

**STARK COUNTY  
NORTH DAKOTA**

**ZONING  
ORDINANCE**

*Adopted:*

OCTOBER 2, 2012

**STARK COUNTY, NORTH DAKOTA ZONING ORDINANCE DOCUMENT REVISION  
HISTORY  
ZONING ORDINANCE ADOPTED OCTOBER 2, 2012**

<b>DATE AMENDED</b>	<b>DESCRIPTION</b>	<b>SECTIONS AFFECTED</b>
1/8/2013	<u>New-subdivision dedications</u>	<u>7.26</u>
8/6/2013	Noise ordinance-engine brakes	6.7
9/3/2013	Excavation and Mining (Gravel Pits)	6.16
7/1/2014	Definitions; <u>corridor standards</u> , off-street parking; noise standards, temporary uses, updates and typographical error corrections	2.1, 2.3, 5.1, 5.2, 5.3, 5.4, 5.5, <u>5.5.4</u> , 5.6, <u>5.10</u> , 6.1, 6.7, 7.5, 7.7, 7.21, 8.5
7/1/2014	Communications tower	6.23
8/5/2014	Non-commercial grain elevators	5.1
8/5/2014	Signs	6.26
7/5/2016	Industrial zoning –CUP for hazardous/explosive material	5.6
2/7/2017	<u>Lot line adjustments</u>	<u>7.27</u>
2/7/2017	Prior rezonings; relief from other provisions	1.6, 1.7, <u>1.8</u>
5/2/2017	Oil, gas and other gathering lines become a permitted use	5.1, 5.2, 5.3
7/6/2017	<u>Adopted Estate Residential Zoning District</u>	<u>5.4</u>
11/14/2017	<u>Adopted Airport Overlay District</u>	<u>5.11</u>

Note: New sections to the Zoning Ordinance are underlined.

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# **ARTICLE I**

## **INTRODUCTION**

### **1.1 Title**

This ordinance shall be known as the "Stark County Zoning Ordinance."

### **1.2 Authority**

This ordinance is adopted under the authority granted by Chapter 11-33 and 11-33.2 of the North Dakota Century Code.

### **1.3 Purpose and Intent**

The purpose of these regulations is to promote public health, safety, and the general welfare of the citizens of Stark County; to promote the orderly development of the county and to prevent conflict among land uses and structures; to regulate the use and division of land within the county and unincorporated territorial jurisdiction; to facilitate adequate provisions for water, sewer, transportation and other customary services to its county unincorporated communities; to protect existing properties against nuisances that interfere with the use and enjoyment of property, endanger personal health and safety, or is offensive to the senses; to conserve and develop resources, and to implement the goals, objectives, policies and implementation strategies of the Stark County Comprehensive Plan Update 2010.

### **1.4 Interpretation**

These regulations shall be held to be the minimum requirements. Whenever these requirements are at variance with other requirements, rules, regulations, deed restrictions, or covenants, the most restrictive shall govern, unless otherwise specifically stated.

### **1.5 Severability**

If any part of these regulations is found to be invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected.

### **1.6 Repeal**

The existing zoning ordinance together with any amendments thereto is hereby repealed. Properties that were rezoned prior to adoption of this Ordinance shall continue to be governed by the requirements of those districts as they appear in the repealed Ordinance.

### **1.7 Relief from Other Provisions**

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

### **1.8 Effective Date**

This ordinance shall be effective thirty (30) days following its adoption by the County Commission of Stark County.

## 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 flood plain 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 Feed Lot** – 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 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 of 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; 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.

*Amended on July 1, 2014 by the Stark County Commission*

## **ARTICLE III**

### **GENERAL PROVISIONS**

#### **3.1 Jurisdiction**

These regulations shall apply to all unincorporated areas of Stark County except those areas where the incorporated cities have elected to exercise extraterritorial zoning as authorized by Section 40-48-18, NDCC.

#### **3.2 Compliance with Ordinances, Statutes, Regulations and Plans**

No building, structure or land shall hereafter be occupied unless in conformity to this ordinance and:

- 1) The provisions of the North Dakota Century Code.
- 2) The North Dakota Administrative Code; and
- 3) The Comprehensive Plan of Stark County.

This ordinance shall not prohibit or prevent the use of land or buildings for agriculture or any of the normal incidents of farming.

#### **3.3 Exceptions**

These regulations shall not apply to the land and buildings for agricultural uses, as herein defined, except for setbacks from roads and flood plain regulations.

#### **3.4 Nonconformities.**

The purposes of these regulations are:

- 1) To allow for reasonable use of legally created lots of record which do not meet current minimum requirements for their respective zoning districts.
- 2) To provide for reasonable use of legally constructed structure which does not meet current site development regulations for their respective zoning districts.
- 3) To allow for the reasonable continuation of legally established uses which do not meet current site development regulations for their respective zoning districts.
- 4) To limit the continuation and provide for the gradual replacement of nonconforming uses.

### 3.4.1 Nonconforming Lots

#### 1) Pre-Existing Lots of Record

Nonconforming lots of record existing at the time of the adoption of this chapter shall be exempt, unless otherwise provided, from the minimum lot area in the lot width requirements of each zoning district. Such lots may be developed with use allowed by the regulations for the district and must comply with all other site development regulations set forth by the Zoning Ordinance.

#### 2) Reductions Due to Public Acquisition

If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.

### 3.4.2 Nonconforming Structures

These regulations apply to buildings and structures which were constructed legally under regulations in effect before the effective date of this Ordinance.

#### 1) Continuation

A lawful nonconforming structure existing on the effective date of this Ordinance may be continued, repaired, maintained, or altered, subject to the provisions of this Section.

#### 2) Additions or Enlargements to Nonconforming Structures

- a) A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more of the following conditions:
- i. The enlargement or addition, when considered independently of the existing building, complies with all applicable setback, height, off-street parking, and landscaping requirements.
  - ii. The nonconforming building and impervious surface coverage's on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.
  - iii. The addition projects no further into a required side yard setback than the existing building wall; and the enlarged building complies with building and impervious coverage, front and rear yard setbacks, and height regulations applicable to its zoning district.

3) Moving of Nonconforming Structures

A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district.

4) Repair of Nonconforming Structures

A lawful nonconforming building damaged by fire, explosion, storm or other calamity, except flood damages, may be repaired and reconstructed provided there is no increase in the degree of nonconformity. Repair and reconstruction within the designated floodplain shall be in conformance with Floodplain development regulations.

5) Conversion of a Conforming Building

A conforming building shall not be changed in any way that will result in a nonconforming development.

3.4.3 Nonconforming Uses

1) Continuation of Nonconforming Uses

Any nonconforming use lawfully existing on the effective date of this Ordinance may continue, subject to the limitations of this Section.

2) Enlargement of Nonconforming Uses

A building or structure housing a lawful nonconforming use may not be added to or enlarged.

3) Abandonment of Nonconforming Use

If any structure or property used as a lawful nonconforming use becomes vacant or unused for a continuous period of one year, any subsequent use must conform to all use regulations applicable to the property's zoning district.

4) Change of Use

A lawful nonconforming use may be changed only to a use type permitted in a zoning district that is equal to or less intensive than that normally required for the previous use.

5) Allowance for Repair

Repairs and maintenance of a structure occupied by a nonconforming use may be made, provided that no structural alterations are made other than those required by law.

6) Damage or Destruction of Structures

Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.

7) Nonconforming Uses and Conditional Use Permits

A lawful pre-existing use which would require a Conditional Use Permit in its zoning district shall be presumed to have the appropriate Permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of Permits, set forth in Chapter 8.3 of this Code.

### **3.5 Land Suitability**

No land shall be used for seasonal or permanent non-farm uses because of inadequate drainage, soil limitation, flooding or incompatible land use, or any other condition likely to be harmful to the health and safety of the area residents and the public.

### **3.6 Highway Access**

- 1) The points of access to any highway shall be limited to four (4) per mile per side of the highway.
- 2) Additional access points may be provided via frontage roads where the landowner shall dedicate a suitable right-of-way by deed or easement.

### **3.7 Highway/County Road Setbacks**

- 1) The minimum setback for buildings from the centerline of all section lines and the center line of county roads shall be one hundred twenty-five (125) feet.
- 2) The minimum setback for buildings from the centerline of all state highways shall be two hundred fifty (250) feet.
- 3) The minimum setback for tree plantings from all section lines and the center line of county roads shall be one hundred twenty-five (125) feet.

### **3.8 Residential Development**

No lot in a residential zoning district shall contain more than one principal single family residential building, and no dwelling unit shall be built on a lot which does not abut a dedicated public right-of-way or private access easement. Accessory buildings shall be smaller than the principal building and shall be limited to fifteen (15) feet in height and be located at least ten (10) feet from all lot lines.

### **3.9 On Site Sewer System**

To protect the public health, to control water pollution, and to reduce nuisance and odor, all new subdivision development within the county shall be connected to an approved on-site sewage system.

# ARTICLE IV

## ZONING DISTRICTS

### 4.1 Zoning Districts

The following zoning districts are hereby established to carry out the purposes of this ordinance:

- 5.1 Agricultural District
- 5.2 Agriculture Residential
- 5.3 Rural Residential District
- 5.4 Estate Residential District
- 5.5 Mobile Home District
- 5.6 Commercial District
- 5.7 Industrial District
- 5.8 Recreation and Open Space District
- 5.9 Flood Plain Overlay District
- 5.10 Planned Unit Development (PUD) Overlay District
- 5.11 Corridor Overlay District
- 5.12 Airport Overlay District

### 4.2 Zoning Map

The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning District Map" on file in the office of the County Auditor and/or the County Zoning Administrator. The County Zoning Administrator shall regularly update the map to show any changes in the zoning district boundary line resulting from amendments.

### 4.3 Location of District Boundaries

The following rules shall apply to the boundaries of the zoning districts as shown on the Zoning District Map.

- 1) Where zoning district boundary lines follow streets, highways, roads, railroad right-of-way, alleys, and extensions thereof, such boundary lines shall be the center lines, streets, highways, roads, railroad rights-of-way or alleys unless clearly shown to the contrary.
- 2) Where a zoning district boundary line coincides approximately, but not exactly, with a lot line, the zoning district boundary shall be construed to be the lot line at that location. All section lines, quarter section lines, and quarter quarter section lines may be construed as the property lines.
- 3) Where any uncertainty exists as to the exact location of zoning district boundary lines, the Commission shall determine the location of such boundary lines.

## ARTICLE V

### ZONING DISTRICT REGULATIONS

#### 5.1 5.1 Agriculture District: Purpose

The Agricultural District is established to encourage preservation and protection of agricultural lands and the ideal of the family farm and to discourage uses incompatible with agricultural operations or detrimental to agricultural lands.

##### 5.1.1 Permitted uses

- 1) All types of farming and ranching operations including dairying, livestock, poultry raising, apiaries, and fur farming.
- 2) Truck gardening, nurseries, greenhouse and roadside stands offering for sale only those farm products which have been grown on the premises.
- 3) Accessory buildings and structures necessary to the operation of farms or ranches.
- 4) Animal hospitals and clinics provided they are not located nearer than five hundred (500) feet from any residence except the residence of the owner-operator.
- 5) Cemeteries.
- 6) Churches and related facilities.
- 7) Grain elevators and accessory structures (non-commercial).
- 8) Home occupations and rural home occupations.
- 9) Public parks and recreational facilities, wildlife and game management areas and refuges.
- 10) Public, private, and parochial schools.
- 11) Single-family residence.
- 12) Oil and gas drilling and production.
- 13) Libraries.
- 14) Oil and gas exploration.

- 15) Livestock auction facilities.
- 16) Non-commercial golf courses, country clubs and other private recreational club.
- 17) Fire and police stations.
- 18) Oil, Gas, and other related gathering line systems.

### **5.1.2 Conditional Uses**

- 1) Commercial feedlots subject to the provisions of this Code.
- 2) Manufacturing and processing of agricultural resources and products indigenous to the county but not including rendering plants, fertilizer plants and the like.
- 3) Solid waste disposal facilities subject to the provisions of the Code.
- 4) Electrical substations, high voltage transmission lines and accessory buildings used for the primary purpose of transmission of electrical energy from one area to another. These provisions shall not apply to those transmission lines which directly serve the county.
- 5) Transmitting towers, relaying stations and pipelines.
- 6) Mobile Homes (Manufactured Homes) - Manufactured or modular homes on a permanent type of foundation.
- 7) Hunting lodges.
- 8) Bed and breakfast inns.
- 9) Anhydrous ammonia storage facilities.
- 10) Wastewater plants and systems.
- 11) Water depots.
- 12) Gravel pits, crushing and stockpiling.
- 13) Communication towers.
- 14) Airport and landing field.
- 15) Wind energy facilities.

- 16) Child care and child nurseries.
  - 17) Adult care centers.
  - 18) Agricultural equipment storage.
  - 19) Family home day care.
  - 20) Firing range, outdoor.
  - 21) Hospitals and medical centers.
  - 22) Stables.
  - 23) Livestock transfer and feeding operations.
  - 24) Kennels.
  - 25) Mineral and other substance excavation and mining
  - 26) Temporary uses, including, but not limited to
    - i. Bazaars, Carnivals, or Fairs;
    - ii. Musical Events;
    - iii. Racing Events;
    - iv. Rodeos;
    - v. Public gatherings for a single-purpose event;
    - vi. Temporary building or yard for construction materials and/or equipment incidental and necessary for current construction in the immediate surrounding area;
    - vii. Temporary office incidental and necessary for the construction, sale, or rental of the property in the immediate surrounding area;
    - viii. Temporary operations for road improvement projects, including a temporary asphalt plant.
- Permits shall be valid for such period of time as determined by the County Commission and shall be renewable at the discretion of the County Commission.
- 27) Correctional facilities.
  - 28) Components of water and wastewater systems

- 29) Radio and television transmitting and receiving facility.
- 30) Colleges and universities.
- 31) Dormitories.
- 32) On site storage of equipment and material related to oil exploration and production.
- 33) MET Towers.

### **Development Standards**

- 1) Minimum lot size: 40 acres
- 2) Minimum lot width: 300 feet
- 3) Minimum front yard setbacks: 50 feet
- 4) Minimum side yard setbacks: 15 feet
- 5) Minimum rear yard setbacks: 50 feet
- 6) Maximum lot coverage: N/A
- 7) Maximum height: 35 feet for residential structures

*Amended on July 1, 2014, August 5, 2014 and May 2, 2017 by the Stark County Commission*

## **5.2 Agricultural Residential: Purpose**

It is the purpose of this district to protect farmland and related farming activities while providing for the development of large lot residential housing.

### **5.2.1 Permitted Uses**

- 1) All types of farming and ranching operations including dairying, livestock, poultry raising, apiaries, and fur farming.
- 2) Truck gardening, nurseries, greenhouse and roadside stands offering for sale only those farm products which have been grown on the premises.
- 3) Accessory buildings and structures necessary to the operation of farms or ranches.

- 4) Animal hospitals and clinics provided they are not located nearer than five hundred (500) feet from any residence except the residence of the owner-operator.
- 5) Cemeteries.
- 6) Churches and related facilities.
- 7) Home occupations and rural home occupations.
- 8) Public parks and recreational facilities, wildlife and game management areas and refuges.
- 9) Public, private, and parochial schools.
- 10) Oil and Gas Drilling and Production
- 11) Single-family residences
- 12) Libraries
- 13) Fire and police stations
- 14) Long-term care and group home facilities
- 15) Family home day care.
- 16) Non-commercial golf courses, country clubs and other private recreational clubs.
- 17) Fire and police stations
- 18) Oil, Gas, and other related gathering line systems.

### **5.2.2. Conditional Uses**

- 1) Commercial feedlots subject to the provisions of this Code.
- 2) Manufacturing and processing of agricultural resources and products indigenous to the county but not including rendering plants, fertilizer plants and the like.
- 3) Solid waste disposal facilities subject to the provisions of the Code
- 4) Electrical substations, high voltage transmission lines and accessory buildings used for the primary purpose of transmission of electrical energy from one area to another. These provisions shall not apply to those transmission lines which directly serve the county.

- 5) Transmitting towers, relaying stations and pipelines
- 6) Coal Mining
- 7) Mobile Homes (Manufactured Homes)-Manufactured or modular homes on a permanent type of foundation.
- 8) Hunting lodges.
- 9) Bed and breakfast inns.
- 10) Anhydrous Ammonia storage facilities.
- 11) Wastewater plants and systems
- 12) Water depots.
- 13) Gravel Pits, Crushing and Stockpiling
- 14) Communication towers.
- 15) Airport and landing field.
- 16) Wind energy facilities.
- 17) Child care and child nurseries
- 18) Adult care centers
- 19) Agricultural Equipment Storage
- 20) Family Home Day Care
- 21) Firing Range, Outdoor
- 22) Hospitals and Medical Centers, including mental health facilities
- 23) Stables
- 24) Livestock transfer and feeding operations
- 25) Kennels
- 26) Mineral and other substance excavation and mining.

- 27) Temporary uses, including, but not limited to,
  - i. Bazaars, Carnivals, or Fairs;
  - ii. Musical Events;
  - iii. Racing Events;
  - iv. Rodeos;
  - v. Public gatherings for a single-purpose event;
  - vi. Temporary building or yard for construction materials and/or equipment incidental and necessary for current construction in the immediate surrounding area;
  - vii. Temporary office incidental and necessary for the construction, sale, or rental of the property in the immediate surrounding area.

Permits shall be valid for such period of time as determined by the County Commission and shall be renewable at the discretion of the County Commission.

- 28) Correctional facilities
- 29) Components of water and wastewater systems
- 30) Radio and television transmitting and receiving facility
- 31) Colleges and universities
- 32) Dormitories
- 33) MET Towers

#### **Development Standards**

- 1) Minimum lot size: 10 acres
- 2) Minimum lot width: 150 feet
- 3) Minimum front yard setbacks: 50 feet
- 4) Minimum side yard setbacks: 15 feet
- 5) Minimum rear yard setbacks: 50 feet
- 6) Maximum lot coverage: N/A

- 7) Maximum height: 35 feet for residential structures

*Amended on July 1, 2014 and May 2, 2017 by the Stark County Commission*

### **5.3 Rural Residential: Purpose**

The rural residential district is established to promote a suitable residential environment uninterrupted by conflicting uses and incompatible activities in unincorporated communities.

#### **5.3.1 Permitted Uses**

- 1) All types of farming and ranching operations including dairying, livestock, poultry raising, apiaries, and fur farming.
- 2) Truck gardening, nurseries, greenhouse and roadside stands offering for sale only those farm products which have been grown on the premises.
- 3) Accessory buildings and structures necessary to the operation of farms or ranches.
- 4) Animal hospitals and clinics provided they are not located nearer than five hundred (500) feet from any residence except the residence of the owner-operator.
- 5) Cemeteries.
- 6) Churches and related facilities.
- 7) Home occupations and rural home occupations.
- 8) Public parks and recreational facilities, wildlife and game management areas and refuges.
- 9) Public, private, and parochial schools.
- 10) Single-family residence.
- 11) Oil and Gas Drilling and Production.
- 12) Libraries.
- 13) Oil and gas exploration.
- 14) Non-commercial golf courses, country clubs and other private recreational clubs.
- 15) Fire and police stations.
- 16) Museums, art galleries and studios.

- 17) Oil, Gas, and other related gathering line systems.

### **5.3.2 Conditional Uses**

- 1) Electrical substations, high voltage transmission lines and accessory buildings used for the primary purpose of transmission of electrical energy from one area to another. These provisions shall not apply to those transmission lines which directly serve the county.
- 2) Transmitting towers, relaying stations and pipelines.
- 3) Coal mining.
- 4) Mobile homes (manufactured homes): Manufactured or modular homes on a permanent type of foundation.
- 5) Hunting lodges.
- 6) Bed and breakfast inns.
- 7) Wastewater plants and systems.
- 8) Water depots.
- 9) Gravel pits, crushing and stockpiling.
- 10) Communication towers.
- 11) Wind energy facilities.
- 12) Child care and child nurseries.
- 13) Adult care centers.
- 14) Family home day care.
- 15) Hospitals and medical centers, including mental health facilities.
- 16) Stables.
- 17) Livestock transfer and feeding operations.
- 18) Kennels.
- 19) Temporary uses, including, but not limited to,

- i. Bazaars, Carnivals, or Fairs;
- ii. Musical Events;
- iii. Racing Events;
- iv. Rodeos;
- v. Public gatherings for a single-purpose event;
- vi. Temporary building or yard for construction materials and/or equipment incidental and necessary for current construction in the immediate surrounding area;
- vii. Temporary office incidental and necessary for the construction, sale, or rental of the property in the immediate surrounding area.

Permits shall be valid for such period of time as determined by the County Commission and shall be renewable at the discretion of the County Commission.

- 20) Correctional facilities.
- 21) Components of water and wastewater systems.
- 22) Radio and television transmitting and receiving facility.
- 23) Colleges and universities.
- 24) Dormitories.
- 25) MET Towers.

**Development Standards**

- 1) Minimum lot size: five (5) acres
- 2) Minimum lot width: one hundred fifty (150) feet
- 3) Minimum front yard setbacks: fifty (50) feet
- 4) Minimum side yard setbacks: fifteen (15) feet
- 5) Minimum rear yard setbacks: fifty (50) feet
- 6) Maximum lot coverage: N/A

- 7) Maximum height: thirty-five (35) feet for residential structures

*Amended on July 1, 2014 and May 2, 2017 by the Stark County Commission*

#### **5.4 Estate Residential District: Purpose**

The estate residential district is established to promote single-family residential development immediately adjacent to existing unincorporated residentially-zoned communities consisting of lots that are less than five (5) acres in area. Application of the estate residential district shall be limited to properties within one mile of the following highway corridor:

- Highway 10 East from Lehigh Drive to 102<sup>st</sup> Avenue SW.

The ability to rezone properties to the Estate Residential Zoning District shall be restricted to properties located on the map maintained by the Stark County Zoning Administrator.

##### **5.4.1 Permitted Uses**

- 1) Single-family detached residences and accessory structures.
- 2) Churches and related facilities.
- 3) Public parks and playgrounds and recreational facilities.
- 4) Public, private, and parochial schools
- 5) Oil, Gas, and other related gathering line systems.
- 6) Horticulture and crop production.

##### **5.4.2 Conditional Uses**

- 1) Transmitting towers, relaying stations and pipelines.
- 2) Mobile Homes-Modular homes on a permanent type of foundation.
- 3) Bed and breakfast inns.
- 4) Child care and child nurseries.
- 5) Adult care centers.
- 6) Family home day care.
- 7) Hospitals and Medical Centers, including mental health facilities.
- 8) Home occupations.

- 9) Municipal buildings.
- 10) Museums, art galleries and studios.
- 11) Radio and television transmitting and receiving facility.
- 12) Communication towers.
- 13) Components of water and wastewater systems.
- 14) Electrical substations, high voltage transmission lines and accessory buildings used for the primary purpose of transmission of electrical energy from one area to another. These provisions shall not apply to those transmission lines which directly serve the county.
- 15) Temporary uses, including, but not limited to;
  - viii. Bazaars, Carnivals, or Fairs;
  - ix. Musical Events;
  - x. Racing Events;
  - xi. Rodeos;
  - xii. Public gatherings for a single-purpose event;
  - xiii. Temporary building or yard for construction materials and/or equipment incidental and necessary for current construction in the immediate surrounding area;
  - xiv. Temporary office incidental and necessary for the construction, sale, or rental of the property in the immediate surrounding area.

Temporary use permits shall be valid for such period of time as determined by the County Commission and shall be renewable at the discretion of the County Commission.

### **Development Standards**

- 1) Minimum lot size: 2 acres
- 2) Minimum lot width: 100 feet
- 3) Minimum front yard setbacks: 40 feet
- 4) Minimum side yard setbacks: 15 feet

- 5) Minimum rear yard setbacks: 25 feet
- 6) Maximum lot coverage: 30 percent
- 7) Maximum height: 35 feet for residential structures

*Adopted on July 5, 2017 by the Stark County Commission*

## **5.5 Mobile Home District: Purpose**

The purpose of this district is to provide for the development of lots for permanent mobile homes on a permanent foundation and temporary mobile homes.

### **5.5.1 Permitted Uses**

- 1) Single-family residential units and modular homes on permanent foundations.
- 2) Mobile home parks.
- 3) Parks, recreational areas and playgrounds.

### **5.5.2 Conditional Uses**

- 1) Fire Halls.
- 2) Licensed recreational vehicle parks.
- 3) Commercial and office uses accessory to a mobile home park or a recreational vehicle park.
- 4) Self-serve Laundromat accessory to a mobile home park or a recreational vehicle park.
- 5) Recreational uses, private community.

### **5.5.3 Area and Density Requirements**

Structures placed in this district shall comply with the following area and density requirements:

- 1) Permanent mobile homes and modular homes shall not be placed on a lot smaller than seven thousand (7,000) square feet.
- 2) RV's and trailers in an RV park shall not be placed on a lot under one thousand five hundred (1,500) square feet.

- 3) Trailer homes or RV's shall not cover more than fifty (50) percent of the area of the pad, lot or site.

Additional development standards are found in "Additional Provisions" chapter of this Code.

## **5.6 Commercial District: Purpose**

The commercial district is established to accommodate the concentration of commercial and related uses. Commercial uses must be compatible with adjoining uses and shall not negatively affect the adjoining properties. The Commercial District shall be utilized primarily in areas either adjacent to the City of Dickinson and its Extraterritorial Zoning Area, and or rural business centers adjacent to the I-94 corridors surrounding Richardton and Belfield as well as the Highway 10 corridor between Dickinson and South Heart.

### **5.6.1 Permitted Uses**

- 1) Dry cleaning, pressing, tailor shops and Laundromats.
- 2) Electrical and plumbing shops.
- 3) Lumber yards.
- 4) Professional offices including, but not necessarily limited to, banks, insurance, real estate, medical clinics and offices, newspapers and law offices.
- 5) Retail and service uses including, but not necessarily limited to, grocery, drugs, hardware, clothing, furniture stores, bakeries, restaurants, taverns, liquors stores, athletic and health clubs, automobile service station, used and new car lots, print shops, barber and beauty shop and sale and service of appliances.
- 6) Sales and service of farm implements.
- 7) Wholesale establishments.
- 8) Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.
- 9) Automobile dealerships.
- 10) Grain elevators.
- 11) Nurseries, greenhouses, commercial gardens.
- 12) Accessory structures.

- 13) Churches and related facilities.
- 14) Research activities.
- 15) Membership organizations/private membership clubs and lounges.
- 16) Commercial, vocational and business schools.
- 17) Hospitals and medical centers.
- 18) Motion picture theaters.
- 19) Lumberyards.
- 20) Oil and gas drilling and production.
- 21) Oil and gas exploration.
- 22) Fire and police stations.
- 23) Colleges and universities.
- 24) Trade schools.

#### **5.6.2 Conditional Uses**

- 1) Contractor's yard and operations.
- 2) Second story residential dwelling units.
- 3) Processing and packaging of materials.
- 4) Warehouses and wholesale dealerships.
- 5) Commercial grain bins, grain elevators or related activity.
- 6) Private membership clubs and lodges.
- 7) Small animal veterinary hospitals.
- 8) Dairy, locker plant.
- 9) Hotels and motels.
- 10) Golf driving range, miniature golf course, go-cart track, or race track.
- 11) Dormitories.

- 12) Child care and child nurseries.
- 13) Adult care centers.
- 14) Firing range, indoor, small arms.
- 15) Kennels.
- 16) Mini-warehouses.
- 17) Open storage.
- 18) Truck stops.
- 19) Vehicle parts sales.
- 20) Animal hospitals and clinics provided they are not located nearer than five hundred (500) feet from any residence except the residence of the owner-operator.
- 21) Drive-in theaters.
- 22) Communications towers.
- 23) Airport.
- 24) Correctional facilities.
- 25) Radio and television transmitting and receiving facility.
- 26) Wastewater plants and systems.
- 27) Water depots.
- 28) Temporary uses, including, but not limited.
  - i. Bazaars, Carnivals, or Fairs;
  - ii. Musical Events;
  - iii. Racing Events;
  - iv. Rodeos;
  - v. Public gatherings for a single-purpose event;

- vi. Temporary building or yard for construction materials and/or equipment incidental and necessary for current construction in the immediate surrounding area;
  - vii. Temporary office incidental and necessary for the construction, sale, or rental of the property in the immediate surrounding area.
- 29) Wind energy facilities.
  - 30) Water and ski slides and resorts.
  - 31) Electrical substations, high voltage transmission lines and accessory buildings used for the primary purpose of transmission of electrical energy from one area to another. These provisions shall not apply to those transmission lines which directly serve the county.

### **5.6.3 Setbacks**

No commercial use shall be located within fifty (50) feet of a residential lot or residential district.

### **5.6.4 Lot Area, Width, and Yard Requirements**

- 1) The minimum lot area for the commercial district shall be forty thousand (40,000) square feet.
- 2) The minimum lot width shall be two hundred (200) feet.
- 3) There shall be at least a one hundred (100) foot setback from the centerline of the front public road or access.
- 4) The minimum side building line, measured from the side lot line, shall be twenty-five (25) feet.

*Amended on July 1, 2014 by the Stark County Commission*

## **5.7 Industrial District: Purpose**

The purpose of this district is to provide convenient access for the manufacturing and processing of the natural resources of Stark County and also to accommodate those uses which because of land requirements or unique features are most suitable in unincorporated areas. The Industrial District shall be utilized primarily in areas adjacent to the City of Dickinson and its Extraterritorial Zoning Area or in rural business centers adjacent to the I-94 corridors surrounding Richardton and Belfield as well as the Highway 10 corridor between Dickinson and South Heart.

### **5.7.1 Permitted Uses**

- 1) Agriculture.
- 2) Manufacturing of clay and concrete products.
- 3) Repair and storage of heavy equipment and machinery.
- 4) Sewage treatment facilities.
- 5) Truck or freight terminal.
- 6) All uses permitted in commercial district except residential.
- 7) Public utility buildings including water and waste water facilities and accessories.
- 8) Petroleum storage facilities.
- 9) Warehouses.
- 10) Cement, asphalt and ready mix facilities.
- 11) Any industrial or manufacturing operation providing that: (a) dust, fumes, odors, smoke, vapor, noise, lights, and vibrations shall be confined within the industrial district, and (b) outdoor storage, equipment and refuse areas shall be concealed from view of abutting rights-of way.
- 12) Oilfield service business and industries.
- 13) Anhydrous storage facilities.
- 14) Industrial laundry; industrial dry cleaning plants.
- 15) Garbage haulers.
- 16) Large scale printing plants.
- 17) Power plants.
- 18) Rail switching and classification yards.
- 19) Vehicle auction-wholesale.
- 20) Rail yards and terminals.

### **5.7.2 Conditional Uses**

- 1) Coal gasification and liquefaction plants.
- 2) Electric power generating plants, transmission lines and accessory structures.
- 3) Fuel and bulk storage plants.
- 4) Oil refineries and petrochemical plants.
- 5) Radio, television and microwave towers.
- 6) Salvage and junk yards.
- 7) Adult entertainment centers.
- 8) Noxious waste disposal sites.
- 9) Wind energy generation.
- 10) Workforce temporary housing.
- 11) Exploration, drilling, excavation and mining for, coal, sand, gravel, clay and other subsurface minerals as provided by in this Code.
- 12) Solid waste landfill.
- 13) Special waste disposal sites (industrial waste) subject to compliance with North Dakota Health Department rules and regulations.
- 14) Water depots.
- 15) Kennels.
- 16) Open storage.
- 17) Mini warehouses.
- 18) Vehicle parts sales.
- 19) Dairy, locker plants.
- 20) Recycling Facility.
- 21) Communication tower.
- 22) MET Towers.

- 23) Any use or process not mentioned above engaged in the storage of or in processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

### **5.7.3 Performance Standards**

- 1) A buffer strip between industrial and residential sites may be required by the County Commission.
- 2) The open storage of material, including waste products or salvage, shall not be permitted closer than three hundred (300) feet from any residence. All combustible material shall be stored in such a way to permit free access to firefighting equipment.
- 3) Dust, fumes, odors, smoke, vapor, noise, lights, and vibrations from any industrial or manufacturing operations shall be confined within the industrial district. Associated outdoor storage, equipment and refuse areas shall be concealed from view of abutting rights-of way.

### **5.7.4 Lot Area, Width, and Yard Requirements**

- 1) The minimum lot area for the industrial district shall be forty thousand (40,000) square feet.
- 2) The minimum lot width shall be two hundred (200) feet.
- 3) There shall be at least a one hundred (100) foot setback from the centerline of the front public road or access.
- 4) The minimum side building line, measured from the side lot line, shall be twenty-five (25) feet.
- 5) No building or structure shall be located within one thousand two hundred fifty (1,250) feet from the boundary of a residential district.
- 6) Setback requirements for temporary crew housing shall be as listed in the conditional use permit and in Article VI of this Code.

*Amended on July 1, 2014 and July 5, 2016 by the Stark County Commission*

## **5.8 Recreation and Open Space District: Purpose**

The purpose of this district is to set aside areas for conservation, public recreation and full access facilities.

### **5.8.1 Permitted Uses**

- 1) Agriculture.
- 2) Public parks including golf courses and outdoor recreation facilities.
- 3) Hunting, fishing and trapping.
- 4) Raising of game animals, waterfowl and fish.
- 5) Harvesting of any natural crops.
- 6) Communication and power transmission lines and other public utility lines
- 7) Accessory buildings or structures to any permitted uses

### **5.8.2 Conditional Uses**

- 1) Refreshment stands accessory to a public park.
- 2) Restaurants that are accessory to a public park.
- 3) Sports facilities, fields, and arenas.
- 4) Retail accessory to a park.

## **5.9 Floodplain Overlay District: Purpose**

The purpose of this district is to minimize private and public losses due to flood conditions.

### **5.9.1 Land to Which Ordinance Applies**

Applicability – The floodplain overlay district consists of the lands which have been or may be covered by flood waters as delineated on maps of Stark County prepared by the Federal Emergency Management Agency (FEMA) for administration of the National Flood Insurance Program or other maps and information provided by the State of North Dakota. The areas delineated as floodplain shall be an overlay for all zoning districts.

### **5.9.2 Warning and Disclaimer of Liability**

The degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. This Ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of Stark County, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages

that result from reliance on this Ordinance or any administrative decision lawfully made there under.

### **5.9.3 Permitted Uses:**

- 1) General building uses including general farming, pasture, and grazing and related uses provided that the buildings and structures for residential uses are flood-proofed above the one hundred (100) year floodplain as established by FEMA.
- 2) Non-structural uses including ponding of run-off water and treated waste water.
- 3) Public utilities including railroads, roads and highways, channels, and pipelines.
- 4) Outdoor recreational uses including golf courses, bicycle trails, picnic areas, and boat launching ramps.

### **5.9.4 Conditional Uses**

Temporary buildings and structures not related to flood control and farming such as stands, fences, shelters, signs, and temporary parking.

### **5.9.5 Additional Permit Requirements**

Before construction or development begins within any area of special flood hazard, a permit shall be obtained from the Code Administrator. The permit shall include all the information required in this Ordinance. In addition, the permit shall specifically include:

- 1) Elevation in relation to mean sea level of the lowest floor (including basement) of all proposed structures.
- 2) Elevation in relation to mean seal level to which any structure will be flood-proofed.
- 3) Certification by registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Section 5.9.8.
- 4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

### **5.9.6 General Standards**

In all areas of special flood hazards the following standards are required:

- 1) Anchoring
  - a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
  - b) All mobile homes shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
    - i) Over-the-top ties be provided at each of the corners of the mobile home, with two additional ties per at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;
    - iii) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than fifty (50) feet long requiring four additional ties per side;
    - iv) All components of the anchoring system be capable of carrying a force of 4,800 pounds and;
    - v) Any additions to the mobile homes shall be similarly anchored.
- 2) Construction Materials and Methods
  - a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
  - b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- 3) Utilities
  - a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
  - b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
  - c) On-site waste disposal systems shall be located to avoid impairment to the systems or contamination from them during flooding.
- 4) Subdivision Proposals

- a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres, whichever is less.

5) Encroachments

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

### 5.9.7 Specific Standards

In all areas where base flood elevation data is available, the following provisions are required:

1) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

2) Non-residential Construction

New construction and substantial improvement of any non-residential structure shall either have the lowest floor, including basement elevated to the level of the base flood elevation or, together with attendant utility and sanitary facilities, shall:

- a) Be flood-proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied.

- 3) Mobile Homes (manufactured homes)
- a) Mobile homes shall be anchored in accordance with Section 5.9.6.
  - b) For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision, require that:
    - i. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
    - ii. Adequate surface drainage and access for a hauler are provided; and,
    - iii. In the instance of elevation on pilings, that
      - lots are large enough to permit steps,
      - piling foundations are placed in stable soil no more than ten (10) feet apart, and
      - reinforcement is provided for pilings more than six (6) feet above the ground level.

4) Crawlspace

Below-Grade Residential Crawlspace Construction.

New construction and substantial improvement of any below-grade crawlspace shall:

- a) Have the interior grade elevation that is below base flood elevation no lower than two (2) feet below the lowest adjacent grade;
- b) Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four (4) feet at any point;
- c) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;

- d) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
- e) Be constructed with materials and utility equipment resistant to flood damage;
- f) Be constructed using methods and practices that minimize flood damage;
- g) Be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- h) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
  - i. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - ii. The bottom of all openings shall be no higher than one (1) foot above grade;
  - iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

### **5.9.8 Flood Proofing Measures**

Permitted and conditional uses proposed for the Flood Plain District that incorporate flood-proofing techniques must comply with Section 209 through 1406 of the 1972 Edition of “Flood Proofing Regulations” (FPR), as developed by the Office of the Chief of Engineers, U.S. Army, Washington, DC, a copy of which is hereby incorporated herein by reference and declared to be a part of this code. Where definition of terms as set forth in Section 301 of FPR conflict in meaning with the definition of terms as set in this code, the latter shall prevail. Appropriate conditions may be attached to the granting of a Conditional Use Permit, including, but not limited to, the following:

- 1) Anchorage to resist flotation and lateral movement.
- 2) Installation of watertight doors, bulkheads, or similar methods of construction.

- 3) Reinforcement of walls to resist water pressure.
- 4) The usage of paints, membranes, or mortar to reduce the seepage of water through walls.
- 5) The construction of water supply and waste treatment systems which will prevent the entrance of flood waters.
- 6) The addition of mass or weight to structures to reduce flotation.
- 7) The installation of pumps to lower water levels in structures.
- 8) The location of all electrical equipment, circuits, and installed appliances in a manner which will insure they are not subject to flooding and to provide protection from inundation by the regional flood.
- 9) The location of all structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety, and welfare above the flood protection elevation or the provision of adequate flood-proofing to prevent flotation of storage containers which could result in the escape of toxic materials into flood waters.

## **5.10 Planned Unit Development (PUD) Overlay District: Purpose**

The Planned Unit Development (PUD) Overlay District is intended to provide flexibility in the design of planned projects; to permit innovation in project design that incorporates open space and other amenities; and to insure compatibility of developments with the surrounding urban environment. The PUD District may be used in combination with any base district specified in this Ordinance. The PUD District, which is adopted by the County Commission with the recommendation of the Planning and Zoning Board, assures specific development standards for each designated project.

### **5.10.1 Permitted Uses**

Uses permitted in a PUD Overlay District are those permitted in the underlying base district.

### **5.10.2 Site Development Regulations**

Site Development Regulations are developed individually for each Planned Unit Development District but must comply with minimum or maximum standards established for the base district, with the following exceptions:

- 1) Lot area and lot width are not restricted, provided that the maximum density allowed for each base district is not exceeded.

- 2) Maximum building coverage shall be the smaller of the allowed building coverage in the base district, or 60 percent.

### **5.10.3 Access to Public Streets**

- 1) Each PUD District must abut a public street for at least 50 feet and gain access from that street.

### **5.10.4 Application Process**

- 1) Development Plan

The application for a Planned Unit Development District shall include a Development Plan containing the following information:

- a) A tract map, showing site boundaries, street lines, lot lines, easements, and proposed dedications or vacations.
- b) A land use plan designating specific uses for the site and establishing site development regulations, including setback height, building coverage, impervious coverage, density, and floor area ratio requirements.
- c) A site development and landscaping plan, showing building locations, or building envelopes; site improvements; public or common open spaces; community facilities; significant visual features; and typical landscape plans.
- d) A circulation plan, including location of existing and proposed vehicular and pedestrian, facilities and location and general design of parking and loading facilities.
- e) Schematic architectural plans and elevations sufficient to indicate a building height, bulk, materials, and general architectural design.
- f) A statistical summary of the project, including gross site area, net site area, number of housing units by type, gross floor area of other uses, total amount of parking, and building and impervious surface percentages.

### **5.10.5 Adoption of District**

- 1) The Planning and Zoning Board and County Commission shall review and evaluate each Planned Unit Development application. The County may impose reasonable conditions, as deemed necessary to ensure that a PUD shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.

- 2) The Planning and Zoning Board, after proper notice, shall hold a public hearing and act upon each application.
- 3) The Planning and Zoning Board may recommend amendments to PUD district applications.
- 4) The recommendation of the Planning and Zoning Board shall be transmitted to the County Commission for final action.
- 5) The County Commission, after proper notice, shall act upon any Ordinance establishing a PUD Planned Unit Development Overlay District. Proper notice shall mean the same notice established for any other zoning amendment.
- 6) An Ordinance adopting a Planned Unit Development Overlay Zoning District shall require a favorable simple majority of the County Commission for approval.
- 7) Upon approval by the County Commission, the Development Plan shall become a part of the Ordinance creating or amending the PUD District. All approved plans shall be filed with the Zoning Administrator.

#### **5.10.6 Amendment Procedure**

Major amendments to the Development Plan must be approved according to the same procedure set forth in Section 8.7 of this Code.

#### **5.11 Corridor Overlay District – Purpose**

The purpose of the Corridor Overlay District for transportation corridors identified herein is to promote and protect the public health, safety and welfare by providing for consistent and coordinated treatment of properties bordering and within the identified transportation corridors in Stark County. The identified corridors are important transportation corridors, and will continue as such with future growth of the County. These transportation corridors are expected to carry significant volumes of traffic, making development along these transportation corridors highly visible to the traveling public. Therefore, it is the purpose of this District to ensure high aesthetic quality of development along these important transportation corridors through:

- 1) The establishment of enhanced standards for buildings, landscaping, and other improvements constructed on the properties bordering and within the identified transportation corridors; and
- 2) The establishment of development requirements which will encourage high quality of design of development of those properties and promote the quality, scale, and character of development consistent with existing and planned uses bordering and within the identified transportation corridors.

### **5.11.1 Corridor Overlay District – Boundaries**

The boundaries of the Corridor Overlay Districts are hereby established as follows:

- 1) All structures that are within 400 feet of either side of the right-of-way (existing or future if additional right-of-way is required, whichever is greater) for the following identified corridors:
  - a) Highway 22 (North and South)
  - b) I-94 Highway Corridor
  - c) 116<sup>th</sup> Street SW (North and South)
  - d) Highway 10 (East and West)
  - e) Highway 85 (North and South)
  - f) Highway 8 (North and South)

### **5.11.2 Corridor Overlay District – Permitted Uses**

The overlay district provisions apply to any base zoning district set forth in this chapter that exists within the defined overlay area. Permitted uses shall be subject to the provisions of this section and shall be further subject to requirements of the applicable base zoning district.

### **5.11.3 Corridor Overlay District – Application and Exemptions**

- 1) These standards apply to sites (including all principal and accessory buildings) that are within the Corridor Overlay District unless otherwise specified herein, and apply to all use categories.
- 2) Farm structures are exempt from these requirements provided they meet the base zoning district requirements.
- 3) Existing single-family structures are exempt from these requirements provided they meet the base zoning district requirements.
- 4) Expansions to buildings that exist on the date this ordinance is adopted are exempt from the requirements of this ordinance for any building additions that do not exceed fifty percent (50%) of the existing building square footage. If multiple building expansions are conducted after the adoption of this ordinance, the expansion that causes the total square footage of expansions to reach or exceed a 50% expansion of the original building square footage shall thereafter be required to conform to the requirements of this chapter.
- 5) If overlapping regulations appear in other sections of this Zoning Ordinance, those regulations stated herein shall take precedence.

- 6) Unless otherwise noted in this Section, the standards of the underlying base zoning districts shall apply.

#### **5.11.4 Corridor Overlay District – Permitted Uses**

The overlay district provisions apply to any base zoning district set forth in this chapter that exists within the defined overlay area. Permitted uses shall be subject to the provisions of this section and shall be further subject to requirements of the applicable base zoning district.

#### **5.11.5. Corridor Overlay District – Application and Exemptions**

These standards apply to sites (including all principal and accessory buildings) that are within the Corridor Overlay District unless otherwise specified herein, and apply to all use categories.

Farm structures are exempt from these requirements provided they meet the base zoning district requirements.

Existing single-family structures are exempt from these requirements provided they meet the base zoning district requirements.

Expansions to buildings that exist on the date this ordinance is adopted are exempt from the requirements of this ordinance for any building additions that do not exceed fifty percent (50%) of the existing building square footage. If multiple building expansions are conducted after the adoption of this ordinance, the expansion that causes the total square footage of expansions to reach or exceed a 50% expansion of the original building square footage shall thereafter be required to conform to the requirements of this chapter.

If overlapping regulations appear in other sections of this Land Development Code, those regulations stated herein shall take precedence.

Unless otherwise noted in this Section, the standards of the underlying base zoning districts shall apply.

#### **5.11.6. Corridor Overlay District – Standards**

##### **Building Design**

- 1) Building design shall incorporate materials to convey permanence, substance, timelessness, and restraint. Each building shall be constructed with one or more of the following material(s) consisting of at least fifty percent (50%) of the exterior materials.

- 2) Any exterior building wall visible from the corridor shall be constructed of one or more of the following (minimum of 50%):
  - a) Clay or masonry brick
  - b) Customized concrete masonry with striated, scored, or broken faced brick type units (sealed) with color consistent with design theme.
  - c) Poured in place, tilt-up, or precast concrete. Poured in place and tilt-up walls shall have a finish of stone, a texture, or a coating.
  - d) Architectural flat metal panels or glass curtain walls.
  - e) Stucco or Exterior Finish Insulation Systems (EFIS).
  - f) Natural stone.
  - g) Residential grade permanent siding provided that buildings are enhanced by the application of brick, decorative masonry, or decorative stucco surfaces in combination with decorative fascia, overhangs, and trim. Wooden siding may be used as a substitute for residential grade permanent siding.
  - h) Metal siding systems may be used along the corridor provided that metal is limited to 70% of the building face. In addition the building must be enhanced by the application of brick, decorative masonry, or decorative stucco surfaces in combination with decorative fascia, overhangs, and trim.
  - i) Additional materials may be approved by the Zoning Administrator provided that the substituted or additional materials meet the purpose and intent of this chapter and are similar in nature to those specified materials herein.
- 3) Non-decorative exposed concrete block buildings are prohibited.
- 4) Ground floor building facades of commercial and office buildings visible from identified corridors shall have a minimum of 20 percent glass windows.
- 5) Any portion of a building façade that exceeds one hundred (100) feet shall incorporate windows or architectural and design elements to break up the expanse of wall. Examples include, but are not limited to, windows, lighting, material changes, articulated wall surfaces, architectural treatments such as sculptured wall features or shadow lines, vertical accents, texture changes or color changes. Landscaping may be used in combination with the design elements listed above.

- 6) Sloped roofs shall not exceed one hundred (100) feet in length without a change in roof plane, or gable, or dormer.
- 7) Building design shall incorporate architectural characteristics that emphasize human scale design features, and minimize the mass and scale of buildings through the use of features including, but not limited to: variation in the rooflines and form, designs that visually define “tops” and “bottoms” of buildings, use of protected or recessed entries, use of vertical elements on or in front of expansive blank walls, use of focal points, inclusion of windows on elevations facing streets and pedestrian areas.
- 8) Building entrances, excluding emergency exits, shall be designed as focal points and shall be enhanced through the use of elements such as canopies, overhangs, peaked roofs, paving materials, planters, landscaping features, and outdoor seating areas.
- 9) Roof-mounted and ground mounted mechanical equipment shall be fully screened from the identified corridor. Penthouses for mechanical equipment shall be incorporated into the building façade design, consistent with the exterior building design requirements.
- 10) Exterior mechanical equipment shall be shielded in a manner that protects adjacent properties from visual impacts and noise levels.
- 11) To assist in the interpretation of the above regulations the Zoning Administrator shall maintain a catalog of approved building designs and materials as a reference.

#### **Multi-building or Mixed Use Projects**

- 1) Prior to issuance of a building permit on a multi-building development, the applicant shall submit plans that demonstrate the use of consistent design elements throughout the project. Subsequent building permits shall conform to the design elements presented.
- 2) Multi-building developments shall include prominent focal points, which shall include, but not be limited to architectural structures, art, historical and/or landscape features. These features shall be located at, or visible from, vehicular and pedestrian entrances to the site.
- 3) Free standing garage clusters of multiple family residential sites shall not be placed along the corridor overlay districts unless the overall appearance is similar to the primary residential building.

## Site Design

### 1) Building and Parking Setbacks

- a) Buildings on sites located at major intersections along the identified corridor (i.e. at intersections with traffic corridors as identified herein) shall be sited in the corner of the intersection with parking areas in the rear or side yard.
- b) The Zoning Administrator shall consider all site design proposals with the requirements set forth herein. In those instances in which a prevailing setback has previously been established, the Zoning Administrator may require compliance with the prevailing setback rather than the provisions set forth below.

### 2) Natural Features

Significant natural or existing features, such as drainage swales, existing trees, and shelterbelts, shall be incorporated into the site design to the extent that retention of the feature allows reasonable use of the site, as determined by the Zoning Administrator.

### 3) Functional Site Elements

- a) Trash enclosures and trash compactors shall be located such that they are not visible from the identified corridor.
- b) Outdoor storage that does not consist of display of merchandise shall be located such that it is not visible from the identified corridor, by placing the outdoor storage on the opposite side of the building from the identified corridor, or by placing outdoor storage in an enclosed area that has the appearance of being integral to the building. All outdoor storage shall be fully screened from view through the use of an opaque decorative fencing material or architectural screen walls.
- c) Loading and delivery areas shall not be located along the front or side of the building that fronts on the identified corridor, unless compliance is not reasonable feasible. Such areas shall be screened from view through the use of landscaping or architectural building elements that are consistent with the architecture and building materials used in the primary buildings.
- d) Contractor yards, service yards, heavy equipment, salvage, and items of a similar nature shall be located away from public street frontages and shall be screened with opaque fencing.

#### 4) Pedestrian Accommodations for Commercial Projects

- a) Pedestrian walkways shall be provided between building entrances/exits and parking areas, and within parking areas to provide a designated walking area, especially where there is a need to connect dispersed buildings with parking areas.
- b) Pedestrian walkways shall be provided between buildings and sidewalks or multi-use paths along adjacent streets.
- c) On multi-building sites and mixed use sites, the site design shall include buildings. Designs shall include some areas with weather protection, such as overhangs provide functional pedestrian spaces, plazas, and seating areas between or in front of, awnings, and canopies to increase usefulness in a variety of weather conditions.
- d) Canopy shade trees, landscape features, and seating, or other pedestrian amenities near colonnades, storefronts, and pedestrian routes shall be incorporated into the site.

#### 5) Lighting for Commercial Projects

- a. Pedestrian scale lighting fixtures shall be provided in areas designed for pedestrian activity (walkways, plazas, outdoor seating areas).
- b. Lighting fixtures shall coordinate and complement the general architectural style of the development.
- c. Lighting should accent entryways and other site focal points, such as significant architectural, landscaping, or artistic features shall be provided.

### **Administration**

Submittal of plans. All plans for construction and renovation of structures within the district shall be submitted to the Zoning Administrator or their designee. The owner of the property to be constructed upon or renovated, or their authorized agent, shall submit two (2) full sized and to-scale plans and two (2) reduced copies of the necessary drawings to the Zoning Administrator.

### **Appeals**

Any applicant may appeal a decision of the Zoning Administrator on the interpretation of the requirements herein. The appeal shall be filed with the Zoning Administrator within ten (10) business days following the decision.

- 1) The Zoning Administrator will notify all property owners abutting the subject property prior to the Planning and Zoning Commission taking action on the appeal.
- 2) The applicant or any property owner shall have the right to appeal the decision of the Planning & Zoning Commission to the County Commission.
- 3) The appeal fee shall be established by the County Commission and included in the County's Fee Schedule.

*Adopted on July 1, 2014 by the Stark County Commission*

## **5.12 Airport Overlay District Purpose**

The purpose of the overlay district is to provide additional safety and protection to the users of the Dickinson Theodore Roosevelt Regional Airport and to the people who live and work in its vicinity. The overlay district provisions apply to any base zoning district set forth in this chapter that exists within the defined overlay area. Uses shall be subject to the provisions of this section and shall be further subject to requirements of the applicable base zoning district.

### **5.12.1 Airport Overlay District Definitions**

As used in Chapter 5.12, unless the context otherwise requires:

- 1) AIRPORT - Dickinson Theodore Roosevelt Regional Airport.
- 2) AIRPORT ELEVATION - The highest point of Dickinson Theodore Roosevelt Regional Airport's usable landing area measured in feet from sea level. *Note: The airport elevation for Dickinson Theodore Roosevelt Regional Airport is the elevation of the Runway 25 end (2,592.2' feet above mean sea level).*
- 3) AIRPORT IMAGINARY SURFACES - Those imaginary areas in space which are defined by the Approach Surface, Transitional Surface, Horizontal Surface, and Conical Surface and in which any object extending above these imaginary surfaces is an obstruction.
- 4) APPROACH SURFACE - A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the Primary Surface.
- 5) CONICAL SURFACE - A surface extending 20 feet outward for each one foot upward (20:1) for 4,000 feet beginning at the edge of the horizontal surface.
- 6) HAZARD TO AIR NAVIGATION - An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

- 7) HEIGHT - For the purpose of determining the height limits in all zones set forth in the Airport Overlay District and shown on the DICKINSON THEODORE ROOSEVELT REGIONAL AIRPORT HEIGHT RESTRICTION MAP, the datum shall be mean sea level elevation unless otherwise specified.
- 8) HORIZONTAL SURFACE - A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of 5,000 feet from the center of each end of Runway 7-25 and swinging arcs of 10,000 feet from the center of each end of Runway 14-32 and connecting the adjacent arcs by lines tangent to those arcs.
- 9) NONCONFORMITY - Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of the Stark County Zoning Ordinance or an amendment thereto.
- 10) OBSTRUCTION - Any structure, growth, or other object, including a mobile object, which exceeds a limiting height of Chapter 5.12.
- 11) PLACE OF PUBLIC ASSEMBLY - Structure or place which the public may enter for such purposes as deliberation, education, worship, shopping, entertainment, amusement, or similar activity.
- 12) PRIMARY SURFACE - A surface longitudinally centered on a runway that extends 200 feet beyond each end of that runway. The width of the Primary Surface is 500 feet for Runway 7-25 and 1,000 feet for Runway 14-32.
- 13) RUNWAY - A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- 14) RUNWAY 14-32 – An 8,900-foot runway with the following runway end descriptions:
  - a) Runway 14: Lat. *N 46°48'53.894"* Long. *W 102°48'57.899"* Elev. 2,590.9'
  - b) Runway 32: Lat. *N 46°47'37.514"* Long. *W 102°47'54.682"* Elev. 2,582.3'
- 15) RUNWAY 7-25 – A 4,699-foot runway with the following runway end descriptions:
  - a) Runway 7: Lat. *N 46°47'46.487"* Long. *W 102°48'41.996"* Elev. 2,571.7'
  - b) Runway 25: Lat. *N 46°47'54.755"* Long. *W 102°47'35.537"* Elev. 2,592.2'
- 16) RUNWAY PROTECTION ZONE (RPZ) - An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. It begins 200 feet beyond the end of the area usable for takeoff or landing. The RPZ dimensions are functions of the type of aircraft and operations to be conducted on the runway.
- 17) TRANSITIONAL SURFACES - These surfaces extend seven feet outward for each one foot upward (7:1) beginning on each side of the Primary Surface and extend upward to a height of 150 feet above the airport elevation to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured

horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

18) TREE - Any object of natural growth.

19) UTILITY RUNWAY - A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

20) VISUAL RUNWAY - A runway intended solely for the operation of aircraft using visual approach procedures.

### **5.12.2 Airport Height Restriction Zones**

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this section to a height in excess of the applicable height limit herein established for such zone. The height restriction zones described below are shown on the DICKINSON THEODORE ROOSEVELT REGIONAL AIRPORT HEIGHT RESTRICTION MAP which is adopted by reference and maintained by the Zoning Administrator. The applicable height restrictions are hereby established for each of the zones in question as follows:

1. Utility Runway Approach Zone (Applicable to Runway 7-25): The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. The approach zone slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Precision Instrument Runway Approach Zone (Applicable to Runway 14-32): The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. The Precision Instrument Approach Zone slopes fifty feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
3. Transitional Zones – For both runways, transitional zones slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation (2,744.8 feet above mean sea level). In addition, for Runway 14-32 there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
4. Horizontal Zone - The horizontal zone is established for visual approach airports by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and

connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone is at 150 feet above airport elevation and does not include the approach and transitional zones.

5. Conical Zone - Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending outward to a distance of 4,000 feet and to a height of 350 feet above the airport elevation.

### 5.12.3 Airport Land Use Zones

Airport Land Use Zones are depicted on the DICKINSON THEODORE ROOSEVELT REGIONAL AIRPORT LAND USE MAP, which is adopted by reference and maintained by the Zoning Administrator. The Dickinson Theodore Roosevelt Regional Airport property is exempt from the requirements of this section.

#### Airport Land Use Zone Descriptions

- 1) Zone 1 – Runway Protection Zone
  - i. Runway 14: 1,750 feet wide and 6,700 feet long, beginning and centered on a point 200' beyond the center of the existing Runway 14 end.
  - ii. Runway 32: 500 feet (start width) x 700 feet (end width) x 1,000 feet (length) trapezoid beginning 200' beyond the runway end.
  - iii. Runway 7 & 25: 500 feet (start width) x 700 feet (end width) x 1,000 feet (length) trapezoid beginning 200 feet beyond the runway ends.
- 2) Zone 2 – Inner Approach/Departure Zone
  - i. Runway 14 & 32: 1,500 feet wide x 6,000 feet long, beginning and centered on the end of the runway.
  - ii. Runway 7 & 25: 1,500 feet wide x 4,000 feet long, beginning and centered on the end of the runway.
- 3) Zone 3 – Inner Turning Zone
  - i. The outer boundary of the Inner Turning Zone is constructed by arcs of a 3,500-foot radius from runway ends and connecting the adjacent arcs. The Inner Turning Zone for each runway end is described in the following sections.
  - ii. Runway 14: Begins at a point on the runway centerline located 3,100 feet prior to the Runway 14 end, then extending outward 30 degrees on either side of the centerline until intersecting the outer boundary described above.
  - iii. Runway 32, 7 & 25: Begins at points on the runway centerlines located 1,500 feet prior to the runway end, then extending outward 30 degrees on either side of the centerline until intersecting the outer boundary described above.
- 4) Zone 4 – Outer Approach/Departure Zone
  - i. Runway 14 & 32: 1,000 feet wide x 4,000 feet long, beginning and centered on the end of Zone 2.
  - ii. Runway 7 & 25: 1,000 feet wide x 3,000 feet long, beginning and centered on the end of Zone 2.
- 5) Zone 5a – Inner Traffic Pattern Zone
  - i. All Runways: The perimeter of this zone is constructed by arcs of a 3,500-foot radius from runway ends and connecting the adjacent arcs.
- 6) Zone 5b – Outer Traffic Pattern Zone
  - i. Runway 14 & 32: The perimeter of this zone is constructed by swinging arcs of a 6,000-foot radius from a point on the extended runway centerline 4,000

feet from the runway ends and connecting the adjacent arcs by lines tangent to those arcs.

- ii. Runway 7 & 25: The perimeter of this zone is constructed by swinging arcs of a 6,000-foot radius from a point on the extended runway centerline 1,000 feet from the runway ends and connecting the adjacent arcs by lines tangent to those arcs.

**B. Permitted Uses, Conditional Uses and Prohibited Uses in Airport Land Use Zones**

A list of permitted (P) and conditional (C) uses for airport land use zones are provided below followed by a list of uses prohibited in all districts.

Use Types	1	2	3	4	5 a	5 b	Base Zoning Districts
All types of farming and ranching operations including dairying, livestock, poultry raising, apiaries, and fur farming.	P	P	P	P	P	P	A, AR, RR
Truck gardening, nurseries, greenhouse and roadside stands offering for sale only those farm products which have been grown on the premises.		P	P	P	P	P	A, AR, RR
Oil and gas drilling and production	P	P	P	P	P	P	A,AR,
Oil and gas exploration.	P	P	P	P	P	P	A,AR,
Accessory buildings and structures necessary to the operation of farms or ranches.		P	P	P	P	P	AG,AR,RR
Oil, Gas, and other related gathering line systems	P	P	P	P	P	P	AG,AR,RR
Transmitting towers, relaying stations and pipelines	C	C	C	C	C	C	A,AR,
Livestock auction facilities				P	P	P	A
Non-commercial golf courses, country clubs and other private recreational clubs				P	P	P	A,AR
Commercial feedlots						C	A,AR
Livestock transfer and feeding operations						C	A,AR,RR
Agricultural Equipment Storage		C	C	C	C	C	A,AR,RR
Anhydrous Ammonia storage facilities		C	C	C	C	C	A,AR
Gravel pits, crushing and stockpiling		C	C	C	C	C	A,AR, RR
Coal mining		C	C	C	C	C	A,AR,RR
Mineral and other substance excavation and mining		C	C	C	C	C	A,AR,RR
Commercial stables						C	A,AR,RR
On site storage of equipment and material related to oil		C	C	C	C	C	A

exploration and production							
Temporary Uses				C	C	C	A,AR,RR,C,I
Nurseries, greenhouses, commercial gardens.		P	P	P	P	P	C,I
Accessory structures (commercial and industrial uses)		P	P	P	P	P	C,I
Open Storage		C	C	C	C	C	C,I
Mini-warehouse		C	C	C	C	C	C,I
Water Depots			C	C	C	C	A,AR,RR,C,I
Single family residences with accessory structures			P	P	P	P	A, AR, RR
Bed and breakfast inns					C	C	A, AR, RR
Home occupations and rural home occupations			P	P	P	P	A,AR,RR
Family home daycare					C	P	AR, RR
Manufacturing and processing of agricultural resources and products indigenous to the county but does not include rendering plants, fertilizer plants and the like				C	C	C	A, AR
Outdoor firing ranges				C	C	C	A,AR
Lumberyards				P	P	P	C,I
Restaurants				P	P	P	C,I
Retail and services uses				P	P	P	C,I
Sales and service of farm implements				P	P	P	C,I
Wholesale establishments				P	P	P	C,I
Dry cleaning, pressing, tailor shops and Laundromats.				P	P	P	C,I
Electrical and plumbing shops				P	P	P	C,I
Professional Offices					C	P	C,I
Contractor's yard and operations				C	C	C	C,I
Hotels and motels					C	C	C,I
Amusement places					C	C	C,I
Golf driving range, miniature golf, go-cart truck, or race track					C	C	C,I
Hospital and medical centers						C	C,I

Automobile Dealerships					C	C	C,I
Radio, television and microwave towers			C	C	C	C	C, I
Radio and television transmitting and receiving facility			C	C	C	C	C, I
Communications towers			C	C	C	C	A, AR, RR, I
Agriculture	P	P	P	P	P	P	I, R/OS
Public parks and recreational facilities			P	P	P	P	A,AR,RR,R/ OS
Public Golf Courses						C	R/OS
Hunting, fishing and trapping						P	R/OS
Sports facilities and fields				C	C	C	R/OS
Raising of game animals, waterfowl and fish						C	R/OS
Harvesting of any natural crops					P	P	R/OS
Accessory buildings or structures to any permitted uses					P	P	R/OS
Communications and power transmission lines and other public utility lines					P	P	R/OS
Refreshment stands accessory to a public park					P	P	R/OS
Restaurants that are accessory to a public park.				P	P	P	R/OS
Retail accessory to a park.				P	P	P	R/OS
Churches and related facilities					C	C	A,AR,RR
Processing and packaging of materials				C	C	C	C, I
Cemeteries			P	P	P	P	A,AR,RR
Commercial, vocational and business schools					C	C	C, I
Trade schools					C	C	C, I
Membership organizations/private membership clubs					C	C	C, I
Research activities				P	P	P	C, I
Warehouses and wholesale dealerships				C	C	C	C, I
Dairy, locker plant				C	C	C	C, I
Firing range, indoor, small arms				C	C	C	C, I
Vehicle parts sales				C	C	C	C, I

Small animal veterinary hospitals				C	C	C	C, I
Animal Hospitals and Clinics				C	C	C	A,AR,RR
Kennels				C	C	C	A,AR,RR,C,I
Fire and police stations			C	P	P	P	A, AR, RR,C, I
Airports	C	C	C	C	C	C	I
Wastewater Plants and systems				C	C	C	A,AR,RR,C,I
Components of water and wastewater systems				C	C	C	A, AR, RR
Manufacturing of clay and concrete materials				P	P	P	I
Electrical substations, high voltage		C	C	C	C	C	I
Repair and storage of heavy equipment and machinery			P	P	P	P	I
Warehouses			P	P	P	P	I
Cement and ready mix facilities				P	P	P	I
Large scale printing plant				P	P	P	I
Oilfield services and industries				P	P	P	I
Industrial or manufacturing uses not already listed				P	P	P	I
Public utility buildings		C	P	P	P	P	I
Industrial laundry, industrial dry cleaning plants				P	P	P	I
Vehicle auction-wholesale				P	P	P	I
Salvage and junk yards				C	C	C	I
Adult Entertainment				C	C	C	I
Truck or freight terminal				C	C	C	I
<b>Prohibited Uses</b>							
<b>Use Type</b>							<b>Primary Districts</b>
Petroleum storage facilities							I
Garbage haulers							I
Power plants							I
Rail switching and classification yards							I
Rail yards and terminals							I
Coal gasification and liquefaction plants							I
Transmission lines and accessory structures that do not directly serve the County							A, AR, RR,

	C, I, R/OS
Fuel and bulk storage plants	I
Oil refineries and petrochemical plants	I
Noxious waste disposal sites	I
Wind energy generation	I
Wind energy facilities	A, AR, RR, C, I
Workforce temporary housing	I
Solid waste landfill	I
Special waste disposal sites (industrial waste)	I
Grain elevators	A, C, I
Commercial grain bins, grain elevators or related activity	C, I
Motion picture theaters	C, I
Colleges and universities	AR, RR, C, I
Second story residential dwelling units	C, I
Child care and child nurseries	A, AR, RR, C, I,
Adult care centers	A, AR, RR, C, I
Truck stops	C, I
Drive-in theaters	C, I
Correctional facilities	AR, RR, C, I
Water and ski slides and resorts	C, I
Public, private, and parochial schools	A, AR, RR
Libraries	A, AR, RR
Solid waste landfill	I
Solid waste disposal facilities subject to the provisions of the Code	A, AR
All uses associated with the Mobile Home zoning district	See District
Sports arenas	R/OS

If an area is located in more than one (1) of the airport land use zones, the zone with the most restrictive limitations shall apply to the entire area.

Notwithstanding any other provisions of this Section, no use may be made of land or water within any zone established by this Section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

#### **5.12.4 Nonconforming Uses**

The regulations prescribed by this section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this section, or otherwise interfere with the continuance of nonconforming use.

Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which as begun prior to the effective date of this section, and is diligently prosecuted.

### **5.12.5 Notification of Proposed Construction or Alteration**

Federal Regulation Title 14 Part 77 establishes standards and notification requirements for objects affecting navigable airspace. Notification allows the FAA to identify potential aeronautical hazards in advance thus preventing or minimizing the adverse impacts to the safe and efficient use of navigable airspace. Any person/organization who intends to sponsor any of the following construction or alterations must notify the Administrator of the FAA:

1. Any construction or alteration exceeding 200 feet above ground level.
2. Any construction or alteration within 20,000 feet of a public use or military airport which exceeds a 100:1 surface from any point on the runway of each airport with at least one runway more than 3,200 ft.

Persons failing to comply with the provisions of FAR Part 77 are subject to Civil Penalty under Section 902 of the Federal Aviation Act of 1958, as amended and pursuant to 49 U.S.C. Section 46301(a).

Enforcement of Federal Regulation Title 14 Part 77 does not rest with Stark County; this section serves as a reminder to persons proposing construction or alterations near Dickinson Theodore Roosevelt Regional Airport of their potential responsibility to notify the FAA.

A sponsor planning on constructing any objects that are within the outlined above criteria is expected to follow the federal requirements. At the time of the adoption of this ordinance, the process required submitting a 7460 Form (NOTICE OF PROPOSED CONSTRUCTION OR ALTERATION) with the Federal Aviation Administration.

### **5.12.6 Administration and Enforcement**

Administration and Enforcement of this Overlay District will be performed in accordance with Article VIII of the Stark County Zoning Ordinance.

### **5.12.7 Applications for Rezoning, Conditional Use Permits and/or Variances with the Airport Overlay District**

Prior to requesting a rezoning, conditional use permit, and/or variance on property located within the Airport Overlay District, the applicant shall meet with staff of the Dickinson Municipal Airport Authority and solicit written comments regarding the application. Comments from Airport Authority staff shall be included as part of the application submitted to Stark County.

*Adopted on November 14, 2017 by the Stark County Commission*

# ARTICLE VI

## ADDITIONAL PROVISIONS

### 6.1 Off-Street Parking

#### 6.1.1 General Requirements

- 1) An off-street vehicle parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.
- 2) All open off-street parking areas with four (4) or more spaces and all loading berths shall be: (a) gravel, concrete, or asphalt surfaces; and (b) graded to dispose of all surface water run-off but not be diverted to adjoining properties.

#### 6.1.2 Special Requirements

No building shall be erected or enlarged without meeting the following parking requirements:

- 1) Commercial businesses, professional or public office buildings, studios, banks, medical or dental clinics: three (3) parking spaces plus one additional space for each four hundred (400) square feet of floor space over one thousand (1,000) square feet.
- 2) Private clubs or lodges: two parking spaces for each two hundred (200) square feet of service area.
- 3) Restaurants and other eating and drinking establishments: one parking space for each three (3) persons of seating capacity. Drive-through restaurants: 1 space per 50 square feet of customer service area.
- 4) Industrial uses:
  - a) Indoor or Outdoor Storage or Warehousing-1 space per 5,000 square feet of floor area;
  - b) Equipment Servicing or Manufacturing-1 space per 1,000 square feet of floor area.
- 5) Residential uses: two (2) parking spaces for each dwelling unit.
- 6) Landscape and Screening Requirements

Unless otherwise noted, each unenclosed parking facility of over 3,000 square feet shall comply with the following regulations:

- a) Each unenclosed parking facility shall provide a minimum landscaped buffer of ten feet along any street property line.
- b) Each parking facility that abuts an agricultural or residential district shall provide a ten foot landscaped buffer along its common property line with the agricultural or residential district.
- c) Any parking facility which abuts property in an agricultural or residential district shall provide a fence, wall, landscape screen, or earth berm not less than four feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the Zoning Administrator

7) Lighting Requirements

Any lighting used to illuminate any off-street parking area shall be arranged to direct light away from adjoining properties in any residential district.

8) Safety Features

- a) Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.
- b) Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.

9) Maintenance

All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.

*Amended on July 1, 2014 by the Stark County Commission*

## **6.2 Junk or Salvage Yards**

### **6.2.1 Site Approval Requirements**

All sites for salvage and junkyards require approval by the Commission.

### **6.2.2 Location Standards**

- 1) No salvage or junk yard shall be located within one thousand two hundred and fifty (1,250) feet of any residence, residential district or within two hundred (200) feet of commercial buildings and structures.
- 2) No salvage or junk yard shall be located in areas, which due to high water table, flooding, and soil conditions may affect the quality of surface or ground water.
- 3) No salvage or junk yard shall be located nearer than five hundred (500) feet off all road and highway rights-of-way.
- 4) All salvage yard or junk yard operations shall be screened from public view. Such screening shall be by natural vegetation, fences of at least ten (10) feet in height, building and or land form.
- 5) Storage items shall not be higher than fences or screens.

## **6.3 Commercial Feed Lots**

### **6.3.1 Purpose**

These regulations are designed to allow feedlots for feeding of livestock, furbearers, and poultry at the same time to protect the adjoining uses from odor, run off, and other incompatible or undesirable characteristics associated with feedlots.

### **6.3.2 General Requirements**

- 1) All feed lots as defined by this Ordinance are permitted as conditional uses subject to the provisions of this Ordinance, the requirements of the North Dakota Health Department, and approval by the Commission.
- 2) All commercial feedlots shall be designed and constructed with all reasonable preventative measures to avoid surface run-off including construction of sealed collection and retention ponds.
- 3) Where appropriate, there shall be sufficient drainage to avoid pollution of the ground and surface water from the standing effluents.
- 4) Commercial feedlots shall not be placed in the floodplains.

- 5) An applicant, as part of the site approval application, shall submit a plan for removal and disposal of the liquid solid waste generated by the commercial feedlot.
- 6) An “animal unit equivalent” is a unitless number developed from the nutrition and volume characteristics of manure for a specific livestock types. The term “animal units” is used to normalize the number of animals (e.g., head) for each specific livestock type which produce comparable bulk quantities of manure. The animal equivalent units for types of livestock and the number of livestock for facility size thresholds of three hundred (300) animal units (AUE), and so forth, are listed in the following table.
- 7) No feed lot shall be located nearer than .5 (one-half) mile from a residence, residential development in an unincorporated area or city limits in the county, park, cemetery, church, or school, other than the owner/operator’s residence.

### 6.3.3 Water Resource Setbacks

An applicant of a new commercial feedlot operation that has more than three hundred (300) animal units shall not locate or establish that operation:

- 1) Within a delineated source water protection area for a public water system.
- 2) Within one thousand two hundred (1,200) feet of a private ground water well which is not owned by the operator or within one thousand five hundred (1,500) feet of a public ground water well which does not have a delineated source water protection area.
- 3) Within one thousand (1,000) feet of surface water which is not included in a source water protection area.

### Equivalent Numbers of Livestock

#### For Four Sizes (a.u.) of Animal Feeding Operations

Livestock Equivalent	Type	Animal Unit	300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse		2	200 hd	666 hd	1,333 hd	3,333 hd
1 dairy cow		1.33	225	750	1,500	3,750
1 mature beef		1.0	300	1,000	2,000	5,000
1 beef feeder-finishing		1.0	300	1,000	2,000	5,000
1 beef feeder-backgrounding		.75	400	1,333	2,667	6,667
1 mature bison		1.0	300	1,000	2,000	5,000
1 bison feeder		1.0	300	1,000	2,000	5,000
1 swine>55 lbs		0.4	750	2,500	5,000	12,500

1 goose or duck	0.2	1,500	5,000	10,000	25,000
1 sheep	0.1	3,000	10,000	20,000	50,000
1 turkey	0.018	16,500	55,000	110,000	275,000
1 chicken	0.01	30,000	100,000	200,000	300,000

### **Setback Distances for Animal Feeding Operations**

<b>Number of Animal Units</b>	<b>Hog Operations</b>	<b>Other Operations</b>
100-299	1 mile	0.50 mile
300-999	2 miles	1 mile
1,000 or more	3 miles	2 miles

### **6.3.4 Application Procedure and Requirements**

The application for a conditional use permit to operate a facility for a commercial feeding operation shall include a scaled site plan. If the facility will handle more than three hundred (300) animal units, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer, or other person having comparable experience or qualifications. The application shall also list or provide:

- 1) The proposed number of animal units.
- 2) Total acreage of the site of the facility.
- 3) Existing and proposed roads and access ways within and adjacent to the site of the facility.
- 4) Surrounding land uses and ownership, if the operation will have the capacity to handle more than three hundred (300) animal units.
- 5) A copy of the permit application submitted by the applicant to the North Dakota State Department of Health.

## **6.4 Sanitary Landfills and Solid Waste Sites**

### **6.4.1 Solid Waste Disposal Facility**

Solid waste disposal facilities as regulated by this Section shall include all facilities for the incineration of disposal of solid waste or solid waste residue which are required to be permitted under statute or rule by the North Dakota Department of Health and Consolidated Laboratories. A solid waste disposal facility may be allowed in any Agricultural District as a conditionally permitted use provided:

- 1) It is located at least one (1) mile from any residence or residential zone area unless written approval is obtained from the owner(s) of any residence within this area.
- 2) It is continuously licensed and approved by the North Dakota Department of Health as to location and operation.
- 3) There is no substantive evidence that the facility will endanger the public health or the environment.
- 4) The conditional use permit will be valid for a period of time set by the Commissioners.
- 5) For the permit to be approved, sixty percent (60%) of all property owners within one (1) mile of the proposed location must approve of the proposed facility.

#### **6.4.2 County Code and Procedures**

The County hereby adopts solid waste provisions of NDCC 11-33-20, to assure meeting the purposes of this Ordinance.

#### **6.4.3 Collection of Solid Waste**

No person may collect or transport waste materials for a fee without obtaining a permit from the County. Storage of solid waste materials shall be confined to buildings and structures designed specifically for such purpose and shall be secured by appropriate fences and gates. The openings to the buildings and structures, including but not limited to conveyors, doors, ramps, and other points of access for use by transport or moving vehicles when not in use shall be closed air tight to minimize the impact from odor and concentration of insects and rodents.

### **6.5 Recycling Facilities**

A recycling facility by definition is a place where any material including yard waste, oil, glass, metal, plastic, paper, or cardboard is processed for an end-use. Because of the nature of the recycling facilities as permanent structures, zoning approval and a conditional use permit is required. The following are required to obtain a conditional use permit:

- 1) The facility shall not abut residential and public uses.
- 2) The facility will be screened from the public right-of-way when it is abutting a residential district. The screen shall consist of a solid fence or wall of at least eight (8) feet in height.
- 3) The facility shall not be placed in the floodplain.

- 4) The site shall be free of litter and other undesirable materials. Containers shall be clearly marked to identify the type of material that may be deposited.
- 5) There shall be pest control plan for review and approval.

## 6.6 Public Nuisances

The maintenance of public nuisances including, but not limited to noxious weeds, smoke, gases, odors, radio interference, blighted structures or buildings, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall be prohibited.

## 6.7 Noise

It shall be unlawful to project a sound or noise, excluding noise emanating from a motor vehicle, from one property into another or within the boundary of a use district, which exceeds the limiting noise criteria set forth in the table entitled “Maximum Permissible Sound Level”.

- a) Sound or noise projecting from one use district into another use district with a different noise level limit shall not exceed the limits of the district into which the noise is projected.
- b) The permissible levels in decibels set forth in this section shall be modified so that any noise occurring on property deemed to be a nonconforming use on the property shall be determined upon the conforming zoning designation of the property.

Maximum permissible sound pressure levels of specified points of measurement for noise radiated continuously from a district shall be as follows:

<b>MAXIMUM PERMISSIBLE SOUND LEVELS</b>		
<b>District</b>	<b>Times</b>	<b>Maximum Permitted Sound Levels In Decibels</b>
Industrial	7 a.m. to 11 p.m.	80
	11 p.m. to 7 a.m.	75
Commercial	7 a.m. to 11 p.m.	65
	11 p.m. to 7 a.m.	60
Residential	7 a.m. to 11 p.m.	53
	11 p.m. to 7 a.m.	50

Noise associated with agricultural activities shall be exempt from these requirements.

The Zoning Administrator may evaluate the noise level at the property line and make a determination as to whether or not the level of noise is acceptable.

Use of engine brakes, compression brakes, “jake brakes” or similar braking devices is prohibited as posted or signed.

*Amended on August 6, 2013 and July 1, 2014 by the Stark County Commission*

## **6.8 Fences**

- 1) No site-obscuring fence over forty-eight (48) inches in height shall be erected within the front yard of any lot used for residential purposes.
- 2) No permanent fence shall be constructed on a road right-of-way or within the confines of the ditch backslope.
- 3) Electrical fences shall conform in all respects to the State of North Dakota regulations for electrical wiring and shall be energized only with Underwriters Laboratories approved equipment.

## **6.9 Home Occupations**

### **6.9.1 A home occupation in an unincorporated community:**

The following requirements must be satisfied in order for a home occupation located in an unincorporated area within the county to constitute a conforming use in any zoning district where such uses are authorized:

- 1) The occupation shall be limited to the dwelling and the area of the occupation shall not exceed twenty-five (25) percent of the main floor area, excluding any basement or garage floor space.
- 2) Structural changes shall not be made in the dwelling, unless a certificate/application is first obtained.
- 3) Employees are limited to two full-time or four part-time besides the owners.
- 4) No sign may be permitted larger than four (4) square feet.
- 5) Evidence of the home occupation shall not be visible from the road.

- 6) The home occupation shall not adversely affect the character of the uses permitted in the zoning district in which it is located.

### **6.9.2 Rural Home Occupations:**

Rural home occupations shall conform to the requirements for home occupations except:

- 1) Rural home occupations may be located in a separate non-residential or farm building provided any building principally used for the home occupation shall not exceed one thousand two hundred eighty (1,280) square feet. The minimum lot size for a separate non-residential building shall be one (1) acre.
- 2) Employees are limited to two full-time or four part-time personnel.
- 3) Structural additions may be made to a dwelling provided the applicant obtains approval from the Commission and the alterations shall not exceed twenty-five (25) percent of the main floor area of the dwelling, but not including basement or garage floor area.

## **6.10 Oil and Gas Exploration**

No person, partnership, association, corporation shall engage in the exploration for oil or gas within the county without first providing to the Zoning Administrator evidence of compliance with the provisions of NDCC Chapters 38-08 and 38-08.1.

## **6.11 Oil and Gas Drilling and Production**

Oil and gas drilling and production are permitted in the Agricultural District provided the person engaged in such oil and gas drilling and production has met the following requirements:

- 1) Obtained a County Road Approach Permit from the County Road Superintendent.
  - a) The County Road Superintendent shall charge each applicant for a County Road Approach Permit a fee, the amount of which is to be determined by the Commission, to cover processing and administrative expenses, plus any mileage and expenses of the County Road Superintendent at the rate allowed county officials by state law, should it be deemed necessary to conduct on-site inspections. Said fee or expenses, if any, must be paid prior to the approval and issuance of the County Road Permit.
  - b) The County Road Superintendent, in reviewing any application for a County Road Approach Permit, shall consider all relevant criteria, including the proposed use and the condition of the county roads and bridges at the time of the application, public safety concerns, maintenance costs to the county, weather conditions, etc.

## 6.12 Oil, Gas, and Other Related Gathering Line Systems

- 1) The applicant must submit the following data to the Zoning Administrator prior to the placement of any lines:
  - a) A map of the line route which clearly indicates that the pipeline right-of-way does not pass within two hundred (200) feet of a building or surface water body and is not within one hundred (100) feet of a highway right-of way or section line unless perpendicular to said right-of way or line;
  - b) An identification of pipeline origin, destination, size, minimum burial depth, road crossing methods, and product;
  - c) An identification of areas where the pipeline right-of-way transverses a slope which exceeds 15 degrees and a plan for the construction of waterbars to reduce erosion in such areas;
  - d) An indication of the steps that will be used to reclaim and revegetate the right-of way;
  - e) The name and address of the contractor doing the actual work;
  - f) The name of the affected landowners and written proof of their consent of placement of proposed lines;
  - g) The approximate date of commencement of operations;
  - h) A permit fee, the amount of which shall be determined by the County Commission, will be charged for each proposed project;
  - i) A certification of completion is to be submitted to the Zoning Administrator within ten (10) days of the completion date;
  - j) As-builds may also be required.
- 2) Depth and Boring requirements:

A minimum depth of six (6) (feet) measured from the bottom of the ditch when crossing roads is required. A distance of 4 (four) feet is required from the shoulder of the roadway to the beginning of the boring. All county roads must be bored and cased.

## **6.13 Coal Mining**

An applicant for a coal mining conditional use permit shall meet the following requirements:

- 1) Provide to the County Zoning Administrator a copy of all non-confidential information that was submitted to the North Dakota Public Service Commission concerning site operations, locations, ownership patterns and site reclamation.
- 2) Provide the County Zoning Administrator with evidence of approval, where approval is required by state law, by the North Dakota Public Service Commission of the proposed mining operations.
- 3) Conform to all state and federal laws relating to the preservation, removal or relocation of historical or archaeological artifacts and to reclamation of strip-mined lands.
- 4) Post performance bond for reclamation of the site, with the County Auditor, if not already posted with the state.
- 5) Mining activities within a within a two-mile radius of a jurisdictional limits of any incorporated city within the County shall be prohibited.

## **6.14 Other Subsurface Mineral Exploration**

An applicant for a subsurface mineral exploration conditional use permit shall meet the following requirements:

- 2) Provide to the County Zoning Administrator evidence of approval by the North Dakota State Industrial Commission and the State Geologist of the proposed subsurface mineral exploration.
- 3) Provide to the County Zoning Administrator with evidence of approval by the North Dakota State Industrial Commission and State Geologist of any surety bond or cash bond, or alternate form of security, where such security is required by the North Dakota Industrial Commission.
- 4) The duration of a subsurface mineral exploration conditional use permit shall be no more than 90 days.
- 5) Upon completion of the operations, the operator shall file with the County Recorder the actual location of testing.

## **6.15 Other Subsurface Mineral Mining**

An applicant for a subsurface mineral mining conditional use permit shall meet the following requirements:

- 1) Provide the County Zoning Administrator with a copy of all non-confidential information that was submitted to the North Dakota Industrial Commission and the State Geologist concerning site operations, site reclamation, location, and ownership patterns.
- 2) Provide the County Zoning Administrator with written evidence of approval by the North Dakota Industrial Commission and the State Geologist for the proposed mining or excavation operation, if such approval is required by state law.
- 3) Conform to all state and federal laws relating to the preservation, removal, or relocation of historical or archaeological artifacts and to reclamation of strip-mined land.
- 4) Post a performance bond for reclamation of the site, with the County Auditor If not already posted with the State.
- 5) Mining activities within a within a two-mile radius of a jurisdictional limits of any incorporated city within the County shall be prohibited.

## **6.16 Excavation and Mining of Sand, Gravel, Rock, Stone, Scoria and Clay**

All mining and excavation sites shall be located so as to protect and preserve agricultural land and to minimize the traffic, noise, dust, fumes, vibration impact on adjoining uses, and disruption of known water sources. The provisions of this section shall not apply to any excavations for agricultural purposes or for uses requiring less than five thousand (5,000) cubic yards of aggregate.

An applicant for a conditional use permit to excavate or mine sand, gravel, rock, stone, scoria, or clay shall meet the following requirements:

- 1) Provide the County Zoning Administrator with a site plan for operation and reclamation of the mined land, including maps showing the location of the land to be mined; the location of roads and points of access to the site; adjacent properties residences within one mile of the site; maps showing the existing and proposed contours after the land is mined; and a timetable for operation of the site.
- 2) Provide the County Zoning Administrator with evidence of written agreement between the applicant and property owner that excavation or processing shall not take place within three hundred (300) feet of an adjacent property line or within five hundred (500) feet of an existing residence.

- 3) Provide documentation that the site has been inspected for invasive and/or noxious weeds by the County Weed Officer or a North Dakota Certified Weed Seed Free Forage (WSFF) Inspector before mining and excavation commences. The inspection shall occur at a time determined by the County Weed Officer. The Weed Officer shall provide the applicant with documentation of the inspection and the Applicant shall submit such documentation with the Conditional Use Permit Application. If during the inspection it is determined that site is infested with invasive and/or noxious weeds, the Applicant shall be required to submit a weed treatment plan that has been reviewed and approved by the County Weed Officer. The plan shall, at a minimum, include the following components:
  - a) Pit Opening Plan, which would include an inspection prior to opening of the pit;
  - b) Overburden Material Stockpile Plan;
  - c) Active Pit Mining Plan;
  - d) Buffer Zone Area Plan;
  - e) Mine Area Reclamation Plan; and
  - f) Yearly Inspection Proposal Plan which would include annual inspections by the County Weed Officer.

The plan shall be submitted as part of the conditional use application.

Weed control treatments shall be completed and a reinspection by the Weed Officer or a WSFF certified inspector shall be completed prior to the commencement of mining operations. A written reinspection report shall be filed with the Stark County Zoning Administrator prior to the commencement of mining operations.

- 4) Demonstrate compatibility with the existing landform including the vegetation, surface, and ground water resources.
- 5) All mining and excavation sites must have at least a 3-to-1 slope.
- 6) Provide the County Zoning Administrator with written evidence of a reclamation agreement between the applicant and the surface owner.
- 7) Reclamation of the site shall be completed within one year of the resource being exhausted, abandoned, or closure of the operation of the site. All top soil shall be replaced and planted to natural protected vegetation.
- 8) Post bond as follows in an amount to be determined by the County Commission

Mining activities within a within a two-mile radius of a jurisdictional limits of any incorporated city within the County shall be prohibited.

*Amended on August 6, 2013 by the Stark County Commission*

## 6.17 Mobile Home Parks

The applicant shall meet the following requirements for obtaining a permit for construction and operation of a mobile home park.

- 1) A site plan showing location of streets, utilities, off-street parking, driveways, walkways, blocks, lots, playground and park area, accessory buildings to be used for all park residents.
- 2) The park shall contain a minimum of ten (10) acres of land.
- 3) The maximum number of mobile homes in a park shall be five (5) units per gross acre.
- 4) Approval of the County Commission for access to county roads is required.
- 5) Each mobile home shall be placed on a lot at least sixty (60) feet wide with a minimum area of seven thousand (7,000) square feet.
- 6) A minimum of ten (10) percent of the park area shall be allocated for open space and recreational facilities. If an applicant can demonstrate a compelling reason why he/she should not comply with the requirements of this section, cash may be offered in lieu of the land required for public dedication. The cash shall be used for land for public parks or other public uses and must be used for land in the vicinity of the proposed mobile home park. The amount required shall be determined by the County Commission and shall be consistent with the value of the land which would otherwise be offered for public dedication.
- 7) Each unit shall be placed on a stand which provides a firm foundation for anchoring purposes to avoid accidental movement and overturning.
- 8) All lots in the park shall be accessible at all time to emergency vehicles and comply with the numbering or signage requirements of the State Department of Transportation.
- 9) Each unit shall have a minimum setback of ten (10) feet within the park and fifty (50) feet from public roads outside of the park.
- 10) Each unit shall have a minimum side yard of ten (10) feet.
- 11) Where the park is served by private streets those streets shall conform to the design standards recommended by the County Commission.
- 12) Evidence of compliance with the rules and regulations of North Dakota State Health Department and North Dakota Laboratories Department.

- 13) All units in the park shall be served by underground utilities unless waived by the County Commission.
- 14) There shall be two off-street parking spaces per unit.
- 15) Each unit in the park shall be numbered or otherwise identified according to the signage requirements adopted by the County Commission.

## **6.18 Adult Entertainment Centers**

- 1) An adult entertainment center shall not be located within one thousand two hundred fifty (1,250) feet of any religious institution, cemetery, school, park or recreation area.
- 2) An adult entertainment center shall be located only in an Industrial Zoning District
- 3) An adult entertainment center shall not be located within one thousand two hundred fifty (1,250) feet of any establishment that dispenses alcohol on-premises.
- 4) An adult entertainment center shall not be located within one thousand two hundred fifty (1,250) of any other adult entertainment center.
- 5) An adult entertainment center must prohibit entrance by persons less than eighteen (18) years of age.
- 6) An adult entertainment center may not display any signs visible from the exterior of the adult entertainment center, except for signs identifying it as an adult entertainment center, as an adult book store, adult entertainment facility, adult cinema, or combination thereof.
- 7) No material depicting specified sexual activities or specifies anatomical areas shall be visible from the exterior of an adult entertainment center.
- 8) The business premises of an adult entertainment center that are generally open to its patrons are open equally at the same time to members of any law enforcement agency who may wish to enter thereon provided the entry is in the course of the discharge of the law enforcement officer's duties.

## **6.19 Wind Energy Facility**

The purpose of these regulations is to provide a regulatory framework for the siting, construction and operation of wind energy facilities in the county, subject to reasonable restrictions, that will preserve the safety and well-being of the residents of the county, while allowing equitable and orderly development of wind energy facilities.

### **6.19.1 Regulatory Framework**

1) Zoning

Wind energy facilities may be constructed within the county, subject to the restrictions and conditions of this Ordinance.

2) Principal or Accessory Use

A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this Ordinance shall not be deemed to constitute expansion of a nonconforming use or structure.

3) Applicability

The requirements of this ordinance shall apply to all wind energy facilities with one or more wind turbines rated at fifty (50) kilowatts nameplate capacity or larger constructed after the effective date of this ordinance. No operation of an existing wind energy facility shall be allowed without full compliance with this Ordinance and its Wind Energy Facility Siting Permit, and no modification or alteration of an existing wind energy facility shall be allowed without issuance of a new Wind Energy Facility Siting Permit pursuant to Section 6.19.2 and Section 6.19.3.

### **6.19.2 Wind Energy Facility Siting Permit**

1) Application for Permit

No construction, except for wind monitoring, soil testing and other survey work, may commence on a wind energy facility until a Wind Energy Facility Siting Permit (“Permit”) has been issued by the Commission. An applicant for a Wind Energy Facility Siting Permit must submit an application to the Planning and Zoning Commission. The application shall be signed by an authorized representative of the applicant, include a fee to be determined by the Commission for each proposed wind turbine, and includes the following information:

- a) The complete name, legal address and phone number of the applicant and responsible contact person.
- b) A USGS topographical map of the wind energy facility and five hundred (500) feet of all adjoining properties adjoining the wind energy facility perimeter. The map must show all existing features, including property boundaries, structures, improvements, roads, utility lines, public facilities and natural features. The map must also show the location of all proposed improvements for the wind energy

facility, including wind turbines, MET Towers, electrical lines and roads. Each proposed wind turbine shall be numbered and fully described in technical details, including rotor diameter, model, and manufacturer, and distances, measured in feet, from property lines and from existing improvements for each proposed wind turbine.

- c) Details as to how the applicant will comply with each item in Section 6.19.5.
- d) A schedule for the proposed start and completion of construction of the wind energy facility.
- e) Copies or signed summaries of all leases and easements for wind turbines and associated equipment and infrastructure to be sited within the county and copies of any written agreements between the applicant and affected parties holding associated wind rights on adjoining properties.

### **6.19.3 Public Hearings**

Upon receipt of the application, the Planning and Zoning Commission along with any experts it may retain, shall review the permit application and, in its discretion, may hold a public hearing on the application within no more than forty-five (45) days from receipt of the application, providing at least fifteen (15) day notice prior to the hearing in the official newspaper of the county and mailing written notice to property owners within five hundred (500) feet of the proposed wind energy facility perimeter.

If the Planning and Zoning Commission finds that the applicant for the Wind Energy Facility Siting Permit has satisfied all applicable requirements, it shall recommend approval by the Commission. The Commission must approve, approve with conditions, or deny the application within sixty (60) days of the date of the submission of the application, or, when held, the date of the public hearing.

### **6.19.4 Demonstration of Compliance**

A Wind Energy Facility Siting Permit issued pursuant to Section 6.19.2 shall be contingent upon the applicant's final demonstration of compliance with the requirements of the permit following completion of construction of the wind energy facility. Within 90 (ninety) days of wind energy facility construction, the permittee shall submit to the Planning and Zoning Commission an updated and final USGS topographical map, or survey if available, providing all information pursuant to Section 6.19.2 and demonstrating actual compliance with the requirements and conditions of the permit.

### 6.19.5 General Requirements for Wind Energy Facilities

- 1) Appearance, Lighting, Facility Footprint, Agricultural Operations, Roads and Power Lines
  - a) Wind turbines shall be painted a non-reflective, non-obtrusive color.
  - b) Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
  - c) Each wind turbine shall be marked with a visible identification number to assist with provision of emergency services, and a permittee shall file with local fire departments, law enforcement and the county emergency management coordinator a wind energy facility map identifying wind turbine locations and numbers.
  - d) Wind turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
  - e) At wind energy facility sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, and location that will blend the wind energy facility into the natural setting and existing environment.
  - f) At wind energy facility sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape and agricultural operations within the county. Prior to construction, the applicant shall make satisfactory arrangements (including obtaining permits) for road use access road intersections, maintenance and repair of damages with governmental jurisdiction with authority over each road. The applicant shall notify the county road superintendent on request.
  - g) A permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the wind energy facility's life, unless otherwise negotiated with the affected landowner. When the permittee installs a gate where electric fences are present, the permittee shall provide for continuity in the electric fence circuit.
  - h) A permittee shall ensure that, following completion of construction of a wind energy facility, county roads will be repaired or restored to a condition at least equal to the condition prior to construction of such facility.
  - i) A permittee shall place electrical lines, known as collectors, and communication cables underground when located on private property. Collectors and cables shall also be placed within or adjacent to the

land necessary for wind turbine access roads, unless otherwise negotiated with the affected landowner. [This paragraph does not apply to feeder lines.]

- j) A permittee shall place overhead feeder lines on public rights-of-way, if a public right-of-way exists, or a permittee may place feeder lines on private property. A change of routes may be made as long as the feeders remain on public rights of way and approval has been obtained from the governmental unit responsible for the affected right-of-way. When placing feeders on private property, the permittee shall place the feeder in accordance with the easement negotiated with the affected landowner.

2) Setbacks

The following setbacks and separation requirements shall apply to all wind turbines in a wind energy facility.

- a) Occupied Structures and Facilities: Each wind turbine shall be set back from the nearest occupied dwelling, commercial building or publicly-used structure or facility at a distance not less than two thousand (2,000) feet.
- b) Public Roads and Above Ground Communication and Electrical Lines: Each wind turbine shall be set back from the nearest public road or above ground communication and electrical lines at a distance not less than two hundred (200) feet, determined from the center of the existing right-of-way.
- c) Wind Energy Facility Perimeter: Each wind turbine shall be set back from the wind energy facility perimeter at a distance not less than two and one-half (2.5) times the rotor diameter of the wind turbine. A variance may be granted if an authorized representative or agent of the permittee and those affected parties on adjoining properties with associated wind rights signs a formal and legally-binding agreement expressing all parties' support for a variance that waives or reduces the setback requirement.

#### **6.19.6 Minimum Ground Clearance**

The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.

### **6.19.7 Restoration of Property**

Within one hundred and eighty (180) days of termination or abandonment of leases or easements for a wind energy facility in the county, the permittee shall, at its expense, comply with the following decommissioning requirements:

Decommissioning and site restoration includes dismantling and removal of all towers, turbine generators, transformers, and overhead cables; removal of underground cables to a depth of twenty-four (24) inches; removal of foundations, buildings and ancillary equipment to a depth of four (4) feet; and removal of surface road material and restoration of the roads; and turbine sites to substantially the same physical condition that existed immediately before construction of the commercial wind energy conversion facility or wind turbine. The site must be restored and reclaimed to the same general topography that existed prior to the beginning of the construction of the wind energy conversion facility.

Within one hundred and eighty (180) days of termination or abandonment of leases or easements for a wind energy facility in the county, the permittee shall cause, at its own expense, removal of all structures to a depth of four feet below pre-construction grade.

### **6.19.8 Transfer of Wind Energy Facility Siting Permit**

In the event of a change in ownership or controlling interest in a wind energy facility and the transfer of a Wind Energy Facility Siting Permit, any successors and assigns of the original permittee shall comply with the requirements and conditions of such permit for the duration of operation of a wind energy facility permitted in the county. Within thirty (30) days of such change in ownership or controlling interest of any entity owning a wind energy facility, the parties to the transaction shall notify the Commission by letter and provide information pursuant to Section 6.19.2. The letter shall be signed by the authorized representatives or agents of both the original permittee and the entity to which the permit is being transferred.

## **6.20 Recreational Vehicle Parks, Tourist and Trailer Camps**

In addition to the mobile home park standards listed in this chapter, the applicant shall meet the following requirements to obtain a permit:

- 1) The minimum area for campground shall be five (5) acres and maximum number of recreational trailers shall be fifteen (15) units per gross acre.
- 2) A site plan showing the boundary of property, topographic information with contour intervals of no more than five (5) feet; arrangement of streets, drives and access roads; location of service buildings; location and dimension of camp sites; location of sanitary facilities; and location of water supply.
- 3) Proof of compliance with the requirements of North Dakota State Health Department and North Dakota State Laboratories Department must be submitted.

- 4) Approval of the County Commission for ingress and egress to the property.

### **6.21 Animal Hospitals and Veterinary Clinics**

Animal hospitals and clinics shall not be located within five hundred (500) feet from any residence except the residence of the owner-operator.

### **6.22 Agricultural Manufacturing**

Activities allowed under Agricultural Manufacturing include the manufacturing and processing of agricultural resources and products indigenous to the county. This excludes rendering plants, fertilizer plants and similar uses.

### **6.23 Communications Towers**

A structure situated on a nonresidential site that is intended for transmitting or receiving television, radio or telephone communications, excluding those used exclusively for dispatch communications. Communications towers require a conditional use permit and must be based, at a minimum, upon the design standards listed below

- 1) The equipment compound shall not be used for storage of any excessive equipment; hazardous waste, or habitable space. No outdoor storage shall be allowed on site.
- 2) The developer shall be responsible for all maintenance associated with the tower, the tower compound and the roads accessing the tower.
- 3) The tower shall allow for co-location of additional providers.
- 4) The developer shall provide a six-foot fence around the perimeter of the tower compound. Chain-linked fences shall be painted or coated with a non-reflective color.
- 5) Prior to building permit issuance, the developer shall submit a letter from the Federal Aviation Administration (FAA) stating that the tower does not exceed the maximum height permitted under FAA rules.
- 6) Signs located at the telecommunications facility shall be limited to ownership and contact information, Federal Communications Commission antenna registration number (if required), and any other information as required by government regulation. Commercial advertising is strictly prohibited.
- 7) Unless required by the Federal Communications Commission or the Federal Aviation Authority, the telecommunications tower shall not be lighted.
- 8) Security lighting for the equipment shelter shall be confined to the boundaries tower site.
- 9) Towers shall be constructed of galvanized metal and shall be of an appropriate color to harmonize with the surroundings.
- 10) Any proposed change of use of the tower, increase in height or change of location shall require a hearing before the Stark County Planning and Zoning Board and approval as well as approval from the Stark County Commission.
- 11) Development of the radio tower shall be performed in accordance with all applicable County, State and Federal rules and regulations.

- 12) The service provider shall report to the Zoning Administrator if the telecommunications tower facility is no longer in use. The telecommunications tower facility shall be removed, at the service provider's expense, within six (6) months of this notice and the site shall be restored by the service provider to its pre-existing condition.

If deemed necessary, the County may impose additional conditions to the conditional use permit.

*Amended on July 1, 2014 by the Stark County Commission*

## **6.24 Golf Driving Range, Archery Range, Miniature Golf Course, Go-cart Track or Race Track**

These uses require a conditional use in agricultural zoning districts.

The following requirements shall apply to each of these uses

- 1) They shall not be constructed within five hundred (500) feet of a residential district.
- 2) Flood lights used to illuminate the premises are so directed and shielded as not to be non-intrusive to any developed residential property, highways and streets.

## **6.25 Height Restriction**

Buildings excluding those used for industrial, agricultural or institutional purposes shall not be greater than thirty-five (35) feet in height except by variance and shall not affect solar access for neighboring structures. Said height restrictions shall apply to the main frame of the building and shall not affect church spires, T.V. aerials, solar panels, satellite dishes, flagpoles, chimneys, elevator bulkheads, ventilation and heating equipment or hose towers.

All free standing structures which exceed thirty-five (35) feet in actual height shall be erected or constructed only following approval of a conditional use permit.

## **6.26 Signs**

The purpose of regulating signs in the county is to provide for a visually pleasant environment and minimize potentially unsafe conditions while also offering opportunities for public and private information and advertising.

### **6.26.1 Definition of Terms**

The following definitions shall be used for terms contained in this that are not otherwise defined in the Stark County Zoning Ordinance.

1. Abandoned Sign: A sign which, for a period of at least 180 consecutive calendar days no longer advertises or identifies a legal business establishment, product or activity.
2. Aggregate sign area: The total available sign area of all sides or portions of a sign.
3. Animated sign: A sign which has any visible moving part, flashing or osculating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that moves, changes, flashes, osculates or visibly alters in appearance.
4. Attached Sign: A sign which is structurally connected to a building or depends upon that building for support.
5. Awning: A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for supporting framework.
6. Awning Sign: A message printed on an awning.
7. Banner Sign: Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.
8. Billboard Sign: An off-premises sign that is principally designed to direct attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. A Billboard Sign is an off-premises sign.
9. Building frontage: The linear length of a building facing a public street right-of-way, exclusive of alleys, or the linear length of the street right-of-way, whichever is smaller.
10. Building Marker: A historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.
11. Building Sign: A sign displayed upon or attached to any part of the exterior of a building. Roof signs and wall signs are considered building signs.
12. Canopy Sign: A roof-like cover, attached or unattached, extending from the exterior wall of a building and composed of supporting framework of rigid materials upon which a sign is indelibly drawn, painted or printed.
13. Clearance: The distance from the bottom of a sign elevated above grade and the grade below.
14. Detached Sign: A sign, other than a billboard sign or digital billboard sign, which is self-supporting and structurally independent from any building.
15. Directional Sign: A sign located at the exit or entrance of a premises that has two or more driveways.

16. Digital Billboard Sign: A billboard sign that is designed to convey its message, information, and advertising copy by LED or other digital means. A digital billboard sign is an off-premises sign.
17. Double-Faced Sign: A sign consisting of no more than two parallel faces or V-pattern faces supported by a single structure.
18. Electronic Message Sign: A sign emitting an illuminated message, image or design created electronically by any light source, LED (light emitting diodes), bare electric bulbs, luminous tubes, fiber optics, or any other combination of light sources creating a message. This definition shall include time, temperature and date signs. An electronic message sign which has copy which moves or appears to be moving, flashing, changing color, pulsing or alternating shall be considered an animated sign.
19. Flag: Any fabric, banner or bunting containing distinct colors, patterns or symbols, which is used or may be used as a symbol of a government, political subdivision, corporation, business, or other entity. A flag may also be used to express symbolic speech or for decorative purposes. For the purpose of these regulations, the message expressed by a flag shall not be relevant to the display of the flag.
20. Ground Sign: A sign, other than a billboard sign or digital billboard sign, that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building with a building clearance less than three feet and vertical clearance of less than three (3) feet. Monument signs are considered ground signs.
21. Illuminated sign: An illuminated sign is one which either:
  - a. Provides artificial light through exposed bulbs, lamps or luminous tubes on the sign surface;
  - b. Emits light through transparent or translucent material from a source within the sign; or
  - c. Reflects light from a source intentionally directed upon it.
22. Illumination: Lighting sources installed for the primary purpose of lighting a specific sign or group of signs.
23. Marquee: A permanent roof-like shelter extending from part or all of the building face usually over a public right-of-way.
24. Monument Sign: Any sign, other than a pole or pylon sign, which is placed upon or supported by structures or supports in or upon the ground and independent of support from any building.
25. Moving Sign: A sign which conveys its message through rotating, changing, or animated elements.

26. **Nonconforming Sign:** A sign that was legally erected prior to the adoption of Section 6.26 but which does not conform to the provisions thereof.
27. **Off-Premises Sign:** Any sign that identifies or directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.
28. **On-Premises Sign:** Any sign that (1) principally displays a non-commercial message; or (2) identifies or directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location on the premises where the sign is located.
29. **Permanent Sign:** A sign which is affixed to a building or the ground in compliance with the requirements of the Stark County Building Code and any other applicable Federal, State or local laws and in such a manner as to be immobile without the use of extraordinary means, such as disassembly.
30. **Pole Sign:** An on-premises sign built on a freestanding frame, mast or pole(s) with a clearance greater than three (3) feet.
31. **Portable Sign:** Any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.
32. **Premises:** A tract of one or more lots or sites which are contiguous and under common ownership or control.
33. **Projecting Signs:** A sign other than a wall sign that is attached to and projects from a building face.
34. **Pylon sign:** Any sign, other than a billboard sign or digital billboard sign, which is supported by structures or supports in or upon the ground and independent of support from any building with a building clearance of three feet and a vertical clearance of four feet or higher. The base width of the pylon sign shall be no less than 50 percent of the sign length.
35. **Residential Sign:** A small detached or attached sign located on a residential property, conveying a message communicated by the owner of the property.
36. **Roof Sign:** Any sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.
  - a. **Integral Roof Sign:** A roof sign positioned between an eave line and the peak or highest point on a roof, substantially parallel to the face of a building.
  - b. **Above-Peak Roof Sign:** A roof sign positioned above the peak of a roof or above a parapet or cornice.

37. **Sign:** A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
38. **Sign Area:** The entire area within the periphery of a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed, but not including a sign structure that does not bear copy. The surface area of the sign shall be measured from the outside edges of the sign or the sign frame, whichever is greater. A double-faced sign shall be permitted to have the allowed area of a single-faced sign on each of the two faces of the double-faced sign.
39. **Sign Height:** Sign height shall be measured from the centerline of the road that provides access to the Premises, nearest the base of the sign to the highest point of the sign structure.
40. **Sign Type:** A functional description of the use of an individual sign.
41. **Street Frontage:** The length of the property line for a single parcel which runs parallel to and along each public right-of-way (exclusive of alleys) it borders.
42. **Temporary Signs:** A sign which is installed for a period not to exceed thirty (30) days.
43. **Vision-Clearance Area:** An area contained within a triangle with legs of thirty feet from the point at which the curbs or edges of two intersecting streets, private ways, or courts or an intersecting street, private way, or court and driveway, meet.
44. **Wall Sign:** A sign attached to and parallel with the side of a building.
45. **Window Sign:** A window sign is one that lets light or air through to the habitable part of the building and which is painted on, attached to or visible through a window excluding displays of merchandise.
46. **Zoned Lot:** A parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

## **6.26.2 General Sign and Street Graphics Regulations**

### **A. Compliance**

Each sign or part of a sign erected within the zoning jurisdiction of Stark County must comply with the provisions of Section 6.26 of the Stark County Zoning Ordinance and such other relevant provisions of the Stark County Zoning Ordinance and relevant building codes including the following:

1. International Building Code, as adopted by Stark County;
2. National Electric Code; and
3. Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid Primary Highways (North Dakota Department of Transportation);

B. Relation to Zoning Regulations and Building Regulations

1. Signs, which are considered structures for the purposes of Chapter 6.26, shall comply with the land use regulations for the zoning district in which they are located; provided, however, that signs may be located in a setback area required by the zoning district;
2. All planned unit development districts (PUD) shall comply with either the requirements of the underlying zoning district or requirements as specified within the PUD.

C. Resolution of Conflicting Regulations

In the event any of the provisions of Chapter 6.26 are in conflict with other applicable requirements, the more restrictive requirement shall apply.

D. Prohibited Signs

The following signs are prohibited in all zoning districts:

1. Any sign painted on or attached to rocks, trees, or other natural objects.
2. Any sign or sign structure that resembles or conflicts with traffic control signs or devices, that misleads or confuses persons traveling on public streets, or that creates a traffic hazard.
3. Any sign on or overhanging public property or public right-of-way, unless specifically authorized by the appropriate public agency.
4. Any sign that creates a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscures official signs or signals.
5. Abandoned Signs. Any abandoned sign must be removed within six months of date of abandonment. Removal shall include removal of abandoned structural components. If not removed by the property owner in compliance herewith, the County may proceed to remove the abandoned sign and charge the costs thereof to the property owner.
6. Any sign that is not clean or in substantial good repair, or is not affixed to a sound structure.
7. Any sign advertising activities that are illegal under federal, state, or local laws and regulations.
8. Awning signs.
9. Roof signs.
10. Animated signs that move or change messages and/or displays more than once every one (1) second.

11. Electronic message signs that move or change messages and/or displays more than once every one (1) second.
12. Moving signs that move or change messages and/or displays more than once every one (1) second.
13. Marquee signs that are not constructed of some durable material such as metal, glass or plastic.
14. Any sign erected or intended for the specific purpose or with the intended effect of hiding or covering from view of the public an adjacent or nearby sign.
15. Any sign using or employing flashing, blinking, or moving lights or lighting elements.
16. Any sign using or employing neon lights; provided, however, that neon tubing or LED tubing that maintains a constant light and does not have a flashing, blinking, or moving effect shall be permitted.
17. Any sign using or employing audio speakers, laser lights, strobe lights, searchlights, beacons, or any similar upward or outward oriented lighting or sound elements.
18. Any sign that creates or has the potential to create a public safety hazard.
19. Any obscene or indecent sign that, in whole or in part, shows sexually oriented devices, specified anatomical areas, or specified sexual activities.
20. Any sign within the vision-clearance area.
21. Any sign or advertising device not expressly permitted under this Chapter is prohibited.

As of the effective date of this section, no new billboard signs, digital billboard signs, and other off-premises signs shall be permitted. Billboards, digital signs and other off-premises signs existing prior to the effective date of this section shall be considered non-conforming and shall be limited to their existing sign area and height.

#### E. Exempt Signs

The following signs are permitted in any zoning district and are exempt from other provisions of this Chapter:

1. Bulletin boards for religious assembly or school uses, provided that they have a maximum sign area of twenty (20) square feet and are not located in the required building setback.
2. Real estate sales or management signs with an area of less than ten (10) square feet.
3. Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information.

4. Seasonal decorations for display on private property or public property.
5. On-premises construction signs with a maximum sign area of ten (10) square feet in residential districts and thirty two (32) square feet in other districts. Such signs must be removed within one week after the completion of the construction project to which they refer.
6. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
7. Residential signs under two (2) square feet.
8. Neighborhood or subdivision identification signs under fifty (50) square feet.
9. Street Numbers.
10. Signs which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed.
11. Building Markers

F. Temporary and Civic Signs

1. Temporary or portable signs for grand openings, sales, and special events are permitted in Commercial and Industrial zoning districts, subject to the following requirements:
  - a. Such signs are subject to the permit procedures set forth in this Chapter 6.26.
  - b. The size of such signs does not exceed the limitations set forth in Chapter 6.26.
  - c. No more than one such sign is permitted at any single Premises.
  - d. Temporary or portable signs may be present at any single Premises for a maximum of thirty (30) days per year.
  - e. Temporary signs for non-profit civic campaigns or events, political campaigns, or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this Article, subject to the following requirements.
  - f. Such signs are installed no earlier than thirty (30) days before the date of the event or election and removed no later than seven (7) days after the date of the event or election.
  - g. The maximum size of such signs is thirty two (32) square feet when located in any residential zoning district; and one hundred (100) square feet in any other zoning district.

### **Section 6.26.3 Basic Design Elements for On-Premises Signs**

The following on-premises signs are permitted as set forth herein:

A. Building signs are permitted in all zoning districts except residentially zoned districts subject to the following provisions:

1. Maximum height: A building sign shall not be permitted above the roofline, cornice line, parapet, or the highest point of the building facade.
2. Maximum sign area: Each premises, and in the case of multi-occupancy buildings, each unit, shall be permitted to display building sign(s), the aggregate sign area of which shall not exceed one square foot per each linear foot of building frontage facing a public street or parking lot, but in no event more than two hundred (200) square feet of aggregate sign area. For each unit not facing a public street or parking lot, the aggregate sign area shall not exceed one square foot for each lineal foot of unit frontage for the elevation on which the building sign will be installed, but in no event more than two hundred (200) square feet of aggregate sign area. Each premises shall be entitled to a minimum aggregate sign area of twenty (20) square feet.
3. Other limitations: Building signs shall not project more than four feet from the building wall to which the sign is attached, nor shall a building sign project into the public right-of-way

B. Canopy signs are permitted in commercial and industrial zoning districts subject to the following provisions:

1. Canopy signs shall be allowed in addition to building signs.
2. The aggregate sign area of all canopy signs and building signs combined per elevation shall not exceed the aggregate sign area permitted for building signs.
3. Canopy signs shall not be permitted above the roofline of the canopy structure.

C. Ground signs: Ground signs are permitted in all zoning classifications subject to the following provisions:

1. General ground sign provisions
  - a. Maximum Height: The maximum height of ground signs is ten (10) feet. Monument signs shall be set back a minimum of five (5) feet from the right-of-way line, but shall be permitted an increase in height of one foot for each one foot of additional setback provided from the right-of-way line up to a maximum height of twenty (20) feet when adjacent to U.S. Interstate 94 or fifteen (15) feet when adjacent to state highways, arterial roadways, collectors and local roads.
  - b. Setback: All ground signs shall be set back a minimum of five (5) feet from the property line or rights- of-way.

## 2. Non-Residential Zoning District

1. Maximum Number: Each premises having street frontage of less than six hundred (600) feet shall be permitted to have one ground sign. Each premises with street frontage of six hundred (600) feet or more shall be permitted to have one ground sign and one additional ground sign for each additional six hundred (600) feet of street frontage.
2. Maximum Sign Area: The maximum allowable aggregate sign area for each ground sign shall not exceed one square foot for each lineal foot of public street frontage on the street where the sign is located or one hundred (100) square feet, whichever is less. A double-faced sign shall be permitted to have the allowed area of a single-faced sign on each of the two faces of the double-faced sign.

If a premises is permitted to have more than one ground sign, then all allowable ground signs may be combined into a single ground sign which shall not exceed two hundred (200) square feet in aggregate sign area, and no single face shall exceed one hundred (100) square feet in aggregate sign area.

Ground signs shall be placed no closer than three hundred (300) feet apart on the same premises.

## 3. Residential Zoning Districts

- a. Each residential dwelling will be permitted to have one ground sign not exceeding six (6) square feet of aggregate sign area and not exceeding six (6) feet in height. Nothing contained in this paragraph shall be construed to permit a sign if private restrictions prohibit or restrict the display of signs.
- b. Residential support uses: Each residential support use will be permitted to have one ground sign not exceeding thirty two (32) square feet of aggregate sign area and not exceeding eight (8) feet in height.
- c. Residential entry signs: Not more than two ground signs are permitted to be installed or erected at each entrance to a platted subdivision, multiple family development (apartments, condominiums and mobile home parks) provided the combined aggregate sign area of said signs shall not exceed fifty (50) square feet.

D. Pole Signs and Pylon Signs: Pole signs and pylon signs are permitted in all Commercial and Industrial zoning classifications subject to the following provisions:

### 1. General Pole and Pylon Sign provisions

- a. Maximum Height: A pole sign shall not exceed twenty (20) feet in height, or forty (40) feet in height if within one hundred (100) feet of I-94 rights-of-way. A pylon sign shall not exceed thirty (30) feet, or fifty (50) in height if within one hundred (100) feet of I-94 rights of way.

b. Setback: All pole signs and pylon signs shall be set back a minimum of five (5) feet from the property line and/or right of way line and not within the vision-clearance area.

c. Vertical Clearance: All pole signs must have a minimum of ten (10) feet over sidewalks and outside of parking areas and driveways; fourteen (14) feet over parking lots; and eighteen (18) feet over alleys or driveways

## 2. Commercial and Industrial Zoning Districts

a. Maximum Number: Each premises having street frontage of less than six hundred (600) feet shall be permitted to have one pole sign or pylon sign.

Each premises with street frontage of six hundred (600) feet or greater shall be permitted to have one pole sign or pylon sign and one additional pole sign or pylon sign for each additional six hundred (600) feet of street frontage. Pole signs and pylon signs shall be placed no closer than three hundred (300) feet apart on the same premises.

b. Maximum Sign Area: The maximum allowable aggregate sign area for each pole sign shall not exceed one square foot for each lineal foot of public street frontage on the street where the sign is located or two hundred (200) square feet, whichever is less and no single sign face shall exceed one hundred (100) square feet in aggregate sign area. A double-faced sign shall be permitted to have the allowed area of a single-faced sign on each of the two faces of the double-faced sign. Pylon signs are allowed an additional twenty percent (20%) increase over the maximum sign area as described above.

If a premises is permitted to have more than one pole sign or pylon sign, then all allowable pole signs or pylon signs may be combined into a single ground sign which shall not exceed two hundred (200) square feet in aggregate sign area. Pylon signs are allowed an additional twenty percent (20%) increase over the maximum sign area as described above.

E. Flags. Each premises shall be permitted to display a maximum of number of five (5) flags, and the aggregate sign area of such flags shall not be included in the calculation of building signs for the premises; provided that any flag displayed on a premises shall only be displayed from a flagpole. Additional flags may be permitted by a special use permit.

F. Window Signs. Window signs shall be permitted, provided that such signs, in aggregate sign area, do not cover more than fifty percent (50%) of the total window surface area of the premises facing a public street or parking lot. Window signs shall not be included in calculating the aggregate sign area for building signs.

#### **Section 6.26.4 General Permit Procedures**

A. Applicability

Any installation, modification, or expansion of any sign which is not exempt from the provisions of this Chapter 6.26 shall be subject to the following permit procedure prior to installation.

B. Maintenance of Valid Sign Permit

The owner of a sign requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individually zoned lots. A sign permit may be revoked if the sign is not maintained in good condition.

C. Sign Permit Applications

All applications for sign permits shall be submitted to the Zoning Administrator upon the specified application form.

D. Any nonagricultural and/or nonresidential development with three (3) or more tenants shall submit a sign plan, which includes the following:

1. A summary table listing the location, sign type and area of any existing and proposed signs.
2. A fully dimensioned and scaled elevation drawings of any proposed sign, showing sign type, height, structure and sign area.
3. For building signs, an elevation of the building, showing placement of any sign.
4. If the sign is to be electrically lighted, additional information regarding the Testing Laboratory or the ETL No., and the name and address of the electrical contractor as required by the Zoning Administrator.
5. Information regarding the type of construction, sign supports and electrical details. Fawned load calculations and footer details as required by the Building Code.

#### **6.26.5 Action and Appeal**

After submission of a complete application for a sign permit, the Zoning Administrator shall either:

1. Issue the sign permit, if the sign conforms to the provisions of this Chapter.
2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform to the requirements of this Chapter 6.26. The cause for rejection shall be stated in writing.

3. Determinations of the Zoning Administrator may be appealed to the Planning and Zoning Commission, as provided in Article VIII.

#### **6.26.6 Permit Expiration**

If a sign is not constructed in accordance with an approved permit within twelve (12) months of the date of approval, such permit shall lapse and become null and void.

#### **6.26.7 Assignment of Sign Permits**

A current and valid sign permit shall be freely assignable to any successor-in-interest.

#### **6.26.8 Illegal and Nonconforming Signs**

- A. Any sign erected after September 4, 2014 within the zoning jurisdiction of Stark County, North Dakota that does not conform to the provisions of Chapter 6.26 shall be deemed an illegal sign and shall be removed at the sole cost and expense of the owner thereof. The County shall notify the owner of such sign in writing of such violation and provide the owner thirty (30) days to remove the sign or to bring it into compliance with this chapter. Upon any failure to remove the sign or comply with the notice, the County shall cause the removal of the sign. Any costs of removal incurred by the County shall be assessed to the owner of the property on which sign is located and may be collected in the manner of ordinary debt or in the manner of taxes, and such charge shall constitute a lien on the property.
- B. Any permanent sign in place and lawfully established as of September 4, 2014, that does not conform to the provisions of this Section 6.26 shall be deemed a legal nonconforming sign.
- C. A legal nonconforming sign that is permanently affixed to the ground or to a building may continue to be used and its copy changed from time to time; provided, however, that the nonconforming sign (a) shall not be replaced except in conformity with this Section; and (b) shall not be enlarged, altered, or reconstructed except in conformity with this Section. Such legal nonconforming sign may be repaired to the extent necessary to maintain it in a safe and sanitary condition.
- D. Any legal nonconforming sign may be reconstructed, altered, or repaired after any damage not exceeding fifty percent (50%) of its replacement cost, provided that the sign's degree of nonconformity is not increased in any way.
- E. Any legal nonconforming sign that is presently or becomes structurally damaged in excess of fifty percent (50%) of its replacement cost at the time of such destruction shall not be reconstructed, repaired, or altered except in conformity with this Chapter 6.26. The owner of such structurally-damaged sign shall apply for a new sign permit in accordance with this Chapter 6.26 in order to construct a conforming replacement sign.

### **6.26.8 Administration**

The Zoning Administrator or designee shall be the administrator of this Section.

### **6.26.9 Severability**

In the event any section of this Chapter 6.26 is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter 6.26 shall continue in full force and effect.

*Amended on August 5, 2014 by the Stark County Commission*

## **6.27 Temporary Crew Housing (Workforce Temporary Housing)**

### **6.27.1 Definitions**

#### **1) Temporary Crew Housing (work camp housing)**

Modular residential structures used to house workers on a temporary basis for a specified period of time. It may include one or more lodging units which are not mobile homes as defined in NDCC Section 57-02-04 and are not mobile homes as defined in NDCC Section 57-55-01.

#### **2) Crew Housing Permit**

A right granted by the county to locate a crew housing facility within the jurisdiction of the county and to enjoy attendant services and facilities provided by the County Commission.

#### **3) Skid Units**

A structure or group of structures, either single or multi-sectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters, or a place of business, on a temporary basis.

#### **4) Closed Crew Camp**

Employee housing occupied by employees of an applicant business or premises leased to a business for the purpose of providing temporary housing to only the employees of that business.

### **6.27.2 Conditional Use Permit**

A Temporary Closed Crew Camp Housing Permit may be granted by the County Commission as a conditional use, the issuance of which is subject to the procedures contained within Section 8.3 of this code. It is allowable as a conditional use in the Industrial Zoning District, but in no case within three miles

of the jurisdictional boundary of any incorporated city within this county unless the Planning and Zoning Board receives written approval from the affected jurisdiction to the siting of a facility within that area. Additionally, all Temporary Crew Camps shall be subject to a one-half mile set back from U.S. Interstate-94, U.S. Highway 85, North Dakota State Highway 22 and Stark County Highway 10.

### **6.27.3 Application Procedure:**

An application for a Temporary Crew Housing Permit shall be signed by the applicant and the property owner and shall include the following information:

- 1) A written description of the propose facility.
- 2) A description of the units together with a numbering system.
- 3) A description of how the proposed units are set and/or anchored.
- 4) A statement that roads to be constructed within the facility will meet county specifications and if the facility is within three miles of a city, the city's road specifications, if any.
- 5) The name and address and contact information of the applicant and the property owner
- 6) Consent of the owner to a background check
- 7) Biographies of key company employees.
- 8) Whether the applicant has ever engaged in the business of owning or operating a crew housing facility before, and if so, the dates and locations of suck ownership or operation.
- 9) The name and address and contact information of the on-site manager.
- 10) A copy of the deed or lease (if applicable).
- 11) An occupancy list to be maintained and provided to the county 911 emergency coordinator on a weekly basis, including a unit numbering system where appropriate.

- 12) A site plan drawn to scale showing the location of housing units, additional structures, internal circulation and parking, including bus lanes and pick-up/drop-off areas, setbacks, utilities, including, but not limited to, potable water, wastewater, and electrical, solid waste collection areas and dumpsters, drainage and stormwater management facilities, ingress and egress, access for emergency vehicles, screens, buffers, and fencing, internal lighting, laundry facilities, and recreational facilities
- 13) Unit spacing adequate to accommodate emergency services
- 14) List of house rules and regulations, including drug and alcohol policies.
- 15) On-site security plan.
- 16) Fire and emergency evacuation plan approved by the County Emergency Management Department.
- 17) Snow removal plan.
- 18) Copy of permit/approval forms issued by the North Dakota State Health Department North Dakota Department of Commerce, North Dakota State Electrical Board, North Dakota State Plumbing Board, Southwest Water Authority Service Agreement, Southwest Health Department including fresh water, refuse disposal plan, and septic or sewer discharge plan, and any other applicable State and Federal permits.
- 19) Expansion plan, if applicable.
- 20) Pay an annual Planning and Zoning Fee in an amount to be determined by the County Commission.
- 21) A copy of the closure plan.
- 22) Submit a surety bond for clean-up purposes, the amount of which is to be determined by the County Commission based upon the recommendations county's designated engineering firm. The amount of the bond shall include a sum sufficient to clean the premises upon abandonment together with an escalator clause to cover anticipated increases in costs for such purpose. The bond posted must continue in effect for two years after the facility is abandoned.
- 23) Off-street parking shall be provided on a one-to-one ratio, one parking space per bed.

- 24) Any additional information deemed necessary by the zoning director, the planning and zoning board, or the county commission.

#### **6.27.4 Prohibited Housing Types within Closed Camps**

- 1) Recreational vehicles, campers, and mobile homes are prohibited as units in a crew housing facility.
- 2) Skid shacks shall be allowed as long as they meet the following conditions:
  - a) Front setbacks of twenty-five (25) feet from the front of the property line.
  - b) Rear setback ten (10) feet from a commercial lot or a thirty (30) feet setback if adjoining a residential district.
  - c) Side setback of ten (10) feet.
  - d) There must be a minimum of fourteen (14) feet between skid units or any other structures on the property.

#### **6.27.5 Work Site Housing**

Up to twenty-four (24) workforce housing units may be located upon the premises (work site) of an industrial site as a conditional use if the same are dedicated to the use of the businesses employees. This housing will not be restricted as to type but is subject to the application procedure contained within this Code and subject to rules and regulations of the North Dakota State Health Department.

#### **6.27.6 Prohibited Activities**

No illegal substances or animals are allowed on the premises of a crew housing facility. No parking will be allowed between units. The site is to be maintained free of garbage and junk.

#### **6.27.7 Termination of Crew Housing Permit**

A Crew Housing Permit is a conditional use permit subject to review by the Planning and Zoning Board at any time. The permit may be revoked by the County Commission anytime the applicant is in non-compliance with any of the conditions set by the Planning and Zoning Board or the County Commission for the issuance of the permit.

### **6.27.8 Renewal of Conditional Use Permit**

Any Temporary Crew Housing Permit granted in accordance with this section shall expire two years from the date of issuance. The permit may be extended by the Planning and Zoning Board upon written application of the owner of the property or authorized representative provided that the extension is for the same use as specified in the original permit and that the applicant is in compliance with the terms and conditions specified in the original permit.

### **6.28 Utilities – Underground and Overhead**

The setback for utilities, whether underground or overhead, for all section lines and all roads within the county shall be a minimum of seventy-five (75) feet or the existing right-of-way easement, whichever is greater.

### **6.29 Enchanted Highway Setbacks**

Notwithstanding anything to the contrary herein, no structure allowed in a Commercial or Industrial District shall be located within one (1) mile of the center line of the Enchanted Highway and no structure of more than thirty (30) feet in height shall be located within this restricted area.

### **6.30 Temporary Use Permit**

A temporary use permit may be granted by the County Zoning Administrator following a ruling by the Planning and Zoning Commission on the application submitted. Temporary use permits shall apply to the structures and uses identified as appropriate under each district, and any other activities or uses considered by the Planning and Zoning Commission to warrant limitations on the length of time the land can be occupied by said use or activity. Unless otherwise provided, all temporary use permits are reviewable on an annual basis.

The application for a temporary use permit shall contain the information required for a conditional use permit and under the district's ordinances plus a justification for the permit period requested by the applicant.

A public hearing on the temporary use permit request shall be held following proper notice pursuant to Section 11-33-08 NDCC. The notice shall include a description of the action and location in sufficient detail so that concerned parties may determine the action's impacts. A temporary use permit fee shall be paid in an amount to be determined by the County Commission.

### **6.31 Farm Animals**

The number of farm animals allowed on properties five acres or greater in size shall be two (2) per five acres.

## **ARTICLE VII**

### **SUBDIVISION REGULATIONS**

#### **7.1 Intent**

- 1) To insure the orderly development of the county and its unincorporated planning area.
- 2) To provide for proper arrangement of streets in relation to other existing and planned streets.
- 3) To provide for adequate and convenient open spaces for traffic, utilities, firefighting, recreation, light and air.
- 4) To facilitate adequate provisions for access, placement of public non-profit and for profit utilities, schools, and public open spaces.
- 5) To avoid development of unsuitable areas because of soil, drainage and other physical limitations.
- 6) To facilitate subdivision of larger parcels into smaller parcels and lots.
- 7) To implement the Comprehensive Plan of the county.

#### **7.2 Compliance with Chapter**

All subdivisions made within the county and not located in any municipality or its extra-territorial jurisdiction shall be subject to and shall conform to the three-step requirements of this chapter.

##### **Subdivisions in Advance of County Needs**

The County shall discourage the subdividing of lands that are far in advance of the needs of the county; that by their location cannot be efficiently served by public utilities, fire protection or other county services; that are located in areas subject to flooding or that are topographically unsuitable for development; or that for any other reason are unwisely or prematurely divided.

##### **Replatting and Coordination of Adjacent Areas**

The County shall encourage the replatting of lands deemed to be unsatisfactorily subdivided or undeveloped. Coordinated platting of adjacent small parcels of land shall be encouraged.

### **7.3 Minor Subdivision**

Where a proposed subdivision does not entail the establishment of any required street or road easements nor does it require any utility easements nor does the subdivision require any grading or re-contouring of the land surface, then said subdivision may be defined as a minor subdivision and may follow the guidelines of these regulations developed for minor subdivisions. All other plots are considered major subdivisions.

### **7.4 Sketch Plan**

#### **7.4.1 Submission**

- 1) Prior to the filing of an application for tentative approval of the preliminary plat, the subdivider shall submit for review by the Planning and Zoning Commission sketch plans.
- 2) Such sketch plans will be considered as submitted for informal discussion between the subdivider and the Planning and Zoning Commission. Submission of a subdivision sketch plan shall not constitute formal filing of a plat.
- 3) Prior to presentation of the sketch plan to the Planning and Zoning Commission, the subdivider should contact the Zoning Administrator to ensure that the proposed subdivision conforms to the design standards of this chapter, the county comprehensive plan, street or utility master plans, and discuss any possible modifications necessary to ensure conformance.

#### **7.4.2 Data Required for Sketch Plan**

- 1) Tract boundaries;
- 2) North point;
- 3) Description of nature and purpose of street(s) on and adjacent to the tract;
- 4) Proposed general street layout;
- 5) Significant topographical and physical features;
- 6) Proposed general lot layout;
- 7) Proof of zoning and/or conditional use approval, including conditions of approval and site plan, if appropriate;
- 8) Existing and proposed land use: and
- 9) Land uses of adjacent tracts.

## **7.5 Preliminary Plat**

The preliminary plat shall be prepared by a registered land surveyor and shall be submitted to the Planning and Zoning Commission for review and recommendation to the County Commission. The preliminary plat shall cover the entire contiguous area owned or controlled by the subdivider if it is less than twenty (20) acres even though only a small portion of it is proposed for the development at the time. The subdivider may be required to submit a development plan if he/she owns or controls more than twenty (20) contiguous acres of land.

### **7.5.1 Preliminary Plat Content (Major Subdivision)**

The preliminary plat shall include the following requirements, data and information.

- 1) The preliminary plat drawn at a scale of not smaller than one inch equals one hundred feet (1" = 100'). This requirement may be waived by the Planning and Zoning Commission for large tract subdivisions.
- 2) Name of the subdivision and location by section, township and range, to the quarter section, or other legal description.
- 3) Date, graphic scale and North point.
- 4) Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.
- 5) Total acreage within the subdivision.
- 6) Location, right-of-way width and names of any existing or previously platted streets including type and width of surfacing or public ways, easements, railroads, utility rights-of-way, parks and other public open spaces, permanent buildings or structures, corporate boundaries and section lines within or adjacent to the subdivision.
- 7) Location of existing property lines, buildings, drives, streams, watercourses, wooded areas and drainage ways.
- 8) Existing water mains, storm sewers, sanitary sewers, culverts, bridges and other utility structures within the tracts, indicating pipe size, grades and exact locations as obtained from public records, oil wells, septic tanks drainfields/cesspools and outlets, farm drain inlets and outfalls.
- 9) Existing zoning of the proposed subdivision and the zoning of the adjacent tracts of land.
- 10) Boundary line of adjacent tracts of land or lots showing owner's name.
- 11) Contour at vertical intervals of not more than two (2) feet.

- 12) Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.
- 13) Layout of the proposed streets, alleys, crosswalks and easements, showing widths and proposed street names.
- 14) Layout, number and dimensions of all lots and blocks.
- 15) Parcels of land intended to be dedicated or reserved for public use or set aside for the use of property owners within the subdivision.
- 16) Building setback lines, showing dimensions.
- 17) Name and address of the property owners(s) and registered land surveyors who prepared the plat.
- 18) A location map inset showing the boundary of the proposed subdivision and covering the area within a one-mile radius of the subdivision.
- 19) Topographic contours with a minimum contour interval of two (2) feet, with indication of datum used (NGVD29 or NAVD88 with NAVD88 required for areas with current floodplain information in that datum).
- 20) 100-year floodplain and floodway elevations if any portion of the subdivision is within the floodplain, with indication of datum used (NAVD88 required for areas with current floodplain information in that datum).
- 21) Location and identification of any section lines within or adjacent to the subdivision.
- 22) Boundary lines of tracts of subdivided and un-subdivided land within or adjacent to the proposed subdivision.
- 23) Location and dimensions of proposed utility easements, including easements for storm water management facilities and proposed locations of culverts and retention/detention areas, if available.
- 24) Traffic Impact Study analyzing the improvements required within and nearby the proposed subdivision, if deemed necessary by County staff
- 25) Detailed grading plan of part or all of the area, if required by County staff.
- 26) Statement of the general type of improvements required within and nearby the proposed subdivision.
- 27) Soil survey/report, if required by the County staff.

- 28) Proposed deed restrictions, if any.
- 29) Existing and proposed access points along public right-of-way within or adjacent to the subdivision.
- 30) Wetlands study.
- 31) Location and dimension of non-access lines.
- 32) Other information as requested by County staff.

### **7.5.2 Preliminary Plat Submission Requirements**

- 1) The subdivider shall meet with the Zoning Administrator and other County staff, including, but not limited to, the County Engineer, County Road Superintendent, and the County Emergency Services Director, to discuss whether the proposed plat is consistent with the County's Comprehensive plan, its zoning code, and with other County policies and regulations.
- 2) After meeting with the Zoning Administrator, the subdivider shall apply to the Planning and Zoning Commission on appropriate forms provided by the Zoning Administrator at least two (2) weeks days prior to its regularly scheduled meeting.
- 3) The subdivider shall submit two (2) 24" x 36", eleven (11) 11"x 17" prints of the preliminary plat, and a digital code of the plat to the Zoning Administrator at the time the application is made. The plat shall comply with the provisions of this code.
- 4) The subdivider may submit any instrument whereby he/she proposes to regulate land use in the subdivision for protecting the proposed development.
- 5) The subdivider shall provide other data related to drainage, soil suitability, financing of improvement and other related information which the Planning and Zoning Commission requests.

### **7.5.3 Development Plan**

Where a development plan is required for a tract of land, the following shall be included in the plan.

- 1) Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
- 2) General layout of proposed streets and location of blocks for designated uses.
- 3) Location of open spaces and facilities for public uses.

- 4) Existing drainage pattern based on the available topographic information from the U.S. Geological Survey maps and other similar information.
- 5) The development plan shall be drawn at a scale of one inch representing four hundred (400) feet.
- 6) The Planning and Zoning Commission may require other information as a part of the development plan.

#### **7.5.4 Review Process for Preliminary Plats**

- 1) The Planning and Zoning Commission shall review the preliminary plat and may request additional information before it takes action.
- 2) The conditional approval of a preliminary plat shall clearly state the nature and extent of the conditions which shall be met before a final plat is submitted for review and approval. Conditional approval of a preliminary plat by the Planning and Zoning Commission is not an acceptance of a subdivision plat, but is an expression of approval of a general plat as a guide to preparation of a subdivision for final plat review and approval.
- 3) The Planning and Zoning Commission may require the subdivider to submit a revised preliminary plat before the subdivider proceeds with the preparation of the final plat.
- 4) Approval of the preliminary plat shall be effective for a period of two (2) years within which a final plat shall be prepared. If the final plat is not submitted within this time period, the County Commission may require the subdivider to resubmit the preliminary plat for review and approval, unless the developer had provided a detailed timetable for the preparation of the final plat(s).

#### **7.6 Data Omitted on Minor Subdivision Plats**

The following may be omitted from any preliminary plat for a minor subdivision:

- 1) Topographic contours at a two foot interval or a maximum interval of five feet if the latter is acceptable to the reviewing authority.
- 2) Location and extent of problem soil types and results of all percolation tests, if required.
- 3) Location of easements and other areas to be dedicated for public purposes.
- 4) Layout of public and private utility service lines and easements to include sewer and water, gas, electric, telephone, and communication lines.

- 5) Stream and drainage structures, sedimentation basins, altered drainage profiles and culvert or bridge specifications.

## **7.7 Final Plat (Major Subdivision)**

The final plat shall cover the area which is realistically designated for transfer or sale of lots.

### **7.7.1 Final Plat Content**

The final plat shall conform to all provisions of this code and conditions set forth by the County Commission and include the following:

- 1) Name of subdivision which should not duplicate or resemble any existing subdivision within the vicinity, and the date of tentative approval of preliminary plat by the County Commission.
- 2) Location by section, township and range, to the quarter section, or other legal description.
- 3) Names and addresses of owners and surveyor or other professional person preparing the plat.
- 4) Plat map with scale of one inch representing one hundred (100) feet or less. This requirement may be waived by the Planning and Zoning Commission for large tract subdivisions.
- 5) Date, graphic scale and North point.
- 6) Boundary line of subdivision based on an accurate traverse, showing distances and bearings.
- 7) Exact location, width and name of all streets within and adjoining the subdivision, and the exact location of all alleys and crosswalks.
- 8) True bearing and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat.
- 9) City, township, county or section lines accurately tied to the boundary lines of the subdivision by bearing and distance.
- 10) Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
- 11) All easements for rights-of-way provided for public services and public utilities.
- 12) All lot and block numbers and lot lines, with accurate dimensions in feet and hundredths.

- 13) Accurate location of all monuments, which shall be of material size in accordance with the standards of the city, the county, and the state.
- 14) Accurate outlines and legal descriptions of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for common use of all property owners.
- 15) Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
- 16) Building or property covenants.
- 17) Certification by registered surveyor to the effect that the plat represents a survey made by him/her, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.
- 18) Notarized certification by the owners of the land of the adoption of the plat and the dedication of sewers, water distribution lines and other improvements and of streets and other public areas.
- 19) Legal description of property being platted, including any section line right-of-way not previously deeded for plats within the extraterritorial jurisdiction.
- 20) Ties to a minimum of two (2) accepted State Plane Coordinates based on NAD 83 horizontal datum (adjusted 86), units of measurement international feet, ND south zone 3302.
- 21) Elevations referenced to a durable benchmark described on the plat with its location and elevation to the nearest hundredth of a foot, with indication of datum uses (NAVD88 required for areas with current floodplain information in that datum).
- 22) Square footage or acreage of land within the subdivision, each individual lot, each subplot created by ghost platting, and the total area in streets. If the subdivision crosses a quarter-section line, the acreage within each quarter section must also be noted.
- 23) Location and dimension of all non-access lines and any access points within a continuous non-access line.
- 24) 100-year floodplain and floodway elevations and topographic contours with a minimum contour interval of two (2) feet for the portion of the plat lying within a designated floodplain, with an indication of datum used (NAVD88 required for areas with current floodplain information in that datum).

- 25) For any waterways or bodies of water within or adjacent to the plat, the present shoreline locations (relative to the meander line).
- 26) Water elevations must be shown and dated (meander line).
- 27) All restrictive airport noise, clear zone and approach zone elevations as established by the latest available data, where applicable.
- 28) Certification from Stark County that all taxes have been paid in full.
- 29) Proper form for the approval of the Planning and Zoning Commission.
- 30) Proper form for the approval of the County Commission.

### **7.7.2 Final Plat Submission Requirements**

The subdivider shall apply on appropriate forms to the Planning and Zoning Commission for approval of the final plat, if he/she holds a valid approval of the preliminary plat.

- 1) The subdivider shall meet with the Zoning Administrator and other County staff, including, but not limited to, the County Engineer, County Road Superintendent, and the County Emergency Services Director, to discuss whether the final plat is consistent with the County's Comprehensive plan, its zoning code, the approved preliminary plat and with other County policies and regulations.
- 2) After meeting with the Zoning Administrator, the subdivider shall apply to the Planning and Zoning Commission on appropriate forms provided by the Zoning Administrator at least three (3) weeks prior to its regularly scheduled meeting.
- 3) The subdivider shall submit two (2) 24" x 36", eleven (11) 11"x 17" prints of the preliminary plat, and a digital code of the plat to the Zoning Administrator at the time the application is made. The plat shall comply with the provisions of this code.
- 4) The final plat shall comply with all provisions of this Code and conditions and requirements set forth as a part of review and approval of the preliminary plat. All filing fees shall be paid to the County at the time of filing the final plat for approval.
- 5) The Planning and Zoning Commission may require the subdivider to submit detailed drawings for grading of the lots, blocks, streets; detailed drawings

for pavement, curb, gutter and sidewalk; and drawings for installation of water, sanitary and storm sewer facilities.

- 6) The County Commission shall establish fees for the review of final plats.

*Amended on July 1, 2014 by the Stark County Commission*

### **7.7.3 Review Process**

- 1) If the Planning and Zoning Commission, after a public hearing, finds the final plat in conformance with the stipulations as presented in the preliminary plat, it shall make a recommendation for action to the County Commission.
- 2) The subdivider shall prepare an estimate of the cost of providing the required improvements based on the county design standards for street, curb, gutter, sidewalk, sanitary sewer, storm sewer and water lines.
- 3) After receiving recommendations from the Planning and Zoning Commission, the County Commission shall review the recommendations and the final plat and approve or disapprove the proposed subdivision.
- 4) Within thirty (30) days after the final plat approval is granted or after all of the required signatures have been obtained, whichever ever event occurs sooner, the final plat of record shall be filed with the County Recorder for Stark County.

### **7.8 Amendment of Any Project Development Plan**

Upon final approval of a subdivision involving the creation of new streets, the widening, decreasing or vacation of existing streets or alleys, or the creation, enlargement or decrease of other lands devoted to public use, the County Commission and/or Planning and Zoning Commission shall approve such change in streets, alleys or public lands as an amendment to any project development plan, as it finds appropriate.

### **7.9 Filing of Subdivision Plat**

The subdivider, upon approval of the final plat, shall file the plat with the County Recorder of Stark County. Sale of any lot prior to filing of the final plat is in violation of this Code.

### **7.10 Design Standards – Conformance**

The subdivider shall prepare the preliminary and final plat in conformance with the standard set forth herein and in compliance with any County Road Policy Standards.

### **7.11 Street Design**

- 1) The arrangement, character, classification, extent, width, grade, and location of all streets shall be designed in relation to existing and planned streets, topographic

conditions, existing natural features, public convenience and safety and the proposed uses of land served by such streets and to the most advantageous development of adjoining uses.

- 2) Where it is not shown on the Development Plan, the arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing streets in surrounding areas or conform to a plan approved by the Planning and Zoning Commission to meet a particular situation.
- 3) Where a subdivision abuts or contains an existing or proposed major street or highway, the Planning and Zoning Commission may require service streets, reverse frontage lots with screen planting in a reservation strip along the rear property line, deep lots with rear service alleys abutting the primary street or highway, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.
- 4) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning and Zoning Commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.
- 5) Reserve strips in private ownership controlling access to streets are prohibited.
- 6) Street with centerline offsets of less than one hundred fifty (150) feet shall be prohibited.
- 7) A tangent at least one hundred (100) feet long shall be introduced between reverse curves on major streets.
- 8) When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than four hundred (400) feet for local and collector streets, and of such greater radii as the Planning and Zoning Commission shall determine for special cases.
- 9) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than eighty (80) degrees.
- 10) Curb radii on all block corners shall be twenty (20) feet.
- 11) Street rights-of-way shall conform to the County Road Policies and shall not be less than the following table:

<b>Street Type</b>	<b>Minimum Right-of-Way Width (lot line to lot line)</b>	<b>Rural Section Minimum Roadway Top Width</b>	<b>Maximum Gradient</b>	<b>Minimum Gradient</b>
Arterial Streets	150 feet	36 feet	4%	0.7%
Collector and Industrial Use Streets	80 feet	32 feet	6%	0.7%
Local Streets	66 feet	28 feet	10%	0.5%

- a) Cul-de-sac, if approved, one hundred forty (140) feet in diameter for a turnaround.
  - b) Alleys, residential district, twenty (20) feet.
  - c) Sidewalks, five (5) feet.
  - d) Bike paths (per DOT standards).
- 12) Half-streets are prohibited except where essential to the reasonable development of the subdivision and in conformity with the other requirements of this code and where the Planning and Zoning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever an existing half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
- 13) Cul-de-sacs, if approved, shall not be longer than five hundred (500) feet.
- 14) General considerations for intersection design are that:
- a) Intersections of more than two (2) streets at a point shall not be permitted.
  - b) Alleys shall be discouraged in residential districts but may be provided in commercial and industrial districts.
- 15) Dead-end streets without a suitable turnaround are prohibited.

## 7.12 Block Design

The length, width, and shape of blocks shall be suited to the planned use of land, zoning requirements, needs for convenient access, control of safety of street traffic, and the topographic conditions.

- 1) Residential block length shall not exceed nine hundred (900) feet. The length of blocks is considered to be the distance from one street centerline to opposite street

centerline and is measured through adjacent back lot lines or through the center of the block.

- 2) Pedestrian crosswalks not less than ten (10) feet wide may be required in blocks longer than six hundred (600) feet where the crosswalks are deemed by the Planning and Zoning Commission to be essential to provide circulation, or access to schools, playgrounds or other community facilities, handicap access (curb cuts) required.
- 3) The width of blocks shall generally be sufficient to allow two (2) tiers of lots and shall be at least two hundred and fifty (250) feet wide.
- 4) Blocks intended for commercial and industrial use shall be specifically designated for such purposes with adequate space set aside for off-street parking and delivery facilities. The Planning and Zoning Commission may require service drives or frontage roads along major streets for commerce and industry.

### **7.13 Lot Design**

- 1) The shape, size and orientation of the lots shall be appropriate for the location (zoning district) of the subdivision.
- 3) Residential lots abutting major streets shall have extra depth of at least twenty (20) feet to allow for proper setbacks.
- 4) All lots shall front a public street.
- 5) Side lot lines shall be substantially at right angles.
- 6) Residential corner lots shall have an extra width of ten (10) feet to permit adequate building setbacks from the side streets.
- 7) Double frontage lots shall be avoided except where essential to provide separation of development from arterial streets.
- 8) Depth and width of lots reserved or laid out for commercial or industrial uses shall be adequate to provide for off-street parking and service facilities required by the type of use a development and the provisions of the appropriate zoning district.

### **7.14 Street Names**

- 1) The Planning and Zoning Commission may disapprove of the name of any street shown on the plat which does not conform to existing naming patterns, has already been used elsewhere in the area, or because of a similarity that may cause confusion.
- 2) Where a street maintains the same general direction, except for curvilinear changes for a short distance, the same name shall continue for the entire length of the street.

### **7.15 Utility Easements**

- 1) Easements across lots or along rear or side lot lines shall be provided for utilities where necessary and shall be a minimum of five (5) feet wide on each side of the lot line and shall be designated as “utility easement”.
- 2) All lots shall be arranged so that they can be served by underground electric, cable television, natural gas and telephone lines unless waived by the Planning and Zoning Commission due to topographic conditions or excessive costs.
- 3) All utility lines for electric power, cable television and telephone services shall be placed underground in utility easements.
- 4) Utility lines installed in the utility easement shall not be closer than one foot to the property line or three (3) feet to any survey monument.

### **7.16 Grading and Drainage**

- 1) When required, the subdivider shall provide a detailed grading and drainage plan showing the grades of streets and drainage improvements.
- 2) The drainage shall not discharge into any sanitary sewer facility.
- 3) The drainage facilities shall be located in street right-of-way or in drainage easements.
- 4) All developers should submit a management plan for storm water.
- 5) The grading and drainage system shall be approved by the Planning and Zoning Commission.
- 6) Grading established in any subdivision shall not be changed without approval of the Planning and Zoning Commission.

### **7.17 Drainage Way Easement**

Where a subdivision is traversed by a water course or drainage way, an adequate grading of such easement shall be set by the Planning and Zoning Commission to accommodate the anticipated discharge from the property being subdivided and also the anticipated run-off from the adjoining properties.

### **7.18 Tree Planting**

The planting of trees of an appropriate species and at appropriate locations may be required by the Planning and Zoning Commission. Trees must be placed at a minimum setback of one hundred (100) feet from county road centerlines.

## **7.19 Street Lights**

Street lights and their location shall be in accordance with the minimum standards to be established by the Planning and Zoning Commission.

## **7.20 Required Improvements**

Before installation of improvements in any subdivision, the Planning and Zoning Commission shall make a determination for improvements required, based on a schedule of improvements including the standards and class of construction.

### **1) Completion Assurance**

To cover the cost of improvements, as determined by the Planning and Zoning Commission, the subdivider may be required to post a bond or submit a letter of credit from an acceptable financial institution in an amount sufficient to construct such improvements and submit a plan of financial responsibility of unpaid improvement assessments.

### **2) Survey Monuments**

The subdivider shall install survey monuments in all lot and block corners in the subdivision in accordance with the requirements of the State of North Dakota.

### **3) Public Water**

- a) Where appropriate, water mains shall be installed so as to provide individual service to each lot within the subdivision.
- b) Water mains shall extend to the boundary of the subdivision, except where in the opinion of the Planning and Zoning Commission it is deemed impractical.
- c) A rural water supply shall comply with the requirements of the State of North Dakota.

## **7.21 Sanitary Sewer**

- 1) All subdivisions shall be provided with sanitary sewers to each lot. On an individual case review, an on-site sewage systems may be allowed.
- 2) Sanitary sewer shall be extended to the boundary of the subdivision, except where in the opinion of the Planning and Zoning Commission it is deemed impractical.
- 3) All sanitary systems shall be reviewed and approved by county sanitarian or Health District.

## **7.22 Storm Sewer**

The storm sewer drainage facilities shall be installed in accordance with the plans and specifications approved by the Planning and Zoning Commission.

## **7.23 Grading and Surfacing**

The full width of all rights-of-way shall be graded in accordance with the Stark County street standards.

## **7.24 Curbs, Gutters and Sidewalks**

Concrete curb and gutters, where appropriate, may be installed in all subdivisions in accordance with the county standards. Where the county requires construction of a sidewalk, it shall be in accordance with the design standards established by the Planning and Zoning Commission.

## **7.25 Installation of Improvements**

Construction of all improvements is contingent on approval by the Planning and Zoning Commission. The subdivider shall be responsible for furnishing the necessary data required for such approval.

## **7.26 Dedications**

In connection with the approval of a final plat, the developer shall be required to dedicate any lands and required improvements according to the provisions of this Code, and may be required to dedicate other land and improvements for circulation, stormwater management, drainage, utilities, open space, schools, fire service, public safety and law enforcement protection, park land and other appropriate public needs related to the development.

*Amended on January 7, 2013 by the Stark County Commission*

## **7.27 Lot Line Adjustments**

An adjustment of an existing platted lot line between two (2) adjoining lots by relocation of a common boundary may be administratively approved by the Zoning Administrator as long as the following criteria are met:

- 1) Both lots are within the same zoning classification;
- 2) One lot line adjustment is not part of a series of lot line adjustments proposed for contiguous lots as a way to circumvent the minor subdivision plat process;
- 3) Both of the resulting parcels conform to the minimum lot area, width and depth for the zoning district in which the property is located; and

- 4) The resulting parcels can be legally described with no more than two (2) directional descriptors (e.g. the north 100 feet of the west 200 feet of Lot 1, Block 1, ABC Addition).

*Amended on February 7, 2017 by the Stark County Commission.*

## **ARTICLE VIII**

### **ADMINISTRATION AND ENFORCEMENT**

The administration and enforcement of this Ordinance is hereby vested in the Commissioners and the County Zoning Administrator.

#### **8.1 County Commission**

##### **8.1.1 Duties**

- 1) The Commission shall review and take action on all proposed to this ordinance.
- 2) The Commission or its designee shall review and decide all applications for zoning modifications.
- 3) The Commission or its designee shall hear and decide all requests for variances or other relief from the provisions of this ordinance.
- 4) The Commission or its designee shall review all applications for conditional use permits.
- 5) The Commission shall hear and decide all appeals of decisions of the Planning and Zoning Commission.
- 6) The Commission or its designee shall investigate all violations of the provisions of this ordinance and shall determine and take appropriate remedial action.

#### **8.2 Planning and Zoning Commission**

- 1) Membership - The Planning and Zoning Commission shall consist of nine members appointed by the Commission in accordance with Chapter 11-33 of the NDCC.
- 2) Duties
  - a) The Planning and Zoning Commission shall hold public hearings on applications for all proposed amendments to this Ordinance and make written recommendations to the Commission for the approval or denial of such applications.
  - b) The Planning and Zoning Commission shall hold public hearings on applications for conditional use permits and make written recommendations to the Commission for the approval, denial, modification, and/or the imposition of conditions upon such applications.

- c) The Planning and Zoning Commission shall hold public hearings on applications for variances from the provisions of this Ordinance and make written recommendations to the Commission for the approval, denial, modification, and/or the imposition of conditions upon such applications.
- d) The Planning and Zoning Commission shall report all zoning violations to the Commission for appropriate action.

### **8.3 Conditional Use Permits**

The development and administration of this Ordinance is based on the division of the county into districts within which the uses of land and buildings are mutually compatible. However, there are certain uses which, because of their unique characteristics cannot be classified as unrestricted permitted uses in any particular district or districts without consideration in each particular case of the impact of those uses upon adjoining lands or public facilities. Such uses, nevertheless, may be necessary or desirable in a particular district provided that due consideration is given to location, development and operation of such uses.

- 1) In order to promote and protect public health, safety and the general welfare, the Planning and Zoning Commission may stipulate conditions and restrictions upon the establishment, location, construction and operation of the proposed use. In all cases in which conditional uses are granted, the Planning and Zoning Commission shall prior to issuance of a certificate of compliance, require evidence of compliance with these provisions and with the conditions set forth.
- 2) No conditional use permit shall be recommended by the Planning and Zoning Commission or approved by the Commission unless the applicant shall have met all the following criteria:
  - a) The establishment, maintenance, or operation of the conditional use shall not be detrimental to or endanger the public health, safety, comfort or general welfare.
  - b) The proposed conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.
  - c) The proposed conditional use shall not impede the normal orderly development of the surrounding property.
  - d) Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided to accommodate the proposed conditional use.
  - e) Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the adjoining properties and traffic congestion in the public street.

- f) The proposed conditional use shall conform to all applicable regulations of the district within which it is located.
- 3) The Planning and Zoning Commission shall hold a public hearing on any request for a conditional uses permit, a notice of which shall be published at least two weeks prior to the hearing in the official newspaper of the county. The notice of hearing shall include: 1) the time and place of hearing; 2) description of the property to be affected; 3) the proposed use; and 4) time and place for public inspection of documents prior to the hearing.
- 4) In cases where a proposed conditional use affects a property use, the Zoning Administrator shall notify all properties within 200 feet of the property in question by personal service or by certified or registered mail, addressed to the owner and mailed to his or her last address as shown on the records of the Stark County Treasurer. The costs of the service shall be borne by the applicant.
- 5) The Planning and Zoning Commission, following a public hearing, shall make recommendation to the County Commission for the approval or denial, modification, and/or imposition of conditions of each application for a conditional use permit. Upon approval by the County Commission, the Planning and Zoning Commission shall issue such conditional use permit.
- 6) If the Planning and Zoning Commission finds that the conditions or restrictions set forth in a conditional use are not being compiled with, it may revoke the conditional use permit after a public hearing.
- 7) In any case where a conditional use has not been instituted within one year of the date of approval of the conditional use, the permit shall be null and void without further action of the Planning and Zoning Commission or the Commission
- 8) Upon the cessation or abandonment for a period of one year of any use, for which a conditional-use permit has been issued, such conditional use permit is deemed to have been terminated and any future use of the land, building(s), or premises shall be in conformity with this Ordinance.

#### **8.4 Variance**

- 1) Where a literal enforcement of the provisions of this Ordinance would result in great difficulties, unnecessary hardship, or injustice, the Commission may adjust the application and enforcement of these regulations provided that such action shall not be contrary to the public interest or general purposes thereof. The authority for issuing variances may be delegated to the Planning and Zoning Commission. No variance shall be approved unless the applicant shall have met the following conditions:
  - a) The particular physical surroundings shape or topographic condition of the specific property should result in unnecessary hardship.

- b) The purpose of the variance is not based on a desire for economic gain.
- c) The variance shall not be detrimental to the public welfare or injurious to other properties in the area; and
- d) The unique character of the property upon which the request for variance is made is not the result of actions of the applicant.

2) Public Hearing Notice

- a) The Planning and Zoning Commission shall hold a public hearing, a notice of which shall be published at least two weeks prior to the hearing in the official newspaper of the county. The notice of hearing shall include: 1) the time and place of hearing; 2) description of the property to be affected; 3) the proposed use and requested variance; and 4) time and place for public inspection of the relevant documents before the hearing.

When a variance request is filed, the Zoning Administrator shall notify all properties within 200 feet of the property in question by personal service or by certified or registered mail, addressed to the owner and mailed to his or her last address as shown on the records of the Stark County Treasurer. The costs of the service shall be borne by the applicant.

- b) Data Submission Requirements: Applications for variances must include following data:
  - i. Name and address of the applicant. Name and address of the owner. If the applicant and the owner are different, the owner shall submit a signed statement authorizing the applicant as a representative;
  - ii. Legal description of the property;
  - iii. A map showing the existing land uses and zoning district classification of the area;
  - iv. The reason for the variance request;
  - v. The type of variance requested and an explanation of whether the hardship is unique to the applicant's property;
  - vi. Any other information that the Planning and Zoning Commission deems necessary; and
  - vii. A fee, the amount of which shall be determined by the County Commission, plus any additional costs to be paid in accordance with the schedule established by the County Commission.

## **8.5 Uses by Temporary Permit**

- 1) Temporary use permit shall be issued by the County Zoning Administrator. Activities requiring temporary use permits shall include, but not be limited to, the following:
  - (a) Bazaars, Carnivals, or Fairs;
  - (b) Musical Events;
  - (c) Racing Events;
  - (d) Rodeos;
  - (e) Public gatherings for a single-purpose event;
  - (f) Temporary building or yard for construction materials and/or equipment incidental and necessary for current construction in the immediate surrounding area;
  - (g) Temporary office incidental and necessary for the construction, sale, or rental of the property in the immediate surrounding area.
  - (h) Temporary operations for road improvement projects, including a temporary asphalt plant.
- 2) Permits shall be valid for such period of time as determined by the County Commission and shall be renewable at the discretion of the County Commission.

*Amended on July 1, 2014 by the Stark County Commission*

## **8.6 County Zoning Administrator**

### **8.6.1 Appointment**

- 1) The Commission shall appoint the County Zoning Administrator.

### **8.6.2 Duties**

- 1) Receive and file all applications for amendments to this Ordinance, the "Zoning District Map," and development permits.
- 2) Make inspections upon Commission request and maintain records.
- 3) Provide written reports of all zoning violations to the Planning and Zoning Board and the Commission for appropriate action.
- 4) Prepare and publish required notices.

- 5) Prepare written notices to property owners of any violation of this Ordinance, citing the nature of the violation and demanding compliance.
- 6) Receive, file, and forward to the Planning and Zoning Commission all applications for preliminary and final plats and the supporting documents.

## **8.7 Amendments**

The Commission may from time to time on its own motion, by petition, or on recommendation of the Planning and Zoning Commission, amend, supplement or repeal the provisions of this Ordinance following a public hearing.

Any person, firm or corporation which owns land is entitled to submit an application for amendment to the Zoning District Map.

### **8.7.1 Procedure for Amendments:**

- 1) Applications for amendment shall be filed with the County Zoning Administrator.
- 2) An application for amendment shall include:
  - a) Name and address of the applicant. Name and address of the owner. If the applicant and the owner are different, the owner shall submit a signed statement authorizing the applicant as a representative.
- 3) A legal description of the property (if the property has not been platted, provide a metes and bounds description), a parcel identification number, a copy of a recorded deed, the general parcel information page from the County Assessor, the Property Record Card Report from the County Assessor, and a map of appropriate scale showing the area in question, current and proposed zoning and adjacent zoning.
- 4) The nature of the change requested and reason for the change.
- 5) A detailed description of any uses, building or structures that are proposed for the area covered by the petition.
- 6) Any additional information requested by the Planning and Zoning Commission.
- 7) The Planning and Zoning Commission shall hold a public hearing on any request for a zoning map amendment, a notice of which shall be published at least two weeks prior to the hearing in the official newspaper of the county. The notice of hearing shall include:
  - a) the time and place of hearing;

- b) description of the property to be affected;
- c) the proposed use; and
- d) time and place for public inspection of documents prior to the hearing.

In cases where a proposed amendment to the Zoning Ordinance and Map affects a property use, the Zoning Administrator shall notify all properties within two (200) feet of the property in question by personal service or by certified or registered mail, addressed to the owner and mailed to his or her last address as shown on the records of the Stark County Treasurer. The costs of the service shall be borne by the applicant.

- 8) The Planning and Zoning Commission, following a public hearing, shall make a recommendation to the County Commission for the approval or denial of a zoning map amendment. If it is determined additional information is needed, the Planning and Zoning Commission may also table the request for a zoning map amendment to a future meeting.
- 9) Upon receipt of the recommendations of the Planning and Zoning Commission, the Commission shall approve, deny, approve with modification the proposed amendment or remand to the Planning and Zoning Commission for further consideration.
- 10) If the Commission denies an application for a zoning map amendment, an application for the same zoning district or any portion of the subject tract may not be refiled by the original applicant for six months from the date of the Commission's action on the proposed amendment

## **8.8 Protest and Appeal**

Any person aggrieved by a decision of the zoning administrator or County Commission may protest the decision or appeal the decision to the district court. Protests or appeals to the board of county commission do require a formal application and are initiated with the zoning administrator.

- 1) A protest of a zoning amendment approved by the county commission shall be filed within ten (10) days of the approval of the amendment. The protest shall be signed by not less than 20 percent of the owners of:
  - a) The area of the lots included in the proposed change; or
  - b) The area adjacent, extending two hundred (200) feet from the area to be changed excluding the width of streets (roads).

- 2) Following the filing of a protest a public hearing shall be scheduled. Notice of the time and place of the public hearing shall appear in the official newspaper of Stark County not less than two (2) weeks prior to the date of the hearing.
- 3) The amendment receiving a proper protest shall not be approved except by a supermajority (four-fifths) vote of the county commission.
- 4) Any decision of the zoning administrator may be appealed to the board of county commissioners within 30 days from such decision. The board of county commissioners may reverse, affirm, amend, adjust or change any decision of the zoning administrator. Notice of hearing on the appeal shall be published at least twice not less than two (2) weeks prior to the hearing.
- 5) Any decision of the board of county commissioners may be appealed to the district court as provided in chapter 40-47-08, NDCC.

## **8.9 Permits and Fees**

### **8.9.1 Building Application**

- 1) It shall be unlawful for any person to commence construction, alteration, or conversion of any building or structure without first obtaining a building application from the County Zoning Administrator or its designee.
- 2) This section does not apply to those buildings or structures directly used in connection with farming operations and constructed by farmers as defined herein.
- 3) A building application issued pursuant to these provisions shall expire one year from date of issuance.

### **8.9.2 Fees**

The County Zoning Administrator shall charge and collect a fee as follows;

The County Zoning Administrator shall charge and collect a fee according to the resolution of fees and schedules established by the Commission. The applicant for a conditional use permit, variance, or building application, shall be liable for and pay to the County Zoning Administrator sufficient sums of money to pay for and cover costs incurred by the County for the processing of such application, including, but not limited to: publication costs, attorney's fees, mileage, copying expense, etc. No permit shall be issued until such costs have been paid by the applicant, unless the County Zoning Administrator has otherwise provided for good cause shown.

## **8.10 Violations and Penalties**

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or if any building, structure, or land is used in violation of this Ordinance, the proper county authorities or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceeding:

- 1) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- 2) To restrain, correct, or abate such violations;
- 3) To prevent the occupancy of the building, structure, or land; or
- 4) To prevent any illegal act to conduct business or use in or about such premises.

A violation of any provision of this ordinance or the regulations and restrictions made herein shall constitute the maintenance of a public nuisance and shall be a Class B Misdemeanor.

## **8.11 Building Code**

### **8.11.1**

The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area and maintenance of buildings or structures in Stark County shall meet with the provisions of the rules and regulations of the North Dakota State Building Code as set forth in NDCC Chapter 54-21.3, and any future updates and amendments to that code, as well as the International Building Code, the International Mechanical Code, and the State Uniform Plumbing Code.

Adopted this 2nd day of October, 2012

By: Ken Zander  
Chairman, Stark County Board of County Commissioner

BY: Kay Haag  
Stark County Auditor