Other Staff: Crystal Madden, Recording Secretary ☒ Other Staff: Michelle Zehnder Fischer, County Attorney (CA)

REVIEW OF CANCELLATIONS & ADDITIONS	None.
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APPROVAL OF JULY 15, 2024 MINUTES	MOTION	SECOND
APPROVE	☐ Lloyd Hoffmann ☐ Justin Laven ☒ Randy Schwab ☐ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>	☐ Lloyd Hoffmann ☒ Justin Laven ☐ Randy Schwab ☐ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>
VOTE TO APPROVE MINUTES	☒ PASS ☐ FAIL	VOTE: 6 - 0

PUBLIC APPEARANCES	None.
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CONDITIONAL USE PUBLIC HEARINGS	
PLN24-11	APPLICANT/LANDOWNER: Darv Turbes / United Farmers Cooperative (continued from 7/15/2024)
DESCRIPTION OF REQUEST	Placement of a thirty-thousand (30,000) - gallon liquid petroleum (propane) bulk storage container in the Limited Industry Zoning District at UFC's Klossner location. PID: 06.541.0020
CONFLICT OF INTEREST	Member Schwab recused himself due to a conflict of interest.
SITE VISIT & PUBLIC CONTACT	Commission members Zins, Hoffmann, Laven, Thoreson & Ubel visited the site. There was no contact with commission members from members of the public.
STAFF REPORT PRESENTED BY	ZS Crawford
APPLICANT TESTIMONY	Present to represent the application was Merle Bohlin with United Farmers Cooperative located at 29566 300 th Street, Sleepy Eye, along with Greg Hauptert, Attorney with Sobalvarro & Hauptert located at 3601 18th Street South, St. Cloud. Zac Kuehn with United Farmers Cooperative located at 618 23 rd Street North, New Ulm also spoke to the request.
PUBLIC TESTIMONY	Carolyn & John Meyer located at 57653 Fort Road, New Ulm provided testimony opposed to the request, but in favor of UFC planting additional shrubbery to dampen the sound to neighboring homes.
COMMISSIONER DISCUSSION	Further discussion between the Applicant, Commission, and Staff took place. A motion was made by Commissioner Zins and seconded by Member Laven to add Condition #9. A vote on the motion passed 5-0.

COMMISSION ACTION - MOTION	MOTION	SECOND
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RECOMMEND APPROVAL with conditions, as amended	☐ Lloyd Hoffmann ☐ Justin Laven ☐ Randy Schwab ☒ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>	☐ Lloyd Hoffmann ☒ Justin Laven ☐ Randy Schwab ☐ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>
COMMISSION ACTION – VOTE ON MOTION		
RECOMMEND APPROVAL with conditions, as amended	☒ PASS	☐ FAIL
VOTE: 5 - 0		
COMMISSION ACTION – ADOPT FINDINGS	MOTION	SECOND
ADOPT THE FINDINGS OF THE FACT AS STATED	☐ Lloyd Hoffmann ☐ Justin Laven ☐ Randy Schwab ☒ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>	☒ Lloyd Hoffmann ☐ Justin Laven ☐ Randy Schwab ☐ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>
VOTE TO ADOPT THE FINDINGS OF FACT	☒ PASS	☐ FAIL
VOTE: 5 - 0		

REZONING PUBLIC HEARING			
PLN24-12	APPLICANT/LANDOWNER: Jason Tews / United Farmers Cooperative (continued from 7/15/24)		
DESCRIPTION OF REQUEST	Rezoning parcel ID(s): 06.103.0400 from Rural Townsite to Limited Industry; 06.103.0300 from Rural Townsite to Limited Industry; 06.103.0210 from Agricultural Preservation to Limited Industry.		
CONFLICT OF INTEREST	Member Schwab recused himself due to a conflict of interest.		
SITE VISIT & PUBLIC CONTACT	Members Laven, Thoreson & Ubel visited the site. There was no contact with commission members from members of the public.		
STAFF REPORT PRESENTED BY	ZS Crawford		
APPLICANT TESTIMONY	Present to represent the application was Jason Tews, Vice President of Grain & Feed with United Farmers Cooperative located at 123 Woods Drive, Le Sueur; along with Greg Hauptert, Attorney with Sobalvarro & Hauptert located at 3601 18th Street South, St. Cloud.		
PUBLIC TESTIMONY	Roger Berenek at 39253 625th Avenue, New Ulm was present to provide public testimony asking for assurances concerning road access via easement to his property. Chair Ubel recommended Mr. Berenek discuss this concern with the township board before the township road is vacated. No other correspondence was received.		
COMMISSIONER DISCUSSION	Further discussion between the Applicant, Commission, and Staff took place.		
COMMISSION ACTION - MOTION	MOTION	SECOND	
Recommend approval of the rezoning request from Rural Townsite & Agricultural Preservation to Limited Industry	☐ Lloyd Hoffmann ☒ Justin Laven ☐ Randy Schwab ☐ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>	☐ Lloyd Hoffmann ☐ Justin Laven ☐ Randy Schwab ☐ Jon Thoreson, <i>Vice Chair</i> ☒ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>	
COMMISSION ACTION – VOTE ON MOTION			
Approval to recommend the rezoning request	☒ PASS	☐ FAIL	VOTE: 5 - 0

ADDITIONAL ITEMS	
REVIEW ZONING PERMITS	The Commission had no questions for Staff.
OLD BUSINESS	None.
OTHER BUSINESS	None.

COMMUNICATIONS	None.		
ADJOURN MEETING	MOTION		SECOND
09:40 PM	☐ Lloyd Hoffmann ☐ Justin Laven ☐ Randy Schwab ☐ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☒ Kurt Zins, <i>Commissioner</i>		☐ Lloyd Hoffmann ☒ Justin Laven ☐ Randy Schwab ☐ Jon Thoreson, <i>Vice Chair</i> ☐ Dave Ubel, <i>Chair</i> ☐ Kurt Zins, <i>Commissioner</i>
VOTE TO ADJOURN MEETING	☒ CARRIED	☐ FAILED	VOTE: 6 – 0

JOHN ZEHNDER, ZONING SPECIALIST		DATE	9/16/2024
DAVE UBEL, CHAIR		DATE	9/16/2024

DRAFT

07/01/2024 - 08/31/2024 Permit Form

RECORD ID	RECORD TYPE	DESCRIPTION	ADDRESS	OWNER NAME	PARCEL ID
SPT24-18	SSTS PERMIT	REPLACEMENT SYSTEM FOR A 3 BEDROOM HOUSE	36949 CTY RD 63, SAINT PETER, MN 56082	DANIEL STARK	07.017.0700
BLD24-54	STRUCTURE PERMIT	24' X 40' X 10' EQUIPMENT SHED	45638 561ST AVE, NEW ULM, MN 56073	MN VALLEY LUTH HIGH SCHOOL & ASSN	04.035.1905
BLD24-57	STRUCTURE PERMIT	DRYER FOR GRAIN SETUP	52313 360TH ST, LAFAYETTE, MN 56054	HAYES PATRICIA M	02.009.0600
FDL24-02	FEEDLOT CONSTRUCTION PERMIT	60' X 128' CATTLE BARN	59570 350TH ST, LAFAYETTE, MN 56054	MICHAEL J HOFFMANN	06.005.0805
BLD24-58	STRUCTURE PERMIT	43' X 15' ANIMAL MORTALITY FACILITY AT HOG BARN SITE	40750 441ST AVE, NICOLLET, MN 56074	KA ENTERPRISES LLC	07.033.0610
SPT24-20	SSTS PERMIT	ADDING 12' TO THE MOUND TO MAKE IT A 3 BEDROOM SYSTEM	46729 381ST AVE, ST. PETER, MN 56082	JOSHUA WINKLER	10.301.1400
BLD24-59	STRUCTURE PERMIT	30' X 24' GARAGE RELOCATION	46255 380TH ST, NICOLLET, MN 56074	TRAVIS ZIMMERMAN	08.028.0205
BLD24-60	STRUCTURE PERMIT	28 KW SOLAR ENERGY SYSTEM	46672 381ST AVE, SAINT PETER, MN 56082	SHANE E & KIMBERLY J WERNISING	10.301.1300
BLD24-61	STRUCTURE PERMIT	36' X 40' DETACHED GARAGE	38025 561ST AVE, LAFAYETTE, MN 56054	CARLSON ALAN H	06.024.0400
BLD24-63	STRUCTURE PERMIT	REPLACE 2 SMALLER GRAIN BINS WITH 1 LARGER	50527 350TH ST, LAFAYETTE, MN 56054	SIOSTROM STEVEN L & DEBRA R SIOSTROM	02.011.0305
BLD24-64	STRUCTURE PERMIT	3-SEASON PORCH - ONE ROOM- PERSONAL USE	40999 COUNTY RD 20, SAINT PETER, MN 56082	GANSEN NICHOLAS J	12.105.0905
SPT24-21	SSTS PERMIT	ADDING A PUMP TANK TO THE EXISTING SYSTEM	61629 VALLEY HIGH RD, NEW ULM, MN 56073	MALEIA RYBERG & JADEN SANDGREN	13.551.0010
PLN24-14	VARIANCE	VARIANCE TO BLUFF SETBACK AND BUILDING IN BLUFF	43778 SPRUCE HAVEN LN, NEW ULM, MN 56073	HONSTAD ANGELA & RYAN HONSTAD	04.022.1015
BLD24-65	STRUCTURE PERMIT	40' X 9' CONTAINER	52098 DEERWOOD TRL, NORTH MANKATO, MN 56003	GRIMMER JEFFREY E	01.106.0700
BLD24-66	STRUCTURE PERMIT	2617 SQ FT HOUSE AND 1407 SQ FT GARAGE	47893 435TH AVE, NICOLLET, MN 56074	RUDENICK JULIE	09.012.0600
SPT24-22	SSTS PERMIT	MOVING RV DUMP STATION TO NEW LOCATION	58167 428TH LN, NEW ULM, MN 56073	K & K ENTERPRISE, INC.	06.116.1100
SPT24-23	SSTS PERMIT	NEW HOLDING TANK FOR SHED	35724 375TH AVE, SAINT PETER, MN 56082	RONALD REGENSCHEID TRUST	07.014.0310
SPT24-24	SSTS PERMIT	REPLACEMENT SYSTEM FOR A 4 BEDROOM HOUSE	39803 365TH LN, SAINT PETER, MN 56082	ZACHARY A MILLER	07.131.0900
PLN24-15	CONDITIONAL USE PERMIT	105' DIAMETER GRAIN BIN	40150 577TH LN, NEW ULM, MN 56073	UNITED FARMERS COOPERATIVE	06.103.0400
PLN24-16	CONDITIONAL USE PERMIT	REPLAT	40150 577TH LN, NEW ULM, MN 56073	UNITED FARMERS COOPERATIVE	06.103.0400
					06.103.0300
					06.103.0210
					06.103.0905
					06.103.0915
BLD24-67	STRUCTURE PERMIT	32' X 56' ATTACHED GARAGE ADDITION	44543 502ND ST, NORTH MANKATO, MN 56003	EVANS KENT M & SARA L	09.026.0905
BLD24-68	STRUCTURE PERMIT	10' X 16' HOME ADDITION & 30' X 33' ATTACHED GARAGE	39803 365TH LN, SAINT PETER, MN 56082	ZACHARY A MILLER	07.131.0900
PLN24-17	VARIANCE	SEPTIC VARIANCE	40609 PURRIER CT, NORTH MANKATO, MN 56003	CORNELIUS FRANCIS J & JOYCE L CORNELIUS	01.683.0070
SPT24-26	SSTS PERMIT	NEW SEPTIC SYSTEM FOR NEW 3 BEDROOM HOUSE	47893 435TH AVE, NICOLLET, MN 56074	JULIE RUDENICK	09.012.0605
BLD24-69	STRUCTURE PERMIT	48' X 66' GRAIN BIN STORAGE	41792 525TH LN, NEW ULM, MN 56073	OLSON DAVID A & LYNN D OLSON	03.009.0600
BLD24-70	STRUCTURE PERMIT	HOG BARN LOADING CHUTE	40231 455TH AVE, NICOLLET, MN 56074	COMPART DUSTIN R & NATALIE C COMPART	05.003.0200
BLD24-71	STRUCTURE PERMIT	1.840 SQ FT REPLACEMENT DWELLING	42371 STATE HIGHWAY 99, NICOLLET MN 56074	NOURIE PAUL R & SUZANNE D NOURIE	10.306.0210
BLD24-72	STRUCTURE PERMIT	8' X 8' DECK	45201 SUNRISE DR, NEW ULM, MN 56073	NORDBY DENNIS & SHARON NORDBY	04.793.0120
BLD24-73	STRUCTURE PERMIT	REMOVE PORCH & ADD 16' X 22' ADDITION	3777 STATE HIGHWAY 22, SAINT PETER, MN 56082	NORSELAND CHURCH	07.020.0110



Accessory Dwelling Units (ADU's)

Definitions

A dwelling unit either attached to a single-family principal dwelling or located on the same lot and having an independent means of access. – *The Complete Illustrated Book of Development Definitions, Fourth Edition.*

A smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home. – *American Planning Association*



▲ Accessory dwelling units (or ADUs) come in many shapes and styles.

Current Standards

The Nicollet County Zoning Ordinance allows for temporary dwellings but not accessory dwelling units. The two are similar as both permit a smaller secondary residential structure on the same parcel as a primary dwelling. However, they differ in that temporary dwellings have a limited timeframe. Temporary structures, where permitted, can receive administrative approval from staff for occupancy of less than a year. However, they require a Conditional Use Permit for occupancy lasting more than a year, and the Board must set a timeframe as a condition of the permit.

In the past year, several property owners have expressed interest in building accessory dwelling units without the time constraints imposed by a temporary dwelling permit. This would require changes in the county's temporary dwelling ordinance. The Zoning Ordinance standards for temporary dwellings appear below:

712.3 TEMPORARY DWELLING STANDARDS

1. Temporary dwelling applicants shall demonstrate a need for housing of elderly, farm and business helpers, or occupants of principal dwelling during construction or repair of principal dwelling.
2. The use shall be secondary to the primary dwelling use and a time frame shall be estimated and added as a condition for the conditional use.
3. All dwelling standards and dimensional standards apply, except:
 - A. The treatment system of the main dwelling can be utilized if it is up to present standards and has enough capacity, otherwise it shall be brought into conformity and/or enlarged.
 - B. They cannot be placed on a separate lot with no other dwelling intended.
 - C. There are no minimum width requirements.
 - D. There are no foundation requirements, but the dwelling shall be secure to the ground.
 - E. In cases of use for the elderly, they may be attached to the main dwelling.
 - F. Detached temporary dwellings are only allowed where the lot size for the primary dwelling is forty (40) or more acres except when being used only during construction or repair of primary dwelling.
4. Temporary dwellings for seasonal or temporary migrant agricultural workers shall meet MDH Migrant Labor Camp standards.

An ordinance amendment involving ADU's could also affect the following regulations:

712.2 DWELLING STANDARDS

1. No more than one (1) dwelling shall be placed on any one (1) lot except in the cases of temporary dwellings.
4. The minimum dwelling width shall be twenty (20) feet except in the case of temporary dwellings.

History of Accessory Dwelling Unit Regulations in Nicollet County

Multiple dwellings occasional appeared on single farm sites before zoning regulations came into force. The first Nicollet County Zoning Ordinance enacted in 1965 allowed for “one family detached dwellings”, although it did not specify how many could fit on a single parcel. The Ordinance’s 1981 update subsequently prohibited the use of accessory structures for residential purposes, but it did allow for the temporary placement of mobile homes as farm dwellings, living spaces during construction, or living spaces for those needing care. As in the current ordinance, they required removal after a specified timeframe. The temporary dwelling ordinance last received amendments in 1990 and remains unchanged today (excepting additional standards for temporary construction buildings).

In 2016, the Minnesota Legislature amended Statute 394, which regulates temporary family health care dwellings (also known as granny pods). The state standards are in many ways more restrictive than Nicollet County; the maximum size allowed is 300 square feet, and dwellings must be portable, while meeting construction and design standards. However, the statute does not mandate a 40-acre minimum lot size for detached temporary dwellings as required in Nicollet County. The County passed a resolution on June 28, 2016, opting out of Statute 394 in favor of the existing County standards.

Septic Standards

The current ordinance allows two sewage disposal options for new temporary dwellings: they can connect with either a new septic system or an existing system if the capacity allows. Holding tanks are not allowed for new temporary dwellings. Some ADU ordinances in other Minnesota Counties require the applicant to prove adequate sewage disposal for both the primary and accessory dwelling as a requirement of approval. Any ADU ordinance revision should contain a similar provision to ensure that waste is handled in a sanitary manner.

The viability of placing future septic systems for the ADU and primary dwelling should also be considered. Currently, Nicollet County Zoning Ordinance 734.4 requires all lots created after January 23, 1996, to have two soil treatment and dispersal areas that can support type I trenches, seepage beds, mounds, and at-grade systems. An ADU could utilize one of the soil treatment areas intended for use by the primary structure in the future. Any amendment should consider a requirement for future soil treatment and dispersal areas for the ADU, along with the appropriateness of holding tanks when this is not viable.

Comprehensive Plan Compatibility

The Comprehensive Plan emphasizes the importance of maintaining the rural character of Nicollet County through preserving natural areas and agricultural land. Many residents share this sentiment; 51.53% of respondents to the public engagement survey conducted as part of the Comprehensive Plan identified Nicollet County as a farming and agricultural community. This character is maintained in practice through the Nicollet County Zoning Ordinance, which sets a density standard of one new home per quarter-quarter. Any changes to the Zoning Ordinance regarding housing should receive careful consideration to prevent sprawl and leapfrog development, thereby preserving the rural nature of the County.

Zoning Ordinance amendments should also take into consideration the goals, policies, and guidelines for future land-use regulations set by the Comprehensive Plan. Goal E and Policy G (listed below) directly speak to the development of residential properties and areas.

Land Use Goals and Policies

Goals	A. Support the preservation of agricultural land within the county. B. Encourage sustainable agriculture practices to ensure the longevity of agriculture as a land use and viable economic activity in the county. C. Only allow for development in unincorporated areas that minimize impacts to resources, infrastructure, municipal growth and planning, and overall quality of life. D. Work collaboratively with local jurisdictions to implement future land use planning goals and policies. E. Promote the development of a housing stock that meets the needs of residents and is in areas that support the growth goals of the county and municipalities.
Policies	A. The county will support the preservation of highly productive agricultural land within the rural areas of the county. B. The county will establish and abide by standards that create future development opportunities and encourage high quality development that serves as an asset to the county and its residents. C. The county will consider the character of the land, its suitability for development, and the preservation of natural, cultural, and water resources as part of the development review process. D. The county will ensure that land is used in the most appropriate manner, by minimizing conflicts between land uses, fostering principles of sustainability, and providing for the health, safety, and welfare of residents. E. The county will incorporate the growth planning of each municipality into the county's long-range planning efforts. F. The county recognizes that agriculture will be a permanent use in some areas and a transitional use in others. In the transitioning areas, agricultural and rural uses will be planned in a manner that anticipates future changes to more intense uses. These future uses should be developed in a manner that is orderly and compact, minimizing impacts to surrounding areas. G. The county will guide residential development to areas within the county that can adequately support the proposed density and development types, while providing access to utility and transportation infrastructure and limiting impacts to county and municipal resources.

Changing Demographics

Demographic trends have an impact on rural housing needs. The U.S. census bureau estimates that Individuals over the age of 65 accounted for 17% of Nicollet County's population in 2022, and the Minnesota State Demographer estimates this number will grow to 25% by 2040. An aging population will increase the number of farm transitions and the need for elder care. Accessory dwelling units can assist with these transitions by providing independent living spaces within existing farm sites.

Sample Ordinances

Sibley County

Definition:

Dwelling, Accessory- A separate dwelling constructed on an undivided lot for the sole use by the occupants of the principal building, including their immediate relatives, but shall not be used for commercial or rental purposes. Accessory Dwelling units may be either attached to the single-family dwelling unit ("attached") or within a detached building ("detached"). Accessory Dwelling units shall be developed in accordance with the provisions of SECTION 300.14.5 and only in those zoning districts where the use is listed as a conditional use.

Standards:

Accessory dwellings shall be subject to the following:

- a. No more than one accessory dwelling unit is permitted per lot and must be on a lot with a single-family dwelling. Accessory Dwellings shall not be located on sites with extra farm dwellings or temporary dwellings.
- b. The principal structure and a detached accessory unit must be located on one undivided lot. The accessory dwelling shall not exceed 75% of the size of the principal structure.
- c. The applicant for a conditional use permit for an accessory dwelling shall demonstrate adequate provisions for sewage disposal for the accessory and primary dwelling units in accordance with this Ordinance. Sewage treatment system, including drain fields shall meet the minimum required setback.
- d. The accessory dwelling unit shall not be owned independently of the principal structure. The accessory dwelling unit shall not be rented to an individual or be used for commercial purposes.
- e. An accessory dwelling unit and its supporting parking area shall be served by the same driveway and access that serves the principal single-family dwelling.

- f. The accessory dwelling unit shall meet the minimum setbacks required for a principal structure within the zoning district. The height may meet the height permitted in the zoning district as long as it does not exceed the height of the principal structure.
- g. The property owner shall execute a declaration of land use restrictive covenants and owner's warranties creating certain covenants running with the land for the purpose of enforcing the definitional requirement of family occupancy and standards and conditions of this subsection and file the same with the county recorder. The Zoning Administrator shall approve the content of the declaration before it is recorded. The property owner must deliver an executed original of the declaration, which shall display its date and document number of record, to the Zoning Administrator before any County building or zoning permits required for the accessory dwelling unit can be issued.
- h. Design and Appearance.
 - 1. Attached accessory dwellings shall be designed so that, to the degree reasonably feasible, the appearance of the building remains that of a single-family dwelling.
 - 2. Detached accessory dwellings shall be designed and constructed so that, to the degree reasonably feasible, the structure may be converted to an accessory use allowed in the zoning district the site is located within.
- i. An accessory dwelling shall not contain more than one (1) bathroom, one (1) kitchen (with or without eating area), one (1) utility room, two (2) bedrooms, and one (1) living/multipurpose room.
- j. All kitchen appliances and/or plumbing equipment shall be removed once the accessory dwelling is no longer occupied by a family member.
- k. Every other year following approval, the property owner shall file an affidavit with the zoning administrator verifying continued family member occupancy of the accessory dwelling. Alternative forms of verification may be allowed at the discretion of the Zoning Administrator.
- l. Additional conditions may be imposed to ensure that the proposed use is compatible with the surrounding land uses

Rice County

Definition:

An ADU is an accessory residential dwelling unit on the same parcel on which a detached single-family dwelling is present or will be constructed. It provides separate housekeeping and cooking facilities from the Principal Dwelling. It may take various forms including but not limited to: a detached unit; a unit that is part of an accessory structure, such as a detached garage; or an attached unit that is part of an expanded or remodeled dwelling unit.

Standards:

1. There shall be no more than one (1) Accessory Dwelling Unit per lot.
2. The Accessory Dwelling Unit shall comply with all dimensional and development standards in the applicable zoning district. The Accessory Dwelling Unit shall not be counted for or against transferable development rights or density requirements in the applicable zoning district.
3. Any detached Accessory Dwelling Unit shall be located at least 10 feet and no more than 350 feet from the Principal Dwelling.
4. The Accessory Dwelling Unit shall not be sold independently of the Principal Dwelling and shall not be on a separate parcel.
5. The owner of the parcel shall maintain their primary homestead residence in either the Principal Dwelling or the Accessory Dwelling Unit.
6. The Accessory Dwelling Unit shall use the same approved road access as the Principal Dwelling.
7. The Accessory Dwelling Unit shall comply with the Minnesota State Building Code. All required permits and a certificate of occupancy shall be obtained prior to occupancy.
8. Sewage treatment for the Principal Dwelling and Accessory Dwelling Unit shall comply with the Rice County Sewage and Wastewater Treatment Ordinance or the Rice County Roberds Lake Subordinate Service District Ordinance No. 725 for those properties that are part of the Subordinate Service District.
9. An Accessory Dwelling Unit shall not be permitted on any parcel with a non-conforming structure or use, nor any non-conforming parcel, as described in Chapter 504, unless the nonconformity is eliminated or brought into conformance prior to permitting of the Accessory Dwelling Unit.

Waseca County**Definition:**

N/A

Standards:

- A. *Existing single-family unit required.* The lot proposed for an ADU must already contain an existing single-family unit. A maximum of one ADU may be allowed per parcel. An ADU shall not be allowed where it is not permitted within the zoning district or where it may violate a subdivision's private covenants or restrictions.
- B. *Ownership.* The owner of the property shall reside in either the accessory or the principal dwelling unit.

- C. *Minimum lot size for detached ADUs.* An ADU may be developed on a lot meeting the minimum size for single-family dwellings within the respective zoning district, except that a detached accessory unit may be developed only if the lot size is at least 150% of the minimum single-family lot size, provided that the individual sewage treatment system requirements of this ordinance can be met.
- D. *Minimum dwelling size requirements.* An ADU shall not exceed 40% of the living area of the principal dwelling unit. An ADU shall not be smaller than 300 square feet in area or larger than 800 square feet, nor shall it contain more than two bedrooms.
 - 1. An exception may be made for disabled persons of child-bearing age, allowing a maximum size of 1,000 square feet and up to three bedrooms without a variance.
 - 2. A garage or portion of a garage that is used for the storage of automobiles and personal items shall not be counted as part of the living area and shall not contain any habitable space. For an ADU located above a garage, only the habitable portion shall count towards size requirements.
- E. *Facilities.* An ADU shall not contain more than two bathrooms, one kitchen (with or without eating area), one utility room and one living room or combination living/dining room.
- F. *Screening and orientation.* The orientation of the proposed ADU shall, to the maximum extent practical, maintain the privacy of residents of adjoining dwellings, as determined by the presence or design of landscape screening, fencing and window and door placement.
- G. *Location on lot.* A detached ADU must be located in the side or rear yard of the principal dwelling and separated by at least 20 feet but not more than 150 feet from the principal dwelling. The ADU shall be separated by at least 20 feet from all other structures on the subject property.
- H. *Setbacks.* The ADU shall meet or exceed the front, side and rear yard setbacks for principal structures of the applicable zoning district.
- I. *Driveway.* A detached ADU shall be served by the same driveway that serves the principal single-family dwelling, except when the ADU is accessed more conveniently from a different road, street or alley (i.e., if located on a double frontage lot or close to a side street or alley).
- J. *Parking area.* Two parking spaces shall be required for each ADU.
- K. *Further subdivision prohibited.* A detached ADU shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit. The ADU shall not be sold, but may be rented.
- L. *Deed restriction.* Before securing approval for construction of an ADU, the owner of the property shall record against the deed, a deed restriction running in favor of the municipality limiting ownership of either the principal dwelling unit or the ADU to the owner of the property or to a common interest community.
- M. *Maximum number of residents.* The number of occupants of the ADU shall not exceed three, with the exception of persons with limited intellectual or physical abilities of child-bearing use. In this case, maximum occupants shall be five and shall be lineal family.

- N. *Elimination/expiration.* Elimination of an ADU may be accomplished by the owner recording a certificate with the County Recorder stating that the accessory dwelling no longer exists on the property.

Comparison Table of Sample ADU Ordinances to Nicollet County Temporary Dwelling Standards

	Nicollet County	Sibley County	Rice County	Waseca County
Conditional Use Permit Required	X*	X		X**
Situational Restrictions (elder care, etc.)	X			
Temporary	X			
Minimum Lot Size Requirements	X			X
Minimum Size Limits	X	X		X
Maximum Size Limits		X		X
Deed Restrictions		X		X
Design & Appearance Standards		X		
Family Occupancy Required		X		

*It is a permitted use if under one year in the Agricultural Preservation & Conservancy Zoning Districts.

** A CUP is only required in their Urban Expansion District. It is otherwise a permitted use (provided standards can be maintained).

Standards for Liquid Propane Storage Tanks

Definitions

Bulk Storage (Liquid) – Bulk Storage of oil, gasoline, liquid fertilizer, chemicals, and similar liquids in excess of 2,500 gallons in above ground storage containers. – *Nicollet County Zoning Ordinance*.

Liquefied Petroleum Gas - A flammable mixture of hydrocarbon gases predominantly composed of propane and butane. At atmospheric pressures and temperatures, LPG will evaporate and therefore is stored in pressurized steel tanks. – *California Air Resources Board*

Anhydrous Ammonia - An inorganic chemical compound of one Nitrogen atom and three Hydrogen atoms that can be written with the scientific formula NH_3 . It's stored in highly pressurized containers in liquid form, but then rapidly changes to a gaseous state when released into the air. – *Airgas Specialty Products*

Current Standards

The Nicollet County Zoning Ordinance currently treats the bulk storage of liquid as a conditional use. One requires the construction of a berm that can hold a leakage capacity of at least 115 percent of the container's capacity. However, anhydrous ammonia and liquefied petroleum gas are both liquid only under pressure. Therefore, in the event of a leak, a berm would be unable to contain escaping material.

In the last two years, the Nicollet County Board of Adjustments and Appeals has approved two variances for the United Farmers Cooperative to allow for the construction of compressed gas tanks without a surrounding berm. These two variances included an anhydrous ammonia tank and a liquefied propane tank. The demand for such variances has generated some interest in revising the Nicollet County Land Use Ordinance Section 708 Bulk Storage (Liquid) to avoid the need for them.

Bulk Storage Tanks must also follow state rules and statutes. Liquid Storage tanks must follow Minnesota Administrative Rules Chapter 7151 and normally require registration with the Minnesota Pollution Control Agency (MPCA). However, the MPCA's website states that compressed gas tanks receive an exemption from regulations (<https://www.pca.state.mn.us/business-with-us/aboveground-storage-tanks>). Compressed gas storage tanks must also comply with the State Fire Code from Chapter 7511 of Minnesota Administrative Rules as well as Statue 299F.40 regarding the State Fire Marshall and NFPA 58 from the National Fire Protection Association regarding Liquefied Petroleum Gas (See table on page 2).

Container Type	Container Size (in water gallons)	Minimum Distance to Buildings	Minimum Distance to Property Lines	NFPA 58 (2017) Section
Aboveground	0-124	0	0	Table 6.4.1.1
Aboveground	125-500	10 ft.	10 ft.	Table 6.4.1.1
Aboveground (single tank – no other LP Gas tanks within 25 ft.)	501-1,200	10 ft.	10 ft.	Section 6.4.1.3
Aboveground	501-2,000	25 ft.	25 ft.	Table 6.4.1.1
Aboveground	2,001-30,000	50 ft.	50 ft.	Table 6.4.1.1
Aboveground	30,001-70,000	75 ft.	75 ft.	Table 6.4.1.1
Aboveground	70,001-90,000	100 ft.	100 ft.	Table 6.4.1.1

None of these regulations specifies the use of berms around compressed gas storage tanks. See the ordinance below for Nicollet County's additional local standards:

708 BULK STORAGE (LIQUID)

The bulk storage of oil, liquid propane, gasoline, liquid fertilizer, chemicals, and similar liquids in excess of two thousand five hundred (2,500) gallons shall meet the following standards:

1. All uses associated with bulk storage shall require a conditional use permit.
2. All containers shall be certified to store the liquid intended for bulk storage.
3. In considering conditional uses associated with bulk storage the County Board shall have assurance that fire, explosion, or water/soil contamination hazards are not present that would be detrimental to the public health, safety, and general welfare.
4. All uses associated with bulk storage shall be in accordance with the rules and regulations of the Minnesota State Fire Marshall, Minnesota Department of Agriculture, Minnesota Pollution Control Agency, and United States Environmental Protection Agency, as amended, and shall have documents from those offices stating that the use is in compliance.
5. **The County Board shall require the development of berming around bulk storage containers. Berming shall be suitably sealed and shall hold a leakage capacity equal to one hundred fifteen (115) percent of the largest container capacity.**
6. Screening
 - a. Landscaping shall be required to screen bulk storage containers from public roads and neighboring properties.
 - b. Screening shall consist of trees, shrubbery, and other suitable vegetation. Berms and fencing may be used as screening, but shall only be used to supplement adequate vegetative screening. All screening shall meet appropriate setback standards.

- c. Prior to the issuance of any conditional use permit for bulk storage, a landscaping plan shall be submitted to the Zoning Administrator for review and approval.

7. The storage area shall be grassed or surfaced to control dust.
8. All existing, above ground liquid bulk storage containers having a combined capacity in excess of ten thousand (10,000) gallons shall secure a conditional use permit within twenty-four (24) months following enactment of this Ordinance.
9. Any existing bulk storage container that, in the opinion of the County Board, constitutes a hazard to public safety shall discontinue operations within five (5) years following enactment of this Ordinance.

Comprehensive Plan

Minnesota Statute 394.21 grants Nicollet County the authority to manage planning and zoning in order to protect public safety, among other goals. The county's process for planning and zoning upholds public safety by enacting land use regulations for this purpose. This forms the basis for Policy D of Nicollet County's land use goals and policies as seen below.

Land Use Goals and Policies

Goals	A. Support the preservation of agricultural land within the county. B. Encourage sustainable agriculture practices to ensure the longevity of agriculture as a land use and viable economic activity in the county. C. Only allow for development in unincorporated areas that minimize impacts to resources, infrastructure, municipal growth and planning, and overall quality of life. D. Work collaboratively with local jurisdictions to implement future land use planning goals and policies. E. Promote the development of a housing stock that meets the needs of residents and is in areas that support the growth goals of the county and municipalities.
Policies	A. The county will support the preservation of highly productive agricultural land within the rural areas of the county. B. The county will establish and abide by standards that create future development opportunities and encourage high quality development that serves as an asset to the county and its residents. C. The county will consider the character of the land, its suitability for development, and the preservation of natural, cultural, and water resources as part of the development review process. D. The county will ensure that land is used in the most appropriate manner, by minimizing conflicts between land uses, fostering principles of sustainability, and providing for the health, safety, and welfare of residents. E. The county will incorporate the growth planning of each municipality into the county's long-range planning efforts. F. The county recognizes that agriculture will be a permanent use in some areas and a transitional use in others. In the transitioning areas, agricultural and rural uses will be planned in a manner that anticipates future changes to more intense uses. These future uses should be developed in a manner that is orderly and compact, minimizing impacts to surrounding areas. G. The county will guide residential development to areas within the county that can adequately support the proposed density and development types, while providing access to utility and transportation infrastructure and limiting impacts to county and municipal resources.

This means that any change to the county’s zoning ordinance must not have a detrimental impact on public safety. The county also has a number of natural resources goals and policies in order to protect the natural environment and preserve natural resources such as clean drinking water. Any change to the county’s land use ordinance must also avoid negative impacts on the goals and policies seen below.

Natural Resources Goals and Policies

Goals	A. Preserve, protect, and conserve resources in Nicollet County, including, but not limited to, drinking water, agricultural lands, the Minnesota River, lakes, creeks, wetlands, bluff lands, and wooded areas. B. Provide for quality water resources to protect human and environmental health. C. Ensure a sufficient supply of clean water to support human use and natural ecosystems, for current and future generations.
Policies	A. The county will collaborate with state, regional, and local agencies to preserve natural resources and to ensure that the supply of natural resources is adequate for projected growth in the county. B. The county will prevent future groundwater contamination by ensuring sound management of solid and hazardous waste within the county. C. The county will collaborate with other jurisdictions and agencies to facilitate the preservation of natural resources for future generations. D. The county will support landowner rights to sell or convert land for natural resource and conservation purposes.

Sample Ordinances

Many area counties have not enacted specific standards for bulk storage tanks. For instance, Stearns County, Olmsted County, Wright County, and Sibley County do not refer to bulk storage tanks in their ordinances. Steele County simply specifies that bulk storage tanks must adhere to state statutes, and bulk storage falls under the purview of the county’s exterior storage ordinance. Others, such as Blue Earth and Rice County impose some local setback standards. However, it does not appear typical for counties to require berms for liquid storage tanks, let alone those that store compressed gas.

STEELE COUNTY

1518. Exterior Storage

All materials and equipment shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following: laundry drying, recreational equipment, construction and landscaping materials and equipment currently being used for construction on the premises, agricultural equipment and materials if these are used or intended for use on the premises, off street parking except as otherwise regulated herein. Boats and house trailers, less than twenty (20) feet in length, are permissible if stored in the rear yard provided they are setback a minimum of ten (10) feet from any property line. Existing uses shall comply with this provision within twelve (12) months of the effective date of this Ordinance.

1518.01 – Storage as an Accessory Use to Sales

When the storage of products or goods is required for a sales, service, or rental business activity, then the following requirements apply.

- 1) The area is screened from view of neighboring residential uses or "R" District.
- 2) Storage is screened from view from the public right-of-way.
- 3) Storage area is grassed or surfaced to control dust.
- 4) All lighting shall be hooded and so directed that the light source shall not be visible from the public right-of-way or from neighboring residences.

1518.02 – Bulk Storage (Liquid)

- 1) All uses associated with the bulk storage of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall comply with the requirements of the Minnesota State Fire Marshall's and Minnesota Department of Agriculture Offices.
- 2) Above ground liquid storage tanks having a capacity in excess of 12,000 gallons shall require a conditional use permit and shall file said permit and information requirements as specified in Section 504 of this Ordinance.

RICE COUNTY

P. Liquefied Petroleum (Propane) Gas Distribution Services.

1. Liquefied Petroleum Gas means any material having vapor pressure not exceeding that allowed for commercial propane that is composed predominately of propane hydrocarbons, either by itself or as a mixture, but for purposes of this ordinance does not include: propylene; butane (normal butane or isobutene); and butylenes. Propane is that gas as defined by the United States Energy Information Administration or its successor agency.
2. Liquefied petroleum gas distribution service includes any person or business engaged in:
 - a. the storage of liquefied petroleum gas tanks or cylinders awaiting use, resale, exchange, minor repair, or any other services;
 - b. the filling of liquefied petroleum gas tanks or cylinders; or
 - c. the minor repair and distribution of liquefied petroleum gas tanks or cylinders manufactured under specifications of the United States Department of Transportation;
3. Onsite retail sales of propane shall be prohibited.
4. An operator of a liquefied petroleum gas distribution service shall comply with the following Statutes, Rules, Regulations, and Standards, and any subsequent amendments:
 - a. Minnesota Statute Chapter 299F;
 - b. Minnesota Rules, part 7511.3800;
 - c. To the extent not amended by this Ordinance or by Minnesota Rules, part 7511.3800, the standards found within National Fire Protection Association (NFPA) 58;
 - d. 29 CFR 1910.110 – Storage and handling of liquefied petroleum gases; and

e. All other applicable air emission and hazardous waste Statutes, Rules, Regulations, and Standards.

5. A person, other than the owner as defined in Minn. Stat. §299F.40, subd. 2(c), and those authorized by the owner, may not sell, fill, refill, remove gas from, deliver, permit to be delivered, or use in any manner any liquefied petroleum (propane) gas container or receptacle for any gas or compound, or for any other purpose.

6. Storage of liquefied petroleum gas tanks shall be setback at least 200 feet from any public right-of-way and any non-owner/operator residence.

7. Prior to operation, the operator of the liquefied petroleum gas distribution service shall show compliance with this Ordinance and the incorporated Statutes, Rules, Regulations, and Standards.

BLUE EARTH COUNTY

Sec. 24-339. Liquid propane storage tanks.

The purpose of this section is to establish minimum requirements for regulation of liquid propane storage tank installation and to protect health, safety, and general welfare of citizens of Blue Earth County.

- (1) All liquid propane storage tanks shall be placed and installed in accordance with applicable National Fire Protection Association (NFPA) 58 and Minnesota State Fire Marshal regulations, except as further restricted in this section.
- (2) Liquid propane storage tanks capable of holding 10,000 gallons or larger will require a construction permit, with the following standards:
 - a. Liquid propane storage tanks shall comply with front yard regulation in the appropriate district.
 - b. Liquid propane storage tanks must be located outside of the flood fringe, floodway, or general floodplain district as defined in chapter 8 of the Blue Earth County Zoning Ordinance.
 - c. Liquid propane storage tanks shall comply with the required bluff setback of this chapter.
 - d. Liquid propane storage tanks shall comply with the required county ditch setback of this chapter.

(Ord. of 1-25-2022(1), Att. 1)