

**MCKENZIE TOWNSHIP
ZONING ORDINANCE**

**REVISED and ADOPTED THIS
MAY 14, 2013**

Township and Zoning Board Members

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BURLEIGH COUNTY, NORTH DAKOTA

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Comprehensive Plan

Introduction

This comprehensive plan has been prepared by McKenzie Township Zoning Board and reflects the values and desires of the township residents. The purpose of this plan is to promote health, safety, morals, public convenience, general prosperity, and public welfare of McKenzie Township. The enabling legislation that allows the township to prepare this plane is contained in Chapters 58-03-11 thru 58-03-15 of North Dakota Century Code.

The reasons for preparing a comprehensive plan are many. The Township needs to look ahead to the future. It is an effort to anticipate future problems and prepare solutions to them. There is a meet to coordinate development in the township and protect existing resident from the adverse effects that can come with new development in the township. The plan is needed to make decisions based on the values of the people living in the township.

Description of the Plan

This plan is primarily a physical plan for the township that outlines what sort of development, land use and transportation facilities the township would like to see in the future. While it is primarily a physical plan, it reflects social and economic values. The plan is also “comprehensive” in that it looks at the entire township and all its functions. It is also long range, a plan that will be implemented of the next 5 to 10 years or longer.

Use of the Plan

There are two primary reasons for the plan. First, as a statement of policy, it will be used to guide future decisions on land use, transportation improvements and other decisions of the zoning commission. Second, the plan is a legal document that provides a basis for zoning decisions and meets the definition of a Comprehensive Plan.

Geographic Area of the Plan

The plan is developed for the entire geographic area of McKenzie Township. Because there are no incorporated communities in the township, it will include the entire township. The plan looks primarily at the physical aspects of the township including land use, transportation and public welfare.

Implementation of the Plan

This plan can be implemented through the use of regulation as set out in the Zoning Ordinance. McKenzie Township may implement regulations in all parts of the township.

Organization of the Plan

The goals and objectives of the plan are an expression of what people of McKenzie Township want their township to be like in the future. The plan for the future includes policies the township will follow to implement the plan.

Revision of the Plan

This plan was prepared on the basis of existing conditions, existing problems, and anticipated growth and development. Changes in the economy, new problems, and changing community values will require changes to the plan in the future. This is a living document, and without review and revision, the plan will not be useful for decision making in the future. Planning can not stop with the adoption of this plan. It is a process that must continue.

Goals and Objectives

The goals and objectives describe what the township wants to be like now and in the future. They represent the foundation for the details in the plan for the future.

Because of the general nature of the goals and objectives, it is not uncommon to have people differ over their specific meaning or for them to appear to conflict with each other. However it is necessary to develop an agreement on general goals and objectives before specific plans and policies can be adopted. Specific future plans and policies are developed from these general goals and objectives.

Natural Resources

Goals- Develop a land use plan which encourages the utilization, conservation and protection of agricultural, mineral and water resources which contribute to the economic base and aesthetic quality of the township.

Objectives

1. Protect the township's productive agricultural land from encroachment of non-agricultural land uses.
2. Encourage the development of mineral resources in a way they will not impair the long-term value of other resources.
3. Protect the quality of our water resources

4. Protect agricultural operations from activities and land uses what would hinder farming operations.

TRANSPORTATION

Goals- Develop and maintain a transportation system which will support and serve residents of the township and future land uses.

Objectives

1. Provide a road system that efficiently and economically serves the needs of the township residents.
2. Require adequate standards for new roads constructed in the township
3. Discourage development in areas where the cost of providing or maintaining roads is excessive
4. Identify roads that are not needed and consider discontinuing maintenance on them.

ECONOMIC DEVELOPMENT

1. Provide an environment which is conducive to maintaining existing employment and creating new employment and business opportunities.
2. Provide adequate transportation to serve the needs of business.
3. Provide support for activities which encourage economic development in the township

COMMUNITY DEVELOPMENT

Goals- Develop land use patterns which preserve and improve the aesthetic character of communities.

1. Minimize conflicts between different land uses
2. Encourage the maintenance, conservation and rehabilitation of existing structures
3. Maintain and improve the aesthetic quality of residential areas
4. Protect residential areas from heavy through traffic

PROCEDURES FOR AMENDMENTS, CONDITIONAL USES AND VARIANCE

1.1 Zoning District Amendments

1.1.1 Public Hearing Notice

The Zoning Commission shall hold a public hearing, a notice of which shall be published at least fifteen (15) days prior to the hearing in the official newspaper of the county. The notice of hearing shall include: (1) the time and place of hearing; (2) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use and

requested zoning district change; (4) time and place for public inspection of the documents before the hearing.

1.1.2 Public Hearings

The Zoning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, the Zoning Commission shall take action for approval, denial or modification of the petition. The Zoning Commission may require additional information before it completes its findings and takes action.

1.1.3 Data Submission Requirements

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

1.1.3.1 Legal description of the area proposed to be rezoned.

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

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

1.1.3.4 A fee shall be paid in accordance with the schedule established by the Township Board of Supervisors. All permits are subject to bonding at the discretion of the Zoning Commission.

1.1.4 Deliberation and Decision

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

1.2 Conditional Use Permits

1.2.1 Purpose

The development of these regulations is based upon division of the township into districts, within which district the use of land and building bulk and locations of building and structures are mutually compatible and substantially harmonious.

However, there are certain uses which, because of their unique characteristics, cannot be properly classified as permitted uses in any particular district, without consideration, in each case, of impact of those uses upon neighboring premises. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses.

1.2.2 Public Hearing Notice

Shall be the same as provisions set forth for public hearing notice for zoning district amendment in Section 1.1.1

1.2.3 Public Hearings

Shall be the same as provisions set forth for public hearing for zoning district amendment in Section 1.1.2

1.2.4 Data Submission Requirements

Shall be the same as provisions set forth for data submission requirements for zoning district amendment in Section 1.1.3

1.2.5 Deliberation and Decision

Shall be the same as the provisions set forth for deliberation and decision for zoning district amendment in Section 1.1.4

1.2.6 Standards

No application for conditional use shall be approved unless the Zoning Commission finds that all of the following conditions are present.

1.2.6.1 That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

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

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

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

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

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

1.2.7 Conditions and Guarantees

1.2.7.1 Prior to the decision on any conditional use, the Zoning Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as seemed necessary to promote the public health, safety and general welfare of the township and to secure compliance with the standards and requirement specified in Section 1.2.6 In all cases in which conditional uses are granted, the Zoning Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.

1.2.7.2 No alteration of a conditional use shall be permitted unless approved by the Zoning Commission. Where the Zoning Commission has approved or conditionally approved an application for a conditional use, such approval shall become null and void with (12) twelve months of the date of the Zoning Commission action unless the use is commenced or construction is underway.

1.2.7.3 Conditional use permits are subject for renewal and on a reapplication every (12) twelve months.

1.3 Variances

Variance from the terms of these regulations may be granted provided that applicant establishes proof of practical difficulty or undue hardship.

1.3.1 Public Hearing Notice

The Zoning Commission shall hold a public hearing, a notice of which shall be published at least (15) fifteen days prior to the hearing in the official newspaper of the county. The notice of hearing shall include: (1) the time and place of hearing; (2) description of the property by street address for platted lands and clearly identifiable location for the un-platted lands; (3) the proposed use and requested zoning district change; (4) time and place for public inspection of the documents before the hearing.

1.3.2 Public Hearings

The Zoning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, the Zoning Commission may require additional information before it completes its findings and takes action

1.3.3 Data Submission Requirements

Petitions for variances shall be submitted with the following information.

1.3.3.1 Legal description of the area proposed to be rezoned, the name and address of all owners of property lying within one mile of the site.

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

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

1.3.4 Deliberation and Decision

In making its finding, the Zoning Commission shall ascertain that the requests for variances are consistent with the Township Comprehensive Plan and Meets all requirements of these regulations and other regulations of the Township.

1.3.5 Standards

No application for variance shall be approved unless the Zoning Commission finds that all of the following are present.

1.3.5.1 That special conditions and circumstances exist which are peculiar to the premises and which are not applicable to other premises in the same zoning district

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

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

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

1.3.6 Justification

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

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

1.3.6.3 That there is practical, difficult, or unnecessary hardship in use of the premises if the strict application of the regulations were to be carried out.

1.3.7 Authorized variances

A variance shall not be granted for any yard or setback less than the yard or setback as required by these regulations.

1.3.7.1 To reduce not by more than 20% (twenty percent) the applicable requirements for lot area and lot with.

1.3.7.2 To reduce the applicable off-street parking or loading facilities by more than 50% (fifty percent) of the requirements

1.3.7.3 To permit the use of lot of record if it is smaller than the minimum size required by these regulations.

ZONING RULES AND REGULATIONS FOR THE MCKENZIE TOWNSHIP, BURLEIGH COUNTY, NORTH DAKOTA

SECTION ONE

INTRODUCTION

A. AUTHORITY

These Rules and Regulations [hereinafter called An Ordinance@ or "Zoning Ordinance"] are adopted by the Board of Township Supervisors for The Township, Burleigh County, North Dakota, under the authority granted by Chapter 58-03 of the North Dakota Century Code.

B. TITLE

This Ordinance shall be known as the "Zoning Ordinance of The Township, Burleigh County, North Dakota@.

C. PURPOSE AND INTENT

The purpose of this Ordinance is to promote the health, safety, morals, or the general welfare, or to secure the orderly development of approaches to municipalities.

In accordance with N.D.C.C. ' 58-03-11, the Board of Township Supervisors for The Township, Burleigh County, North Dakota, takes the following general positions with respect to all real property under its jurisdiction, pursuant to law:

1. Nothing herein is intended to prohibit, nor does it prohibit or prevent the use of land or buildings for farming or ranching or any of the normal incidents of farming or ranching. For purposes of enforcing this Ordinance, "farming or ranching" means cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include producing timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

2. Under N.D.C.C. ' 58-03-11(3), a board of township supervisors may regulate the nature and scope of concentrated feeding operations permissible in the township; however, if a regulation would impose a substantial economic burden on a concentrated feeding operation in existence before the effective date of the regulation, the board of township supervisors shall declare that the regulation is ineffective with respect to any concentrated feeding

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operation in existence before the effective date of the regulation. As of the effective date of this Ordinance, the following concentrated feeding operations will not be subject to this Ordinance: None.

3. Under N.D.C.C. ' 58-03-11(4), a regulation may not preclude the development of a concentrated feeding operation in the township. A regulation addressing the development of a concentrated feeding operation in the township may set reasonable standards, based on the size of the operation, to govern its location. For purposes of this Ordinance, "concentrated feeding operation" means any livestock feeding, handling, or holding operation, or feed yard, where animals are concentrated in an area that is not normally used for pasture or for growing crops and in which animal wastes may accumulate, or in an area where the space per animal unit is less than six hundred square feet [55.74 square meters]. The term does not include normal wintering operations for cattle. For purposes of this section, "livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, and fur animals raised for their pelts.

4. Nothing herein is intended, nor shall it be construed to, prohibit, through regulation, the reasonable diversification or expansion of a farming or ranching operation.

5. To the extent any portion of this Ordinance conflicts with the four (4) general positions expressed above, the Ordinance shall not apply to said situation.

D. SEVERABILITY

If any part of this Ordinance is adjudged to be invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

E. EFFECTIVE DATE

This Ordinance shall be effective after a public hearing and adoption by resolution of the Board of Township Supervisors for McKenzie Township, Burleigh County, North Dakota.

F. DEFINITIONS

For the purposes of this Ordinance, certain words or phrases used herein are defined as follows:

1. **Accessory Building:** A subordinate building the use of which is customarily incidental to the main building or the main use of the premises such as garages, sheds, etc.

2. **Accessory Use:** A use subordinate to and exclusively for a purpose incidental to the principal use.

3. **Agricultural Service Establishment:** Any service establishment primarily engaged in performing animal husbandry or horticultural services, including

businesses performing agricultural milling and processing, harvesting or agricultural land preparation, farm equipment sales and service, veterinary services, boarding or training of horses, and agricultural produce stands.

4. Animal Unit: Shall mean the unit of measure used to determine the appropriate density of mature livestock and poultry which shall be kept subject to the restrictions imposed by this Ordinance. For the purpose of this Ordinance, the following equivalents shall apply:

Livestock type	Animal Unit Equivalent	Equivalent numbers of the Livestock (head) 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	150 head	500 head	1,000 head	2,500 head
1 Dairy Cow	1.33	225	750	1,500	3,750
1 Mature Beef	1	300	1,000	2,000	5,000
1 Beef Feeder - Finishing	1	300	1,000	2,000	5,000
1 Beef Feeder Back-Grounding	0.75	400	1,333	2,667	6,667
1 Mature Bison	1	300	1,000	2,000	5,000
1 Bison - Feeder	1	300	1,000	2,000	5,000
1 Swine >55 lbs	0.4	750	2,500	5,000	12,500
1 Swine - Nursery	0.1	3,000	10,000	20,000	50,000
1 Sheep	0.1	3,000	10,000	20,000	50,000
1 Chicken	0.01	30,000	100,000	200,000	500,000
1 Turkey	0.0182	16,500	55,000	110,000	275,000
1 Goose or Duck	0.02	1,500	5,000	10,000	25,000

For animals not listed above, the number of animal units shall be defined as the average weight of the mature animal divided by 1,000 pounds.

5. Automobile and Truck Body Repair Shop: A place where the primal purpose is to repair frames and/or vehicle bodies.

6. Automotive Repair Shop: A place where the following services for vehicles may be carried out - sale of engine fuels; general mechanical repair and engine rebuilding; specialty automotive services such as radiator service and repair.

7. Board of Township Supervisors: The body authorized to hear appeals on the enforcement of this Ordinance and its provisions and to grant Variances. For the purposes of this Ordinance, it is the Board of Township Supervisors for The Township, North Dakota.

8. Building: Any structure intended for shelter and use of persons, animals or property.

9. Certificate of Compliance: A certificate stating compliance has been made with the regulations of the Zoning District which is issued after completion of construction.

10. Club or Lodge: A non-profit association of persons who are bona fide members paying annual dues, with the use of the premises being restricted to members and their guests.

11. Commercial Agriculture: The use of land for primarily agricultural purposes including farming, dairying, pasturage, horticulture, floriculture, animal and poultry husbandry and the necessary accessory buildings and accessory uses for packing, treating or storing produce; provided agricultural revenues shall be the principal source of income from any operations. Where there is any uncertainty regarding the definition a parcel shall be considered agricultural if it is considered agricultural by the Burleigh County Director of Tax Equalization.

12. Comprehensive Plan: Unless otherwise stated, it is the general plan for land use, housing, transportation and community facilities prepared, adopted, and maintained by the Township Board of Supervisors for McKenzie Township, Burleigh County, North Dakota.

13. Concentrated feeding operation: Any livestock feeding, handling, or holding operation, or feed yard, where animals are concentrated in an area that is not normally used for pasture or for growing crops and in which animal wastes may accumulate, or in an area where the space per animal unit is less than six hundred square feet [55.74 square meters]. The term does not include normal wintering operations for cattle. For purposes of this definition, "livestock" includes beef cattle, dairy cattle, sheep, swine, poultry, horses, and fur animals raised for their pelts.

14. Conditional Use: An exception from permitted uses within certain zoning districts provided such exceptions are stated in the Zoning Ordinance and will not be detrimental to the district and will substantially serve the public welfare.

15. Day Care Facility: Any facility licensed by the State of North Dakota, public or private, which for gain or otherwise, regularly provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty four (24) hours per day, in a place other than the person's own home.

16. Dwelling, Farm: A single family dwelling located on a farm which is used or intended for use by a farmer.

17. Dwelling, Single Family: A detached residential unit designed for and occupied by one non-farm family.

18. Dwelling, Multiple Family: A residential unit designed for occupancy by two or more non-farm families.

19. Dwelling Unit: A residential building or portion thereof providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

20. Efficiency Dwelling Unit: Any one room unit having cooking facilities and used for combined living, dining and sleeping purposes.

21. Essential Services: Underground or overhead gas, electrical, steam, water, television, telephone, sanitary or storm sewer distribution systems, including poles, wires, pipes, conduits, cables and accessory equipment in conjunction with buildings required for the protection of the public health, safety and general welfare.

22. Family: An individual or two or more persons related by blood, marriage or adoption, living together, or a group of not more than five persons who need not be related by blood, marriage or adoption living together as a single housekeeping unit in a dwelling unit.

23. Farm: Real property used for commercial agriculture comprising at least 40 contiguous acres and which may contain other contiguous or non-contiguous acreage, all of which is owned or rented, and operated by a single family, family corporation, individual, corporation or partnership.

24. Farming or Ranching: Cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or

fruit. The term does not include producing timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

25. Farm Building: Any building or accessory structure other than a farm or non-farm dwelling which is used in farming operations.

26. Feedlot: A confined feeding, breeding, raising, or holding of one hundred (100) animal units or more of livestock, or fur bearing animals, in enclosures, yards or pens, but not including range areas normally used for pasture or crops.

27. Garage: A building detached or attached to a main building and generally providing for the storage of automobiles.

28. Home for Temporary Lodging and Meals: The accessory use of a private residence for the overnight lodging of guests for a fee, such as "bed and breakfast" uses. Such uses shall conform to all pertinent Federal, State and local regulations.

29. Hotel (Motel): Any commercial building containing nine or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied, or which are occupied for sleeping purposes by guests.

30. Kennel: Any lot or premises where three (3) or more dogs or cats are boarded for compensation, or where dogs or cats are bred, kept or raised for commercial purposes.

31. Landscaping Items: Plantings, such as trees, grass, and shrubs.

32. Lot: A tract of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area and to provide such open space and yards as required by this Ordinance.

33. Manufactured Home (Mobile Home or Pre-built Home): A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without permanent foundation when connected to the required utilities. Mobile homes moved in may not be older than ten (10) years old and in livable condition.

34. Manufactured/Mobile Home Park: Any site, lot or tract of at least eight acres of land which harbors manufactured/mobile homes and any building, structure, or enclosure used or intended for use as part of the equipment of such manufactured home park.

35. Neighborhood Commercial Establishments: Establishments such as small retail business and personal service stores which provide services and products to the immediate residential neighborhood in which they are located. Such establishments should not be of a type that will generate an influx of consumers from outside areas. Such establishments must be arranged and designed to be functional and harmonious with the surrounding neighborhood. Retail businesses [such as general merchandise, food, liquor, and hardware stores, eating and drinking establishments, and drugstores], commercial businesses [such as professional offices, branch banks], and personal service businesses [such as barbers and beauty shops], and businesses with similar character, are deemed appropriate Neighborhood Commercial Establishments provided that: (1) no more than (4) separate businesses in a single Building.

36. Non-Conforming Use: Any building or tract of land lawfully occupied by a use at the time of the passage of this Ordinance or amendments thereto, which does not conform to the provisions of this Ordinance or its amendments.

37. Nursing Home (Rest and Convalescent Homes): A health care institution licensed to serve aged or infirm persons who require nursing care and related assistance. Types of nursing care provided in a nursing home include giving medications, applying dressings and bandages and providing bedside care and other physician prescribed treatments which require the technical knowledge, skill and judgment possessed by professional nurses.

38. Parking Space: A space adequate for parking an automobile with room for opening doors on both sides, together with unimpeded access to a public street or alley and maneuvering room.

39. Playhouse: Any structure used primarily for children's recreation and that is accessory to a residential use.

40. Principal Building: The main structure on a lot or parcel of land which houses the principal use of the premises.

41. Principal Structure or Use: One which determines the predominant use as contrasted to accessory use or building.

42. Poultry Lot: A confined area or structure used intensively for raising, feeding, breeding or holding chickens, turkeys and other poultry for eventual sale or for the production of eggs.

43. Ranching or Farming: Cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry,

milk, or fruit. The term does not include producing timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

44. Salvage Yard/Junk Yard: A place where waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled or handled; including auto wrecking yards, house wrecking yards, used material yards; but not including uses occurring entirely within an enclosed building. Must have solid fencing at least 6 feet high surrounding the yard. To establish a "salvage yard", owner must apply to the Township Board of Supervisors for a permit and approval to operate.

- a. A Salvage/Junk Yard may be permitted in an Agricultural or Industrial District as a special use:
 - (1) That the total area of the premises shall be at least five (5) acres.
 - (2) That only automobiles, trucks, tractors, and machinery will be processed.
 - (3) That all junk as well as the premises will be fenced with a tight board or solid metal fence at least six (6) feet high.
 - (4) That the automobiles, trucks, tractors, and machinery being processed or to be processed, will be confined within the fenced area.
 - (5) That the buildings comply with the setback requirements of the County regulations and the fenced area will be no nearer than 150 feet to the front property line.
 - (6) That the operation will be conducted in such a manner as to prevent unsightliness of the area.
 - (7) That no burning of salvaged material or junk be permitted on premises.
 - (8) That the operation not be located immediately adjacent to any major highway, street or major areas within an Industrial area where junkyard operations may be operated.
 - (9) That the operation and adjacent area will be operated in such a manner as to prevent unsightliness of the adjacent area.

45. Seismic Operations: A seismic survey shot hole drilled for the purpose of oil drilling.

46. Service Station (Gas Station): A place where gasoline, kerosene or any other motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing and oiling and the sale of automobile accessories on the premises. It also includes minor repairs, replacement of parts and motor services for vehicles.

47. Setback: The distance within a property which is required between any structure or use and the adjacent right-of-way or property line of an adjoining lot.

48. Sewage Disposal: Disposing of sewage from septic tank pumping.

49. Street Classification: All streets and roads are to be considered classified under the following categories

a. "Arterial Roads" are those which are intended to be used primarily for fast or heavy traffic.

b. "Collector Roads" are those which are intended to carry traffic from local roads to the major system of arterial streets and highways, including principal entrance streets of a residential development and streets for circulation within such a development.

c. "Local Roads" are all roads not classified as Arterials or Collectors which are used to provide access to abutting properties.

d. The Township Board of Supervisors may specifically classify any public road within the Township, but in the absence of such specific designation, the following classifications shall exist:

1. Any road, highway, or street designated as part of either the state highway system or the county road system shall be deemed to be Arterial Roads

2. All congressional section lines [and all public roads in existence pursuant to N.D.C.C. Chap. 24-07] not designated as Arterial Roads shall be deemed to be Collector Roads.

50. Structure: anything built, constructed or erected which requires permanent location on the ground.

51. Temporary Uses and Permits: The Board of Township Supervisors is authorized to grant a permit for temporary uses as follows:

a. For a carnival or circus in an Agricultural or Industrial District for a period not to exceed seven (7) days, or other area approved by the Board of Township Supervisors.

b. For a religious meeting in a tent or other temporary structure in a Major Commercial, Industrial, or Agricultural District for a period not to exceed seven (7) days.

- c. Contractors' offices and equipment sheds in any district for a period not to exceed two (2) years; provided further, that such temporary certificates may be renewed for an additional period of one (1) year.
- d. For Temporary asphalt and concrete batch plants, provided:
 - (1) The use is located within an Agricultural District.
 - (2) The temporary asphalt or concrete batch plant is for a specific construction project and not for general sale of product to the public.
 - (3) The site is located at least 1,320 feet (1/4 mile) from any residentially zoned property.
 - (4) A site plan is submitted showing the overall dimensions of the site, the location specific activities, fences, parking areas and access roads.
 - (5) A written narrative is submitted describing the operation of the facility, including fugitive dust management, run-off control, and spill containment, and explaining the length of time needed for the use.
- e. For Seismic operations when all conditions are met prior to issuing the permit.

52. Variance: A relaxation of the terms of the Zoning Ordinance to provide relief for a property owner when an undue hardship or some peculiar difficulty is imposed by this Zoning Ordinance.

53. Warehouse: Any building designed or used primarily for the commercial storage of goods, property and equipment of all kinds.

54. Wind Energy Facilities: One or more wind turbine(s) rated at a combined 150 kilowatts nameplate capacity or larger.

55. Yard: A space on the same lot with the principal building or structure, open, unoccupied and unobstructed by junk/inoperable vehicles, buildings or structures from the ground upward.

(Junk Vehicles=vehicles that are wrecked or otherwise inoperable.)

56. Yard, Front: The space extending between side lot lines from the front property line to the building setback line.

57. Yard, Rear: A space extending between the rear line of the main building and the rear line of the lot and extending the full width of the lot.

58. Yard, Side: A space between the building and the side line of the lot and extending from the front building line to the rear yard. For earth sheltered buildings and buildings covered with earth berms, the line of the building is measured from the above grade exterior surface of the

building. In the case of through lots, side yards shall extend from the rear lines of the front yards required. In the case of corner-lots with normal frontage, there will be only one side yard, adjacent to the interior lot.

For the purposes of this Ordinance, whenever such words appear in the text with capital letters, the specific definition is being invoked with specificity for guidance as to the intent of the Ordinance. It is not necessary for the words to be capitalized in the Ordinance for the definitions to be invoked.

SECTION TWO

GENERAL PROVISIONS

A. JURISDICTION

The jurisdiction of this Ordinance shall include all lands within the boundaries of The Township, except areas within the corporate or extra-territorial zoning jurisdictional limits of incorporated cities. **Each Township or District covered by this document will have their own minimum parcel designation.**

B. AMENDMENTS

The Board of Township Supervisors may from time to time on their own motion, or on petition or on recommendation of the Zoning Commission, amend, supplement or repeal provisions of this Ordinance after a public hearing. No change, amendment, deletion supplement or repeal may be made until after a public hearing in relation thereto. Advance notice of at least 15 days of the time and place of the hearing shall be published in the official newspaper of Burleigh County.

C. NON-CONFORMING USES

The lawful use of a building, structure or premises existing at the time of the adoption of this Ordinance may be continued although such use does not conform with the provisions of this Ordinance. The total structural repairs or alterations to such a non-conforming use or structure shall not, during its life, exceed fifty (50) percent of the assessed value of the building or structure unless permanently changed to a conforming use. If a non-conforming use is discontinued for a period of twelve (12) months, any future use of the building, structure or premises shall conform to this Ordinance. If property is sold, the new owner is not allowed to continue in a non-conforming status. After sale, the property will be subject to all provisions of this Ordinance. The option of granting a variance will be at the discretion of the board.

D. LAND SUITABILITY

1. No land shall be used for seasonal or permanent uses if it has inadequate drainage, soil limitations, or other conditions likely to be harmful to the health and safety of the users of the area or harmful to the objectives of The Township, Burleigh County, North Dakota as expressed in this Ordinance.

2. Where uncertainty exists as to the suitability of the land for on-site sewage disposal, the Board of Township Supervisors may request a study of the soil conditions or other pertinent conditions.

E. PERMITTED USES/CONDITIONALLY PERMITTED USES

This Zoning Ordinance contemplates the identification of Zoning Districts. The primary Zoning Districts generally relate to agricultural land usages [Open Space and Agricultural Conservation District (A) residential land usages [Single and Two Family Residential District (R1) Multiple Family Residential District (R2) Manufactured Home District (R3) and Mobile Home Park District (R4) and commercial land usages [Commercial Neighborhood District {"CN"} and Commercial General District {"CG"}]. This Zoning Ordinance identifies Permitted Uses within each identified District requiring no additional zoning action by the Board of Township Supervisors in the event of a proper application for a building permit, or any other application seeking township authorization.

As to each identified District there also exists a list of Conditional Uses. Upon proper application for a building permit, or any other application seeking township authorization for any use described as being a Conditional Use, the Board of Township Supervisors will identify all additional conditions in writing which will allow for such Conditional Use because (a) such additional conditions will overcome any detriment to the District, and (b) such additional conditions will substantially serve the public welfare. Such Conditional Use, as supplemented by the additional written conditions identified by the Board of Township Supervisors, are still subject to the approval under the following general standards:

1. No application for a Conditional Use shall be granted by the Board of Township Supervisors unless all the following conditions are present:
 - a. that the uses, values and enjoyment of the other property in the area shall in no foreseeable manner, be impaired or diminished by the Conditional Use;
 - b. that the Conditional Use will not be detrimental to or endanger the public health, safety, comfort or general welfare;
 - c. that the Conditional Use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the District;
 - d. that adequate utilities, access roads, drainage and other necessary site improvements have been made or are being provided;

- e. that the Conditional Use shall conform to all applicable regulations of the District in which it is located.

F. VARIANCE PROCEDURES

1. The Board of Township Supervisors shall hear and decide on Variances from the terms of this Ordinance as will not be contrary to the public interest and where the literal enforcement of this Ordinance would result in practical difficulty or unnecessary hardship to a property owner. The McKenzie Township Board may vary or adjust the strict application of any of the requirements of this article in the case of an exceptionally irregular, narrow or steep lot, or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the article would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or buildings involved. It is not the intent of this article to allow a variance for a land use that is not permitted within the particular zoning district. The Board of Township Supervisors shall base its decision for Variance from this Ordinance upon the evidence presented to it and shall determine that all the following conditions are present:

- a. that the purpose of the Variance is not based on a desire for economic or material gain;
- b. that the alleged difficulty or hardship is caused by this Ordinance and not created by any person presently having an interest in the property;
- c. that the Variance will not be detrimental to the public welfare or injurious to other properties in the vicinity;
- d. that the Variance shall not be contrary to the intent and purpose of this Ordinance.
- e. A variance granted under this article must be put into use within (24) twenty four months of the granting of the variance, or it shall lapse and the land owner must reapply.

G. GENERAL PROHIBITION AGAINST ACTIONS CONTRARY TO ORDINANCE

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless done in conformity with all of the provisions of this Ordinance. If the building, structure, or land was being lawfully used or occupied before this Ordinance was passed or amended, but such use of building, structure, or land would be prohibited, regulated, or restricted under the terms of this Ordinance, or future amendments, such Nonconforming Use may continue until the non-conformities are removed. However, no

nonconformities or Non-conforming Use may be enlarged upon, expanded or extended, nor be used as ground for adding other structures or uses not permitted in the District. Nothing herein shall be construed as (a) prohibiting ordinary repairs or replacement of non-bearing walls, fixtures, wiring, or plumbing, (b) prohibiting the strengthening or restoring to a safe condition any building or part thereof declared unsafe by any official charged with protecting the public safety if so ordered, or (c) otherwise maintaining such non-conforming property. When a Non-conforming Use has been discontinued for one (1) year, the Non-conforming Use may not be resumed. If a non-conforming property is removed or destroyed [50% or more of the original replacement cost at the time of destruction], the non-conforming property may not be replaced or repaired except in conformity with this Zoning Ordinance.

H. GARBAGE OR SEWAGE PLANTS PROHIBITED

No building, structure, or land shall hereafter be used or occupied to operate or maintain a plant for: (1) the treatment, purification, and disposal of liquid or solid wastes, sewage, and night soil that did not arise out of the actual use and occupancy of the building, structure, or land where such plant is located; or (2) the disposal of garbage that did not arise out of the actual use and occupancy of the building, structure, or land where such plant is located. This prohibition shall not apply to an underground sanitary sewer system provided the treatment plant is located entirely within the corporate limits of a municipality.

I. Sewage Disposal

1. Limitations for certain soil types

Certain soils in Burleigh County have severe limitations for soil absorption disposal systems (septic tanks). Soils having severe limitations shall not be used for septic tanks unless the system is designed to negate the limitations. Only the "Mound" Sewer System or gravity fed NoDak Sewer System can be used.

2. Location Requirements

- a. Septic tanks shall be located at a point lower than the elevation grade of any nearby water well or spring.
- b. Septic tanks shall not be any closer than ten (10) feet to any dwelling or cistern and shall not be closer than ten (10) feet to any property line.
- c. No part of a seepage pit or drain field shall be closer than twenty (20) feet to any property line nor closer than one hundred (100) feet to any lake or drainage ditch.

SECTION THREE

ADMINISTRATION AND ENFORCEMENT

The administration and enforcement of this Ordinance is hereby vested in the Board of Township Supervisors of The Township, Burleigh County, North Dakota.

A. BOARD OF TOWNSHIP SUPERVISORS

All amendments to the text of the Zoning Ordinance and the Zoning District Map, all Conditional Use permits, and all Variances shall be approved or disapproved by the Board of Township Supervisors following a public hearing.

1. The Township Building Inspector receives and files all permit applications, petitions for amendment to the Zoning Ordinance and the Zoning District Map, issues building permits, furnishes copies of all building permits issued to the Board of Township Supervisors, issues Certificates of Compliance, makes inspections, and maintains records.
2. All complaints will be directed to the Board of Township Supervisors.
3. All zoning violations will be acted upon by the Board of Township Supervisors for appropriate action.
4. The Board of Township Supervisors shall identify additional Conditional Use permits [or for variance] and shall make recommendations upon said matters. The Board of Township Supervisors may approve, deny, or modify the application.

B. APPEALS

1. Any person, firm, or corporation aggrieved by the recommendations may appeal to the Board of Township Supervisors.

C. BUILDING PERMIT

1. It shall be unlawful for any person to commence excavation for or construction of any building or structure, or structural changes in any existing building or structure without first obtaining a building permit.

No building permit shall be issued for any building or structure which also includes (a) a Manufactured Home (Mobile Home or Pre-built Home) or (b) any mobile home as defined by N.D.C.C. ' 57-55-01 potentially taxable under

N.D.C.C. Chap. 57-55 in any District other than a Manufactured Home District [R3] or Mobile Home Park District [R4] unless specifically approved by the Board of Township Supervisors.

No building permit shall be issued for any excavation or construction of any building or structure, or structural changes in any existing building or structure without full compliance with the McKenzie Township Floodplain Ordinance.

2. The fee for a building permit shall be set by the Board of Township Supervisors. Permit will be issued at .003 % of the cost of the building with a minimum of \$50.00. Permits for the Mound system or gravity fed Nodak system will be issued at \$50.00 per system.
3. Any permit issued pursuant to these provisions shall expire 12 months from the date of issuance
4. All applications for building permits shall be accompanied by a statement of the proposed location of construction or alteration, its purpose, and it shall be accompanied by a plat, in duplicate, drawn to approximate scale, showing the actual dimensions of the recorded lot to be built upon, all existing buildings upon said lot, the size of the building to be erected, its dimensions, type of construction, and such information as may be necessary to provide for the enforcement of this ordinance.
The Building Inspector shall consider the building permit application with the information attached thereto and may request more information relative thereto. If minimum requirements of this Ordinance are met, a building permit will be issued. If requirements are not met, the Building Inspector may counsel the applicant on how to meet the minimum requirements or the applicant may request a hearing to petition for a Variance, a Conditional Use, or amendment to the Zoning Ordinance or Zoning District Map.

D. CERTIFICATE OF COMPLIANCE

1. Following all new construction, alterations, or structural modifications to existing buildings, no building or structure shall be occupied until a "Certificate of Compliance" shall have been issued for determining the conformity of said building, alterations or structural modifications with the requirements of this Ordinance and for the specifications upon which the building permit was issued.

E. VIOLATIONS AND PENALTIES

1. Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. All such complaints shall be filed with the Building Inspector who shall investigate such violation and report to the Board of Township Supervisors for appropriate action.

2. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure, or land is used in violation of this Ordinance, the Board of Township Supervisors, in addition to other remedies provided by law, may institute any appropriate action or proceeding:
 - a. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
 - b. To restrain, correct, or abate such violation;
 - c. To prevent the occupancy of the building, structure, or land; or
 - d. To prevent any illegal act, conduct, business, or use in or about such premises.
3. In the event of a violation, the size of the penalty will be determined by the severity of the violation.

SECTION FOUR

ZONING MAP

A. ZONING DISTRICT MAP

The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning District Map", on file in the office of the Board of Township Supervisors. The Board shall regularly update the Zoning District Map to show any changes in the Zoning District boundary lines resulting from amendments to the Ordinance.

1. LOCATION OF DISTRICT BOUNDARIES

The following rules shall apply with respect to the boundaries of the Zoning Districts as shown on the Zoning District Map:

- a. where the Zoning District boundary lines are indicated as following highway, road, or railroad right-of-way, such boundary lines shall be construed to be the center line of said right-of-way unless clearly shown to be contrary.
- b. where uncertainty exists as to the exact location of the Zoning District boundary line, the Board of Township Supervisors shall determine the location of such boundary lines.

SECTION FIVE

ZONING DISTRICTS

For the purposes of this Ordinance, all lands under the jurisdiction of the Board of Township Supervisors for The Township, Burleigh County, North Dakota, is divided into the following Zoning Districts: The Township Zoning Districts
 Description of District Abbreviation for District used in Ordinance
 Primary Ordinance

The Township Zoning Districts			
Description of District		Abbreviation for District used in Ordinance	Primary Ordinance Section
Agricultural Conservation District		AG	Sect Six
Agricultural Preservation District		OAg	Sect Six
Single and Two Family Residential		R1	Sect Seven
Multiple Family Residential Dist		R1- R2	Sect Seven
Manufactured Home District		R3 or R1	Sect Seven
Mobile Home Park District		R4	Sect Seven
Major Commercial District		CM	Sect Eight
Limited Commercial District		CL	Sect Eight
Light Industrial District		LM	Sect Eight

SECTION SIX

ZONING DISTRICTS RELATED TO AGRICULTURAL LAND USAGES

A. OPEN SPACE AND AGRICULTURAL CONSERVATION DISTRICT ["OAg"]

The predominant use of land within this District is agriculture and undeveloped land. It is the purpose of this zoning district to maintain these uses, to limit development upon flood prone land, and to provide for future expansion of various cities.

1. Permitted Uses:

- a. Grain and crop farming, nurseries, greenhouses and roadside stands for the sale of products which are grown on the premises.
- b. Golf courses, to include miniature golf courses.
- c. Public parks, facilities and playgrounds.
- d. Farm drainage and irrigation systems.
- e. Designated historical sites.
- f. Accessory Use.
- g. Farm Buildings.

2. Conditional Uses:

- a. Utility lines and public service facilities.
- b. Single family dwellings or Manufactured Home [no more than one Dwelling Units within any contiguous 40 acre tract].
- c. Airports.
- d. Churches and related facilities.
- e. Cemeteries and crematoriums.
- f. Public schools.
- g. Radio and television towers and accessory buildings.
- h. Temporary structures incidental to construction work but not extending beyond the period of such work.

3. Area and Density Requirements

- a. The minimum lot size shall be forty (40) acres.
- b. No more than one (1) Dwelling Units within any contiguous 40 acre tract within the same section of land.

4. Building Height/Size Limits:

- a. For residential uses, the maximum height of structures shall be two and one-half (2 1/2) stories or 35 feet.

5. Setback Requirements:

- a. The minimum setback from road and highway rights-of-way shall be 75 feet.
- b. There shall be a minimum side and rear yard of 10 feet with no building line closer than 20 feet to another structure on an adjacent lot.

B. AGRICULTURAL PRESERVATION/URBAN EXPANSION DISTRICT ["Ag"]

The Agricultural Preservation/Urban Expansion District ["Ag"] is intended to minimize the amount of agricultural land lost to urbanization in areas near municipalities by allowing existing rural residential areas to develop at a higher density than residential uses in the Ag District. This can be accomplished by: 1) encouraging developments in areas adjacent to existing municipalities until urban facilities from those neighboring municipalities are extended to such areas; and 2) by allowing existing rural subdivisions near municipalities to develop at a higher density even though extensions of urban facilities are not expected.

1. Permitted Uses:

- a. Grain and crop farming, nurseries, greenhouses and roadside stands for the sale of products which are grown on the premises.
- b. Golf courses, to include miniature golf courses.
- c. Public parks, facilities and playgrounds.
- d. Farm drainage and irrigation systems.
- e. Designated historical sites.
- f. Accessory Use.
- g. Farm Buildings.
- h. Single Family Dwelling.

2. Conditional Uses:

- a. Utility lines and public service facilities.
- b. Single Family Dwellings, Multiple Family Dwelling, or Manufactured Home.
- c. Airports.
- d. Churches and related facilities.
- e. Cemeteries and crematoriums.
- f. Public schools.
- g. Radio, communications, and television towers and accessory buildings.

- h. Temporary structures incidental to construction work but not extending beyond the period of such work.
- i. Energy systems associated with residential uses such as solar collectors and wind generators.

3. Area and Density Requirements

- a. When the lot will be connected to an adequate sewer and water supply, the minimum lot size shall be 15,000 square feet for Single Family Dwelling; and 15,000 square feet, plus, 3,000 square feet for each Dwelling Unit over one in each structure; and non-residential uses shall have no minimum lot size except when specially provided for in this Ordinance.
- b. When the lot is connected to a private sewer and water system, the minimum lot size shall be 15,000 square feet for single family dwellings or commercial uses with under 5 employees working at the same time; and 45,000 square feet plus 15,000 square feet for each dwelling unit over one in each structure; and such size as may be recommended by the Burleigh County Sanitarian for all other uses.
- c. Lot Width: For Single Family Dwellings the minimum lot width shall be one hundred (100) feet. For uses other than Single-family Dwellings, the minimum lot width shall be one hundred fifty (150) feet.
- d. Depth: Minimum depth shall be 150 feet.

4. Building Height/Size Limits:

- a. For residential uses, the maximum height of structures shall be two and one-half (2 1/2) stories or 35 feet.

5. Setback Requirements:

- a. The minimum setback from road and highway rights-of-way shall be 75 feet.
- b. There shall be a minimum side and rear yard of 10 feet with no building line closer than 20 feet to another structure on an adjacent lot.

Special Requirements

Animal Units may not exceed two (2) units per acre density provided: (a) that the residential use area be separated from the area to be used as an animal enclosure by a fence, and that the entire animal enclosure area be fenced to prevent escape and subsequent damage to adjacent property; (b) that no structure intended for housing said animals shall be closer than 200 feet from any lot line; (c) that all manure and other animal wastes be removed and disposed of properly on a regular basis; and (d) that the number of animal units permitted shall be based on Minimum Lot Size, Yard Requirements, Spacing Requirements, and Access Points for Agricultural reservation/Urban Expansion

District ["OAgU"] on the size of the portion of the parcel to be used as an animal enclosure, and that animal enclosure area shall not be less than 40,000 square feet.

SECTION SEVEN

ZONING DISTRICTS RELATED TO RESIDENTIAL LAND USAGES

A. SINGLE AND TWO FAMILY RESIDENTIAL DISTRICT ["R1"]

The Single and Two Family Residential District ["R1"] is intended to encourage the establishment and preservation of low density residential neighborhoods characterized primarily by Single Family Dwellings. It is further to provide for certain other uses such as educational, religious and recreational activities compatible with residential areas and to reserve undeveloped lands for similar types of residential development. Since these developments are intended to be residential and at densities compatible with urban development, all development must take place within established subdivisions as approved by Burleigh County or the contiguous municipality if authorized by law. No permits will be issued for any non-agricultural use unless the parcel is platted pursuant to law.

1. Permitted Uses:

- a. Nurseries, greenhouses and roadside stands for the sale of products which are grown on the premises.
- b. Golf courses, to include miniature golf courses.
- c. Public parks, facilities and playgrounds.
- d. Designated historical sites.
- e. Accessory Use.
- f. Energy systems associated with residential uses such as solar collectors and wind generators.

2. Conditional Uses:

- a. Utility lines and public service facilities.
- b. Single family dwellings or Manufactured Home.
- c. Airports.
- d. Churches and related facilities.
- e. Cemeteries and crematoriums.
- f. Public schools.
- g. Radio, communications, and television towers and accessory buildings.
- h. Temporary structures incidental to construction work but not extending beyond the period of such work.

3. Area and Density Requirements:

- a. When the lot will be connected to an adequate sewer and water supply, the minimum lot size shall be 15,000 square feet for Single Family Dwelling; and 15,000 square feet, plus, 3,000 square feet for each Dwelling Unit over one in each structure; and non-residential uses shall have no minimum lot size except when specially provided for in this Ordinance.
- b. When the lot is connected to a private sewer and water system, the minimum lot size shall be 15,000 square feet for single family dwellings or commercial uses with under 5 employees working at the same time; and 45,000 square feet plus 15,000 square feet for each dwelling unit over one in each structure; and such size as may be recommended by the Burleigh County Health Department for all other uses.
- c. Lot Width: For Single Family Dwellings the minimum lot width shall be one hundred (100) feet. For uses other than Single-family Dwellings, the minimum lot width shall be one hundred fifty (150) feet.
- d. Depth: Minimum depth shall be 150 feet.
- e. Buildings may not cover more than 30% of the Lot area.
- f. Accessory Buildings shall be equal to or less than the ground floor area of the main Building(s).

4. Building Height/Size Limits:

- a. For residential uses, the maximum height of structures shall be two and one-half (2 1/2) stories or 35 feet.

5. Setback Requirements:

- a. The minimum setback from road and highway rights-of-way shall be 75 feet.
- b. No building line shall be closer than 20 feet to another structure on an adjacent lot.

Arterial Road 300 feet

Intersections 300 feet

Special Requirements

Accessory Buildings have a minimum set-back of 5 feet from property line.

- B. MULTIPLE FAMILY DWELLING DISTRICT ["R2"] (Will be combined with R1)
The Multiple Family Residential District ["R2"] is intended to encourage the establishment and preservation of medium to high density residential neighborhoods with a variety of housing types. It is further to provide for certain other uses compatible with residential development.
- C. MANUFACTURED HOME DISTRICT ["R3"] (Use R1)
The Manufactured Home District ["R3"] is intended to provide for manufactured homes in subdivided developments, in safe, attractive, residential neighborhoods with all urban services and desired amenities available as in other residential areas.
- D. MOBILE HOME PARK DISTRICT ["R4"] (See Burleigh County Code)
The Mobile Home Park District ["R4"] is intended to provide for the establishment and maintenance of areas for mobile or Manufactured Homes in Mobile Home Parks not subdivided into individual lots, in an appropriate, safe, sanitary, and attractive environment.

SECTION EIGHT

ZONING DISTRICTS RELATED TO COMMERCIAL AND INDUSTRIAL LAND USAGES

- A. LIMITED COMMERCIAL NEIGHBORHOOD DISTRICT ["CL"]
The Limited Commercial Neighborhood District ["CL"] is intended to encourage small pockets of neighborhood related commercial activity which are characterized by direct and frequent public access, but do not involve constant or heavy trucking other than stocking and delivery of light retail goods, or any other nuisance factor other than incidental noise of the congregation of people and passenger vehicles.
- B. MAJOR COMMERCIAL DISTRICT ["CM"]
The Major Commercial General District ["CM"] is intended to provide for local commercial developments that allow for highway oriented businesses and for general commercial uses in a way that allows orderly and easy access to transportation routes without permitting or creating strip or spot development.
- C. LIGHT INDUSTRIAL/MANUFACTURING DISTRICT ["IM"]
The Light Industrial/Manufacturing District ["IM"] is intended primarily to accommodate manufacturing, wholesale, warehousing and distribution related uses.

D. COMMERCIAL/INDUSTRIAL REGULATIONS

Section 1. General Description

3. To encourage the discontinuance of existing uses what would not be permitted as new uses under the provisions of this article.

The I Industrial District is established as a district in which the principal use of land is For heavy commercial and industrial establishments, provided said uses are not properly associated with, nor compatible with, residential, institutional, neighborhood commercial and service establishments. For the Industrial District, in promoting the general purposes of this Ordinance, the specific intent of this Article is:

1. To encourage the construction of and the continued use of the land for heavy commercial and industrial purposes;
2. To prohibit residential and neighborhood commercial use of the land and to prohibit any other use which would substantially interfere with the development, continuation or expansion of commercial and industrial uses in the district; and

Section 2. Uses Permitted

The following uses are allowed by-right in the I Industrial District

1. Gasoline filling station
2. Retail group B
3. Service group B
4. Wholesale group
5. Fire Station
6. Truck terminal
7. Railroad line trackage
8. Railroad spur trackage
9. Railroad freight station
10. Railroad freight classification yard

11. Utility service group
12. Industrial use group
13. Livestock sales pavilion
14. Oil or gas well
15. Radio or television transmitting station
16. Sand or gravel extraction

Section 3. Lot Area

Each principal building or structure plus its accessory buildings, shall be located on a lot having an area as specified. In no case shall a lot be less than twenty thousand (20,000) square feet in size. Premises without a central sanitary sewer system approved by the North Dakota State Department of Health shall comply with lot area requirements of the R1 Residential District.

Section 4. Lot Width

Each lot shall have a width of not less than seventy-five feet, measured along the front of building line.

Section 5. Floor Area Ratio

Floor area ratio of the principal buildings or building and all accessory buildings shall not exceed 0.30 for single-story buildings, nor shall it exceed 0.60 for buildings of more than one story. The ground area occupied by the principal building or buildings and accessory buildings shall not exceed thirty percent (30%) of the total area of the lot.

Section 6. Front Yards

Each building shall have a front yard not less than fifty (50) feet in depth

Section 7. Side Yards

Each lot shall have two (2) side yards, one on each side of any principal building. The sum of the widths of the two (2) side yards shall be no less than twenty percent (20%) of the average width of the lot; and in no case shall a side yard be less than fifteen (15) feet in width. On any lot having an average width greater than seventy-five (75) feet, neither side yard shall be less than fifteen (15) feet in width and no side yard need be

greater than fifty (50) feet in width. On a lot containing two (2) principal buildings located side by side, there are no minimum requirements for the side yards between the two (2) buildings.

Section 8. Rear Yards

Each lot shall have a rear yard not less than twenty-five (25) feet in depth

Section 9. Height Limits

No principal building shall exceed four (4) stories, nor shall it exceed fifty (50) feet in height. No accessory building shall exceed two (2) stories, nor shall it exceed twenty-five (25) feet in height.

Section 10. Automobile Parking

Adequate automobile parking shall be provided.

SECTION NINE

SUPPLEMENTARY STANDARDS APPLICABLE TO DESIGNATED DISTRICTS

The following Supplementary Standards apply to each identified District when appropriately referenced:

A. Visibility at Intersections in Residential Districts [R1; R2; R3; and R4]:

On a corner lot, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of thirty (30) inches and eight (8) feet within a thirty-three (33') foot radius of the point from the intersection of the two roadways.

B. Fences, Walls and Hedges in all Districts [see also, Section NINE (K)]:

No fence, wall or hedge shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of thirty (30) inches and eight (8) feet where it will interfere with traffic or pedestrian visibility from a driveway or alley to a public way. The regulations shall apply unless demonstrated to the Township Board of Supervisors that the fence, wall or hedge provides an unobstructed view so as not to create a safety hazard.

C. Irregular Setbacks in all Districts:

Where a uniform setback does not exist, the required setback shall be no less than the average of the setback of the two (2) adjacent Principal Buildings, or if there is only one (1) adjacent Principal Building, the setback of said main Building shall govern, but in no case shall a setback greater than seventy-five (75) feet be required.

D. Road Setbacks in all Districts if the District does not state different standards:

1. The front yard setback requirements as stated herein for the various zoning Districts shall be applied from nearest the center line of the right-of-way as related to the functional classification indicated by the Township Road Plan.

ROAD TYPE	SETBACKS
Arterial	175 feet
Collector	125 feet
Local Road	75 feet

2. Where structures on contiguous lots existing at the time of adoption of this Ordinance have a different setback from that required, the front yard setback of a new structure may approximate the prevailing setback in the immediate vicinity. The Township Board of Supervisors shall determine the necessary front yard requirements in such cases.
3. The condition and upkeep of the roads under the control of the Township and that the Township is financially responsible for, being of primary importance to the welfare, well-being and general quality of life in the Township, the following regulations shall apply.
 - a. Road Care: The Township Board will direct the contracted maintenance of the roads to be generally designated as "Normal Use/Maintenance", and shall do so in a "Restricted" or "Non-Maintenance", shall not be subject to normal blading, mowing, snowplowing, and other work usually performed for "Normal Use" roads. Under special conditions and determinations, the Board of Supervisors may direct certain work be done on said roads. Such "Non-Maintenance" roads shall include all unimproved section lines commonly known as "prairie trails". These and other roads that may; have some improvements shall be declared "CLOSED TO ALL TRAFFIC" when conditions dictate, except for those Township Residents or Owner/Operators who have immediate and necessary Agriculture business that cannot be conducted unless that particular road is used in an efficient manner, and

damages are kept to an absolute minimum. If these roads are used under the conditions that dictate their closure, repair or reconstructive work shall be planned for, under approval of the Board of Township Supervisors and shall be completed in a timely manner. Other work such as blading, gravel, mowing, snowplowing, and so on, shall not be performed at the Township expense except at the special designation of Township Supervisors.

DESIGNATED ROAD MAINTENANCE: All designations shall be determined by the Township Supervisors.

- b. Signs: As designated by the Board of Supervisors, cautionary or regulatory shall be erected where and when necessary for safety, to assist in regulations of road use, and to promote general welfare of township residents and their roads.
- c. Any and/or all violations or alleged violations of any section of this ordinance may be reported to any member of the Board of Supervisors by any person who resides within the Township, or who pays taxes within the Township, or by any other person with legitimate vested interests within the Township. Upon such report, the Board shall determine the appropriate action, and may elect to either:
 1. Contact the alleged violator(s) and inform them as to the appropriate actions necessary for them to place themselves in compliance with the ordinance ; or'
 2. Contact appropriate Law Enforcement Officials; including, but not limited to: Sheriff, State's Attorney, County Commissioners, North Dakota Highway Patrol, Attorney General,; for pursuit of legal redress and correction of the violation(s), and possible assessment of fees and fines.

E. Yard Encroachments in all Districts:

Every part of a yard or court shall be open and unobstructed by any building or structure, from its lowest point upward, except as follows:

1. Accessory structures, as governed by the Ordinance, are permitted in rear yards.
2. Awnings, balconies, sills, cornices, buttresses, and eaves may project not more than five (5) feet over or half the distance of the required side yard, whichever is less.
3. Walks, steps for negotiating ground slopes, retaining walls, hedges and natural growth, fences, paved terraces and paved areas.
4. Structures used ornamentally or for gardening or for private recreation purposes, and structures for essential services, all accessory to and customarily incidental to the principal use, are permitted in yards and courts. Solar energy systems not

included in the floor area of the building are permitted in side yard's, provided that a side yard strip three (3) feet in width adjoining the side line of the lot shall be unobstructed by any structure or feature, except a fence or retaining wall.

5. Chimneys and flues may extend not more than two (2) feet into a required yard or court.
6. Front yard encroachments - add-on entryways to existing residential dwellings may encroach into a front yard of 25 feet or less not more than a distance of five (5) feet and shall not exceed fifty (50) square feet in total size.

F. Signs in Residential Districts [R1; R2; R3; and R4]:

The following signs shall be permitted in residential Districts provided they are illuminated only by the reflector method and so erected that the light source is not visible from outside the premises.

1. Signs traditionally associated with the permitted uses.
2. Signs not exceeding two (2) square feet in area and bearing only property numbers, post office box numbers, and names of occupants of premises.
3. Signs as permitted for home occupations.
4. Flags and insignias of any government or governmental agency except when displayed in connection with a commercial promotion.
5. An advertising sign in connection with a lawfully maintained non-conforming use or conditional use.
6. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
7. A sign advertising only the sale, rental or lease of the building or premises.
8. Temporary signs connected with political elections.

G. Signs in Commercial [CL; CM], Light Industrial/Manufacturing [IM], and Agricultural Districts [A]:

1. A building permit must be obtained prior to installation of any commercial signs.
2. All commercial signs erected or placed in the Township located adjacent to the State of North Dakota's highway or interstate right-of-ways shall be located on property zoned CL, CM or IM, and shall obtain approval from the North Dakota State Highway Department prior to permit consideration from Stanley Township.
3. The foundation base and posts of all signs must be on private property.
4. No part of any sign or projection may protrude over the public right-of-way within six (6) feet of the actual or proposed shoulder or curb line. Signs, marquees, awnings and similar projections may project over the right-of-way a maximum of six (6) feet provided no part is within six (6) feet of the shoulder or curb line and that it is over eight (8) feet above the sidewalk or the average grade at property line when no sidewalk is in place. If the street is widened, the

sign shall be moved back at the owner's expense to maintain the six (6) foot distance of the shoulder or curb regulation.

5. All sources of artificial light other than street lights shall be fixed, directed or designed so as not to measurably increase the amount of light to any abutting residential lot. No blinking signs.
6. No sign can be of a height so that if it falls it will project over half way across a street right-of-way.
7. For home occupation use it is permissible to have one sign, not to exceed two square feet, non-illuminated, and mounted flat against the wall of the principal building.

H. Home Occupations in all Districts - Standards for Approval as a Home Occupation:

1. The occupation shall be limited to the dwelling and the area of the occupation shall not exceed twenty-five (25) percent of the main floor area, but not including basement or garage floor space.
2. Structural changes shall not be made in the dwelling.
3. Employees shall be limited to immediate family members.
4. No sign may be permitted larger than four (4) square feet.
5. Evidence of the occupation shall not be visible from the road.
6. The occupation shall not adversely affect the character of the uses permitted in the District in which it is located.

I. Essential Services in all Districts:

1. Permitted Essential Services: Essential services extending from the system to serve en route parcel(s) of land abutting a public right-of-way or easement are not subject to yard or setback regulations, zoning certificates, other than the approval of the owner.
2. Essential Services Buildings and Structures: Buildings and structures to house essential service facilities shall be allowed as a Conditional Use as permitted by District regulations. This section shall be considered a Variance to permit a lot area less than the minimum required for the District in which such Building structure is located. In consideration of an application for a conditional use, the Zoning Commission shall find:
 - a. That the landscape treatment is in keeping with the neighborhood and provides screening where appropriate.
 - b. That the installation is secure from the public and does not create a potential public hazard.
 - c. That the building is of an architectural style in keeping with the neighborhood.
 - d. That access and parking is adequately provided.

- e. That the proposed maintenance program of the building, structure, and grounds is in keeping with the neighborhood.
3. Essential Service Transmission Services: The applicant for such a Conditional Use shall conform to the following procedures and standards:
- a. Essential service such as high voltage (250KV or less) electrical power or bulk gas or fuel being transferred from station to station and not intended for en route consumption nor located within highway and street right-of-ways shall follow the following procedure:
 - 1. The owner shall file with the Township Board of Supervisors such maps indicating the locations, alignment, and type of service proposed as shall be requested.
 - 2. The Township Board of Supervisors shall hold a public hearing.
 - 3. It is not intended that the Township Board shall request maps or filings for ordinary service extensions which would delay by virtue of such filings or Township Board considerations the services public utilities must immediately provide to customers.
 - 4. No filing or application shall be necessary under this section to maintain, reconstruct or relocate existing lines or facilities where the general line and conformation thereof remains essentially the same unless said construction is within the traveled roadway. In such case, the permit shall be obtained from the Township Board of Supervisors. Emergency work otherwise requiring filing or application shall be accomplished provided such filing or application is made as soon thereafter as possible.
 - 5. Essential services shall be located and constructed at such places and in such manner that they will not segment land of any one farm, and will not interfere with the conduct of agriculture by limiting or interfering with the access to fields or the effectiveness and efficiency of the farmer and farm equipment including crop spraying aircraft.

J. Limitation of Principal and Accessory Buildings on One Lot in all Residential Districts:

Not more than one (1) Principal Building shall be located on a Lot in the R1, R2, R3, and R4 Districts.

K. Fences in all Districts:

- 1. Location: All boundary line fences shall be located entirely within the private property of the person, firm or corporation constructing or causing the construction of such fence.
- 2. Construction and Maintenance: Every fence shall be constructed in a substantial workmanlike manner and of substantial material reasonably suitable for the

purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a public or private nuisance. Any such fence which is, or has become dangerous to the public safety, health or welfare, is a public nuisance, and the Township Board of Supervisors is hereby authorized to commence proper proceedings for the abatement thereof.

3. Barbed wire fences shall not be permitted, used or constructed except in commercial or Limited Industrial Districts when made a condition by action of the Board of Township Supervisors or as hereafter set forth.
4. Residential District Fences: all residential fences shall be placed within the property being fenced and:
 - a. Fences along side property lines shall not be more than eight (8) feet in height from the rear lot line to a point on such side property line which would be intersected by the front wall line of the existing principal structure on the lot.
 - b. Fences along any rear property line, which is also the side or rear property line of an abutting lot shall not exceed eight (8) feet in height.
 - c. All posts or similar supporting instruments used in the construction of fences shall be faced inward toward the property being fenced.
5. Commercial District or Limited Industrial District Fences: all commercial fences and limited industrial fences shall be placed within the property being fenced and:
 - a. Fences which are primarily erected as a security measure may have arms projecting into the applicant's property on which barbed wire can be fastened commencing at a point at least seven (7) feet above the ground.
6. Special Purpose Fences: Fences for special purposes and fences differing in construction, height, or length may be permitted by the Township Board of Supervisors in any District in The Township provided that reasons submitted by the applicant demonstrate the purpose is necessary to protect, buffer or improve the premises for which such fence is intended. The Township Board of Supervisors may stipulate the height, location, construction and type of special fence thereby permitted. If stockpiling of materials is likely to occur in Limited Industrial Districts, appropriate fencing to limit the spread of the stockpiled materials by wind, rain, or other weather events will be required.

L. Off-street Parking Requirements in all Districts:

When compliance with parking requirements are made a condition of a Permitted Use or a Conditional Use, the following minimum off-street parking standards shall be maintained for Buildings and uses as hereinafter specified:

M. When guyed towers are used, all anchor points from the guys must be on the same property as the tower. All towers must meet the requirements of the North Dakota Uniform Building and Mechanical Codes and amendments thereafter. For the purpose of protecting public safety and welfare, additional standards may be suggested by the Building Inspector as a condition attached to any permit issued. If the applicant does not consent to the additional conditions suggested by the Building Inspector, the application must be submitted to the Board of Township Supervisors for approval of the application. Tower assembly and foundations will be removed by the owner of tower(s) upon abandonment.

b. Station Offices: Radio or television station offices when located on the same property and used in conjunction with radio, communications, or television transmitter towers.

c. Studios: Studios seating less than 100 persons, when located on the same property and used in conjunction with radio, communications, or television towers.

N. Seismic Operations:

A seismic survey shot hole shall be no closer than 1,320 feet to any water wells or developed springs and not closer than 1,000 feet to any occupied buildings or water structures, i.e. dams, dugouts, etc., unless such a site is mutually agreed upon by the surface owner, surface occupant, and the seismic operator. The distance for non-explosive seismic activity shall be not less than 300 feet unless otherwise mutually agreed upon by the respective parties.

- a. Drill holes shall be filled and reclaimed within (30) days of discharge of explosive devices. Extensions may be granted by The Township Board of Supervisors only by written request of the permittee.
- b. Shot hole site cuttings remaining after fillings and plugging holes shall be removed by the permittee. All areas to include access, will be put back to pre-drilling condition to include grass seeding in a manner approved by the land owner.
- c. Under no circumstances shall excess cuttings remaining after fill shot holes be leveled or spread at hole site unless approved in writing by the landowner. All excess will be removed and disposed of in a manner approved by the State and County.
- d. Seismic operators shall be responsible for the care of all explosives used in any testing work in the Township under their permit.
- e. Shot lines shall be detonated as soon after charging as is reasonable during working hours.
- f. No explosives shall be abandoned above ground.
- g. No explosives shall be left un-attended except in a magazine that is approved.

- h. No loaded shot shall be left unprotected. A protected hole shall be visually controlled by a company employee or security person.
- i. Hole plugging shall be done with bentonite gel or an approved substitute from the bottom. The plug shall be capped with concrete and covered with topsoil. In the case where an artesian well is encountered, the hole shall be plugged unless the parties affected thereby request in writing that such hole not be plugged.

O. MATERIAL PROHIBITION/JUNK ACCUMULATION

No person shall cause, permit, keep, accumulate or allow the accumulation of any junk, refuse, surplus, scrap, salvage or similar items outside of a closed building or opaque fencing. The items for which accumulations are prohibited under this section may include one or more of the following but are not limited to hazardous wastes, scrap metals, used or scrap lumber, household or commercial appliances, used building materials or salvage, construction demolition waste or salvage, abandoned or unlicensed vehicle(s), automotive or machinery parts, used tires, used oil or solvents, putrescible waste, garbage or rubbish of any kind, waste paper, used furniture or other household goods, barrels, rags, boxes, cardboard, or other similar items. The fact that an item or items may have value does not excuse the conduct prohibited by this section.

Open burning within "city limits" is allowed with limitations to included compliance with state and or county burn bans.*

P. MINIMUM HOUSING STANDARDS RESOLUTION

Buildings or structures, which are dilapidated, unsafe, dangerous, unsanitary, a menace to the health, morals, safety, and general welfare of the people of McKenzie Township, and which might tend to constitute a fire menace and which are a public nuisance.

An Ordinance providing for the vacation, removal, repair or demolition of any building or structure which is, or threatens to be, a public nuisance, dangerous to the health, morals, safety or general welfare of the people of McKenzie Township, or which might tend to constitute a fire menace; and for the assessment of the cost of vacation, removal, repair or demolition thereof as a county lien or assessment against such premises, and to provide for the recovery of such costs in an action at law.

INSPECTION OF DWELLINGS AND DWELLING UNITS

The Building Inspector is hereby authorized and directed to make inspections when necessary to determine the conditions of all dwellings, dwelling units, and premises located within the Township zoned portions, in order that they may perform their duty of safeguarding the health and safety of the occupants of such dwellings and the general public.

For the purpose of making such inspection, the Building Inspector is hereby authorized to enter, examine and survey, during normal working hours only, all dwelling units, and premises located within the zoned portions of the Township when necessary for the purposes of determining whether any conditions exist which render such places as substandard within the terms of this Ordinance. The Building Inspector is further authorized to inspect any building, wall or structure about which complaints are filed by any person, to the effect that a building, wall or structure is or may be existing in violation of this Ordinance.

The owner or occupant of every dwelling, dwelling unit or the person in charge thereof shall give the Building Inspector access to such dwelling, dwelling unit and its premises, at reasonable times for the purpose of inspection.

No inspection of, or access to, any premises shall be effected in the absence of any adult person responsible for or dwelling within the premises, or any adult person designated by said person to provide access for an inspection.

MINIMUM REQUIREMENTS FOR DWELLING UNITS

Dwelling Unit for Human Habitation

The Building Inspector shall determine that a dwelling is unfit for human habitation or a building is substandard, if he/she finds that any of the following conditions exist:

Buildings, which have been damaged by fire, wind or other causes that endanger the lives, safety or welfare of the occupants or other people of the Township.

Buildings which are dilapidated, decayed, unsanitary or in disrepair which are likely to cause sickness or disease, or to cause injury to the health, safety or welfare of the occupants or to other people of the Township.

Buildings which have defects therein, increasing the hazards of fire, accidents, or other calamities, such as lack of adequate ventilation, light, heating sanitary facilities as endangering the health, morals, safety or general welfare of the occupants or other residents of the Township.

Buildings or premises that violate any ordinance to sanitation and safety.

RESPONSIBILITY OF OWNERS AND OCCUPANTS

Every occupant of a dwelling or building shall keep in a clean sanitary condition that part of the dwelling, dwelling unit, and premises thereof, which he occupies or controls.

Every occupant of a dwelling or dwelling unit shall dispose of all rubbish in a clean and sanitary manner by placing it in rubbish containers.

No owner shall occupy or let any vacant dwelling unit unless it is clean, sanitary, fit for human habitation and not in violation of the Ordinance.

Every occupant of a dwelling or dwelling unit shall dispose of all garbage and any other organic waste which might be food for rodents, in a sanitary manner by placing it in a garbage disposal facility or garbage storage containers. It shall be the responsibility of the owner to supply such facilities or containers for all dwelling units in a dwelling containing more than two (2) dwelling units that share the same premises. In all other cases, it shall be the responsibility of the occupants to furnish such facilities or containers.

Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or any other pests therein or on his premises; and every owner of a dwelling or building or building containing more than one (1) dwelling unit shall be responsible for such extermination whenever a dwelling unit within such building shall become infested.

SUBSTANDARD BUILDING OR DWELLING UNITS, NUISANCES

Any building or dwelling units which violate the terms of this Ordinance, are hereby declared a public nuisance and dangerous to public health and shall be repaired, vacated, demolished or said violations discontinued as hereinbefore and hereinafter provided.

Whenever the Building Inspector determines there has been violation of any provision of this ordinance, he shall notify in writing the owner, occupant, lessee, mortgagee and all other persons having an interest in said building or dwelling, as shown by the records of the Register of Deeds of Burleigh County, and any dwelling, dwelling unit, or building found by him to be substandard as set forth in this Ordinance, that:

1. The owner shall vacate, repair, or demolish said buildings within the terms of the Notice of Order.

2. The owner or occupant must vacate said building or may have it repaired in accordance with the Notice and Order and remain in possession.

3. Provided, that any person notified under this Ordinance to repair, vacate or demolish any building, shall be given such reasonable time as may be necessary to do, or have don, the work or acts required by the Notice and Order, provided herein and in case such building must be vacated, such vacation shall be complied within thirty (30) days and such repair and demolition order shall be complied within ninety (90) days.

4. Set forth in the Notice and Order, provided herein, a description of the building or structure deemed substandard, a statement of particulars which makes the building or structure a "substandard building" and an order requiring the same to be put in such condition with the terms of this Ordinance and within such time as specified but not to exceed ninety (90) days.

5. Place a Notice and Order on all "substandard buildings" reading as follows:

"This building has been found to be a "substandard building" by the Building Inspector. This Notice and order is to remain on this building until it is repaired, vacated or demolished in accordance with the Notice and Order which has been given to the owner, occupant, lessee or mortgagee of this building and all other persons having an interest in said building as shown by the records of the Register of Deeds of Burleigh County. It is unlawful to remove this Notice and Order until such Notice and Order is complied with.

FAILURE TO COMPLY WITH THE DECISIONS OF THE BOARD OF TOWNSHIP SUPERVISORS

If the owner, occupant, mortgagee or lessee fails to comply with the order of the Board of Township Supervisors, or fails to appeal to the District Court, within thirty (30) days as provided herein, the Township, through its officers and employees, shall cause such building or structure to be repaired, vacated or demolished as ordered by the Board of Township Supervisors and shall cause the cost of such repair, vacation or demolition to be charged against the land upon which said building stands or did stand or to be recovered in a suit at law against said owner.

WHEREIN OWNER ABSENT FROM TOWNSHIP

If cases, except emergency cases, where the owner, occupant, lessee, or mortgagee is absent from the Township, all Notices and Orders provided for herein shall be sent by registered mail to the owner, occupant, mortgagee and

all other persons having an interest in said building, as shown by the land records of the Register of Deeds of Burleigh County, to the last known address of each and a copy of such Notice and Order shall be posted in a conspicuous place on the "substandard building" to which it relates, such mailing and posting shall be deemed adequate service.

VIOLATIONS, PENALTY FOR DISREGARDING THE NOTICE AND ORDER

It shall be unlawful for the owner of any "substandard or dwelling unit" to fail to comply with any Notice and Order to repair, vacate, or demolish said building or structure, given by any person authorized by this Ordinance to give such Notice and Order and every day subsequent to such notice in which said owner shall fail to comply with Notice and Order as above stated shall be deemed a separate offense.

Violations of the Ordinance shall be punished in accordance with North Dakota Century Code section 11-31-21

AGRICUL	RESIDENT	LIMITED COMM	MAJ COMM	MANUF	INDUST	PERMITTED USES
A	R1	CL	CM	M	I	GENERAL FARMING GP
X						TRUCK FARMING GP
X					X	LIVESTOCK SALES PAV
X						ANIMAL HOSPITAL
X	X	X	X			CHURCH
X	X	X	X			EDUCATIONAL GP
X	X		X			PUBLIC REC GP
X		X	X	X	X	FIRE STATION
X	X	X	X	X	X	UTILITY SVC GP
X					X	RADIO OR TV TRANSMIT
X					X	SAND OR GRAVEL EXCV
X					X	OIL OR GAS WELL
X			X		X	RAILROAD LINE TRACK
	X	X	X			SINGLE FAMILY DWELLING
	X					BOATHOUSES-LAUNCH EQUIP
	X					PETS
	X					PRIVATE STABLES
	X					POULTRY
		X	X			HOTELS & MOTELS
		X	X			RETAIL GROUP "A"
		X	X			SERVICE GROUP "A"
		X	X	X	X	GASOLINE FILLING STATION
		X	X			OFFICE-BANK GP
			X			MULTIPLE FAMILY DWELLING
			X	X	X	RETAIL GROUP "B"
			X	X	X	SERVICE GROUP "B"
			X			COMMERCIAL RECREATION GP
			X	X	X	WHOLESALE GP
			X			HEALTH & MEDICAL GP
			X			RAILROAD OR BUS STATION
			X			COMMERCIAL PARKING LOT
				X	X	TRUCK TERMINAL
					X	RAILROAD SPUR TRACKAGE
					X	RAILROAD FREIGHT STATION
					X	RAILROAD FREIGHT CLASS YD
					X	INDUSTRIAL USE GP
					X	SEWAGE TREATMENT PLANT

Section 10. Asphalt Plants and Concrete Batch Plants

Asphalt plants and concrete batch plants may be permitted in an Agricultural District as a special use, provided:

1. The site is located at least one half (½) mile from any residentially zoned property.
2. A site plan is submitted showing the overall dimensions of the site, the location of specific activities, fences, parking areas and access roads.
3. A written narrative is submitted describing the operation of the facility, including fugitive dust management, run-off control, and spill containment.
4. A permit to operate is issued by the North Dakota Department of Health prior to operation of the facility, if required.
5. The County Engineer has approved the proposed access (ingress/egress) for the operation.
6. Any buildings comply with the applicable setback requirements.

Section 11. Wind Turbine Facilities

A wind turbine facility may be permitted in an Agricultural District upon approval as a special use, provided the criteria and submittal requirements are met.

I. DEFINITIONS

1. Decibel – A unit of sound measurement, abbreviated dB.

dB (A) - A frequency weighting that relates to the response of the human ear. The weighted sound pressure level by the use of the A metering characteristic and weighting specified in American National Standards Institute (ANSI) Specification of Sound Level Meters.

2. Height (of turbine) - The vertical distance from the construction grade of the property to the highest point of a turbine rotor blade when in the upright position.
3. Non-Participating Dwelling - A dwelling on a non-participating parcel.
4. Non-Participating Parcel - A parcel of real estate that is not a participating parcel.

5. Occupied Structure - A building in which people live, work or frequent.
6. Participating Dwelling - A dwelling on a participating parcel.
7. Participating Parcel - A parcel of real estate on which any turbine of the wind turbine facility will be constructed, or for which a participation agreement has been executed.
8. Sound Pressure Level (SPL) - The physical intensity of sound.
9. Wind Turbine Facility - One or more wind turbines, including appurtenant structures and facilities, rated at an individual or combined nameplate capacity of 150 kilowatts or greater. II.

CRITERIA

1. **Appearance.** Wind turbines shall be painted with a non-reflective coating and in a uniform, off-white color. Turbines shall not display any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility. The design of the buildings and related structures at the wind energy facility sites shall use materials, textures and location that will blend the wind energy facility to the natural setting and existing environment. Turbines shall be installed on tubular, monopole-type towers.
2. **Performance History.** All turbines shall be commercially available, utility scale, with an operational history of at least one year. Prototype turbines are not allowed.
3. **Lighting.** Wind turbines shall not be artificially lighted, except to the extent required by the Federal Aviation Administration (FAA) or other applicable governmental regulatory authority.
4. **Minimum Ground Clearance.** The blade tip of any wind turbine shall, at its lowest point, have a ground clearance of not less than seventy-five (75) feet.
5. **Turbine Access Roads and Protection of Agricultural Operations.** The location and construction of access roads and other infrastructure shall, to the extent reasonably possible, not disrupt farming, agricultural operations, or the landscape within Burleigh County. In order to preserve the integrity of fields and capacity for efficient tilling, planting, and harvesting, the applicant shall work with the landowner to determine the most appropriate routing of access road locations.
 - a. Access roads shall be low profile roads with in slopes and back slopes of 10:1 or flatter so that farming equipment can cross them and roadway surfacing shall be Class 5 gravel or similar material, unless otherwise negotiated with the landowner.
 - b. A plan outlining the location and design of all access roads shall be provided to the

County Planner for determination as to whether the plan conforms to the other terms of this section.

c. If the applicant wishes to build an access road on a section line, in accordance with North Dakota Century Code (NDCC) Section 24-07-05, the applicant shall first petition the township board or the Board of County Commissioners (in unorganized townships). If the petition is granted, the applicant must build the road to township or county standards under the supervision of the township district roadway overseer.

d. The applicant must protect and segregate topsoil from subsoil on all lands unless otherwise negotiated with the affected landowner. The applicant must minimize soil compaction of all agricultural lands during all phases and confine soil compaction to as small of an area as possible.

e. The applicant shall, during all phases of construction, abide by the approved soil erosion control plan in accordance with Section 11 of Article 33 of the Burleigh County Zoning Ordinance.

6. Fence and Gate Repair. The applicant shall promptly repair or replace all fences and gates removed or damaged during all phases of the wind energy facility's life and provide continuity of electric fence circuits unless otherwise negotiated with the affected landowner.

7. Drainage Tile Repair. The applicant shall take into account, avoid, promptly repair or replace all drainage tiles broken or damaged during all phases of project life unless otherwise negotiated with the affected landowner.

8. Road Repair (Private Roads). The applicant shall promptly repair any damaged private roads, driveways or lanes to a condition at least equal to the condition prior to construction of the wind energy facility, unless otherwise negotiated with the affected landowner.

9. Hazardous Waste. The applicant shall be responsible for compliance with all federal, state and local laws applicable to the generation, storage, transportation, clean up and disposal of hazardous wastes generated during any phase of the project's life.

10. Chemicals. The use of chemicals is limited to those herbicides and methods approved by the North Dakota Department of Agriculture and the North Dakota Department of Health. The applicant must contact the affected landowners prior to application.

11. Temporary Staging Areas. The applicant shall negotiate with landowners to locate sites for temporary equipment staging areas.

12. Tree Removal. The applicant shall minimize the removal of trees and shall not remove groves of trees or shelter belts without the written approval of the affected landowner. Trimming or removal of trees within the public right-of-way to allow for safe construction of power lines shall be allowed.

13. Waste Removal. The applicant shall remove all waste and scrap that is the product of construction, operation, restoration and maintenance from the site and properly dispose of it upon completion of each task. Personal litter, bottles, and paper deposited by site personnel shall be removed on a daily basis.

14. Land Restoration. The applicant shall, as soon as practical following construction of each turbine, considering the weather and preferences of the affected landowner, restore the area affected by any construction activities to the condition that existed immediately before construction began. The time period may be no longer than eight (8) months after completion of construction of the turbine. Restoration shall be compatible with the safe operation, maintenance, and inspection of the wind turbine facility.

15. Complaints. Prior to the start of construction, the applicant shall submit to the County Planner the company's procedures to be used to receive and respond to complaints.

16. Public Safety Plan. The applicant is encouraged to provide educational materials to landowners within the site boundaries and, upon request, to interested persons, about the project and any restrictions or dangers associated with the project. The applicant is encouraged to also provide any necessary safety measures, such as warning signs and gates for traffic control or to restrict public access to turbine access roads, substations and wind turbines. The applicant shall comply with provisions outlined in their public safety plan.

17. Fire Protection and Medical Emergency Plans. Prior to construction, the applicant shall prepare fire protection and medical emergency plans in consultation with the rural fire district, Sheriff's Department, Emergency Management, and local emergency medical service providers having jurisdiction over the area. The applicant shall submit the project for registry in Burleigh County's emergency 911 system.

18. Road Use Arrangements. Prior to construction, the applicant shall make satisfactory arrangements (including obtaining permits) for road use, access road intersections, maintenance and repair of damages with governmental jurisdiction with authority over each road. The applicant shall notify the County Planner of such arrangements upon request.

19. Overweight Load Permits. The applicant is responsible for abiding by the state and local overweight load permitting processes in accordance with NDCC Chapter 39-12. A special use permit issued under this ordinance to erect a wind turbine facility does not negate a hauler's obligation to obtain overweight load permits prior to hauling.

20. Approach Permits. The applicant is responsible for obtaining an approach permit from

the County Engineer or the affected township for any new or reconstructed approach.

21. Road Repair (Public Roads). Any road damage caused by the applicant, its independent contractor, employee, agent, contractor, or subcontractor shall be promptly repaired at the applicant's expense to current standards set out in the North Dakota Department of Transportation's (NDDOT) Standard Specifications for Road and Bridge Construction.

If it is reasonably foreseeable that continued trips will make prompt repair to this standard unreasonable, intermediary measures must be taken by the applicant, if approved by the political subdivision in charge of the road, to ensure the public road remains passable and useable as has been the tradition in the community. Final repairs to these standards must be made promptly after the completion of the construction of the wind turbine facility.

22. Collector Lines. The applicant shall place electrical lines, known as collectors, and communication cables underground when located on private property, unless otherwise negotiated with the affected landowner. Collectors and cables shall also be placed within or adjacent to the land necessary for turbine access roads unless otherwise negotiated with the affected landowner.

23. Feeder Lines. The applicant shall place overhead or underground electric lines, known as feeder lines, on private land immediately adjacent to public rights-of-way (whether improved or not) except as necessary to avoid or minimize human, agricultural, or environmental impacts.

a. Feeder lines may be placed on public rights-of-way only if approval or the required permits have been obtained from the governmental unit responsible for the affected right-of-way.

b. In all cases, the applicant shall avoid placement of feeder lines in locations that may interfere with agricultural operations.

c. Any guy wires on the structures for feeder lines shall be marked with safety shields.

d. When feeder lines are placed on private property, the applicant shall place the feeder lines in accordance with the easement negotiated with the affected landowner(s).

e. All underground feeder lines must be placed at a depth of at least four (4) feet.

24. Electromagnetic Interference Assessment. The applicant shall submit an assessment of microwave signal patterns in the project area prior to commencement of construction of the project.

a. The assessment shall be designed to provide data that can be used in the future to determine whether the turbines and associated facilities are the cause of disruption or interference of microwave patterns in the event residents complain about such disruption or

interference after the turbines are placed in operation. The assessment shall be completed prior to operation of the turbines.

b. The applicant shall be responsible for alleviating any disruption or interference caused by the turbines or any associated facilities of residents' cell phone, television, radio, computer, satellite or other electronic transmissions, receptions, or services.

c. The applicant shall not operate the wind turbine facility so as to cause microwave, television, radio, telecommunications or navigation interference contrary to Federal Communications Commission (FCC) regulations or federal, state or local laws.

d. In the event the wind turbine facility or its operations cause such interference as described in items b and c above, the applicant shall take measures necessary to correct the problem within thirty (30) calendar days.

25. Archeological Resource Survey and Consultation. Unless the project is under the purview of the North Dakota Public Service Commission (PSC), and an Archeological Resource Survey is being prepared as part of that process, the applicant shall work with the State Historic Preservation Office (SHPO) at the State Historical Society of North Dakota at the beginning of the planning process for the wind energy facility to determine whether an archaeological survey is recommended for any part of the proposed project. If recommended, the applicant shall contract with a qualified archaeologist to complete such surveys, and shall submit the results to the County Planner and the SHPO. The SHPO will make recommendations for the treatment of any significant archaeological sites which are identified. Any issues in the implementation of these recommendations will be resolved by Burleigh County Board of Commissioners in consultation with the SHPO. All information provided/submitted under this provision is subject to North Dakota Century Code Section 55-02-07.1.

In addition, if any archaeological sites or human remains are found during construction, the applicant shall follow standard operating procedures as established by the SHPO and in accordance with NDCC Section 23-06-27 and associated North Dakota Administrative Code 40-02-03.

26. Biological Resources Survey. The applicant, in consultation with the US Fish & Wildlife Service - Ecological Services Office (USFW) and the North Dakota Department of Game and Fish (NDGF) shall, for the project site, conduct a pre- construction inventory of existing wildlife management areas, scientific and natural areas, recreation areas, native prairies and forests, wetlands, and any other biologically sensitive areas and wildlife resources, particularly birds and bats, within the site and assess the presence of state- or federally-listed or threatened species, and other protected species, such as migratory birds. The results of the survey shall be submitted to the County Planner, USFWS and NDGF.

27. Extraordinary Events. Within twenty-four (24) hours of an occurrence, the applicant shall notify the County Auditor\Treasurer of any extraordinary event. Extraordinary events include, but shall not be limited to, fires, tower collapse, thrown blade, collector or feeder line failure, or injured wind turbine facility worker or private person. The applicant shall, within thirty (30) calendar days of the occurrence, submit a report to the County Auditor\Treasurer describing the cause of the occurrence and the steps taken to avoid future occurrences.

28. Wildlife Incidents. Any fatality or injury to any state- or federally-listed species or migratory bird or bat shall immediately be reported to the U.S. Fish and Wildlife Service (USFWS)-North Dakota Field Office and the USFWS Office of Law Enforcement. Also, if a dead or injured whooping crane or sand hill crane is found, operation of all turbines shall be immediately curtailed until it has been determined by the USFWS that there is no longer a threat to other birds in the area. If a whooping crane or sand hill crane is sighted by a wildlife biologist within two (2) miles of any wind turbine, that turbine or turbines should be immediately shut down, and the USFWS should be contacted for further coordination. Cranes usually move on within a few days, at which time, in consultation with the USFWS, the turbine(s) may be restarted.

29. Sound. A sound study which includes modeling of sound levels of wind turbines within 100-feet of every occupied residence within 1-mile of a wind turbine shall be submitted with the application. Sound levels of wind turbines within 100-feet of any non-participating residence shall not exceed 45dBA (leq). Construction noise or reasonable and necessary maintenance activities are allowed to exceed this sound limit except between the hours of 11 p.m. and 7 a.m. This sound standard does not apply to participating dwellings.

30. Setbacks from Dwellings. Minimum setbacks from dwellings are necessary to mitigate noise impacts.

Wind turbines shall be setback at least 1.1 times the height of the turbine from participating residences, and at least 1750 feet from existing non-participating residences (measured from the center of the turbine monopole), and further as necessary to meet the sound level requirement in Subsection 29 above.

The horizontal distance between the center of a turbine monopole and any park, boat ramp, swimming beach or other public recreation area shall not be less than one-half ($\frac{1}{2}$) mile (2,640 feet).

31. Reverse Setbacks. Building permits will not be issued to construct any proposed

habitable structure within 1.1 times the height of any existing turbine (the center of a turbine monopole) or approved turbine location.

32. Setbacks from Non-participating Properties. Each wind turbine shall be set back not less than 1.1 times the height of the turbine from any non-participating parcel.

33. Setbacks from Public Roadways. Each wind turbine shall be set back not less than 1.1 times the height of the turbine from interstate or state roadway right-of-way.

Each wind turbine shall be set back not less than 1.1 times the height of the turbine plus seventy-five (75) feet from the centerline of any county or township roadway (whether improved or not).

Each wind turbine shall be set back not less than 1.1 times the height of the turbine from any railroad right-of-way or from any overhead utility.

34. Setback from Missouri River and Lake Oahe: Each wind turbine shall be set back not less than one (1) mile beyond the ordinary high water mark.

35. Shadow Flicker. A shadow flicker analysis, assuming typical meteorological conditions, shall be submitted for all occupied residences of non-participants within one-mile of a wind turbine. The maximum acceptable level of shadow-flicker exposure for homes in the study shall be 30 hours per year. The applicant shall provide commercially reasonable efforts to remedy shadow-flicker complaints from any non-participating owners of an occupied residence with a window view of a wind turbine on a case-by-case basis by undertaking measures such as trees or vegetation plantings, awning installations, or providing light-blocking curtains or shades.

36. Pre-construction Meeting. Prior to the start of any construction, the applicant shall conduct a preconstruction meeting with the County Building Official to coordinate field monitoring of construction activities. The pre-construction meeting shall be open to all interested parties and shall address staging, complaints, emergency plans, and other pertinent issues.

37. As-Built Plans and Specifications. Within one hundred eighty (180) calendar days after completion of construction, the applicant shall submit to the County Building Official, a copy of the as-built plans and specifications in both hard copy and in electronic digital format as specified by the County Planner.

38. Decommissioning Plan and Bonding Requirement. The wind project shall develop a Wind Turbine Decommissioning Plan in accordance with NDCC 49-02-27 and NDAC 69-09-09 and this Plan shall be submitted as part of the Building Permit application.

39. Insurance Requirement. The owner/operator of a wind turbine facility must provide proof of liability insurance at the time of application. Burleigh County shall be listed as a

certificate holder. Certificates shall provide not less than thirty (30) calendar days notification to the certificate holder prior to cancellation or material change in coverage.

Throughout the duration of this special use permit, the owner/operator of a wind turbine facility agrees to provide evidence of insurance coverage not less than the types and amounts specified below:

a. Workers' Compensation: Statutory

b. Employer's Liability

- 1) Each Accident: \$1,000,000
- 2) Disease, Policy Limit: \$1,000,000
- 3) Disease, Each Employee: \$1,000,000

c. General Liability

- 1) General Aggregate: \$2,000,000
- 2) Each Occurrence
(Bodily Injury and Property
Damage): \$1,000,000

d. Excess Umbrella Liability

- 1) Each Occurrence: \$5,000,000
- 2) General Aggregate: \$5,000,000

e. Automobile Liability

- 1) Combined Single Limit (Bodily Injury and Property Damage):
 - a) Each Accident \$1,000,000

f. Other Conditions (specify):

1) A Commercial General Liability policy shall be endorsed to add Burleigh County, its employees, officers, agents and contractors as additional insured's.

2) Certificates evidencing required insurance shall be provided to Burleigh County upon approval of the special use permit and prior to commencement of construction.

40. Contact Information. The applicant must provide a local contact authorized by the applicant to receive service and respond to all notices, demands, complaints, concerns or other requests. Local contact information must include the name of the local representation, local phone number and physical address. Said contact information must be filed with the County Auditor\Treasurer prior to commencement of construction of the wind energy facility.

41. Transfer of Ownership of a Wind Turbine Facility. Prior to any change in ownership or assignment of a controlling interest of any entity owning a wind energy facility permitted in Burleigh County, including any assignment or transfer of a controlling interest to any corporation, partnership, or other entity controlled by or a subsidiary or affiliate of the wind energy facility permitted in Burleigh County, application shall be made to Burleigh County Planning Commission, requesting transfer of the wind energy facility special use permit. Approval of such transfer shall be conditioned upon explicit agreement by the new applicant to comply with the requirements and conditions of this ordinance, as amended, and the special use permit. The application shall also include the new applicant's agent and contact information. A change of ownership that results in inability, unwillingness, or failure to abide by the conditions of this ordinance can be a basis for revocation of the special use permit. [This limitation shall apply to all transfers by operation of law and any transfers by trustee in bankruptcy, receivers, administrators, executors, and legatees.]

42. Changes. Any minor changes in the location or character of wind turbine facilities and structures may be authorized in writing by the County Planner. All other changes shall require approval of an amended special use permit under these same ordinance requirements.

III. SPECIAL USE PERMIT APPLICATION SUBMITTAL ITEMS

The following items shall accompany the special use permit application:

1. Two (2) copies of a site plan submitted on high quality paper on sheets thirty (30) inches by thirty-six (36) inches, provided that when more than one sheet is required, there shall also be submitted an index sheet on high quality paper and of the same dimensions, showing the entire wind turbine facility project on one sheet and giving section, township and range numbers. The applicant must also submit this data in electronic digital format as specified.
2. The site plan shall be drawn to a scale of one (1) inch equals one thousand (1,000) feet or less with scale to be shown graphically.
3. To provide adequate coverage, the site plan shall show an area up to a minimum of three-quarters ($\frac{3}{4}$) mile (3,960 feet) beyond the outermost wind turbine towers, meteorological towers, all wind turbine facility access roads and appurtenant project structures.
4. Site plans shall contain the following elements:
 - a. Name of the wind turbine facility
 - b. Name and address of the wind turbine facility owner
 - c. Name, address, and registration number of professional surveyor involved in preparing the site plan
 - d. Date the site plan was prepared
 - e. North point indication
 - f. Section, township and range numbers
 - g. Topographic contours with a minimum contour interval of ten (10) feet, with indication of datum used

- h. A location map inset showing the township(s) in which the project is located and the boundary of the proposed project
- i. Location of all existing public roadways and rights-of-way within five hundred (500) feet of proposed turbine locations
- j. General location and railroad rights-of-way, as available from public documents, within five hundred (500) feet of proposed turbine locations
- k. Name, dimensions and location of any utility easements, as available from public documents, within five hundred (500) feet of proposed turbine locations
- l. Name, dimensions and location of any parks, public land, historic resources, multi-use trails, or areas of recreational significance, as available from public documents, within three thousand (3000) feet of proposed turbine locations
- m. Name, dimensions and location of habitable structures
- n. Location of any corporate or township boundaries
- o. General location and identification of section lines, as available from public documents
- p. General property ownership boundary lines, as available from public documents, for properties within five hundred (500) feet of proposed turbine locations
- q. Names of property owners, identified as participating or non-participating, within five hundred (500) feet of proposed turbine locations
- r. Streams, rivers, watercourses, lakes, and any marshy or swampy areas
- s. Federally designated wetland areas
- t. All affected public or private airstrips with the FAA identification number
- u. Proposed turbines locations
- v. Names of property owners, as available from public documents, within five hundred (500) feet of proposed turbine locations
- w. Participating residences within five hundred (500) feet of proposed turbine locations, non-participating residences within two thousand (2000) feet of proposed turbine locations, and parks, boat ramps, swimming beaches or other public recreation areas within three thousand (3000) feet of proposed turbine locations, as available from public documents

5. Other Submittal Items

- a. Statement of assurance that the project will not alter any existing surface water drainage patterns.
- b. Plan for Restoration of the Site Due to Construction
- c. Plan for Receiving and Responding to Complaints
- d. Public Safety Plan
- e. Fire Protection and Medical Emergency Plan
- f. Biological Preservation Study
- g. Shadow Flicker Study
- h. Decommissioning Plan

6. Copies of letters of application from the applicant to the following agencies requesting review of the proposed wind turbine facility:

- a. United States Fish and Wildlife Service (USFW)
- b. North Dakota Game and Fish Department (NDGF)
- c. The State Historic Preservation Office (SHPO) at the State Historical Society of North Dakota
- d. Federal Aviation Administration (FAA)

7. Fees. The special use permit fee is .001 (1/10th of 1%) of the value of each wind turbine in accordance with Article 25 of the Burleigh County Zoning Ordinance. An application fee of \$1000 shall be payable at the time of application for a special use permit, with the remainder of the special use permit fee remitted by the applicant prior to building permit application(s).

IV. BUILDING PERMIT APPLICATION SUBMITTAL ITEMS

1. An application for a building permit for the construction of a wind turbine facility must include:

a. A copy of the special use permit, with the site plan, as approved by the Burleigh County Board of Commissioners and, if applicable, a copy of the permit as approved by the North Dakota Public Service Commission (PSC).

b. Additional site plan items not included with special use permit site plan submittal, including:

1. Name, location and width of all existing public roadways and rights-of-way within five hundred (500) feet of proposed turbine locations, including the type and width of surfacing

2. Existing and proposed access points along public rights-of-way

3. All existing wind turbine facility fixtures, regardless of ownership, accessory structures or buildings, including substations, meteorological towers, electrical infrastructure, and collector or transmission lines

4. Proposed turbine locations showing turbine heights, roads, electrical equipment, collector and feeder lines and all other associated facilities

5. Location and dimensions of proposed utility easements, including easements for storm water management facilities and proposed locations of culverts and retention/detention areas, if applicable

6. Boundaries of any filed lease, easement, or option for wind energy facilities, whether they benefit the applicant, the applicant's probable operator, or an unrelated party

c. Dimensioned engineering drawings of all wind turbine facility structures, including electrical schematic line drawings of the electrical components

in sufficient detail to allow for a determination that the manner of installation will meet compliance with the electrical code.

- d. Documentation certifying structural loading requirements.
- e. The applicant shall identify, by map, each public road in Burleigh County that the applicant may or will travel on with a gross weight in excess of 80,000 lbs.
- f. Reclamation Performance Bonding
- g. Electromagnetic Interference Assessment
- h. Proof of Insurance
- i. Soil Erosion Control Plan in accordance with Section 10 of Article 33 of the Burleigh County Zoning Ordinance
- j. National Pollution Discharge Elimination System (NPDES) construction permit
- k. A building permit fee of \$500 per wind turbine.
- l. Copies of letters of acceptance regarding the proposed wind turbine facility from the following agencies:
 1. United States Fish and Wildlife Service (USFW)
 2. North Dakota Game and Fish Department (NDGF)
 3. The State Historic Preservation Office (SHPO) at the State Historical Society of North Dakota
 4. Federal Aviation Administration (FAA)

Section 12. Roadway Maintenance Facilities

Roadway maintenance facilities necessary for the provision of services by a governmental entity may be permitted in an Agricultural District as a special use, provided:

1. The parcel meets the minimum lot area and width requirements for the Agricultural District.
2. The parcel is located along an improved section line roadway or other roadway classified as an arterial.
3. The parcel is located at least one half (½) mile (2640 feet) from any residentially zoned property.
4. Any buildings comply with the applicable setback requirements.
5. All exterior equipment and material storage areas will be set back no less than one hundred fifty (150) feet from a front property line and no less than seventy-five (75) feet from a side or rear property line.

6. A landscaped buffer yard is provided around the perimeter of the site to screen the operation from adjacent land uses. Said buffer yard shall be no less than fifty (50) feet in width and shall be densely planted in conjunction with site development.
7. A site plan is submitted showing the overall dimensions of the site, the location of specific activities, fences, parking areas, adjacent roadways and proposed access (ingress/egress).
8. A written narrative is submitted describing the operation of the facility, including fugitive dust management, run-off control, and spill containment.

Small Wind Energy Systems

This section is intended to provide reasonable standards for the use of a Small Wind Energy System (SWES) which would allow electrical power consumers to supplement or replace their use of utility-provided electrical power without creating negative impacts to adjacent properties or the public.

1. For the purposes of this section, a SWES is defined as a wind turbine of less than 25 kilowatts maximum output capacity and all appurtenant structures and equipment. A SWES is incidental and accessory to a permitted principal use located on the same lot or parcel of land. A SWES is intended to produce electricity primarily for on-site consumption but excess electrical power may be transferred to a utility company power supply grid pursuant to utility company interconnection agreements.
2. A SWES may be permitted in any zoning district subject to approval of a special use permit by the McKenzie Township Planning and Zoning Board. A special use permit may be revoked at any time if the SWES is found to be in violation of any of the rules of this or other sections of the McKenzie Code of Ordinances or in violation of any of the conditions imposed by the McKenzie Township Planning and Zoning Board in granting the special use permit.
3. The minimum building setback distance shall be 150% of the height of the structure.
 - b. The setback distance is the horizontal distance from the center of the supporting structure to the nearest property line or to the nearest overhead utility easement or underground petroleum product pipeline easement.
 - c. The height of the structure is the vertical distance from the ground surface to the highest point of a rotor blade when in an upright position.

4. The bottom of the rotor blade sweep shall be no closer than 35-feet above the ground surface. Blades may not extend over parking areas, driveways, or sidewalks.
5. The location of any SWES shall not result in the net displacement of required parking.
6. Sound produced by a SWES shall not exceed the following limits at the property line:

Zoning District	Day	Night
Residential: RR, RR5, R5, RMH, R10, RM, RT, HM, DF	55	45
Commercial: CA, CG, CR, DC	60	50
Industrial: MA, MB, P, A	65	60

- a. Sound pressure level limits are measured in dB (A) as specified in the latest edition of the American National Standards Institute specifications.
 - b. Sound is measured at the property line of any receiving property.
 - c. Day is defined as the time period from 7:00 a.m. to 10:00 p.m. Night is defined as the time period from 10:00 p.m. to 7:00 a.m.
7. Additional rules regarding SWES's.
 - a. **Sound Measurements.** Following approval and installation of a SWES, the Building Official may require the owner/operator of the SWES to engage a certified technician to perform sound measurements at the closest property line to determine and report ambient and operating decibel levels.
 - b. **Braking Controls.** A SWES shall be equipped with both automatic and manual braking controls to prevent uncontrolled rotation and to limit the rotation speed to the design limits of the SWES.
 - c. **Insurance.** The owner/operator of a SWES must provide proof of liability insurance at the time of application.
 - d. **Shadow Flicker.** Shadow flicker shall not negatively impact any adjacent properties.

e. **Electronic Interference.** The SWES shall not cause electronic or electromagnetic interference with signal receptions or transmissions beyond the boundaries of the property upon which the SWES is located.

f. **Monopole Requirement.** Within the town site of McKenzie, wind turbines are required to be mounted on monopole structures without guy wires. Outside town site of McKenzie, monopole structures are not required for wind turbines and guy wires may be used.

g. **Roof-mounted SWES.** A roof-mounted SWES is not allowed on residential structures.

h. **Color.** To minimize off-site visibility to the greatest extent possible, the color of a structure shall be a neutral white or light gray and the surface finish shall be non-reflective.

i. **Lighting.** The use of flood lights, laser lights, strobe lights, searchlights, beacons and similar lighting is prohibited unless required by the FAA.

j. **Signs.** No signs are allowed on SWES structures except for safety or warning signs which are limited to three square feet in area.

k. **Climbing Apparatus.** No climbing apparatus shall be located within 12-feet of the ground on any structure. All structures shall be designed to prevent climbing by unauthorized persons.

l. **Removal of Defunct Systems.** Facilities shall be well maintained in an operational condition that poses no potential safety hazard.

1. If a SWES remains nonfunctional for a continuous period of one-year, the system shall constitute a public nuisance and shall be removed.

2. The owner shall remove a defunct system at the owner's expense.

3. Removal includes the entire structure and related appurtenances including any foundation and transmission systems.

m. **Building Permit Required.** Following approval of a special use permit and prior to installing a SWES, the applicant shall obtain a building permit from the Building Inspections Division.

n. **Compliance with Airport Zoning.** A SWES must comply with Airport zoning rules under Chapter 10-09.

8. An application for a special use permit for the placement of a SWES shall include the following:

a. Scaled and dimensioned site plan drawing showing features of the property and adjacent land within 300-feet of the subject parcel, including but not limited to:

1. Location and height of the SWES;
2. Property boundaries;
3. Distances from a SWES to closest points on adjacent property boundaries;
4. Location and dimensions of structures;
5. Zoning districts of all adjacent properties;
6. Owners of all adjacent properties;
7. Locations, dimensions and descriptions of utility easements;
8. Location of overhead utility lines;
9. Location of underground petroleum pipelines; and
10. Distances from the SWES to the closest points on utility easements.

b. Written information from the manufacturer on the proposed SWES stating the following:

1. Compliance with noise standards established by paragraph v(6) of this section;

2. Compliance with electronic interference standards established by paragraph v(8) of this section;

3. Evidence that the proposed SWES model has an operational history of at least one year; and

4. Shadow flicker properties.

c. Unless certified by the manufacturer as not causing shadow flicker in the proposed installation, a shadow flicker model and map showing:

1. Shadow flicker map coverage area of 1,000-feet from a SWES; and

2. Shadow flicker model representing locations affected, intensity, and duration.

d. Copy of letter of compliance of the proposed SWES with airport zoning from the Bismarck Municipal Airport.

e. Copies of letters of compliance of the proposed SWES from the following:

1. Federal Aviation Administration;

2. United States Fish and Wildlife Service; and

3. The local electrical utility company serving the subject property.

9. An application for a building permit for the placement of a SWES must include:

a. A copy of the special use permit, with the site plan, as approved by the McKenzie Township planning and zoning Board;

b. Dimensioned engineering drawings of the structure including the tower, base, and footings;

c. Line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation will meet compliance with the electrical code; and

d. Documentation certifying that the SWES will meet structural loading requirements for a 90 M.P.H. sustained wind.

Wind load certification shall be prepared by a professional structural engineer registered in the State of North Dakota.

Section 13. Temporary Worker Housing

Temporary Worker Housing – A group dwelling facility located in one or more buildings that are occupied on a temporary basis by workers that are not from the immediate area but are employed in the area for a specific purpose (such as, oil exploration/drilling and related activities, construction projects or similar activities) and for a defined period of time. Temporary worker housing does not include a mobile home, a mobile home park, a manufactured home, a tourist camp, a tourist campground, a tourist home, a trailer camp as defined and regulated herein. Temporary worker housing is also referred to as crew camp housing, temporary modular housing and man camps

Temporary worker housing may be permitted in the A Agricultural District as a special use, provided:

1. The parcel on which the housing facility is located meets the lot area and width requirements for the A Agricultural District.
2. The housing facility is located along, or with direct access to, an improved section line roadway or other roadway classified as an arterial. If the arterial roadway is not improved, the developer/operator would be responsible for construction and paving of said roadway to County standards, if required based on site location, prior to operation of the housing facility.
3. The housing facility is located where traffic to and from the facility would not have to travel on roadways within or adjacent to residentially zoned property.
4. The temporary housing facility provides accommodations for at least twenty (20) workers and for a time period of six (6) months or less that is located on the same property as the activity at which workers are employed. Limited temporary worker housing may include the use of recreational vehicles/trailers.
5. The parcel on which the facility is located is at least one-half (1/2) mile from any residentially zoned property.
6. The parcel on which the facility is located is at least one (1) mile from the ordinary high water mark of the Missouri River and Lake Oahe.
7. All buildings and modular structures shall comply with the applicable setback requirements for the A Agricultural District.

8. The facility shall be constructed to minimize erosion, alteration of natural features and removal of vegetation to the greatest extent possible.
9. Any modular structures for the facility must be inspected by an IBC (Industrialized Building Commission) approved third party inspector prior to entering the state, have an IBC label affixed, and must also be constructed in compliance with the North Dakota State Building Code, as amended by Burleigh County (Article 23).
10. All structures used for temporary worker housing shall be placed on a permanent foundation except as allowed in accordance with Chapter 18 of the International Building Code.
11. All structures used for temporary worker housing shall meet the County's minimum housing standards (Article 34).
12. The temporary housing facility must be fenced and access limited.
13. The temporary housing units must be numbered in a logical fashion in order to facilitate emergency response and in accordance with Chapter 5 of the International Building Code.
14. The distance between structures shall be in accordance with the North Dakota State Building Code, as amended by Burleigh County (Article 23).
15. The temporary housing facility must comply with all applicable State and Federal requirements, including the requirements of the North Dakota Department of Health, the North Dakota State Electrical Board, the North Dakota State Plumbing Board, the North Dakota State Water Commission, the North Dakota Department of Transportation and the North Dakota Department of Commerce.
16. The temporary housing facility shall provide parking at a rate of 2.5 spaces per resident, based on design capacity, to accommodate personal vehicles, work vehicles, and other vehicles and equipment parked on the site. Parking shall be located away from the housing units and shall not be allowed between units.
17. The temporary housing facility shall provide for adequate fire suppression, adequate access for emergency vehicles, and adequate security for the facility.
18. Domestic animals other than those owned by the property owner or the on-site manager are not allowed on the premises of a temporary housing facility.
19. The operator of the temporary housing facility is responsible for establishing and enforcing any house rules or regulations for residents.

20. The following information is submitted in addition to the information required under Section 1 of this Article:
- a. A written narrative that includes a general description of the operation, including a good faith estimate of the duration of use; a description of the temporary housing units to be used and how the housing units are to be set and/or anchored to the ground in accordance with any applicable ANSI standards; a description of how the units are to be numbered; and a description of the source of potable water supply, method of sewage disposal, method of waste disposal and method of dust control.
 - b. A scaled site plan showing the overall dimensions of the site; required setbacks; the location of housing units, other structures, parking areas, fences, and landscaping; the location of existing and proposed roads and access ways within and adjacent to the site; topographic contours with a minimum interval of five (5) feet; the location of surface water, streams, and/or drainage areas and special flood hazard areas on or within 500 feet of the site; and the location of wells, sewage treatment system(s), and waste management areas.
 - c. A storm water management plan in accordance with Section 13 of the Subdivision Regulations (Article 33). A construction activity permit from the North Dakota Department of Health is also required for construction disturbance of one (1) or more acres.
 - d. A traffic impact analysis to determine if any improvement to County or State roadways, including the paving of roadways or the installation of turning lanes, is warranted. If warranted, roadway improvements will need to be installed at the operator's expense prior to operation of the facility.
 - e. Copies of the facility's proposed house rules and regulations, on-site security plan, and on-site emergency management plan (including contingencies for fire, tornado and other natural disasters).
 - f. A statement as to whether or not the applicant has ever engaged in the business of owning or operating a temporary worker housing facility before, and if so, the dates and locations of such ownership or operation.
 - g. A copy of the lease or purchase agreement, if the property is not owned by the proposed operator. Financial terms of the lease or purchase agreement may be redacted.
 - h. Any other information required by the County to make an informed decision on the request.

21. The County Board of Commissioners may attach any conditions or reporting requirements to the special use permit that it deems necessary and prudent.
22. If the request for a special use permit is approved, all required County permits shall be obtained prior to construction of the temporary housing facility, including, but not limited to, building permits, plumbing permits and mechanical permits.
23. If the request for a special use permit is approved, the following shall be provided to the County in conjunction with construction and prior to operation of the temporary housing facility:
 - a. The name and address of the onsite manager and contact information.
 - b. Copies of required permits or approvals from the North Dakota Department of Health, the North Dakota State Electrical Board, the North Dakota State Plumbing Board, the North Dakota State Water Commission, South Central Regional Water District, North Dakota Department of Transportation, and US Army Corps of Engineers.
 - c. A plan for the closing of the facility and reclamation of the site, including how structures and equipment will be removed; how trash and construction debris will be removed; how concrete footings and foundations will be removed or buried; how the sewage disposal system will be removed and disposed of; how the site will be graded and re-contoured to blend into the surrounding topography; how topsoil will be replaced and the site seeded with an appropriate seed mix to establish sufficient cover to stabilize the site and prevent erosion, and how unneeded access roads will be regarded and re-vegetated.
 - d. An irrevocable surety bond shall be submitted to the County Auditor in an amount equal to an engineer's estimate of the cost of removing or demolishing such facilities following termination of the use in accordance with the approved plan, and shall be held for the duration of the temporary worker housing operation. The amount of the bond may be reviewed by the County Board of Commissioners on an annual basis and adjusted if needed.
24. If the request for a special use permit is approved, the following shall be provided to the County on an ongoing basis for the duration of operations:
 - a. The name and address of the onsite manager and contact information.
 - b. A current occupancy list to be maintained and provided to the County on a

monthly basis.

- c. Any changes to the facility's house rules and regulations, on-site security plan, and on-site emergency management plan.
25. The operator of a temporary worker housing facility permitted by Burleigh County shall notify the County Auditor of the sale of the facility or the transfer of ownership of the property.
26. A special use permit for a temporary housing facility approved in accordance with this Article shall be valid for a period of five (5) years, and is renewable in three (3) year increments upon submittal of a request for an extension and approval in accordance with the provisions of this Article. The request for an extension must also include a written narrative describing the facility, its compliance with the requirements contained herein and any conditions placed upon it, and demonstrate the continued need for the facility.
27. The temporary housing facility and any associated structures must be removed from the site within ninety (90) days of closure. Within ninety (90) days after the removal of the facility is complete, a reclamation report shall be submitted to the County Planner indicating that the site was reclaimed as set forth in the approved reclamation plan.