

HETTINGER COUNTY LAND USE REGULATIONS

1 INTRODUCTION

1.1 Title

These regulations shall be known as the “Zoning Code and “Subdivision Regulations” for Hettinger County, North Dakota.

1.2 Authority

These regulations are adopted under the authority of Chapters 11-33 and 11-33.2 of the North Dakota Century Code.

1.3 Purpose

These regulations are adopted to promote the health, safety, morals, public convenience and general prosperity and public welfare of Hettinger County.

1.4 Intent

It is the intent of these regulations to implement the plans and policies of Hettinger County for the use and enjoyment of land resources.

- 1.4.1 To promote orderly development of the county and to prevent conflict among land uses and structures.
- 1.4.2 To secure safety from fire, panic, noxious fumes, and other dangers.
- 1.4.3 To facilitate adequate provisions for water, sewer, transportation and other customary services to its county unincorporated communities.
- 1.4.4 To regulate the use and division of land within the county and unincorporated territorial jurisdiction.
- 1.4.5 To regulate the proper arrangement of roads, streets, and alleys for convenient and efficient access to the adjoining properties.
- 1.4.6 To protect the value of land and buildings and maintain harmony and consistency among land uses.
- 1.4.7 To protect the existing properties against nuisances that interfere with the use and enjoyment of property, endanger personal health or safety or are offensive to the senses.

1.5 Jurisdiction

These regulations shall apply to all lands within Hettinger County, North Dakota and territorial planning areas of unincorporated communities, except land within city limits and their respectively established extra-jurisdictional territories of Hettinger County. Where townships within Hettinger County have enacted zoning ordinances that are in conflict with this zoning code and subdivision regulation, the township zoning will pre-empt the county zoning. However, if the township zoning does not address or have jurisdiction over certain items, these regulations shall apply.

1.6 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. The county may, from time to time, amend, supplement or repeal any part of this code upon like proceedings as in the case of the adoption of a resolution.

1.7 Severability

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

1.8 Exceptions

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

1.9 Repeal

The existing County Code together with any amendment thereto is hereby repealed.

1.10 Effective Date

This code shall be effective upon adoption by the County Commission of Hettinger County as provided by the North Dakota Century Code.

2. RULES AND DEFINITIONS

2.1 Compliance

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

2.2 Word Use

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

- 2.2.1 Words used in present tense shall include the future.
- 2.2.2 Words used in singular number shall include the plural number and the plural the singular.
- 2.2.3 “Shall” is a mandatory word and not discretionary.
- 2.2.4 “May” is a permissive word.
- 2.2.5 The word “lot” shall also mean "parcel", “piece” and “plat”.
- 2.2.6 The word “building” includes all structures and “structure” includes buildings.

2.3 Definitions

- 2.3.1 “**Accessory Building and Uses**” means 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.
- 2.3.2 “**Adult Entertainment Center**” means an adult bookstore, adult cinema, adult entertainment facility or any combination thereof, distinguished or characterized by their emphasis on matter depicting or describing or relating to sexual activities or anatomic areas, such as genitals, breasts, or buttocks.
- 2.3.3 “**Agriculture**” means the process of producing food and fiber customary to the family farming operation with a minimum of 40 acres in area, excluding commercial feedlots, processing and manufacturing of the farm-based products.
- 2.3.4 “**Alley**” means a minor street providing access to the back or side of two or more parcels or lots.
- 2.3.5 “**Animal Hospital or Clinic**” means a building or premises set up for treatment and/or the boarding of domestic animals including veterinary facilities.

- 2.3.6 “Basement”** means a story, partly underground with more than one-half of its height below grade.
- 2.3.7 “Board of Adjustment”** means the body authorized by the Board of County Commissioners to hear appeals on the enforcement of the provisions of this Zoning Ordinance and to grant variances.
- 2.3.8 “Building”** means any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property.
- 2.3.9 “Building Area”** means that portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and side yards.
- 2.3.10 “Building Height”** means vertical distance from the grade to the highest point of the roof.
- 2.3.11 “Building Line”** means a line establishing the minimum distance that structures may be placed from the lot lines or street right-of-way. For the purposes of this code the building line is the same as setback line.
- 2.3.12 “Building, Principal”** means a building, the principal use of which are single family and multi-family dwellings, and offices, shops, stores and other uses.
- 2.3.13 “Certificate of Zoning Compliance”** means a formal certification by Hettinger County indicating compliance with the county’s zoning district regulations.
- 2.3.14 “Clear Sight Triangle”** means an area of unobstructed vision from the point of a road intersection running along the centerlines of the intersecting roads and defined by lines of sight between points at a given distance from the intersecting road rights-of-way lines.
- 2.3.15 “Club or Lodge”** means a private club or lodge which is a nonprofit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.
- 2.3.16 “Comprehensive Plan”** means a guide or policies for management of the physical resources and development of the county.
- 2.3.17 “Conditional Use”** means use of a special nature not automatically permitted in a zoning district and which requires review and approval of the County Commission after a public hearing. 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 intent of these regulations. A conditional use is permitted in a district specifically permitting it, subject to the approval of the County Commission and only when the council finds that such use meets all of the requirements applicable to it as specified in the county codes including these regulations.

- 2.3.18 “Conforming Building or Structure”** means a building or structure, which complies with all requirements of this code and other regulations adopted by the county.
- 2.3.19 “County”, “County Commission”** means the governing body of Hettinger County.
- 2.3.20 “Development”** means 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, lagooning, dredging, filling, grading, paving, excavation and drilling operations.
- 2.3.21 “Development Plan”** means a document including maps and data for physical development of an area as provided by this code.
- 2.3.22 “District Zoning”** means a section or sections of Hettinger County for which regulations governing the use of building and premises, the building heights, size of yards, lot area, lot width; setbacks and the use are uniform.
- 2.3.23 “Dwelling”** means any building or portion thereof, used exclusively for human habitation including single family and multiple family units but not including hotels or motels, or vehicles designed for camping and other temporary occupancy such as vacation vehicles.
- 2.3.24 “Dwelling, Multiple Family”** means a single building or portion thereof, containing two (2) or more dwelling units.
- 2.3.25 “Dwelling, Single Family”** means a building containing one dwelling unit only.
- 2.3.26 “Easement”** means a right to the use of land for specific purpose, such right being held by someone other than the owner who holds the title to the land.
- 2.3.27 “Encroachment”** means any fill, building, structure or use including accessory uses projecting into the required yard areas or public and private property.
- 2.3.28 “Extra Territorial Area”** means areas surrounding the cities in Hettinger County within designated miles of the city corporate limits in all directions, where the city has zoning and platting control under the provisions of the North Dakota Century Code.
- 2.3.29 “Farming or Ranching”** means cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include producing timber or forest products, nor does the term include a contract where by a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

- 2.3.30 “Feed Lot”** is a parcel of land which contains an operation for feeding, raising, or sheltering animals of 1,000 or more animals.
- 2.3.31 “Frontage”** means the front part of a lot abutting a public right-of-way, or road or highway.
- 2.3.32 “Gravel Pit”** means any mining and extraction of earth materials for commercial or private sale.
- 2.3.33 “Grade”** means the land elevation at the horizontal intersection of the ground and the building.
- 2.3.34 “Home Occupation”** means any occupation which: (a) is carried on in a dwelling unit by members of the family; (b) is clearly secondary to the use of residential dwelling units and (c) does not create excessive noise, traffic or conflict with adjoining uses.
- 2.3.35 “Hotel or Motel”** means a building with lodging accommodations, either with or without meals, which are provided for compensation. This is to include “bed and breakfast” businesses.
- 2.3.36 “Improvements”** means street grading, surfacing, installations of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, landscaping and/or trees as may be required by the county.
- 2.3.37 “Industrial Waste”** means 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.
- 2.3.39 “Inert Waste”** means non-putrescent solid waste, which will not generally contaminate water or form a contaminated lechate; 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.
- 2.3.39 “Junk or Salvage Yard”** means an open area where waste or scrap material, including parts of used motor vehicles, appliances and farm implements are bought, sold, exchanged, stored, baled, parked, disassembled or handled.
- 2.3.40 “Kennel, Animal”** means any premises where dogs, cats and other household pets are boarded, bred and maintained for compensation.
- 2.3.41 “Landfill”** means especially 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.

- 2.3.42 “Lot”** means a piece, parcel, lot or area of land established by survey, plat or deed, that meets the yard requirements and fronts on a street.
- 2.3.43 “Lot, Corner”** means a lot abutting two (2) public streets at their intersection.
- 2.3.44 “Lot Coverage”** means the total surface area of a lot which is covered by any type of structure.
- 2.3.45 “Lot Depth”** means the average horizontal distance between the front lot line and the rear lot line.
- 2.3.46 “Lot Lines”** means the property lines bounding the lot.
- 2.3.47 “Lot of Record”** means a lot, which is a part of a subdivision or parcel of land which has been recorded in the office of Hettinger County Register of Deeds.
- 2.3.48 “Lot Width”** means the horizontal distance between the side lot lines of a lot measured at the front building setback line.
- 2.3.49 “Manufactured Home”** means 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 axles 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.
- 2.3.50 “Mobile Home, Modular Home”** or pre-manufactured homes, means a factory built structure, transportable in one or more sections and has at least 720 or more square feet and is designed as a year-round dwelling unit to be placed on a secure or permanent foundation or a basement. The mobile home must comply 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.
- 2.3.51 “Mobile Home Park”** means a parcel of land for which a detailed plan indication the location of lots, block, streets, facilities and utilities subject to the requirements of this code is approved by the County Commission.
- 2.3.52 “Municipal”** means City, County or Township.
- 2.3.53 “Municipal Waste”** means solid waste that includes garbage, refuse, and trash generated by households, motels, hotels, and recreation facilities, by public and private facilities, and by commercial wholesale and retail businesses, excluding special waste.

- 2.3.54 “Nonconforming Building”** means any building or structure, which does not conform with any or all of this code but existed at the time of adoption of the code.
- 2.3.55 “Nonconforming Use”** means any principal use of land or building which does not conform with any or all parts of this code but existed at the time of adoption of the code.
- 2.3.56 “Nonresidential Plat”** means a plat whose intended use is other than residential such as commercial or industrial.
- 2.3.57 “Nursing Home, Rest Home or Convalescent Home”** means a home for the aged or infirmed for which unrelated persons are accommodated for compensation.
- 2.3.58 “Parking Space”** means 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.
- 2.3.59 “Permitted Uses”** refers to allowed uses and means those uses, building or structures which comply with the provisions 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 code are met after a public hearing and approval by the County Commission.
- 2.3.60 “Person”** means any individual, firm, corporation, partnership or legal entity.
- 2.3.61 “Planned Development”** means a grouping of buildings and structure on a site of two (2) or more acres in single ownership which is not limited by the yard or building height limitations but is based on a detailed development plan and recorded in the Office of Hettinger County Register of Deeds upon approval by the County Commission.
- 2.3.62 “Planning Commission”** means an advisory group appointed by the County Commission under the authority of the North Dakota Century Code, as an advisory group only.
- 2.3.63 “Plat”** means the plan, map or chart of a subdivision and any accompanying material prepared in accordance with the requirements of this code.
- 2.3.64 “Public Roads”** means any dedicated and recorded streets, roads, or highways.
- 2.3.65 “Public Way”** means any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads or highways.

- 2.3.66 “Regional Flood”** means a flood determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in Hettinger County, North Dakota.
- 2.3.67 “Replat”** means a change in approved or recorded plat requiring changes in street layout, lot lines, or blocks.
- 2.3.68 “Right-of-Way”** means a strip of land designated or dedicated for public way, including streets, roads, sidewalks, railroads, electric transmission line, telephone and telecommunication lines, oil or gas pipelines, sanitary sewer, storm sewer, or water systems.
- 2.3.69 “Setback”** means the minimum horizontal distance between the structure or use line and the related front, side, or rear property line.
- 2.3.70 “Sign”** means any emblem, name, identification, description or illustration which is used for outdoor advertising having permanent location on the ground or attached to or painted on a building including bulletin boards, billboards and poster boards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.
- 2.3.71 “Site Plan”** means a detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this code.
- 2.3.72 “Solid Waste”** means 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, semi solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. The term does not include solid or dissolved materials in domestic sewage, or solid or dissolved material 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.
- 2.3.73 “Street or Road”** means a dedicated public way which affords traffic circulation and a principal means of access to abutting properties.
- 2.3.74 “Structural Alterations”** means any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.
- 2.3.75 “Structure”** means anything, built, constructed or erected, the use of which requires permanent location on the ground including advertising signs and billboards.

- 2.3.76 “Subdivision”** means the division of a lot, tract, or parcel of land, creating one or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale 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.
- 2.3.77 “Temporary”** means one year or less.
- 2.3.78 “Trailer park or Camp”** means a tract of land designed, used, maintained, or held out to accommodate three or more trailers, including all buildings, structures, tents, vehicles, accessories, appurtenances used or intended as equipment for such trailer park or camp, whether or not a charge is made for the use of the park or camp or its related facilities. A trailer park or trailer camp does not include motor vehicle or trailer sales lots on which unoccupied trailers are parked for inspection or sale.
- 2.3.79 “Variance”** means the relaxation of the terms of the zoning code in relationship to building height, size of the front, rear and side yards, where the literal enforcement of this code would create an undue hardship, but it is not contrary to the purposes of the Hettinger County Comprehensive Plan and this code. The variance shall not be contrary to the public interest.
- 2.3.80 “Yard”** means an open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.
- 2.3.81 “Yard, Front”** means a yard that extends across the full width of the lot, as the least distance between the front lot line and the front building line.
- 2.3.82 “Yard, Rear”** means 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.
- 2.3.83 “Yard, Side”** means a yard between the front and rear yards, as the least distance between the side of the principal building and the side lot line.
- 2.3.84 “Wind Energy Conversion Systems”** 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).
- 2.3.85 “Zoning Commission”** means the Zoning Commission of Hettinger County, North Dakota, as established by the North Dakota Century Code.
- 2.3.86 “Zoning District Map”** means the map showing zoning districts accompanying this ordinance officially adopted by the Hettinger County Commission.

3. GENERAL PROVISIONS

3.1 Comprehensive Plan

This code is administered and enforced to implement the Comprehensive Plan of Hettinger County. It is a document adopted by the County Commission as a policy guide to protect the county's resources and accommodate the type of development deemed appropriate including but not limited to the following:

- 3.1.1** To conserve and enhance the taxable value of land and buildings.
- 3.1.2** To encourage the most appropriate use of land in the county and its unincorporated area.
- 3.1.3** To guide the location and intensity of use of buildings and land.
- 3.1.4** To promote compatible land uses.
- 3.1.5** To facilitate traffic movement.

3.2 Non-conforming Uses

The lawful use of a building or premises existing at the date of adoption of this code may be continued. Where a non-conforming use is discontinued for a period of more than twelve (12) consecutive calendar months any subsequent use or occupancy of such premises shall conform to this code. Whenever a building is destroyed or damaged by fire or other casualty to the extent of more than fifty percent (50%) of its market value it shall not be restored unless said building shall conform to the provisions of the district in which it is located. Non-conforming uses shall not be expanded to occupy a larger area of land than existed at the date of adoption of this code unless there is an undue hardship and is approved by the County.

3.3 Land Suitability

No land shall be used for a purpose which is held unsuitable for the reason of flooding, soil limitations, inadequate drainage, incompatibility with adjoining uses or any condition likely to be harmful to the health, safety or welfare of the people in the area. The County Commission may require information and data to determine the land suitability. The county may consult with city and state agencies to assist in its determination.

3.4 Conditional Uses

Where a use is classified as a conditional use under this code and exists at the date of adoption of this code, it shall be considered an allowed use. Where a use is not allowed as a conditional use or allowed use, under this code, and exists at the date of adoption of this code, it shall be considered non-conforming and shall be subject to the nonconforming buildings and use provision, Section 3.2.

3.5 Dedication of Land for Streets

Whenever a parcel of land to be subdivided contains a street or public way, such a street or alley shall be dedicated to the public at the location and details shown on the final plat. All non-section lines roadways shall be the responsibility of the subdivision.

3.6 Residential Development

No lot 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 road. Accessory buildings shall be smaller than the principal building and shall be limited to fifteen (15) feet in height and be located at least five (5) feet from all lot lines.

3.7 On-Site Sewer System

To protect the public health, to control water pollution and to reduce nuisance and odor, all new development within the county shall be connected to an approved on-site sewage system. Construction and use of privies, outhouses, and cesspools is prohibited within the county.

4. ZONING DISTRICT BOUNDARIES AND MAP

4.1 Zoning Districts

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

- A - Agricultural District
- R - Residential District
- CR - Commercial and Retail District
- I - Industrial District
- PR - Public and Recreation District
- FP - Flood Plain District

4.2 Zoning District Map

4.2.1 Zoning District Map

The location and boundaries of the zoning districts are hereby established as shown on the "Zoning District Map" on file in the office of the County Auditor. The zoning district maps, together with all information shown thereon and all amendments thereto, shall be an integral part of this code.

4.2.2 Public Streets as Boundary

Where zoning district boundary lines are indicated as following roads or streets and public ways or extensions thereof, such boundary lines shall be construed to be the center line of said roads or streets or public ways or extension thereof unless clearly shown on the contrary.

4.2.3 Lot Line as Boundary

Where a zoning district boundary line coincides approximately but not exactly with the lot line, the zoning 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.

4.2.4 District Description for Unsubdivided Land

For unsubdivided property, zoning district boundaries are determined by metes and bounds description or by a legal description, as deemed necessary.

4.2.5 Vacated Areas

Where a street, road or public way is vacated by the official action of the County Commission, the zoning district boundaries shall be extended to the center of the vacated street, road or public way.

4.2.6 Zoning District Boundary Interpretation

Where any uncertainty exists as to the exact location of the zoning district boundary lines, the County Commission shall determine the location of such boundary lines.

4.2.7 Certification

The official zoning map shall bear a certificate with the signature of the Chairman of the County Commission and certification of the County Auditor and date of adoption of the zoning map as an integral part of this code.

5. ZONING DISTRICT REGULATIONS

5.1 Agricultural District

5.1.1 Purpose

The purpose of this district is to provide for preservation and protection of agricultural uses while in existence in the county and its unincorporated territorial planning area. All undeveloped or farmlands are in agricultural district unless noted otherwise on the official Zoning map.

5.1.2 Permitted Uses

- (1) Accessory buildings and structures
- (2) Churches and cemeteries
- (3) Golf courses, parks and play fields
- (4) Hunting, bird-watching and eco-tourism
- (5) Local governmental facilities
- (6) Public and private schools
- (7) Trees and tree plantings, subject to Provision 6.10
- (8) Usual building, structures and operations incidental to activities of farming and ranching, but excluding commercial feedlots, fish farms, and fur farming

5.1.3 Conditional Uses

- (1) Boarding and rooming houses
- (2) Bulk storage of farm-related chemicals, fuels and fertilizer
- (3) Feedlots, poultry, fish and fur farming subject to provisions of Section 6.4
- (4) High voltage transmission lines and accessory structures
- (5) Home-based businesses and services
- (6) Home occupations, subject to Provision 6.11
- (7) Hotels and motels
- (8) Industrial, municipal and commercial pipelines
- (9) Manufacturing and processing of agricultural products produced in the area but not including rendering plants and fertilizer plants
- (10) Mining of sand and gravel, subject to the provisions of Section 6.5
- (11) Mobile home or modular home on a permanent foundation
- (12) Radio, TV stations and towers
- (13) Restaurants including all types of eating and drinking establishments
- (14) Sale and services of agricultural equipment and machinery
- (15) Salvage and junk yards, subject to provisions of Section 6.3
- (16) Sanitary landfills, subject to the provisions of Section 6.6
- (17) Sewage lagoons and waste water treatment facilities
- (18) Single family non-farm residential units
- (19) Skeet, trap and rifle ranges
- (20) State and Federal public buildings and facilities

- (21) Veterinary clinics, animal hospitals and domestic animal kennels not nearer than one-quarter (1/4) mile from any residence except the residence of the owner or operator

5.1.4 Lot Area and Lot Width

- (1) For agricultural uses, the area shall not be less than forty (40) acres.
- (2) For non-farm residential uses, the lot area shall not be less than five (5) acres.
- (3) For non-residential uses, the lot area shall not be less than five (5) acres.
- (4) The lot width for any use in agricultural district shall not be less than two hundred (200) feet.

5.1.5 Yard Requirements

- (1) The minimum front yard, measured from the centerline of any public road or street, shall not be less than two hundred (200) feet set back.
- (2) The minimum rear yard, measured from the rear lot line shall not be less than fifty (50) feet.
- (3) The minimum side yard, measured from the side lot line shall not be less than fifty (50) feet.

5.1.6 Building Height

- (1) The building height, for all other uses, excepting the radio and TV and transmission towers, church steeples, agricultural buildings and water tanks, shall not exceed forty (40) feet.
- (2) The building height for residential buildings shall not exceed forty (40) feet.

5.1.7 Parking Requirements

For non-farm uses the parking requirements shall be subject to the provisions of Section 6.1.

5.1.8 Sign Requirements

Sign requirements shall be subject to the provisions of Section 6.2.

5.2 Residential District

5.2.1 Purpose

The residential district is primarily established to promote a suitable residential environment and to accommodate low density detached single-family residential units uninterrupted by conflicting uses and incompatible activities in unincorporated communities.

5.2.2 Permitted Uses

- (1) Accessory buildings and structures.
- (2) Churches, schools and public facilities including libraries, parks, schools, golf courses, and post offices.
- (3) Day care facilities.
- (4) Home occupations, subject to provisions in 6.11.
- (5) Residential land not used as residential land may be cropped or hayed.
- (6) Single-family detached dwelling units including doublewide and manufactured units placed on a permanent foundation or basement, but not including mobile homes. Animal units are subject to provisions in 6.4.
- (7) Tree plantings, subject to provisions in 6.10.

5.2.3 Conditional Uses

- (1) Mobile home parks, where public sewer is available, with the following requirements.
 - a) A site plan showing location of streets, utilities, off-street parking, driveways, walkways, blocks, lots, playground and park area.
 - b) All units shall be served by underground utilities unless waived by the County Commission.
 - c) Each mobile home shall be placed on a lot at least fifty (50) feet wide with a minimum area of five thousand (5,000) square feet.
 - d) Each unit shall be placed on a stand and anchored to provide a firm foundation.
 - e) Each unit shall have a minimum setback of ten (10) feet within the private park and thirty (30) feet from the public streets.
 - f) Each unit shall have a minimum side yard of ten (10) feet and a rear yard of twenty (20) feet.
 - g) The design and construction of the private streets within the park shall conform to the design standards of the county.
 - h) The mobile home park shall contain a minimum of three (3) acres of land.
 - i) There shall be two (2) off-street parking spaces per mobile home.
- (2) Multi-family dwelling units including two or more units per building.
- (3) Pre-manufactured and mobile homes provided that they are placed on a permanent foundation, permanent or properly anchored basement made of concrete. Loose blocks shall not constitute a permanent foundation. Wheels and hitches must be removed. All mobile homes must be permitted through the county.
- (4) Public facilities including public water and sewerage treatment lagoons.

5.2.4 Lot Area, Lot Width and Coverage

- (1) For multi-family uses, the minimum lot area shall be one acre per unit provided that public sewer is available, two acres per unit if no sewer.

- (2) The minimum lot area for single-family units shall be seven thousand five hundred (7,500) square feet, provided sewer is in place, one acre if no sewer.
- (3) The minimum lot width shall be no less than seventy-five (75) feet if public sewer is available, one hundred fifty (150) feet if no sewer.

5.2.5 Yard Requirements

- (1) The minimum front yard, measured from the centerline of public roads, shall be no less than two hundred (200) feet, depending on setback. For private roads setbacks are one hundred (100) feet.
- (2) The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.
- (3) The minimum side yard, measured from the side lot line, shall not be less than twenty-five (25) feet on each side of a lot.

5.2.6 Building Height

No building shall be more than forty (40) feet high, excepting church steeples.

5.2.7 Parking Requirements

- (1) The parking needs for the conditionally permitted uses and non-residential uses shall be subject to the requirements of Section 6.1.
- (2) There shall be a minimum of two (2) off-street parking spaces for each residential dwelling unit.

5.2.8 Sign Requirements

- (1) For non-residential uses, the provisions of Section 6.2 shall apply.
- (2) Temporary signs including "for Sale", "For Rent", political campaign signs, greeting signs and realty signs are permitted.
- (3) There shall be no more than one identification sign per residential dwelling structure not exceeding twelve (12) square feet in area. The sign may be wall, pedestal, ground, or projecting type but it shall not project into the public right-of-way or public property.

5.3 Commercial and Retail District

5.3.1 Purpose

The commercial district is primarily established to accommodate the concentration of commercial and retail uses. Commercial uses must be compatible with adjoining uses and shall not negatively affect the adjoining properties.

5.3.2 Permitted Uses

- (1) Accessory uses.

- (2) Advertising signs and billboards.
- (3) Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.
- (4) Automobile accessory stores and automobile dealerships.
- (5) Banks and financial institutions.
- (6) Boarding and rooming houses.
- (7) Commercial land not used as commercial may be cropped or hayed.
- (8) Fraternal and philanthropic organizations.
- (9) Hotels and motels.
- (10) Multiple family dwelling units and single-family units.
- (11) Professional offices for businesses and services.
- (12) Public buildings and facilities.
- (13) Restaurants including all types of eating and drinking establishments.
- (14) Retail stores of all types including but not limited to food, drug, clothing, parts, materials and the like.

5.3.3 Conditional Uses

- (1) Commercial grain bins or related activity.
- (2) Contractor's yards and operation.
- (3) Processing and packaging of materials.
- (4) Single-family dwelling units, sleeping rooms.
- (5) Storage and sale of chemicals, explosives, bulk fertilizer plants, and the like.
- (6) Warehouses and wholesaling distributorships.

5.3.4 Lot Area and Lot Width

- (1) The minimum lot area for commercial use shall be two (2) acres.
- (2) The minimum lot area for residential uses shall be the same as Residential District.
- (3) The minimum lot width for commercial district shall be one hundred fifty (150) feet.

5.3.5 Yard Requirements

- (1) The minimum front building line, measured from the front lot line, shall be one hundred (100) feet. There shall be a two hundred (200) feet setback from centerline of public road.
- (2) The minimum rear building line, measured from the rear lot line, shall be thirty (30) feet.
- (3) The minimum setback from residential uses shall be one thousand (1,000) feet for all commercial grain bins or related activity.
- (4) The minimum side building line, measured from the interior side of the lot shall be twenty-five (25) feet.

5.3.6 Building Height

The building height requirements in commercial district shall not be more than forty (40) feet excepting farm related buildings and communication towers.

5.3.7 Parking Requirements

- (1) Parking shall be subject to the provisions of Section 6.1.
- (2) The front yard and the rear yard spaces may be used for parking.

5.3.8 Sign Requirements

Signs in commercial district shall be subject to the provisions of Section 6.2 shall apply.

5.4 Industrial District

5.4.1 Purpose

The industrial district is primarily established to accommodate industrial uses and facilities appropriate to the county. It is planned to encourage grouping of related industrial uses for preventing intrusion on other uses, specifically residential areas and to maintain an orderly, functional and efficient industrial land use system.

5.4.2 Permitted Uses

- (1) Accessory uses.
- (2) Agricultural chemical production and storage.
- (3) Any industrial or manufacturing operation provided that: (a) dust, fumes, odors, smoke, vapor, noise, lights and vibration shall be confined within the industrial district, and: (b) outdoor storage, equipment and refuse areas shall be concealed from view abutting rights-of-way.
- (4) Any production, processing and treatment of products such as battery and tire service, concrete and asphalt products, dairy processing, bottling works, ice and cold storage plants, machine and sheet metal shops provided that all operations be conducted entirely in enclosed buildings.
- (5) Building material and supply establishments.
- (6) Contractor's yards and construction shops.
- (7) Electric power production, substations, and wind generators.
- (8) Fuel sales establishment including bottle gas.
- (9) Industrial land not used for industrial purposes may be cropped or hayed.
- (10) Public utility buildings including water and wastewater facilities and accessories.
- (11) Radar stations and towers.
- (12) Radio and TV stations and studios.
- (13) Wind generators for commercial and industrial use.

5.4.3 Conditional Uses

- (1) Adult Entertainment Centers.
- (2) Commercial grain bins.
- (3) Conditional uses shall not be located nearer than one thousand two hundred fifty (1,250) feet from any residential area.
- (4) Local and regional sanitary landfills, compost sites and incinerators.
- (5) Salvage or junkyards.
- (6) Storage and sale of chemicals, explosives and the like.

5.4.4 Lot Area and Lot Width

- (1) The minimum lot area for industrial district shall be two (2) acres.
- (2) The minimum lot width area for industrial district shall be one thousand two hundred fifty (1,250) feet.

5.4.5 Yard Requirements

- (1) No building or structure shall be located within one thousand two hundred fifty (1,250) feet from the boundary of residential area.
- (2) The minimum front building line, measured from the front lot line, shall be one hundred (100) feet. There shall be at least a two hundred (200) feet setback from centerline of public road.
- (3) The minimum rear building line, measured from the rear lot line, shall be fifty (50) feet.
- (4) The minimum setback from residential uses shall be one thousand two hundred fifty (1,250) feet for all commercial grain bins or related activity.
- (5) The minimum side building line, measured from the side lot line, shall be twenty-five (25) feet.

5.4.6 Building Height

The building height requirement in industrial district shall not be more than sixty (60) feet, except elevated water supply tanks, TV and transmission towers.

5.4.7 Parking Requirements

Parking in the industrial district shall be subject to the provisions of Section 6.1.

5.4.8 Sign Requirements

Signs in the industrial district shall be subject to the provisions of Section 6.2.

5.5 Public and Recreational District

5.5.1 Purpose

To establish and preserve areas for developed recreational activity and residency around rivers, lakes, and other water courses where development is controlled in order to maintain the quality of the environment.

5.5.2 Permitted Uses

- (1) Boathouses, storage buildings, or garages up to 30 x 32 feet
- (2) Cabins
- (3) Churches
- (4) Conservation areas
- (5) Mobile homes
- (6) Outdoor recreation facilities
- (7) Public picnic areas and playgrounds
- (8) Seasonal homes
- (9) Trees and tree plantings, subject to Section 6.10
- (10) Utility lines and pipelines as required to provide service
- (11) Year-round residences

5.5.3 Conditional Uses

- (1) Commercial campgrounds and recreational vehicle parks
- (2) Places of amusement
- (3) Refreshment stands
- (4) Restaurants, including all types of eating and drinking establishments

5.5.4 Dimensional Standards

- (1) Building heights (Maximum):
 - a) Boathouses: 16 feet at high water mark
 - b) Fences: 8 feet
 - c) Garages: 35 feet
 - d) Residential: 35 feet
 - e) Storage buildings: 16 feet
- (2) Lots (Minimum):
 - a) Depth: 75 feet
 - b) Size: 6,000 square feet with public sewer, one acre with no public sewer
 - c) Width: 75 feet
- (3) Setbacks from normal high water (Minimum):
 - a) Boathouses: none
 - b) Fences: 50 feet
 - c) Residential garages, accessory buildings: 25 feet
- (4) Square footage requirements (Maximum)
 - a) Boathouses or storage buildings: 400 square feet

- (5) Yards (Minimum):
 - a) From private roads: 25 feet
 - b) Side: 15 feet

5.6 Flood Plain District

5.6.1 Applicability

The flood plain district consists of the lands which have been or may be covered by flood water as delineated on the maps for Hettinger 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 delineated areas as flood plain shall be an overlay for all zoning districts.

5.6.2 Purpose

The flood plain district is primarily established to designate those areas which need to accommodate the run-off water and to protect life, public and private property from the adverse effects of flooding by preventing development on the lands prone to flooding.

5.6.3 Permitted Uses

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

5.6.4 Conditional Uses

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

5.6.5 Building Height

No building shall be more than forty (40) feet high excepting farm buildings and structures and communication relay towers.

5.6.6 Sign Requirements

For signs in Flood Plain District the provisions of Section 6.2 shall apply.

5.6.7 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 D.C., a copy of which is hereby incorporated by reference and declared to be part of this Ordinance. Where definition of terms as set forth in Section 301 of FPR conflict in meaning with the definition of terms as set forth in this Ordinance, 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) Flood proofing measures shall be designed in a manner consistent with the flood protection elevation of the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces and other factors associated with the regulatory flood. The applicant shall submit a plan certified by a registered engineer stating that the flood proofing measures are consistent with the regulatory flood protection and associated factors. The following flood proofing measures may be required without limitation:
 - a) Anchorage to resist flotation and lateral movement.
 - b) Installation of watertight doors, bulkheads or similar methods of construction.
 - c) Reinforcement of walls to resist water pressure.
 - d) State approved ring dike.
 - e) The addition of mass or weight to structures to reduce flotation.
 - f) The construction of water supply and waste treatment systems which will prevent the entrance of floodwaters.
 - g) The installation of pumping facilities or comparable practices for subsurface drainage systems for buildings to relieve external foundation, wall, and basement floor pressures.
 - h) The installation of pumps to lower water levels in structures.
 - i) 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.
 - j) 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.
 - k) The use of paints, membranes, or mortar to reduce the seepage of water through walls.

6. SPECIAL PROVISIONS

6.1 Off-Street Parking

6.1.1 Purpose

The purpose of this section is to provide for the off-street parking regulations to increase the safety and capacity of public roads by requiring off-street parking or loading facilities.

6.1.2 General Requirements

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

6.1.3 Special Requirements

- (1) No building shall be erected or enlarged without meeting the following parking requirements:
 - a) Business, professional or public office building, studio, bank, medical or dental clinic: three (3) parking spaces plus one additional space for each four hundred (400) square feet of floor area over one thousand (1,000) square feet.
 - b) For industrial uses there shall be one off-street parking space for every one and one-half (1½) employees.
 - c) Private club or lodge: two parking spaces for each two hundred (200) square feet of service area.
 - d) Restaurant, eating and drinking establishment: one parking space for each one hundred (100) square feet of floor area.

6.2 Signs

6.2.1 Purpose

The purposes of regulating signs in the county is to provide for a visually pleasant environment and minimize potentially unsafe conditions for all age groups, but yet offer many opportunities for public and private information and advertising.

6.2.2 General Requirements

- (1) Advertising signs shall not be larger than ninety-six (96) square feet.
- (2) Directory signs for conditional uses shall not be larger than forty (40) square feet.
- (3) Directory signs shall not be larger than twenty (20) square feet in area for allowed uses.

6.2.3 Special Requirements

- (1) Signs in the commercial and industrial districts shall be limited to: (a) One general identification sign per business not exceeding fifty (50) square feet in area which may be wall, pedestal, ground or projecting type; (b) Temporary signs including "For Sale", "For Rent", political campaign signs, greeting signs and rally signs not exceeding fifty (50) square feet in area; (c) Directory and advertising signs in agricultural, commercial and industrial districts shall not be larger than ninety six (96) square feet and not placed nearer than six hundred (600) feet apart.
- (2) Signs in the residential district shall be limited to: (a) One sign per dwelling structure not exceeding twelve (12) square feet in area which may be wall, pedestal, ground or projecting type; (b) One temporary sign such as "For Sale", or "For Rent", not exceeding twenty (20) square feet in area.

6.3 Junk or Salvage Yards

6.3.1 Purpose

The purpose of these requirements is to preserve and protect the visual and other environmental amenities of the rural areas while allowing the salvage or junkyards as business places.

6.3.2 Site Approval Requirements

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

6.3.3 Locational Standards

- (1) All salvage yards and operations shall be screened from the public view. Such screening shall be by natural vegetation, and fences with 10-foot minimum, building, and/or land form.
- (2) No salvage or junkyard shall be located in areas, which due to high water table, flooding and soil conditions may affect the quality of surface and ground water and are subject to Section 5.6.
- (3) No salvage or junkyard shall be located nearer than two hundred (200) feet off all road and highway rights-of-way.

- (4) No salvage or junkyard shall be located within one thousand (1,000) feet of a residential district and two hundred (200) feet of commercial buildings and structures.
- (5) Storage items shall not be higher than fences.

6.4 Feed Lots

6.4.1 Purpose

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

6.4.2 General Requirement

- (1) All feedlots as defined by this code are only permitted as conditional uses subject to the provisions of this code and the requirements of the North Dakota State Health Department.
- (2) All 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) Feedlots shall not be placed in the floodplains.
- (5) No feedlot shall be located nearer than one-half mile from a residence other than owner/operator's residence, residential development in an unincorporated area or city limits in the county, park, cemetery, church, or school.
- (6) The applicant, as a part of site approval application, shall submit a plan for removal and disposal of the liquid and solid waste generated by the feedlot.
- (7) An "animal unit equivalent" is a unitless number developed from the nutrient and volume characteristics of *manure* for a specific *livestock* type. The term "animal units" is used to normalize the number of animal (e.g., head) for each specific *livestock* type, which produces comparable bulk quantities of *manure*. The animal unit equivalents for types of *livestock* and the numbers of *livestock* for facility size thresholds of 300 animal units (a.u.), and so forth, are listed in the following table.

**Equivalent Numbers of the Livestock (hd)
For Four Sizes of Animal Units (a.u.) of Animal Feeding Operations**

Livestock Type	Animal Unit Equivalent	300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse	1.0	300 hd	1,000 hd	2,000 hd	5,000 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	0.75	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	0.2	1,500	5,000	10,000	25,000
1 chicken	0.1	3,000	10,000	20,000	50,000

SETBACK DISTANCES FOR ANIMAL FEEDING OPERATIONS

NUMBER OF ANIMAL UNITS	HOG OPERATIONS	OTHER OPERATIONS
100-299	1 mi.	0.50 mi.
300 - 999	2 mi.	1 mi.
1000 or more	2 mi.	2 mi.

6.4.3 Animals Prohibited

Dangerous and/or exotic animals such as but not limited to lions, tigers, cheetahs, bears, venomous reptiles, alligators, etc. are prohibited except for traveling fairs, circuses, and brief veterinary care unless a special use permit is obtained.

6.5 Mining of Sand, Gravel, Clay and General Ground Excavation

6.5.1 Purpose

The purpose of these provisions is to provide for mining and extraction of materials for commercial uses, and to protect and preserve agricultural land by guiding such operations, and to minimize the traffic, noise, dust, fume and vibration impact on the adjoining uses and the county.

6.5.2 Site Approval Requirements

All commercial excavation sites require approval by the County Commission.

6.5.3 Data Submission Requirements

- (1) A site plan for operation and reclamation of the mined land including maps showing location of the land to be mined, location of roads and point of access to the site, adjacent residences within one mile of site, maps showing the existing and proposed contours after the land is mined and a time table for operation of the site. There will be a minimum 1 to 3 slope. All topsoil shall be replaced and planted to natural protected vegetation.
- (2) Bonding required as follows:

0 - 39 acres	\$50,000
40 + acres	\$100,000
- (3) Proof of compatibility with the existing landform including the vegetation, surface and ground water resources.
- (4) Reclamation of the site shall be completed within one year of the resource being exhausted, abandoned or closure of the operation of the site.

6.5.4 Proximity to Existing Uses

The operation of sand and gravel sites shall not be nearer than five hundred (500) feet from any residential uses.

6.5.5 Permit Requirements

Any person who operates a sand and gravel operation shall obtain a permit from the zoning administrator before starting any mining or excavation of the sand and gravel sites, and after review by the Planning and Zoning Commission and approval by the County Commission.

6.6 Sanitary Landfills and Solid Waste Sites

6.6.1 Compliance with State Laws and Rules

Any person who operates sanitary landfills or solid waste sites shall comply with all North Dakota state laws and administrative rules set forth by the state agencies.

6.6.2 County Code and Procedures

The county hereby adopts solid waste provisions, subject to the provisions of NDCC 11-33-20 and NDCC 23-29, to assure meeting the purposes of this code.

6.6.3 Purpose

The purpose of these provisions is to protect public health, ground and surface water, conflict with present land uses and preservation and protection of natural resources in the county.

6.6.4 Site Approval Requirements

All solid waste sites require a review and approval by the County Commission.

6.6.5 Collection of Solid Waste

- (1) All recyclable materials shall be transported to an approved recycling facility, if available.
- (2) All vehicles or containers that are used to haul solid waste must be clean and free of residues of the waste material in order to minimize problems of odor, insects and rodents.
- (3) Every hauler shall provide for the collection of solid waste and recyclable materials appropriate vehicles, receptacles, containers meeting the requirements of Hettinger County, and the requirements of the State of North Dakota. Such vehicles shall have leak-resistant bodies of easily cleanable construction, completely covered with metal, heavy canvas or other suitable covering.
- (4) Non-farm commercial and industrial businesses must have a solid waste disposal plan.
- (5) No person may collect or transport waste materials for a fee without obtaining a permit from Hettinger County.
- (6) No person shall collect or transport solid waste that is smoking, smoldering, or burning, except in a container designed to handle such material.
- (7) No solid waste collection or transportation vehicle that is not free of waste residue may be parked outdoors within 100 feet of a commercial or residential structure not owned by the owner or operator of the vehicle.
- (8) Regulated infectious waste may not be subject to compaction during loading, unloading and transit and must be handled carefully.

6.6.6 Littering and Open Burning

- (1) No person may engage in open burning of solid waste, unless the burning is conducted in accordance with the rules of the State of North Dakota and Hettinger County.
- (2) No person shall discard and abandon any litter, furniture, or major appliance upon public or private lands.

6.6.7 Waste Storage

- (1) All waste material shall be stored in a manner that complies with state and federal regulations and shall meet the requirements of Hettinger County.
- (2) Solid waste materials shall not be stored on public or private property for

- more than two weeks without approval of Hettinger County.
- (3) Storage of solid waste 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 or rodents.

6.6.8 Asbestos Waste

- (1) Asbestos waste shall be disposed of in accordance with the applicable rules and regulations of the State Health Department or the hazardous waste requirements of this ordinance.

6.6.9 Hazardous Waste

- (1) Containers having hazardous waste in excess of normal household quantities, shall be dated and marked to designate the content as toxic, explosive, or otherwise hazardous.
- (2) No person engaged in the operation of solid waste landfills, resource recovery or solid waste processing facilities may knowingly store, treat, handle, or dispose of hazardous waste in amounts in excess of quantities normally found in household waste unless approved by the State Health Department.
- (3) No person shall place hazardous waste in municipal solid waste or dispose of hazardous waste without approval of Hettinger County.

6.6.10 Incineration and Energy Recovery

- (1) All incinerators shall meet the requirements of the State Health Department and standards set forth by Hettinger County.
- (2) Applicant shall meet the requirements of these regulations and all applicable rules of the state.
- (3) During operation, the operator shall comply with the following requirements:
 - a) Any discharges to the air, or to surface or ground water shall meet all applicable state and federal regulations.
 - b) Maintain permanent records for inspection on the quantity and type of material incinerated, the quantity of ash residue and schedule of plant operation.
- (4) No person shall install, operate, or incinerate without obtaining a permit from Hettinger County.

6.6.11 Major Appliances (White Goods)

- (1) Disposal of major appliances will be in accordance with State Health Regulations.

6.6.12 Pesticide Waste

- (1) Any person who handles surplus agricultural pesticides and pesticide containers shall comply with applicable rules and regulations of the State Health Department.
- (2) Surplus pesticides may not be discarded in any manner, including land filling, which endangers humans, animals, and the environment.

6.6.13 Problem Materials

- (1) Any person selling lead-acid batteries at retail or wholesale is required to accept lead-acid batteries from customers as trade-ins for new lead-acid batteries.
- (2) Disposal of lead, batteries or used oil will be in accordance with State law.
- (3) No person shall dispose of regulated infectious waste in a solid waste landfill.

6.6.14 Waste Tires

- (1) No person shall dispose of waste tires in the municipal solid waste landfills.
- (2) Waste tire collectors and processors, excluding the following persons, shall obtain a permit from Hettinger County:
 - a) Retail tire sellers
 - b) Tire retreading operations
- (3) Waste tire collectors and processors shall meet all requirements of these regulations and the State Health Department.
- (4) Waste tires shall be stored in a manner that will not create a nuisance, blight, health hazard or fire hazard.
- (5) Waste tires shall not be stored or disposed of in any stream, wetland, gully, flood plain or shoreland.

6.6.15 Industrial Waste

- (1) Any person who handles industrial waste shall comply with applicable rules and regulations of the State Health Department.
- (2) Industrial waste may not be discarded in any manner including landfilling that endangers humans, animals and the environment.
- (3) No person shall place industrial waste in a solid waste landfill or dispose of industrial waste without approval of Hettinger County.

6.6.16 General Standards

- (1) A minimum horizontal separation of fifty (50) feet must be maintained between new or lateral expansion of solid waste management units and any above ground or underground pipeline or transmission.
- (2) No person shall dispose of waste of any type in the following areas:
 - a) Aquifers
 - b) Channels, ravines, or other waterways.

- c) Critical habitats for endangered or threatened species of plant, fish, or wildlife.
 - d) In an area that could adversely impact an aquifer, aquifer recharge area horizontally from the ordinary high water elevation of any surface water or wetland, any local, state or national park.
 - e) Public water supply designated wellhead protection area.
 - f) Where geological or man-made features may result in failure of the structural integrity of the facility.
 - g) Within one hundred year flood plain.
- (3) No solid waste facility or lateral expansion shall be located within ten thousand feet of any commercial airport runway or five thousand feet of any general aviation airport runway.
 - (4) No solid waste facility shall be located in areas that result in impacts on human health or environmental resources or in areas unsuitable because of reasons of topography, geology, hydrology, or soils.
 - (5) Sites for a new solid waste facility, or for lateral expansion of, or for municipal waste landfills, or for industrial waste landfills shall have favorable physical conditions. Sites shall have low permeability to prevent movement of contaminant

6.6.17 Design Standards

- (1) Hazardous Waste Facilities
The design, construction and operation of hazardous waste facilities requires extensive analysis of the physical characteristics of the site and its relationship to other uses with long term potential impact in the future. Each facility shall be reviewed on a case-by-case basis for Hettinger County zoning approval.
- (2) Industrial Waste Landfills
Any new or lateral expansion of an industrial waste landfill shall be designed with an appropriate hydraulic barrier and leachate management system capable of collecting and removing leachate and contaminate surface water within the disposal unit.
 - a) A composite liner is required for landfills receiving wastes that may contain leachate organic constituents. The liner shall consist of at least four feet of compacted clay overlain with at least a sixty-mil flexible membrane liner.
 - b) For landfills that receive waste containing soluble constituents, the liner shall consist of at least four feet of compacted clay soil.
 - c) The liner and leachate removal system in combination with the final cover shall achieve a site efficiency of at least ninety-eight and one-half percent or better for collection or rejection of the precipitation that falls on the site.
 - d) The system shall have a collection efficiency of ninety-five percent or better and must be capable of maintaining a hydraulic head of twelve inches or less above the liner.

- (3) Inert Waste Landfills
 - a) Access to the facility shall be controlled and the site shall be fenced.
 - b) Disposal of agricultural waste, asbestos waste, hazardous waste, municipal waste, commercial waste, industrial waste, regulated infectious waste, liquid waste, radioactive waste and municipal incinerator ash is prohibited. Lime sludge from water treatment plants may be deposited in an inert waste landfill.

- (4) Municipal Waste Landfills
 - a) Any new or lateral expansion of a municipal solid waste landfill shall be underlain with a hydraulic barrier and leachate removal system capable of collecting and removing leachate and contaminated surface water within the landfill.
The liner shall consist of:
 - i A composite liner consisting of two components; the upper component must consist of a minimum sixty mil flexible membrane liner, and the lower component must consist of at least a two-foot layer of compacted clay soil; and,
 - ii A natural soil liner constructed of at least four feet of compacted clay soil.
 - b) Methane and other gases from waste decomposition may not be allowed to migrate laterally from the landfill so as to endanger structures, environmental resources, or adjacent properties.
 - c) The liner and leachate removal system in combination with the final cover shall achieve a site efficiency of ninety-five percent or better for rejection or collection of the precipitation that falls on the site.

- (5) Recycling Facilities

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

 - a) Appropriate number of off-street parking for equipment and employees vehicles to be provided.
 - b) The exterior storage of material shall be in covered, secured and sturdy containers or enclosures maintained in good condition. The facility does not abut residential and public uses.
 - c) The facility shall not be placed in the flood plain.
 - d) The facility should meet all other requirements of the zoning district and other local regulations. If the facility is permitted as a conditional use, the term of the conditions must be met literally.
 - e) The facility should meet setbacks and appropriate landscaping requirements of zoning ordinance
 - f) The facility will be screened from the public right-of-way.

- g) 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.
- h) There shall be a pest control plan for review and approval by the governing body.

6.6.18 Construction and Operation Standards

- (1) General Standards
 - a) Every solid waste landfill or facility shall maintain equipment adequate for excavation, compaction, covering, surface water management and monitoring procedures.
 - b) In disposal facilities the owner or operator shall identify, quantify, remove, stockpile and maintain earthen materials, suitable for plant growth for later use in closure.
 - c) Roads shall be constructed and maintained to provide access to the facility. Access roads shall be cleaned and decontaminated as necessary.
 - d) The disposal of liquids, sludge's, and wastes containing free liquids in excess of household quantities is prohibited unless expressly authorized.
 - e) The final cover of all disposal facilities shall be designed and constructed in a manner that ensures the quality and integrity of the hydraulic barrier and the protective vegetative cover.
 - f) The working face or open area of a landfill shall be limited in size to as small an area as practicable. Sequential partial closure must be implemented as necessary to keep the disposal area as small as practicable and to close the filled areas in a timely manner.
 - g) There shall be an adequate supply of suitable soil cover material, which may be stockpiled and protected from wind and water erosion.
 - h) Vector control measures, in addition to the application of cover material, shall be used whenever necessary to prevent transmission of disease and hazards created by rats, flies, snakes, insects, birds, cats, dogs and other non-domestic animals.
- (2) Industrial Waste Landfills
 - a) A uniform compacted layer of six inches or more of suitable earthen cover material shall be placed on all solid waste by the end of each working day. All cover shall be free of trash, garbage, or other similar waste.
 - b) All wastes deposited at the site shall be spread and compacted as densely as practical to minimize waste volume and promote drainage of surface water.
 - c) On all areas of the industrial waste landfill where final cover or additional solid waste will not be placed within one month, twelve inches or more of compacted clay-rich soil material or synthetic cover shall be placed to minimize the infiltration of surface water and to control windblown dust.

- d) Solid waste shall be unloaded at the bottom of the working face of the fill. The waste shall then be spread in layers and compacted as densely as practicable. Each layer may not exceed a thickness of two-feet of material after compaction is completed.
 - e) Waste disposal in industrial waste landfills shall be limited to those wastes identified in the permit application or permit. Regulated infectious waste, waste oil, hazardous waste, and radioactive waste shall not be accepted for disposal at the landfill.
- (3) Municipal Waste Landfills
- a) A uniform compacted layer of six inches or more of suitable earthen cover material shall be placed on all solid waste by the end of each working day. All cover shall be free of trash, garbage, or other similar waste.
 - b) Facilities receiving municipal waste shall have an attendant at or near the entrance to the facility to monitor, accept or reject, measure, weigh and record waste arriving at the facility.
 - c) On all areas where final cover or additional solid waste will not be placed within one month, an additional six inches or more of compacted, clay-rich earthen cover material shall be placed.
 - d) Solid waste shall be unloaded at the bottom of the working face of the fill. The waste shall then be spread in layers and compacted as densely as practicable. Each layer may not exceed a thickness of two-feet of material after compaction is completed.

6.6.19 Closure Standards

- (1) The requirements of this subsection apply to all solid waste management facilities, unless otherwise specified.
 - a) At closure, an owner or operator shall cover an existing unit with a layer of compacted soil material having a thickness of eighteen inches or more. The compacted layer must be free from cracks and extrusions of solid waste. A second layer of twelve inches or more of clay-rich soil material suitable for serving as a plant root zone must be placed over the compacted layer. At least six inches of suitable plant growth material must be placed over the covered landfill and planted with adapted grasses. The total depth of the final cover shall be three feet or more.
 - b) Closure shall be implemented within thirty days after receiving the final volume of waste and shall be completed within one hundred eighty days, unless otherwise approved by Hettinger County.
 - c) Each owner or operator shall close a solid waste facility to:
 - i) Minimize the need for further maintenance.
 - ii) Control, minimize, or eliminate any scope of solid waste constituents, leachate, fugitive emission, contaminated run-off or waste decomposition product.

- d) Each owner or operator shall prepare and submit a written closure plan as a part of the permitting process. The closure plan shall provide time intervals at which closure is to be implemented, describe the resources and equipment necessary for closure, and identify closure cost estimates.

6.6.20 Surface Impoundment Standards

- (1) Applicability
 - a) The design, construction, and operating standards in this subsection apply to surface impoundments that store or treat solid waste, sludges containing free liquids, free liquids containing high concentration of dissolved solids, or liquids derived from processing or handling of solid waste.
 - b) These standards are not applicable to:
 - i Basins used to collect and store storm water run-off.
 - ii Lime sludge settling basins.
 - iii Surface impoundments which handle agricultural waste; and
 - iv Surface impoundments which treat waste water, the discharge of which is subject to other local, state and federal regulations.
- (2) Design Standards
 - a) New units shall have a compacted soil liner of a minimum of two feet or a flexible membrane liner which would control the migration of waste or waste constituents through the liner.
 - b) The dikes shall be designed to maintain their structural integrity under conditions of leaking liner and capable of withstanding erosion.
 - c) There shall be a free board equal to or greater than two feet to avoid overtopping from wave action or precipitation.
- (3) Operation Standards
 - a) Prior to placing surface impoundment into operation or prior to renewed operation after six months or more during which the impoundment was not in service, a professional engineer must certify that the impoundment's dike and liner have structural integrity.
 - b) When a surface impoundment is in operation, it shall be inspected by the owner or operator monthly and after storms to detect:
 - i Deterioration, malfunction, or improper operation of control systems;
 - ii Severe erosion, seepage, or other signs of deterioration in dikes or other containment devices; and
 - iii Sudden drop in the level of impoundment's content.

6.6.21 Land Treatment Standards

- (1) Applicability
These standards shall apply to facilities that are used in treatment of solid waste. These standards do not apply to: facilities utilizing domestic sludge; agricultural wastes; inert waste; or infectious waste.
- (2) Requirements
 - a) All run-offs shall be collected and treated.
 - b) Slopes and other features that will lead to soil and waste erosion shall be avoided.
 - c) There shall be access control to the site.
 - d) There shall be adequate waste storage facilities.
 - e) There shall be no food chain crops during the active life of the facility and after closure until demonstrated to be safe.
 - f) There shall be no standing water in active area.
 - g) There shall be no waste disposal area with standing water.

6.6.22 Infectious Disease

- (1) Management Standards
 - a) At the point of origin, regulated infectious waste shall be separated from other wastes and placed in distinctive containers that do not leak and are impervious, puncture resistant, and tear resistant. Bags and containers holding infectious waste shall be tied, closed or sealed securely to prevent leakage. Each container shall be labeled as to source, contents, and date.
 - b) Regulated infectious waste shall be treated in accordance with State law.
 - c) The handling and storage of regulated infectious waste, shall be conducted in a manner which minimizes exposures to employees, transporters and the public.

6.6.23 Financial Assurance

- (1) Each owner or operator shall be required to submit to Hettinger County a copy of the financial assurance plan and mechanism prepared for the State Health Department.
- (2) Publicly owned solid waste facility may generate the fund for closure and postclosure requirements from fees, charges and from other municipally available sources.
- (3) Requirements of this regulation shall apply to all new, existing and expanded solid waste facilities.
- (4) The governing body may require additional documentation and financial assurance as it deems necessary.

6.6.24 Statement of Findings

Upon the public notification and public hearing, the County Commission shall determine whether the proposed site meets the requirements of this code.

6.7 Public Nuisances

The maintenance of public nuisances including, but not limited to noxious weeds, smoke, gases, radio interference, blighted structures or buildings, substantial noise in excess of 75 dB during the day and 65 dB at night, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall be subject to the provisions of the County Ordinances.

6.8 Noise

Sustained noise of over 75 dB during the day and 65 dB at night is not allowed.

6.9 Recreational Vehicles and Travel Trailers

The use of recreational vehicles, travel trailers and other trailers used for temporary occupancy shall be limited to two hundred forty (240) days per year within the county. Storage of residents' recreational vehicles is unlimited.

6.10 Trees and Tree Plantings

6.10.1 General Requirements

- (1) Farmstead windbreaks set back shall be two hundred (200) feet away from center of road. Variances for trees and fences issued through appropriate highway officials and the Hettinger County Zoning Administrator.
- (2) In unplatted areas, trees and shrubs may be planted no closer than two hundred (200) feet from center of road or at discretion of the Hettinger County Zoning Administrator. Any changes from this guideline shall be assessed a permit fee to cover site inspections and other incurred costs.
- (3) No persons, firms or corporations shall plant any tree, shrub, or other vegetable growth except lawn grass on any road right-of-way, or within confines of the ditch back slope.
- (4) Shelterbelts shall not be planted closer than two hundred (200) feet from center of road.

6.11 Home Occupations

6.11.1 Standards for Approval

- (1) A home occupation in an unincorporated community

- a) Employees are limited to two full time or four part time besides owners without a special use permit.
 - b) Evidence of the occupation shall not be visible from the road.
 - c) No sign may be permitted larger than four (4) square feet.
 - d) 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, but not including basement or garage floor space.
 - e) The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.
- (2) Home Occupations:
Rural home occupations shall conform to the requirements for suburban home except:
- a) Employees are limited to two full time or four part time personnel.
 - b) Location site shall be limited to single lot residential sites or farmstead sites.
 - c) 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 and eighty (1,280) square feet. Minimum lot size for a separate non-residential building shall be one (1) acre.
 - d) Structural additions may be made to a dwelling provided the alterations shall not exceed twenty-five (25) percent of the main floor of the area of the dwelling, but not including basement or garage floor area.

6.12 Adult Entertainment Center

6.12.1 General Requirements

- (1) 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 bookstore, adult entertainment facility, adult cinema or combination thereof.
- (2) An adult entertainment center must prohibit entrance by persons less than 18 years of age.
- (3) An adult entertainment center shall not be located within 1,250 feet of any establishment that dispenses alcohol on-premises.
- (4) An adult entertainment center shall not be located within 1,250 feet of any other adult entertainment center.
- (5) An adult entertainment center shall not be located within 1,250 feet of any religious institution, cemetery, school, park or recreation facility (bike paths excluded). They shall be located in an industrial zoning district.
- (6) No material depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of an adult entertainment center.

- (7) 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.

6.13 Utilities

6.13.1 General Requirements

- (1) All new utility lines and pipelines are considered conditional uses and shall conform to the provisions of the Conditional Use Permit requirements of these regulations.
- (2) All new utility lines and pipelines require a permit.
- (3) All pipelines, natural gas, petroleum pipelines and other energy transfer lines shall be placed deep enough in the ground so as to not interfere with or become hazardous to normal farming operations.
- (4) All utilities, excluding wind generators, shall be set back the height of the tower plus twenty-five percent (25%).
- (5) All utilities shall notify the county commission within thirty days of abandoning a tower site or utilities. All utilities shall be removed within one year after abandonment.
- (6) All wind generators shall be set back one thousand (1,000) feet from residences other than that of the owner/operator.
- (7) Excavation for tunneling of any pipelines under roads, farm drains, group drains and local drains shall be done by the company owning or leasing said pipelines and the cost of said excavation and damages to be born by the said company.
- (8) Placement of utilities should follow common corridors whenever possible.
- (9) The term "utilities" includes, but is not limited to, electric power, electrical transmission lines, wind conversion systems, commercial wind generators, electrical and telephone towers and substations, natural gas pipelines, the petroleum product pipelines, water and sewer lines, telephone lines and other above ground or underground communication and energy transfer lines and pipelines.

7. SUBDIVISION REGULATIONS

7.1 Intent

- 7.1.1** To insure the orderly development of Hettinger County and its unincorporated planning area.
- 7.1.2** To provide for proper arrangement of streets in relation to other existing and planned streets.

- 7.1.3** To provide for adequate and convenient open spaces for traffic, utilities, fire fighting, recreation, light and air.
- 7.1.4** To facilitate adequate provisions for access, placement of public non-profit and for profit utilities, schools, and public open spaces.
- 7.1.5** To avoid development of unsuitable areas because of soil, flooding, drainage and other physical limitations.
- 7.1.6** To facilitate subdivision of larger parcels into smaller parcels and lots.
- 7.1.7** To avoid conflicting land uses.

7.2 Pre-application Procedure---Sketch Plan

Prior to filing an application for consideration of a Preliminary Plan, the subdivider shall submit a sketch plan of the proposed project of the Hettinger County Planning Commission.

7.2.1 Content of Sketch Plan

- (1) Location map relative to siting within the county, to include the legal description (Lot, Section, Township and Range).
- (2) Name of proposed subdivision
- (3) Date
- (4) North point
- (5) Property owner's name and address
- (6) Location of property lines and approximate dimensions of subdivision and lots. Also the location and widths of proposed streets and public areas.
- (7) Existing transportation right-of-ways, to include the location of major and collector roadways.
- (8) Existing utility right-of-ways
- (9) Location of any hazardous material site within the immediate proximity of the proposed subdivision.
- (10) Topography of the site, to include location of any existing waterways.
- (11) Names of adjoining landowner(s) within six hundred (600) feet of the perimeter of the proposed subdivision.
- (12) Location of any public facility, business, or other community or county feature within or near the immediate site.
- (13) Any existing or proposed covenants
- (14) Identification of the present zoning designation and proposed changes needed to bring the site into compliance with the County's land use regulations

7.2.2 This procedure does not require a formal application, fee or filing of plat with the Planning Commission.

7.2.3 Within fifteen (15) days after submittal of sketch plan, the County Planning Commission shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations.

7.2.4 Acceptance of any sketch plan is not an acceptance of the subdivision plat, but is an expression of concurrence with the general concept of the project as a guide in the preparation of a preliminary plat for consideration.

7.3 Preliminary Plat Content

The preliminary plat shall be prepared by a registered land surveyor and shall be submitted to the Planning Commission for review and recommendation to the County Commission.

7.3.1 Preliminary Plat Content

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 representing one hundred feet (1"= 100').
- (2) Name and location of the subdivision.
- (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 proposed streets including type and width of surfacing or public ways, easement, railroad, utility right-of-way, parks and other public open spaces, permanent buildings or structure, 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 location as obtained from public records.
- (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, cross walks and easements, showing widths and 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.

7.3.2 Preliminary Plat Submission Requirements

- (1) The subdivider shall apply to the County Planning Commission at least ten (10) days prior to any scheduled meeting.
- (2) The subdivider shall submit two (2) prints of the preliminary plat to the County Planning and Zoning Administrator at the time the application is made. The plat shall comply with the provisions of this code.
- (3) The subdivider may submit any instrument whereby he/she proposes to regulate land use in the subdivision for protecting the proposed development.
- (4) The subdivider shall provide other data related to drainage, soil suitability, financing of improvement and other related information which the Planning Commission requests.

7.3.3 Review Process

- (1) The Planning Commission shall review the preliminary plat and recommend to the County Commission for approval, approval with conditions or denial of the preliminary plat. The Planning Commission may require 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. Tentative approval of a preliminary plat by the County 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 County 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 one (1) year 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 plats.

7.4 Final Plat

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

7.4.1 Final Plat Content

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

- (1) Name of subdivision and date of tentative approval by the County Commission.
- (2) Location by section, township and range, or other legal description.
- (3) Names 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.
- (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 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 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) Building setback lines, accurately shown with dimensions.
- (16) Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
- (17) Covenants, if any.
- (18) Certification by registered surveyor to the effect that the plat represents a survey made by him, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.
- (19) 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.

7.4.2 Final Plat Submission Requirements

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

- (1) The subdivider shall submit the final plat to the Planning Commission at least ten days before any scheduled meeting of the Planning Commission.
- (2) 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.
- (3) The Planning Commission may require the subdivider to submit detailed drawings for grading of the lots, blocks, streets, detailed drawings for pavement, curb, gutter and sidewalk, drawings for installation of water, sanitary and storm sewer facilities.

7.4.3 Review Process

- (1) If the Planning Commission finds the final plat in conformance with the requirements stipulated for approval of the preliminary plat, it shall provide to the County Commission for its approval or disapproval after a public hearing.
- (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) The County Commission may require a performance bond guaranteeing the construction of the proposed improvements to be posted with the county Auditor.

7.5 Filing of Subdivision Plat

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

8. DESIGN STANDARDS

8.1 Streets

- 8.1.1** The arrangements, character, extent, width, grade, and location of all streets shall conform to road standards of Hettinger County. Design will consider relation to: existing and planned streets, topographic conditions, public convenience and safety, and relation to the proposed uses of the land to be served.
- 8.1.2** The arrangement of streets in the subdivision shall either:
- (1) Provide for the continuation of existing principal streets in surrounding areas;
or
 - (2) Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance of existing streets impractical.
- 8.1.3** Minor streets shall be so laid out that their use by through traffic will be discouraged.
- 8.1.4** Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require: marginal access streets, reverse frontage with screen plantings contained in a non-access reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

- 8.1.5** Where a subdivision borders on or contains a limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and on each side of such right-of-way. Said streets shall be so located that the intervening land can be used for park purposes in residential districts, or commercial or industrial purposes in appropriate districts. The distances shall be determined with due consideration of requirements for approach grades and future grade separation.
- 8.1.6** Street centerline offsets of less than one hundred and fifty (150) feet should be avoided.
- 8.1.7** A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.
- 8.1.8** When connecting street centerlines 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 two hundred (200) feet for minor or collector streets, unless the Planning Commission, shall determine a greater radii.
- 8.1.9** Streets shall be laid out to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.
- 8.1.10** Street right-of-way widths shall not be less than as follows:

<u>Street Type</u>	<u>Right-of-Way</u>	<u>Street Type</u>	<u>Right-of-Way</u>
	<u>Feet</u>		<u>Feet</u>
Arterial	80	Minor for other Residences	66
Collector	80	Marginal access	50
Minor, for row houses and apartments	66		

- 8.1.11** Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with other requirements of the regulations; and where the Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever, a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Both owners will have to sign the plat.
- 8.1.12** Permanent dead-end streets or cul-de-sacs shall not be longer than six hundred (600) feet and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least eight feet, and a street property line diameter of at least one hundred feet.
- 8.1.13** No street names shall be used which will duplicate or be confused with the names of existing streets in this or other subdivisions. Street names shall be subject to the approval of the Planning Commission.

8.1.14 All street grades, wherever feasible, shall not exceed six (6) percent.

8.1.15 No street grade shall be less than one-half of one percent, unless approved by the County.

8.2 Alleys

8.2.1 Alleys or service drives shall be provided in commercial and industrial districts, except that the Planning Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

8.2.2 The width of an alley shall be a minimum of twenty (20) feet.

8.2.3 Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

8.2.4 Dead-end alleys shall be avoided where possible, but if unavoidable and approved by the Planning Commission, shall be provided with adequate turn-around facilities at the dead-end.

8.3 Easements

8.3.1 Easements across lots or centered on rear or side lot lines shall be provided for utilities, such easements to be not less than ten feet. The centerline of such easement may coincide with lot lines.

8.3.2 Where a subdivision is traversed by a water course, drainage way, channel or stream, there will be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both, as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith.

8.3.3 All lots shall be served by underground electric, cable television and telephone lines unless waived by the Planning Commission due to topographic conditions or excessive costs.

8.3.4 All utility lines for electric power, cable television and telephone services carried overhead shall be placed in utility easement.

8.4 Blocks

8.4.1 The lengths, widths and shapes of blocks shall be determined with due regard to:

- (1) Provision of adequate building sties suitable to the special needs of the type of use contemplated.
- (2) Zoning requirements as to lot size and dimensions.
- (3) Needs for convenient access, circulation, control and safety of street traffic.

(4) Limitations and opportunities of topography.

8.4.2 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 Commission may require service drives or frontage roads along major streets for commerce and industry.

8.5 Lots

8.5.1 The lot size, width, depth, shape, and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

8.5.2 Lot dimensions shall conform to the requirements of the zoning ordinance.

8.5.3 Residential lots where not served by public sewer shall not be less than one hundred fifty (150) feet wide nor less than forty-five thousand (45,000) square feet in area.

8.5.4 Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

8.5.5 Corner lots for residential use shall be of such width so as to allow any structure erected thereon to comply with setback regulations.

8.5.6 The subdividing of the land shall provide each lot with satisfactory access to an existing public street.

8.5.7 Double frontage and reverse frontage lots are not desirable and should be avoided. If topography or other conditions require the use of double frontage or reverse frontage lots, a planting screen easement of ten (10) feet or greater with no right of access will be required along the lots abutting traffic arteries.

8.6 Public Sites and Open Spaces

8.6.1 Where a proposed park, playground, school, or other public use is located in whole or in part in a subdivision, the Planning Commission may require the dedication or reservation of such area within the subdivision. Such reservation shall be for a period not to exceed five years at which time the Planning Commission will reevaluate.

8.6.2 Where deemed essential by the Planning Commission and approved by the Board of County Commissioners, the subdivider may be required to dedicate or serve to the public areas or sites of a character, extent, and location suitable to the needs for schools, parks, and other neighborhood purposes. Such reservation is to be for a period not to exceed three years. The purchase price shall not exceed fair market value of such land at time of purchase. It is hereby found and declared that it is

reasonable to require an amount of land, equal in value to five (5) percent of the land proposed to be subdivided be dedicated for parks and recreation.

- 8.6.3** The subdivider may contribute an amount in cash equal to the value of land required to be dedicated by the subdivision. The cash payment shall be used only for the acquisition of land for parks and playground.

8.7 Grading and Drainage

- 8.7.1** When required, the subdivider shall provide a detailed grading and drainage plan showing the grades of streets and drainage improvements.
- 8.7.2** The drainage shall not discharge into any sanitary sewer facility.
- 8.7.3** The drainage facilities shall be located in street right-of-way or in drainage easements.
- 8.7.4** All developers should submit a management plan for storm water.
- 8.7.5** The grading and drainage system shall be approved by the Planning Commission
- 8.7.6** Grading established in any subdivision shall not be changed without approval of the Planning Commission.

8.8 Drainage Way Easement

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

8.9 Tree Planting

The planting of trees of an appropriate species and at appropriate locations may be required by the Planning Commission.

9. REQUIRED IMPROVEMENTS

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

9.1 Completion Assurance

To cover the cost of improvements, as determined by the Planning Commission, the subdivider may 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.

9.2 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.

9.3 Public Water

9.3.1 Where appropriate, water mains shall be installed so as to provide individual service to each lot within the subdivision.

9.3.2 Water mains shall extend to the boundary of the subdivision, except where in the opinion of the Planning Commission, it is deemed impractical.

9.3.3 A rural water supply shall comply with the requirements of the State of North Dakota.

9.4 Sanitary Sewer

9.4.1 All subdivisions shall be provided with sanitary sewers to each lot. On an individual case review on-site sewage systems may be allowed.

9.4.2 Private septic systems must comply with current State Plumbing Codes on lots of a minimum of 45,000 square feet.

9.4.3 Sanitary sewer shall be extended to the boundary of the subdivision, except where in the opinion of the Planning Commission it is deemed impractical.

9.4.4 All sanitary systems shall meet State Plumbing Codes and be inspected by the District Health Unit.

9.5 Storm Sewer

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

9.6 Grading and Surfacing

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

9.7 Installation of Improvements

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

10. ADMINISTRATION

10.1 Organization

The following bodies are vested with the responsibility of administering this code:

- (1) The Hettinger County Commission
- (2) The Planning and Zoning Commission
- (3) The Zoning Board of Adjustment
- (4) The County Zoning Administrator

10.2 County Commission

The Hettinger County Commission assumes the authority for the review, approval, modification and denial of planning and zoning matters based on recommendations of the Planning and Zoning Commission and the County's Zoning Administrator.

10.2.1 Duties

- (1) Appoint the Planning and Zoning Commission.
- (2) Appoint the Zoning Director.
- (3) Direct the actions and duties of the Planning and Zoning Commission and Zoning Director.
- (4) In absence of a formally appointed Board of Adjustment, the County Commission shall act as the Zoning Board of Adjustment.
- (5) Make a final ruling on all zoning amendments and on all permit and variance requests which have been appealed.
- (6) Review the Zoning Ordinance and Zoning Map prepared by the Planning and Zoning Commission, incorporate public reaction to said Ordinance and Map, and adopt or revise said Ordinance and Map.

10.3 Planning and Zoning Commission

The Hettinger County Planning and Zoning Commission shall be established by the Hettinger Board of County Commissioners in accordance with Chapter 11-33 of the North Dakota Century Code. The Commission may also be referred separately as the Hettinger County Planning Commission and/or Zoning Commission.

10.3.1 Duties

- (1) Actions of the Planning and Zoning Commission are advisory to the County Commission, which is responsible for all final decisions on planning and zoning matters.
- (2) Approve or deny applications and permits, as authorized by the Board of County Commissioners.
- (3) Conduct hearings on conditional and temporary uses and set conditions for certain uses as, authorized by the County Commission.
- (4) Conduct hearings on zoning amendments.
- (5) Establish and administer rules and procedures for conducting the planning and zoning affairs of Hettinger County.
- (6) Establish bonding, fee schedules, and accounting thereof. Said bonding, schedules, and accounting shall be subject to the approval of the Board of County Commissioners.
- (7) Establish requirements and procedures necessary for submission of applications, as authorized by the County Commission.
- (8) Issue certificates of zoning compliance.

10.4 Zoning Administrator

The Zoning Administrator is a duly appointed county official authorized by the Hettinger County Commission and is responsible to administer this code, and to assist the Planning and Zoning Commission and the County Commission on any matter related to planning for and development of the county and its unincorporated planning area.

10.4.1 Duties

- (1) Issue all building permits and certificates of compliance.
- (2) Issue all zoning certificates, permits and maintain record thereof.
- (3) Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
- (4) Notify, in writing, the property owner or users upon finding violation of this code and cite the nature of violation clearly, require compliance and provide a report of the finding to the County Commission.
- (5) Prepare and publish notices and notify adjoining property owners.
- (6) Receive, file and forward to the Planning Commission all applications for preliminary and final plats and the supporting documents.
- (7) Receive, file and forward to the Planning and Zoning Commission all applications for zoning amendments, site approvals and conditional uses.
- (8) Receive, file and forward all requests for variances to the County Commission, which may act as a Board of Adjustment.
- (9) Report all zoning and land subdivision violations to the County Commission.

11. ADMINISTRATIVE FUNCTIONS AND PROCEDURES

11.1 Interpretation of Regulations

All questions of interpretation of this code shall be presented to the County Commission.

11.2 Notice of Hearings

The Planning and Zoning Commission shall fix a reasonable date for hearing of applications for zoning district amendments, conditional use permits, site approval and plat applications and other matters before it, give public notice thereof in the official newspaper of the county and the nearest regularly published newspaper at least once a week for two consecutive weeks prior to the hearing. The notices shall give time and place of hearing and shall state the purpose of the hearing and that the applications and supporting documents for zoning district amendments and conditional use permits shall be available for public inspection by the County Auditor.

11.3 Meetings

Meeting of the Planning and Zoning Commission shall be held at a regular time and date at the call of the Chairman and at such other times as the Planning and Zoning Commission may determine upon prior public notice. All meetings shall be open to the public and any person may testify for or against a petition.

11.4 Zoning District Amendments

11.4.1 Public Hearing Notice

The Planning and Zoning Commission shall hold a public hearing, a notice of which shall be published at least once a week for 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 by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use, requested zoning district change; (4) time and place for public inspection of the documents submitted by the applicant before the hearing; and (5) notification to all property owners within six hundred (600) feet of the property in question and adjacent property owners, but not limited to six hundred (600) feet.

11.4.2 Public Hearings

- (1) The County Commission may hold a public hearing on the proposed amendment within 30 days of the receipt of the recommendations from the Planning and Zoning Commission. Notice of the hearing shall be published in the official newspaper of the county prior to the date established for the hearing.
- (2) The Planning and Zoning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the

completion of its review, the Planning and Zoning Commission shall make recommendation to the County Commission. The Planning and Zoning Commission may require additional information before it completes its findings and making its recommendations.

11.4.3 Data Submission Requirements

Petitions for zoning district change, conditional uses and site approval shall be submitted to the Zoning Administrator with the following information:

- (1) Legal description of the area proposed to be rezoned.
- (2) A site plan showing buildings and uses in the zoning district proposed to be changed and the requested zoning district classification.
- (3) A fee shall be paid in accordance with the schedule established by the County Commission.

11.4.4 Deliberation and Decision

Following the hearing, the Planning and Zoning Commission, upon due deliberation, shall make a report of its findings and recommendations to the County Commission.

11.5 Conditional Use Permits

11.5.1 Purpose

The development of this code is based upon division of the county into districts, within which district the use of land and building bulk and locations of building and structures are mutually compatible and substantially harmonious. However, there are certain uses which, because of their unique characteristics, cannot be properly classified as permitted uses in any particular district, without consideration, in each case, of impact of those uses upon neighboring premises. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses.

11.5.2 Public Hearing Notice

Shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 11.4.1.

11.5.3 Public Hearings

Shall be the same as the provision set forth for public hearing for zoning district amendment in Section 11.4.2.

11.5.4 Data Submission Requirements

Shall be the same as the provisions set forth for data submission requirements for zoning district amendment in Section 11.4.3.

11.5.5 Deliberation and Decision

Shall be the same as the provisions set forth for deliberation and decision for zoning district amendment in Section 11.4.4.

11.5.6 Standards

No application for conditional use shall be approved unless the Planning and Zoning Commission finds that all of the following conditions are present.

- (1) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic impact on the area.
- (2) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (3) That the conditional use shall substantially conform to all applicable regulations of the district in which it is located.
- (4) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the district.
- (5) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (6) That the uses, values and enjoyment of other property in the area for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

11.5.7 Conditions and Guarantees

- (1) No alteration of a conditional use shall be permitted unless approved by the County Commission.
- (2) Prior to the decision on any conditional use, the Planning and Zoning Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the county and to secure compliance with the standards and requirements specified in Section 11.5.6.

11.6 Variances

Variance from the dimensional standards of this code may be granted provided that the applicant established proof of practical difficulty or undue hardship.

11.6.1 Public Hearing Notice

The Planning and Zoning Commission shall hold a public hearing, a notice of which shall be published at least one week 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 by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use and requested zoning district change; and (4) time and place for public inspection of the documents before the hearing.

11.6.2 Public Hearings

The Planning and Zoning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, it shall approve, deny or modify the proposal. The Planning and Zoning Commission may require additional information before it completes its findings and decision.

11.6.3 Data Submission Requirements

Petitions for variances shall be submitted with the following information:

- (1) A fee to be paid in accordance with the schedule established by the County Commission.
- (2) A map showing the existing land uses and zoning district classification of the area.
- (3) Any other information that the Planning and Zoning Commission or County Commission deems necessary.
- (4) Legal description of the property.
- (5) The reason for the variance request.
- (6) The type of variance requested and an explanation of whether the hardship is unique to the applicant's property.

11.6.4 Deliberation and Decision

In making its finding, the Planning and Zoning Commission shall ascertain that the requests for variance is consistent with the County Comprehensive Plan and meets all requirements of this code and other regulations of the Hettinger County.

11.6.5 Standards

No application for variance shall be approved unless the County Commission finds that all of the following are present.

- (1) That granting the variance requested will not confer upon the applicant any special privileges that are denied by this code to other premises.
- (2) That literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
- (3) That special conditions and circumstances exist which are peculiar to the premises and which are not applicable to other premises in the same zoning district.
- (4) That the special conditions and circumstances have not resulted from actions of the applicant.

11.6.6 Justification

- (1) That the granting of variance will be in harmony with the general purpose of this code and will not be injurious to the surrounding premises, neighborhood or the county and will not be contrary to the comprehensive plan and the purposes of this code.
- (2) That the reasons set forth in the application justify the granting of the variance.
- (3) That there is practical difficulty or unnecessary hardship in use of the premises if the strict application of the regulations were to be carried out.
- (4) The variance is the minimum, which would make possible a reasonable use of the premises.

11.7 Fees

By resolution, the Board of County Commissioners may establish a permit and/or an administrative fee system to offset associated costs in the implementation and enforcement of these regulations.

12. VIOLATIONS AND ENFORCEMENT

12.1 Complaints Regarding Violations

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Director. The Director shall record properly said complaint, notify the Planning Commission, and made an inspection of the affected site.

12.2 Remedies Regarding Violations

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 any of the conditions of a conditional use or in violation of any other of the regulations and restrictions of this Ordinance, the Board of County Commissioners or any affected citizen or property owner may institute any appropriate action or proceedings in addition to other remedies to:

- 12.2.1** Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- 12.2.2** Restrain, correct, or abate such violations;
- 12.2.3** Prevent the occupancy of the building, structure, or land; or
- 12.2.4** Prevent any illegal act, conduct, business, or use in or about such premises.

12.3 Penalties for Violations

Each violation of any regulation or restriction of this Ordinance by any person shall constitute the maintenance of a public nuisance and shall be a class B misdemeanor.