

**HETTINGER COUNTY  
LAND USE  
REGULATIONS**

**2012**

**HETTINGER COUNTY, NORTH DAKOTA**

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# 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 (NDCC).

### 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 preempt 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 setbacks from roads and flood plain regulations.

## 1.9 Repeal

The existing County Zoning 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 Bookstore” means an enclosed building having as a substantial or significant portion of its stock in trade books, magazines, or other periodicals that are distinguished or characterized by their emphasis on matter depicting or describing sexual activities or anatomic areas, such as genitals, breasts or buttocks.

2.3.3 “Adult Cinema” means an enclosed building used on a regular basis for presenting materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of sexual activities or specifies anatomical areas, such as genitals,

breasts or buttocks for observation by patrons in return for the payment of consideration , irrespective of the number of persons who may be able to view the presentation at one time.

- 2.3.4 “Adult Entertainment Facility” means an enclosed building wherein an admission is charged for entrance, or food or non-alcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks.
- 2.3.5 “Adult Entertainment Center” means an adult bookstore, adult cinema, adult entertainment facility or any combination thereof.
- 2.3.6 “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.
- 2.3.7 “Alley” means a minor street providing access to the back or side of two or more parcels or lots.
- 2.3.8 “ Allowed Uses” means those uses, buildings or structures which comply with the provision 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.
- 2.3.9 “Alteration” as applied to a building or structure, is a change or re-arrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
- 2.3.10 “Alteration” as applied to a building or structure, means a change or re-arrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
- 2.3.11 “Animal Hospital or Clinic” means a building or premises set up for treatment and/or the boarding of domestic animals including veterinary facilities.

- 2.3.12 “Animal Unit Equivalent” means a unitless number developed from the nutrient and volume characteristics of manure from a specific livestock type. The term animal unit is used to normalize the number of animals (e.g. head) for each specific livestock type which produce comparable bulk quantities of manure.
- 2.3.13 “Area of Special Flood Hazard” the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
- 2.3.14 “Basement” means a story, partly underground with more than one-half of its height below grade.
- 2.3.15 “Base Flood” means a flood having a one percent chance of being equaled or exceeded in any given year.
- 2.3.16 “Bed and Breakfast Inn” means an establishment that provides overnight lodging to the public for compensation; caters to the traveling public; is located in the proprietor’s residence; and serves only a limited breakfast to registered guests.
- 2.3.17 “Block” means a part of the platted area bounded by rights-of-way, intersecting streets and/or railroad.
- 2.3.18 “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.
- 2.3.19 “Building” means any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property.
- 2.3.20 “Building Area” means that portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and side yards.
- 2.3.21 “Building Height” means vertical distance from the grade to the highest point of the roof.
- 2.3.22 “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.
- 2.3.23 “Building, Principal” means a building, the principal use of which are single family and multi-family dwellings, and offices, shops, stores and other uses.

- 2.3.24 “Certificate of Zoning Compliance” means a formal certification by Hettinger County indicating compliance with the county’s zoning district regulations.
- 2.3.25 “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.
- 2.3.26 “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.
- 2.3.27 “Commercial Building” means any structure which is used primarily for business activities and not used for residential, medical, religious, or instructional purposes and which is constructed in compliance with the adopted building code.
- 2.3.28 “Commercial Feed Lot” any building, structure, enclosure, or premises used, designed or intended for the commercial feeding of 300 or more animal units which is operated as a separate pursuit and not as incidental to farming on a given piece of land regardless of its size.
- 2.3.29 “Comprehensive Plan” means a guide or policies for management of the physical resources and development of the county.
- 2.3.30 “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 Planning and Zoning Commission finds that such use meets all of the requirements applicable to it as specified in the county codes including these regulations.
- 2.3.31 “Conforming Building or Structure” means a building or structure, which complies with all requirements of this code and other regulations adopted by the county.

- 2.3.32 “County”, “County Commission” means the governing body of Hettinger County.
- 2.3.33 “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.
- 2.3.34 “Development Plan” means a document including maps and data for physical development of an area as provided by this code.
- 2.3.35 “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.
- 2.3.36 “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.
- 2.3.37 “Dwelling, Multiple Family” means a single building or portion thereof, containing two (2) or more dwelling units.
- 2.3.38 “Dwelling, Single Family” means a building containing one dwelling unit only.
- 2.3.39 “Dwelling Unit” means one or more rooms in a dwelling designed for occupancy by one family for living purposes and having its own permanently installed cooking and sanitary facilities.
- 2.3.40 “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.
- 2.3.41 “Encroachment” means any fill, building, structure or use including accessory uses projecting into the required yard areas or public and private property.
- 2.3.42 “Extraterritorial Jurisdiction” means the extension by ordinance of a city’s zoning regulations to any quarter quarter section of unincorporated area within one mile of the corporate limits of the

cities of Hettinger County. A city has joint zoning and subdivision regulation jurisdiction from one-half mile to one mile with the adjoining political subdivision subject to the provisions of NDCC 40-47-01.1.

- 2.3.43 “Family” means group of one or more persons occupying premises and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house, or hotel as herein defined.
- 2.3.44 “Farming or Ranching” means a zoned area containing at least forty (40) acres, which is used for the production of agricultural crops or livestock, or raising, feeding or producing livestock, poultry, milk, or fruit. The term does not include the production of timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services. Feed lots which are operated as a separate pursuit shall be deemed commercial feed lots and shall not be construed as farming or incidental to a farming operation.
- 2.3.45 “Feed Lot” is a parcel of land which contains an operation for feeding, raising, or sheltering animals of 300 or more animals.
- 2.3.46 “Flood or Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:
- a) The overflow of inland or tidal waters and/or
  - b) The unusual and rapid accumulation or runoff of waters from any source.
- 2.3.47 “Flood Insurance Rate Map (FIRM)” means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- 2.3.48 “Flood Insurance Study” means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.
- 2.3.49 “Frontage” means the front part of a lot abutting a public right-of-way, or road or highway.
- 2.3.50 “Grade” means the land elevation at the horizontal intersection of the ground and the building.

- 2.3.51 “Gravel Pit” means any mining and extraction of earth materials for commercial or private sale.
- 2.3.52 “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.
- 2.3.53 “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.
- 2.3.54 “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.
- 2.3.55 “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.
- 2.3.56 “Inert Waste” means non-putrescent solid waste, which will not generally contaminate water or form a contaminated leachate; inert waste does not serve as food for vectors. Inert waste includes, but is not limited to construction and demolition material, such as metal, wood, brick, masonry and concrete, asphalt concrete, tires and tree branches.
- 2.3.57 “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.
- 2.3.58 “Kennel, Animal” means any premises where dogs, cats and other household pets are boarded, bred and maintained for compensation.
- 2.3.59 “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.
- 2.3.60 “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.

- 2.3.61 “Lot, Corner” means a lot abutting two (2) public streets at their intersection.
- 2.3.62 “Lot Coverage” means the total surface area of a lot which is covered by any type of structure.
- 2.3.63 “Lot Depth” means the average horizontal distance between the front lot line and the rear lot line.
- 2.3.64 “Lot Lines” means the property lines bounding the lot.
- 2.3.65 “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 Recorder.
- 2.3.66 “Lot Width” means the horizontal distance between the side lot lines of a lot measured at the front building setback line.
- 2.3.67 “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.
- 2.3.68 “Master Plan” means the comprehensive plan, or any portion thereof, made and adopted by the planning commission in accordance with the laws of the state of North Dakota and regulations of the County of Hettinger indicating the general or specific locations recommended for streets, parks, public buildings, zoning districts and all other public improvements to include local policies and standards.
- 2.3.69 “MET Tower” means the temporary and permanent meteorological towers used for the measurement of wind speed.
- 2.3.70 “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.

- 2.3.71 “Mobile Home Park” means a parcel of land for which a detailed plan indicating the location of lots, block, streets, facilities and utilities subject to the requirements of this code is approved by the County Commission.
- 2.3.72 “Municipal” means City, County or Township.
- 2.3.73 “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.
- 2.3.74 “NDCC or N.D.C.C.” means the North Dakota Century Code.
- 2.3.75 “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.
- 2.3.76 “Nonconforming Uses” means a use, building, or structure existing at the time of the passage of these regulations or amendments thereto which does not conform to these provisions.
- 2.3.77 “Nursing Home, Rest Home or Convalescent Home” means a home for the aged or infirmed for which unrelated persons are accommodated for compensation.
- 2.3.78 “Outlot” means a plot of land devoted to and recorded as a single principal use which has proper road and utility access.
- 2.3.79 “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.
- 2.3.80 “Permanent Foundation” means a wood or masonry foundation which extends below ground level and is set on footings. The footings may be concrete or gravel depending on soil conditions.
- 2.3.81 “Permitted Use” refers to any use which complies with the requirements of a zoning district.
- 2.3.82 “Permittee (Wind Energy Facility)” means an individual, group of individuals, corporations, partnerships, joint venture, owners, or any other business entity, or combination thereof, that leases or owns the wind rights, wind turbines and the associated improvements, and all subsequent assignees and/or transferees

of these rights, and that submits a Wind Energy Facility Siting Permit application, develops the Wind Energy Facility, and subsequently operates such facility.

- 2.3.83 “Person” means any natural person, firm, partnership, association, social or fraternal organization, corporation, trust, estate, or government.
- 2.3.84 “Planned Development or PUD” 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.
- 2.3.85 “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.
- 2.3.86 “Plat” means the plan, map or chart of a subdivision and any accompanying material prepared in accordance with the requirements of this code.
- 2.3.87 “Prohibited Use” any use or structure which is not allowed in a particular district. Any use not identified explicitly in this code shall be considered prohibited and shall not be allowed until incorporated through the amendment procedure.
- 2.3.88 “Public Roads” means any dedicated and recorded streets, roads, or highways.
- 2.3.89 “Public Way” means any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads or highways.
- 2.3.90 “Recreational Vehicle” a vacation trailer or other vehicular or portable unit which is either self-propelled or towed and which is intended for human occupancy and is designed for vacation or recreational purposes but not permanent residential use.
- 2.3.91 “Recreational Vehicle Park” a lot which is operated on a fee or other basis as a place for the parking of occupied recreational vehicles.
- 2.3.92 “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.

- 2.3.93 “Replat” means a change in approved or recorded plat requiring changes in street layout, lot lines, or blocks.
- 2.3.94 “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.
- 2.3.95 “Rotor Diameter” means the diameter of the circle formed by the swept area of the wind turbine’s blades.
- 2.3.96 “Setback” means the minimum horizontal distance between the structure or use line and the related front, side, or rear property line.
- 2.3.97 “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.
- 2.3.98 “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.
- 2.3.99 “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.
- 2.3.100 “Street or Road” means a dedicated public way which affords traffic circulation and a principal means of access to abutting properties.
- 2.3.101 “Street, Local” means a public way intended for low volume traffic which provides access to major streets.

- 2.3.102 “Street, Major” a public way, arterial or collector streets, used primarily for carrying a large volume of traffic.
- 2.3.103 “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.
- 2.3.104 “Structure” means anything, built, constructed or erected, the use of which requires permanent location on the ground including advertising signs and billboards.
- 2.3.105 “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.
- 2.3.106 “Substantial Improvements” any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- 2.3.107 “Temporary” means one year or less.
- 2.3.108 “Total Height” when referring to a wind turbine, the distance measured from the ground level to the blade extended at its highest point.
- 2.3.109 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.

- 2.3.110 “Variance” means a relaxation of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, the literal enforcement of these regulations would result in unnecessary and undue hardship.
- 2.3.111 “Yard” means an open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.
- 2.3.112 “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.
- 2.3.113 “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.
- 2.3.114 “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.
- 2.3.115 “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).
- 2.3.116 “Wind Energy Facility” means a facility directly generating electricity or indirectly generating electricity or energy through production of hydrogen, compressed air or other energy carrier from conversion of wind to energy and consisting of one or more wind turbines under common ownership or operating control, and includes substations, temporary and permanent MET Towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity directly, or through wind energy conversion to another form of energy, to off-site customer(s).
- 2.3.117 “Wind Energy Facility Perimeter” means the boundary of the Wind Energy Facility as defined by the external property lines of landowners who have a contractual relationship with the permittee and who will receive Wind Energy compensation payments or other forms of revenue derived from wind turbine sited within such Wind Energy Facility.

- 2.3.118 “Wind Energy Facility Siting Permit”. a construction and operating permit granted in accordance with the provisions of this code.
- 2.3.119 “Wind Turbine” a wind energy conversion system which converts wind energy into electricity, hydrogen, compressed air, or some other energy carrier and includes the turbine, blade, tower, base and pad transformer, if any; provided that such a system shall only be a wind turbine for the purposes of NDCC Chapter 6.11, if it has a nameplate capacity of 100 kilowatts or greater. Wind turbines of less than 100 kilowatts will be regulated as a utility.
- 2.3.120 “Workforce Temporary Housing (Crew-Camps)” means employee housing occupied by a requesting business permitted on a conditional basis and for a specific period subject to the provisions of this ordinance.
- 2.3.121 “Zoning Commission” means the Zoning Commission of Hettinger County, North Dakota, as established by the North Dakota Century Code.
- 2.3.122 “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.

### 3.8 Highway Access

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

### 3.9 Highway Setbacks

- (1) The minimum setback for buildings from all section lines and the center line of county road shall be 200 feet.
- (2) The minimum setback for trees plantings from all section lines to the center line of county roads shall be 200 feet.

- (3) The minimum setback from the center of state highways shall be 200 feet.

## 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:

- 5.1 A — Agricultural District
- 5.2 R — Residential District
- 5.3 CR— Commercial and Retail District
- 5.4 I — Industrial District
- 5.5 PR— Public and Recreation District
- 5.6 FP— Flood Plain Overlay 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) All types of farming and ranching operations including dairying, livestock, poultry raising, apiaries, fur farming, and truck gardening.
- (2) Accessory buildings and structures incidental to activities of farming and ranching, but excluding commercial feedlots, fish farms, and fur farming .
- (3) Churches and cemeteries.
- (4) Golf courses, parks and play fields.
- (5) Hunting, bird-watching and eco-tourism.
- (6) Local governmental facilities.
- (7) Public and private schools.
- (8) Trees and tree plantings, subject to Provision 6.10.
- (9) Home occupations.
- (10) Oil and gas exploration.  
No person, partnership, association, corporation shall engage in the exploration for oil or gas within the County without first providing to the County Zoning Administrator evidence of compliance with the provisions of NDCC Chapters 38-08 and 38-08.1
- (11) Oil and Gas Drilling and Production.  
Oil and gas drilling and production is a permitted use in the Agricultural District provided the person engaged in such oil and gas drilling and production has met the following requirements:
  - a) Provide the County Zoning Administrator with evidence of approval by the North Dakota Industrial Commission of all permits required by NDCC chapters 38-08 and 38-08.1, including but not limited to, drilling permits of any kind, underground injection permits, tank cleaning permits, waste storage permits, and treating plant permits.

- b) Provide the County Zoning Administrator with evidence of approval by the North Dakota Industrial Commission of a surety bond or cash bond, or alternative form of security, where such security is required by the North Dakota Industrial Commission.
- c) Obtain a County Road Approach Permit from the County Zoning Administrator.
  - i) The County Zoning Administrator shall charge each applicant for a County Road Approach Permit a fee, the amount of which is to be determined by the Commission, to cover processing and administrative expenses, plus any mileage and expenses of the County Zoning Administrator at the rate allowed county officials by state law, should it be deemed necessary to conduct on-site inspections. Said fee for expenses must be paid prior to the approval and issuance of the County Road Permit.
  - ii) The County Zoning Administrator, in reviewing any application for a County Road Approach Permit, shall consider all relevant criteria, including the proposed use and the condition of the county roads and bridges at the time of the application, public safety concerns, maintenance costs to the county, weather conditions, etc.

### 5.1.3 Conditional Uses

- (1) Boarding, 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 Section 6.11.
- (7) Hotels, motels, bed and breakfast establishments, and hunting lodges.
- (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 coal, sand and gravel, subject to the provisions of Section 6.5.
- (11) Mobile home or modular home on a permanent type foundation on five (5) acres or more.

- (12) Radio, TV stations and transmitting 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 on five (5) acres or more.
- (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.
- (22) Wind turbine generators subject to Section 6.14.

#### 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 Section 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 Section 6.4.
- (7) Tree plantings, subject to provisions in Section 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 provided that public water and sewer are available or the dwelling units are within the existing platted areas where public water and sewer are likely to be installed.
  - (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) Bed and Breakfast establishments.

#### 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.
- (7) Small animal veterinary hospitals.

### 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, towers, and microwave towers.
- (12) Radio and TV stations and studios.

#### 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 petroleum products, chemicals, explosives and the like.
- (7) Wind energy generation.
- (8) Oil refineries and petrochemical plants.
- (9) Electrical power generating plants, transmission lines and accessory structures.

#### 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
- (12) Golf driving range, miniature golf course, go-cart track, or race track provided:
  - a) the same not be constructed within five hundred (500) feet of a residential district.

- b) flood lights used to illuminate the premises are so directed and shielded as not to be an annoyance to any developed residential property, highways and streets.

### 5.5.3 Conditional Uses

- (1) Commercial campgrounds and recreational vehicle parks:  
The applicant shall meet the following requirements to obtain a permit:
  - a) The minimum area for campground shall be five (5) acres and maximum number of recreational trailers shall be fifteen (15) units per gross acre.
  - b) A site plan showing the boundary of property, topographic information with contour intervals of no more than five (5) feet; arrangement of streets, drives and access roads; location of service buildings; location and dimension of camp sites; location of sanitary facilities; and location of water supply.
  - c) Proof of compliance with the requirements of North Dakota State Health Department and North Dakota State Laboratories Department.
  - d) Approval of the County Commission for ingress and egress to the property.
- (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: Sixteen (16) feet at high water mark
  - b) Fences: Eight (8) feet
  - c) Garages: Thirty-five (35) feet
  - d) Residential: Thirty-five (35) feet
  - e) Storage buildings: Sixteen (16) feet
- (2) Lots (Minimum):
  - a) Depth: Seventy-five (75) feet
  - b) Size: Six Thousand (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: Fifty (50) feet
  - c) Residential garages, accessory buildings: Twenty-five (25) feet
- (4) Square footage requirements (Maximum)
- a) Boathouses or storage buildings: Four Hundred (400) square feet
- (5) Yards (Minimum):
- a) From private roads: Twenty-five (25) feet
  - b) Side: Fifteen (15) feet

## 5.6 Flood Plain Overlay 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 Warning and Disclaimer of Liability

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

### 5.6.4 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.

#### 5.6.5 Conditional Uses

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

#### 5.6.6 Additional Permit Requirements

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

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all proposed structures;
- (2) Elevation in relation to mean seal level to which any structure will be flood-proofed;
- (3) Certification by registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Section 5.6.10;
- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### 5.6.7 General Standards

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

- (1) Anchoring
  - a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.

- b) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
  - i) over-the-top ties be provided at each of the corners of the mobile home, with two additional ties per at intermediate locations, with mobile homes less than fifty (50) feet long requiring one additional tie per side;
  - ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than fifty (50) feet long requiring four additional ties per side;
  - iii) all components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds and;
  - iv) any additions to the mobile homes be similarly anchored.

(2) Construction Materials and Methods

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Utilities

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals

- a) All subdivision proposals shall be consistent with the need to minimize flood damage;

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

(5) Encroachments

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

5.6.8 Specific Standards

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

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.
- (2) Non-residential Construction

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

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

(3) Mobile Homes

- a) Mobile homes shall be anchored in accordance with Section 5.6.6.
- b) For new mobile home parks and subdivisions: for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision, require that:
  - i) stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
  - ii) adequate surface drainage and access for a hauler are provided; and,
  - iii) in the instance of elevation on pilings, that:
    - lots are large enough to permit steps,
    - piling foundations are placed in stable soil no more than ten (10) feet apart, and
    - reinforcement is provided for pilings more than six (6) feet above the ground level.

(4) Crawlspace

Below-Grade Residential Crawlspace Construction

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

- a) Have the interior grade elevation that is below base flood elevation no lower than two (2) feet below the lowest adjacent grade;
- b) Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four (4) feet at any point;
- c) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
- d) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
- e) Be constructed with materials and utility equipment resistant to flood damage;

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

#### 5.6.9 Building Height

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

#### 5.6.10 Sign Requirements

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

#### 5.6.11 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 ( $1\frac{1}{2}$ ) 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.
- (3) No flashing or bare bulb signs are allowed.

## 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 ten (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 Commercial Feedlots

### 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 (1/2) 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 per Head (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.

#### 6.4.4 Water Resource Setbacks

The owner of a new animal feed lot operation that has more than three hundred (300) animal units shall not locate or establish that operation:

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

#### 6.4.5 Application Procedure and Requirements

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

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

#### 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 One (1) to three (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 (1) 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 require 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, 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, sludge 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 post closure 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 borne by the said company.
- (8) Placement of utilities should follow common corridors whenever possible.

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.

## 6.14 Wind Energy Facility

### 6.14.1 Purpose

The purpose of the provision is to provide a regulatory framework for the siting, construction and operation of Wind Energy Facilities in the county, subject to reasonable restrictions, which will preserve the safety and well-being of the residents, while allowing equitable and orderly development of Wind Energy Facilities.

## 6.14.2 Regulatory Framework

### (1) Zoning

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

### (2) Principal or Accessory Use

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

### (3) Applicability

The requirements of this Code shall apply to all wind energy facilities with one or more wind turbines rated at fifty (50) kilowatts nameplate capacity or larger constructed after the effective date of this code. No operation of an existing wind energy facility shall be allowed without full compliance with this code and its Wind Energy Facility Siting Permit, and no modification or alteration of an existing wind energy facility shall be allowed without issuance of a new Wind Energy Facility Siting Permit pursuant to Section 6.11.3.

## 6.14.3 Wind Energy Facility Siting Permit

### (1) Application for Permit

No work, except for wind monitoring, soil testing and other survey work, may commence to construct a wind energy facility until a County Wind Energy Facility Siting Permit ("permit") has been issued by the County Commission. The prospective permittee shall submit an application for said Permit to the County Planning and Zoning Commission. The application shall be signed by an authorized representative of the prospective permittee, include a fee to be determined by the County Commission for each proposed wind turbine, and the following information:

- a) The complete name, legal address and phone number of the prospective permittee and responsible contact person.

- b) A USGS topographical map of the wind energy facility and five hundred (500) feet of all adjoining properties along the wind energy facility perimeter, which map shall show all existing features, including property boundaries, structures, improvements, roads, utility lines, public facilities and natural features. The map shall also show location of all proposed improvements for the wind energy facility, including wind turbines, MET towers, electrical lines and roads. Each proposed wind turbine shall be numbered and fully described in technical details, including rotor diameter, model, and manufacturer, and distances, measured in feet, from property lines and from existing improvements for each proposed wind turbine.
- c) Details as to how the prospective permittee will comply with each item in Section 6.11.6.
- d) A schedule for the proposed start and completion of construction of the wind energy facility.
- e) Copies or signed summaries of all leases and easements for wind turbines and associated equipment and infrastructure to be sited within the county and any written agreements between the prospective permittee and affected parties holding associated wind rights on adjoining properties established for the purpose of seeking a setback variance(s).

#### 6.14.4 Public Hearings

Upon receipt of the application, the Planning and Zoning Commission and any experts it may retain shall review the application and, hold a public hearing on the application giving notice of which shall be published at least two weeks prior to the hearing in the official newspaper of the county. The notice shall include: 1) the time and place of hearing; 2) description of the property to be affected; and 3) the time and place for public inspection of the documents prior to the hearing. Notice of the hearing shall be mailed to property owners within five hundred (500) feet of the proposed wind energy facility.

(1) Deliberation and Decision

If the Planning and Zoning Commission, following the public hearing, shall make recommendation to the Commission for the approval or denial, modification, and/or imposition of conditions of each application. Upon approval by the Commission, the Planning and Zoning Commission shall issue such Wind Energy Facility Siting Permit.

6.14.5 Demonstration of Compliance

The permit issued pursuant to Section 6.11.3.3 shall be contingent upon the permittee's final demonstration of compliance with the requirements of the permit following completion of construction of the wind energy facility. Within 90 (ninety) days of wind energy facility construction, the permittee shall submit to the Planning and Zoning Commission an updated and final USGS topographical map, or survey if available, providing all information pursuant to Section 6.11.3. a (2) and demonstrating actual compliance with the requirements and conditions of the Permit.

6.14.6 General Requirements for Wind Energy Facilities

- 1) Appearance, Lighting, Facility Footprint, Agricultural Operations, Roads and Power Lines
  - a) Wind turbines shall be painted a non-reflective, non-obtrusive color.
  - b) Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
  - c) Each wind turbine shall be marked with a visible identification number to assist with provision of emergency services, and the permittee shall file with local fire departments, law enforcement and the county emergency management coordinator a wind energy facility map identifying wind turbine locations and numbers.
  - d) Wind turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
  - e) At wind energy facility sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, and location that will blend the wind energy facility to the natural setting and existing environment.

- f) At wind energy facility sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape and agricultural operations within the county. Prior to construction, the applicant shall make satisfactory arrangements (including obtaining permits) for road use, access road intersections, maintenance and repair of damages with governmental jurisdiction with authority over each road. The applicant shall notify the county road superintendent on request.
- g) The permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the wind energy facility's life, unless otherwise negotiated with the affected landowner. When the permittee installs a gate where electric fences are present, the permittee shall provide for continuity in the electric fence circuit.
- h) The permittee shall ensure that, following completion of construction of a wind energy facility, county roads will be repaired or restored to a condition at least equal to the condition prior to construction of such facility.
- i) The permittee shall place electrical lines, known as collectors, and communication cables underground when located on private property. Collectors and cables shall also be placed within or adjacent to the land necessary for wind turbine access roads, unless otherwise negotiated with the affected landowner. [This paragraph does not apply to feeder lines.]
- j) The permittee shall place overhead feeder lines on public rights-of-way, if a public right-of-way exists, or the permittee may place feeder lines on private property. A change of routes may be made as long as the feeders remain on public rights of way and approval has been obtained from the governmental unit responsible for the affected right-of-way. When placing feeders on private property, the permittee shall place the feeder in accordance with the easement negotiated with the affected landowner.

(2) Setbacks

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

- a) Occupied Structures and Facilities: Each wind turbine shall be set back from the nearest occupied dwelling, commercial building or publicly-used structure or facility at a distance not less than 1,320 feet.
- b) Public Roads and Above Ground Communication and Electrical Lines: Each wind turbine shall be set back from the nearest public road or above ground communication and electrical lines at a distance not less than two hundred (200) feet, determined at the center of the existing right-of-way.
- c) Wind Energy Facility Perimeter: Each wind turbine shall be set back from the Wind Energy Facility Perimeter at a distance not less than two and one half (2.5) times the Rotor Diameter of the wind turbine. A variance may be granted if an authorized representative or agent of the permittee and those affected parties on adjoining properties with associated wind rights sign a formal and legally-binding agreement expressing all parties' support for a variance that waives or reduces the setback requirement.

#### 6.14.7 Minimum Ground Clearance

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

#### 6.14.8 Restoration of Property

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

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

natural resource conservation service technical guide recommendations and other agency recommendations, unless the landowner requests in writing that the access roads or other land surface areas be retained.

#### 6.14.9 Transfer of Wind Energy Facility Siting Permit

In the event of a change in ownership or controlling interest in a wind energy facility and the transfer of the permit, any successors and assigns of the original permittee shall comply with the requirements and conditions of such permit for the duration of operation of a wind energy facility permitted in the county. Within thirty (30) days of such change in ownership or controlling interest of any entity owning a wind energy facility, the parties to the transaction shall notify the Planning and Zoning Commission by letter and provide information pursuant to Section 6.11.3. The letter shall be signed by the authorized representatives or agents of both the original permittee and the entity to which the permit is being transferred.

### 6.15 Crew Camp Housing

#### 6.15.1 Definitions

As used in this Ordinance:

- (1) "Crew Housing facilities" means one or more lodging units or skid units, ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis, which are not real property, as defined in NDCC §57-02-04 and are not mobile homes as defined in NDCC §57-55-01.
- (2) "Crew housing permit" means a right granted by Hettinger County to locate crew housing facilities on property within the jurisdiction of Hettinger County under this ordinance and to enjoy attendant services and facilities provided by the city or county.
- (3) "Skid unit" means a structure or group of structures, either single or multi-sectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis.

#### 6.15.2 Crew Housing Conditional Use Permit

A Temporary Crew Housing Permit authorizes a conditional use, the issuance of which is subject to the procedures contained in this zoning ordinance. It is allowable as a conditional use in Agricultural, Commercial and Industrial Districts. The application shall be

submitted to the Hettinger County Planning and Zoning Commission.

### 6.15.3 Applicant Background Information

The Applicant for a Temporary Crew Housing Permit shall provide the following information or documents:

- (1) Consent to background investigation of the owner of the temporary crew housing facility.
- (2) Consent to background investigation of the owner of the real estate upon which the temporary crew housing facility will be located.
- (3) A list of vendors expected to provide services at or to the temporary crew housing facility.
- (4) Applicant's history of residency, employment and business ownership for five (5) years prior to the date of application. If the applicant is a partnership, the required information and consents shall be furnished for all of the partners. If the applicant is a corporation or limited liability company, information shall be provided as to the applicant's status as a subsidiary, if any, of any other corporation or limited liability company, the purposes for which the applicant was organized, and the names and addresses of all officers, directors, managing agents and the names and addresses of all stockholders or interest holders owning more than five per cent (5%) of the capital stock of such corporation.
- (5) Whether the applicant has ever engaged in the business of owning or operating a temporary crew housing facility or similar operation before, and if so, the dates and locations of such ownership or operation.
- (6) Whether during the five (5) years immediately preceding the date of the application, the applicant, or any of the applicant's officers, directors, managing agents or partners have been convicted of a violation of the laws of the United States of America or of any state or municipality; and if so, the dates, location and courts in which such convictions were obtained.
- (7) Whether the applicant has any agreement, understanding or intention to have any agreement or understanding with any person or entity to obtain for another person or entity or to transfer to another person or entity the license obtained or to use the license for any other purpose other than the specific use described in the application, and if so, the names and addresses of such persons and the conditions of such agreements.

#### 6.15.4 Application Procedure

An application for a Temporary Crew Housing Permit shall be signed by the applicant or authorized representative and shall include the following information:

- (1) The legal description of the property upon which the temporary crew housing will be located.
- (2) A description of the units together with a numbering system that clearly identifies the occupied quarters for purposes of emergency responses.
- (3) A description of how the proposed units are set and/or anchored.
- (4) A statement that roads to be constructed within the facility meet county specifications.
- (5) The name, address and contact information of the applicant.
- (6) The name, address and contact information of the onsite manager.
- (7) A copy of any lease for real estate or personal property involved.
- (8) Plot plans drawn to scale showing housing units, additional structures, setbacks, utilities, drainage, ingress and egress, parking plans, screens, buffers and fencing. Plot plans shall be provided to the Hettinger County 911 emergency coordinator on a current basis.
- (9) An occupancy list to be maintained and provided to the Hettinger County 911 emergency coordinator on a current basis.
- (10) Unit spacing adequate to accommodate emergency services.
- (11) A list of house rules and regulations.
- (12) On-site security plan, including plans for controlled access to the facility and a minimum six-foot (6') high chain link fence encompassing the facility.
- (13) Fire and emergency evacuation plan.
- (14) Copy of the permit, or approval, issued by the North Dakota State Health Department, Southwest Water Authority and Southwest District Health Unit including fresh water, refuse disposal plan and septic or sewer discharge plan.
- (15) Pay an annual Planning and Zoning fee in an amount to be determined by the County Commission.
- (16) A copy of plans for closing the temporary crew housing and cleaning up and reclaiming the real property.
- (17) Submit a surety bond to ensure the proper clean-up and site reclamation upon abandonment of the property. The amount of the bond shall be determined by the County Commission and be in an amount sufficient to clean the premises upon

abandonment together with an escalator clause to cover anticipated increases in costs for such purpose. The bond posted must continue in effect for two years after the facility is abandoned.

The surety bond shall be forfeited to Hettinger County if the Temporary Crew Housing Facility is not dismantled and the area restored to its unoccupied condition as set out in the written plan and agreement provided to the county. The bond will also be forfeited if any of the following events or conditions occur:

- a) The Sheriff's Department or any other law enforcement agency receives or services ten (10) complaints due to noise, fighting, unruly behavior or other acts prohibited by the North Dakota Century Code within a three (3) month period of time at the Temporary Crew Housing Facility location.
  - b) The Sheriff's Department or any other law enforcement agency receives or services three (3) complaints due to noise, fighting, unruly behavior or other acts prohibited by the North Dakota Century Code for any single individual at the Temporary Crew Housing Facility and said individual is permitted to remain at or in the Temporary Crew Housing Facility by the applicant or the applicant's agents.
  - c) The Temporary Crew Housing Facility fails to appropriately dispose of refuse.
  - d) The occupancy of the Temporary Crew Housing Facility exceeds the number of individuals indicated in the application.
- (18) At a minimum, off-street parking shall be provided on a one-to-one ratio, one parking space per bed and one parking space per employee.
- (19) Any additional information deemed necessary by the Zoning Administrator, the Planning and Zoning Commission or the County Commission.

#### 6.15.5 Restrictions on Grant of Permit

The Hettinger County Board of Commissioners or the Hettinger County Planning and Zoning Commission may at its discretion deny

an application for a Temporary Crew Housing Permit if the applicant is of questionable character or for any other cause which would, in the opinion of the Board of County Commissioners or the Planning and Zoning Commission, render the applicant or the premises to be licensed, improper or unfit for a temporary crew housing facility, or which would, in the judgment of the Board of County Commissioners or the Planning and Zoning Commission, make the granting of the permit contrary to the best interests of the county or its citizens.

#### 6.15.6 Prohibited Housing Types

Recreational vehicles, campers and mobile homes are prohibited as units in a Temporary Crew Housing facility.

#### 6.15.7 Prohibited Activities

No alcoholic beverages, firearms, illegal substances or animals are allowed on the premises of a temporary crew housing facility. No parking shall be allowed between the units. The site shall be maintained free of garbage and junk.

#### 6.15.8 Revocation of Permit

The Board of County Commissioners may review the status of any permit issued pursuant to this Ordinance and take appropriate action to suspend or revoke the same, as provided herein.

##### (1) Suspension or Revocation for Cause.

Any permit issued pursuant to this Ordinance may be revoked or suspended for cause by the Board of County Commissioners, which cause may include, among other ground, the following:

- a) The applicant being adjudged bankrupt.
- b) Applicant's falsifying of any statement or statements in the application process described herein.
- c) Applicant's conviction, or the conviction of an applicant's officers, directors or agents, of any felony crime under the laws of the United States of America or any state or municipality.
- d) The applicant's violation of any health or sanitary regulations of Hettinger County or the State of North Dakota.

- e) The applicant's conduct of business in a disorderly manner or in a manner deemed to be dangerous or detrimental to the public welfare, safety or morals.
- f) The applicant's, or any agent or employee of the applicant, violation of any term or condition of the permit or any provision of this Ordinance.

(2) Notice - Public Hearing

Sanctions or penalties under this ordinance may not be invoked without a public hearing if requested by the applicant. The County Auditor shall give written notification to the applicant that a penalty is being sought under this ordinance. The applicant may notify the County Auditor's office within ten (10) days of such written notification and request a hearing on the proposed penalty. Failure to request the hearing within 10 days of the date of such written notification will be deemed to be acceptance of the penalty without hearing.

If a hearing is requested on the suspension or revocation of a permit, a hearing shall be scheduled by the Board of County Commissioners with a notice specifying the time and place of hearing mailed to the applicant. The hearing shall be recorded electronically.

If, after such hearing, the majority of the Board of County Commissioners agrees that sufficient cause exists for the penalty sanctions, the Board shall enter an order in accordance with the provisions of this ordinance. The Board shall issue written findings, conclusion and order which will be mailed to the applicant.

(3) No refunds on Revocation or Suspension

When any permit is revoked or suspended for any reason, no portion of the permit fee shall be returned to the applicant.

6.15.9 Expansion of Temporary Crew Housing

In the event an application is to expand an existing temporary Crew Housing Facility Permit, the expansion shall be treated as a new application, and all conditions, terms and fees shall apply to the new application without consideration for the existing temporary crew housing facility.

#### 6.15.10 Renewal of Conditional Use Permit

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

#### 6.15.11 Conditions – Reporting Requirements

The Board of County Commissioners or the Planning and Zoning Commission may attach any necessary and prudent conditions or reporting requirements to the grant of the conditional use permit.

#### 6.15.12 Enchanted Highway Setbacks

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

## 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, firefighting, 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 and Zoning Commission.

7.2.3 Within fifteen (15) days after submittal of sketch plan, the County Planning and Zoning 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 and Zoning 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 and Zoning 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 and Zoning Commission requests.

### 7.3.3 Review Process

- (1) The Planning and Zoning 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 and Zoning 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 and Zoning 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 and Zoning Commission at least ten days before any scheduled meeting of the Planning and Zoning 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 and Zoning Commission may require the subdivider to submit detailed drawings for grading of the lots,

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

#### 7.4.3 Review Process

- (1) If the Planning and Zoning 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.

#### 7.4.4 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 and Zoning 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 and Zoning 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 and Zoning 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 and Zoning 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 and Zoning 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 and Zoning 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 to 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 and Zoning 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 and Zoning 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 were 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 and Zoning 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 and Zoning 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 and Zoning 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 and Zoning 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 and Zoning Commission.

## 9. REQUIRED IMPROVEMENTS

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

### 9.1 Completion Assurance

To cover the cost of improvements, as determined by the Planning and Zoning 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, watermains shall be installed so as to provide individual service to each lot within the subdivision.

9.3.2 Watermains shall extend to the boundary of the subdivision, except where in the opinion of the Planning and Zoning 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 and Zoning 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 and Zoning 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 and Zoning 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.

## 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 zoning certificates, permits and maintain record thereof.
- (2) Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
- (3) 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.
- (4) Prepare and publish notices and notify adjoining property owners.
- (5) Receive, file and forward to the Planning and Zoning Commission all applications for preliminary and final plats

- and the supporting documents.
- (6) Receive, file and forward to the Planning and Zoning Commission all applications for zoning amendments, site approvals and conditional uses.
  - (7) Receive, file and forward all requests for variances to the County Commission, which may act as a Board of Adjustment.
  - (8) 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 five hundred (500) feet of the property in question and adjacent property owners, but not limited to five hundred (500) 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 Temporary Use Permit

A temporary use permit may be granted by the County Zoning Director following a ruling by the planning and zoning commission on the application submitted. Temporary use permits shall apply to the structures and uses identified as appropriate under each district, and any other activities or uses considered by the planning and zoning commission to warrant limitations on the length of time the land can be occupied by said use or activity.

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

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

#### 11.7 Variances

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

#### 11.7.1 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.

#### 11.7.2 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.

#### 11.7.3 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.

#### 11.7.4 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. The Planning and Zoning Commission shall recommend to the County Commission the approval of the variance request, approval of the request with modifications or the rejection of the request.

#### 11.7.5 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.

#### 11.7.6 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.

#### 11.8 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:

Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;

12.2.1 Restrain, correct, or abate such violations;

12.2.2 Prevent the occupancy of the building, structure, or land; or

12.2.3 Prevent any illegal act, conduct, business, or use in or about such premises.

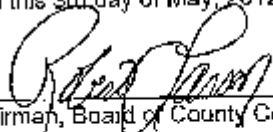
### **12.3 Penalties for Violations**


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.

12.4 Building Code

All buildings or structures or parts of structures used for residential or commercial purposes, and accessory structures thereto shall be designed and constructed, altered, equipped, and maintained in accordance with the North Dakota State Building Code, N.D. Admin. Code, Sec. 108-01-01 et seq. and the same is hereby made a part of this resolution and incorporated therein as if set out at herein, and from the date this resolution takes effect the provisions thereof shall be controlling in the construction of all residential buildings and accessory buildings thereto.

Adopted this 3rd day of May, 2012

By:  \_\_\_\_\_  
Chairman, Board of County Commissioners

By:  \_\_\_\_\_  
Hettinger County Auditor