

ARTICLE II

RULES AND DEFINITIONS

2.1 Compliance

No structure, land and building shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a building application, and the same shall be in compliance with this Ordinance.

2.2 Word Use

In the construction of this Ordinance, the following words, rules, and definitions shall be observed and applied except when the context clearly indicates otherwise.

- 1) Words used in the present tense shall include the future.
- 2) Words used in a singular number shall include the plural; words used in the plural shall include the singular.
- 3) Shall is a mandatory word and not discretionary.
- 4) May is a permissive word.
- 5) The word “lot” shall also mean “parcel”, “piece”, and “plat”.
- 6) The word “building” includes all structures and “structure” includes buildings.

2.3 Definitions

- 1) **Access** – The place or way by which pedestrians and vehicles have safe and suitable entrance and exit to a property.
- 2) **Accessory Building and Uses** – A subordinate building or portion of the main building the use of which is clearly incidental to and serves exclusively to the principal building or principal use and shall be located on the same zoning lot.
- 3) **Adult Bookstore** – An enclosed building having as a substantial or significant portion of its stock in trade books, magazines, or other periodicals that are distinguished or characterized by their emphasis on matter depicting or describing sexual activities or anatomic areas, such as genitals, breasts or buttocks.
- 4) **Adult Cinema** – An enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction

of sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks for observation by patrons in return for the payment of consideration, irrespective of the number of persons who may be able to view the presentation at one time.

- 5) **Adult Entertainment Center** – An adult bookstore, adult cinema, adult entertainment facility, or any combination thereof.
- 6) **Adult Entertainment Facility** – An enclosed building wherein an admission is charged for entrance, or food or nonalcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks.
- 7) **Affected Area** – An area having a radius of one mile from a proposed change.
- 8) **Agriculture** – The process of producing food and fiber customary to the family farming operation with a minimum of forty (40) acres in area, excluding commercial feed lots and the processing and manufacturing of farm-based products. Agriculture refers to all types of farming and ranching operations including, but not limited to, dairying, livestock, poultry raising, apiaries, and fur farming.
- 9) **Alley** – A public way which affords only secondary access to abutting property.
- 10) **Allowed Uses** – Those uses, buildings or structures which comply with the requirements of specific zoning districts because of the similarities in nature and relationship to each other. Allowed uses are distinct from conditional uses in that they are authorized only if certain requirements of this Ordinance are met after a public hearing and approval by the County Commission.
- 11) **Alteration** – As applied to a building or structure, a change, re-arrangement, relocation, or enlargement in the structural parts or in the existing facilities, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
- 12) **Amendment** – Any change, revision or modification of the text of these regulations and the zoning district map.
- 13) **Animal Hospital or Kennel** – A building or premises set up for treatment and boarding of domestic animals including veterinary facilities.
- 14) **Animal Unit Equivalent** – A unitless number developed from the nutrient and volume characteristics of manure from a specific livestock type. The term animal

unit is used to normalize the number of animals (e.g. head) for each specific livestock type which produce comparable bulk quantities of manure.

- 15) **Area of Special Flood Hazard** – The land in the floodplain subject to a one percent or greater chance of flooding in any given year.
- 16) **Basement** – That level of a building, partly underground with more than one-half of its height below grade.
- 17) **Base Flood** – The flood having a one percent chance of being equaled or exceeded in any given year.
- 18) **Bed and Breakfast Inn** – An establishment which provides overnight lodging to the public for compensation; caters to the traveling public; is located in the proprietor's residence; and serves only a limited breakfast to registered guests.
- 19) **Block** – A part of the platted area bounded by rights-of-way, intersecting streets and/or railroad.
- 20) **Boarding House (Rooming House)** – Any dwelling in which more than three (3) persons, either individually or as families, are housed or lodged for hire, with or without meals.
- 21) **Building** – any structure designed or intended for shelter or protection of persons, animals or property.
- 22) **Building Area** – That portion of the zoning lot that may be occupied by the principal use, excluding the front, rear and the side yards.
- 23) **Building Height** – The vertical distance from the grade to the highest point of the roof.
- 24) **Building Line** – A line establishing the minimum distance from which structures must be placed from the lot lines or street right-of-way. For the purposes of this Ordinance the building line is the same as the setback line.
- 25) **Certificate of Compliance** – A certificate stating compliance with this Ordinance.
- 26) **Club** – A facility at which any private branch, lodge, or chapter of a nonprofit association of persons gathers for the purpose of its members.
- 27) **Commercial Building** – Any structure which is not used for residential, medical, religious, industrial or instructional purposes and which is constructed in compliance with the adopted building Code.

- 28) **Commercial Feedlot** – Any building, structure, enclosure, or premises used, designed or intended for the commercial feeding of three hundred (300) animals which is operated as a separate pursuit and not as incidental to farming on a given piece of land regardless of its size.
- 29) **Comprehensive Plan** – The Stark County Comprehensive Plan.
- 30) **Conditional Use** – A use of a special nature not automatically permitted in a zoning district and which requires a public hearing and review and approval by the County Zoning Administrator, the Planning and Zoning Commission, and/or County Commission. It is a use which would not be appropriate in a particular zoning district, but which if controlled as to the number, location, or relation to the surrounding uses and the area, would be consistent with the purpose and the intent of these zoning regulations. A conditional use is permitted in a district specifically permitting it, subject to the approval of the County Commission and only when the commission finds that such use meets all applicable requirements, including but not limited to those contained in this Ordinance.
- 31) **Conforming Building or Structure** – A building or structure which complies with all requirements of this Ordinance and other regulations adopted by the county.
- 32) **County** – The Board of County Commissioners.
- 33) **Development** – Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures, or accessory structures, the construction of additions or alterations to buildings or structures, ditching, dredging, paving, excavation or drilling operations.
- 34) **Development Plan** – A document including maps and data for physical development of an area as provided by this Ordinance.
- 35) **District Zoning** – A section or sections of Stark County for which regulations governing the use of building and premises, the building heights, the size of yards, lot area, lot width, and the use thereof are uniform.
- 36) **Dwelling** – Any building or portion thereof, used exclusively for human and other temporary occupancy habitation including single family units and multiple family units but not including hotels or motels, or vehicles designed for camping, such as vacation vehicles.
- 37) **Dwelling, Single Family** – A building containing one (1) dwelling unit only
- 38) **Dwelling Unit** – One or more rooms in a building designed for occupancy by one family for living purposes and having its own permanently installed cooking and sanitary facilities.

- 39) **Easement** – A right to the use of land for specific purposes, such right being held by someone other than the owner who holds title to the land.
- 40) **Establishment** – A place of business for processing, production, assembly, sales, service of goods and materials.
- 41) **Extraterritorial Jurisdiction** – The extension of a city’s zoning regulations to any quarter quarter section of unincorporated area outside of the corporate limits of the cities of Stark County subject to the provisions of NDCC 40-47-01.1.
- 42) **Family** – A group of one or more persons occupying premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined.
- 43) **Farm** – A zoned area of Stark County containing at least forty (40) acres, which is used for the production of agricultural crops or livestock, or the raising, feeding or producing livestock, poultry, milk, or fruit. The term does not include the production of timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services. Feedlots which are operated as a separate pursuit shall be deemed commercial feed lots and shall not be construed as farming or incidental to a farming operation.
- 44) **Farmer** – In order to be considered a farmer for the purposes of this Code, the owner or tenant of the farm shall earn fifty-one (51) percent or more of his or her annual income from the operation of the farm.
- 45) **Farm-to-Market Road** – That part of the road system of Stark County designated as farm-to-market roads by the County and as Federal Aid Secondary Roads by the North Dakota State Highway Department.
- 46) **Flood or Flooding** – A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of rivers or streams and/or the unusual and rapid accumulation or runoff or waters from any source.
- 47) **Flood Insurance Rate Map (FIRM)** – The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones.
- 48) **Flood Insurance Study** – The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.
- 50) **Garage** – A building used as an accessory to a main building permitted in a residential district and providing for the storage of motor vehicles and in which no business, occupation or service for profit is conducted.

- 51) **Grade** – The land elevation at the horizontal intersection of the ground and the building.
- 52) **Gravel Pit** – Any mining and extraction of earth minerals for commercial or private sale.
- 53) **Highway** – Any public right-of-way designated as a state highway or a county road or highway.
- 54) **Home Occupation** – Any occupation which: (a) is carried on in a dwelling unit by members of the family; (b) is clearly secondary to the use of the residential dwelling units; and (c) does not create a nuisance, excessive noise, traffic, or conflict with adjoining uses.
- 55) **Hotel or Motel** – A building with lodging accommodations, either with or without meals, which are provided for compensation.
- 56) **Hunting Lodge** – A building containing basic amenities providing sleeping accommodations and reserved for huntsman during the hunting season.
- 57) **Improvements** – Street grading, surfacing, installation of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, and trees as may be required by the county.
- 58) **Industrial Districts** – The areas designated by the Stark County Commission to the District Zoning Map which provides for the grouping of manufacturing, assembly and heavy commercial activities.
- 59) **Industrial Waste** – All waste resulting from an industrial, manufacturing service or commercial activity that is managed as a separate waste stream and as defined by N.D.C.C. 23-29-03.
- 60) **Inert Waste** – Non-putrescent solid waste which will not generally contaminate water or form a contaminated leachate. Inert waste does not serve as food for vectors. Inert waste includes, but is not limited to, construction and demolition material, such as metal, wood, brick, masonry, and concrete, asphalt concrete, tires and tree branches.
- 61) **Junk or Salvage Yard** – A business establishment or a place which is maintained, operated, or used for placing, storing, keeping, buying, or selling junk, including old or scrap paper, copper, brass, rope, rags, batteries, paper trash, rubber, debris, or waste or junked, dismantled, or wrecked automobiles or parts thereof or iron, steel, and other old or scrap ferrous or nonferrous material, or for the maintenance, use, or operation of an automotive graveyard.

- 62) **kennel** – Any premises where dogs, cats, and other household pets are boarded, bred, and maintained for compensation.
- 63) **Landfill** – Specially selected, designed, and operated sites for disposal of solid waste in accordance with N.D.C.C. 23-29-03 and the provisions of this Ordinance.
- 64) **Lot** – A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, and having its principal frontage upon a street or road, together with such open spaces and yards as required by this Ordinance.
- 65) **Lot Area** – The total horizontal area within the lot lines exclusive of streets, roads, and highways.
- 66) **Lot, Corner** – A lot abutting on two or more streets other than an alley at their intersection.
- 67) **Lot Depth** – The mean horizontal distance between the front and rear lot lines.
- 68) **Lot, Double Frontage** – A lot having frontage on two non-intersecting streets as distinguished from a corner lot.
- 69) **Lot Line** – The property line bounding a lot.
- 70) **Lot of Record** – A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Stark County, or a parcel of land, the deed to which was recorded in the office of the County Recorder prior to the adoption of these regulations.
- 71) **Lot Width** – Any average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line.
- 72) **Manufactured Home (formerly mobile home)** – A structure, transportable in one or more sections and has at least nine hundred (900) or more square feet and an exterior width of at least twenty (20) feet is designed as a place for human habitation which is not equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame any wheels or axles; and bears a label certifying that it was built in compliance with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Department of Housing and Urban Development. A recreational travel trailer is not a mobile home.
- 73) **Master Plan** – The comprehensive plan, or any portion thereof made and adopted by the planning commission in accordance with the laws of the state of North Dakota and regulations of Stark County indicating the general or specific locations recommended for streets, parks, public buildings, zoning districts and all other public improvements to include local policies and standards.

- 74) **MET Tower** – Temporary and permanent meteorological towers used for the measurement of wind speed.
- 75) **Mobile Home District** – The area designated by the County Commission on the District Zoning Map for development of mobile home residential dwelling units.
- 76) **Mobile Home Park** – A tract of land designed and developed to accommodate mobile homes, each occupying a portion of the site which is purchased, leased or rented and each provided with the necessary utilities and other amenities so that the total development serves as a suitable environment for permanent residential occupancy.
- 77) **Modular Home (formerly manufactured home)** – A factory built dwelling unit, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site and which does not have permanently attached to its body or frame any wheel or axel and bears a label certifying that it was built in compliance with the latest standards adopted by the U.S. Department of Housing and Urban Development.
- 78) **NDCC** – North Dakota Century Code.
- 79) **Nonconforming Lot** – Lots that were legally created in accordance with zoning district minimum lot size and dimensional standards in effect at the time of their creation, but which, because of amendments to the zoning regulations, no longer comply with the minimum lot size or other dimensional standards of the zoning district.
- 80) **Nonconforming Structure** – Buildings or structures that were established in accordance with all zoning regulations in effect at the time of their establishment, but which, because of amendments to the zoning regulations, no longer comply with the dimensional standards of the underlying zoning district.
- 81) **Nonconforming Uses** – A lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.
- 82) **Outlot** – A plot of land devoted to and recorded as a single principal use which has proper road and utility access.
- 83) **Parking Space** – An off-street area designated for parking of automobiles accessible from a public street or alley and which shall be no less than nine (9) feet by twenty (20) feet.
- 84) **Permanent Foundation** – A wood, concrete or masonry foundation which extends below ground level and is set on footings.

- 85) **Permitted Use** – Any use which complies with the requirements of a particular zoning district.
- 86) **Permittee (Wind Energy Facility)** – An individual, group of individuals, corporations, partnerships, joint venture, owners, or any other business entity, or combination thereof, that leases or owns the wind rights, wind turbines and the associated improvements, and all subsequent assignees and/or transferees of these rights, and that submits a Wind Energy Facility Siting Permit application, develops the wind energy facility, and subsequently operates such facility.
- 87) **Person** – Any natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate or government.
- 88) **Planning Commission** – The Stark County Planning and Zoning Commission.
- 89) **Prohibited Use** – Any use or structure which is not allowed in a particular district. Any use not identified explicitly in this Code shall be considered prohibited and shall not be allowed until incorporated through the amendment procedure.
- 90) **Public Utility** – Any person, municipal department or board authorized to furnish under municipal regulation to the public electricity, gas, transportation, or water
- 91) **Recreational Vehicle** – A vacation trailer or other vehicular or portable unit which is either self-propelled or towed and which is intended for human occupancy and is designed for vacation or recreational purposes but not permanent residential use.
- 92) **Recreational Vehicle Park** – A lot which is operated on a fee or other basis as a place for the parking of occupied recreational vehicles.
- 93) **Regional Flood** – A flood determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in Stark County, North Dakota.
- 94) **Residential District** – The areas dedicated by the County Commission on the District Zoning Map for development of residential dwelling units.
- 95) **Right-of-Way** – A strip of land designated or dedicated for public way, including streets, sidewalks, railroads, electric transmission lines, telephone and telecommunications lines, oil or gas pipelines, sanitary sewer, storm sewer or water.
- 96) **Rooming House (Boarding House)** – Any dwelling in which more than three (3) persons, either individually or as families, are housed or lodged for hire, with or without meals.

- 97) **Rotor Diameter** – The diameter of the circle formed by the swept area of the wind turbine’s blades.
- 98) **Salvage Yard** – A place where used parts of automobiles or other equipment are collected and processed for resale.
- 99) **Service Station** – Any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.
- 100) **Setback** – The line within a property defining the required minimum distance between the front lot line and the building line.
- 101) **Sign** – Any emblem, name, identification, description or illustration which is used for outdoor advertising having a permanent location on the ground or attached to or painted on a building including bulletin boards, poster boards and billboards, but excluding real estate for sale signs, political campaign signs, and public information and traffic signs.
- 102) **Site Plan** – A detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this Ordinance.
- 103) **Solid Waste** – Any garbage, refuse, sludge from a waste treatment plant, water treatment plant, or air pollution control facility and other discarded waste material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. The term does not include the following: 1) agricultural waste, including manures and crop residues returned to the soil as fertilizers; or 2) solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to Permit Section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear or the by-product material as defined by the Atomic Energy Act of 1954, as amended.
- 104) **Stable, Private** – A building used for the housing of animals for private recreational use.
- 105) **Stable, Public** – A building used for the housing of animals for sale to or use by the public for recreational purposes.
- 106) **Street** – A public right-of-way for vehicular and pedestrian traffic.
- 107) **Structural Alterations** – Any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.

- 108) **Structure** – Anything constructed or erected, which requires permanent location on the ground excluding fences.
- 109) **Subdivision** – The division of a lot, parcel of land, or tract, creating two or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale, rent, or of building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights-of-way, whether public or private, for access to or from any such lot, tract or parcel, and the creation of new or enlarged parks, playgrounds, plaza, or open spaces.
- 110) **Substantial Improvements** – Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either: (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- 111) **Temporary** – Means one year or less.
- 112) **Temporary Use** – A conditional use which has a definite time period as one of its conditions.
- 113) **Temporary Workforce Housing (crew housing)** – Employee housing occupied by employees of a business on a temporary conditional basis.
- 114) **Total Height** – When referring to a wind turbine, the distance measured from the ground level to the blade extended at its highest point.
- 115) **Variance** – A relaxation of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, the literal enforcement of these regulations would result in unnecessary and undue hardship.
- 116) **Wind Energy Conversion System** – Any device that is designed to convert wind power to another form of energy such as electricity, mechanical or heat (also referred to by such common names as wind charger, wind turbine, and wind mill).
- 117) **Wind Energy Facility** – A facility directly generating electricity or indirectly generating electricity or energy through production of hydrogen, compressed air or other energy carrier from conversion of wind to energy and consisting of one or more wind turbines under common ownership or operating control, and includes substations, temporary and permanent MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity

directly, or through wind energy conversion to another form of energy, to off-site customer(s).

- 118) **Wind Energy Facility Perimeter** – The boundary of the wind energy facility as defined by the external property lines of landowners who have a contractual relationship with the permittee and who will receive wind energy compensation payments or other forms of revenue derived from wind turbine sited within such wind energy facility.
- 119) **Wind Energy Facility Siting Permit** – A construction and operating permit granted in accordance with the provisions of this Ordinance.
- 120) **Wind Turbine** – A wind energy conversion system which converts wind energy into electricity, hydrogen, compressed air, or some other energy carrier and includes the turbine, blade, tower, base and pad transformer, if any; provided that such a system shall only be a wind turbine for the purposes of Section 6.11, if it has a nameplate capacity of 100 kilowatts or greater. Wind turbines of less than 100 kilowatts will be regulated as a utility.
- 121) **Yard** – The required open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.
- 122) **Yard, Rear** – A yard that extends across the full width of the lot, as the least distance between the rear lot line and the rear building line.
- 123) **Yard, Side** – A yard between the front and rear yards, as the least distance between the side of the principal building and the side lot line.
- 124) **Zoning Administrator/Director** – The person assigned the responsibility for the day-to-day administration of the Zoning Ordinance and map.
- 125) **Zoning District** – Those areas of the county to which regulations governing the use of lands, buildings, and structures, including the height of buildings, the size of yards, lot area, lot width, uniformly apply.
- 126) **Zoning District Map** – The map showing the zoning districts adopted by the Stark County Commission.