

## Table of Contents

<b>Preamble</b> .....	1	<b>Official Zoning Maps</b>	
<b>Article 1 Introduction</b>		McHenry County Zoning Map.....	23
Section 1 Title .....	2	Bentley Inset.....	24
Section 2 Purpose .....	2	Cottonwood Lake Inset.....	24
Section 3 Repeal .....	2	Berwick Inset .....	24
Section 4 Authority.....	2	East Towner Inset .....	25
Section 5 Severability .....	2	Buffalo Lodge Inset .....	26
Section 6 Effective Date .....	2	Lake George Inset.....	26
<b>Article 2 General Provisions</b>		Denbigh Inset .....	27
Section 1 Jurisdiction.....	2	Norwich Inset.....	27
Section 2 Compliance.....	2	Velva Industrial Park Inset.....	28
Section 3 Agriculture Exempted .....	2	North Velva Inset.....	28
Section 4 Interpretation.....	2	West Velva Inset #1 .....	29
Section 5 Nonconforming Uses .....	2	West Velva Inset #2 .....	29
Section 6 Utilities .....	3	City of Anamoose .....	30
Section 7 Mineral Exploration.....	3	City of Granville .....	31
Section 8 Sanitary Regulations .....	3	City of Kief .....	32
Section 9 Waste Disposal Sites.....	4	City of Upham.....	33
Section 10 Sign Regulations .....	5	City of Voltaire .....	34
Section 11 Animal Feeding Operations..	5	Balfour Extraterritorial.....	35
<b>Article 3 District and Boundaries</b>		Bantry Extraterritorial.....	36
Section 1 Establishment of Districts .....	7	Bergen Extraterritorial .....	37
Section 2 Zoning Map.....	7	Deering Extraterritorial .....	38
Section 3 Interpretation of Boundaries ...	7	Drake Extraterritorial .....	39
Section 4 Agricultural District.....	8	Karlsruhe Extraterritorial.....	40
Section 5 Rural Residential District .....	9	Towner Extraterritorial .....	41
Section 6 Commercial District .....	10	Velva Extraterritorial .....	42
Section 7 Industrial District .....	11		
Section 8 Recreational District .....	12		
<b>Article 4 Administration and Enforcement</b>			
Section 1 Planning Commission.....	13		
Section 2 Board of Zoning Appeals .....	13		
Section 3 Building Permits.....	14		
Section 4 Conditional Use Permits .....	15		
Section 5 Variance Permits .....	16		
Section 6 Amendments.....	17		
Section 7 Certificate of Compliance .....	17		
Section 8 Schedule of Fees.....	17		
Section 9 Penalties .....	18		
<b>Article 5 Definitions</b>			
Section 1 Rules.....	19		
Section 2 Definitions .....	19		

**PREAMBLE  
AN ORDINANCE ESTABLISHING  
COMPREHENSIVE ZONING REGULATIONS  
FOR McHENRY COUNTY**

The intent is to:

Promote the health, safety, moral and general welfare of the county residents and the orderly development of lands within the county;

Preserve and maintain agricultural lands for farm use;

Encourage nonfarm growth to locate within existing communities or within the immediate environs of communities;

Promote a healthy and visually attractive environment;

Promote the development of utility corridors which utilize the least productive agricultural land;

Discourage development which places an excessive financial burden on County government.

THIS ORDINANCE IS HEREBY ADOPTED EFFECTIVE THIS 20<sup>th</sup> DAY OF March, 2000.

THIS ORDINANCE IS HEREBY AMENDED EFFECTIVE THIS 4<sup>th</sup> DAY OF April, 2006.

Scott Mueller  
Scott Mueller, Chairman  
McHenry County Commission

Darlene Koble  
Darlene Koble, County Auditor  
McHenry County

**ZONING REGULATIONS  
McHENRY COUNTY, NORTH DAKOTA**

**ARTICLE 1 - INTRODUCTION**

**SECTION 1. TITLE:** This resolution shall be known, cited, and referred to as the "Zoning Regulations of McHenry County, North Dakota."

**SECTION 2. PURPOSE:** These regulations have been made in accordance with a comprehensive plan prepared for McHenry County and are designed to promote the health, safety, morals, public convenience, general prosperity, and public welfare of McHenry County.

**SECTION 3. REPEAL:** All other zoning regulations and amendments thereto adopted under the authority of Chapter 11-33 of the North Dakota Century Code are hereby repealed.

**SECTION 4. AUTHORITY:** These regulations are adopted under the authority granted by Chapter 11-33 of the North Dakota Century Code.

**SECTION 5. SEVERABILITY:** Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

**SECTION 6. EFFECTIVE DATE:** These regulations shall be in full force and effective from and after its passage and approval.

**ARTICLE 2 - GENERAL PROVISIONS**

**SECTION 1. JURISDICTION:** These zoning regulations shall apply to all areas within the civil boundaries of McHenry County North Dakota; with the following exceptions:

1. Those areas within the civil boundaries of organized cities and those areas where cities have applied some measure of their extraterritorial zoning authority (but not including the cities of Granville, Upham, Voltaire, Anamoose, Kief and Karlsruhe, which have indicated a desire for the County Zoning Commission to apply zoning regulations within their civil boundaries.)
2. Those areas within the civil boundaries of an organized township that has exercised their zoning authority.

**SECTION 2. COMPLIANCE:** Except hereinafter provided, no building structure or land shall be used, occupied, erected, constructed, moved, reconstructed or structurally altered except in conformity with all of the regulations for the district in which it is located.

**SECTION 3. AGRICULTURE EXEMPTED:** Nothing in this ordinance shall be applied for the purpose of preventing or restricting the use of land or buildings for agricultural or any of the normal incidents of agriculture.

**SECTION 4. INTERPRETATION:** In the interpretation and application of these regulations, these provisions shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. Where these regulations impose a greater restriction on land, buildings or structures than is imposed or required by existing provisions of law, ordinance, contract, deed, or resolution, the provisions of these regulations shall control.

**SECTION 5. NONCONFORMING USES:**

1. Lawful nonconforming uses of land or buildings existing at the date of adoption of these regulations may continue provided no structural alterations, except for normal maintenance, are made and such nonconforming uses shall not be extended to occupy a greater area of land than occupied at the date of adoption of these regulations.

2. No building or structure where a nonconforming use has been discontinued for a period of two years or has changed to a permitted use shall again be devoted to a nonconforming use.
3. A nonconforming structure destroyed or damaged less than fifty percent of its fair market value may be reconstructed within one year of such casualty. If damaged more than fifty percent of its fair market value, such building shall be reconstructed in conformance with these regulations.
4. The provisions of this section shall not be applicable to conditional uses or any made nonconforming by a change or amendment in district regulations.

**SECTION 6. UTILITIES:**

1. All new utilities shall be considered as a conditional use and, as such, shall conform to all requirements put on them by the Planning Commission and/or County Commission.
2. No conditional use permit shall be issued unless satisfactory provisions for the following has been made:
  - A. Underground utilities shall be placed a minimum depth of three (3) feet so as not to constitute a hazard to normal farming or general county/township maintenance.
  - B. Above ground utilities shall be placed in a manner which will not place undue hardship on normal farming operations.
  - C. Utility placement shall conform with section lines, highway (state and federal) and railroad right-of-ways.
  - D. The activities will not result in undue damage or injury to roads, bridges, right-of-ways in the County or to any public, or private property.
  - E. Excavation costs for purposes of construction or maintenance of a utility shall be borne by the contractor or owner of said utility.

**SECTION 7. MINERAL EXPLORATION AND MINERAL PRODUCTION:**

1. All mineral exploration and mineral production activities shall be considered as a conditional use and, as such, shall conform to all requirements put on them by the Planning Commission and/or County Commission.
2. No conditional use permit shall be issued unless satisfactory provision for the following has been made:
  - A. The activities will not result in undue damage or injury to roads, bridges, right-of-ways in the County or to any public or private property.
  - B. Evidence of a reclamation agreement with the surface owner.
    - a. Reclamation of project shall be finished within one (1) year, of the completion of the mineral exploration and/or production activities.
  - C. Evidence of compliance with all County, State and Federal regulations.
  - D. Evidence that the activity is one hundred fifty (150) feet from all section lines, property lines, water sources and the centerlines of all township, county, state and federal roads.

**SECTION 8. SANITARY REGULATIONS:** All residential, commercial or industrial structures shall conform to the North Dakota health regulations as they refer to wells, irrigation, septic and sanitary systems.

## SECTION 9. WASTE DISPOSAL SITES:

1. At a minimum the following described waste disposal sites shall comply with all applicable state, federal, local laws, rules and regulations. In addition, the Planning Commission and/or County Commission may require compliance to other conditions.
2. Private Waste Disposal Sites - A solid waste disposal site used exclusively by and only for the landowner or tenant engaged in farming. Sites shall be limited to one per landowner and used only for refuse generated from personal farming operations, in addition these sites must comply with Farm Service Agency (FSA) regulations.
  - A. Private waste disposal sites shall avoid low and steep areas and be a minimum of two hundred fifty (250) feet away from waterways.
3. Commercial Waste Disposal Sites - A solid waste disposal site or facility permitted pursuant to the laws of the State of North Dakota. Waste which is transported to a disposal site shall be by a waste hauler licensed by the State of North Dakota.
  - A. The site, operation, or facility must meet or exceed all applicable federal, state and local laws, rules, and regulations.
  - B. The site, operation, or facility shall be limited to inert solid waste and municipal solid waste. Waste that is deemed hazardous in nature or exerts hazardous characteristics or nuclear waste, sewage sludge and incinerator ash are not permitted.
  - C. All areas for cell, excavation or waste filling operations shall maintain a minimum setback of 150 feet from all property lines.
  - D. No fires shall be permitted, except by permission of the County Commission. Any smoldering flame or spontaneous combustion at the site shall be immediately extinguished.
  - E. The premises shall be kept neat and clean at all times, no loose paper or debris shall be allowed on the site, except on areas where active filling operations are taking place.
  - F. Entrance to the site shall be controlled at all times to prevent improper dumping on the site.
  - G. For facilities that manage municipal solid waste, a chain link fence six (6) feet high shall be installed along the boundaries of the area developed or the area of active filling operations and provided with gates of the same construction as the fence.
  - H. For other facilities, other than a municipal solid waste site, a four-wire barbed wire fence, suitable to restrain livestock, shall be placed around the boundary of the permitted site.
  - I. Provisions, approved by the County Commission, shall be made for the management of surface and storm water falling on or crossing the site at all times, during and after the completion of the operations. Surface and storm water management also shall comply with all applicable federal, state, and local laws, rules, and regulations. These provisions shall be accomplished through the use of a professional engineer that is registered by the State of North Dakota.
  - J. The depth of excavation and the materials to be used for fill shall not have any adverse effect on the supply or quality of ground water.
  - K. Operators of a commercial waste disposal facility or site may have an environmental inspector on site. Provisions shall be made for the cost to be paid by the operator to the State Health Department or County as may be negotiated with the State Health Department or County.
  - L. Facilities other than ones that manage municipal solid waste would be required to have nonsudden and sudden liability insurance and closure and postclosure insurance payable to the State Health Department and upon conditions set by State Health Department.

**SECTION 10. SIGN REGULATIONS:** Signs shall only be permitted if they conform to the regulations in this article.

1. PERMITTED SIGNS: The following signs shall be permitted in all zoning districts:
  - A. Signs not exceeding two square feet in an area bearing property numbers, box numbers, or names of occupants of the premises.
  - B. Flags and the insignia of any government.
  - C. Legal notices, identification information, or directional signs erected by government bodies.
  - D. Signs directing and guiding traffic or parking on private property.
  - E. No more than one sign advertising property for sale or rent.
  - F. Bulletin boards and signs for churches or other public institutions.
  - G. Temporary political advertisements.
2. LIMITED PERMITTED SIGNS: The following signs shall be permitted in only the "CO" and the "IN" zoning districts:
  - A. Illuminated signs.
  - B. Marquee signs.
  - C. Portable signs.
  - D. Projecting signs.
  - E. Roof signs.
  - F. Wall signs.
  - G. Temporary signs.
  - H. Commercial billboards.
3. UNLAWFUL SIGNS: The following types of signs are prohibited from all zoning districts:
  - A. Any sign, outdoor commercial advertising or lighting device such as a beacon light, constituting a nuisance because of lighting glare, focus, animation, or flashing.
  - B. Any sign which conflicts in any manner with the clear and obvious appearance of public signs and devices controlling traffic.
  - C. Any sign projecting more than 10 feet over a road, street, alley, or other public space, or closer than two feet to the curbline of any public road, street, or alley, or less than nine feet above any road, street, alley, or public space.

**SECTION 11. ANIMAL FEEDING OPERATIONS:**

1. All new or expanded animal feeding operations that exceed 300 animal units shall be considered as a conditional use and, as such, shall conform to all requirements put on them by the Planning Commission and/or County Commission.
2. No conditional use permit shall be issued unless satisfactory provisions for the following have been made:

- A. Evidence of compliance with applicable state laws and rules, including the laws and rules administered by the North Dakota Department of Health and any permits granted by that department.
- B. Water Resource Setback Requirements – the operator of a new or expanded animal feeding operation that has more than 300 animal units (see Equivalent Animal Unit Numbers table) shall not locate or establish that operation:
  - a. Within a delineated source water protection area for a public water system. The source water protection areas for water supply wells include the entire wellhead protection area. For the surface water intakes of public water systems, source water protection areas include all or portions of the surface water that supplies the water for the public water system, including all or portions of the surface water's shoreline.
  - b. Within 1,200 feet of a private ground water well which is not owned by the animal feeding operator or within 1,500 feet of a public ground water well which does not have a delineated source water protection area.
  - c. Within 1,000 feet of surface water which is not included in source water protection area.
- C. Odor Setback Requirements
  - a. The operator of a new animal feeding operation shall not locate that operation within the extraterritorial zoning jurisdiction of an incorporated city.
  - b. An owner of property shall locate and establish a residence, business, church, school, public park or zone for residential use so as to provide a separation distance from any existing animal feeding operation. The separation distances for odor are listed in the following table. An owner of property who is any operator of the animal feeding operation may locate the owner's residence or business within the setbacks.
  - c. The operator of a new animal feeding operation shall locate the site of that operation from existing residences, businesses, churches, schools, public parks, including areas of property that are zoned residential so as to exceed the corresponding odor setback.
- D. The application for a conditional use permit to operate a facility for an animal feeding operation shall include a scaled site plan. If the facility will handle more than 1,000 animal units, the scaled plan shall be prepared by a registered land surveyor, civil engineer or other person having comparable experience or qualifications. The site plan shall include:
  - a. Proposed number of animal units.
  - b. Total acreage of the site of the facility.
  - c. Existing and proposed roads and access ways within and adjacent to the site of the facility.
  - d. Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units.
  - e. A copy of the permit application submitted by the applicant to the North Dakota Department of Health.

### Equivalent Animal Numbers

Livestock Type	Animal Unit Equivalent	Equivalent Numbers of the Livestock (hd) for Four Sizes (a.u.) of Animal Feeding Operations			
		300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse	2.0000	150	500	1,000	2,500
1 dairy cow	1.3300	225	750	1,500	3,750
1 mature beef	1.0000	300	1,000	2,000	5,000
1 beef feeder – finishing	1.0000	300	1,000	2,000	5,000
1 beef feeder - backgrouping	0.7500	400	1,333	2,667	6,667
1 mature bison	1.0000	300	1,000	2,000	5,000
1 bison feeder	1.0000	300	1,000	2,000	5,000
1 swine > 55 lbs	0.4000	750	2,500	5,000	12,500
1 goose/duck	0.2000	1,500	5,000	10,000	25,000
1 sheep	0.1000	3,000	10,000	20,000	50,000
1 swine – nursery	0.1000	3,000	10,000	20,000	50,000
1 turkey	0.0182	16,500	55,000	110,000	275,000
1 chicken	0.0100	30,000	100,000	200,000	500,000

### Odor Setback Distances for Animal Feeding Operations

Number of Animal Units	Hog Operations	Other Animal Operations
0 - 1,000	0.50 miles	0.50 miles
1,001 - 2,000	0.75 miles	0.50 miles
2,001 - 5,000	1.00 miles	0.75 miles
5,001 or more	1.50 miles	1.00 miles

## ARTICLE 3 – DISTRICTS AND BOUNDARIES

**SECTION 1. ESTABLISHMENT OF DISTRICTS:** In order to effectively carry out the provisions of these regulations, the land covered by the jurisdiction of these regulations shall be divided into the following zoning districts:

- “AG” Agricultural District
- “RR” Rural Residential District
- “CO” Commercial District
- “IN” Industrial District
- “REC” Recreational District
- “RES” Residential District

**SECTION 2. ZONING MAP:** The location and boundaries of the zoning districts are hereby established as shown on the maps attached and made a part of this ordinance. The maps shall be kept on file with the county auditor and shall be regularly updated to show any change in the zoning boundary lines resulting from amendments.

**SECTION 3. INTERPRETATION OF BOUNDARIES:** The following rules shall apply to the boundaries of the zoning districts on the zoning district map.

1. Where zoning district boundaries follow streets, highways, roads, railroad lines, or extensions thereof, such boundary lines shall be centerline of those streets, highways, roads, railroad lines, or extensions thereof.
2. Zoning district boundaries indicated as approximately following platted lot lines or other property lines shall be construed to follow such lines or extensions thereof.

3. Zoning district boundaries which do not follow streets, highways, roads, railroad lines, property lines, or lot lines, or extensions thereof shall be determined by the use of a scale or dimensions appearing on the map.

**SECTION 4. AGRICULTURAL DISTRICT (AG):**

1. **INTENT AND PURPOSE** - This district is established for the purpose of preserving and protecting agricultural uses and other natural land uses in the County.
2. **PERMITTED USES** - The following uses shall be permitted in this district:
  - A. Agriculture and agriculture related buildings and farm dwellings, provided such used are maintained in connection with a farm or farming operation where the primary source of the operator's income is derived from farming.
  - B. Park and outdoor recreational facilities and related buildings for outdoor recreation
  - C. Single-family non-farm dwellings (subject to the Residential Guidelines of this Section)
  - D. Churches and similar places of worship and parish home
  - E. Greenhouses, nurseries, and garden centers
  - F. Hobby farms, whether or not there is a dwelling on the same site or contiguous to the site. If there is a dwelling (either farm or non-farm) associated with the site it is subject to the Residential Guidelines of this Section.
3. **CONDITIONAL USES** - The following uses shall be considered conditional uses and shall be permitted only after a conditional use permit has been obtained in accordance with these zoning regulations.
  - A. Mineral extraction and exploration (including sand and gravel) subject to the requirements of Article 2, Section 7 of these regulations.
  - B. National Wildlife Refuges and Waterfowl Management Areas
  - C. Multiple family, non-farm dwellings
  - D. Mobile home parks
  - E. Animal Feeding Operations
  - F. Radio or TV towers, utility lines, substations and pipelines subject to the requirements of Article 2, Section 6 of these regulations
  - G. Commercial grain elevators
  - H. Retail agricultural chemical and fertilizer outlets
  - I. Cemetery
  - J. Junk yards and automobile salvage operations, provided all operations are conducted within an area enclosed on all sides with a solid fence or wall not less than 8 feet in height.
  - K. Private waste disposal sites subject to the requirements of Article 2, Section 9 of these regulations.
4. **PROHIBITED USES** - Land uses which are not listed in this section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.

5. SHELTER BELTS - No shelterbelts or major tree plantings shall be established closer than 115 feet for planting on the windward side (generally north and west) and 99 feet for planting on the south and east. This is to be measured from all section lines and the centerline of all improved and unimproved roads.
6. RESIDENTIAL DEVELOPMENT - The following regulations shall be applied to the construction of individual non-farm dwelling units (The terms of lot size shall exclude the immediate family of the surface owner.):
  - A. Lot Size - Not less than three (3) acres
  - B. Lot Density - Not more than one non-farm dwelling per 40 acres.
  - C. Lot Location - The development and location of all lots related to non-farms shall abut an existing improved road. (An improved road is one, which is gravel or hard surfaced and is regularly maintained in good driving condition.)
7. DIMENSIONAL STANDARDS
  - A. Building and Structure Setbacks - one hundred fifty (150) feet from all section lines and the centerline of all township and county roads; or 250 feet from the centerline of all state and federal highways.

**SECTION 5. RURAL RESIDENTIAL (RR):**

1. INTENT AND PURPOSE - This district is established for the purpose of providing for and guiding the development of any rural subdivisions and for preserving and protecting the character of residential areas in unincorporated villages in McHenry County.
2. PERMITTED USES - The following uses shall be permitted in this district:
  - A. All single family dwellings
  - B. Multiple family dwellings.
  - C. Parks and outdoor recreational facilities and related buildings for outdoor recreation.
  - D. Churches and facilities related to religious activities.
  - E. Public and parochial schools.
  - F. Utility facilities necessary to serve the area.
3. CONDITIONAL USES: The following uses shall be considered conditional uses and shall be permitted only after a conditional use permit has been obtained in accordance with these zoning regulations.
  - A. Mobile home parks.
  - B. Home occupations.
4. PROHIBITED USES: Land uses which are not listed in this Section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.
5. DIMENSIONAL STANDARDS:
  - A. Lot size - not less than 5,000 square feet if served by a sewer collection system common to other adjoining users; not less than three (3) acres if the sewer is drained into an onsite user owned drainage field.

- B. Setbacks:
  - a. Front yard - 20 feet from lotline, or 100 feet from the centerline if abutting a federal, state, county or township road.
  - b. Side yard - 6 feet from lotline, or 100 feet from the centerline if abutting a federal, state, county or township road.
  - c. Rear yard - 20 feet from lotline, or 100 feet from the centerline if abutting a federal, state, county or township road.
- C. Lot coverage by buildings: Not more than fifty percent of the lot shall be covered by the principal building and all accessory buildings.

**SECTION 6. COMMERCIAL DISTRICT (CO)**

- 1. INTENT AND PURPOSE: This district is established for the purpose of allowing commercial areas adjacent to highways and for the grouping together of retail and service businesses in areas to best serve the needs of persons traveling in the country, and to also provide area residents convenient access to those entities.
- 2. PERMITTED USES: Generally any commercial retail or service business which may include but is not limited to the following:
  - A. Automobile/truck sales, supply, service, and repair.
  - B. Service stations, bulk fuel sales.
  - C. Grocery and convenience stores.
  - D. Farm implement sales, supply, service, and repair.
  - E. Motels, hotels or lodging establishments.
  - F. Public buildings and churches.
  - G. Parks and playgrounds.
  - H. Restaurants, lounges, and liquor stores.
  - I. Banks and other savings and lending institutions.
  - J. Apparel, department, clothing, toy, variety, furniture, hardware and other retail establishments.
  - K. Medical, dental, health and veterinary clinics.
- 3. CONDITIONAL USES: The following uses shall be considered conditional uses and may be permitted only after a conditional use permit has been obtained in accordance with these zoning regulations.
  - A. Commercial grain elevators.
  - B. Retail agriculture chemical and fertilizer outlets.
  - C. Welding shops.
  - D. Wholesale supply and warehouse storage facilities.
  - E. Storage facilities for building materials, such as lumber, steel, concrete blocks or pipe; provided that these materials are either:

- a. Enclosed by a wall or fence not less than five (5) feet high, or
  - b. Stored in an enclosed structure.
- 4. PROHIBITED USES: Land uses which are not listed in this Section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.
- 5. DIMENSIONAL STANDARDS:
  - A. Lot size - not less than 5,000 square feet if served by a sewer collection system common to other adjoining users; not less than three (3) acres if the sewer is drained into an onsite user owned drainage field.
  - B. Setbacks - No minimum setbacks, except in the case of the property abutting a federal, state, county or township road. If the property abuts a federal, state, county or township road, building setbacks shall be a minimum of 100 feet from the centerline of that road.
  - C. Lot coverage by buildings - No requirements other than those may exist with regard to fire protection.

**SECTION 7. INDUSTRIAL DISTRICT (IN)**

- 1. INTENT AND PURPOSE: This district is intended to provide areas for industrial development and those land uses which are generally not compatible with agricultural, commercial or residential land uses.
- 2. PERMITTED USES: The following uses shall be permitted in this district.
  - A. All Commercial (CO) District permitted uses and conditional uses.
  - B. Airports, railroads, essential public utilities, and public service installations.
  - C. Radio or television transmitting stations.
  - D. Overhead, above grade and underground storage facilities for oil, gas, flammable liquids and gases, as approved by Fire Code regulations.
  - E. Manufacturing industries.
  - F. Processing industries consisting of agricultural products and foodstuffs.
  - G. Concrete mixing and concrete products manufacturing plants.
- 3. CONDITIONAL USES: The following uses shall be considered conditional uses and shall be permitted only after a conditional use permit has been obtained in accordance with this ordinance.
  - A. Petroleum or petroleum products refining.
  - B. Junk yard, auto wrecking yard or salvage yard provided that all operations are conducted within an area enclosed on all sides with a solid fence or wall not less than eight (8) feet in height.
  - C. Adult entertainment center provided it is at least 500 feet from any other zoning district boundary.
  - D. Commercial bulk storage of chemicals.
  - E. Commercial waste disposal sites subject to the requirements of Article 2, Section 9 of these regulations.
- 4. PROHIBITED USES: Land uses which are not listed in this Section as a permitted use or as a

conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.

5. **DIMENSIONAL STANDARDS:**

- A. Lot size - No minimum standard.
- B. Setbacks - No minimum setbacks, except in the case of the property abutting a federal, state, county or township road. If the property abuts a federal, state, county or township road, building setbacks shall be a minimum of 100 feet from the centerline of that road.
- C. Lot coverage by buildings - No requirements other than those that may exist with regard to fire protection.

**SECTION 8. RECREATIONAL DISTRICT (RE)**

1. **INTENT AND PURPOSE:** This district is intended to provide areas for rural recreational development and those land uses associated with rural vacation or seasonal residential developments and recreational vehicle parks for short-term or seasonal parking.

2. **PERMITTED USES:** The following uses shall be permitted in this district.

- A. General farm operations.
- B. Single family lake cabins and cottages intended for seasonal use.
- C. Golf courses, miniature golf and driving tees operated for commercial purposes.
- D. Parks, picnic shelters, playgrounds, or community buildings.
- E. Utility facilities necessary to serve the area.
- F. Customary accessory uses and structures located on the same tract with the principle use, including barns, sheds, barbecue ovens, fireplaces, private boat docks (located on streams, rivers, lakes, reservoirs or other water areas) and similar uses.
- G. **CONDITIONAL USES:** The following uses shall be considered conditional uses and shall be permitted only after a conditional use permit has been obtained in accordance with these zoning regulations.
  - a. Commercial lake resort.
  - b. Commercial boat, docks, sales, rental, construction and repair and sale of bait and fishing equipment, fuel and other commercial recreational activities.
  - c. Commercial campgrounds (tent and/or recreational vehicle).
  - d. Camps and campgrounds operated by nonprofit, charitable or religious institutions.
  - f. Commercial retail operations, such as grocery, eating, drinking and fuel businesses.

4. **PROHIBITED USES:** Land uses which are not listed in this Section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district without following the amendment or variance procedures of these regulations.

5. **DIMENSIONAL STANDARDS:**

- A. Lot size - not less than 5,000 square feet if served by a sewer collection system; not less than three (3) acres if the sewer is drained into an onsite user owned drainage field.

- B. Setbacks:
  - a. Front yard - 20 feet from lotline, 50 feet from any shoreline with the exception of boathouses, ramps, docks or retaining walls or 100 feet from the centerline if abutting a federal, state, county or township road.
  - b. Side yard - 6 feet from lotline, 50 feet from any shoreline with the exception of boathouses, ramps, docks or retaining walls or 100 feet from the centerline if abutting a federal, state, county or township road.
  - c. Rear yard - 20 feet from lotline, 50 feet from any shoreline with the exception of boathouses, ramps, docks or retaining walls or 100 feet from the centerline if abutting a federal, state, county or township road.
- C. Lot coverage by buildings: Not more than fifty percent of the lot shall be covered by the principal building and all accessory buildings.

**ARTICLE 4 - ADMINISTRATION AND ENFORCEMENT**

**SECTION 1. PLANNING COMMISSION:** The administration and enforcement of these Zoning Regulations is hereby vested in the Planning Commission of McHenry County. Members of the Planning Commission shall be appointed by the County Commission in accordance with State Statutes. Duties of the Planning Commission shall include:

1. Issuance of all permits.
2. Inspection for permit compliance in accordance with these Zoning Regulations.
3. Maintenance of the records for the regulations and permits.
4. Collection of any fees instituted by the County Commission in the administration of this ordinance.
5. Interpret district boundaries on the Official Zoning Map.
6. Establishment of rules, regulations and procedures for the purpose of administering these zoning regulations.
7. Periodic review of the provisions of these regulations.
8. Conduct public hearings on conditional use permits, variance permits, regulation amendments, and any other business pertaining to these zoning regulations which may require a public hearing.
9. The Planning Commission shall serve as an advisor to the County Commission and make recommendations regarding the implementation of these Zoning Regulations. The County Commission shall have final review of Planning Commission decisions with regard to conditional use permits, variance permits and zoning regulation amendments.
10. The Planning Commission may request the County Commission to officially appoint a Zoning Administrator to conduct the business of the Planning Commission for any part of the above mentioned duties.

**SECTION 2. BOARD OF ZONING APPEALS:** A Board of Zoning Appeals is hereby created. Such Board shall consist of the County Commission and shall have the authority to grant variances to these regulations.

1. **RECORDS:** The Board shall keep minutes of its proceedings, show evidence presented, findings of fact by the Board, decisions of the Board, and voting upon each question. Records of all official actions of the Board shall be filed in its office and shall be a public record.
2. **PUBLIC HEARING AND NOTICE:** The Board of Zoning Appeals shall within thirty days of filing fix

a date for the hearing of an appeal. Notice of the time, place and subject of such hearing shall be published once in the official county newspaper at least ten days prior to the date fixed for the hearing. A copy of said notice shall be mailed to each party to the appeal.

3. **POWERS AND JURISDICTIONS:** The Board of Zoning Appeals shall administer the details of appeals or other matters referred to it regarding the application of the zoning regulations. The Board shall have the following specific powers:
  - A. To hear and decide on appeals where it is alleged that there is error in any order, requirement, decision, or determination made by the planning commission in the enforcement of the zoning regulations.
  - B. To interpret the provisions of these regulations in such a way as to carry out the intent and purpose of the adopted comprehensive plan and, as shown upon the zoning district maps.
  - C. The concurring vote of two-thirds of all members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the planning commission or to decide in favor of the applicant any matter upon which it is required to pass under this ordinance or to affect any variation of these regulations.
  
4. **PROCEDURE:** The appeals process is outlined below:
  - A. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, by any officer of the County or by any governmental agency or body affected by any decision of the official administering the provisions of these zoning regulations.
  - B. Appeals shall be taken within thirty days of filing provided by the rules of the Board, by filing a notice of appeal specifying the grounds thereof and payment of the required filing fee.
  - C. Appeals and requests to the Board for variances and exceptions to these zoning regulations shall be prepared and submitted on forms furnished by the County.
  - D. The Board of Zoning Appeals shall advertise and hold a public hearing as required in Section 2.2 of this Article.
  - E. Notice of the decision of the Board of Zoning Appeals shall be in writing and transmitted within fifteen days to the appealant. A copy of such decision shall also be transmitted to the official administering the regulations for action, if action is required.

**SECTION 3. BUILDING PERMITS:** No building or structure, other than those associated with the normal incidents of agriculture, shall be erected, moved, added to, or structurally altered without a building permit. No building permit shall be issued except in conformity with the provisions of this ordinance unless a written order has been received from the County Commission in the form of a conditional use or the Board of Zoning Appeals in the form of an administrative review or variance as provided by this ordinance. No permit is required for maintenance of any building or structure which does not structurally alter the building. If no construction takes place in a year from the issuance of a building permit, the permit shall expire.

1. **PROCEDURE:** The building permit process is outlined below:
  - A. All applicants who wish to build or alter any structure as defined in these zoning regulations must apply to the Planning Commission for a permit.
  - B. If the applicant's plans meet district regulations as prescribed in these zoning regulations and any other applicable ordinances, the Planning Commission or designated Zoning Administrator collects any applicable fees and issues the building permit.
  - C. If the applicant's plans do not comply with district regulations, the amendment, variance, conditional use procedures or appeals sections of these regulations may be applied.

## SECTION 4. CONDITIONAL USE PERMITS

1. **REQUIREMENTS FOR CONDITIONAL USES:** A Conditional Use Permit may be granted following compliance with the procedure set forth in this section if the conditional use is one set forth in the District Regulations, provided that no application for a conditional use shall be granted unless all of the following conditions are found to be present:
  - A. The conditional use will not be detrimental to or endanger the public health, safety or general welfare;
  - B. The existing permitted uses in the area will not be substantially impaired or diminished by the establishment of the conditional use;
  - C. The conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district;
  - D. Adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided;
  - E. Adequate measures have or will be taken to provide access and exit so designed as to minimize traffic congestion in the public roads and streets; and
  - F. The conditional use shall conform to all provisions of the district in which it is located.

The Conditional Use Permit may be issued for a specified period of time with automatic cancellation at the end of that time unless it is renewed, or conditions may be applied to the issuance of the Permit and periodic review may be required to determine if the conditional use has any detrimental effects on neighboring uses or districts. The Permit shall be granted for a particular use and not for a particular person or firm.

2. **APPLICATIONS:** Application for a Conditional Use Permit shall be submitted by the property owner to the Planning Commission on forms provided by the Commission. The application shall include:
  - A. The name and address of the applicant.
  - B. The date of the application.
  - C. A description of the site and the immediate surrounding area.
  - D. A preliminary map showing boundary lines and location of structures to be developed on the site.
  - E. Location of existing structures on adjacent property.
  - F. Parking plan showing off street parking areas and/or loading areas.
  - G. Names and addresses of adjacent property owners.
  - H. Any reasonable information the Planning Commission deems necessary.
  - I. Payment of the required filing fee.
3. **PLANNING COMMISSION RECOMMENDATION:** The Planning Commission, upon receipt of an application for a Conditional Use Permit, shall at its next regular or special meeting, specify a time and date within the next thirty days for a public hearing for the proposed conditional use. Following the public hearing, the Planning Commission shall consider the application and make a recommendation to the County Commission within thirty days.
4. **PUBLIC HEARING AND NOTICE:** The Planning Commission shall publish a notice of the public hearing in the official county newspaper at least ten days before the hearing. Notice shall include

the date, time, place, and purpose of the hearing. In addition to the published notice, the Planning Commission may require that notice be mailed to those persons designated by the Planning Commission.

5. COUNTY COMMISSION: Upon receipt of the Planning Commission's recommendations, or if the Planning Commission has not acted within the required time limits of this Article, the County Commission shall hold a public hearing on the proposed conditional use. Following the public hearing, the County Commission may either grant the proposed conditional use, grant the proposed conditional use with additional conditions, or deny the proposed conditional use.

**SECTION 5. VARIANCE PERMITS:** To permit a variation in the yard, setback and height requirements of any district where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, or topographical or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare, or where variations may be permitted which allow unusual arrangement on the lot and still clearly and unmistakably accomplish the intent of these regulations. The Board must find that the granting of such variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable or unusual hardship or difficulty.

The Variance Permit may be issued for a specified period of time with automatic cancellation at the end of that time unless it is renewed, or conditions may be applied to the issuance of the Permit and periodic review may be required to determine if the variance has any detrimental effects on neighboring uses or districts. The Permit shall be granted for a particular use and not for a particular person or firm.

1. APPLICATIONS: Application for a Variance Permit shall be submitted by the property owner to the Planning Commission on forms provided by the Commission. The application shall include:
  - A. The name and address of the applicant.
  - B. The date of the application.
  - C. A description of the site and the immediate surrounding area.
  - D. A preliminary map showing boundary lines and location of structures to be developed on the site.
  - E. Location of existing structures on adjacent property.
  - F. Parking plan showing off street parking areas and/or loading areas.
  - G. Names and addresses of adjacent property owners.
  - H. Any reasonable information the Planning Commission deems necessary.
  - I. Payment of the required filing fee.
2. PLANNING COMMISSION RECOMMENDATION: The Planning Commission, upon receipt of an application for a Variance Permit, shall at its next regular or special meeting, specify a time and date within the next thirty days for a public hearing for the proposed variance. Following the public hearing, the Planning Commission shall consider the application and make a recommendation to the County Commission within thirty days.
3. PUBLIC HEARING AND NOTICE: The Planning Commission shall publish a notice of the public hearing in the official county newspaper at least ten days before the hearing. Notice shall include the date, time, place, and purpose of the hearing. In addition to the published notice, the Planning Commission may require that notice be mailed to those persons designated by the Planning Commission.
4. COUNTY COMMISSION: Upon receipt of the Planning Commission's recommendations, or if the Planning Commission has not acted within the required time limits of this Article, the County Commission shall hold a public hearing on the proposed variance. Following the public hearing, the County Commission may either grant the variance permit, grant the variance permit with additional conditions, or deny the variance permit.

**SECTION 6. AMENDMENTS:** The County Commission may from time to time amend, supplement or change the district boundaries or regulations contained in these zoning regulations. A proposal for an amendment or a change in zoning may be initiated by the County Commission, by the Planning Commission, or upon application of the owner of the property affected.

1. **APPLICATIONS:** The party desiring any change in zoning district boundaries or zoning regulations as to any lot, tract or area of land, shall file with the County Auditor an application upon forms provided, and such application shall be accompanied by such data and information as may be prescribed by the Planning Commission.
2. **PUBLIC HEARING AND NOTICE:** Before the Planning Commission shall, by proper action, formulate its recommendation to the County Commission on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the County Commission, the Planning Commission or by the property owner, the Planning Commission shall hold a public hearing on such proposal. The Planning Commission shall cause a notice of public hearing to be published once a week for two successive weeks prior to the time set for the said hearing in the official county newspaper. Such notices shall contain:
  - A. The time and place of the hearing.
  - B. A description of any property involved in any zoning change, by street address and/or other legal description.
  - C. A description of the nature, scope and purpose of the proposed regulation, restriction or boundary.
  - D. A statement of the times at which it will be available to the public for inspection and copying at the office of the County Auditor.
3. **COUNTY COMMISSION APPROVAL:** Upon receipt of the recommendation of the Planning Commission on any amendment, or in the event of the failure of the Planning Commission to so report after thirty days from the time of the filing of the proposed amendment to the Planning Commission, the County Commission shall render a decision. If for any reason the planning commission did not hold a public hearing, the County Commission shall hold a public hearing. The public hearing will follow the guidelines listed in Section 6.2 of this Article. A majority decision of the County Commission shall be sufficient to approve an amendment of the zoning regulations.

#### **SECTION 7. CERTIFICATE OF COMPLIANCE**

1. A certificate of compliance is required before any structure, building or land can be occupied which has been built or structurally altered such that it requires a building permit.
2. The certificate of compliance process is outlined below:
  - A. Upon notification of completion of any work requiring a building permit, the Planning Commission conducts an onsite inspection of the work specified on the building permit.
  - B. If the completed work is found to be in accordance with the zoning ordinance, the Planning Commission will issue a certificate of compliance.
  - C. Reasons for refusing to issue a certificate of compliance must be stated by the Planning Commission in writing within fifteen days after the request of the applicant for the certificate. Notice of such refusal shall be sent in writing to the applicant within one week after such refusal is made.

**SECTION 8. SCHEDULE OF FEES AND CHARGES:** The County Commission shall establish a schedule of fees, charges and expenses and a collection procedure for permits, appeals and other matters pertaining to these regulations. The schedule of fees shall be posted in the office of the County Auditor and may be altered or amended only by the County Commission.

Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

1. Building Permits: The following schedule shall be used for issuing building permits. The fee is determined by the estimated value of the construction or improvements:

<u>Value of Improvements</u>	<u>Fee</u>
Less than \$10,000	\$15.00
More than \$10,000	\$40.00

2. Other Permits and Hearings: A fee of \$100.00 shall be paid by the applicant upon filing an application for an amendment, conditional use permit, variance permit or any other activity which requires an advertised public hearing.
3. Tipping Fees: Owners of commercial waste disposal sites shall pay a quarterly tipping fee equal to \$1.00/ton of material disposed in the site during that quarter. The tipping fee shall be credited to a waste disposal impact fund, which will be used to offset costs attributable to the administration, enforcement, review, monitoring of a commercial waste disposal site. In addition the monies in this fund could be used to offset other impacts from the location of a commercial waste disposal site including road damages, legal fees and public education costs associated with waste reduction and recycling.

## **SECTION 9. PENALTIES**

1. ENFORCEMENT: The County Sheriff and the Sheriff's staff shall enforce these zoning regulations.
2. COMPLAINTS: Any person may file a written complaint whenever a violation of these regulations occurs, or is alleged to have occurred. Such complaint shall state the cause and basis thereof and be filed with the County Sheriff. The County Sheriff shall record the complaint, promptly investigate, and report to the planning commission.
3. VIOLATIONS: If any building or structure is erected, reconstructed, repaired, altered, enlarged, converted, maintained, or moved; or if any building, structure, or land is used in violation of these regulations, the Planning Commission shall order in writing, the correction of such violation.

The County Sheriff, States Attorney or other official designated by the County Commission, or any affected citizen or property owner, may institute appropriate action or proceedings for the purpose of:

- A. Prosecuting any violation.
  - B. Restraining, correcting or abating such violation.
  - C. Preventing the occupancy of any building, structure or land in violation of these regulations.
  - D. Preventing any illegal act, conduct, business, or use in or about any buildings, structure or land in violation of these regulations.
4. PENALTY: Any persons, firm or corporation violating the provisions of these regulations shall constitute the maintenance of a public nuisance and shall be a Class B misdemeanor. Nothing herein contained shall prevent the County from taking such other lawful action to prevent or remedy any violation of the zoning regulations.

## ARTICLE 5 - DEFINITIONS

**SECTION 1. RULES:** For the purpose of these regulations, the following rules shall apply.

1. Words used singularly shall include the plural. Words used in the plural form shall include the singular. Words used in the present tense shall include the future.
2. The word "persons" includes a corporation, members of a partnership, a business organization, a committee, board, trustee, receiver, agent, or other representative.
3. The word "shall" is mandatory. The word "may" is permissive.
4. The word "including" shall mean including, but not limited to.

**SECTION 2. DEFINITIONS:** The following words, terms and phrases are hereby defined and shall be interpreted in the same fashion throughout these regulations. Terms not herein defined shall have the meaning customarily assigned to them.

**ACCESS:** A way or means of approach to provide physical entrance to property.

**ACCESSORY BUILDINGS AND USES:** A subordinate building or portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premises.

**ADULT ENTERTAINMENT CENTER:** An enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons therein in return for the payment of a consideration, irrespective of the number of patrons who may be able to view the presentation at one time. An enclosed building having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

**AGRICULTURE:** The production, keeping, or maintenance, for sale, lease, or personal use, of plants and animals useful to man, including to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, or any mutation or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds including grapes, nuts and berries; vegetables, nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program.

**AIRPORT:** A place where aircraft can land and take off, usually equipped with hangers, facilities for refueling and repair and various accommodations for passengers.

**ALTERATION:** Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or any enlargement to or diminution of a building or structure, whether horizontally or vertically; or the moving of a building or structure from one location to another.

**ANIMAL FEEDING OPERATIONS –** Any building, structure, enclosure, or premises used, designed, or intended for the concentrated feeding or fattening of livestock for more than 45 days in any 12 month period for marketing and which less than 50% of the feed is raised by the owner and which animal waste or manure accumulates and is a separate pursuit to the normal incidence of farming. Adjoining animal feeding operations under common ownership are considered to be one animal feeding operation, if they use common areas or systems for manure handling.

**BUILDING:** A structure having a roof supported by columns or walls.

**CONDITIONAL USE:** A use which generally would not be suitable in a particular zoning district, which would be acceptable under certain circumstances. The permit shall be granted for a particular use and not for a particular person or firm.

COUNTY COMMISSION: Shall mean the McHenry County Commission.

DAYCARE: An occupied private residence in which supplemental parental care is regularly provided for no more than seven children from more than one family or no more than four children ages two and under.

DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes.

DWELLING, NON-FARM: A single family dwelling or mobile home located on a farm or otherwise of which the occupant does not derive at least fifty (50) percent of his/her income from agricultural activities.

FARM: Farm means a single tract or continuous tracts of agricultural land containing a minimum of ten acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with his/her source of primary annual income.

Hobby Farm - Means agriculture and agriculture related farm buildings, where the uses are not maintained in connection with a normal farm or farming operation and does not provide the surface owner with his/her source of primary annual income, but is operated as a pursuit of pleasure.

FARMER: Means any individual who normally devotes the major portion of his/her time to the activities of producing products of the soil, poultry, livestock or dairy farming and such products and who normally receives not less than 50% of his/her annual net income from any one or more of the foregoing activities (as defined in North Dakota Century Code 57-02); and the term also includes an individual who is retired because of illness or age and who at the time of retirement owned or occupied as a farmer, as above defined the residence in which he/she lives and which is exempt from taxation pursuant to the laws of North Dakota.

HOME OCCUPATIONS: An occupation or activity carried on in a residential dwelling and provides the occupant with his/her source of primary annual income.

JUNK YARD: An area of more than two hundred square feet, or any area not more than fifty feet from any street, used for the storage, keeping, processing or abandonment of junk, including scrap metals or other scrap materials or goods, used for dismantling, demolition, or abandonment of automobiles or other vehicles or machinery, or parts thereof.

LIVESTOCK: Any and all animals or types customarily raised or kept on farms for profit or other purposes.

LOT: A piece, plot, or area of land, or contiguous assemblage as established by survey, plat or deed, occupied or to be occupied by a building, or a unit group of buildings, and/or accessory buildings thereto or for other use, together with such open spaces as may be required under these regulations and having its frontage on a street or officially approved place.

MINERAL EXPLORATION/PRODUCTION: Any activity, use or technique which when applied to the surface of the land will aid in the discovery, evaluation or production of coal, oil, gas, potash, sand, gravel and/or rock, or other subsurface minerals as defined in North Dakota Century Code 38-12.

MOBILE HOME PARK: Any park, court, camp, or tract of ground upon which mobile home sites are leased or used, whether for compensation or not, including all accessory uses.

NONCONFORMING USES: Use of a building or of land that does not conform to the regulations as to use for the district in which it is situated.

PARK: A tract of land designated and used by the public for active and passive recreation.

PERMITTED USE: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

PLANNING COMMISSION: The Planning Zoning Commission of McHenry County, North Dakota.

**PROHIBITED USE:** A use that is not permitted in a zoned district.

**PUBLIC HEARING:** A meeting announced and advertised in advance and open to the public, with the public given an opportunity to talk and participate.

**SCHOOL:** Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.

**SETBACK:** The open space extending the full width of a lot between a building and a public right-of-way line, easement or property line.

**SHELTERBELT:** A barrier of trees and shrubs that is used to protect crops, farmsteads and non-farm dwellings from wind and storms.

**SIGN:** Any surface, fabric, device, or display which bears lettered, pictorial or sculptured matter, including forms shaped to resemble any human, animal, or product, designed to convey information visually and which is exposed to public view. For purposes of these regulations, the term "sign" shall include all structural members. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. In cases here matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to be a single sign.

Billboard - A sign which directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Bulletin Board - A sign which identifies an institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.

Illuminated - A sign lighted by or exposed to artificial lighting either by lights on or in the sign (directly illuminated) or directed toward the sign (indirectly illuminated).

Marquee - Any sign attached to and made part of a marquee. A marquee is defined as a permanent roof-like structure projecting beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

Portable - A sign that is not permanent, affixed to a building, structure or the ground.

Roof - A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above the point of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

Temporary - A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

Wall - A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of the sign, and which does not project more than 12 inches from such building or structure.

**STREET:** Any thoroughfare or public space which has been dedicated to, and accepted by, the public for public use and includes all the right-of-way sidelines.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location of the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, and arbors or breeze-ways, but excepting utility poles, fences, retaining walls, and ornamental light fixtures.

**STRUCTURAL ALTERATIONS:** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girder, or any complete rebuilding of the roof or exterior walls.

UTILITY: Any person, firm, corporation, municipal department or board duly authorized to furnish and furnishing under public regulations, to the public: electricity, gas, heat, power, steam, telephone, transportation, or water.

VARIANCE: The relaxation of the terms of the Zoning Regulations in relations to height, area, size, and open spaces where specific physical conditions, unique to the site, would create an unreasonable hardship in the development of the site for permitted uses.

WASTE:

Chemical - Shall be defined as, but not limited to, any waste product associated with mineral exploration, production, or abandonment procedures.

Hazardous - Shall be defined by North Dakota or Federal laws or rules or regulations.

Inert Solid - Means the nonputrescible solid waste which is generally not contaminated water or from contaminated leachate. Inert waste does not serve as food for vectors. Inert waste includes, but is not limited to: construction and demolition material such as metal, wood, bricks, masonry and cement concrete, asphalt concrete, tire, metals, and tree branches. Solid waste does not include hazardous waste either alone or as a part of otherwise included waste.

Municipal Solid - Means that garbage, refuse and trash generated by households, motels, hotels and recreation facilities by public and private facilities and by commercial, wholesale, private and retail businesses. The term does not include special waste.

Special - Shall mean only the special waste described in the North Dakota Century Code 23-29-03(16).

WASTE DISPOSAL SITE:

Private - a solid waste disposal site used exclusively by and only for the landowner engaged in farming.

Commercial - a solid waste disposal site used by public entities or commercial waste haulers for the temporary or permanent storage or reclamation of solid waste generated through medical, industrial, municipal or household collection.

YARD: An open space on the same lot with a building, unoccupied and obstructed by any portion of a structure from the ground upward. In measuring a yard for the purpose of determining the width of side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Front - A yard that extends across the full width of the lot. The depth is measured as the least distance between the front lot line and the front building line.

Rear - A yard that extends across the full width of the lot. The depth is measured as the least distance between the rear lot line and the rear building line.

Side - A yard extending from the front yard to the rear yard. The depth is measured from the side lot line and side building line.

ZONING MAP: The map or maps which are a part of the zoning ordinance and delineate the boundaries of the zoning districts.