



LAMOURE COUNTY RECORDER
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By

LAURIE GOOD, Recorder



Kennison Township Zoning Ordinance (LaMoure County, ND)

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KENNISON TOWNSHIP ZONING ORDINANCE

Article I. General Provisions

Section 1.01 TITLE

- (a) This Ordinance shall be known and may be cited and referred to as the "Kennison Township Zoning Ordinance" and will be referred to herein as "this Ordinance."

Section 1.02 AUTHORITY AND ENACTMENT

- (a) 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 Kennison Township Comprehensive Plan adopted ____ 2021.

Section 1.03 PURPOSE

- (a) The purpose of this Ordinance is to promote the health, safety, morals, or the general welfare of Kennison Township and its residents.
- (b) It is further the purpose of this Ordinance to secure the orderly development of approaches to townsites and/or municipalities.
- (c) It is also the purpose of this Ordinance to:
1. Facilitate orderly and efficient development within the Township in a manner which is consistent with its Comprehensive Plan and other adopted plans.
 2. Regulate the development and use of buildings and lands for trade, industry, residence, or other purposes.
 3. Lessen governmental expenditures.
 4. Conserve and develop natural resources.
 5. Provide for emergency management.
 6. Address environmental concerns.
 7. Protect and preserve agricultural land uses.
 8. Preserve and enhance the character and quality of life for the Township as a whole.
 9. Preserve and enhance the character and quality of life for the unincorporated town of Nortonville.
 10. Provide for safety and minimize congestion in the public rights-of-way.
 11. Provide for the administration of this Ordinance.



Section 1.04 APPLICABILITY AND JURISDICTION

- (a) This Ordinance applies to all buildings, structures, lands, and uses over which the Kennison 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

- (a) 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.
- (b) 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 SEVERABILITY

- (a) 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.
- (b) 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 1.07 EFFECTIVE DATE

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

Section 1.08 (RESERVED)

Article II. Interpretation

Section 2.01 Liberal Interpretation to Further Underlying Purposes

- (a) 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

- (a) Words, phrases, and terms defined in this Ordinance shall be given the defined meaning as set forth in the following text.
- (b) 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.
- (c) The word "shall" is mandatory and not permissive; the word "may" is permissive and not mandatory.
- (d) Words used in the singular include the plural, and words used in the plural include the singular.
- (e) Words used in the present tense include the future tense, and words used in the future tense include the present tense.
- (f) 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 working day, in which event the period runs until the next working day.
- (g) 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

- (a) The following words have the specific meaning listed:
1. **DEVELOPMENT** – a change to improved or unimproved real estate that requires a permit or approval from any agency of the County or of the State of North Dakota, including but not limited to construction, subdivision of land, placement of mobile homes, storage of materials, mining, filling, grading, excavation and drilling activities.
 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 and 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** - 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 at least 45 days 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. **HOME OCCUPATION** - any occupation which: (a) is carried on in a dwelling unit by members of the household; (b) is clearly secondary to the use of the residential dwelling for dwelling



- purposes; (c) in the case there are non-household members working for the occupation, the number of non-household employees is a minority, and (d) does not create a nuisance, excessive noise, traffic, or conflict with adjoining uses
15. **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
 16. **HOME DAYCARE** - a person, entity, or organization operating as a self-declared child care provider or a licensed family child care provider
 17. **COMMERCIAL DAYCARE** - a person, entity, or organization operating as a licensed group child care provider, a licensed child care center, a licensed pre-educational facility, or a licensed educational facility-age program
 18. **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
 19. **BUILDING** - a structure built for the support, shelter or enclosure of persons, animals, chattels, or property of any kind
 20. **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.
 21. **SINGLE DETACHED DWELLING** - a building designed, constructed, and principally used as a dwelling
 22. **DUAL ATTACHED DWELLING** - a building designed, constructed, and having two dwellings as the principle use
 23. **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
 24. **MOBILE HOME** - consistent with the North Dakota Century Code, a mobile home is a structure, either single or multi-sectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet or more in length, and includes a manufactured home as defined in NDCC 41-09-02 other than a manufactured home with respect to which the requirements of subsections 1 through 3 of NDCC 39-05-35, as applicable, have been satisfied.
 25. **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.



26. **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
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27. **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
28. **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
29. **TRACT** - a parcel or group of parcels that are contiguous
30. **TAX PARCEL** - a parcel or group of parcels that are contiguous, under common ownership, and identified as a single taxing unit by LaMoure County
31. **LOT** - a parcel
32. **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.
33. **BUILDABLE LOT** - a lot that meets zoning dimensional requirements in the district where it is located
34. **PLATTED LOT** - a parcel of land that has been established and defined by a subdivision
35. **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.
36. **EDUCATIONAL FACILITY** - any facility providing k-12 educational facility services, 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.
37. **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
38. **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.
39. **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



40. **BORROW PIT MINING** - use of a site in Kennison 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
41. **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
42. **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.
43. **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.
44. **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.
45. **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.
46. **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
47. **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
48. **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.
49. **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
50. **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.

51. 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
52. 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
53. 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
54. 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
55. LARGE SCALE SOLAR ENERGY SYSTEM - an Active Solar Energy System that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater
56. MEDIUM SCALE SOLAR ENERGY SYSTEM - an Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC)
57. 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.
58. 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
59. BULK PETROLEUM STATION - land and structures used for storage of bulk petroleum products for local distribution and sale
60. 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
61. 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 and ranching operation, manufacture of agricultural equipment operated as an independent business from a farming and 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 and chemical supply facilities which are separately defined and/or regulated by this Ordinance
62. 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 closed to the public.
63. VETERINARIAN FACILITIES – an establishment, including accessory boarding facilities, maintained and operated by a licensed veterinarian to diagnose, treat, and otherwise care for animals.
64. AGRICULTURAL SEED AND CHEMICAL SUPPLY FACILITIES – an establishment that buys, cleans, treats, and sells seed used for farming and ranching, and/or that supplies chemicals for farming and ranching.
65. AGRICULTURAL EQUIPMENT SALES AND SERVICE – a site established for the commercial sale, service, or repair of machinery designed or used for farming and ranching operations.

Section 2.04 Responsibility for Interpretation

- (a) 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 Kennison 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.

Section 2.05 Uses Not Specified Are Prohibited

- (a) In the event that a proposed use is not addressed in this Ordinance, the use is prohibited.
- (b) In the event that a use is determined to be prohibited because the use is not addressed in this Ordinance, an applicant may propose a zoning text amendment to this Ordinance to provide for such a use. However, such an application shall initiate an automatic nine month moratorium on said use while the Township establishes appropriate regulations to address such a use.



Article III. Zoning Districts

Section 3.01 Zoning Districts Established

- (a) Kennison 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 (AP)
 2. Nortonville Residential District (VP)
 3. Floodplain Overlay District (FP)

Section 3.02 Official Zoning Map

- (a) The boundaries of the zoning districts established and described in this Ordinance shall be defined on a map known as the "Official Kennison Township Zoning Map," hereafter referred to in this Ordinance as the "Official Zoning Map." The Official Zoning Map is hereby made a part of this Ordinance.
- (b) The Official Zoning Map shall be denoted with the title "Official Kennison Township Zoning Map" and shall have the date of adoption and date of each amendment to the map printed on the map.
- (c) The zoning district boundaries 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.
- (d) Where, 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

- (a) Purpose and Intent – The purpose of the agricultural preservation zoning district is to maintain and support the dominant use of land for agriculture and the normal incidents of agriculture. 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.
- (b) Permitted Uses
1. Farming and ranching and the normal incidents of farming and ranching
 2. Single detached dwelling
 3. Dual attached dwelling
 4. Accessory dwelling
 5. Public utility facility



6. Communications facility
7. Home occupation
8. Borrow pit mining
9. Bed & breakfast
10. Cemetery
11. Body shop
12. High impact agriculture operations (when more than 1320 feet from the Nortonville Residential District)
13. Animal boarding facility
14. Agricultural equipment sales and service facility

(c) Conditional Uses

1. Animal feeding operation
2. Wind energy conversion facility
3. Solar energy conversion facility
4. Place of assembly
5. Educational facility
6. Salvage yard
7. Landfill
8. Surface mining
9. Private airfield
10. Recreational campground
11. Bulk petroleum station
12. Anhydrous ammonia storage facility
13. Agricultural seed and chemical supply facility

(d) Specific District Standards

1. Animal Feeding Operation Setback requirements.
 - a. No animal feeding operation may be developed closer than the setback distances set forth in Table A following:

Table A. Animal Feeding Operation Setback Distances for Low Density Agriculture Production District				
Animal Units*	Minimum Setback Distance		Animal Unit Calculation Examples	
	Hogs	Other Animals	Livestock Type Examples*	Animal Unit Equivalent*
0-300	-	-	1 horse	2.0
301-1000	0.5 miles	0.5 miles	1 dairy cow	1.33
1001-2000	0.75 miles	0.5 miles	1 mature beef	1.0
2001-5000	1.0 miles	0.75 miles	1 swine > 55 lbs	0.4
>5000	1.5 miles	1.0 miles	1 sheep	0.1
*Volume of waste production determines animal unit numbers. The animal unit definition lists all equivalents.			1 turkey	0.0182
			1 chicken	0.01



- b. Any animal feeding operation in existence before the effective date of this Ordinance shall be considered a conforming use, but any expansion of the operation shall be in conformance with the standards established by this Ordinance.

2. Notwithstanding the Animal Feeding Operation Setbacks established in this section, any residential, recreational, or nonagricultural commercial use which is proposed for development following the establishment of an animal feeding operation has no right for the established separation from said existing animal feeding operation.

(e) Dimensional Standards

1. Minimum Lot Area = 1 acre
2. Minimum Lot Width = 125 feet
3. Minimum Front Yard Setback for all buildings from property line adjoining ROW for a County, State or Federal road = 125 feet
4. Minimum Setback for coniferous trees and shrubs from property line adjoining ROW for a County, State or Federal road = 100 feet
5. Minimum Front Yard Setback for all buildings from road center line of a township road = 90 feet
6. Minimum Setback for coniferous trees and shrubs from township road edge = 75 feet
7. Minimum Side Yard Setback for primary building = 10 feet
8. Minimum Side Yard Setback for accessory buildings smaller than the primary building = 5 feet
9. Minimum Rear Yard Setback for primary and accessory buildings = 10 feet

Section 3.04 Nortonville Residential District

- (a) Purpose and Intent – The purpose of the Nortonville Residential District is to provide guidance to minimize conflicts between residential and other uses existing in the Nortonville area, and to encourage residential and compatible recreational, social, educational, and commercial land uses in a townsite-type setting. It is intended that development in this district is mixed use, but that non-residential uses have benign impacts on residential uses within the district. This district also allows for small scale commercial or light industrial uses which are anticipated to serve adjacent residential development, and do not cause nuisances to the residential development.

(b) Permitted Uses

1. Single detached dwelling
2. Accessory dwelling
3. Single attached dwelling
4. Public utility facility
5. Communications facility
6. Public or private preservation area
7. Bed & breakfast
8. Home occupation
9. Rural home occupation
10. Cemetery



11. Lumberyard

12. Uses Accessory to permitted uses

(c) Conditional Uses

1. Educational facility
2. Place of assembly
3. Mobile home park
4. Recreational campground
5. Welding shop
6. Private grain storage units not exceeding 10,000 bushels in capacity

(d) Specific District Standards –(Reserved)

(e) Dimensional Standards

1. Minimum Lot Area = 1 acre, except that any existing lot with a building shall be considered a conforming lot as of the effective date of this Ordinance
2. Minimum Lot Width = 50 feet, except that any existing lot with a building shall be considered a conforming lot as of the effective date of this Ordinance
3. Minimum Front Yard Setback for all buildings from property line adjoining ROW for a County, State or Federal road = 100 feet, except that for any lot with an existing principal building, the building shall be considered conforming with respect to the setback as of the effective date of this Ordinance
4. Minimum Setback for coniferous trees and shrubs from property line adjoining ROW for a County, State or Federal road = 75 feet, except that any coniferous trees and shrubs existing within the property line as of the effective date of this Ordinance shall be considered conforming.
5. Minimum Front Yard Setback for all buildings from road center line of a local road = 30 feet
6. Minimum Setback for coniferous trees and shrubs from local road edge = 10 feet
7. Minimum Side Yard Setback for primary building = 8 feet
8. Minimum Side Yard Setback for accessory buildings smaller than the primary building = 5 feet
9. Minimum Rear Yard Setback for primary and accessory buildings = 5 feet

Article IV. Supplemental Requirements

Section 4.01 Performance and Design Standards

(a) There are now or in the future could be a variety of non-residential uses which could impact existing development in Kennison Township as a whole, and in the unincorporated town of Nortonville. The following standards and requirements are established to protect property values and enhance the compatibility of development within Kennison Township. While not all uses identified in this article of this ordinance exist in Kennison Township today, these standards and requirements are established because there is a reasonable possibility that such uses may be proposed and established in the future.

(b) Private airfields. Although there are currently no private airfield(s) or landing strip(s) in Kennison 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 Kennison Township, and to protect the public health, safety and welfare.

1. 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 closed to the public.
2. 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.

(c) Cemetery

A cemetery, mausoleum, columbarium or crematory may be permitted by administrative review.

1. For the purposes of this section, a cemetery means 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 columbariums. Mausoleum means a free-standing building constructed as a monument that encloses an interment space or burial chamber for human remains. Columbarium means a room or building with niches for funeral urns to be stored permanently.

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. Abandoned cemeteries are tracts of land that have been used as burial plots, which have not been filed with the recorder of the county, or where the Board of Township Supervisors determines the existence of an abandoned cemetery.
 4. Any other location proposed for burial of human remains must be authorized by an administrative review permit after proof of compliance with all ND Department of Health requirements.
- (d) Animal Feeding Operations. Kennison Township includes land that is well used for livestock production, and raising livestock is a significant part of 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 contributes significantly to the continued economic, environmental and community health of Kennison Township and its residents. Wastes produced by livestock production have the potential to contribute to air, surface water and ground water pollution. The impacts of animal feeding operations when wastes 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:
1. All animal feeding operations, including livestock enclosures, manure storage areas, structures, facilities and manure application sites in Kennison Township shall be operated and maintained in a manner consistent with their conditional use permits, any licensing or registration documents, and ND DEQ permits, NPDES permits, this Ordinance, and the North Dakota Administrative rules, or successor rules, and North Dakota Century Code statutes or successor statutes.
 2. Before commencing construction and operation, all animal feeding operations in Kennison Township must obtain a conditional use permit approved by the Kennison Township Board of Township Supervisors after successfully completing an application, review, and approval process established by this Ordinance.
 3. Animal Feeding Operations may be allowed in the Agricultural Preservation District if they obtain a conditional use permit from the Kennison Township Board of Township

Supervisors. Animal Feeding Operations are not allowed in any other zoning district of Kennison Township.

4. No animal feeding operation in Kennison Township may be constructed, expanded or operated unless it is found that the animal feeding operation will be set back from any existing residence, church, school, business, public building, park or campground by at least the distances noted in the following table:

Animal Units	Agricultural Preservation District		Low Density Agricultural District	
	Setback Distance for All Animals Except Hogs	Setback Distance for Hogs	Setback Distance for All Animals Except Hogs	Setback Distance for Hogs
<300	none	none	none	none
300-1000	0.5 mile	0.5 mile	0.75 mile	0.75 mile
1001-2000	0.5 mile	0.75 mile	0.75 mile	1.125 miles
2001-5000	0.75 mile	1 mile	1.125 miles	1.5 miles
>5000	1 mile	1.5 miles	1.5 miles	2.25 miles

5. Animal Feeding Operation is defined as a lot or facility, other than an aquatic animal production facility, where the following conditions are met:
- Animals, other than aquatic animals; have been, are, or will be stables or confined and fed or maintained for at least 45 days in a 12-month period; and
 - Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility.
6. Animal Units as used in this section are defined in accordance with North Dakota Century Code Section 23.1-06-15. The table below is for illustration purposes only.
- (e) Wind Energy Facilities. The purpose of this subsection pertaining to Wind Energy Facilities is to provide a regulatory framework for the siting, construction, and operation of wind energy facilities in the Township, subject to reasonable restrictions, which will preserve the safety and well-being of the residents, while allowing equitable and orderly development of wind energy facilities.
- Zoning - Wind energy facilities may be constructed within the township, subject to the restrictions and conditions of this Ordinance.
 - Principal or Accessory Use - A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this Ordinance shall not be deemed to constitute expansion of a nonconforming use or structure.
 - Applicability - The requirements of this Ordinance shall apply to all wind energy facilities with one or more wind turbines rated at one hundred (100) kilowatts nameplate capacity or larger per turbine constructed after the effective date of this Ordinance. No operation of an existing wind energy facility shall be allowed without full compliance with this Ordinance and its Wind Energy Facility Siting Permit, and no modification or alteration of an existing wind energy facility shall be allowed without issuance of a new Wind Energy Facility Siting Permit pursuant to this Ordinance.

4. Application for Permit - No work, except for wind monitoring, soil testing, and other survey work, may commence to construct a wind energy facility until a township Wind Energy Facility Siting Permit ("Permit") has been issued by the Board of Township Supervisors. The prospective permittee shall submit an application for said Permit to the Zoning Board. The application shall be signed by an authorized representative of the prospective permittee and include a fee to be determined by the Board of Township Supervisors for each proposed wind turbine and the following information:
- a. The complete name, legal address, and phone number of the prospective permittee and responsible contact person.
 - b. A United States Geological Survey topographical map of an area which includes the wind energy facility and five hundred (500) feet of all adjoining properties along the wind energy facility perimeter. This topographical map shall have included on it all existing features, including property boundaries, structures, improvements; roads, utility lines, public facilities, and natural features. The map shall also show location of all proposed improvements for the wind energy facility, including wind turbines, MET towers, electrical lines, and roads. Each proposed wind turbine shall be numbered and fully described in technical details, including rotor diameter, model, and manufacturer, and distances, measured in feet, from property lines and from existing improvements for each proposed wind turbine.
 - c. Details as to how the prospective permittee will comply with each item in Paragraph 8 and 9 General Requirements for Wind Energy Facilities, and Paragraph 10 Minimum Ground Clearance.
 - d. A schedule for the proposed start and completion of construction of the wind energy facility.
 - e. Copies or signed summaries of all leases and easements for wind turbines and associated equipment and infrastructure to be sited within the township and any written agreements between the prospective permittee and affected parties holding associated wind rights on adjoining properties established for the purpose of seeking a setback variance(s) pursuant to Paragraph 9 (c).
 - f. A decommissioning plan that identifies the process for vacating the site and restoring it to pre-development conditions or transitioning the site into another use.
5. Upon receipt of the application, the Zoning Board and any experts it may retain shall review the application and, in its discretion, may hold a public hearing on the application providing at least fifteen (15) days' notice prior to the hearing in the official newspaper of Kennison Township and mailing written notice to property owners within five hundred (500) feet of the proposed wind energy facility.
6. Deliberation and Decision - If the Zoning Board finds that the prospective permittee will comply with all requirements, it may, within no more than ~~30~~ {thirty} days after its finding, submit a recommendation for approval or denial of a Wind Energy Siting Permit to the Board of Township Supervisors.
7. Demonstration of Compliance - The permit issued pursuant to Paragraph 4 shall be contingent upon the permittee's final demonstration of compliance with the requirements of the permit following completion of construction of the wind energy facility. Within ninety days of wind energy facility construction, the permittee shall submit to the Zoning Board an





facility at a distance not less than 1.25 times its total height or seven hundred fifty (750) feet, whichever is greater.

- r. Public Roads and Above Ground Communication and Electrical Lines: Each wind turbine shall be set back from the nearest public road or above ground communication and electrical lines at a distance not less than two hundred (200) feet, determined at the center of the existing right-of-way.
 - s. Wind Energy Facility Perimeter: Each wind turbine shall be set back from the wind energy facility perimeter at a distance not less than two and one half (2.5) times the rotor diameter of the wind turbine. A variance may be granted if an authorized representative or agent of the permittee and those affected parties on adjoining properties with associated wind rights sign a formal and legally-binding agreement expressing all parties' support for a variance that waives or reduces the setback requirement.
10. Minimum Ground Clearance - The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.
11. Restoration of Property - Within one hundred eighty (180) days of termination or abandonment of leases or easements for a wind energy facility in the township, the permittee shall cause, at its expense, removal of all structures to a depth of four feet below pre-construction grade.
12. Transfer of Wind Energy Facility Siting Permit - In the event of a change in ownership or controlling interest in a wind energy facility and the transfer of the Permit, any successors and assigns of the original permittee shall comply with the requirements and conditions of such Permit for the duration of operation of a wind energy facility permitted in the township. Within thirty days of such change in ownership or controlling interest of any entity owning a wind energy facility, the parties to the transaction shall notify the Board of Township Supervisors by letter and provide information pursuant to Section IV.X.4. The letter shall be signed by the authorized representatives or agents of both the original permittee and the entity to which the Permit is being transferred.



(f) **Solar Energy Facilities.** The purpose of this subsection is to provide guidance on the reasonable placement and use of facilities and equipment used for solar energy generation. This green energy solution has become more cost-effective in recent years and is an increasingly viable technology for use on individual buildings including private homes, at a community scale, and at commercial/industrial scale. By establishing streamlined processes for local government review of solar energy production facilities, the non-equipment costs can be minimized, and solar energy can become a significant contribution to sustainability in the township. Solar energy facilities have very limited nuisance factors or impacts on surrounding property, thus limiting the amount of analysis and oversight that may be needed prior to approval and installation. For the purposes of this Ordinance, solar energy generation will be broadly construed to include passive and active systems. The following terms and requirements pertain to solar energy generation:

1. 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.
2. Active Solar Energy System means 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.
3. Grid-Intertie Solar Energy System means a photovoltaic system that is connected to an electric circuit served by an electric utility.
4. Ground-Mounted Solar Energy System 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).
5. Large-Scale Solar Energy System means an Active Solar Energy System that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).
6. Medium Scale Solar Energy System means an Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC).
7. 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.
8. Passive Solar Energy System means a solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.
9. Roof-Mounted Solar Energy System means an Active Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).
10. Small Scale Solar Energy System means an Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less).



11. 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.
12. 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.
13. Solar Energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
14. Photovoltaic System means an active solar energy system that converts solar energy directly into electricity.
15. Rated Nameplate Capacity means the maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).
16. Passive Solar Energy Systems are allowed as a use by right in any zoning district.
17. Small Scale Solar Energy Systems are allowed as a use by right in any zoning district provided that a ground mounted one must meet all relevant setback and yard requirements.
18. Small Scale Solar Energy Systems that are roof mounted do not require a building permit.
19. Small Scale Solar Energy Systems that are ground-mounted can be treated as accessory uses, and only need a building permit prior to installation.
20. Medium Scale Solar Energy Systems are allowed as a conditional use in the Transitional Residential District and the Urban Residential District and as a use by right in all other zoning districts.
21. Large Scale Solar Energy Systems are allowed as a conditional use in all zoning districts except the Transitional Residential District and the Urban Residential District.
22. Prior to issuance of a building permit or a conditional use permit for any Medium Scale or Large Scale Solar Energy System, the proposed site plan must be reviewed and approved by the Planning and Zoning Administrator to verify the proposed system installation will not adversely affect adjacent property owners and residents, and that the proposed installation is consistent with this Ordinance.
23. Emergency Access. Roof-mounted solar energy systems shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation opportunities, and provide emergency egress from the roof.
 - (a) For buildings with pitched roofs, solar collectors shall be located in a manner that provides a minimum of one three-foot wide clear access pathway from the eave to the ridge on each roof slope where solar energy systems are located as well as one three-foot smoke ventilation buffer along the ridge.
 - (b) Residential rooftops that are flat shall have a minimum three foot wide clear perimeter and commercial buildings that are flat shall have a minimum four-foot wide clear perimeter between a solar energy system and the roofline, as well as a three-foot wide clear perimeter around roof-mounted equipment such as HVAC units.
 - (c) To the extent practicable, the access pathway shall be located at a structurally strong location on the building (such as a bearing wall).
24. Safety. No roof-mounted solar energy system shall be located in a manner that would cause the shedding of ice or snow from the roof into a porch, stairwell or pedestrian travel area.
25. Reasonable efforts, as determined by the Planning and Zoning Administrator, shall be made to place all utility connections from solar photovoltaic installations underground, depending



29. Medium and large-scale solar energy systems are required to maximize ground cover with vegetation that will provide habitat for pollinators and will minimize the potential for noxious weeds. The owner or operator of the system shall include how this ground cover will be maintained in the operation and maintenance plan of the system.



- (g) **Anhydrous Ammonia Storage Facility.** The purpose of this subsection is to provide guidance on the reasonable placement and use of facilities and equipment used for anhydrous ammonia storage, loading, and transport. It is recognized that anhydrous ammonia is a necessary component of farming and ranching, while it poses substantial health and safety risks for people located in the vicinity of the facility and for people who may be loading and transporting the substance. In addition to the general requirements for all conditional uses, the Zoning Board must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny, or conditionally approve an application for a fossil fuel storage facility:
1. The anhydrous ammonia storage facility must not be located within 1320 feet of any parcel containing a residential or public assembly building.
 2. An emergency management plan for the facility must be approved by the County Emergency Manager, the local ambulance service director, and the fire chief of the fire department having fire protection responsibility. This plan must include contribution to local fire protection equipment and training, and ongoing emergency response training exercises.
 3. A circulation and transportation plan that addresses:
 - a. How access and wayfinding for emergency response vehicles will be provided.
 - b. How the maximum sized vehicles anticipated onsite will be accommodated for parking, turning movements and loading/unloading queues.
 - c. How ingress and egress will be accommodated without hampering traffic on adjoining roads, including plans for turning lanes, acceleration lanes, traffic control, pedestrian safety, and non-motorized vehicle circulation.
 4. A lighting plan must be prepared that demonstrates (a) no light will be directed off site, and (b) the light levels installed will be the minimum needed to maintain security and wayfinding.
 5. A stormwater management plan must be prepared that demonstrates:
 - a. Amount of stormwater runoff leaving the site is not greater than pre-development levels.
 - b. Compliance with NPDES standards and requirements.
 - c. Retention and treatment of contaminated water so as to prevent contamination of the surrounding land and watershed.
- (h) **Agricultural Equipment Sales and Service.** The purpose of this subsection is to provide guidance for agricultural equipment sales and service facilities. "Agricultural equipment sales and service" means a site established for the commercial sale, service, or repair of machinery designed or used for farming and ranching operations. In addition to the general requirements for all administrative review uses, the Planning and Zoning Administrator must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny, or conditionally approve an application for an agricultural equipment sales and service facility:
1. A site plan that demonstrates adequate space for traffic movements and parking, and illustrates landscaping to enhance the view of the facility from adjacent roads and property.
 2. Provisions for turning movements and acceleration lanes if required by the County Engineer.
 3. Proof of compliance with applicable federal and state regulations.



- (i) High Impact Agriculture Operations. The practice of farming and ranching is an ever-evolving business and way of life. Historically, North Dakota has granted latitude to the practice of farming and ranching in order to protect the industry and the way of life associated with it. However, the legislature has in past years also recognized that some operations related to agriculture are not the normal practice of farming and ranching, and may in fact pose a nuisance, a public health hazard, or in some other way substantially impact surrounding property owners from enjoyment of their property. In these cases, the ND legislature has established separate regulations to balance the two conflicting interests. In order to protect the public health and welfare, some operations produce conditions which may affect surrounding residents' ability to breathe, to hear, or to experience the enjoyment of their property without ill affect. This ordinance hereby classifies such uses as High Impact Agriculture Operations, and declares that such uses are not the ordinary practice of farming and ranching which has unique protections under North Dakota Century Code. These uses do not require a conditional use permit but may not be established unless the Township Board of Supervisors, in addition to the standard requirements, finds the following:

1. In order to reduce the impact of noise on surrounding property owners, the Operation shall not be closer than the distances established in the following table:

Noise level measured 100 ft from source	Minimum setback distance to the following:		
	Any public building	Any residence other than operator	Nortonville District boundary
70-79 dB	216 feet	216 ft	216 ft
80-89 dB	900 ft	900 ft	900 ft
90-99 dB	2,500 ft	3162 ft	3162 ft
100+ dB	6,000 ft	10,000 ft	10,000 ft

2. In order to reduce the impact of dust and allergens which may impact breathing, the Operation shall not be closer 1320 feet from the Nortonville Residential District.
3. In order to reduce the impact of traffic on township roads, the Operation shall use approved haul routes and shall pay fees to offset the cost of annual township road maintenance on those haul routes.
4. In order to minimize increased snow accumulations on public roadways, the Operation shall be located at least 200 feet from all public road surfaces.
5. The Board of Township Supervisors approves a circulation and transportation plan that addresses:
- How access and wayfinding for emergency response vehicles will be provided.
 - How the maximum sized vehicles anticipated onsite will be accommodated for parking, turning movements and loading/unloading queues.
 - How ingress and egress will be accommodated without hampering traffic on adjoining roads, including plans for turning lanes, acceleration lanes, traffic control, pedestrian safety, and non-motorized vehicle circulation.
6. A lighting plan must be prepared that demonstrates (a) no light will be directed off site, (b) the light levels installed will be the minimum needed to maintain security and wayfinding

7. An emergency management plan for the facility must be approved by the County Emergency Manager, the local ambulance service director, and the fire chief of the fire department having fire protection responsibility. This plan must include ongoing emergency response training exercises.
8. A stormwater management plan must be prepared that demonstrates:
 - d. Amount of stormwater runoff leaving the site is not greater than pre-development levels.
 - e. Compliance with NPDES standards and requirements.
 - f. Retention and treatment of contaminated water so as to prevent contamination of the surrounding land and watershed.
- (j) Agricultural Seed and Chemical Supply Facilities. Such facilities are subject to the same requirements as High Impact Agriculture Operations, but may only be permitted by a conditional use permit.
- (k) Communications Facilities. The purpose of this subsection/this Ordinance is to protect the public health, safety, and welfare by:
 - (i) *Encouraging the most efficient location of sites (least number of sites for county wide coverage) for wireless communication facilities*
 - (ii) *Encouraging minimum obstruction or impairment of the natural landscape to preserve the visual character quality of the township*
 - (iii) *Preventing construction of such facilities in ways or places that result in unnecessary risk to public safety.*

The following terms shall be used as herein defined by this subsection:

1. Collocation – establishment of telecommunication services by two or more telecommunication providers at a single site and on a single telecommunication support structure
2. Telecommunication Support Structure – the tower or other structure upon which the telecommunication antenna is mounted
3. Telecommunication Facility – the support structure, antenna, and base station together with all the other structural components at a given site (such as the security fence)
4. Telecommunication Antenna – the apparatus which is mounted on the support structure which is used to send and receive telecommunication signals
5. Telecommunication Base Station – the apparatus which is not mounted on the support structure but is necessary to be located at the telecommunication facility in order for the facility to function
6. Telecommunications Facility Perimeter – the outermost extent of all structures at the site of a telecommunications facility including anchor points in the case of a guyed support structure (not the leased or owned area for the facility which may be a larger area)



In addition to the general requirements for all conditional uses, the Zoning Board must evaluate the applicant's compliance with each of the following criteria when considering ~~whether to approve, deny, or conditionally approve an application for a~~ telecommunications facility:

1. Number of towers shall be minimized through the use of shared towers, use of existing structures, and analysis of coverage areas to ensure that tower placement will result in most efficient location
2. Setbacks of structures from property lines, access easements, adjoining habitable structures, and other situations where failure of the structure could cause property damage or personal injury shall be established at tower sites
3. Potential facility features shall be designed to blend in in order to minimize disruption to the landscape
4. Fencing shall be required to limit the potential for trespass and subsequent injury from falls or other activities by unauthorized people at tower sites.
5. Collocation of Telecommunication Facility – When a telecommunication provider applies to use an existing freestanding telecommunication support, it will be evaluated for approval as a permitted use because the existing support structure has already been approved through the conditional use permitting process
6. Freestanding Telecommunication Facility – conditional use permit required in all districts
7. Existing Building or Other Structure – When a telecommunication provider applies to use an existing industrial building or other industrial structure as the telecommunication support structure, it will be evaluated for approval as a permitted use; otherwise it will be evaluated as a conditional use.
8. Portable or Temporary Telecommunication Facilities will be evaluated for approval as a permitted use.
9. Relationship to other telecommunication facilities - A service area analysis must be provided to show why the telecommunication facility site will be the best site to meet the township's objective of the minimal number of sites in the county while providing adequate service to the entire county
10. Design and Height
 - a. Support structures shall be the minimum height needed to meet the service requirements of the applicant and anticipated collocators
 - b. Support structures which are 50 feet to 100 feet high must be designed to serve at least two telecommunications providers
 - c. Support structures over 100 feet high must be designed to serve at least three telecommunications providers
 - d. All proposed support structures are subject to FAA height requirements where applicable
11. Support structure type – applicable only to freestanding telecommunication facilities
 - a. Guyed support structures are not permitted unless a structural engineer certifies that a monopole or lattice support structure is not a feasible design option due to soil stability conditions
 - b. Monopole support structures are permitted in all zoning districts



- c. Lattice support structures are recommended in rural preservation districts and discouraged in all other districts
- 12. Setbacks – applicable only to freestanding telecommunication facilities
 - a. the perimeter of any telecommunication facility must be at least 25 feet away from all public rights-of-way, access easements, utility or drainage easements, and property lines
 - b. the telecommunications support structure shall be located a distance at least 1.25 times the height of the support structure (including all attached appurtenances and antennas) away from all public rights-of-way, access easements, utility or drainage easements, property lines, and habitable structures
 - c. the telecommunications support structure shall be located at least 500 feet away from any residence existing or permitted prior to final approval of the relevant telecommunications facility
- 13. Fencing and Security – applicable only to freestanding telecommunication facilities
 - a. The telecommunications facility shall have a chain link fence 8 foot tall or taller and locked entry points installed at its perimeter
 - b. The required chain link fence shall have signs posted at least one per side warning trespassers to stay away
- 14. Landscaping – applicable only to freestanding telecommunication facilities
 - a. To the maximum extent possible existing trees, shrubs, and ground cover shall be maintained at the telecommunications facility site
 - b. The township may require appropriate vegetative buffering around the perimeter of the facility to buffer its view from neighboring residences, public areas, public rights-of-way, scenic or historic sites, or for other purposes consistent with the Township's comprehensive plan
- 15. Lighting - Lighting shall be limited to that required by the FAA
- 16. Visibility and Aesthetics
 - a. Unless required by the FAA, freestanding support structures shall be a galvanized finish or painted gray or another color which will allow it them to blend into the surrounding landscape
 - b. Telecommunications base stations and other structures shall be of building materials and colors which cause them to blend into the surrounding landscape
- 17. Engineering Standards
 - a. All telecommunication facilities shall be built, operated, and maintained to the standard of the industry and all applicable and adopted Federal, State, and local codes, regulations, and guidelines.
 - b. The design and construction of the telecommunications support structure and attached antennas or other appurtenances shall be approved by a structural engineer licensed in the State of North Dakota.
- 18. Signage – applicable only to freestanding telecommunication facilities
 - a. No signage except warning signs required by this Ordinance shall be allowed on the site
- 19. Building Permit Required - building permits are required for any facility construction

**20. Abandonment and Removal**

- a. Letter of Credit or Bond for Abandoned Telecommunication Facilities - The owner of a telecommunications facility shall be required to provide a letter of credit or post a bond in the amount of \$40,000 to pay for the removal of said telecommunication facility if it is abandoned or no longer being operated.
 - b. The owner of the telecommunications facility and the landowner must both sign an agreement providing access to the site and granting the right to remove an abandoned telecommunications facility
- (l) Salvage yards. The purpose of this subsection is to provide guidance on the reasonable placement and use of salvage yards. Salvage yards can become a public nuisance and be detrimental to the public health safety and welfare by harboring pests and by unsightliness that may negatively impact property values and the time it takes to sell property in its vicinity. Salvage yards must obtain a conditional use permit in order to operate. In addition to the general requirements for all conditional uses, the Zoning Board must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny, or conditionally approve an application for a salvage yard:
1. No part of the salvage yard may be located within 1000 feet of the nearest edge of the right of way of any county, state, or federal highway unless:
 - a. The contents of the salvage yard are screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of such rights of-way.
 - b. Any portion of the salvage yard which cannot be screened in accordance with subpart a. above must be removed or relocated.
 2. No part of the salvage yard may be located within 1000 feet of any pre-existing residence, place of public assembly, or educational facility, park or public facility.
 3. No part of the salvage yard may be located within 200 feet of any commercial buildings.
 4. No salvage yard may be located in areas, which due to high water table, flooding, and soil conditions, may affect the quality of surface and ground water.
 5. Any storage of hazardous materials within the salvage yard must meet state and federal standards for their storage, and must be reported to the County emergency manager on an annual basis.
 6. Appropriate screening includes the following:
 - a. Fences constructed of durable material and anchored permanently to the ground which are at least 80% opaque
 - b. Trees, shrubs and other plantings which by their third summer after planting achieve an opacity of at least 80%
 - c. Earth mounds or berms
 7. All screening must form a structurally sound barrier which is neat, orderly and uniform in appearance, and must be maintained in such condition.
 8. Any salvage yard which is not actively being operated for a period of more than two years must be completely cleaned of all salvage materials so as to eliminate the potential for harboring pests and posing a health and safety hazard.



- (m) Sanitary landfills and solid waste sites. The purpose of this subsection is to provide guidance on the reasonable placement and use of sanitary landfills and solid waste sites. This includes any location where municipal waste is collected or stored before being brought to a landfill for permanent disposal. It does not include special waste or industrial waste landfills which are defined and regulated separately in this Ordinance. In addition to the general requirements for all conditional uses, the Zoning Board must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny, or conditionally approve an application for a sanitary landfill or solid waste site:
1. No part of a sanitary landfill may be located within 1000 feet of the nearest edge of the right of way of any county, state, or federal highway.
 2. No part of a sanitary landfill may be located within one half mile of any pre-existing residential subdivision, residence, place of public assembly, or educational facility, park or public facility.
 3. No part of a sanitary landfill may be located within 1000 feet of any commercial buildings.
 4. No sanitary landfill or solid waste site may be located in areas, which due to high water table, flooding, and soil conditions, may affect the quality of surface and ground water.
 5. The sanitary landfill must be continuously licensed and approved by the State Department of Environmental Quality as to location and operation.
 6. There must be no substantive evidence that the facility will endanger the public health or the environment.
 7. A stormwater management plan must be prepared that demonstrates:
 - a. Amount of stormwater runoff leaving the site is not greater than pre-development levels.
 - b. Compliance with NPDES standards and requirements.
 - c. Retention and treatment of contaminated water so as to prevent contamination of the surrounding land and watershed.
 8. A decommissioning plan that identifies the process for closing the site, landscaping, and transitioning the site into another use, as well as any ongoing monitoring of the site.
 9. Recycling Facility Permitting Standards. Because of the nature of recycling facilities as permanent structures, zoning approval and a building permit are required. The following are required conditions for approval:
 - a. The facility does not abut residential or public uses.
 - b. The facility will be screened from the public right-of-way.
 - c. The facility shall not be placed in the floodplain.
 - d. The site shall be free of litter and other undesirable materials. Containers shall be clearly marked to identify the type of material that may be deposited.
 - e. There shall be a pest and vector control plan for review and approval.

(n) Surface Mining. The purpose of this subsection is to provide guidance on the reasonable location and operation of sand, gravel, rock, and clay mining activities. This does not include borrow-pit mining as separately defined and regulated by this Ordinance. In addition to the general requirements for all conditional uses, the Zoning Board must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny, or conditionally approve an application for a sand, gravel, rock, scoria and clay mining conditional use permit:

1. No excavation of sand, gravel, clay, or rock shall be allowed except as provided by this section.
2. The provisions of this section shall not apply to any excavation for agricultural purposes or for uses requiring less than 5,000 cubic yards of excavation.
3. Except as allowed by paragraph 2 and 3 of this section, a conditional use permit shall be required before beginning any excavation of sand, gravel, clay, or rock within Kennison Township.
4. Application Requirements. The applicant for a permit for excavating sand, gravel, rock, and clay shall submit the following:
 - a. North Dakota contractor's license
 - b. Vicinity map showing site, proposed haul route, and all residences, and public facilities within one mile of the site and one mile of the haul route
 - c. Site map that shows surveyed site boundary and identifies the total acreage to be excavated
 - d. Reclamation Plan
 - e. Written evidence of a reclamation agreement binding on the pit operator, applicant and owner of the materials to be mined that authorizes the Township and the surface owner to enforce the same.
 - f. Weed Management Plan - Provide documentation that the site has been inspected for invasive and/or noxious weeds by the County Weed Officer before mining and excavation commences. The inspection shall occur at a time determined by the County Weed Officer. The Weed Officer shall provide the applicant with documentation of the inspection and the Applicant shall submit such documentation with the Conditional Use Permit Application. If during the inspection, it is determined that the site is infested with invasive and/or noxious weeds, the Applicant shall be required to submit a weed treatment plan that has been reviewed and approved by the County Weed Officer. The plan shall at a minimum include the following components:
 - (i) Pit opening Plan, which would include an inspection prior to opening of the pit;
 - (ii) Overburden Material Stockpile Plan;
 - (iii) Active Pit Mining Plan;
 - (iv) Buffer Zone Area Plan;
 - (v) Mine Area Reclamation Plan; and,
 - (vi) Yearly Inspection Proposal Plan which would include annual inspection by the County Weed Officer.
 - g. The Plan shall be submitted as part of the conditional use application. Weed control treatments shall be completed and a reinspection by the Weed Officer shall be



completed prior to the commencement of mining operations. A written reinspection report shall be filed with the Kennison Township Planning and Zoning Administrator prior to the commencement of mining operations.

5. Truck Hauling/Road Route Plan – a map shall be submitted showing all routes within all counties that are proposed to be used for hauling the excavated material from the excavation site to the final destination(s).
6. Written road agreement binding on the pit operator, applicant, surface owners of lands utilized to access the pit other than access by public easement or public right-of-way, and owner of the materials to be mined.
7. Operations Plan including a timetable for the operation of the mining activity, and scaled maps showing property lines, site boundaries, existing contours, proposed contours after reclamation, depth of excavation, storage location of mined materials on site, storage location of topsoil and overburden, access roads and points of access to the site, staging plan, stormwater management plan, location of structures, location of vehicle parking, and other site features.
5. Conditions for Approval. A conditional use permit may not be approved unless the following requirements are met:
 - a. No application shall be for a site of more than 80 surface acres
 - b. Approved haul route and road agreement between the pit operator, applicant, and owner of the materials to be mined and the owners of all easements, rights-of-way, and lands utilized to haul mined materials from the pit, whether such easements, rights-of-way, or lands are in Kennison Township or not.
 - c. Approved dust control plan
 - d. Approved reclamation plan
 - e. Approved weed management plan
 - f. Bond requirements as determined by the Board of Township Supervisors that are a minimum of at least:
 - (i) 0-19 acres – \$30,000
 - (ii) 20-39 acres – \$50,000
 - (iii) 40+ acres – \$100,000
 - g. Approved hours of operation
 - h. Signage and contact information shall be placed at all road access points to the property which identifies:
 - (i) Operator emergency contact information
 - (ii) County emergency contact information
 - (iii) Legal owners of the property
 - (iv) Pit operator
 - (v) Legal description of the real property upon which development is occurring
5. Standards and Setbacks.
 - a. All mining and excavation sites shall be located so as to protect and preserve agricultural land and to minimize the traffic, noise, dust, fumes, vibration impact on adjoining uses, and contamination or disruption of known water sources.
 - b. The perimeter of the approved excavation site shall be at least:



- (i) 1000 feet away from any residence unless there is an agreement binding the owner of the residence, the applicant, and the pit operator allowing a lessor distance
 - (ii) 100 feet away from any property line
 - (iii) 100 feet (plus any additional distance needed to allow for a 3:1 slope) away from any undeveloped section line
 - (iv) 150 feet (plus any additional distance needed to allow for a 4:1 slope) away from local, state, and federal road centerlines and developed section lines
 - c. The applicant shall conform to all requirements regarding preservation, removal or relocation of historical or archaeological artifacts.
- 6. Reclamation Requirements.
 - a. Reclamation of the site shall be completed within one year of the resource being exhausted, the site being abandoned, or the last calendar month in which mining operations were conducted on at least four days.
 - b. Reclamation of the site shall be consistent with the reclamation plan approved by the Township during the conditional use permit approval process.
 - c. All top soil shall be replaced.
 - d. Natural protective vegetation shall be planted and replanted as necessary until the site vegetation is firmly established.
 - e. There shall be compatibility with the existing surrounding landform with respect to vegetation, slope, surface materials and ground water resources.
- (o) Borrow Pit Mining. The purpose of this subsection is to provide guidance on the reasonable location and operation of borrow pits. In addition to the general requirements for all administrative review uses, the Zoning Board must evaluate the applicant's compliance with each of the following criteria when considering whether to approve, deny, or conditionally approve an application for a borrow pit:
 - 1. Applicability and Covered Activities.
 - (a) No borrow pit shall be opened or operated unless approved on the basis of the administrative review process of this ordinance
 - (b) The provisions of this section apply only to borrow pits as defined in this ordinance
 - 2. Application Requirements. The applicant for a permit for a borrow pit shall submit the following:
 - (a) North Dakota contractor's license
 - (b) Site map that shows surveyed site boundary and identifies the total acreage to be excavated
 - (c) Reclamation Plan
 - (d) Written evidence of a reclamation agreement binding on the contractor that will open the borrow pit and/or the government agency paying the contractor that authorizes the Township and surface owner to enforce the same.
 - (e) Weed Management Plan
 - (f) Truck Hauling/Road Route Plan – a map shall be submitted showing all routes within all counties proposed to be used for hauling the excavated material from the excavation site to the final destination(s).



3. Conditions for Approval. A conditional use permit may not be approved unless the following requirements are met:
- (a) Haul route and road agreement between contractor, the applicable government agency, and/or the owners of all easements, rights-of-way, and lands utilized to haul mined materials from the pit, whether such easements, rights-of-way, or lands are in Kennison Township or not.
 - (b) Weed Management Plan approved by the LaMoure County Weed Officer
 - 1) Documentation provided that the site has been inspected for invasive and/or noxious weeds by the County Weed Officer before excavation commences. The inspection shall occur at a time determined by the County Weed Officer. The Weed Officer shall provide the applicant with documentation of the inspection.
 - 2) If during the inspection, it is determined that the site is infested with invasive and/or noxious weeds, the applicant shall be required to submit a weed treatment plan that has been reviewed and approved by the County Weed Officer.
 - (c) Bond documentation for at least \$30,000
4. Reclamation Requirements.
- (a) Reclamation of the site shall be completed within one year of the resource being exhausted, the site being abandoned, or the last calendar month in which mining operations were conducted on at least four days.
 - (b) Reclamation of the site shall be consistent with the reclamation plan approved by the Township during the administrative approval process.
 - (c) All topsoil shall be replaced.
 - (d) Natural protective vegetation shall be planted and replanted as necessary until the site vegetation is firmly established.
 - (e) There shall be compatibility with the existing surrounding landform with respect to vegetation, slope, surface materials and ground water resources.
- (p) Public Utility Facility. Public utility facilities are essential service facilities for rural water, power, telecommunications (excluding communications towers), and similar infrastructure. For purposes of this Ordinance public utility facilities shall be classified into two (2) categories (major and minor essential service facilities) and regulated according to the procedures described herein. Required maintenance or rebuilding of any major or minor essential service facility, when such maintenance or rebuilding does not expand the capacity or change the capability or location of the existing facility, shall be exempt from the regulation of this Section.
- Minor Essential Services.** All underground telephone lines, pipelines for local distribution or collection, underground transmission lines, overhead utility lines, and electric transmission lines less than 35kv, as well as public utility buildings not customarily considered industrial in use are minor essential services, and are permitted uses in all zoning districts subject to the following:
- 1. Before construction of any Essential Services, the owner shall file with the Zoning Board such maps and drawings of the proposed service relating to site location as shall be



requested. The Zoning Board shall consult the County Engineer and make suggestions to the owner as to modifications considered desirable under this Ordinance.

2. ~~Essential Service located in right-of-way requires a permit from the road authority.~~
3. Any Essential Service line located outside of the right-of-way shall meet a 150 foot setback from center line of road, unless the owner of the utility has submitted a signed, notarized agreement with the road authority to relocate their utility, at their cost, if the road is upgraded.
4. The County Engineer may require in conjunction with the issuance of a permit, that the applicant submit as-built drawings of the essential service after construction.

Major Essential Services. A Conditional Use Permit shall be required for all transmissions pipelines (i.e., pipelines not required for local distributing network), overhead transmission and substation lines in excess of 35 kv, electrical substations and similar essential services structures, and sewage lagoons shall be subject to the following procedural requirements. Unless specifically exempted herein, all activities in this section shall be conducted only under a conditional use permit issued pursuant to Section 22 of this Ordinance.

1. The applicant shall, on forms provided by the township, file an application, with the Zoning Board. The application shall include such maps indicating location, alignment, and type of service proposed, together with the status of any applications made or required to be made under state or federal law to any state or federal agency. The application shall provide the name, address and telephone number of a contact person to which post construction inquiries related to exact location and depth of essential service facilities may be addressed. The application, in the case of pipelines other than water, shall outline a contingency plan including steps to be taken in the event of a failure, leak, or explosion occurring during operation of the pipeline. The operator of the pipeline shall demonstrate its capability and readiness to execute the contingency plan. The township shall have sixty (60) days from the date of initial completed application to accept, reject or modify the application.
2. One set of the information required in Paragraph 1 of this Subdivision shall be furnished to the County Engineer, who shall review the information and forward his comments and recommendations to the Township Zoning Board and Township Board.

(q) (Reserved)

Section 4.02 Reserved



Article V. Administration and Enforcement

Section 5.01 Board of Township Supervisors

(a) 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.

(b) 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.

(c) Appoint Zoning Board

The Board of Township Supervisors shall appoint members of the Zoning Board.

(d) Comprehensive Plan

The Board of Township Supervisors shall have the authority to adopt the Kennison Township Comprehensive Plan and, from time to time, approve or disapprove amendments to the Comprehensive Plan.

(e) Zoning Ordinance and Zoning Map

The Board of Township Supervisors shall have the authority to adopt the Kennison Township Zoning Ordinance and the Official Zoning Map of Kennison Township, and from time to time, approve or disapprove amendments to the Ordinance and Map.

(f) 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.

(g) 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.

(h) 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 deem necessary and desirable to implement provisions of the Comprehensive Plan or this Ordinance.



Section 5.02 Zoning Board

- (a) The Zoning Board for Kennison Township shall be known as the "Kennison Township Zoning Board" and may be referred to as the "Zoning Board."
- (b) The membership of the Zoning Board ^{may} shall consist of five members appointed by the Board of Township Supervisors in a manner consistent with NDCC 58-03-13.
- (c) 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.
- (d) 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 Kennison Township; and future amendments to this Ordinance.
- (e) 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.
- (f) Determine the location of any district boundary shown on the zoning districts adopted as part of this Ordinance when such location is in question.

Section 5.03 Planning and Zoning Administrator

- (a) 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.
- (b) Duties of Planning and Zoning Administrator
The Planning and Zoning Administrator, his assistant, or designee shall:
 - 1. Enforce any and all provisions of this Ordinance;
 - 2. Keep complete, accurate, and secure records;
 - 3. Accept applications and appeals and ensure their appropriateness and completeness;
 - 4. Accept and remit fees as established in the adopted administrative procedures;
 - 5. Update this Ordinance and any associated maps as directed by the Board of Township Supervisors.
 - 6. Undertake any other administrative function appropriate to the Office of Planning and Zoning Administrator upon written approval of the Board of Township Supervisors;
 - 7. Report to the Board of Township Supervisors any recommendations for changes and improvements in this Ordinance and procedures therein;
 - 8. 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;



9. 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;
10. 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.
11. 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 Appeals

- (a) 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:
 1. The Planning and Zoning Administrator made an error in the interpretation of this Ordinance, and
 2. The erroneous interpretation specifically aggrieves the appellant.
- (b) Application and Procedure
 1. 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.
 2. 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.
 3. A letter of appeal is not considered complete until such fee has been paid.
 4. 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.
 5. 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.
 6. 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.
 7. 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.



8. 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.
9. 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 Zoning Boarders shall make a decision by motion. The concurring vote of a majority the quorum of the Zoning Board members present 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.
10. 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.

(c) Findings Required

1. Every decision of the Board of Township Supervisors pertaining to a letter of appeal shall be based upon findings of fact and every finding of fact shall be supported in the record of its proceedings.

Section 5.05 Variance

- (a) 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.
- (b) Application and Procedure
 1. 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.
 2. The completed application and fee as set by the Board of Township Supervisors shall be submitted to the Planning and Zoning Administrator.
 3. No part of any such fee shall be refundable after an application is filed and such fee paid.
 4. An application is not considered complete until such fee has been paid.
 5. 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.



6. After acceptance by the Planning and Zoning Administrator, the completed application shall be transmitted to the Board of Township Supervisors.
 7. 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 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.
 8. 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.
 9. In approving a variance, the Board may impose such conditions as are, in its judgment, necessary to promote the general provisions of this Ordinance.
 10. 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.
 11. 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.
 12. 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.
 13. 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.
- (c) Criteria for Consideration; Findings Required
1. 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:
 - a. Strict compliance with the provisions of this Ordinance will:
 - i. Limit the reasonable use of the property, and
 - ii. Deprive the applicant of rights enjoyed by other properties similarly situated in the same district, and
 - iii. Will result in a hardship to the applicant.
 - b. The hardship is the result of lot size, shape, topography, or other circumstances over which the applicant has no control.
 - c. The hardship is peculiar to the property.
 - d. The hardship was not created by the applicant.
 - e. The hardship is not economic (when a reasonable or viable alternative exists).
 - f. Granting the variance will not adversely affect the neighboring properties or the public.
 - g. The variance requested is the minimum variance which will alleviate the hardship.



- h. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.
- 2. 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 5.06 Conditional Use Permits

- (a) 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.
- (b) 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.
- (c) An application for a Conditional Use Permit may be filed by any property owner or their designated agent for the affected property.
- (d) Application and Procedure
 - 1. An application for a Conditional Use Permit shall be made on a form provided by the Planning and Zoning Administrator.
 - 2. The completed application and fee as set by the Board of Township Supervisors shall be submitted to the Planning and Zoning Administrator.
 - 3. No part of any such fee shall be refundable after an application is filed and such fee paid.
 - 4. An application is not considered complete until such fee has been paid.
 - 5. 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.
 - 6. After acceptance by the Planning and Zoning Administrator, the completed application shall be transmitted to the Zoning Board for their review and evaluation.
 - 7. The Planning and Zoning Administrator shall set a 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.
 - 8. 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.



9. Any person may submit written comments on the application through the mail, electronic mail, or in person. Any such comments should specifically state 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.
 10. 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 propose a recommendation of approval, approval with conditions or denial of the proposal.
 11. 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.
 12. 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.
 13. 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.
- (e) Criteria for Approval; Findings Required
1. The Zoning Board in its consideration of the application for a Conditional Use Permit 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:
 - a. Site Suitability including adequate usable space, adequate access, and absence of environmental constraints.
 - b. Design Appropriateness including the functionality of parking scheme, traffic circulation, open space, fencing or screening, landscaping, wayfinding signage, and lighting.
 - c. 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, and roads.
 - d. 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.
 - e. Consistency with the Comprehensive Plan must be demonstrated.

2. Any person may submit written comments on the application through the mail, electronic mail, or in person. Any such comments should specifically state 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.
3. 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.
4. 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.
5. 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 Approval of Application and Granting of Conditional Use Permits.

- (a) 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 Planning and Zoning Administrator.
- (b) Termination and Transferability. Once granted, the Conditional Use Permit, with its terms and conditions, shall:
 2. Run with the lot, building, structure, or use and shall not be affected by change of ownership.
 3. Terminate twelve (12) months from the date of authorization if commencement of authorized activity has not begun:
 - a. Unless otherwise specified in the conditions of approval, or
 - b. 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.
- (c) 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 for 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.



10. 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. ~~Immediately after the adoption of the amendment with any changes, the~~ Township Clerk shall cause notice of the same to be published for two successive weeks in the official newspaper of the County and in such other newspapers published in the county as the Board of Township Supervisors may deem necessary. Said notice of the same shall describe the nature, scope, and purpose of the adopted amendment, and shall state the times at which it will be available to the public for inspection and copying at the office of the recorder. Proof of such publication shall be filed in the office of the Township Clerk. If no petition for a separate hearing is filed within 30 days after the first notice publication pursuant to NDCC 11-33-10 or NDCC 11-33.2, the amendment thereto shall take effect upon the expiration of the time for filing said petition. If a petition for a separate hearing is filed within 30 days after the first notice publication pursuant to NDCCC 11-33-10 or NDCC 11-33.2, the amendment shall not take effect until the Board of Township Supervisors has affirmed such amendment in accordance with the relevant procedures established in the NDCC. 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.
 11. 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 (1) year from the date of hearing of the previous application by the Zoning Board.
- (d) Official Zoning Map Amendments. Amendments to the zoning district boundaries as established by the official zoning map or creation of new zoning districts on the official zoning map shall follow substantially the same procedures as provided for in Section 5.08 (b) with the following additional requirements to be met:
1. The applicant shall provide names and addresses of all property owners with property within 5280 feet of the area affected by the proposed amendment.
 2. The application for amendment 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.
 3. When rezoning a previously zoned tract of land, the staff of the Zoning Board 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.
 4. Following the public hearing, the Board of Township Supervisors may adopt the proposed amendment to the zoning district.

- (e) 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.
- (f) 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:
 - 1. Whether the zoning regulations are made in accordance with the Comprehensive Plan
 - 2. Whether the zoning regulations are designed to:
 - a. Secure safety from fire and other dangers
 - b. Promote public health, safety, and general welfare, and
 - c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
 - 3. Consideration of
 - a. The reasonable provision of adequate light and air;
 - b. The effect on motorized and non-motorized transportation systems;
 - c. Compatible rural growth in the vicinity of Nortonville;
 - d. The character of the district and its intended suitability for particular uses;
 - e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Section 5.09 Public Hearings Procedure

- (a) Public Hearings required by this Ordinance shall be conducted pursuant to the standards and procedures of this Section.
- (b) Notice

Unless state law requires differently, written notice of the public hearing, pursuant to Section 5.10 Public Notice, shall be sent by mail to the owner of the property that is subject to the public hearing and to owners of land that is with property within 5280 feet of the property that is subject to the public hearing. In addition to the mailed notice, a Public Notice of the hearing that describes the application and provides the time, date and place of the public hearing shall be published 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.
- (c) Announcement

The presiding officer shall announce the purpose and subject of the public hearing, verify that proper public notice was given and provide the opportunity for any member of the Board to declare a conflict of interest.
- (d) Right to Speak

Any interested person may appear at the public hearing and submit evidence or make comments either as an individual or on behalf of an organization. Each person appearing at the



The body conducting the public hearing, on its own initiative, may continue the hearing to a future date. Notice of continuance shall be posted in a conspicuous and visible location at the Township Message Board and other regular locations determined by the Planning and Zoning Administrator.



(a) Public Notice shall be published in the official newspaper of the County. Public notice may also be published 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.

The type of application, such as Conditional Use Permit, Variance, Appeal, Amendment to the Zoning Map or Ordinance.

A brief description of the decision or action sought by the applicant.

The name of the landowner and applicant.

A legal description and a general description of the location of the subject land.

The location, date and time of the public hearing or public meeting.

The location where information about the application may be viewed and the general hours available for viewing.

When applicable, a description of the type of use being proposed.

4/22/2021 Zoning Committee Meeting
and Public input meeting at Nortonville Meeting
center. Meeting was called to order at 7pm by
President James Buckeye. People present at meeting
Mark Berg, Troy Hanson, Jaydon Berg, Tami Berg,
Allen Berg, Greg Schinger, Melody Soling, Neil Roth,
in absent. Mark explained why the township
went ahead with zoning and explained the
comprehensive plan which was written up by Joel
Quonback of West Fargo. He included all the things
we want in Kennebec Township if something isn't
in the plan it can't be done without petition the
committee. The comprehensive plan was voted on and
accepted by township board. Two corrections were
made on roads and power station in township.
Motion to accept Comprehensive plan made by Troy
Hanson, 2nd Mark Berg all voted in favor. Then at
7:25pm the zoning ordinance was gone over with public
input it was agreed full intent of zoning is to protect
township patrons. The five people on the zoning board
& this time will be 3 township directors and two
citizens after discussion Troy Hanson made motion to accept
zoning ordinance Mark Berg 2nd everyone there voted
to accept ordinance. Troy made comments to register
with Lamore County and Dept of Environmental Quality in
Bismarck all agreed. Meeting adjourned.

Rod Berg Township Clerk





On April 22, 2021, Kennison Township,
LaMoure County, ND ratified the Kennison Township
Zoning Ordinance.

Jim Buckeye Jim Buckeye, board chairman

Troy Hanson Troy Hanson, board member

Mark Berg Mark Berg, board member