

KIDDER COUNTY ZONING REGULATIONS

I. GENERAL PROVISIONS

1.1 Title

These regulations and the District Zoning Map shall be known as the County Zoning Regulations.

1.2 Authority

The Zoning Regulations have been enacted pursuant to the authority granted by the North Dakota State Legislature to promote the health, safety, morals, public convenience, general prosperity and public welfare of the citizens of the County.

It has been made and adopted in accordance with regulations the County Comprehensive Plan.

1.3 Purpose and Intent and Jurisdiction

The Zoning Regulations were designed specifically to promote the sound and desirable location and use of buildings, structure, and the sound and desirable occupancy, use or condition of use of land and other natural resources found within the County.

It is intended that the restrictions and regulations found within the Zoning Regulations shall govern all land and other property located within the County over which the County Board of Commissioners is empowered by law to regulate.

The area within three miles adjacent to a municipality shall be a zone of coordination for development between the County and the municipality. The City Council or Commission in the affected city shall be given special notice at least 10 days prior to a hearing on all and any action pending on amendments to the County Zoning Regulations and on an application for a Conditional Use Permit within the three (3) mile zone. The notice shall state the time, place and purpose of the hearing during which the city can express its objections to the amendment.

The Board of Supervisors for organized townships with the County shall be given notice at least ten (10) days prior to a hearing on any action pending on amendments of the Zoning Regulations or on application for a Conditional Use Permit if such amendment or approval will affect any land in the organized township. The notice shall state the time, place, and purpose of the hearing during which the township supervisors can express objections to the amendment or approval.

1.4 Interpretation

The provisions of these Regulations shall be minimum requirements.

1.5 Repeal

All regulations or parts of the regulations, existing regulations, districts, district zoning maps, or resolutions in conflict with the Regulations and its provisions are hereby repealed.

1.6 Severability

If any section, sub-sentence, clause, or phrase of this regulation is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the regulation. The Board of County Commissioners of the County hereby declares that it would have passed this regulation and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

1.7 Effective Date and Compliance

From this 6th day of September, 1994, each structure and use within the County, Not otherwise excepted, shall be in compliance with the provisions of these Regulations.

1.7.1 Exceptions

1. Non-Conforming Uses

Any structure or use which was lawful before the Regulations were passed, but would be prohibited, regulated or restricted under the terms of the Regulations or under amendments to these Regulations is a Non-Conforming Use.

The lawful existence or use of such non-conformities which are present at the time of the adoption or amendment of these Regulations may be continued even though such use or existence does not conform with the provisions of these Regulations. However, the intent of the Regulations is that while such non-conformities may continue in their present state their survival will not be encouraged, nor shall they be enlarged upon, expanded, or extended.

If a non-conforming use ceases for a period of more than twenty-four (24) months, any future use of that structure, land or other property shall be in conformity with the regulations of the district in which it is located.

If a non-conforming structure is damaged or has deteriorated and the cost of repairs exceeds 50% of the assessed value of the structure, the use of such structure shall be discontinued unless permanently changed to a conforming use.

2. Variances

The Board of County Commissioners may adjust the application or enforcement of any provision or of a resolution in any specific case where a literal enforcement of such provision or resolution would result in great practical difficulties, unnecessary hardship, or injustice, in an effort to avoid such consequences; provided such action shall not be contrary to the public interest or the general purposes thereof.

1.8 Conditional Uses

A conditional use is one which may be permissible within a designated district, but specific conditions must be met prior to and after approval of the conditional use. An application for approval of the conditional use must be submitted to the Planning Commission and a public hearing held before any action is taken for approval of the conditional use.

1.9 Permits

A permit shall be required before construction, alteration, or use begins for all new, altered, conditional and special conditional uses. No permit is required for maintenance or repair of existing structures which are in conformity with these Regulations. No permit is required for buildings that are for farm buildings, single family residences, or recreation buildings.

Application for a permit shall be made and approved before any movement or construction begins within the County. Once secured, the permit shall be posted in a conspicuous place during and until the project is completed or otherwise ready for use.

No electrical hookups may be made in the County by any utility company unless the owner or occupier has posted such permit in accordance with the above provisions.

The County Auditor and the County States Attorney shall be responsible for the enforcement of this provision.

1.10 Amendments

Because no area is static and to allow for flexibility in response to circumstances and needs not foreseen at the time of the enactment of these Regulations, the Board of County Commissioners, on its own motion or by recommendation, may amend or repeal any provision of these Regulations after a public hearing held pursuant to State Law.

1.11 Application Forms

All information and data to be submitted by the applicant as required by official County Application Forms is hereby incorporated by reference into the Zoning Regulations. Application forms are available from the County Auditor.

II. ADMINISTRATION AND ENFORCEMENT

2.1 The County Zoning Regulations shall be administered and enforced by the County Planning Commission, the County Auditor, and County Board of Commissioners, and County States Attorney.

2.2 Right to Appeal

Any person, or persons, jointly or severally, aggrieved by a decision made by the Board of County Commissioners under Chapter 11-33 of the North Dakota Century Code may appeal to the District Court in the manner provided by law.

2.3 Violations

Whenever a violation of these Zoning Regulations occurs, or is alleged to have occurred, any person may file a written complaint with the County Auditor. Such complaint shall state fully the cause and the basis of the complaint. The County Auditor shall make a record of the complaint, inspect the site or structure complained thereof and present the complaint along with the findings to the Planning Commission. The County Commission with the advice of the States Attorney and Planning Commission shall determine if there is a violation of these regulations.

2.4 Remedies and Enforcement

It if is determined by the County Commission that any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or if any building, structure or other property is used in violation of this Regulation, the County auditor shall notify the States Attorney of such violation. The States Attorney shall then institute appropriate action to:

1. Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
2. Restrain, correct, or abate such violations;
3. Prevent the occupancy of the building, structure, or land;
4. Prevent the illegal act, conduct, business, or use in or about the premises;
5. And/or impose the penalties provided under Chapter 11-33 of the North Dakota Century Code.

III. DISTRICTS

Districts and Boundaries

3.1 District Classifications

In order to classify, regulate, and restrict the location of businesses, industries, residences, and the location of buildings designed for specified uses; and to regulate and restrict the density of population; unincorporated areas under the zoning jurisdiction of the County are divided into the following districts, said districts being known as:

- A - AGRICULTURAL DISTRICT
- C - COMMERCIAL/INDUSTRIAL DISTRICT

3.2 Application of District Regulations

The regulations within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building, structure, or land shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless it is listed as a permitted use or is listed as a conditional use for which a conditional use permit has been approved.

3.3 District Zoning Map

The boundaries of the zoning districts appear on the map designated as the District Zoning Map. The District Zoning Map and all notations, references, and other information shown thereon are a part of these Zoning Regulations and have the same force and effect as if said map and all notations, references, and other information shown thereon were all fully set forth and described herein. A properly attested copy of the District Zoning Map is on file with the County Auditor.

3.4 Uses, Permitted and Conditional

1. Agricultural - A
 - a. Objectives

It is the purpose of these regulations to encourage the use of land in this district for agricultural activities and to discourage any use which would be detrimental to carrying out the primary function of the land for agriculture.

b. Permitted Uses

1. Agricultural operations and those land uses, facilities, buildings, and structures incidental to agricultural operations, including state permitted on site disposal of solid waste and sewage generated from the agricultural operation;
2. Churches and cemeteries;
3. Schools;
4. Public and private conservation areas;
5. Recreational activities that do not disturb the land or agricultural operations;
6. Non-farm residences and mobile homes;
7. Commercial and retail establishments including lodging accommodations operated in conjunction with recreational uses in the district and for the convenience of the patrons and residents thereof;
8. Public gatherings for single or multiple purpose events, such as bazaars, carnivals, fairs, musical events, races, revivals, rodeos, etc.;
9. Parking lots for public events;
10. Home Occupations and Occasional Sales;
11. Commercial Feedlots that are located at least one mile from a one-half mile from incorporated city and a residence other than the residence of the feedlot owner or operator.

c. Conditional Uses

1. Electrical power transmission lines;
2. Industrial, municipal, and commercial pipelines;
3. Radio, television, and telephone microwave transmitting stations;
4. Water reservoirs, water storage tanks, pumping stations and sewer lift stations;
5. Railway trackage and spurs;
6. Livestock auction rings;
7. Commercial feedlots located within one mile of an incorporated city and within one-half mile of a residence other than the residence of the feedlot owner or operator;
8. Coal excavation and mining;
9. Commercial sand and gravel operations;
10. Airports;

11. Government facilities;
12. Sewage lagoons and sewage disposal plants;
13. Geophysical exploration;
14. Multi-family dwellings;
15. Temporary buildings and yards for construction materials and equipment;
16. Temporary office space;
17. Inert waste landfills.

- d. See Section IV for building standards and Section V for conditions which must be met before approval of a conditional use will be considered.

2. Commercial/Industrial - C

a. Objectives

It is the purpose of these regulations to provide for the grouping of commerce, industry, and other businesses into central areas. The Board of County Commissioners recognizes the importance of these activities to the various cities with the County and will give special notice to City Councils or Commissions in nearby municipalities whenever an amendment to the zoning regulation is sought to establish a Commercial District.

b. Permitted Uses

1. Agricultural operations and those buildings and structures which are incidental to agricultural operations;
2. Dry cleaning, pressing, tailor shops, and laundromats;
3. Electrical and plumbing shops;
4. Lumberyards;
5. Professional offices including banks, insurance, real estate, medical clinics, newspapers, and lawyers;
6. Retail and service uses including grocery, drugs, hardware, clothing, furniture stores, bakeries, restaurants, taverns, automobile service stations, used and new car lots, print shops, barber and beauty shops, and sale and service of appliances.
7. Sales and service of farm implements;
8. Wholesale activities not requiring yard storage;
9. Hotels and motels;
10. Theaters;
11. Bowling alleys and other recreational buildings;
12. Clubs and lodges.

c. Conditional Uses

1. Residential dwellings;
2. Warehouses;
3. Grain and feed mills;
4. Government facilities;
5. Railroad trackage;
6. Special events and construction sheds and offices;
7. Manufacturing and processing plants;
8. Sanitary landfills, sewage lagoons and sewage disposal plants;
9. Fertilizer plants;
10. Coal Gasification Plants;
11. Refineries and petrochemical plants;
12. Fuel storage tanks and terminals;
13. Electrical power generating plants;
14. Airports;
15. Salvage and junk yards;
16. Livestock auction rings;
17. Commercial feedlots;
18. Electrical power transmission lines;
19. Industrial, municipal and commercial pipelines;
20. Radio, television, and telephone microwave transmitting stations;
21. Water reservoirs, water storage tanks, water pumping stations and sewer lift stations;
22. Railway trackage and spurs;
23. Coal excavation and mining;
24. Commercial sand and gravel operations;
25. Solid waste incinerators;
26. Welding shops;
27. Geophysical exploration;
28. Grain elevators and grain storage facilities;
29. Equipment sales, service or repair facilities;
30. Trucking and freight terminals.

- d. See Section IV for building standards and Section V for conditions which must be met before approval of a conditional use will be considered.

IV. BUILDING STANDARDS AND DISTRICT REGULATIONS

4.1 Scope

These standards and regulations are applicable in all districts unless otherwise required under these regulations.

4.2 Standards

4.2.1 Sewer Systems - Adjacent to Lakes

Septic tank sewage disposal systems with drainfields or drains shall not be allowed for multi-family dwellings, or single family dwellings on less than one acre parcels of land, or for recreational or non-farm residences within 100 feet of a lake.

4.2.2 Outdoor Storage of Materials

1. Commercial/Industrial District.
 - a. Prohibited on front yard and in sight lines.
2. All Districts.
 - a. Unsightly storage of old cars, junk, trash, etc., prohibited.

V. CONDITIONAL USES

5.1 Definition

A conditional use is one which may be permissible under these regulations within a designated district, but to which specific conditions are attached. The County Planning Commission and the County Board or Commissioners must be satisfied that the granting of a conditional use permit will promote the health, safety and well being of the citizens of the County.

5.2 Public Hearing Required

Application for approval of a conditional use, in addition to other pertinent information must be submitted to the Planning Commission and a public hearing held before any action is taken for approval of the conditional use.

5.3 Fees and Notice to Public

Fees are payable in advance. Included within the fee will be the cost of publishing notice of the hearing. The County Auditor will be responsible for publishing the notice in the appropriate newspapers and will also be responsible for posting notice at the affected site. The County Commission will set a fee schedule.

5.4 Procedure for Approval of a Conditional Use

5.4.1 Application

Application for approval of a conditional use shall be submitted on an approved form to the County Auditor.

5.4.2 Additional Information Required

The following information shall be submitted to the Planning Commission for all conditional uses. Additional information for particular conditional uses may also be required under these regulations. The applicant is responsible for ascertaining whether the particular conditional use for which they are seeking approval requires the submission of such additional information.

1. A description and map of the site and its relationship to the surrounding area.
2. Preliminary maps showing the location of structures to be developed or used at the site.
3. Topographic maps in 5' contours of the site.
4. Classification of soils of the site.
5. The location of existing utilities and proposed utility extensions.
6. Parking plans showing off-street parking areas, loading areas, and transfer stations.
7. A schedule showing anticipated starting and completion dates.
8. Written approval of respective highway authorities for new access roads.
9. Names and addresses of adjacent property owners.
10. Copies of all plans and specifications which have been submitted to governmental departments and agencies.
11. Any additional information deemed necessary.

VI. PROCEDURE TO BE FOLLOWED WHEN A PUBLIC HEARING IS REQUIRED

6.1 A public hearing is required whenever an application is made for any of the following:

1. Amendments to the Zoning Regulations.
2. Approval of a Conditional Use.

3. Approval of a Variance.

6.1.1 Application for the above shall be submitted on an approved form to the County Auditor.

6.1.2 All fees are payable in advance at the time the application is submitted. Included in such fees shall be the cost of publication of public notice of the hearing. The County Commission will establish a fee schedule.

6.1.3 Upon receipt of the application, the Planning Commission Chairman shall set a date for the public hearing.

6.1.4 The applicant shall be notified of the hearing date by the County Auditor or their designated representatives.

6.1.5 Prior to the hearing date the applicant shall submit any additional information required under the zoning regulations to the County Auditor.

6.1.6. Notice of the public hearing shall be published once a week for two consecutive weeks in the official newspaper of the county, and in such other newspapers as the Planning Commission shall deem necessary. The County shall be responsible for publication of such notice and shall also post notice of the hearing at the affected site.

6.1.7 Following the public hearing, the Planning Commission shall submit its recommendations concerning the proposed action to the Board of County Commissioners for a final decision.

6.1.8 Upon approval and adoption by the Board of County Commissioners of the application, notice shall be published in the official newspaper of the County once a week for two consecutive weeks. The County Auditor shall file proof of such publication in the office of the County Auditor and shall also file a certified copy of the resolution in the Office of the Register of Deeds.

6.1.9 If no petition for a separate hearing is filed pursuant to N.D.C.C. 11-33-10, the resolution or amendment shall take effect upon the expiration of the time for filing said petition.

VII. DEFINITIONS

AGRICULTURAL DISTRICTS. All land and areas used for: cultivating the soil, producing crops and/or raising livestock, and so designated by the Board of County Commissioners on the District Zoning Map.

AMENDMENT. Any change, revision, or modification of the text of these regulations or the District Zoning Map.

CERTIFICATE OF ZONING COMPLIANCE. A certificate stating that a use is permissible under the zoning district regulations.

COMMERCIAL/INDUSTRIAL DISTRICT. The area designated by the Board of County Commissioners on the District Zoning Map which provides for the grouping of retail merchandising, services, industry and excavation activities.

COMMERCIAL FEED LOT. Any building, structure, enclosure, or premises used, designed, or intended for the commercial feeding of two or more animals which is operated as a separate pursuit and not incidental to farming.

COMMERCIAL SAND AND GRAVEL OPERATIONS. The use of land for the purpose of opening a sand and gravel pit for sale or resale, or the processing of the material of a sand or gravel pit for sale or resale.

CONDITIONAL USE. Any use to which the Planning and Zoning Commission shall attach specific conditions.

COUNTY HIGHWAYS AND ROADS. Any and all roads over which the Board of County Commissioners has authority and for which said Commissioners provide maintenance.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

DISTRICT. The areas of the County for which the regulations governing the use of land and the use, density, bulk, height, and location of structures and buildings are uniform.

EASEMENT. A vested or acquired right to use land, other than as a tenant, for a specific purpose; such right held by someone other than the owner who holds title to the land.

FARM. A single tract of land or contiguous tracts of agricultural land containing a minimum of 10 acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching.

GEOPHYSICAL EXPLORATION. Any method of obtaining petroleum related geophysical surveys.

HEARING. A public meeting held before the Planning and Zoning Commission whenever the same is required by law.

HOME OCCUPATION. Any occupation or profession carried on by a member of the immediate family, residing on the premises, in which no more than one person other than the family members is employed on the premises.

MINERAL OPERATIONS. Any operation involved in the search, exploration, or prospecting of any substance or mineral which involves the penetration of the land surface by digging, drilling, or excavating.

MOBILE HOME. A structure, transportable in one or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

MOBILE HOME PARK. A tract of land designed and developed to accommodate mobile homes, each occupying a portion of the site on a lease or rental basis, and each provided with the necessary utilities and other amenities so that the total development serves as a suitable environment for residential occupancy.

MULTI FAMILY DWELLING. A residential building not part of an agricultural operation designed for occupancy of three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

NON-CONFORMING USE. Any building or tract of land lawfully occupied by a use, at the time of the passage of these regulations or amendments thereto, which does not conform with the provisions of this regulation or amendments thereto.

PERMITTED USE. Any use which complies with the requirements of a zoning district.

RECREATION VEHICLE. A vacation trailer or other vehicular or portable unit which is either self-propelled or towed or is carried by a motor vehicle and which is intended for human occupancy and is designated for vacation or recreation purposes but not a residential use.

RECREATION VEHICLE PARK. A tract of land, designed and utilized, and operated on a fee or other basis as a place for the temporary parking of occupied recreation vehicles.

SUBDIVISION. The division of land into two or more lots for the purpose, immediate or future, of sale or lease for 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, plazas, or open spaces.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (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. The term does not, however, include either: (1) Any project for

improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

TEMPORARY PERMITS. Permits issued by the County Board of Commissioners for certain uses before operation of said uses are allowed in the County.

TRACT. A plot, piece, or parcel of land, other than a lot which is recorded in the Office of the Register of Deeds.

TRANSMISSION LINE. Overhead electrical lines of 46 KV or larger.

USE. The specific purpose for which land or a building is used.

VARIANCE. A relaxation of the terms of the zoning regulation in any specific case where a literal enforcement of any provision or resolution would result in great practical difficulties, unnecessary hardship, or injustice.

WORK CAMP. A mobile home park designed and intended for the temporary residence of construction employees of a developer, contractor, or subcontractor intended for use during the construction period of the project.

ZONING DISTRICT MAP. The map showing the zoning districts of the County officially adopted by the Board of County Commissioners.

Kidder County Zoning Maps

Shaded Area - Commercial/Industrial District

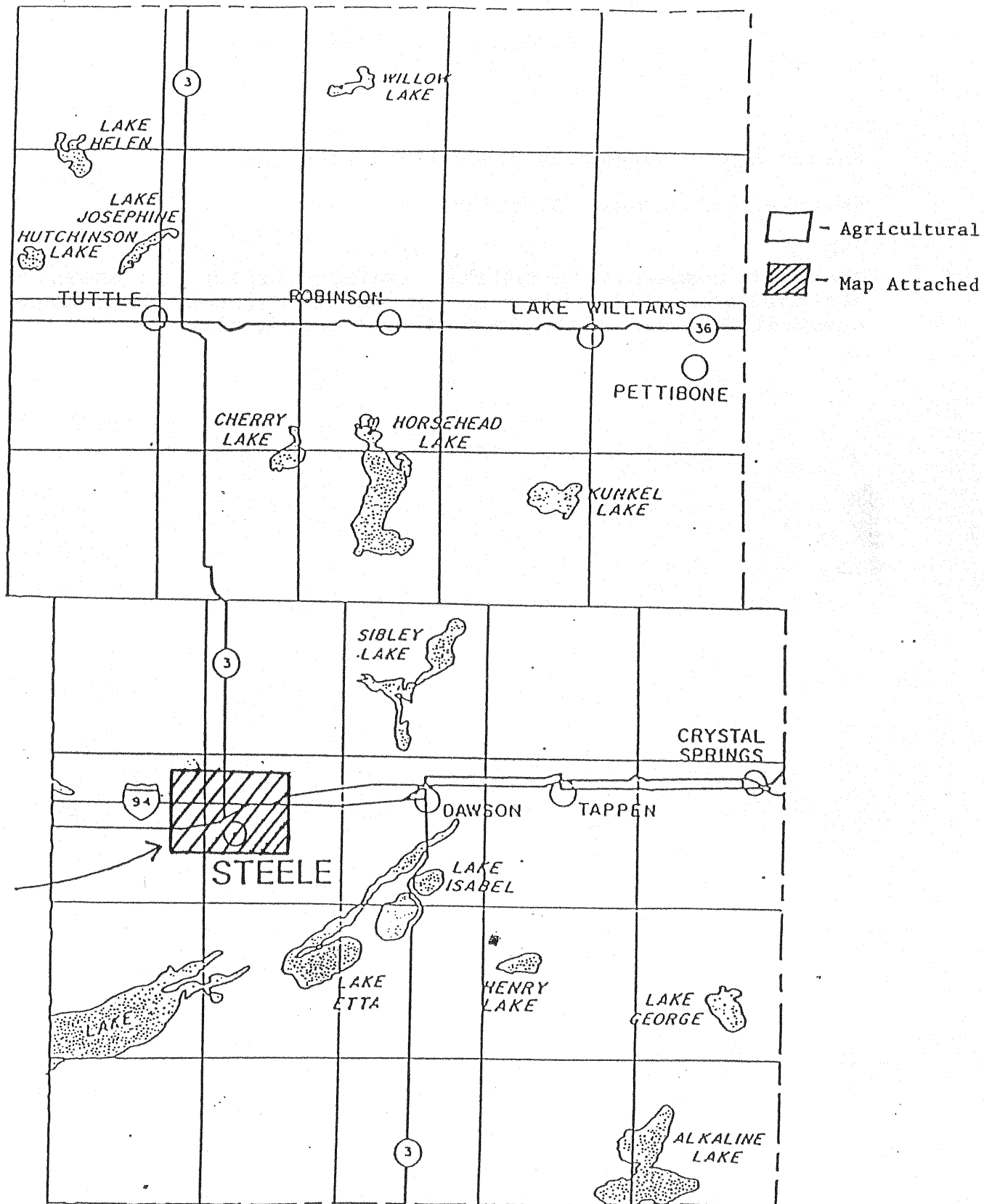
White - Agricultural District

Areas in Commercial/Industrial zoning district are shown on the attached map. All other areas of the county, outside incorporated communities, are in the Agricultural zoning district.

KIDDER COUNTY

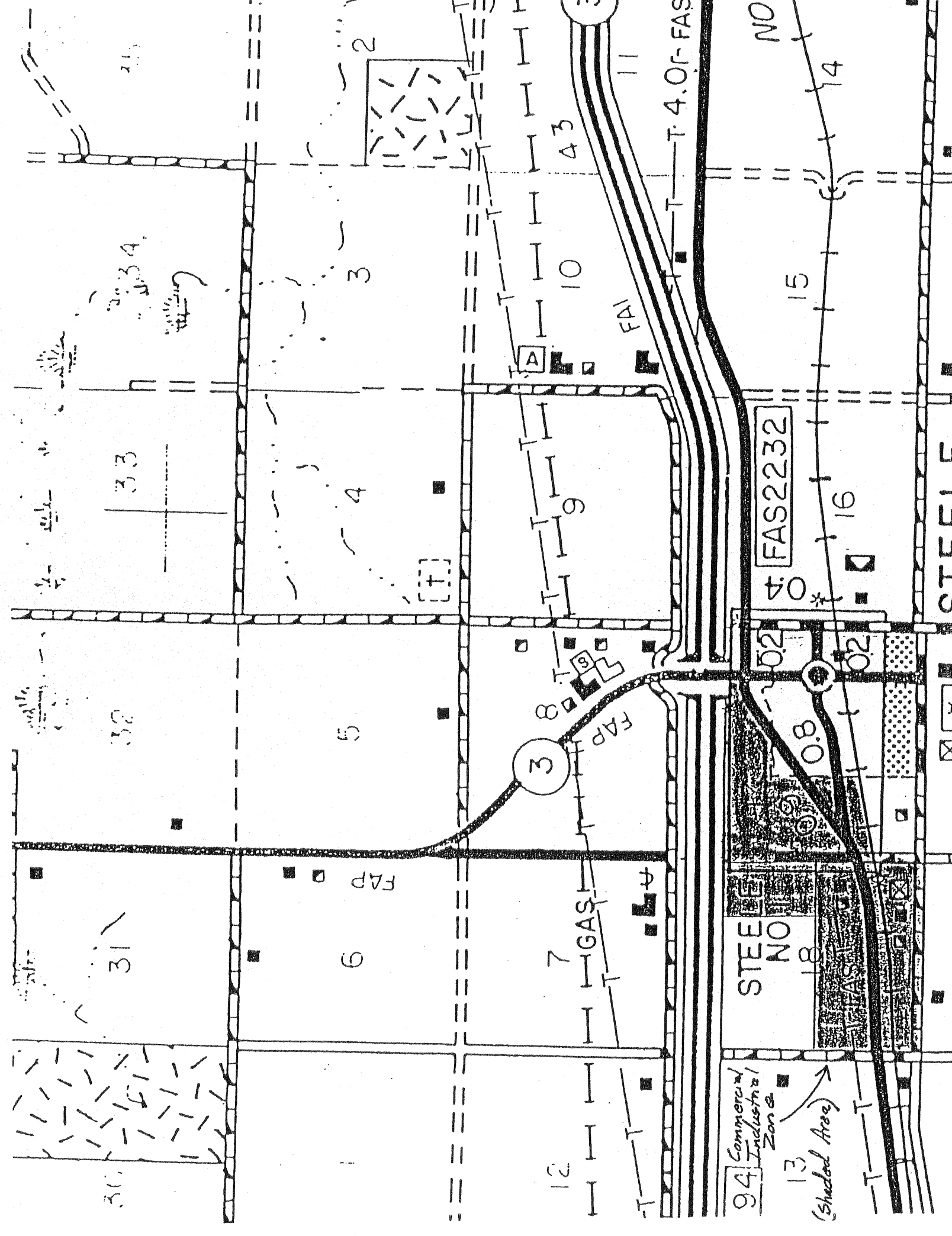
North Dakota

Zoning Map



See Map
Attached

All land in the county is in the Agricultural Zoning District except the areas noted on the attached map near the City of Steele



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12

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43

11

94

STEEL

NO

18

15

14

NO

13

16

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(Shaded Area)

Commercial Industrial Zone

Commercial Industrial Zone

Commercial Industrial Zone

Commercial Industrial Zone

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