

Adrian  
Township

COPY

LaMoure County ND

## ARTICLE I

### INTRODUCTION

#### 1.1 Title

These regulations shall be known, and may be cited and referred to as the Adrian Township, LaMoure County, North Dakota Zoning Regulations, which will be filed at LaMoure County Recorder.

#### 1.2 Purpose and Intent

1.2.1 To protect public health, safety, morals, comfort, convenience, prosperity, and general welfare of the Township of Adrian, LaMoure County, North Dakota.

1.2.2 To secure safety from fire, panic, noxious fumes, and other dangers.

1.2.3 To promote orderly development of land and water resources and to prevent conflict among land uses and structures.

#### 1.3 Authority

These regulations are adopted under the authority granted by Chapter 58-03 of the North Dakota Century Code.

#### 1.4 Jurisdiction

##### 1.4.1 General

These regulations shall apply to the use and enjoyment of all lands within the Adrian Township LaMoure County, North Dakota.

##### 1.4.2 Extraterritorial Areas

When an incorporated municipality has declared its intent in exercising its extraterritorial authority as provided by Chapter 40-47 of the North Dakota Century Code, these regulations shall not apply to the area delineated for that purpose.

#### 1.5 Interpretation

These regulations shall be held to be minimum requirements adopted for promotion of purposes cited in Section 1.2. Whenever, the requirements of these requirements are at variance with the requirements of other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive shall govern unless otherwise specifically stated.

#### 1.6 Severability

If any part or portion of these regulations is adjudged invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

## 1.7 Effective Date

These regulations shall be effective upon adoption by the Township Board of Supervisors as provided by the North Dakota Century Code.

## 1.8 Exceptions

These regulations shall not apply to the use of land and buildings for agriculture as defined herein with the exception of feed lot operation.

# ARTICLE 2

## RULES AND DEFINITIONS

### 2.1 Rules

In construction of these regulations, the rules and definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

2.1.1 Words used in present tense shall include the future.

2.1.2 Words used in singular number shall include the plural number, and the plural the singular.

2.1.3 Shall is a mandatory word and not discretionary.

2.1.4 May is a permissive word.

### 2.2 Definitions

2.2.1 "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 the principal building or principal use. The accessory building or use shall be located on the same zoning lot and it is established to contribute to the comfort, convenience or necessity of occupants of the principal building or principal use.

2.2.2 "Agriculture" means the process of producing food and fiber including, but not limited to the land, facilities, structures, and buildings for operation and maintenance thereof. It includes all types of general farming, crop and vegetable farming, dairying, livestock and poultry raising, apiaries, fur farming, horticulture, pasturing, tree farming and related land based food and fiber producing facilities.

2.2.3 "Airport" means any area designated for the landing and take off of aircraft and any appurtenant areas which are used or intended for use for airport buildings and structures including runways, taxi-ways, aircraft storage and tie down areas, hangars and other related facilities and open spaces other than landing strips used for family purposes.

2.2.4 "Animal Hospital or Kennel" means a building or premises set up for treatment and boarding of domestic animals including veterinary facilities.

2.2.5 "Building" means any structure designed or intended for shelter, housing, business,

office, and accommodation of persons, animals, chattels or property.

2.2.6 "Building Area" means that portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and side yards.

2.2.7 "Building Height" means vertical distance from the grade to the highest point of the roof.

2.2.8 "Building Line" means a line establishing the minimum distance that structures may be placed from the lot lines or highway right-of-way. For the purposes of these regulations the building line is the same as setback line.

2.2.9 "Building, Principal" means a building, the principal use of which is single family and multi-family dwellings, and offices, shops, stores and other uses.

2.2.10 "Channel" means a natural or man-made watercourse for conducting the flowing water.

2.2.11 "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.

2.2.12 "Comprehensive Plan" means a guide for management of the physical resources and development of the Township as adopted by the Board of Supervisors.

2.2.13 "Conditional Use" means use of a special nature not automatically permitted in a zoning district and which requires review and approval of the Zoning Commission after public hearing.

2.2.14 "Conforming Building or Structure" means a building or structure which complies with all requirements of these regulations and other regulations adopted by the Township.

2.2.15 "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 alternations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavation and drilling operations.

2.2.16 "Development Plan" means a document including maps and data for physical development of an area as provided by these regulations.

2.2.17 "District" means a section or sections of the township for which regulations governing the use of building and premises, the building heights, size of yards, lot area, lot width and the use are uniform.

2.2.18 "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.

2.2.19 "Dwelling, Multiple Family" means a single building or portion thereof, containing two (2) or more dwelling units.

2.2.20 "Dwelling, Single Family" means a building containing one dwelling unit only.

2.2.21 "Encroachment" means any fill, building, structure or use including accessory uses projecting into the required yard areas or public and private property.

- 2.2.22 "Establishment" means a place of business for processing, production, assembly, sales, service of goods and materials.
- 2.2.23 "Feedlot" means a parcel of land which contains an operation for feeding or raising of 300 (three hundred) or more animal unit equivalent.
- 2.2.24 "Flood Plain" means an area which may be covered by flood water including but not limited to regional floods.
- 2.2.25 "Frontage" means the front part of a lot abutting a public right-of-way, or road or highway.
- 2.2.26 "Grade" means the land elevation at the horizontal intersection of the ground and the building.
- 2.2.27 "Home Occupation" means any occupation carried on in a dwelling unit by a member or members of the family and which meets these requirements:
- (1) That the occupation is conducted within the principal building and not in an accessory building.
  - (2) That no stock-in-trade is kept or commodities sold other than those produced on the premises.
  - (3) That no more than twenty five percent (25%) of the floor area of the dwelling is devoted to such home occupation.
- 2.2.28 "Hotel or Motel" means a building in which lodging accommodations, with or without meals are provided for compensation.
- 2.2.29 "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.
- 2.2.30 "Kenne', Animal" means any premises where dogs, cats and other household pets are boarded, bred and maintained for compensation.
- 2.2.31 "Lot" means a piece, parcel, lot or area of land of continuous assemblage established by survey, plat or deed.
- 2.2.32 "Lot Lines" means the property lines bounding the lot.
- 2.2.33 "Lot Width" means the horizontal distance between the side lot lines of a lot measured at the front building setback line.
- 2.2.34 "Lot. Zoning" means a single lot, parcel, tract of land within a zoning district developed or to be developed.
- 2.2.35 "Mobile Home" means a manufactured trailer intended for family residential occupancy.

- 2.2.36 "Mobile Home Park" means a parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities exists.
- 2.2.37 "Non-conforming Building" means any building which does not comply with any or all of these regulations.
- 2.2.38 "Non-conforming Use" means any principal use of land or building which does not comply with any or all of these regulations.
- 2.2.39 "Nursing Home or Convalescent Home" means a home for the aged or infirm which unrelated persons are accommodated for compensation.
- 2.2.40 "Permitted Uses" means those uses, buildings or structures which comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Permitted uses are distinct from conditional uses that are authorized only if certain requirements of these provisions are met after a public hearing and approval by the Board of Supervisors.
- 2.2.41 "Person" means any individual, firm, corporation, partnership or legal entity.
- 2.2.42 "Planned Development" means a grouping of buildings and structures on a site of five (5) 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 the County Register of Deeds upon approval by the Township Board of Supervisors.
- 2.2.43 "Public Roadway or Public Way" means any dedicated and recorded right-of-way including alleys, sidewalks, streets, roads or highways.
- 2.2.44 "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 the County.
- 2.2.45 "Service Station" means any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.
- 2.2.46 "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.
- 2.2.47 "Site Plan" means a detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in these regulations.
- 2.2.48 "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.
- 2.2.49 "Structure" means anything constructed or erected, the use of which requires permanent location on the ground including advertising signs and billboards.
- 2.2.50 "Variance" means the relaxation of the terms of the zoning regulations in relationship to building height, size of the front, rear and side yards, where the literal enforcement of these

regulations could create unreasonable hardship, but it is not contrary to the purposes of the Township Comprehensive Plan and these regulations.

2.2.51 "Yard" means an open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.

2.2.52 "Zoning Commission" means a body consisting of the three, (3) Township supervisors and appointed members under the authority of Chapter 58-03-13 of the North Dakota Century Code to review the planning issues, prepare plans, review the zoning requests and plats of subdivision, zoning amendments and conditional uses and make recommendations to the Board of Supervisors.

### ARTICLE 3 GENERAL PROVISIONS

#### 3.1 Compliance

No building or land shall hereafter be used or occupied and no building shall be erected, moved, or altered unless in conformity with these regulations.

##### 3.1.1 Building Height, Lot Area and Yards

No building shall exceed the height, occupy larger part of lot area, and no lot shall be created smaller than the requirements of these regulations.

##### 3.1.2 Substandard Lots

All existing lots at the date of adoption of these regulations shall be deemed buildable unless for the reasons of land suitability, flooding and other physical limitations contrary to the purpose of these regulations.

##### 3.1.3 Substandard Lots and Property Line Setback

All buildings and structures shall be placed at least 10 (ten) feet from property, parcel, and lot lines for the prevention of fire, snow accumulation, and water run-off hazards and to allow emergency access.

#### 3.2 Amendments

The Township Board of Supervisors may, from time to time, amend, supplement or repeal any part of these regulations after a public notice and hearing.

#### 3.3 Comprehensive Plan

These regulations are administered and enforced for protection of the townships natural resources and accommodating the type of development deemed appropriate including but not limited to the following objectives.

3.3.1 To conserve and enhance the taxable value of land and buildings in the township.

3.3.2 To encourage the most appropriate use of land in the township.

3.3.3 To regulate and restrict the location and intensity of use of buildings and land not related to farming.

3.3.4 To separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.

3.3.5 To facilitate traffic movement and promote development of compatible uses.

### 3.4 Non-conforming Uses

The lawful use of a building or premises existing at the date of adoption of these regulations may be continued. Where a non-conforming use is discontinued for a period of more than twelve consecutive calendar months any subsequent use or occupancy of such premises shall conform to these regulations. Whenever a building is destroyed or damaged by fire or other casualty to the extent of more than sixty percent (60%) 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 these regulations unless approved by the Township Board of Supervisors after a public hearing, to accrue after Zoning Commission has reviewed request and make recommendation to the Board of Supervisors.

### 3.5 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 the welfare of the people in the area. The Township Zoning Commission and Board of Supervisors may require information and data to determine the land suitability. The Township may consult with county and state agencies to assist in its determination.

### 3.6 Conditionally Permitted Uses

Where a use is classified as a conditional use under these regulations and exists at the date of adoption of these regulations, it shall be considered a permitted use. Where a use is not allowed as a conditional use or permitted use, under these regulations, and exists at the date of adoption of these regulations, it shall be considered non-conforming and shall be subject to the non-conforming buildings and use provisions.

### 3.7 Road and Highway Access

A permit for access to the township roads is required by the Board of Supervisors. In granting the access permit to the township roads, the Board of Supervisors may adopt rules and regulations as to the number of access points per mile, the width, construction and other features of the access to the adjoining properties. The Board of Supervisors may place conditions when granting a road access permit. Farm driveways and field access points are exempt from these provisions.

### 3.8 Road and Highway Setback - Tree Plantings, Shelter-belts

All buildings and structures shall be placed at least 100 (one hundred) feet from township, county and state highway rights-of-way for the purpose of preventing hazardous accumulations of snow and to allow for future widening of public right-of-ways. Tree plantings and shelterbelts shall be planted 200' from center of road.

### 3.9 Standards

All structures or buildings shall conform to requirements of the North Dakota State Building Code, NDCC 54-21.3, the most recent addition of the National Fire Protection Association, and the National Electrical Code

All individual water supply and sewage disposal systems shall conform to the requirements set forth in the North Dakota Plumbing Code and Sanitary Code.

#### ARTICLE 4

#### ZONING DISTRICT BOUNDARIES

##### 4.1 Zoning Districts

In order to carry out the purposes and provisions of these regulations, the following zoning district is hereby established.

##### 4.1.1 A-1 Agricultural District

The entire Township of Adrian is classified as an Agricultural District for purposes of zoning.

#### ARTICLE 5

#### ZONING DISTRICT REGULATIONS

##### 5.1 A-1 Agricultural District 5.1.1 Purpose

The purpose of this district is to provide for preservation and protection of agricultural lands and to discourage uses incompatible with agricultural operations or detrimental to agricultural land utilization.

##### 5.1.2 Permitted Uses

5.1.2.1 All types of farming and ranching operations including dairying, livestock and poultry raising, apiaries and fur farming.

5.1.2.2 Accessory Buildings and Structures.

5.1.2.3 Cemeteries.

5.1.2.4 Churches.

5.1.2.5 Golf Courses.

5.1.2.6 Grain Elevators and Accessory Structures.

5.1.2.7 Home Occupations.

5.1.2.8 Parks and Playgrounds.

5.1.2.9 Mobile Homes.

5.1.2.10 Public and Private Schools.



5.1.2.11 Public Buildings and Facilities Including County Garages.

5.1.2.12 Single Family Non-farm Residential Units.

5.1.2.13 Stock Piling of Sand and Gravel for Road Construction and Maintenance.

5.1.2.14 Construction and Maintenance of Drainage Systems to Manage the Water Run-off.

5.1.2.15 Utility Lines and Pipe Lines Including Substations for Transformers, Pumping Stations and Lift Stations.

5.1.2.16 Water Reservoirs.

5.1.2.17 Manufacturing and Processing of Wood Products

5.1.2.18 Antique and Craft shops.

5.1.2.19 Art Studios.

5.1.2.20 Storage of Farm Related Chemicals used for personal farm use.

5.1.3 Conditionally Permitted Uses

5.1.3.1 Commercially Operated Air Landing Strip and Accessory Buildings.

5.1.3.2 Feedlots for feeding livestock, fur bearers and poultry subject to the provisions of 6.8.

5.1.3.3 Voltage Transmission Lines and Accessory Structures.

5.1.3.4 Manufacturing and Processing of Agricultural Products Produced in the Area.

5.1.3.5 Radio, TV Stations and Towers.

5.1.3.6 Sale and Services of Agricultural Equipment and Machinery.

5.1.3.7 Skeet, Trap and Rifle Ranges if not Nearer than 1,000 (one thousand) Feet From Any Residence.

5.1.3.8 Veterinary Clinics, Animal Hospitals and Domestic Animal Kennels not nearer than 500 (five hundred) feet from any Residence except the Residence of the Owner or Operator.

5.1.3.9 Mining of Sand, Gravel, Clay and General Excavation subject to Provisions of Section 6.3.

5.1.3.10 Sanitary Landfills and Solid Waste Sites, in accordance with following provisions of township and county zoning.

## ARTICLE 6

### SPECIAL PROVISIONS

#### 6.3 Mining of Sand, Gravel, Clay and General Excavation

##### 6.3.1 Purpose

The purpose of these provisions is to provide for mining and extraction of sand, clay and gravel 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 road network.

##### 6.3.2 Site Approval Requirements

All sand and gravel mining, excavation sites require approval by Township Board of Supervisors.

##### 6.3.3 Data Submission Requirements

6.3.3.1 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 points of access to the site, maps showing the existing and proposed contours after the land is mined and a time table for operation of the site.

6.3.3.2 A guarantee that the reclamation of the site be completed within one year of the closure of the operation of the site.

6.3.3.3 Proof of compatibility with the existing landform including the vegetation, surface and ground water resources.

##### 6.3.4 Proximity to Existing Uses

The operation of sand and gravel sites shall not be nearer than 500 (five hundred) feet from any residential uses or 300 (three hundred) feet from non-residential uses.

##### 6.3.5 Permit Requirements

Any person who operates a sand and gravel operation shall obtain a permit from Township Board of Supervisors before resuming any mining or excavation of the sand and gravel sites.

#### 6.4 Sanitary Landfills and Solid Waste Sites

##### 6.4.1 Compliance with North Dakota 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.

##### 6.4.2 Compliance with County Ordinances and Procedures

Where a county solid waste ordinance exists, any person who operates a sanitary landfill or solid waste site shall comply with the County Ordinance, rules and procedures.

##### 6.4.3 Township Ordinance and Procedures

The Township hereby adopts solid waste provisions, subject to the provisions of NDCC 11-33-20, to assure meeting the purposes of these regulations and the township comprehensive plan.

#### 6.4.4 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 Township.

#### 6.4.5 Site Approval Requirements

All solid sites require approval by Township Board of Supervisors.

#### 6.4.6 Locational Standards

6.4.6.1 No landfill, incinerator shall be located within 1 mile of residential uses or unincorporated community.

6.4.6.2 No landfill shall be located in areas, which due to high water table, flooding, or soil conditions may affect the quality of surface and ground water.

6.4.6.3 No landfill operation shall be located nearer than 200 (two hundred) feet of all road and highway rights-of-way.

#### 6.4.7 Data Submission Requirements

6.4.7.1 Maps of the area showing existing features such as roads, highways, vegetation cover, water courses, drainage way, soils, topography, depth of water table, wet lands, sloughs, existing uses, buildings and structures including the existing utility lines.

6.4.7.2 A plan for operation of the site including a descriptive text explaining consistency or inconsistency with the natural or man made environment.

6.4.7.3 Records of data and information submitted to the state of North Dakota appropriate agencies and the county as a part of application for state and county permits.

6.4.7.4 The Township Board of Supervisors may require additional information if it deems it necessary.

#### 6.4.8 Statement of Findings

Upon the public notification and a public hearing the Township Board of Supervisors shall determine whether the proposed site meets the requirements of these regulations. The Township Board of Supervisors may place conditions for approval of the site.

#### 6.5 Utilities

##### 6.5.1 Purpose

The purpose of these provisions is to encourage orderly development of utilities in relationship to the agricultural and nonagricultural uses and to provide for the safety of the Township residents.

##### 6.5.2 General Requirements

6.5.2.1 The utilities include but not limited to electric power, electrical transmission lines, electrical 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.

## 6.8 Feedlots

### 6.8.1 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.

### 6.8.2 General Requirement

6.8.2.1 All feedlots as defined by these regulations are only permitted as conditional uses subject to the provisions of Section 8.2 and the requirements of the North Dakota Health Department.

6.8.2.2 All feedlots shall be designed and constructed with all reasonable preventive measures to avoid surface run-off including construction of sealed collection and retention ponds.

6.8.2.3 Where appropriate, there shall be sufficient drainage to avoid pollution of the ground water from the standing effluents.

6.8.2.4 Feedlots shall not be placed in the floodplains.

6.8.2.5 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 feed lot.

6.8.2.6 No feed lot shall be located nearer than 1 mile or the distance set by the Township Board of Supervisor from a residential development in the unincorporated area or corporate limits of a town.

6.8.2.7 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 produce comparable bulk quantities of manure. The animal unit equivalents for types of livestock and the numbers of livestock for facility size thresholds of 300 animal units (a.u.), and so forth are listed in the following table.

EQUIVALENT NUMBERS OF THE LIVESTOCK (HD) FOR  
FOUR SIZES (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-finisher	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 OPERATION

Number of Animal Units	Hog Operations *	Other Operations *
Less than 100 - 299	1 mi.	1 mi.
300 - 999	2 mi.	1 mi.
1,000 or more	2 mi.	2 mi.

### 6.8.3 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, circus, a brief veterinary care unless a special use permit is obtained.

## ARTICLE 7

### ADMINISTRATION AND ENFORCEMENT

#### 7.1 Organization

To administer these regulations the following bodies are hereby vested with authority to act in behalf of the Township.

(1) The Code Administrator

(2) The Zoning Commission

#### 7.2 The Code Administrator

The Code Administrator is a duly appointed township official authorized by the Board of Supervisors and is responsible to administer Zoning Regulations, to assist the Zoning Commission, and the Board of Supervisors on any matter related to planning for and development of the township.

##### 7.2.1 Duties

7.2.1.1 Issue all zoning certificates, permits and maintain records thereof.

7.2.1.2 Issue all building and repair permits.

7.2.1.3 Maintain zoning related records, including records of all amendments, conditional uses and variances.

7.2.1.4 Receive, file and forward to the Zoning Commission and Board of Supervisors all applications for zoning amendments, site approvals and conditional uses.

7.2.1.5 Prepare and publish notices and notify adjoining property owners.

7.2.1.6 Notify, in writing, the property owner or user upon finding violation of these regulations and cite the nature of violation clearly and require compliance within a reasonable time. If the notification is not replied to or steps are not taken to correct the violations within 30 (thirty) days, the Code Administrator shall make a report of the findings to the Board of Supervisors.

#### 7.2.2 Interpretation of Regulations

All questions of interpretation of these regulations shall be presented to the Code Administrator and that such questions shall be presented to the Board of Supervisors only on appeal from the decision of the Code Administrator

#### 7.2.7 Conditional Use and Site Approval Permits

The Code Administrator shall issue a conditional use or site approval permit upon approval of the application by the Zoning Commission and Board of Supervisors stipulating all conditions set forth.

#### 7.2.8 Variances

The Code Administrator shall issue a permit if the Board of Supervisors reverses the decision. The terms of the variance or special use shall be stipulated in the permit.

### 7.3 The Zoning Commission

The Zoning Commission shall consist of the three township supervisors. Where a city is exercising extraterritorial zoning jurisdiction two members may be appointed by the city to the township zoning commission.

#### 7.3.1 Duties

7.3.1.1 To hear and recommend action to the Board of Supervisors on all applications for amendments to zoning districts.

7.3.1.2 To hear and recommend action to the Board of Supervisors on all applications for conditional uses and site approvals in the manner prescribed in these regulations.

7.3.1.3 To study, examine and recommend action to the Board of Supervisors on issues which may adversely affect the natural resources and farming operations in the Township.

7.3.1.4 To serve in an advisory capacity to the Township Board of Supervisors whereby final action is implemented.

#### 7.3.2 Notice of Hearings

The Zoning Commission shall fix a reasonable date for hearing of applications for zoning district amendments, conditional use permits, site approval 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 15 (fifteen) days 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 Code Administrator.

#### 7.3.3 Meetings

Meetings of the Zoning Commission shall be held at the call of the Chairperson and at such other times as the Zoning Commission may determine. All meetings shall be open to the public and any person may testify for or against a petition.

#### 7.4 Violations and Penalties

Any person who violates any provision of these regulations or fails to comply with any of its requirements including the conditions or modification of use, building or structure shall upon conviction thereof forfeit not more than \$100 and in addition pay all expenses involved in the case. Each day such violation continues shall constitute a separate offense.

### ARTICLE 8 PROCEDURES FOR AMENDMENTS, CONDITIONAL USES, VARIANCES AND APPEALS

#### 8.1 Zoning District Amendments

##### 8.1.1 Public Hearing Notice

The notice of all such public hearings shall be published at least 15 (fifteen) days 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; (4) time and place for public inspection of the documents before the hearing.

##### 8.1.2 Public Hearings

The Zoning Commission at the public 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 Zoning Commission shall take action for recommendation of approval, denial or modification of the petition. The Zoning Commission may require additional information before it completes its findings and makes a recommendation to the board of supervisors. Thereafter, the Board of Supervisors shall review the matter at a public hearing for final decision.

##### 8.1.3 Data Submission Requirements

Petitions for zoning district change and conditional uses shall be submitted with the following information:

8.1.3.1 Legal description of the area proposed to be rezoned, the mile of the site.

8.1.3.2 A map showing the existing land uses and zoning district classification of the area.

8.1.3.3 A site plan showing buildings and uses in the zoning district proposed to be changed and the requested zoning district classification.

8.1.3.4 A fee shall be paid in accordance with the schedule established by the Township Board of Supervisors.

##### 8.1.4 Deliberation and Decision

Following public hearing, the Zoning Commission, upon due deliberation, shall make a report of its findings and recommendation and forward the same to the Board of Supervisors on the proposed amendment within 30 (thirty) days after the hearing. In making their findings, the Zoning Commission and Board of Supervisors shall ascertain as to whether the proposal for zoning district amendment is consistent with the township Comprehensive Plan and meets all requirements of these regulations and other regulations of the township and recommend and forward the same to the Board of Supervisors.

## **8.2 Conditional Use Permits**

### **8.2.1 Purpose**

The development of these regulations is based upon division of the township 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.

### **8.2.2 Public Hearing Notice**

Shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 8.1.1.

### **8.2.3 Public Hearings**

Shall be the same as the provisions set forth for public hearing for zoning district amendment in Section 8.1.2.

### **8.2.4 Data Submission Requirements**

Shall be the same as the provisions set forth for data submission requirements for zoning district amendment in Section 8.1.3.

### **8.2.5 Deliberation and Decision**

Shall be the same as the provisions set forth for deliberation and decision for zoning district amendment in Section 8.1.4

### **8.2.6 Standards**

No application for conditional use shall be approved unless findings are made that all of the following conditions are present.

8.2.6.1 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.

8.2.6.2 That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.

8.2.6.3 That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

8.2.6.4 That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.



8.2.6.5 That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic impact on the area.

8.2.6.6 That the conditional use shall substantially conform to all applicable regulations of the district in which it is located.

#### 8.2.7 Conditions and Guarantees

8.2.7.1 Prior to the decision on any conditional use, the Board of Supervisors 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 township and to secure compliance with the standards and requirements specified in Section 8.2.6. In all cases in which conditional uses are granted, the Board of Supervisors shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

8.2.7.2 No alteration of a conditional use shall be permitted unless approved by the Board of Supervisors. Where the Board of Supervisors has approved or conditionally approved an application for a conditional use, such approval shall become null and void within 12 (twelve) months of the date of the Board of Supervisors action unless the use is commenced, construction is underway or the current owner possesses a valid building permit.

#### 8.3 Variances

Variance from the terms of these regulations as to building height, lot area and yard requirements may be granted provided that the applicant establishes proof of practical difficulty or undue hardship.

##### 8.3.1 Public Hearing Notice

Notice of all such public hearings shall be published at least 15 (fifteen) days 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 variance; (4) time and place for public inspection of the documents before the hearing.

##### 8.3.2 Public Hearings

Shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 8.1.

##### 8.3.3 Data Submission Requirements

Petitions for variances shall be submitted with the following information.

8.3.3.1 Description of the property by street address for platted land and clearly identifiable location for the unplatted lands, the name and addresses of all owners of property lying within one mile of the site.

8.3.3.2 A map showing the existing land uses and zoning district classification of the area.

8.3.3.3 A fee shall be paid in accordance with the schedule established by the Zoning Commission.

##### 8.3.4 Deliberation and Decision

In making its finding, the Zoning Commission and Board of Supervisors shall follow the same provisions set forth for deliberation and decision for zoning district amendments in Section 8.1.4.

#### 8.3.5 Standards

No application for variance shall be approved unless it is found that all of the following are present.

8.3.5.1 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.

8.3.5.2 That literal interpretation of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.

8.3.5.3 That the special conditions and circumstances have not resulted from actions of the applicant.

8.3.5.4 That granting the variance requested will not confer upon the applicant any special privileges that are denied by these regulations to other premises.

#### 8.3.6 Justification

8.3.6.1 That the reasons set forth in the application justify the granting of the variance.

8.3.6.2 The variance is the minimum which would make possible a reasonable use of the premises.

8.3.6.3 That the granting of variance will be in harmony with the general purpose of these regulations and will not be injurious to the surrounding premises, neighborhood or the city and will not be contrary to the comprehensive plan and the purposes of these regulations.

8.3.6.4 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.

#### 8.4 Appeals of Administrative Decisions

##### 8.4.1 Applicability

The Board of Township Supervisors shall be authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official of the Township in the administration or enforcement of this land development code.

##### 8.4.2 Right to Appeal

Appeals of Administrative Decisions may be filed by any person aggrieved or by any officer, department, board or agency affected by any decision of the administrative officer.

##### 8.4.3 Application Submittal

Applications for Appeals of Administrative Decisions shall be submitted to the Codes Administrator in a form established by the Codes Administrator along with a nonrefundable fee that has been established by the Board of Township Supervisors. No application shall be processed until the application is complete and the required fee has been paid.

##### 8.4.4 Time of Filing Appeal

Appeals of Administrative Decisions shall be filed within 10 days of the date of the decision being appealed.

#### 8.4.5 Effect of Filing

The filing of a complete application for appeal stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the Board of Township Supervisors, after the appeal is filed, that, because of facts stated in the certification, a stay would cause immediate peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board of Township Supervisors, or by a court of record.

#### 8.4.6 Transmittal of Papers

The Codes Administrator or the official whose decision is being appealed shall transmit to the Board of Township Supervisors all papers constituting the record upon which the action appealed is taken.

#### 8.4.7 Review and Action - Board of Township Supervisors

Appeals of Administrative Decisions shall be taken to the Board of Township Supervisors. The Board of Township Supervisors shall grant to the administrative official's decision a presumption of correctness, placing the burden of persuasion of error on the appellant. In exercising the appeal power, the Board of Township Supervisors shall have all powers of the official from whom the appeal is taken, and the Board of township Supervisors may reverse or affirm wholly or partly or may modify the decision being appealed. If the Board of Township Supervisors determines that it is necessary to obtain additional evidence in order to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain such evidence and to reconsider the decision in light of such evidence. A concurring vote of three members of the Board of Township Supervisors shall be necessary to reverse any order, requirement, decision, or determination of an administrative official.

#### 8.4.8 Review Criteria; Findings of Fact

An appeal shall be sustained only if the Board of Township Supervisors finds that the administrative official erred. Every decision of the Board of Township Supervisors shall be accompanied by written findings of fact specifying the reason for the decision. These findings shall be filed in the office of the Board of Township Supervisors within 15 days after the date of the final action.

#### RESOLUTION

Whereas, the Township Zoning Commission has approved this amended Township Zoning Ordinance, and recommends it adopted by the Township Board of Supervisors.

Now and therefore, be it resolved that the Township Board of Supervisors hereby adopts the ~~same~~ <sup>Ordinance</sup> Township Zoning Ordinance.

Chairman

Debra L. Lankford

Date

7/25/05

### **PERMIT FEE SCHEDULE**

Application for Conditional Use Permit	\$100
Application for Zoning Amendment	\$100
Application for Variance	\$100

And in addition: The applicant for a conditional use permit and amendment to the zoning ordinance shall be liable for and pay to the Township Clerk sufficient sums of money to pay for and cover all of the costs incurred by the Township for the processing of such application, including, but not limited to: publication cost; attorney's fees; mileage; copy expense, etc. No Permit shall be issued until all such costs as these described herein have been paid by the applicant, unless the Township Board of Supervisors has otherwise provided by resolution for a particular case