

BLACK LOAM TOWNSHIP ZONING ORDINANCE

Article I. General Provisions

Section 1.01 Title

This Ordinance shall be known and may be cited and referred to as the “Black Loam Township Zoning Ordinance” and will be referred to herein as “this Ordinance.”

Section 1.02 Authority and Enactment

This Ordinance is enacted pursuant to the powers granted and limitations imposed on townships by the laws of the State of North Dakota, including without limitation North Dakota Century Code §58-03. The Board of Township Supervisors hereby expresses that neither this Ordinance, nor any amendment to it or any decision under it, may be challenged on the basis of an alleged non-conformity with any other planning document, inclusive of the Black Loam Township Comprehensive Plan adopted MONTH DAY, YEAR.

Section 1.03 Purpose

- (1) The purpose of this Ordinance is to promote the health, safety, morals, and the general welfare of Black Loam Township and its residents.
- (2) It is also the purpose of this Ordinance to:
 - a. Facilitate orderly and efficient development within the Township in a manner which is consistent with its Comprehensive Plan and other adopted plans.
 - b. Regulate the development and use of buildings and lands for trade, industry, residence, or other purposes.
 - c. Lessen governmental expenditures.
 - d. Conserve and develop natural resources.
 - e. Provide for emergency management.
 - f. Address environmental concerns.
 - g. Protect and preserve agricultural land uses.
 - h. Preserve and enhance the character and quality of life for the Township as a whole.
 - i. Provide for safety and minimize congestion in the public rights-of-way.
 - j. Provide for the administration of this Ordinance.

Section 1.04 Applicability and Jurisdiction

This Ordinance applies to all buildings, structures, lands, and uses over which the Black Loam Township Board of Township Supervisors has jurisdiction under the constitution and laws of the State of North Dakota and of the United States in accordance with §58-03 of the North Dakota Century Code.

Section 1.05 Compliance

- (1) No building or structure shall be erected, converted, enlarged, reconstructed or altered for use; nor shall any land, building or structure be used or changed, nor shall any request for an access connection (new, changed, altered, re-constructed) onto a Township road or public right-of-way which includes any field entrance, driveway or public/private roadway (permanent, temporary or field access/opening), except in accordance with the applicable regulations as set forth within this Ordinance.
- (2) No permit or approval may be issued under this Ordinance unless all structures, uses and/or lots and any related terms or conditions of such permit or approval to be authorized by the permit or approval conform to this Ordinance.

Section 1.06 Non-Conforming Uses

The lawful use of buildings, structures, or land existing at the date of adoption or amendment of this Ordinance may be continued, even though such use does not conform to the provisions of this Ordinance upon adoption or amendment. No existing non-conforming use shall be enlarged, increased, or extended to occupy a greater area of land or moved to another part of the parcel on which it is located, nor shall it be allowed to have an increased intensity of use. Where a non-conforming use is discontinued for a period of more than 12 consecutive calendar months any subsequent use or occupancy of such premises shall conform to this Ordinance. Whenever a building or structure is destroyed or damaged by fire or other casualty to the extent of more than 60% of its market value it shall not be restored unless said buildings or structures shall conform to the provisions of this Ordinance.

Section 1.07 Severability

- (1) If any section, paragraph, clause, phrase or part of this Ordinance is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance; and the application of the remaining provisions to any persons or circumstances shall not be affected.

- (2) If any application of any part of this Ordinance to a particular lot, tract, parcel, building, structure, land or use is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the application of the same provision to any other lot, tract, parcel, building, structure, land or use not specifically included in the decision.

Section 1.08 Effective Date

The Black Loam Township Zoning Ordinance, and any amendment to this Ordinance, shall be effective after its passage, publication, and recordation as provided by NDCC §58-03.

Article II. Interpretation

Section 2.01 Liberal Interpretation to Further Underlying Purposes

Interpretation and application of this Ordinance are the basic and minimum requirements for the protection of public health, safety, comfort, morals, convenience, prosperity, and welfare. This Ordinance shall be liberally interpreted in order to further its underlying purposes. The meaning of any and all words, terms, or phrases in this Ordinance shall be construed in accordance with the following Rules and Definitions.

Section 2.02 Rules of Construction and Interpretation

- (1) Words, phrases, and terms defined in this Ordinance shall be given the defined meaning as set forth in the following text.
- (2) Words, phrases, and terms not defined in this Ordinance shall be given their usual and customary meanings except where the context clearly indicates a different meaning. In the event a question of interpretation arises concerning any provision or the application of any provision of this Ordinance, the Zoning Board shall be responsible for such interpretation. Such interpretation shall look to the Black Loam Township Comprehensive Plan and the overall purpose and intent of this Ordinance for guidance. The Zoning Board shall provide such interpretations in writing upon request. Records of all such interpretations shall be maintained at the Township Clerk's office for future reference. If any person having an interest in such an interpretation chooses to appeal such a decision, the matter may be referred to the Board of Supervisors for review.

- (3) The word “shall” is mandatory and not permissive; the word “may” is permissive and not mandatory.
- (4) The word “person” means an individual, firm, partnership, corporation, association, trust, company, or other legal or commercial entity.
- (5) Words used in the singular include the plural, and words used in the plural include the singular.
- (6) Words used in the present tense include the future tense, and words used in the future tense include the present tense.
- (7) In computing any period of time prescribed or allowed by this Ordinance, the day of the notice or final application, after which the designated period of time begins to run, is not to be included. Further, the last day is to be included unless it is not a business day, in which event the period runs until next business day on which the LaMoure County offices are open to the public.
- (8) Within this Ordinance, sections prefaced “purpose” are intended to convey official statements of legislative findings or purpose. These statements are intended to guide the administration and interpretation of this Ordinance and shall be treated in the same manner as other aspects of legislative history. However, they are not binding standards.

Section 2.03 Definitions

In this Ordinance, the following words have the specific meaning listed:

- (1) **DEVELOPMENT** – a change to improved or unimproved real estate including but not limited to construction, reconstruction, structural alteration, enlargement, or relocation of any building or structure; placement of mobile homes; storage of materials, mining, filling, grading, excavation and drilling activities; any material change in the use or intensity of use of any structure; or any subdivision of land.
- (2) **FARMING OR RANCHING** - cultivating land for the production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include (1) the production of timber or forest products; or (2) the provision of grain harvesting or other farm services by a processor or distributor of farm products or supplies in accordance with the terms of a contract.

- (3) **LIVESTOCK** - includes beef cattle, dairy cattle, sheep swine, poultry, horses, bison, elk, fur animals raised for their pelts, and any other animals that are raised, fed, or produced as a part of farming or ranching activities
- (4) **AGRICULTURAL OPERATION** - the science and art of producing plants and animals useful to people, by a corporation or a limited liability company as allowed under chapter 10-06.1, or by a corporation or limited liability company, a partnership, or a proprietorship, and includes the preparation of these products for people's use and the disposal of these products by marketing or other means. The term includes livestock auction markets and horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products, and farm production. It also includes agritourism activities.
- (5) **AGRITOURISM ACTIVITY** - any activity, including farming or ranching activities, or any historic, cultural, or natural attraction , that is viewed or enjoyed by members of the general public, for educational, recreational, or entertainment purposes, regardless of whether the member of the public pays to participate in the activity or to view or enjoy the attraction.
- (6) **ANIMAL FEEDING OPERATION** – means a lot or facility, other than normal wintering operations for cattle and an aquatic animal production facility, where the following conditions are met: (1) animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in a 12 month period; and (2) crops, vegetation, forage growth, or post-harvested residues are not sustained in the normal growing season over any portion of the lot or facility
- (7) **ANIMAL WINTERING OPERATION** - the confinement of cattle used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. This includes the weaning offspring of cattle, but does not include (1) breeding operations of more than 1,000 animal units or (2) weaned offspring which are kept longer than 120 days and that are not retained for breeding purposes.
- (8) **ANIMAL BOARDING FACILITY** - a building and associated land used for boarding, sale, rental, breeding, or raising of small animals for remuneration
- (9) **STABLE** - a building and associated land used for boarding, sale, rental, breeding, or raising of horses or other large animals for remuneration

- (10) ANIMAL GROOMING OR TRAINING – grooming or training large or small animals for remuneration at a facility that does not board, breed or raise them
- (11) COMMERCIAL NURSERY - land or greenhouses, excluding tree farms, where trees, shrubs, flowers, and other plant materials are grown, propagated, and/or stored either out of doors or under cover for the purpose of wholesale or retail sales
- (12) GREENHOUSE - permanent structures where trees, shrubs, flowers, and other plant materials are started, grown, propagated, and/or stored for the purpose of wholesale or retail sales, and at least 50% of its on-site sales come from the sale of the trees, shrubs, flowers and other plant materials grown or propagated on the site
- (13) TREE FARM - an agricultural operation involved in growing and selling trees as Christmas trees or for landscaping uses
- (14) RURAL HOME OCCUPATION - any occupation which: (a) is carried out on a parcel by the members of the household living in a dwelling located on the same parcel; (b) in the case there are non-household members working for the occupation, the number of non-household employees is a minority; (c) is carried out within a building accessory to the dwelling unit; screens any exterior storage of materials used for the occupation from the view of passers-by and adjacent parcels; and (d) does not create a nuisance, excessive noise, traffic, or conflict with an adjoining use
- (15) HOME DAYCARE - a person, entity, or organization operating as a self-declared childcare provider or a licensed family childcare provider out of a residence
- (16) COMMERCIAL DAYCARE - a person, entity, or organization operating as a licensed family/group childcare provider, a licensed childcare center, a licensed pre-educational facility, or a licensed early childhood program
- (17) STRUCTURE - anything constructed or erected which has permanent location on the ground, excluding fences and sheds with an enclosed footprint of 100 square feet or less
- (18) BUILDING - a structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind
- (19) DWELLING - a group of rooms in a building, designed for occupancy by one household, which are interconnected and function as a unit with permanent

bathroom, kitchen, and sleeping facilities for the exclusive use of its occupants. Sleeping rooms and recreational vehicles are not dwellings.

- (20) SINGLE DETACHED DWELLING - a building designed, constructed, and principally used as a dwelling
- (21) DUAL ATTACHED DWELLING – a building designed, constructed, and having two dwellings as the principal use
- (22) ACCESSORY DWELLING - a dwelling which functions as an accessory use and is not essential to the function of the principal use of the parcel on which it is located, and may be in a separate building from the building which contains the primary use of the parcel
- (23) MANUFACTURED HOME - a factory built dwelling unit which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site and which does not have permanently attached to its body or frame any wheel or axle 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.
- (24) BED & BREAKFAST - a private home that is used to provide accommodations for a charge to the public, with not more than seven lodging units, in which no more than two family-style meals per day are provided
- (25) RECREATIONAL CAMPGROUND - an area designed specifically to accommodate temporary camping including the placement of tents, camper trailers, and recreational vehicles for short-term use on the site
- (26) PARCEL – an area of land which has been described by metes and bounds, or can be described via public land survey system reference, or by subdivision recorded in the office of the Register of Deeds of LaMoure County
- (27) TRACT - a parcel or group of parcels that are contiguous
- (28) TAX PARCEL – a parcel or group of parcels that are contiguous, under common ownership, and identified as a single taxing unit by LaMoure County
- (29) LOT - a parcel
- (30) LOT OF RECORD - a lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of LaMoure County, or a parcel of land, for which a deed was recorded in the office of the Register of Deeds of LaMoure County prior to the effective date of this Ordinance.

- (31) **BUILDABLE LOT** - a lot that meets zoning dimensional requirements in the district where it is located
- (32) **PLATTED LOT** - a parcel of land that has been established and defined by a subdivision
- (33) **SUBDIVISION** - the division of a tract or parcel of land into lots or parcels of land for the purpose, whether immediate or future, of sale or of building development, including 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 such lots or parcels of land, and/or including the creation of new or enlarged parks, playgrounds, plaza or open spaces. However, the division of land for agricultural purposes into parcels of 40 or more acres, not involving any new street or easement of access, shall be exempted from these resolutions. The creation of burial plots is not a subdivision.
- (34) **EDUCATIONAL FACILITY** - any facility providing k-12 educational facility services, or providing vocational or post-secondary educational services, such as specialized training for business, computer/electronics, medical, mechanical, or industrial arts professions. It does not include fine arts, martial arts or health and fitness training facilities.
- (35) **K-12 EDUCATIONAL FACILITY** - any public or non-public elementary, middle, junior high, or high educational facility as defined and regulated by the laws of North Dakota, excluding home schools as defined and regulated by the laws of North Dakota
- (36) **PLACE OF ASSEMBLY** - a facility providing for the assembly of persons for interaction as a primary use, including community centers, and religious institutions. They do not include educational facilities, daycare facilities, dwellings, motorized and non-motorized recreational facilities which fall under separate definitions in this Ordinance.
- (37) **SURFACE MINING** - any activity, excluding borrow pit mining, relating to the mining of minerals by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed which will, within one calendar year, result in the removal of 10,000 cubic yards or more of product, including overburden, or affect one-half acres or more
- (38) **BORROW PIT MINING** - use of a site in Litchville Township for a period of not more than two calendar years for the excavation of material for fill at one or more road, levee, or other construction projects

- (39) **LANDFILL** - a specially selected, designed, and operated site for disposal of solid waste in accordance with NDCC 23.1-08 and the provisions of this Ordinance
- (40) **SOLID WASTE** - any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; and other discarded 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 include municipal, commercial, and special wastes, but does not include: (a) Agricultural waste, including manures and crop residues, returned to the soil as fertilizer or soil conditioners; or (b) solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to Permit Section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.
- (41) **MUNICIPAL WASTE** - solid waste that includes garbage; refuse; and trash generated by households, motels, hotels, and recreation facilities, public and private facilities; and commercial, wholesale, private and retail businesses. The term does not include special waste or industrial waste.
- (42) **INDUSTRIAL WASTE** - solid waste, which is not a hazardous waste regulated under NDCC chapter 23.1-04, generated from the combustion or gasification of municipal waste and from industrial and manufacturing processes. The term does not include municipal waste or special waste.
- (43) **SPECIAL WASTE** - solid waste that is not a hazardous waste regulated under NDCC 23.1-04 and includes waste generated from energy conversion facilities; waste from crude oil and natural gas exploration and production; waste from mineral and ore mining, beneficiation, and extraction; and waste generated by surface coal mining operations. The term does not include municipal waste or industrial waste.
- (44) **MUNICIPAL LANDFILL** - a publicly or privately owned area of land where garbage, refuse, and trash generated by households, motels, hotels, recreation facilities, public and private facilities, commercial, wholesale, private and retail businesses are permanently disposed

- (45) **INDUSTRIAL LANDFILL** - a publicly or privately owned area of land where solid waste that is not municipal waste or special waste is permanently disposed in accordance with the laws of North Dakota
- (46) **SOLID WASTE MANAGEMENT FACILITY** - all contiguous land and structures, other appurtenances, and improvements on land which include one or more solid waste management units, such as a transfer station, solid waste storage building, a solid waste processing system, a resource recovery system, an incinerator, a surface impoundment, a surface waste pile, a land treatment area, or a landfill. It may or may not be used solely for solid waste management.
- (47) **SOLID WASTE COLLECTION OR TRANSFER FACILITY** – any site where solid waste is collected for sorting or processing before being transported for eventual disposal at another location
- (48) **RECYCLING FACILITY** – a site for the collection and /or processing of recyclable materials OR an establishment engaged in the processing, collection and transfer of recyclable materials. Typical recyclable materials include: glass, paper, plastic, cans, motor oil, or other source-separated, non-decayable materials OR A facility that primarily purchases for recycling or reuse principal recyclable materials which have been source-separated by type, such as vegetative yard debris, paper, glass, and metal, by the person who last used the unseparated solid wastes, but not a salvage or junkyard.
- (49) **SALVAGE YARD** - a site (excluding a solid waste collection or transfer facility) used for outdoor or indoor storage of discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled, or handled, including but not limited to scrap metal, rags, paper, hides, rubber products, glass products, lumber products, products resulting from the disassembly of automobiles or other vehicles, and oil and gas surplus equipment
- (50) **WIND ENERGY CONVERSION FACILITY** - any plant, addition, or combination of plant and addition, designed for or capable of generation by wind energy conversion exceeding one-half megawatt of electricity
- (51) **SOLAR ENERGY CONVERSION FACILITY** - any plant, addition, or combination of plant and addition, designed for or capable of generation by solar energy conversion equal to or exceeding five hundred kilowatts of electricity and any commercial-scale and utility-scale energy storage.

- (52) ACTIVE SOLAR ENERGY SYSTEM - a solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means
- (53) LARGE SCALE SOLAR ENERGY CONVERSION FACILITY - any plant, addition, or combination of plant and addition, designed for or capable of generation by solar energy conversion exceeding fifty megawatts of electricity and any utility-scale energy storage
- (54) MEDIUM SCALE SOLAR ENERGY CONVERSION FACILITY - any plant, addition, or combination of plant and addition, designed for or capable of generation by solar energy conversion equal to or exceeding five hundred kilowatts but less than or equal to fifty megawatts of electricity and any commercial-scale energy storage
- (55) SMALL SCALE SOLAR ENERGY SYSTEM - means a passive solar energy system or an active solar energy system that is designed for or capable of generation by solar energy conversion less than five hundred kilowatts of electricity
- (56) GROUND-MOUNTED SOLAR ENERGY SYSTEM - is an active solar energy system that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).
- (57) ROOF-MOUNTED SOLAR ENERGY SYSTEM - means an active solar energy conversion facility or system that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).
- (58) GRID-INTERTIE SOLAR ENERGY SYSTEM - means a photovoltaic system that is connected to an electric circuit served by an electric utility.
- (59) OFF-GRID SOLAR ENERGY SYSTEM - means a photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.
- (60) PASSIVE SOLAR ENERGY SYSTEM - means a solar energy system that captures solar light or heat without transforming it into another form of energy or transferring the energy via a heat exchanger.
- (61) SOLAR ENERGY SYSTEM - means solar energy devices or design features of a building used for the collection, storage, and distribution of solar energy for space heating, space cooling, lighting, electric generation, or water heating.

- (62) SOLAR THERMAL SYSTEM - means an Active Solar Energy System that uses collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or space cooling.
- (63) SOLAR COLLECTOR - means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- (64) SOLAR ENERGY - means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- (65) PHOTOVOLTAIC SYSTEM - means an active solar energy system that converts solar energy directly into electricity.
- (66) RATED NAMEPLATE CAPACITY - means the maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).
- (67) COMMUNICATIONS FACILITY - the support structure, antenna, and base station together with all the other structural components at a given site (such as the security fence) established for the purpose of providing wireless transmission of voice, data, images or other information including but not limited to, cellular telephone service, personal communications service, and paging services.
- (68) ANHYDROUS AMMONIA STORAGE FACILITY - bulk anhydrous ammonia storage facility with a capacity exceeding 6000 gallons which is owned or operated by a user or vendor of anhydrous ammonia
- (69) BULK PETROLEUM STATION - land and structures used for storage of bulk petroleum products for local distribution and sale
- (70) BULK PETROLEUM TERMINAL - land and structures used for storage of bulk petroleum products for regional distribution including but not limited to petroleum sales to truck jobbers
- (71) PRIVATE AIRFIELD – means any area of land or water used or intended for landing or takeoff of aircraft including appurtenant area used or intended for airfield buildings, facilities, as well as rights of way together with the buildings and facilities that is not open to the public without prior consent from the owner.
- (72) CONTRACTOR YARD – means a site used for the storage and maintenance of construction equipment, building materials and commercial vehicles used in trades like plumbing, electrical, or landscaping and includes accessory uses

such as offices, workshops, and materials bins, but excludes any retail sales activity.

- (73) VETERINARIAN FACILITIES – an establishment, including accessory boarding facilities, maintained and operated by a licensed veterinarian to diagnose, treat, and otherwise care for animals.
- (74) HIGH IMPACT AGRICULTURE OPERATIONS - agriculture related industrial uses or activities including grain handling and storage operations operated separately from a farmstead, grain handling and storage operations operated as an independent business from a farming or ranching operation, manufacture of agricultural equipment operated as an independent business from a farming or ranching operation and operated separately from a farmstead, any farming or ranching service operation operated as an independent business and operated separately from a farmstead; but not including anhydrous ammonia storage facilities or animal feeding operations or veterinarian facilities or agricultural seed, fertilizer, and chemical supply facilities which are separately defined and/or regulated by this Ordinance
- (75) AGRICULTURAL SEED FERTILIZER AND CHEMICAL SUPPLY FACILITIES – an establishment that buys, cleans, treats, and sells seed used for farming or ranching, and/or that supplies fertilizer and/or chemicals for farming or ranching.
- (76) AGRICULTURAL EQUIPMENT SALES AND SERVICE – a site established for the commercial sale, service, or repair of machinery designed or used for farming or ranching operations.
- (77) BODY SHOP – means a building or premises where motor vehicle body damage repair services, including body frame straightening, replacement of damaged parts, painting, and similar services are provided.
- (78) PUBLIC UTILITY FACILITIES – means structures or infrastructure used by public or quasi-public organizations to provide essential services including electric substations, electrical power distribution lines, gas regulator stations, water storage, water distribution, and water pumping stations, but not including communications facilities or electrical power transmission lines.
- (79) WAREHOUSING – means a building or premises primarily utilized for the indoor storage, management, and distribution of goods, materials, merchandise or products but specifically excluding manufacturing, raw material processing, salvage yards, and rental of individual self-storage units.

- (80) **COMMERCIAL STORAGE** – means a building or premises where individual self-storage units are available for short-term or long-term use by individual tenants.
- (81) **PUBLIC OR PRIVATE CONSERVATION AREA** – means any parcel of land or water, regardless of ownership or management structure, designated and maintained for the long-term protection, management, and restoration of natural resources, native flora, and wildlife habitats.
- (82) **NURSERY AND LANDSCAPE MATERIALS SALES** – means a building or premises primarily utilized for the sale of trees, shrubs, and other plants, plant materials, gardening, supplies, and non-plant landscaping materials to the public.
- (83) **CEMETERY** – Any tract of land used as a burial plot and which is filed with the recorder of the county as a public burying place. It includes mausoleums and columbarium.
- (84) **ABANDONED CEMETERY**. Any tract of land that has been used as a burial plot, which has not been filed with the recorder of the county, or where the Board of Township Supervisors determines the existence of an abandoned burial site.
- (85) **MAUSOLEUM**. A free-standing building constructed as a monument that encloses an interment space or burial chamber for human remains.
- (86) **COLUMBARIUM**. A room or building with niches for funeral urns to be stored permanently.
- (87) **CREMATORIUM**. A building, structure, or designated space containing one or more furnaces (retorts) used for the reduction of deceased human bodies to essential elements and bone fragments through incineration.
- (88) **DATA CENTER** – means a facility used primarily for the storage, management, processing, and transmission of digital data, housing computer or network equipment.

Article III. Zoning Districts

Section 3.01 Zoning Districts Established

Black Loam Township is hereby divided into zoning districts for purposes of controlling the use of lands and structures as authorized in NDCC §58-03. The following districts are hereby established:

- (1) Agricultural Preservation District (AgP)

Section 3.02 Zoning District Boundaries

- (1) The boundaries of the zoning districts established and described in this Ordinance shall be defined by a description using the Public Land Survey System. At the discretion of the Township Board of Supervisors, the boundaries of the zoning districts established and described in this Ordinance may alternatively be described by a map known as the "Official Zoning Map of Black Loam Township." If an Official Zoning Map is established, it shall upon establishment be made a part of this Ordinance.
- (2) The zoning district boundaries defined by an Official Zoning Map shall follow lot lines, parcel lines, subdivision lines, section lines, centerlines of roads, streets, highways, alleys, railroad rights-of-way or such lines extended, and centerlines of streams.
- (3) The Agricultural Preservation District includes all the land in Black Loam Township.
- (4) Where, if in the future additional zoning districts are established for Black Loam Township, and due to map scale or lack of clarity, there is any uncertainty as to the intended location of a zoning district boundary, the Zoning Board shall interpret and delineate the boundary line in question. Records of all such interpretations shall be maintained at the Township Clerk's office for future reference. If any person having an interest in such an interpretation chooses to appeal such a decision, the matter may be referred to the Board of Supervisors for review.

Section 3.03 Agricultural Preservation District

- (1) Purpose and Intent – The purpose of the agricultural preservation zoning district is to maintain and support the dominant use of land for farming or ranching and the normal incidents of farming or ranching. It is further the purpose of this zone

to provide for the appropriate development of uses which are reasonably appropriate for location in the Township by reason of the use's close relationship with agriculture, or by necessity due to potential conflicts with more concentrated development areas.

(2) Permitted Uses

- a. Farming or ranching and the normal incidents of farming or ranching
- b. Single detached dwelling
- c. Dual attached dwelling
- d. Accessory dwelling
- e. Public utility facility
- f. Communications facility
- g. Rural home occupation
- h. Borrow pit mining
- i. Bed & breakfast
- j. Cemetery
- k. Body shop
- l. High impact agriculture operations
- m. Agricultural equipment sales and service facility
- n. Animal boarding facility
- o. Home daycare
- p. Public or private preservation area
- q. Animal feeding operations not exceeding 5,000 animal units
- r. Small scale solar energy system

(3) Conditional Uses

- a. Animal feeding operation exceeding 5,000 animal units
- b. Place of assembly
- c. K-12 educational facility
- d. Private airfield
- e. Agricultural fertilizer and chemical supply facilities
- f. Agricultural equipment sales and service
- g. Nursery and landscape materials sales
- h. Contractor yard
- i. Warehousing
- j. Commercial storage
- k. Anhydrous ammonia storage facility
- l. Agricultural seed, fertilizer, and chemical supply facilities

- m. Aggregate, asphalt, or concrete batch plant
- n. Commercial grain facility

(4) Prohibited Uses

- a. Data center
- b. Medium scale solar energy conversion facility
- c. Large scale solar energy conversion facility
- d. Wind energy conversion facility
- e. All uses not specifically listed as permitted or conditional uses are prohibited

(5) Yard and Setback Requirements

- a. Buildings shall be set back 150 feet from the road centerline of State roads, but buildings existing as of June 10, 2026 are grandfathered in
- b. Buildings shall be set back 90 feet from the road centerline of township roads, but buildings existing as of June 10, 2026 are grandfathered in
- c. Wire fences, not including wire grid fences, shall be set back 33 feet from the centerline of township roads
- d. Wire fences, not including wire grid fences, shall be set back to the outer edge of the right-of-way for State roads
- e. Trees, shrubs, and all other fences shall be set back 75 feet from the property line adjoining the right of way of State roads
- f. Trees, shrubs, and all other fences shall be set back 100 feet from the centerline of township roads
- g. Principal buildings shall be set back 10 feet from property lines that are not adjoining roads
- h. Accessory buildings shall be set back 5 feet from property lines that are not adjoining roads
- i. For properties adjoining road intersections, an unobstructed sight distance triangle must be maintained for a minimum distance of 710 feet from the intersection of the near side roadway surfaces or as approved by the county engineer or road supervisor

Article IV. Supplemental Provisions

Section 4.01 Cemetery

(1) Definitions.

- a. Cemetery. Any tract of land used as a burial plot and which is filed with the recorder of the county as a public burying place. It includes mausoleums and columbarium.
- b. Abandoned cemetery. Any tract of land that has been used as a burial plot, which has not been filed with the recorder of the county, or where the Board of Township Supervisors determines the existence of an abandoned burial site.
- c. Mausoleum. A free-standing building constructed as a monument that encloses an interment space or burial chamber for human remains.
- d. Columbarium. A room or building with niches for funeral urns to be stored permanently.
- e. Crematorium. A building, structure, or designated space containing one or more furnaces (retorts) used for the reduction of deceased human bodies to essential elements and bone fragments through incineration.

(2) A crematorium is an accessory use to a cemetery and may be constructed and operated on the cemetery grounds if it meets all relevant state and federal requirements, including licensure requirements.

(3) Any location proposed for burial of human remains must be authorized by the Board of Township Supervisors after receiving proof of compliance with all ND Department of Health requirements.

Section 4.02 Private Airfields

- (1) Purpose. The purpose of this section is to establish standards and regulations for the development and operation of private airfields in accordance with the purposes stated in Section 1.03 of this Ordinance. Although there are currently no private airfield(s) or landing strip(s) in Black Loam Township which are not regulated by the FAA or required to be registered by the North Dakota Aeronautics Commission, any such airfields which may be proposed in the future have the potential to be in conflict with land uses in their vicinity. The following standards and requirements are intended to minimize such conflicts, maintain harmony of land uses in Black Loam Township, and to protect the public health, safety and welfare.

(2) Definitions.

- a. Private airfield means any area of land or water used or intended for landing or takeoff of aircraft including appurtenant areas used or intended for airfield buildings, facilities, as well as rights-of-way together with the buildings and facilities, that is not open to the general public.

(3) Conditional Use Permit Required. In addition to any building permit which may be required by Black Loam Township, no private airfield may be constructed or operated in Black Loam Township without having obtained a conditional use permit from the Township.

(4) Use Requirements. For any private airfield existing or proposed to be established the following requirements shall be met continuously:

- a. There shall be a minimum distance of 500 feet between the sides of each usable private runway and property not owned by the operator of the runway
- b. There shall be a minimum distance of 1,200 feet between the sides of each usable private runway and any habitable structure not owned by the operator of the runway.
- c. There shall be a minimum distance of 1,200' between the ends of runways and property not owned by the runway operator.
- d. The requirements listed in a, b, and c may be waived in cases where air rights or easements have been obtained from the owners of abutting properties. Satisfactory evidence thereof shall be submitted with the application.
- e. For any private airfield used for crop dusting or other frequent take-off and landing activities, there shall be a minimum distance of one half mile between the sides and end of the runway(s) and any residence except that belonging to the operator of the airfield.

(5) The ND Aeronautics Board should be consulted for minimum separation of a proposed private airfield from any structures which could obstruct aircraft maneuvers and flight.

Section 4.03 Animal Feeding Operations

- (1) Purpose. The purpose of this section is to establish standards and regulations for the development and operation of animal feeding operations in accordance with the purposes stated in Section 1.03 of this Ordinance. Black Loam Township includes land that is well used for livestock production, and raising livestock is a significant part of the overall economy in the surrounding region. The Township recognizes the economic, social, and cultural importance of a

healthy livestock industry. It offers a value-added opportunity to the crop-based agriculture and may be the highest and best use of some of the land within the Township. It also provides an economic foundation for support services and could contribute significantly to the continued economic, environmental and community health of Black Loam Township and its residents. Waste products from livestock production have the potential to contribute to air, surface water and ground water pollution. The impacts of animal feeding operations when waste products are improperly stored, transported, or disposed may be especially significant due to the higher volumes of waste material inherent in this method of livestock production. Animal feeding operations also have the potential to harm the public health, safety, and welfare by creating nuisances, increasing the risk of pathogens harmful to humans, increasing the cost of public services and infrastructure, and decreasing property values. Any animal feeding operation which is subject to regulation by the State of North Dakota or any of its agencies, departments, or commissions is hereby subject to the following minimum requirements and standards.

(2) Definitions.

- a. Animal Feeding Operation means a lot or facility, other than normal wintering operations for cattle and an aquatic animal production facility, where the following conditions are met:
 - i. Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in a 12-month period; and
 - ii. Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.
- b. Animal Units as used in this section are defined in accordance with North Dakota Century Code Section 23.1-06-15.
- c. .

- (3) Animal Feeding Operations may be allowed in the Agricultural Preservation District when they meet those requirements established by the North Dakota Department of Environmental Quality and the requirements established by this ordinance. Animal Feeding Operations are not allowed in any other zoning district of Black Loam Township.
- (4) Animal feeding operations existing in Black Loam Township as of June 10, 2026 are permitted to continue operation. Any expansion of an animal feeding operation existing as of June 10, 2026, including an increase in the number of

animal units must comply with requirements established by the North Dakota Department of Environmental Quality and the requirements established by this ordinance.

- (5) Any new animal feeding operation or expansion of an animal feeding operation existing as of June 10, 2026 which does not exceed 5000 animal units is a permitted use when it meets the setback requirements established by the North Dakota Department of Environmental Quality.
- (6) In addition to any building permit which may be required by Black Loam Township, any new animal feeding operation or expansion of an animal feeding operation existing as of June 10, 2026 which exceeds 5000 animal units must obtain a conditional use permit from the Black Loam Township Board of Township Supervisors.
- (7) No new animal feeding operation with more than 5000 animal units in Black Loam Township may be constructed, expanded, or operated unless it is set back from any existing residence, church, school, business, public building, park or campground by at least 1.5 miles if it is a hog feeding operation or 1 mile if it is any other animal feeding operation.
- (8) Petition for Determination of Compliance.
 - a. A person intending to construct an animal feeding operation may petition the board of township supervisors for a determination whether the animal feeding operation would comply with zoning regulations adopted under this section and filed with the department of environmental quality under section 58-03-17 before the date the petition was received by the township.
 - b. The petition must contain a description of the nature, scope, and location of the proposed animal feeding operation and a site map showing road access, the location of any structure, and the distance from each structure to the nearest section line.
 - c. If the board of township supervisors does not validly object to the petition within sixty days of receipt, the animal feeding operation is deemed in compliance with the township zoning regulations. If the township allows animal feeding operations as a conditional use, the conditional use regulations must be limited to the board's authority under this section, and the approval process must comply with this section. The township shall make a valid determination on the application within sixty days of the receipt of a complete conditional use permit application.

- d. If the board of township supervisors determines the animal feeding operation would comply with zoning regulations or fails to object under this section, the township may not impose additional zoning regulations relating to the nature, scope, or location of the animal feeding operation later, provided an application is submitted promptly to the Department of Environmental Quality, the Department issues a final permit, and construction of the animal feeding operation commences within three years from the date the Department issues its final permit and any permit appeals are exhausted. Any objection or determination that subsequently is reversed, set aside, or invalidated by a court of this state, is not a valid objection or decision for the purpose of calculating a procedural timeline under this section.
 - e. A procedural timeline imposed by this section continues to be in effect during the pendency of any appeal of a township action or determination.
- (9) The Board of Township Supervisors may not require an existing animal feeding operation to have a permit for improvements or other modifications of an operation that is in current compliance with state and federal regulations or require an existing operation to have a permit for improvements or other modifications that bring the operation into compliance with state or federal regulations, if the modifications or improvements do not cause the operation to exceed animal numbers of the setback requirement.

Article V. Administration

Section 5.01 Board of Township Supervisors

- (1) Powers and Authority - In addition to all powers and authority granted to the Board of Township Supervisors by general or specific law, the Board of Township Supervisors shall have the following powers and authority under the provisions of this Ordinance.
- (2) Appoint Planning and Zoning Administrator and Building Official - The Board of Township Supervisors may appoint a Planning and Zoning Administrator and a Building Official. The Planning and Zoning Administrator and Building Official may be employees of the township or contract consultants.
- (3) Appoint Zoning Board - The Board of Township Supervisors shall appoint members of the Zoning Board.

- (4) Comprehensive Plan - The Board of Township Supervisors shall have the authority to adopt the Black Loam Township Comprehensive Plan and, from time to time, approve or disapprove amendments to the Comprehensive Plan.
- (5) Zoning Ordinance and Zoning Map - The Board of Township Supervisors shall have the authority to adopt the Black Loam Township Zoning Ordinance and the Official Zoning Map of Black Loam Township, and from time to time, approve or disapprove amendments to the Ordinance and Map.
- (6) Variance - The Board of Township Supervisors shall have the authority to adjust the application or enforcement of a particular provision this Ordinance when a literal enforcement of the provision would result in great practical difficulties, unnecessary hardship, or injustice.
- (7) Appeals - The Board of Township Supervisors shall hear and decide any appeals of a decision made by the Planning and Zoning Administrator regarding the administration, interpretation, and enforcement of this Ordinance.
- (8) Other Actions - The Board of Township Supervisors shall have the authority to take other action not delegated to another decision making or administrative body that the Board of Township Supervisors deems necessary and desirable to implement provisions of the Comprehensive Plan or this Ordinance.

Section 5.02 Zoning Board

- (1) The Zoning Board for Black Loam Township shall be known as the “Black Loam Township Zoning Board” and may be referred to as the “Zoning Board.”
- (2) The membership of the Zoning Board shall consist of three members appointed by the Board of Township Supervisors in a manner consistent with NDCC 58-03-13.
- (3) The members of the Zoning Board may be compensated in a manner established by the Board of Township Supervisors and consistent with NDCC 11-33-05.
- (4) It shall be the duty of the Zoning Board to hold public hearings and to make recommendations to the Board of Township Supervisors on all matters relating to the creation and amendment of the Comprehensive Plan; the creation of zoning districts and zoning regulations; the administration and enforcement of this Ordinance; future amendments to the zoning districts of Black Loam Township; and future amendments to this Ordinance.

- (5) It shall be the duty of the Zoning Board to hold public hearings and to make recommendations to the Board of Township Supervisors on any applications for conditional use permits as provided herein.
- (6) It shall be the duty of the Zoning Board to determine the location of any district boundary for the zoning districts adopted as part of this Ordinance when such location is in question.

Section 5.03 Planning and Zoning Administrator

- (1) There is hereby created the position of Planning and Zoning Administrator, who shall be a duly appointed person charged with the administration, interpretation, and enforcement of this Ordinance, except in instances identified in this Ordinance where said responsibilities are assigned to the Zoning Board or the Board of Township Supervisors.
- (2) The duties of the Planning and Zoning Administrator shall include:
 - a. Inform and support the Board of Township Supervisors of enforcement actions needed for any and all provisions of this Ordinance;
 - b. Keep complete, accurate, and secure records;
 - c. Accept applications and review them for appropriateness and completeness;
 - d. Accept and remit fees as established in the adopted administrative procedures;
 - e. Prepare updates to this Ordinance and any associated maps as directed by the Board of Township Supervisors.
 - f. Undertake any other administrative function appropriate to the Office of Planning and Zoning Administrator upon written approval of the Board of Township Supervisors;
 - g. Report to the Board of Township Supervisors any recommendations for changes and improvements in this Ordinance and procedures therein;
 - h. Issue any permit granted by the Board of Township Supervisors and make periodic inspections to verify that all conditions of such granted permits are complied with by the applicant or his agent;
 - i. Receive and investigate allegations of non-compliance or violations of this Ordinance, report findings to the Board of Township Supervisors, and file a complaint where such allegations are based on apparent fact;
 - j. Make recommendations to the Zoning Board or to the Board of Township Supervisors in connection with any application for conditional use permit,

variance, or zoning ordinance amendment, including such conditions as he may deem necessary in order to fully carry out the provisions and intent of this Ordinance.

- k. Refer to the Zoning Board for placement of all uses not categorically permitted and not sufficiently similar to listed uses for the Planning and Zoning Administrator to establish the appropriate application of this ordinance to such uses.

Section 5.04 Fee Schedule

A schedule of fees for any reviews, permits, or applications required by this Zoning Ordinance shall be established by resolution of the Board of Township Supervisors and revised periodically, as necessary.

Section 5.05 Appeals

- (1) Any person, unit of government or agency may file an appeal when aggrieved by a decision or interpretation by the Planning and Zoning Administrator, provided that the appeal is based on an allegation that:
 - a. The Planning and Zoning Administrator made an error in the interpretation of this Ordinance, and
 - b. The erroneous interpretation specifically aggrieves the appellant.
- (2) Application and Procedure
 - a. A letter of appeal must be filed with the Township Clerk within 30 days of the date of written notice of interpretation or determination. The letter shall cite the decision made and state the alleged error. The letter of appeal shall be accompanied by a fee established by the Board of Township Supervisors.
 - b. If after such fee has been paid and a properly filed appeal is successful, the fee shall be refunded. Otherwise, no part of any such fee shall be refundable after an appeal is filed and such fee paid.
 - c. A letter of appeal is not considered complete until such fee has been paid.
 - d. After acceptance by the Township Clerk, the completed application shall be reviewed under the regulations in place on the date a complete application is submitted to the Planning and Zoning Administrator.
 - e. After acceptance of the letter of appeal, the Township Clerk shall transmit the letter of appeal to the Board of Township Supervisors and the Zoning Board.
 - f. The Township Clerk shall set a hearing date within 30 days of acceptance of the letter of appeal and payment of the established appeal fee, publish

notice thereof as provided for in this Ordinance, and notify all parties of interest. Public notice of the hearing shall be placed in the official County newspaper and any other newspaper determined by the Board of Township Supervisors to serve the area within and surrounding the Township. The notice shall be published at least fifteen days in advance of the date of the hearing and be published for two successive weeks prior to the date of the hearing.

- g. Where an appeal concerns a particular piece of property, written notice shall be mailed to all property owners with property within 5280 feet of the subject property at least 15 days prior to the said hearing. Where the subject property abuts a right-of-way, the 5280-foot measurement shall be in addition to this right-of-way along the abutting side.
- h. An appeal under the terms of this Ordinance stays all proceedings in the matters appealed unless the Planning and Zoning Administrator certifies to the Board of Township Supervisors that the application, by reason of the facts stated in the certification, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by the Board of Township Supervisors or a court of record.
- i. The Board of Township Supervisors shall conduct a public hearing on the letter of appeal. At that hearing, the Board of Township Supervisors shall review the particular facts and circumstances of appeal and develop findings and conclusions. The Board of Township Supervisors shall make a decision by motion. The concurring vote of a majority of the Board of Township Supervisors shall be necessary to reverse any order, requirement, decision, or determination of the Planning and Zoning Administrator or to decide in favor of the appellant on any other matter. If the Board of Township Supervisors decides in favor of the appellant pertaining to the properly filed appeal, the fee charged for the appeal shall be refunded to the appellant.
- j. Any person aggrieved by a decision of the Board of Township Supervisors may file an appeal to the district court in the manner provided in NDCC 28-34-01.

Section 5.06 Variance

- (1) Certain circumstances may exist or arise wherein an unnecessary hardship is created through strict adherence to the provisions of this Ordinance. Hereinafter are provisions for the granting of a variance to adjust the application or enforcement of any provision of this Ordinance, so that the public welfare is

secured, and substantial justice can be done to those so affected. However, a variance that would allow the placement of a use that is not normally allowed under the zoning of the site shall be neither considered nor granted. An application for a variance may be filed by any property owner or their designated agent for the affected property.

(2) Application and Procedure

- a. An application for a variance shall be made on a form provided by the Planning and Zoning Administrator. Requests for more than one variance for the same project on the same property may be filed on a single application and charged a single fee.
- b. The completed application and fee as set by the Board of Township Supervisors shall be submitted to the Planning and Zoning Administrator.
- c. No part of any such fee shall be refundable after an application is filed and such fee paid.
- d. An application is not considered complete until such fee has been paid.
- e. After acceptance by the Planning and Zoning Administrator, the completed application shall be reviewed under the regulations in place on the date a complete application is submitted to the Planning and Zoning Administrator.
- f. After acceptance by the Planning and Zoning Administrator, the completed application shall be transmitted to the Board of Township Supervisors.
- g. The Planning and Zoning Administrator shall set a Board of Township Supervisors hearing date, publish notice thereof as provided for in this Ordinance, and notify all parties of interest. Public notice of the hearing shall be placed in the official County newspaper and any other newspaper determined by the Board of Township Supervisors to serve the area within and surrounding the Township. The notice shall be published at least fifteen days in advance of the date of the hearing, and be published for two successive weeks prior to the date of the hearing. Written notice shall be mailed to all property owners with property within 5280 feet of the subject property at least 15 days prior to the hearing. Where the subject property abuts a right-of-way, the 5280-foot measurement shall be in addition to this right-of-way along the abutting side.
- h. The Board of Township Supervisors shall conduct a public hearing on the variance application. At that hearing, the Commission shall review the particular facts and circumstances of the situation and develop findings and conclusions.

- i. In approving a variance, the Board may impose such conditions as are, in its judgment, necessary to accomplish the general purposes of this Ordinance.
- j. The Board of Township Supervisors shall make a decision by motion. It shall take the affirmative vote of two members of the Board to grant a variance. Failing such vote, the request for variance is denied.
- k. A variance shall be valid indefinitely, provided it is exercised within one year of the date of issuance, or as otherwise provided for by the Board of Township Supervisors.
- l. A request may be re-heard only when there has been a manifest error affecting the Board's decision or it appears that a substantial change in facts, evidence, or conditions has occurred. Such determination shall be made by the Planning and Zoning Administrator within 60 days of final action of the Board.
- m. Any persons aggrieved by a decision of the Board of Township Supervisors pertaining to a variance application may file an appeal with a court of competent jurisdiction.

(3) Criteria for Consideration; Findings Required

- a. Findings are required to be made by the Board of Township Supervisors for approval of a variance. No variance shall be granted unless the Board finds that all of the following conditions are met or found to be not pertinent to the particular case:
 - i. Strict compliance with the provisions of this Ordinance will:
 - 1. Limit the reasonable use of the property, and
 - 2. Deprive the applicant of rights enjoyed by other properties similarly situated in the same district, and
 - 3. Will result in a hardship to the applicant.
 - ii. The hardship is the result of lot size, shape, topography, or other circumstances over which the applicant has no control.
 - iii. The hardship is peculiar to the property.
 - iv. The hardship was not created by the applicant.
 - v. The hardship is not economic (when a reasonable or viable alternative exists).
 - vi. Granting the variance will not adversely affect the neighboring properties or the public.
 - vii. The variance requested is the minimum variance which will alleviate the hardship.

- viii. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.
- b. Every decision of the Board of Township Supervisors pertaining to a variance application shall be made by motion and shall be based upon "Findings of Fact" and every Finding of Fact shall be supported in the record of its proceedings. The above criteria required to grant a variance under this Ordinance shall be construed as limitations on the power of the Board to act. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific fact shall not be deemed in compliance with this Ordinance.

Section 5.07 Conditional Use Permits

- (1) No structure, building or land shall be used, constructed, altered, or expanded where a Conditional Use Permit is specifically required by the terms of this Ordinance until a Conditional Use Permit for such use has been authorized by the Board of Township Supervisors and issued by the Planning and Zoning Administrator.
- (2) Structures or buildings devoted to any use which is permitted under the terms of this Ordinance, subject to the securing of a Conditional Use Permit, may be altered, added to, enlarged, expanded, or moved from one location to another on the lot only after securing a new Conditional Use Permit.
- (3) An application for a Conditional Use Permit may be filed by any property owner or their designated agent for the affected property.
- (4) Application and Procedure
 - a. An application for a Conditional Use Permit shall be made on a form provided by the Planning and Zoning Administrator.
 - b. The completed application and fee as set by the Board of Township Supervisors shall be submitted to the Planning and Zoning Administrator.
 - c. No part of any such fee shall be refundable after an application is filed and such fee paid.
 - d. An application is not considered complete until such fee has been paid.
 - e. After acceptance by the Planning and Zoning Administrator, the completed application shall be reviewed under the regulations in place on the date a complete application is submitted to the Planning and Zoning Administrator.

- f. After acceptance by the Planning and Zoning Administrator, the completed application shall be transmitted to the Zoning Board for their review and evaluation.
- g. The Planning and Zoning Administrator shall set a hearing date, publish notice thereof as provided for in this Ordinance, and notify parties as required by this Ordinance. Public notice of the hearing shall be placed in the official County newspaper and any other newspaper determined by the Board of Township Supervisors to serve the area within and surrounding the Township. The notice shall be published at least fifteen days in advance of the date of the hearing and be published for two successive weeks prior to the date of the hearing.
- h. Written notice shall be mailed to all property owners with property within 5280 feet of the subject property at least 15 days prior to the said hearing. Where the subject property abuts a right-of-way, the 5280-foot measurement shall be in addition to this right-of-way along the abutting side.
- i. Any person may submit written comments on the application through the mail, electronic mail, or in person. Any such comments should specifically state if and how the granting of the request would adversely or injuriously affect their personal or legal interests. All such comments shall become part of the record of the application.
- j. The Planning and Zoning Administrator shall prepare a staff report that provides a detailed overview of the proposed conditional use, its site, context and its compliance with the comprehensive plan and this ordinance. In preparation of the report, the Planning and Zoning Administrator shall, when applicable, seek input from the appropriate agencies, organizations, and service providers that have responsibilities which pertain to the subject application or future service at the applicable site of the application. In the report the Planning and Zoning Administrator shall propose findings of fact and may recommend approval, approval with conditions or denial of the proposal.
- k. The Zoning Board shall conduct a public hearing on the proposed conditional use. At that hearing, the Commission shall review the particular facts and circumstances of the proposed use and develop findings and conclusions in support of its recommendation. If the Commission finds that it complies with the evaluation criteria listed below, it shall recommend approval of the application. If the Commission finds the proposed conditional use fails to comply with such criteria, it shall recommend denial of the application or conditionally approve the request with additional stipulations.

- l. Following the public hearing, unless tabled by the Zoning Board and in any case after the Zoning Board makes its recommendation, the Planning and Zoning Administrator shall forward the recommendations and findings of fact of the Zoning Board to the Board of Township Supervisors.
- m. The Board of Township Supervisors shall consider the recommendations and findings of fact of the Zoning Board and make a decision to confirm the recommendation of the Zoning Board, or in the case that it disagrees with the findings and recommendation of the Zoning Board, establish its own findings of fact and render a decision consistent with those findings.

(5) Criteria for Approval; Findings Required

- a. The Zoning Board in its consideration of the application for a Conditional Use Permit, except in the case of an application for an animal feeding operation, shall grant approval only if the proposal, as submitted, conforms to all of the following applicable general Conditional Use Permit criteria, as well as to all other applicable criteria that may be requested:
 - i. Site Suitability including adequate usable space, adequate access, and absence of environmental constraints.
 - ii. Design Appropriateness including the functionality of parking scheme, traffic circulation, open space, fencing or screening, landscaping, wayfinding signage, and lighting. This includes adequate measures to provide ingress and egress in a manner that minimizes traffic impacts on the area.
 - iii. Public Services and Facilities Availability in such a manner and adequacy to serve the needs of the use as designed and proposed, including sewer, water, stormwater management, fire protection, police protection, access, and roads.
 - iv. Immediate Neighborhood Impact must be demonstrated to not be detrimental to the surrounding neighborhoods in general. Typical negative impacts which extend beyond the proposed site include excessive traffic generation, noise or vibration, dust, glare, or heat, smoke, fumes, gas, or odors, and inappropriate hours of operation.
 - v. Consistency with the Comprehensive Plan must be demonstrated.
 - vi. Public Health, Safety, and General Welfare will not be endangered or reduced by the establishment, maintenance, or operation of the proposed conditional use.
 - vii. Uses, Values, and Enjoyment of other property in the neighborhood for purposes already permitted will in no foreseeable manner be

- substantially impaired or diminished by the establishment, maintenance, or operation of the proposed conditional use.
- viii. Normal and Orderly Development of the surrounding property will not be impeded by the establishment of the proposed conditional use.
- ix. The proposed conditional use will conform to all applicable regulations.
- b. Any person may submit written comments on the application through the mail, electronic mail, or in person. Any such comments should specifically state if and how the granting of the request would adversely or injuriously affect their personal or legal interests. All such comments shall become part of the record of the application.
- c. The burden of proof for satisfying the aforementioned criteria shall rest with the applicant and not the Zoning Board or Board of Township Supervisors. The granting of a Conditional Use Permit is a matter of grace, resting in the discretion of the Zoning Board and Board of Township Supervisors and a refusal is not the denial of a right, conditional or otherwise.
- d. Decision Based on Findings. Every decision of the Zoning Board and Board of Township Supervisors pertaining to the granting, denial, or amendment of a request for a Conditional Use Permit shall be based upon "Findings of Fact", and every Finding of Fact shall be supported in the records of its proceedings.
- e. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with this Ordinance.

Section 5.08 Approval of Application and Granting Conditional Use Permits

- (1) Upon rendering a decision to grant a Conditional Use Permit, the Board of Township Supervisors shall notify the Planning and Zoning Administrator of their decision, and he or she shall issue a Conditional Use Permit with stipulations, itemized in brief on the face of the permit. The application and all subsequent information, correspondence, evaluations, recommendations, and decisions shall be placed on permanent file in the office of the Township Clerk or Planning and Zoning Administrator.
- (2) Termination and Transferability. Once granted, the Conditional Use Permit, with its terms and conditions, shall:
 - a. Run with the lot, building, structure, or use and shall not be affected by change of ownership.

- b. Terminate twelve (12) months from the date of authorization if commencement of authorized activity has not begun:
 - i. Unless otherwise specified in the conditions of approval, or
 - ii. Unless the applicant can demonstrate and maintain a continuous effort in good faith (preparing financing, securing state or federal permits, undertaking engineering and design, etc.) in commencing the activity.
- (3) In the event an application is denied by the Board of Township Supervisors, no resubmittal of an application for a Conditional Use Permit may be made within one year from the date of said denial, unless sufficient new evidence or conditions are offered to the Planning and Zoning Administrator to demonstrate to him that circumstances have altered, and that further consideration of the application is warranted. In such an event, the resubmitted application shall follow the same procedures as the original and shall be treated as a new application.

Section 5.09 Amendments to this Ordinance and Official Zoning Map

- (1) The provisions of this Ordinance may, from time to time, and for the furtherance of public necessity, convenience, and welfare and in recognition that circumstances and conditions may be altered substantially as time passes, be amended, supplemented, changed, modified, or replaced.
- (2) Text Amendments. Requests to amend the text of this Ordinance may be initiated by the Board of Township Supervisors, the Zoning Board, or any affected party or person.
- (3) Application and Procedures
 - a. An application for an Ordinance Amendment shall be made on a form provided by the Planning and Zoning Administrator.
 - b. The completed application and fee as set by the Board of Township Supervisors shall be submitted to the Planning and Zoning Administrator.
 - c. No part of any such fee shall be refundable after an application is filed and such fee paid.
 - d. An application is not considered complete until such fee has been paid.
 - e. After acceptance by the Planning and Zoning Administrator, the completed application shall be transmitted to the Zoning Board for their review and evaluation.
 - f. After acceptance by the Planning and Zoning Administrator, the completed application shall be reviewed under the regulations in place on the date a complete application is submitted to the Planning and Zoning Administrator.

- g. The Planning and Zoning Administrator shall set a public hearing date and publish notice of the time, place and purpose of the hearing once each week for two consecutive weeks in the official County newspaper and any other newspaper determined by the Board of Township Supervisors to serve the area within and surrounding the Township. The notice shall be published at least fifteen days in advance of the date of the hearing, and be published for two successive weeks prior to the date of the hearing. Said notice shall describe the nature, scope, and purpose of the proposed amendment, and shall state the times at which it will be available to the public for inspection and copying at the office of the Township Clerk.
- h. The Zoning Board shall consider the application at the date established for the hearing and give opportunity for parties of interest and citizens to be heard. The Zoning Board shall make a recommendation to the Board of Township Supervisors to grant, amend, or deny the application.
- i. Upon receipt of the recommendation of the Zoning Board, the Board of Township Supervisors shall hold a public hearing. Notice of this hearing stating the boundaries of the proposed district, the general character of the proposed regulations, the time and place of the hearing and that the proposed amendments are on file for public inspection at the office of the Township Clerk shall be posted and advertised once a week for two weeks prior to the hearing in the official County newspaper and any newspaper of general circulation in the county at the discretion of the Planning and Zoning Administrator or the Board of Township Supervisors. Based on the results of the hearing, other public input, the staff report and findings of the Zoning Board, the Board of Township Supervisors may adopt the proposed amendments with such changes it may deem advisable.
- j. Upon adoption of the proposed amendment with any changes it deems advisable, the Township Clerk shall file a certified copy of the adopted amendment with the county recorder. Additionally, if the zoning ordinance regulates animal feeding operations in any way, the Township Clerk shall file a certified copy of the adopted ordinance with the North Dakota Department of Environmental Quality. This Ordinance may, from time to time, be amended or repealed by the Board of Township Supervisors upon like proceedings as in the case of its original adoption or subsequent amendment.
- k. In the event that an application to amend this Ordinance is denied by the Board of Township Supervisors or that the application for amendment is withdrawn after the hearing of the Zoning Board, the Planning and Zoning Administrator shall have the authority to refuse to accept another application for any similar amendment for one year from the date of hearing of the previous application by the Zoning Board.

- (4) Official Zoning Map Amendments. Amendments to the zoning district boundaries or the creation of new zoning districts as established by a text description of the areas within each zoning district or the official zoning map shall follow substantially the same procedures as provided for in Section 5.09(2-3) with the following additional requirements to be met:
- a. The applicant shall provide names and addresses of all property owners with property within 5280 feet of the area affected by the proposed amendment.
 - b. The application for amendment of the zoning district boundaries shall be signed by a member of the Board of Township Supervisors, a member of the Zoning Board, or an owner of record of land which will be affected by the proposed amendment or his authorized agent.
 - c. When rezoning a previously zoned tract of land, the Zoning Administrator shall mail a notice to all property owners included in the proposed amendment area and all property owners adjacent to and with property within 5280 feet of the boundary of the proposed amendment area. (Where the subject property abuts a public right-of-way, the 5280-foot measurement shall be in addition to the right-of-way along the abutting sides.) Such notice shall be mailed no less than 15 days prior to the Zoning Board hearing date.
 - d. Following the public hearing, the Board of Township Supervisors may adopt the proposed amendment to the zoning district.
- (5) In the event that the Board of Township Supervisors adopts a text amendment or an official zoning map amendment, they shall notify the Planning and Zoning Administrator of their action and he shall be responsible for updating the ordinance text or official zoning map.
- (6) Evaluation of Amendment Requests. When considering an application for amendment to the provisions of this Ordinance or the official zoning map, the Zoning Board and the Board of Township Supervisors shall be guided by and adopt findings of fact based upon the following:
- a. Whether the zoning regulations are made in accordance with the Comprehensive Plan,
 - b. Whether the zoning regulations are designed to:
 - i. Secure safety from fire and other dangers
 - ii. Promote public health, safety, and general welfare, and
 - iii. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
 - c. Consideration of
 - i. The reasonable provision of adequate light and air;
 - ii. The effect on motorized and non-motorized transportation systems;

- iii. The character of the district and its intended suitability for particular uses;
- iv. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Section 5.10 Public Hearing Notice

- (1) Whenever a public hearing is required by this ordinance, unless otherwise required by law, public notice of the hearing shall be published in the official newspaper of the County at least 15 days prior to the date of the public hearing. Public notice may also be published in any other newspaper determined by the Board of Township Supervisors to serve the area within and surrounding the Township. The public notice shall contain the following information and comply with public notice requirements of state law.
 - a. Location, Date, Time - The location, date and time of the public hearing or public meeting.
 - b. Type of Application - The type of application, such as Conditional Use Permit, Variance, Appeal, Amendment to the Zoning Map or Ordinance.
 - c. Description of Requested Decision - A brief description of the decision or action sought by the applicant.
 - d. Name of Owner, Applicant - The name of the landowner and applicant.
 - e. Location of Relevant Property – a township, range, section and quarter section description of the property for which the application is being made, and if the property has an established street address, the street address shall also be listed.
 - f. Where Information Available - The location where information about the application may be viewed and the general hours available for viewing.
 - g. Proposed Use - When applicable, a description of the type of use being proposed.
- (2) Written notice of the public hearing must be mailed to all property owners within one mile of the subject property at least 15 days before the public hearing.

Resolution

WHEREAS, the Black Loam Township Board of Supervisors in conjunction with the Black Loam Township Zoning Board have investigated and determined the necessity of establishing zoning regulations,

WHEREAS, the Black Loam Township Zoning Board has prepared a zoning ordinance, published notice of time, place, and purpose of a public hearing fifteen days prior to said hearing date, and held said public hearing to receive citizen input on said zoning ordinance,

WHEREAS, the Black Loam Township Zoning Board has recommended approval of said zoning ordinance to the Black Loam Township Board of Supervisors,

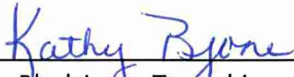
NOW, THEREFORE, BE IT RESOLVED that the Black Loam Township Board of Supervisors adopt the Black Loam Township Zoning Ordinance.

Approved and adopted this 27 day of August, 2026.



Chairman, Black Loam Township

Attest:



Clerk, Black Loam Township