



# Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5<sup>th</sup> Street N,  
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or  
[Dakota Media Access Facebook Live](https://dakotamediaaccess.org) || Replay Later from [Freetv.org](https://freetv.org)

## AGENDA February 11, 2026

1. Roll Call
2. Approval of January 14, 2026, Minutes
3. Public Comments: (*Restricted to Burleigh County residents and landowners*)
4. Consent Agenda: (*The following item(s) are request(s) for a public hearing*)
  - 4-1 All American Subdivision
    - Requests approval of a one (1) lot Subdivision and call for a public hearing.  
*Staff recommendation: Approval*
  - 4-2 Apple Creek Ridge 2<sup>nd</sup> Subdivision
    - Requests approval of a one (1) lot Subdivision and call for a public hearing.  
*Staff recommendation: Approval*
  - 4-3 Aberle 5<sup>th</sup> Subdivision
    - Requests approval of a five (5) lot Subdivision and call for a public hearing.  
*Staff recommendation: Approval*
  - 4-4 Riverside 2<sup>nd</sup> Subdivision Replat.
    - Requests approval of a one (1) lot Subdivision and call for a public hearing.  
*Staff recommendation: Approval*
5. Public Hearing Agenda:
  - 5-1 Kummer Ranch Final Subdivision:  
*Requests approval of a one (1) lot Subdivision, staff recommends approval.*
  - 5-2 Amendments to Zoning Ordinance: (*Continuation of First Hearing*)  
Review the following Staff Reports:
    - Ex. 5.2.1. Zoning Comparison Art. 21- 14-04-19
    - Ex. 5.2.2. Zoning Comparison Ag-Ag.

- Ex. 5.2.3. Zoning Comparison R1 – RR
- Ex. 5.2.4. Zoning Comparison R1 – R5
- Ex. 5.2.5. Zoning Comparison R1 - RR5
- Ex. 5.2.6. Zoning Comparison R1 - RM
- Ex. 5.2.7. Zoning Comparison R2 - RM10
- Ex. 5.2.8. Zoning Comparison R2 - RM15

6. Other Business: Next Meeting is on March 11, 2026
7. Adjourn

Burleigh County Planning and Zoning Meeting Minutes January 14, 2026

PRESENT: Chairman Agnew, Mike Connelly, Alvie Jarratt, Dale Patrick, John Risch, Bea Streifel, Jim Small and Commissioner Brian Bitner. Commissioner Munson was absent.

OTHERS: Casey Einrem, County Engineering, Planning Director Mitch Flanagan and Members of the Public (see sign in sheet)

Planning Director Flanagan opened the meeting and called for the roll call. The floor was then opened for 2026 election of officers. Nominations began for the Chairman. Commissioner Jarret nominated Dale Patrick for Chair, seconded by Commissioner Streifel, Commissioner Patrick declined the nomination stating he wanted to remain as Vice-Chair. Commissioner Bitner nominated Commissioner Agnew, seconded by Commissioner Connelly. Roll call was taken- all in favor, the meeting was turned over to Chairman Agnew, who opened the nominations for Vice-Chair, Commissioner Jarret nominated Commissioner Patrick for Vice-Chair, seconded by Commissioner Bitner Chair Agnew requested the ballot which was unanimous.

There was a quorum present

Chairman Agnew called for a motion to approve the December 10, 2025, minutes. The minutes were approved unanimously.

Public comments were then made by Mr. John Fields regarding the proposed ordinances.

January 14, 2026, Meeting Minutes cont.

CONSENT AGENDA		
1. Kummer Ranch Subdivision was discussed and recommended for Public Hearing, Motioned to schedule the Public Hearing by Commissioner Bitner, seconded by Commission Connelly. Vote was unanimous.		
PUBLIC HEARING AGENDA		
ITEM 7.1 Amendment 21 – FP Floodplain District (First Hearing)	Staff recommendation: Approval	Approval of Article 21 Give a “Do Pass Recommendation to the Board of Burleigh County Commissioners.
Mitch Flanagan - Director	Gave a summary of the proposed changes to the Commission, stating that this was a directive from ND DWR to add the introduction to Article 21.	
Chairman Agnew re-opened the public hearing		
Commissioner Small	Asked if someone could explain the ordinance change.	
Director	Explained that ND Legislature has delegated responsibility to local jurisdictions to adopt regulations to protect public health.	
Chairman Agnew closed the public hearing.		
Commission Streifel	Made a motion to recommend approval and send to the County Commission	
Commission Risch	Seconded the motion	
Chairman Agnew	Asked Commissioners for a Roll Call Vote.	
MOTION	MOTION	RESULTS
Approve the Ordinance and give a “Do Pass” recommendation	1 <sup>st</sup> Commissioner Streifel 2 <sup>nd</sup> Commissioner Risch	Approved 8 - 0
<b>ITEM 7-2 Amendments:</b>	Staff recommends review. Forward to 2 <sup>nd</sup> Public Hearing	
-Article 3 – Definitions -Article 5 – General Provisions and Guidance Article 7 – Use Groups Article 10 – Automobile Parking Article 13 – RR Residential District – Article 19 – MH – Manufactured Home		
Director Flanagan	Explained the transfer areas of the former ETA and the need for adopting urban development-standard ordinances to match what previously has been in effect.	

Commissioner Bitner	Explained the purpose of the ordinance amendments, to make sure there is no harm to citizens who built to the City standards between new Burleigh County amendments . The amendments should be limited to the ETA transfer area.	
Commissioner Risch	Mentioned the proposed changes that the City is enacting.	
Director Flanagan	City ordinances no longer affect the Former ETA areas.	
Commissioner Bitner	Discussed the differences in the lot coverage for accessory buildings and the possibility of increasing the size of accessory structures in Burleigh County.	
Commissioner Risch	Discussed bike racks	
Robert Fields	Made multiple comments on how the proposed amendments should not be made because they are for the entire Burleigh County	
Commissioner Bitner	The ordinance changes are not intended for what is existing and are not going to apply for anything that did not apply to before. The residents in the ETA were already under these ordinances	
Commissioner Streifel	Stated there should be a group review	
Commissioner Bitner	Stated the proposals were too much to consider in one meeting	
Commissioner Streifel	Stated the current planning commission is not representing the people who live in the ETA	
Chair Agnew	Made motion to continue the hearing to the next meeting	
Commissioner Bitner	Discussed not using the proposed ordinances into the rural areas of Burleigh and should be confined the former ETA areas.	
Commissioner Patrick	Suggested having a working group to review the ordinances.	
Director Flanagan	Stated the transfer area of the ETA will become Burleigh County jurisdiction n March 1 <sup>st</sup> . The County does not have urban standards in the current ordinances and suggested that the amended ordinance can be	

	adopted in order to give the County time to review and consider any new changes to be made	
Chair Agnew	Stated the ETA residents would have additional ordinances from these amendments.	
Director Flanagan	Suggested consider the changes to the current ordinances for the ETA transfer area only and adopting them temporarily will allow time for focus groups to consider any new changes	
Chair Agnew	Suggested use of new ordinances to create new districts in the ETA for now that would not include Burleigh County's existing ord. Or reverse by including the ETA ordinances in the County.	
Commissioner Bitner	Suggested that the City /County staff and Commissioners set up meetings to discuss	
<b>MOTION</b>	<b>RESPONSIBLE PARTY</b>	<b>RESULTS</b>
Motion was made to continue the hearing to the next meeting	1st Commissioner Bitner 2nd Commissioner Risch	Approved 8 - 0
<b>OTHER BUSINESS</b>		
No other items were on the agenda, and the meeting was closed.		

Meeting was adjourned at 6:47pm.

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Dennis Agnew  
Chairman

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Marla McMonagle  
Staff

**Agenda Item 4-1 All American Subdivision**

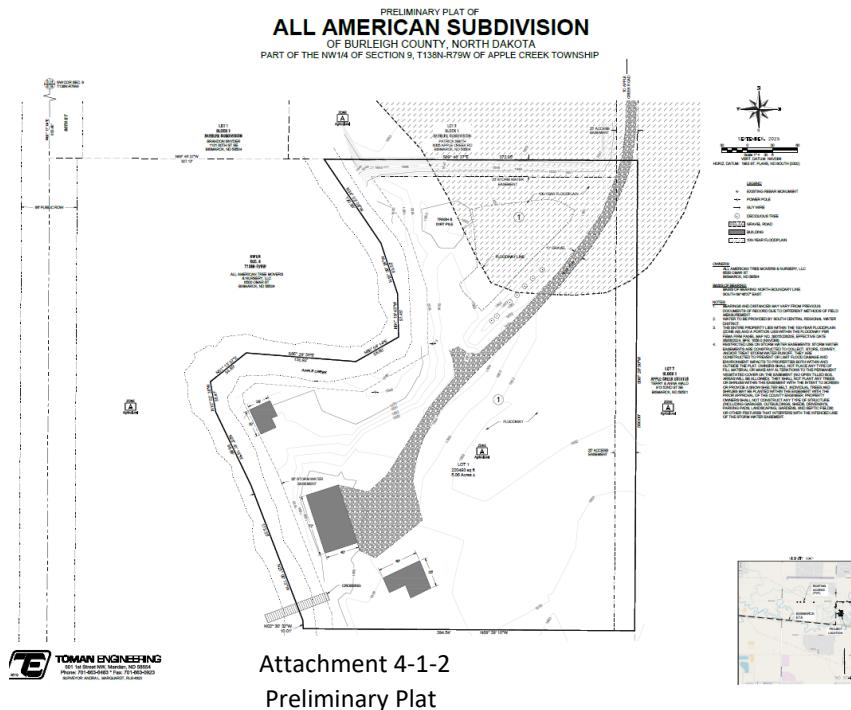
## Application for Subdivision

Project Summary	
Status:	Consent Agenda
Petitioner/Developer	Nathan Jensen
Engineer	Toman Engineering
Location:	Section 09 PT OF NW1/4; BEG AT PT ON N R/W LINE OF N P RY CO WHICH IS 700' ELY FROM W LINE OF SEC 9; TH WLY ETC 562342 09-138-79
	
4-1-1 Location Map	
Project Size:	5.06 acres +-
Zoning:	Ag
Petitioners Request	Approve preliminary plat call for a public hearing.

History/Description
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Burleigh County was approached about constructing a shop building on a proposed 5 acre a lot out of a parcel containing 21.61 acres +- . Because the lot is less than forty (40) acres, the petitioner was advised to plat the parcel into a subdivision. Toman Engineering met with County

Staff regarding the preliminary plat. The Staff did have concerns of the floodplains and adjoining floodway on the west side of the property.



Attachment 4-1-2  
Preliminary Plat

#### Staff Findings – Preliminary Plat

1. This subdivision meets the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This preliminary plat has been submitted to all reviewing entities.
3. This parcel is in Apple Creek Township jurisdiction. Zoning is A-Agricultural.
4. A Stormwater Management Plan waiver has been applied for.

Planning Staff Recommendation

The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the preliminary plat and to call for a public hearing.

Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the preliminary plat and schedule a public hearing.
2. Approve the preliminary plat with conditions. Call for a public hearing after all condition have been completed.
3. Deny the preliminary plat with finding of fact.
4. Table the preliminary plat for more information.

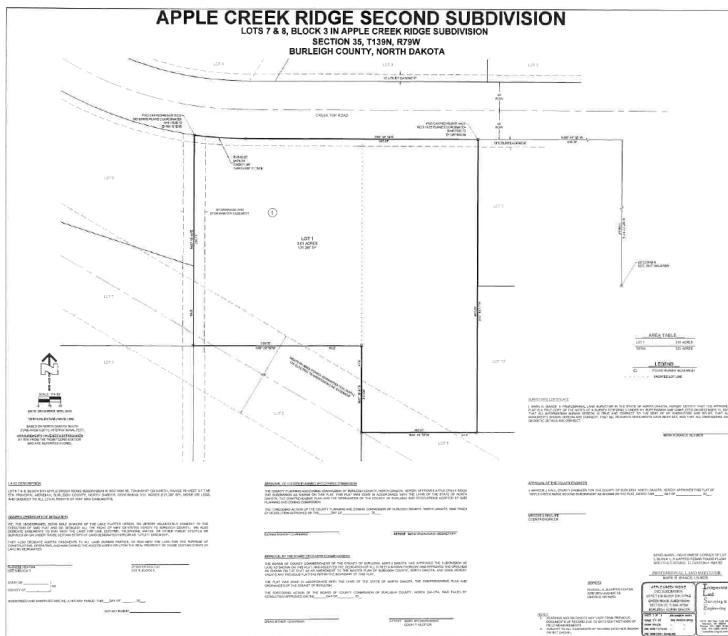
## Agenda Item 4-2 Apple Creek Ridge 2<sup>nd</sup> Subdivision

### Application for a Subdivision

Project Summary		Consent Agenda
Status:		Russel and Jennifer Heaton
Petitioner/Developer		Independent Land Surveying
Surveyor		APPLE CREEK RIDGE LOT 7 & 8
Location:		Block 03 Section 35 Township 139 Range 79 W.
		11517 Creektop Road Gibbs Township
4-2-1 Location Map		
Project Size:	3.01 acres +-	
Zoning:	R1	
Petitioners Request	Approve plat and call for a public hearing.	

### History/Description

Burleigh County was contacted with a proposed short plat lot combination for 2 parcels containing 3.01 acres+- . The owner wants to combine the 2 lots. County Staff does not have concerns.



Attachment 4-2-2 Plat

#### Staff Findings – Preliminary Plat

1. This subdivision meets the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This plat has been submitted to all reviewing entities.
3. This parcel is located in Gibbs Township.
4. Zoning is R1.
5. This subdivision meets the goals and initiatives of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.
6. A Stormwater Management Plan was waived.

#### Planning Staff Recommendation

The petition for a short plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the plat and schedule a public hearing.

#### Planning Commission Action

The Burleigh County Planning and Zoning Commission can:

1. Approve the Sibley Island Estates 2nd Subdivision plat and call for a public hearing.
2. Approve the Sibley Island Estates 2nd Subdivision plat with conditions.

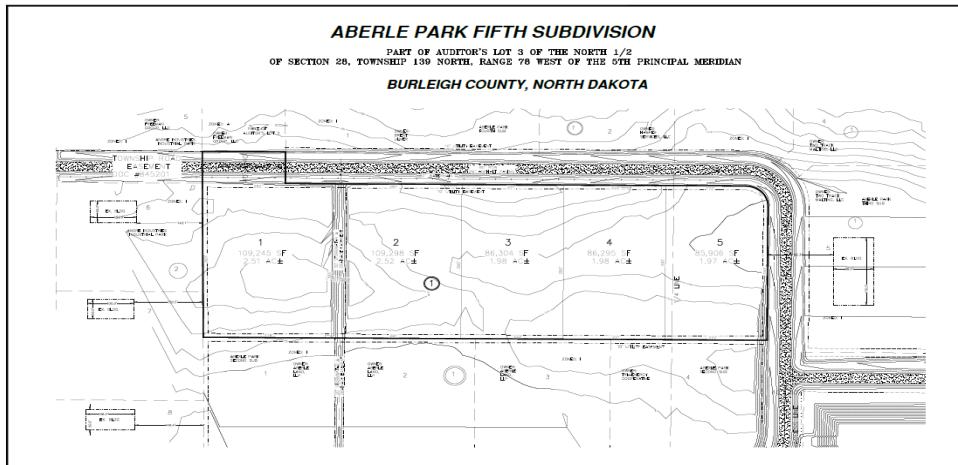
3. Call for a public hearing after all condition have been completed.
4. Deny the plat with finding of fact.
5. Table the plat for more information.

## Agenda Item 4-3 Aberle 5<sup>th</sup> Subdivision

Application for a Subdivision and Zone Change

Project Summary		Consent Agenda
Status:		Aberle Land LLP
Petitioner/Developer		Swenson Hagen & CO
Surveyor		Part of Auditors Lot 3-Section 28, T. 139. N., R. 78 W
Location:		911 Addresses have not yet been assigned.
		
4-4-1 Location Map		
Project Size:	11.4 acres +-	
Zoning:	Ag.	
Petitioners Request	Recommend preliminary plat, zone change for a public hearing.	

History/Description
Burleigh County was contacted with a proposed preliminary plat and zone change containing 5 parcels of 11.32 +- acres. The petitioner has also requested to change the existing AG. zoning to I-Industrial. County Staff does not have any concerns.



Attachment 4-4-2  
Preliminary Plat

**Staff Findings – Preliminary Plat**

1. This subdivision meets the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This preliminary plat has been submitted to all reviewing entities.
3. This parcel is located in Menoken Township.
4. Current zoning is Ag- Agriculture
5. This subdivision meets the goals and initiatives of the Burleigh County Comprehensive Plan Article VI Business and Industry – Objectives 1,3 and 4.

**Planning Staff Recommendation**

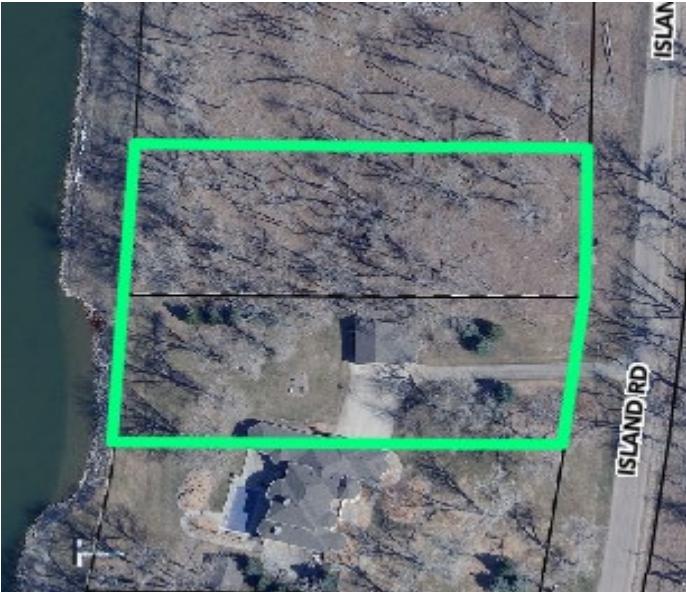
The petition for a preliminary plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends scheduling a public hearing for the preliminary plat and proposed zone change.

**Planning Commission Action**

1. The Burleigh County Planning and Zoning Commission can:
2. Recommend the preliminary plat and zone change for a public hearing.
3. Recommend the preliminary plat with conditions for a public hearing after all condition have been completed.
4. Deny the preliminary plat with finding of fact.
5. Table the preliminary plat for more information.

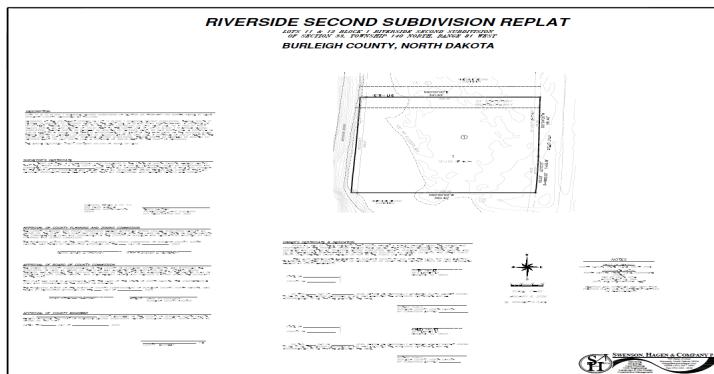
**Agenda Item 4-4 Riverside 2<sup>nd</sup> Subdivision Replat.**

## Application for a Subdivision

Project Summary	
Status:	Consent Agenda
Petitioner/Developer	Dustin & Ashley Masset
Surveyor	Swenson Hagen
Location:	Lots 11 & 12 BLOCK 1 RIVERSIDE SECOND SUB.  9462 & 9448 Island Road
	
4-5-1 Location Map	
Project Size:	2.3 acres +-
Zoning:	R1
Petitioners Request	Approve plat call for a public hearing.

**History/Description**

Burleigh County was contacted with a proposed short plat lot combination for 2 parcels containing 2.3 acres +- . The owner wants to combine the 2 lots. County Staff does not have any concerns.



Attachment 4-5-2 Plat

**Staff Findings – Preliminary Plat**

1. This subdivision meets the requirements of Article 33 of the Burleigh County Zoning Ordinance.
2. This Riverside 2<sup>nd</sup> Subdivision Replat plat has been submitted to all reviewing entities.
3. This parcel is located in Riverview Township.
4. Zoning is R1 .
5. This subdivision meets the goals and initiative of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.
6. A Stormwater Management Plan was waived.

**Planning Staff Recommendation**

The petition for the Riverside 2nd Subdivision Plat meets all administrative requirements of the Burleigh County Zoning Ordinance. Staff recommends approval of the Riverside 2nd Subdivision plat and calling for a public hearing.

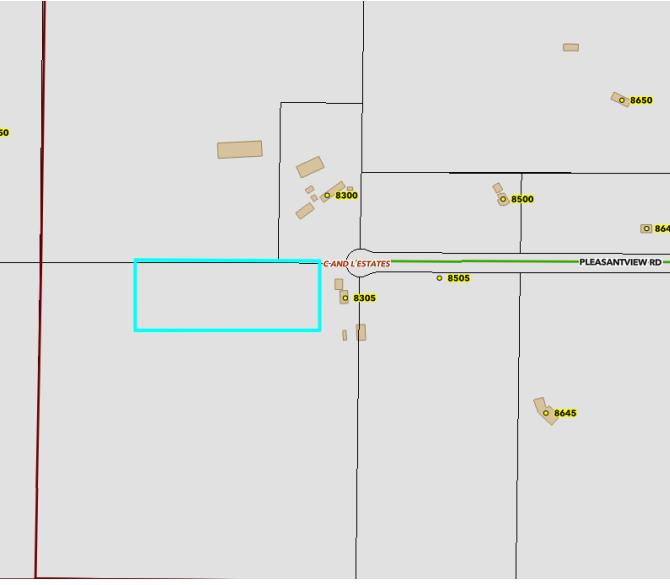
**Planning Commission Action**

The Burleigh County Planning and Zoning Commission can:

1. Approve the plat and schedule a public hearing.
2. Approve the plat with conditions.
3. Call for a public hearing after all condition have been completed.
4. Deny the plat with finding of fact.
5. Table the plat for more information.

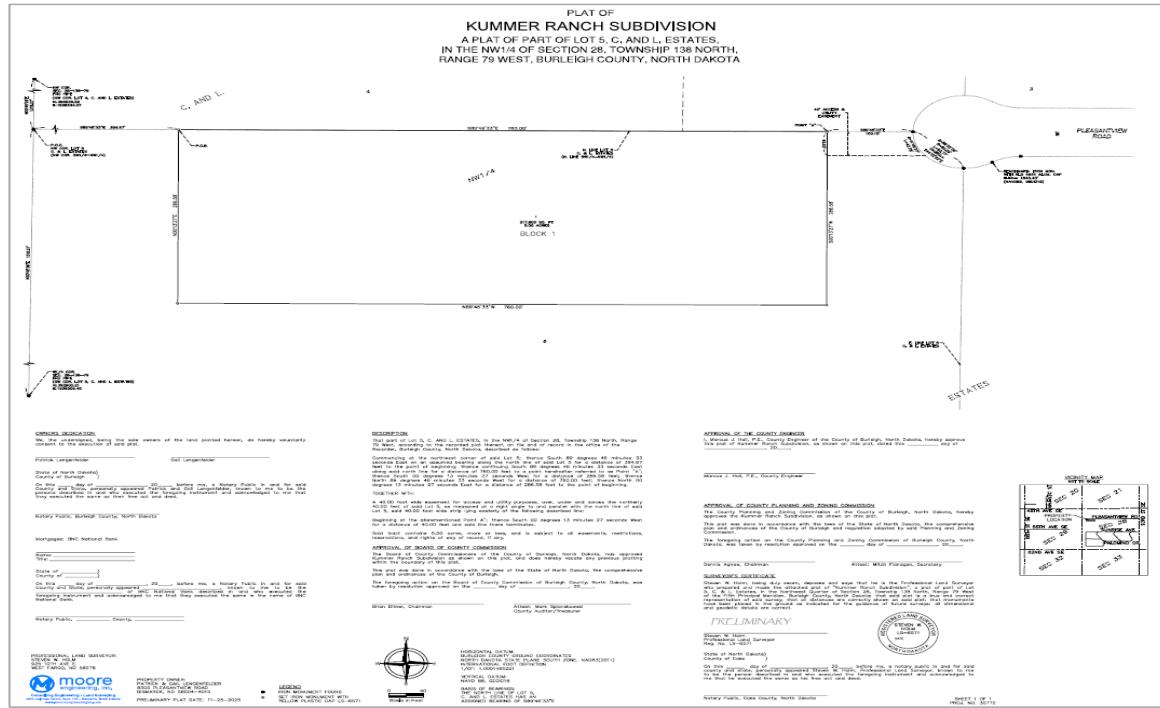
## Agenda Item 5.1 Public Hearing for Kummer Ranch Subdivision

Application for a Subdivision

Project Summary	
Public Hearing Agenda	Approval of Kummer Ranch Final Subdivision Plat
Status:	Public Hearing
Petitioner/Developer:	Patrick & Gail Lengenfelder
Engineer:	Tom Weigel – Moore Engineering
Location:	<p>8305 Pleasantview Road          Lot C, Block 00, C and L Estates          Subdivision Part of the N ½ of          Section 28, Township 138 N, Range          79W</p>  <div style="border: 1px solid black; padding: 5px; display: inline-block;">           Exhibit 5-1-1 Location Map         </div>
Existing Parcel Size:	40 acres A-Agricultural
Notifications:	<p>Bismarck Tribune: 1-24-2026                                    2-3-2026</p> <p>Surrounding Properties: 2-2-2026          Burleigh Co. Website    2-4-2026</p>

## History/Description

Burleigh County Planning and Building Staff met with Moore Engineering on November 6<sup>th</sup> for a pre-application meeting. The owner intends to create a single lot five (5) acre subdivision on his property containing 40 acres more or less. The review team did not post any concerns. The petitioner was requested to apply for a SWMP waiver and a paving waiver



## Exhibit 5-1-2 Final Plat



### Staff Findings:

1. The application has fulfilled all the requirements of Article 33 Subdivision Regulations.
2. Zoning for the property is A-Agricultural and is in Apple Creek Township Jurisdiction
3. The petitioner will apply for a SWMP Waiver.
4. The petitioner will apply for a Paving Waiver.
5. The subdivision has been reviewed by all reviewing entities. Minor corrections are being made and submitted.
6. This final subdivision plat meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

### Planning Staff Recommendation

The request for a final plat approval fulfills the administrative requirements of the Burleigh County Zoning Ordinances – Article 33 & Article 11.

### **Planning Commission Action**

The Burleigh County Planning and Zoning Commission can recommend to:

1. Approve the final plat with a "do pass" recommendation.
2. Approve the plat with conditions with a "do pass" recommendation.
3. Deny the final plat with finding of fact.
4. Table the final plat for more information.

### **5-2 Amendments to Zoning Ordinance: *(Continuation Hearing)***

## Zoning Districts Exhibit Number of Parcels in the Transfer Area of the ETA (TAETA)

### Review the following Staff Reports Exhibits:

#### Introduction Staff Report

- Ex. 5.2.1. Zoning Comparison Art. 21- 14-04-19
- Ex. 5.2.2. Zoning Comparison Ag -- Ag.
- Ex. 5.2.3. Zoning Comparison R1 – RR
- Ex. 5.2.4. Zoning Comparison R1 – R5
- Ex. 5.2.5. Zoning Comparison R1 - RR5
- Ex. 5.2.6. Zoning Comparison R1 - RM
- Ex. 5.2.7. Zoning Comparison R2 - RM10
- Ex. 5.2.8. Zoning Comparison R2 - RM15

## STAFF REPORT Introduction

### Draft Zoning Ordinance

#### Summary

City of Bismarck Zoning Districts	
<i>Status:</i>	Planning and Zoning Commission – Consideration
<i>Project Contact:</i>	Mitch Flanagan
<i>Request:</i>	Revise and Update Ordinances
<i>Staff Recommendation:</i>	Consider Change to Ordinances

City of Bismarck will be transitioning 4,529 parcels into Burleigh County jurisdiction on March 1<sup>st</sup>. This area contains 95% the population of the entire former ETA, approximately 12-14,000 residents.

Because of the jurisdictional transfer, consideration for this area only, is to:

1. Supersede the transfer area's Bismarck zoning ordinances with new ordinances for the 10 districts listed below, or,
2. Leave the City's existing ordinances in place.

BURLEIGH COUNTY ZONING DISTRICTS

 A - Agricultural
 C - Commercial
 I - Industrial
 P - Public
 PUD - Planned Unit Development
 RR - Rural Single Family Residential
 R1 - Rural Single Family Residential
 R2 - Rural Single Family Residential
 100 Year Floodplain (As of June 6, 2024)
 500 Year Floodplain (As of June 6, 2024)
 Floodway (As of June 6, 2024)
 Bismarck Zoning Jurisdiction
 Lincoln Zoning Jurisdiction
 Other Township Zoning Jurisdiction
 City or Townsite Boundary

BISMARCK ZONING DISTRICTS

<b>CITY OF BISMARCK ZONING IN AREAS TO BE REMOVED FROM ETA</b>	
 A - AGRICULTURAL	 CA - NEIGHBORHOOD COMMERCIAL
 CL - HEAVY COMMERCIAL	 CM - HEAVY COMMERCIAL
 MA - LIGHT INDUSTRIAL	 MB - HEAVY INDUSTRIAL
 P - PUBLIC USE	 PUD - PLANNED UNIT DEVELOPMENT
 R10 - TWO FAMILY RESIDENTIAL	 R5 - SINGLE FAMILY RESIDENTIAL
 RM - MULTI-FAMILY RESIDENTIAL	 RM10 - MULTI-FAMILY RESIDENTIAL
 RM15 - MULTI-FAMILY RESIDENTIAL	 RR - RURAL SINGLE FAMILY RESIDENTIAL
	 RR5 - RURAL SINGLE FAMILY RESIDENTIAL

EXISTING ZONING AND # OF PARCELS IN THE FORMER ETA TRANSFER AREA

1. A - AGRICULTURAL = 160
2. CA - NEIGHBORHOOD COMMERCIAL = 3
3. CL - HEAVY COMMERCIAL = 2
4. CM - HEAVY COMMERCIAL = 4
5. MA - LIGHT INDUSTRIAL = 1
6. MB - HEAVY INDUSTRIAL = 4
7. P - PUBLIC USE = 24
8. PUD - PLANNED UNIT DEVELOPMENT = 244
9. R5 - SINGLE FAMILY RESIDENTIAL = 208
10. R10 - TWO FAMILY RESIDENTIAL = 138
11. RM - MULTI-FAMILY RESIDENTIAL = 2
12. RM10 - MULTI-FAMILY RESIDENTIAL = 8
13. RM15 - MULTI-FAMILY RESIDENTIAL = 12
14. RR - RURAL SINGLE FAMILY RESIDENTIAL = 3,692
15. RR5 - RURAL SINGLE FAMILY RESIDENTIAL = 23
16. FP - FLOODPLAIN DISTRICT = 1,440 structures within the SFHA.
17. TOTAL OF 4,529 PARCELS

## **ZONING DISTRICTS IN THE TRANSFER AREA OF THE ETA**

### **FP District**

It is the purpose of this article to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed

- Bismarck's Floodplain regulations do not recognize the 500 year floodplain as a Special Flood Hazard Area- SFHA.

### **AG District**

The agricultural district is established as a district in which the predominant use of land is for general agricultural uses.

- Minimum lot area: 40 acres to 10 acres
- 160 Parcels (Located in the TA-ETA)

### **RR District- Single Family Residential**

The RR residential district is established as a district in which the principal use of the land shall be for low density, large lot single-family dwellings:

- Minimum lot area: 65,000 square feet
- 3,692 Parcels

### **RR5 District- Single-Family Residential**

The RR5 residential district is established as a district in which the principal use of the land shall be for low density, large lot single-family dwellings, limited agriculture, and limited equine husbandry:

- Minimum lot area: 5 acres
- 23 Parcels

### **R10 District- Two-Family Residential**

The R10 residential district is established as a district in which the principal use of land is for single-family and two-family dwellings.

- Minimum lot area: Not less than 3,500 feet per unit. Ten(10) families per acre.
- 138 Parcels

### **RM District- Multi-Family Residential**

The RM residential district is established as a district in which the principal use of land is for multifamily dwellings and similar high density residential development.

- Minimum lot area: 7,000 sq./ft. , 3-30 units per net acre.
- 2 Parcels

### **RM10 District- Multi-Family Residential**

The R10 residential district is established as a district in which the principal use of land is for single-family and two-family dwellings.

- The maximum allowable density shall be ten (10) families per gross acre
- 8 Parcels

## **RM15- Multi-Family Residential**

The RR5 residential district is established as a district in which the principal use of the land is for single-family and two-family dwellings.

- The maximum allowable density shall be fifteen (15) families per gross acre
- 12 Parcels

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## **STAFF REPORT Ex. 5.2.1.**

### **Draft Zoning Ordinance**

#### **Summary**

Ordinance Comparison and Review for Floodplain Districts:

**Status:** Planning and Zoning Commission – Consideration

**Project Contact:** Mitch Flanagan

**Request:** Revise and update ordinances

#### **Staff**

**Recommendation:** Review

### **Burleigh FP – Article 21 Floodplain District- Bismarck Article 14-04-19 Floodplain District**

	<b>Burleigh FP</b>	<b>Bismarck FP</b>
<b>SFHA Definition / Regulatory Standard</b>	Definition of SFHA: an area of land that would be inundated by a flood having two tenths of one percent (.02%) or greater chance of being equaled or exceeded in any given year (500-year flood) *all regulations are based on this definition and are a higher regulatory standard than Bismarck	Definition of SFHA: an area of land that would be inundated by a flood having a one percent (1%) chance of being equaled or exceeded in any given year (100-year flood) *all regulations are based on this definition
<b>Alteration of Water Courses</b>	Does not require notification of the appropriate water resource district prior to removal or	Requires notification of the appropriate water resource district prior to

	replacement of fill within 200 feet of the ordinary highwater mark of a body of water during normal flow or stage.	removal or replacement of fill within 200 feet of the ordinary highwater mark of a body of water during normal flow or stage.
<b>Variance</b>	Includes finding for approval: "any other factor deemed relevant by Board of Appeals"	Does not include this finding.
<b>Variance</b>	Includes condition for approval of variances for new construction and substantial improvements on lots less than 1.5 acres in size contagious to and surrounded by lots with existing structures constructed below the BFE to be constructed below the BFE. This condition references CFR 44 60.6 (although not specifically noted in ordinance)	Does not include this condition
<b>Additional Development Standards Adjacent to Missouri River</b>	R1- Applies to properties platted after 2003. Requires structure setback of 100 feet from ordinary high-water mark, and 75 feet from ordinary high-water mark for a USAC stabilized bank	RR & RR5- Applies to properties platted after 2003. Requires structure setback of 100 feet from the ordinary high-water mark

## STAFF REPORT Ex. 5.2.2.

### Summary

#### Comparison and Review of Ag. to Ag. Districts

<b>Status:</b>	Planning and Zoning Commission – Consideration
<b>Project Contact:</b>	Mitch Flanagan
<b>Request:</b>	Revise and update ordinances
<b>Staff</b>	Review
<b>Recommendation:</b>	

#### *Burleigh County AG Agricultural to Bismarck A. – Agricultural*

	Burleigh AG	Bismarck AG
<b>Allowed Uses (by-right)</b>	Farming, Single family homes, livestock sales, gravel extraction, oil and gas, golf course, etc.	Farming, Single family homes, livestock sales, gravel extraction, ag recreation, oil and gas, golf course, etc.
<b>Allowed Uses (special)</b>	Veterinary, airport, cemetery, asphalt and concrete, rodeo, shooting range, junkyard, racetrack, wind turbines, asphalt and concrete, meatpacking, animal feeding operations etc.	Temporary sales of certain items, solid waste disposal, veterinary, airport, junkyard cemetery, religious, asphalt and concrete, private riding arena, etc.
<b>Animal Feeding Operations</b>	Defined as 1,000+ AU. SUP req' Bond required for larger operations. Setbacks to wells, residences, odor. Prohibited from any ETA.	Defined as 300+ AU. Not addressed in ordinance, which likely means not permitted.
<b>Definition of Farm</b>	10 Acres or more and generating more than 50% of income.	10 Acres or more and generating more than 50% of income
<b>Lot Area, minimum</b>	40 acres or aliquot part intended to be 40 acres, or 35 acre government lot. Applies to non-agricultural uses.	40 acres or aliquot part intended to be 40 acres, down to 35 acres. Applies to single-family homes only.
<b>Lot Width, minimum</b>	640 feet	660 feet

<b>Front Setback</b>	40 feet residential, 140 feet comm. from property line	40 feet from property line
<b>Front Setback Collector Road</b>	65 feet residential, 115 feet comm. from property line.	125 measured from property line
<b>Front Setback Arterial Road</b>	175 feet residential, 225 feet comm. from property line.	175 measured from property line.
<b>Side Setback</b>	Not less than 20% of average width or 15 feet, whichever is less.	15 feet. Corner lots have 2 sides considered front yards.
<b>Rear Setback</b>	50 feet	50 feet
<b>Building Height Principal</b>	2 ½ stories or 35 feet max for single family. 4 stories or 50 feet for other. Side and rear setbacks adjusted by height.	40 feet max for single family dwelling; 50 feet for other. Side and rear setbacks adjusted by height.
<b>Accessory Building Height</b>	2 stories or 25 feet max, and max wall height of 16 ½ feet.	25 feet max
<b>Accessory Building Area</b>	4% of the lot area max. Attached garages over 150% of area counted.	1% of the total lot area up to 5,000 SF. With a special use permit: if 35 Acres+, 8,000 SF. For 70 Acres+, 15,000 SF.
<b>Accessory Dwellings</b>	Special use permit req'.	Permitted with special use permit
<b>Home Occupations</b>	No external employees; no more than 25% of primary home; 1 SF sign. No on-premise sales;	Up to 3 external employees; up to 50% of primary home and 100% accessory buildings; Sign of 3+ SF; Sales allowed unless traffic problem
<b>Utility Services</b>	Allowed by-right with landscaping and fencing requirements.	Allowed by-right with landscaping and fencing requirements.
<b>Accumulation of Certain items</b>	Keeping certain “junk” is prohibited	Keeping certain “junk” is prohibited

## STAFF REPORT Ex. 5.2.3.

### Summary

#### Ordinance Comparison and Review of R1 to RR

<i>Status:</i>	Planning and Zoning Commission – Consideration
<i>Project Contact:</i>	Mitch Flanagan
<i>Request:</i>	Revise and update ordinances
<i>Staff</i>	Review
<i>Recommendation:</i>	

#### *Burleigh County R1 Residential – Bismarck Zoning RR District*

	<b>Burleigh R1</b>	<b>Bismarck</b>
<b>Allowed Uses (by-right)</b>	Single-family dwellings Education group Church Utility service group Public recreation group Truck-farming group Animal husbandry Private riding stables Golf Course	Single-family dwellings Education group Church Utility service group Public recreation group Truck-farming group Animal husbandry Private riding stables Golf Course Chicken Hens (10) Coops Family foster home adults. Family childcare
<b>Allowed Uses (special)</b>	Customary accessory uses as allowed in Art. 6 Accessory dwelling unit	Childcare centers. Religious institution. Acc. dwelling unit
<b>Horses</b>	2 per 2 acres with additional horse per 3 acres. Barn 100 feet from neighbor structure	2 per 2 acres with additional horse per 3 acres. Barn 100 feet from neighbor structure
<b>Chickens</b>	Prohibited, generally.	Chicken Hens (10) Coops

<b>Dogs and Cats</b>	No more than three (3) dogs four months of age or older.	Three (3) dogs four months of age or older.
<b>General Animals</b>	Any animals for educational purposes allowed.	Allowed for Educational purposes
<b>Lot Area</b>	65,000 sq./ft. minimum or 40,000 sq./ft if platted prior to 4/5/2004	65,000 sq./ft. 40,000 sq./ft if platted prior to 4/5/2004
<b>Lot Width/Depth</b>	150 feet minimum width, 200 feet min depth	150'w/200' minimum depth
<b>Front Setback</b>	40 feet from property line, unless on major road. Then between 115 – 250' from centerline.	40
<b>Side Setback</b>	Not less than 20% of average width or 15' whichever is less.	15'
<b>Rear Setback</b>	50'	50'
<b>Building Height Principal</b>	2 ½ stories or 35' max for single family. 4 stories or 50' for other. Side and rear setbacks adjusted by height.	40' Side and rear setbacks adjusted by height.
<b>Accessory Building Height</b>	2 stories or 25' max, and wall height of 16 ½ feet.	25'
<b>Accessory Building Area</b>	4% of the lot area max. Attached garages over 150% of area counted.	Proposed 4%
<b>Accessory Dwellings</b>	Allowed- See Article 8	Allowed
<b>Home Occupations</b>	No external employees; no more than 25% of primary home; 1 SF sign. No on-premise sales;	Up to 3 external employees; up to 50% of primary home and 100% accessory buildings; Sign of 3+ SF; Sales allowed unless traffic problem

Burleigh County Planning Department Staff Report. Cont.

<b>Utility Services</b>	Allowed by-right with landscaping and fencing requirements.	Allowed by-right with landscaping and fencing req's.
<b>Accumulation of Certain items</b>	Keeping certain “junk” is prohibited	Junk accumulation is not allowed.

## STAFF REPORT Ex. 5.2.4.

### Summary

#### Comparison and Review of R1 to R5 Residential Districts

**Status:** Planning and Zoning Commission – Consideration

**Project Contact:** Mitch Flanagan

**Request:** Revise and update ordinances

**Staff** Review

**Recommendation:**

#### *Burleigh R1 – Country Homes and Bismarck R5 –Single Family Residential*

	<b>Burleigh R1</b>	<b>Bismarck R5</b>
<b>Allowed Uses (by-right)</b>	Single family homes, schools, religious, golf course, truck-farming	Single-family dwellings. Education group. Public recreational group. Private riding stables Family foster home for adults.
<b>Allowed Uses (SUP)</b>	Acc. Dwelling Unit	Childcare centers. Religious institution. Accessory dwelling unit.
<b>Horses</b>	1 per 2 acres with 2 acres per additional horse. Barn 100 feet from neighbor structure.	3 horses per five (5) acres with 1 additional horse for every 3 acres
<b>Chickens</b>	Prohibited, generally.	10 Chicken Hens allowed
<b>Dogs and Cats</b>	No more than three (3) dogs four months of age or older.	No more than three (3) dogs
<b>General Animals</b>	Any animals for educational purposes allowed.	Animal husbandry primarily for educational purposes, not for commercial use.
<b>Density</b>	1 family per 1 acre	1 family per 5 acres.

<b>Lot Area</b>	65,000 SF minimum or 40,000 SF if platted prior to 4/5/2004	Minimum lot size- 5 acres.
<b>Lot Width/Depth</b>	150 feet minimum width, 200 feet min depth	300' minimum lot width 400' minimum lot depth
<b>Front Setback</b>	40 feet from property line, unless on major road. Then between 115 – 250 from centerline.	40' setback. If on Primary Hwy- 250' from centerline of road.
<b>Side Setback</b>	Not less than 20% of average width or 15 feet, whichever is less.	15'
<b>Rear Setback</b>	50 feet	50'
<b>Building Height Principal</b>	2 ½ stories or 35 feet max for single family. 4 stories or 50 feet for other. Side and rear setbacks adjusted by height.	40' for SFD 50' for Principle Structure
<b>Accessory Building Height</b>	2 stories or 25 feet max, and wall height of 16 ½ feet.	25' up to 35' w/4' added to rear setback
<b>Accessory Building Area</b>	4% of the lot area max.	Currently under consideration to follow same 4% as County
<b>Accessory Dwellings</b>	See Article 8	
<b>Home Occupations</b>	No external employees; no more than 25% of primary home; 1 SF sign. No on-premise sales;	Major and Minor home occupations are permitted by right.
<b>Utility Services</b>	Allowed by-right with landscaping and fencing requirements.	Not Addressed
<b>Accumulation of Certain items</b>	Keeping certain “junk” is prohibited	Not Addressed in Article

## STAFF REPORT Ex. 5.2.5.

### Draft Zoning Ordinance

#### Summary

##### Comparison and Review of R1 to RR5 - Rural Residential Districts

**Status:** Planning and Zoning Commission – Consideration

**Project Contact:** Mitch Flanagan

**Request:** Revise and update ordinances

**Staff** Review

**Recommendation:**

#### Burleigh County R1 Country Homes to Bismarck Zoning RR5 – Rural Residential

	Burleigh R1	Bismarck RR5
<b>Allowed Uses (by-right)</b>	Single-family dwellings, school group, church group Utility service group Public recreation group Truck-farming group	Single-family dwellings. Education group. Public recreational group Family foster home for adults. Family childcare
<b>Special Use Permit</b>	None stated. To be determined in Article 8	Childcare centers. Religious institution. Accessory dwelling unit.
<b>Horses</b>	Private riding stables. 1 per 2 acres. Additional horses shall be allowed at the rate of one (1) horse for every additional three (3) acres. Barn 100 feet from neighbor structure	Private riding stables for private use only. Three (3) horses shall be permitted on any premises which contains at least five (5) acres. Additional horses shall be allowed at the rate of one (1) horse for every additional three (3) acres.
<b>Chickens</b>	Not stated in ordinance	Chicken Hens and Coops allowed for private use. No roosters. No more than 10 chickens permitted

<b>Dogs and Cats</b>	No more than three (3) dogs four months of age or older.	No more than 3 cats or dogs
<b>General Animals</b>	Most animals for educational purposes allowed.	Animal husbandry conducted primarily for educational purposes or school credits, not for commercial purposes
<b>Lot Area</b>	65,000 SF minimum or 40,000 SF if platted prior to 4/5/2004	5 Acres
<b>Lot Width/Depth</b>	150 feet minimum width, 200 feet min depth	300' lot width minimum 400' lot depth minimum
<b>Front Setback</b>	40 feet from property line. 115 – 250 from centerline if located on a major road.	40'
<b>Side Setback</b>	Not less than 20% of average width or 15 feet, whichever is less.	15'
<b>Rear Setback</b>	50 feet	50'
<b>Density</b>	Max. density is one (1) family per 1 acre	1 dwelling per 5 acres
<b>Building Ht. Principal</b>	2 stories, not to exceed 2')	40' maximum 50' principle
<b>Accessory Building Ht.</b>	2 stories or 25 feet max, and max wall height of 16.5' .	25'
<b>Accessory Building Area</b>	4% lot coverage	3,200 sq./ft. max.
<b>Accessory Dwellings</b>	Allowed by SUP	Allowed by right
<b>Home Occupations</b>	See Article 6	Allowed by right

Burleigh County Planning Department Staff Report. Cont.

<b>Utility Services</b>	Allowed, req' landscaping and fencing.	Allowed, req' landscaping and fencing.
<b>Accumulation of Certain items</b>	Accumulation of Junk is prohibited	Accumulation of junk is prohibited.

## STAFF REPORT Ex. 5.2.6.

### Summary

#### Ordinance Comparison and Review of R2 to RM

<i>Status:</i>	Planning and Zoning Commission – Consideration
<i>Project Contact:</i>	Mitch Flanagan
<i>Request:</i>	Revise and update ordinances
<i>Staff</i>	Review
<i>Recommendation:</i>	

#### *Burleigh County R2 Residential – Bismarck Zoning RM District*

	<b>Burleigh R2</b>	<b>Bismarck RM</b>
<b>Allowed Uses (by-right)</b>	Single-family dwellings Education group Utility service group Public recreation group Golf Course	Public Rec' Group Multi-Family Group Group Dwelling Education Group Row Houses
<b>Allowed Uses (special)</b>	Customary accessory uses as allowed in Art. 6	Childcare centers. Religious institution. Accessory dwelling unit to a SFD
<b>Horses</b>	Not Allowed	Not Allowed
<b>Chickens</b>	Not Allowed	Not Allowed
<b>Dogs and Cats</b>	No more than three (3) dogs four months of age or older.	Three (3) dogs four months of age or older.
<b>General Animals</b>	Not Allowed	Allowed for Educational purposes
<b>Density</b>	2 Families per net acre	3-30 units per net acre.
<b>Lot Area</b>	Not less than 20,000 sq./ft.	7,000 sq./ft. If platted prior to 1953- 5,000 sq./ft.

Burleigh County Planning Department Staff Report. Cont.

<b>Lot Width/Depth</b>	80'/120'	60'
<b>Front Setback</b>	30'	25'
<b>Side Setback</b>	15'	110'
<b>Rear Setback</b>	30'	50'
<b>Building Height Principal</b>	40'	40' Side and rear setbacks adjusted by height.
<b>Accessory Building Height</b>	25'	25'
<b>Accessory Building Area</b>	4% of the lot area max.	Proposed 4%
<b>Accessory Dwellings</b>	See Article 8	Allowed
<b>Home Occupations</b>	No external employees; no more than 25% of primary home; 1 SF sign. No on-premise sales;	Minor Home Occ. Allowed by Right. Major Home Occ. allowed by SUP.
<b>Utility Services</b>	Allowed by-right with landscaping and fencing requirements.	Allowed by-right with landscaping and fencing requirements.
<b>Accumulation of Certain items</b>	Keeping certain "junk" is prohibited	Junk accumulation is not allowed.

## STAFF REPORT Ex. 5.2.7.

### Summary

#### Comparison and Review of R2 to RM10 Residential Districts

<i>Status:</i>	Planning and Zoning Commission – Consideration
<i>Project Contact:</i>	Mitch Flanagan
<i>Request:</i>	Revise and update ordinances
<i>Staff</i>	Review
<i>Recommendation:</i>	

#### *Burleigh County R2 Residential District –Bismarck Zoning - RM10-Family District*

	Burleigh R2	Bismarck RM10
<b>Allowed Uses (by-right)</b>	Single-family dwellings Education group Utility service group Public recreation group Golf course	Single-Multi-Family Dwelling. Education group. Public recreation group. Row houses
<b>Allowed Uses (special use)</b>	Airport Cemetery	Childcare center. Religious institution. Accessory dwelling unit to a single-family home.
<b>Horses</b>	Not Allowed	Not Allowed
<b>Chickens</b>	Not Allowed	Not Allowed
<b>Dogs and Cats</b>	3 Dogs	3 Dogs
<b>General Animals</b>	Not Applicable	Not Applicable
<b>Density</b>	2 Families per acre	Ten (10) families per acre AS: Stipulated in underlying zoning district.
<b>Lot Area</b>	Minimum size lot 20,000 sq./ft.	7,000 sq./ft.

Burleigh County Planning Department Staff Report. Cont.

<b>Lot Width/Depth</b>	Width-80' Depth- 120'	60'
<b>Front Setback</b>	30'	25'
<b>Side Setback</b>	15'	10'
<b>Rear Setback</b>	30'	20'
<b>Building Height Principal</b>	40'	60'
<b>Accessory Uses</b>	Customary accessory uses are allowed in the R2 in accordance with Article 6.	SUP: Childcare center. Religious institution. Accessory dwelling unit.
<b>Accessory Building Height</b>	25'	25'
<b>Accessory Building Area</b>	4%	Both Principle and Accessory structures cannot exceed 50%
<b>Accessory Dwellings</b>	Not Applicable	Allowed
<b>Home Occupations</b>	No employees, no stock/no sales on site, max. 25% of area	<u>Minor Home Occ.</u> allowed <u>Major Home Occ.</u> allowed by SUP.
<b>Utility Services</b>	N/A	N/A
<b>Accumulation of Certain items</b>	Keeping certain “junk” is prohibited	Junk accumulation is not allowed.

## STAFF REPORT Ex. 5.2.8.

### Summary

#### Comparison and Review of R2 to RM15 Residential Districts

<i>Status:</i>	Planning and Zoning Commission – Consideration
<i>Project Contact:</i>	Mitch Flanagan
<i>Request:</i>	Revise and update ordinances
<i>Staff Recommendation:</i>	Approve

#### *Burleigh County R2 Residential District –Bismarck Zoning - RM15-Family District*

	<b>Burleigh R2</b>	<b>Bismarck RM15</b>
<b>Allowed Uses (by-right)</b>	Single-family dwellings Education group Utility service group Public recreation group Golf course	Multi-Family Dwelling. Education group. Public recreation group. Row houses
<b>Allowed Uses (special)</b>	Airport Cemetery	Childcare center. Religious institution. Accessory dwelling unit to a single-family home.
<b>Horses</b>	Not Allowed	Not Allowed
<b>Chickens</b>	Not Allowed	Not Allowed
<b>Dogs and Cats</b>	3 Dogs/Cats	3 Dogs/Cats
<b>General Animals</b>	Not Applicable	Not Applicable
<b>Density</b>	2 Families per acre	Fifteen (15) families per gross acre AS: Stipulated in underlying zoning district.
<b>Lot Width/Depth</b>	Width-80' Depth- 120'	60'

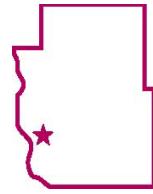
Burleigh County Planning Department Staff Report. Cont.

<b>Front Setback</b>	30'	25'
<b>Side Setback</b>	15'	10'
<b>Rear Setback</b>	30'	20'
<b>Building Height Principal</b>	40'	60'
<b>Accessory Uses</b>	Customary accessory uses are allowed in the R2 in accordance with Article 6.	As allowed by Section 14-03-06. Incidental Uses
<b>Accessory Building Height</b>	25'	25'
<b>Accessory Building Area</b>	4%	Both Principle and Accessory structures cannot exceed 50%
<b>Accessory Dwellings</b>	Not Applicable	Allowed
<b>Home Occupations</b>	No employees, no stock/no sales on site, max. 25% of area	<u>Minor Home Occ.</u> allowed <u>Major Home Occ.</u> allowed by SUP.
<b>Utility Services</b>	N/A	N/A
<b>Accumulation of Certain items</b>	Keeping certain “junk” is prohibited	Junk accumulation is not allowed.



## Burleigh County Planning and Zoning Commission Meeting Agenda

Tom Baker Meeting Room, City/County Building, 221 5<sup>th</sup> Street N,  
Bismarck, ND



5:15pm

Attend in Person || Watch Live on Government Access Channels 2 or 602 || Stream on [Freetv.org](https://freetv.org) or  
[Dakota Media Access Facebook Live](https://www.facebook.com/DakotaMediaAccess) || Replay Later from [Freetv.org](https://freetv.org)

## AGENDA January 14, 2026

1. Introduction of new Planning and Zoning Commission Member  
Mitch Flanagan – Director
2. Roll Call
3. Election of Officers  
Mitch Flanagan – Director
4. Approval of December 10, 2025, Minutes
5. Public Comments: (*Restricted to Burleigh County residents and landowners*)
6. Consent Agenda: (*The following item(s) are request(s) for a public hearing*)
  - 6-1 Kummer Ranch Subdivision:  
-Requests approval of a one (1) lot Subdivision and call for a public hearing.  
*Staff recommendation: Approval*
7. Public Hearing Agenda:
  - 7-1 Amendment 21 – FP Floodplain District (*First Hearing*)  
*Staff recommendation: Approval*
  - 7-2 Amendments: (*First Hearing*)
    - Amendment Article 3 – Definitions
    - Amendment Article 5 – General Provisions and Guidance
    - Amendment Article 7 – Use Groups
    - Amendment Article 10 – Automobile Parking
    - Amendment Article 13 – RR Residential District – New

- Amendment Article 19 – MH – Manufactured Home  
*Staff recommendations: Approval*

5. Other Business: Next Meeting is on February 11, 2026
6. Adjourn

Burleigh County Planning and Zoning Meeting Minutes

December 10, 2025

PRESENT: Chairman Dennis Agnew, Commissioners Mike Connelly, Alvie Jarratt, Dale Patrick, Wayne Munson, John Risch, Bea Streifel, and Brian Zuroff. Commissioner Brian Bitner was absent.

OTHERS: Casey Einrem, County Engineering, Mitch Flanagan and Marla McMonagle, County Planning Department and Members of the Public (see sign in sheet)

Chairman Agnew opened the meeting and called for the roll call. There was a quorum present

Chairman Agnew called for a motion to approve the November 12, 2025, minutes. The minutes were approved unanimously.

There were no public comments

CONSENT AGENDA				
There were no items on the consent agenda				
PUBLIC HEARING AGENDA				
<b>4-1 Huez Subdivision - Continuation</b> A one (1) lot subdivision containing 13 acres more or less.	Would like to approval of the Final Plat	Approval of the final plat Give a "Do Pass Recommendation to the Board of Burleigh County Commissioners.		
Mitch Flanagan - Director	Gave a summary of the proposed subdivision, why it was continued from the November 12 <sup>th</sup> meeting. He explained we had not received an opinion from the State Attorney's office regarding whether a lot can be removed from a subdivision and included in another subdivision. He submitted a petition from his neighbors that approve of the building. The property is privately owned. He recommended tabling the item until we receive an attorney's opinion.			
Commissioner Zuroff	Asked if the developers of the surrounding property decided to drop their concern? When this is developed in the future, the petitioners have the obligation to build half the road?			
Director	That will be decided in the future.			
Chairman Agnew re-opened the public hearing				
No one approached with comments opened the floor to the Commissioners to discuss the petition				
Commissioner Connelly	Asked if they could approve the petition with the contingency of getting a opinion from the State Attorney			
Director	He recommends tabling it for the State Attorney's opinion, but lot combinations are created all the time.			
Commissioner Zuroff	Recommended to table it.			

Director	We could also ask for a different attorney's opinion too.			
Chairman Agnew closed the public hearing.				
Commission Patrick	Made a motion to approve the plat with the condition of obtaining an attorney's opinion regarding the century code			
Commission Risch	Seconded the motion			
Director	Can not guarantee we will get an State Attorney's opinion			
Chairman	Asked if Commissioners would like to change the motion to obtain a legal opinion not just the State's Attorney's opinion.			
Commissioner Risch	Pulled his motion stating he would like to approve the petition and be done with it since we haven't heard from the State Attorney's office.			
Commissioner Patrick	Made a motion to approve the petition without a condition.			
Commissioner Risch	Seconded the motion			
MOTION	RESPONSIBLE PARTY	RESULTS		
Approve the Final Plat and give a "Do Pass" recommendation	1 <sup>st</sup> Commissioner Patrick 2 <sup>nd</sup> Commissioner Risch	Approved 8 - 0		
<b>4-2 Kuntz Subdivision</b> Burnt Creek Township Section 7, Lot A of the NE 1/4	Create a two (2) lot subdivision containing 40 acres more or less	Approve the final plat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners		
Staff McMonagle	Gave a summary of the petition and the buildings located on the property. She gave a history of the first petition for an Accessory Dwelling Unit Special Use and how the decision to plat the property into a subdivision instead to build a larger house.			
Chairman Agnew opened the public hearing				
No one spoke on the Kuntz Subdivision, so Chairman Agnew closed the public hearing				
Commissioner Connelly	Made a motion to approve the final plat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.			
Commissioner Zuroff	Seconded the motion			
MOTION	RESPONSIBLE PARTY	RESULTS		
Approve the Final Plat and give a "Do Pass" recommendation	1 <sup>st</sup> Commissioner Connelly 2 <sup>nd</sup> Commissioner Zuroff	Approved 8 - 0		
<b>4-3 Spring Coulee Subdivision – Short Plat</b> Lot 1, Block 1, Spring Coulee Subdivision	Combine a two (2) lot subdivision into a one (1) lot subdivision to build an accessory building	Approve the final plat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners.		
Staff	Gave a description of the request to combine the lots into a one (1)	Approve the final plat and give a "Do Pass"		

	lot subdivision. The petitioner had split the lot into two (2) lots in 2007	recommendation to the Board of Burleigh County Commissioners.
Chairman Agnew opened the public hearing		
Hearing no comments, Chairman Agnew closed the public hearing		
Commissioner Risch	Made a motion to approve the replat and give a "Do Pass" recommendation to the Board of Burleigh County Commissioners	
Commissioner Patrick	Seconded the motion	
MOTION	RESPONSIBLE PARTY	RESULTS
Approve the Final Plat and give a "Do Pass" recommendation	1 <sup>st</sup> Commissioner Connelly 2 <sup>nd</sup> Commissioner Zuroff	Approved 8 - 0
<b>OTHER BUSINESS</b>		
<b>5-1 Amendment</b> Article 21 – FP - Floodplain District Regulations	Add authorization to the introduction of Article 21 FP- Floodplain District Regulations	Approve and call for a public hearing
Director	Explained the addition to Article 21 to be in compliance with State and Federal requirements.	
Chairman Agnew	Asked The Director to explain what the floodplain district was	
County Engineering – Casey Einrem	This happens every ten years, a study is done to assess the impacts of the floodplain areas and FEMA decides what the floodplains are. If the owners disagree, they are able to be removed from the map.	
Chairman Agnew	Is there a map that is just the County?	
County Engineering	We are very careful in deciding what is in the floodplain because once an area is included in the floodplain it is hard to remove it.	
Director	There will be a meeting on the 17 <sup>th</sup> . It helps to have this information, so townships don't issue building permits in the floodplain. NDRAM is a map that was created to show where the unmapped floodplain/floodway areas are.	
Chairman Agnew	It helps to have something for the townships since they do not have the staff to do the research.	
County Engineering	We do more in-depth research when we start projects.	
Commissioner Connelly	There were a lot of reviews when the new maps came out because of newer technology.	
County Engineering	We did the Missouri River and Apple Creek recently	
Director	The DWR wants our ordinances to be the same as theirs.	
<b>5.2 2026 Planning and Zoning Commission Meeting Calendar</b>	2026 Calendar	Notification of the new calendar and the November date TBD
Staff	Explain the November date is on a holiday, so staff is working on a different date with the City of Bismarck which schedules the Tom Baker Meeting Room	
MOTION	RESPONSIBLE PARTY	RESULTS

Approve the 2026 Planning and Zoning Commission Calendar.	1 <sup>st</sup> Commissioner Zuroff 2 <sup>nd</sup> Commissioner Patrick	Approved 8 - 0
No other items were on the agenda, meeting was closed.		

Meeting was closed at 6:15pm.

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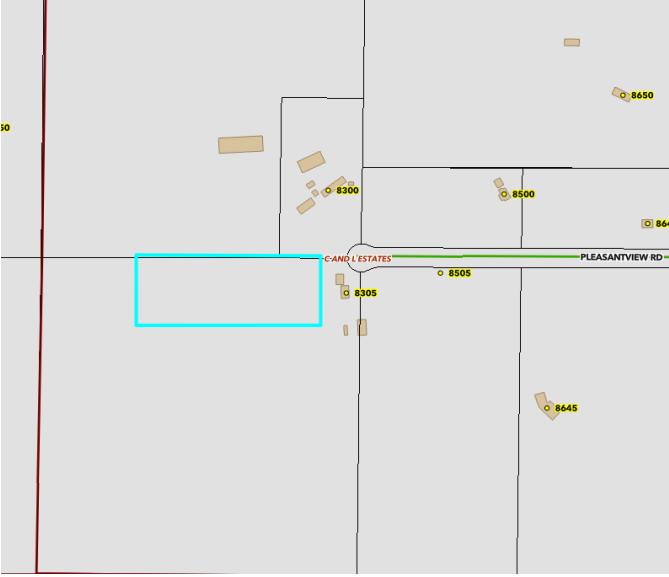
Dennis Agnew  
Chairman

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Marla McMonagle  
Staff

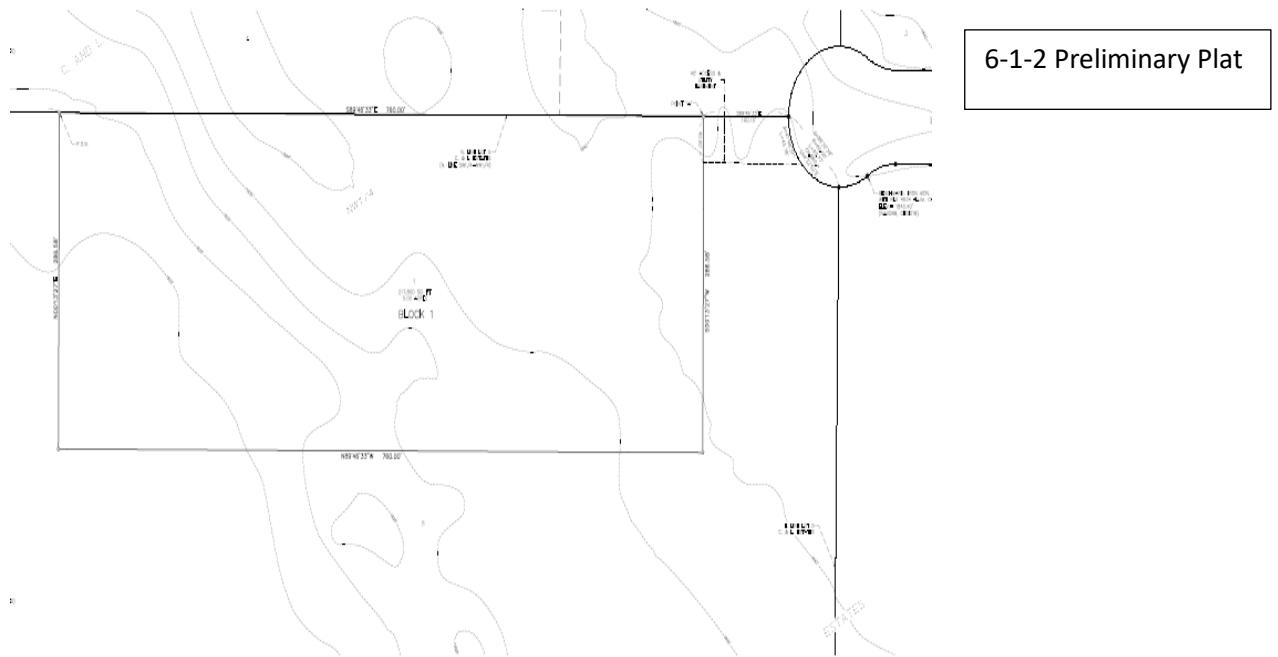
## Agenda Item 6.1 Kummer Ranch Subdivision

Application for a Subdivision

Project Summary	
Consent Agenda:	Approval of Preliminary Plat and call for a Public Hearing
Status:	Preliminary Plat
Petitioner/Developer:	Patrick & Gail Lengenfelder
Engineer:	Tom Weigel – Moore Engineering
Location:	<p>8305 Pleasantview Road Lot C, Block 00, C and L Estates Subdivision Part of the N ½ of Section 28, Township 138 N, Range 79W</p>  <p>Exhibit 6-1-1 Location Map</p>
Parcel Size:	40 acres A-Agricultural
Subdivision:	One (1) lot containing 5 acres

### History/Description

Burleigh County Planning and Building Staff met with Moore Engineering on November 6<sup>th</sup> for a pre-application meeting. The petitioner is interested in making a five (5) acre subdivision on his property containing 40 acres more or less. The review team did not post any concerns. The petitioner was requested to apply for a SWMP waiver and a paving waiver



## **Staff Findings:**

1. The application has fulfilled all the requirements of Article 33 Subdivision Regulations.
2. Zoning for the property is A-Agricultural and is in Apple Creek Township Jurisdiction
3. The petitioner will apply for a SWMP Waiver.
4. The petitioner will apply for a Paving Waiver.
5. The subdivision has been reviewed by all reviewing entities. Minor corrections are being made and submitted.
6. This preliminary subdivision plat meets the requirements of the Burleigh County Comprehensive Plan Article 3 Residential Neighborhoods – Objectives 1 and 2.

## **Planning Staff Recommendation**

The request for a preliminary plat approval fulfills the administrative requirements of the Burleigh County Zoning Ordinances – Article 33 & Article 11.

## **Planning Commission Action**

The Burleigh County Planning and Zoning Commission can:

1. Approve the preliminary plat and call for a public hearing.
2. Approve the preliminary plat with conditions and call for a public hearing.
3. Deny the preliminary plat with reason.
4. Table the preliminary plat for more information.

**Agenda Item 7-1 Amendment 21 – FP Floodplain District (2<sup>nd</sup> Hearing)**

**DRAFT- ORDINANCE 26-002 ZO**

**AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 21 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO STATUTORY AUTHORIZATION OF FLOODPLAIN DISTRICT REGULATIONS.**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA.**

**Section 1.**

**Amendment** Article 21 of the Zoning Ordinance is hereby amended and re-enacted as follows:

The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-05, 11-11 and 58-06, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry

In any FP-Floodplain District the following regulations shall apply:

**Section 2 Repeal.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**Section 3. Severability** If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional such as adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

**Section 4. Effective Date** This ordinance shall take effect after final passage, adoption and publication as provided by law

Passed and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2026

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Brian Bitner

Chairperson

Final passage and adoption:

I, Mark Splonskowski, do hereby certify that I am the duly elected auditor of the County of Burleigh, State of North Dakota, and that the foregoing is a full, true and correct copy of an ordinance adopted by the Board of Burleigh County Commissioners at its regular meeting of

IN WITNESS WHEREOF: I have hereto set my hand and seal of Burleigh County this \_\_\_\_\_ day of \_\_\_\_\_, 2026

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Mark Splonskowski, Burleigh County Auditor

## Agenda Item 7-2 Amendments: (1<sup>st</sup> Hearing)

### DRAFT- ORDINANCE 26-003 ZO

#### AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 3 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO ARTICLE 3 - DEFINITIONS BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA.

### ARTICLE 3 - DEFINITIONS

Definitions. The following definitions represent the meanings of terms as they are used in these regulations:

All words used in the present tense include the future tense. All words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "building" includes the word "structure". The word "shall" is mandatory and not directory. The word "used" shall be deemed also to include "designed, intended or arranged to be used". Unless otherwise specified, all distances shall be measured horizontally. The word "county" means Burleigh County, North Dakota; the term "Board of County Commissioners" means the Board of Burleigh County Commissioners, the term "county planning commission" means the Burleigh County planning and zoning commission; all officials referred to herein refer to the current appointed officials of Burleigh County or their authorized representatives.

Accessory Building: A subordinate building, the use of which is customarily incidental to that of the principal building on the same lot.

Accessory Dwelling Unit: A separate and complete dwelling unit established in conjunction with, and ancillary to, the principal single-family dwelling unit, whether within the same structure as the principal unit or within a detached accessory structure on the same lot or parcel. An accessory dwelling unit contains one bedroom, kitchen and bathroom facilities, and a separate exterior entrance.

Accessory Use: A use or structure that is clearly incidental to and customarily found in connection with a principal structure or use; is ancillary in purpose to the principal building or uses; contributes to the comfort, convenience or necessity of occupants of the principal use; and is located on the same lot and in the same zoning district as the principal use.

Adult Bookstore: An enclosed building having a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by the emphasis on matter depicting or describing specified sexual activities or specified anatomical

areas, for observation by patrons therein in return for payment of a consideration, irrespective of the numbers of patrons who may be able to view the presentation at one time.

**Adult Care Facility:** A free-standing facility providing care for more than twelve (12) frail, physically, cognitively and/or functionally impaired adults in a protective setting for less than twenty-four (24) hours per day. An adult care facility may also be located within a hospital, care center or nursing home as an accessory use. Educational and training programs for cognitively and/or functionally impaired adults in a protective setting for less than twenty-four (24) hours per day is not defined as an adult care facility.

**Adult Cinema:** An enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons therein in return for payment of a consideration, irrespective of the number of patrons who may be able to view the presentation at one time.

**Adult Entertainment Center:** An adult bookstore or adult cinema, or any establishment allowing any performance, entertainment or appearance, live or otherwise, of any specified anatomical areas or specified sexual activities on the premises, excluding licensed liquor premises.

(For the purposes of this ordinance, the following definitions shall apply to the foregoing terms:

1. *"Specified anatomical areas":*

- a. Less than completely and opaquely covered;
- b. Human genitals, pubic region.
- c. Buttocks.
  - i. Female breast below a point immediately above the top of the areola; and
  - ii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. *"Specified sexual activities":*

- a. Human genitals in a state of sexual stimulation or arousal.
- b. Acts of human masturbation, sexual intercourse or sodomy.
- c. Fondling of human genitals, pubic region, buttock or female breast.)

**Agency Foster Home For Adults:** A residential home in which foster care for adults is regularly provided by professional staff trained to provide services to older adults or adults with a disability, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation that is licensed by the State of North Dakota.

**Agriculture District** - Shall include any lands or areas so designated A-Agricultural by the Board of County Commissioners under authority of this Ordinance.

Alley: A strip of land, dedicated to public use, primarily to provide vehicular service access to the side or rear of properties otherwise abutting on a street.

Animal Clinic - See "Veterinary".

Animal Feeding Operation: A place where:

- 1 . livestock have been, are, or will be confined, concentrated and fed for forty-five (45) or more days in any twelve (12) month period and
- 2 . pasture, crops, or other vegetation are not normally managed or sustained for grazing during the normal growing season; and
- 3 . animal waste or manure accumulates.

All such operations containing more than three hundred (300) animal units, including an animal wintering operation, shall be defined as an animal feeding operation. Adjoining animal feeding operations under the common ownership are considered to be one animal feeding operation if they use common areas or systems for manure handling. An animal feeding operation in place and operating on the date this ordinance amendment is effective shall be considered an existing animal feeding operation and shall not be allowed to expand by any number of animal units.

The following table outlines the maximum number of livestock allowed before the operation is considered an animal feeding operation, based on animal unit equivalents (AUE) for various types of livestock:

Livestock Type	AUE	Maximum Number Allowed (300 AUE)
Horse	2.00	150
Dairy Cow	1.33	225
Mature Beef	1.00	300
Beef Feeder-Finishing	1.00	300
Beef Feeder-Backgrounding	0.75	400
Mature Bison	1.00	300
Bison Feeder	1.00	300
Elk	1.00	300
Swine, >55 lbs.	0.40	750
Swine, Nursery	0.10	3,000
Sheep	0.10	3,000
Goose or Duck	0.20	1,500
Turkey	0.0182	16,500
Chicken	0.01	30,000

Animal Unit Equivalent - A unit less number developed from the nutrient and volume characteristics of manure for a specific livestock type. The term is used to normalize the number

~~of animals (e.g., head) for each specific livestock type that produce comparable bulk quantities of manure. The animal unit equivalents (AUE) for types of livestock and numbers of livestock for facility size thresholds are listed in the following table:~~

**Animal Feeding Operation Operator** - An individual or group of individuals, a partnership, a corporation, a joint venture, or any other entity owning or controlling one or more animal feeding operations or animal wintering operations.

**Animal Wintering Operation:** The confinement of cattle or sheep used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. The term includes the weaned offspring of cattle and sheep, but it does not include:

1. breeding operations of more than three hundred (300) animal units or
2. weaned offspring which are kept longer than one hundred-twenty (120) days and that are not retained for breeding purposes.
3. ~~Animal wintering operations are not subject to the requirements of this Ordinance.~~

**Apartment** - A room, or suite of rooms, in a multi-family dwelling intended to be designated for use as a residence of a single family.

**Appeal** - A request for review of an administrative official's interpretation of any provision of this ordinance.

**Assisted Living Facility**- An assisted living facility (ALF) is a residential community designed for those who may need assistance with day-to-day tasks, personal care such as bathing, dressing, eating, or taking medication but not constant or intensive medical care.

**Auto Wrecking** - See "Junk Yard".

**Auditor's Plat:** See "**Plat-Auditor's**".

**Basement:** That portion of a building below the first story joists, the floor of which is more than one-half clear ceiling height below the adjacent finished grade level.

**Basement** - A story having part but not more than one half (1/2) its height below grade. A basement is counted as a story for the purpose of height regulations if subdivided and used for business or dwelling purposes other than by a janitor employed on the premises. (Article 31): It shall mean a story of a building located partly underground, but having not more than two-thirds (2/3) of its clear floor to ceiling height below outside grade.

**Billboard** - See "Sign - Outdoor Advertising".

**Bio Swale.** Landscape elements designed to concentrate or remove silt and pollution from surface water runoff.

**Block:** A unit of land bounded by streets or by a combination of streets and public land, railroad rights-of-way, undivided acreage, river or live stream; or between any of the foregoing waterways or any other barrier to the continuity of development.

**Bluff:** A topographic feature such as a hill, cliff or embankment having the following characteristics:

1. Part or all of the feature is located adjacent to the Missouri River; The slope rises at least 25 feet above the ordinary high water mark of the Missouri River.
2. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water mark of the Missouri River averages 30 percent or greater; and
3. The slope drains towards the Missouri River. An area with an average slope of less than 18 percent over a horizontal distance of 50 feet or more shall not be considered part of a bluff.

**Bluff, Toe Of The:** The lower point of a 50-foot horizontal segment with an average slope exceeding 18 percent.

**Bluff, Top Of The:** The higher point of a 50-foot horizontal segment with an average slope exceeding 18 percent.

**Board of Appeals** – Board of County Commissioners of Burleigh County, North Dakota.

**Board of Commissioners** - Board of County Commissioners of Burleigh County, North Dakota.

**Building, Height of** - The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the mean height level between the eaves and ridge of gable, hip and gambrel roofs.

**Building** - Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property. When a structure is divided into separate parts by unpierced walls extending from the ground up, each part is deemed a separate building.

**Building-Accessory:** A permanent, or semi-permanent, ancillary building or structure, the use of which is customarily incidental to that of a principal building on the same lot, including, without limitation, garages, storage sheds, playhouses, kennels, residential greenhouses, tent-like structures, or similar structures, storm or civil defense shelter, radio towers, satellite receiving or transmitting stations or antennas, and other structures, towers, antenna, ornaments or devices.

**Building-Integrated Solar Energy System:** Any active solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include but are not limited to photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

**Building Official:** The Building Official of the County of Burleigh, North Dakota, or his authorized representative.

**Building Line:** A line established in general, parallel to the front street line over which no part of a building shall project, except as otherwise provided by this ordinance.

**Building-Principal:** A building occupied by the principal use of the lot on which it is situated.

**Building, The Principal** A building in which is conducted the principal use of the lot on which it is located.

**Brewery:** A facility that manufactures over 10,000 barrels (31 gallons/barrel = 310,000 gallons) of fermented malt beverages per year for wholesale with no direct sales to the general public.

**Brewer Taproom:** A facility that manufactures no more than 25,000 barrels of fermented malt beverage per year for wholesale, sale directly to consumer or for consumption on the premises. A brewer taproom may be co-located within a restaurant or a separate stand-alone facility.

**Buffer Zone:** A strip of land, identified in the zoning ordinance, established to protect one type of land use from another with which it is incompatible.

**Carnival:** Any entertainment activity utilizing rides, side shows, games of skill, or any combination thereof, designed for participation by the public.

**Ceiling** (Article 31): Shall mean the interior overhead surface of a room.

**Cellar** (Article 31): Shall mean a story of a building located partly or wholly underground and having more than two thirds (2/3) of its clear floor to ceiling height below outside grade.

**Central Sewer System:** A system designed and constructed to allow for the disposal of sewage from more than one user. Each system must be approved by the North Dakota State Health Department and the Burleigh County Board of Commissioner. Central sewer systems are intended for use on rural or urban lots.

**Child Care Center:** Also known as a day care center, a childcare center is a free-standing facility offering care, maintenance, and supervision for hire or compensation, for less than twenty-four (24) hours per day, for more than twelve (12) children under the age of twelve (12) years and licensed by the North Dakota Department of Human Services as an early childhood program. The following shall not be considered a childcare center:

1. childcare provided in any educational facility, whether public or private, in grade one or above.

2. childcare, preschool, kindergarten, and pre-kindergarten services provided to children under six (6) years of age in any educational facility through a program approved by the North Dakota Superintendent of Public Instruction;
3. childcare provided in facilities operated in connection with a religious facility, business, or organization where children are cared for during periods of time not exceeding four (4) continuous hours while the child's parent, guardian or custodian is attending religious services or is engaged in other activities on the premises;
4. schools or classes for religious instruction conducted by religious orders, Sunday schools, weekly catechism or other classes for religious instruction;
5. sporting events, practices for sporting events, or sporting or physical activities conducted under the supervision of an adult, and;
6. childcare provided in a medical facility by medical personnel to children who are ill.

**Circus:** Any traveling entertainment event to be held in an open area or temporary structure involving acrobats, wild animals, events of skill, or any combination thereof, and designed for participation of the public as spectators.

**Commercial School:** Any educational facility owned and operated by a nonpublic sponsor and designed to provide occupational training in a job-related skill or craft.

**Commercial Parking Lot:** Any parking facility in which charges are made for vehicular parking privileges.

**Comprehensive plan:** A statement in documented text setting forth explicit goals, objectives, policies and standards of the jurisdiction to guide public and private development.

**Data Center:** Any facility that primarily contains electronic equipment used to process, store, and transmit digital information. Uses that include data processing as ancillary to the principal use on the property shall not be considered a Data Center.

**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.

**Density**- The number of families residing on, or dwelling units developed on, an acre of land. As used in this article all densities are stated in families per net acre, that is, per acre of land devoted to residential use, exclusively of land in streets, alleys, parks, playgrounds, school yards, or other public lands and open spaces.

**District**- A section or sections of unincorporated area of Burleigh County, North Dakota, for which the regulations governing the use of buildings and premises or the height and area of buildings are uniform.

Division - The division of a lot, tract or parcel of land, into lots or parcels of land for the purpose, whether immediate or future, of sale or of building development, including any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights-of-way whether public or private, for access to or from such lots or parcels of land, and/or including the creation of new or enlarged parks, playgrounds, plaza or open spaces. "Subdivision" includes the re-subdivision of one or more lots as parcels of land in a subdivision made and recorded prior to or after the date these resolutions are adopted. However, the division of land for agricultural purposes into parcels of 40 or more acres, not involving any new street or easement of access, shall be exempted from this ordinance.

Dwelling - A building or portion thereof arranged or designed to provide living facilities for one or more families. ~~The term "dwelling" shall not be deemed to include a motel, hotel or tourist home. (Article 31): Shall mean any building, structure, mobile home, house trailer, or parts thereof used and occupied for human habitation, or intended to be so used, and includes appurtenances and utilities thereto or usually enjoyed therewith. The term "dwelling" shall not be deemed to include transient housing facilities.~~

Dwelling Group - In general, a building in which several unrelated individuals or families permanently reside, but in which individual cooking facilities are not provided for the individual persons or families. Specifically, "group-dwelling" shall include rooming house, fraternity house, sorority house and private club in which one or more members have a permanent residence. "Group dwelling" shall not be deemed to include a hotel, motel, tourist home, mobile home park or any use included in the "health-medical group".

Dwelling-Multi-Family - A building containing two (2), three (3) or four (4) dwelling units.

Dwelling Single Family ~~A building containing only one dwelling unit designed to be located on a permanent perimeter foundation and, if site built, constructed in accordance with the provisions of the applicable County codes governing construction; or, if manufactured off site, constructed in accordance with either the County codes governing construction or the HUD Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280).~~

- ~~1. All single family dwellings shall be considered and taxed as real property, as provided by law. Each single family dwelling shall have a minimum overall front width of twenty four (24) feet, minimum overall depth of twenty (20) feet, a minimum main floor living space square footage of nine hundred (900) square feet, and a minimum ceiling height of seven (7) feet, six (6) inches. A manufactured home that meets all of the requirements herein is classified as a single family dwelling.~~

Dwelling-Single-Family: ~~A building containing only one dwelling unit designed to be located on a permanent perimeter foundation and, if site built, constructed in accordance with the provisions of the applicable County codes governing construction; or, if manufactured off site, constructed in accordance with either the County codes governing construction or the HUD Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280). All single-family dwellings shall be considered and taxed as real property, as provided by law:~~

1. Each single-family dwelling shall have a minimum width of twenty (20) feet,
2. a minimum depth of twenty (20) feet, and
3. a minimum ceiling height of seven (7) feet, six (6) inches.

A Manufactured home that meets all of the requirements herein is classified as a single family dwelling.

Dwelling-Two-Family - A building containing only two (2) dwelling units.

Dwelling Unit ~~A building, or portion thereof, providing complete housekeeping facilities for one (1) family. (Article 31): Shall mean any room or group of rooms located within a building arranged for the use of one (1) or more individuals living together as a single housekeeping unit with facilities which are used or intended to be used for living, sleeping, cooking and eating purposes.~~

Domestic Distillery: A facility that manufactures less than 25,000 gallons of spirits per year produced on-site and available for wholesale, for sale directly to consumers on-site, or sale to other domestic distilleries on-site. A domestic distillery may be co-located within a restaurant or a separate stand-alone facility.

Drive-in Restaurant: Any establishment dispensing food or drink where the customers are served in their cars, pick up such food or drink by driving by a pass-out window, or where they step out of the automobile briefly to pick up food or drink.

Dwelling-Multifamily High Rise: A building containing over three dwelling units with a height of over sixty feet.

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

Easement: A grant by the property owner of the use of land by the public, or by one or more persons or corporations for a specific purpose or purposes.

Extermination - Shall mean the control and elimination of insects, rodents, or other pests by eliminating their harboring places; by depriving or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or any other recognized and legal pest elimination methods approved by the County Health Officer.

Extraterritorial Jurisdiction: The territorial zoning and subdivision authority of the City of Bismarck, which extends to all unincorporated land located within of up to four (4) miles of the corporate limits of a City as authorized by the North Dakota Century Code.

Fair: See "Carnival".

**Family:** One or more persons related by blood, adoption, marriage, or foster care for children, living and cooking together as a single housekeeping unit; or, a number of persons, but not exceeding four, living together as a single housekeeping unit, though not related by blood, adoption, marriage, or foster care for children. In accordance with the provisions of NDCC 25-16-13, a group home serving six or fewer developmentally disabled persons is classified as a family in all single-family residential districts (RR, RR5, and R5), and a group home serving eight or fewer developmentally disabled persons is classified as a family in all other residential zoning districts.

**Family** ~~A group of one (1) or more persons occupying a premise and living as a single housekeeping unit as distinguished from a group occupying a boarding house, lodging house or hotel, as herein defined. (Article 31): Shall mean one or more persons occupying a dwelling or dwelling unit and living as a single nonprofit unit.~~

**Family Child Care:** A detached single family dwelling, which also serves as the primary residence of the operator/provider, offering care, maintenance and supervision for hire or compensation, for less than twenty-four (24) hours per day, for no more than twelve (12) children under the age of twelve (12) years, including any children of the operator/provider on the premises that are under the age of twelve (12) years, and generally licensed by the North Dakota Department of Human Services as an early childhood program. Family Child Care is considered an accessory use to the principal use of the property as single family detached residential dwelling.

**Family Foster Home For Adults:** An occupied private residence in which foster care for adults is regularly provided by the owner or lessee of the residence, to four or fewer adults who are not related by blood or marriage to the owner or lessee, for hire or compensation that is licensed by the State of North Dakota.

**Family Foster Home For Children:** An occupied private residence in which foster care for children is regularly provided by the owner or lessee thereof to no more than four children, unless all children in foster care are related to each other by blood or marriage, in which case such limitation does not apply.

**Farm** - A zoned area of Burleigh County containing at least forty (40) acres, which is used for the growing of the usual farm products such as vegetables, fruit trees, and grain, and their storage on the area, as well as for raising thereon the usual farm poultry and farm animals, such as horses, cattle, sheep and swine. The term "farming" includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided however, that the operation of any accessory uses shall be secondary to that of the normal farming activities, and provided further that farming does not include the commercial feeding of garbage or offal to swine or other animals.

**Filling Station:** A building or lot having pumps and storage tanks where fuels, oils and/or accessories for motor vehicles are dispensed, sold or offered for sale at retail only; repair service is incidental; and no storage or parking space is offered for rent.

**Filling Station** Any building or premises used for the dispensing, sale or offering for sale at retail of any automobile fuels or oils. When the dispensing, sale or offering for sale is incidental to the conduct of a public garage, the premises are classified as a public garage.

**Floodplain**: The channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater.

**Floodway**: The channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

**Floor Area Ratio** - The floor area of a building, or buildings, on a zoning lot. A floor area of a building or buildings is the sum of the gross horizontal areas of the several floors of all buildings on the lot, measured from the exterior faces of exterior walls, or from the center line of walls separating two (2) buildings. Floor area shall include the area of basements when used for residential, commercial or industrial purposes, but need not include a basement or portion of a basement used for storage or the housing of mechanical or central heating or the basement apartment of a custodian in a multi-family dwelling, except that portion of said custodian's dwelling unit which is in excess of fifty percent (50%) of the total basement floor area. In calculating floor area, the following need not be included:

- a. Attic space providing structural head room of less than 7 feet, 6 inches.
- b. Uncovered steps.
- c. Terraces, breezeways and open porches; and
- d. Automobile parking space in basement or private garage, but not to exceed six hundred (600) square feet for single-family dwellings; eight hundred (800) square feet for a two-family dwelling; and two hundred (200) square feet per car space required by the provisions of this resolution for any other use.

**Foster Care For Adults**: The provision of food, shelter, security and safety, guidance, and comfort on a twenty-four hour per day basis, in the residential home of a caregiver or agency, to an individual age eighteen or older, who is unable, neglects, or refuses to provide for the individual's own care.

**Foster Care For Children**: The provision of substitute parental child care for those children who are in need of care for which the child's parent, guardian, or custodian is unable, neglects, or refuses to provide, and includes the provision of food, shelter, security, and safety guidance and comfort on a twenty-four hour basis, to one or more children under twenty-one years of age to safeguard the child's growth and development and to minimize and counteract hazards to the child's emotional health inherent in the separation from the child's family. Foster care may be provided in a family foster home, group home, or residential childcare facility.

**Funeral Home:** A facility used for pre-burial preparations of human cadavers including but not limited to a mortuary, crematorium, chapel, viewing area, vehicular storage, parking, but not including burial facilities.

**Functional Classification:** The process by which streets and highways are grouped into classes, or systems, according to the character of service they are intended to provide.

**Garbage** - (Article 31): Shall mean the animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.

**Garage-Private:** An accessory building or part of a principal building used primarily for the storage of motor vehicles customarily accessory to the principal use.

~~An accessory building housing not more than three (3) motor-driven vehicles, the property of and for the use of the occupants of the lot on which the private garage is located.~~

**Garage-Public:** A building or premises which is operated for commercial purposes and used for the storage, care or repair of motor vehicles, but a "public garage" shall not be used for the storage of dismantled or wrecked motor vehicles, parts thereof, or junk.

~~Any building or premises used for equipment, repairing, hiring, selling or storing motor driven vehicles.~~

Group-Use: See "Use Group".

Group dwelling: See "Dwelling-Group".

**Habitable Room** - (Article 31): Shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes.

**Height of Building:** The vertical distance measured from ~~highest of the following three (3) levels:~~ the average finished ground level adjoining the building at all exterior walls (measured at fixed intervals around the base of the structure) to:

1. the level of the highest point at the roof beams of flat roofs,
2. or roofs including not more than one (1) inch of vertical rise to one (1) foot of horizontal travel,
3. the deck line of mansard roofs,
4. or the mean height level of the top of the main plate and highest ridge for other roofs.
5. And when a building has multiple roofs, use the roof with the tallest ridge/height to calculate total building height.

**Height (of Turbine)** - The vertical distance from the grade of the property as existed prior to construction to the highest point of a turbine rotor blade when in the upright position.

**Highway Primary** - Any Designated Interstate or Federal Route, such as I-94 or US 83. Primary

highways provide for rapid movements of relatively large traffic volumes between large land areas, major traffic generators and other arterials. Primary highways should have controlled access and are usually multi-lane roads with no parking.

**Highway Secondary** - Any Designated State or County arterial route, such as Highway 1804 or County Highway 10. Secondary highways provide through traffic movements between areas and links collectors with other arterials. Secondary highways usually have two to four lanes and may be divided or undivided roads, preferably with little or no parking, and limited access.

**Home Occupation** - Any occupation or profession carried on by a member of the immediate family, residing on the premises; in connection with which there is used no sign other than a name plate not more than one (1) square foot in area or no display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling; in which no person is employed other than a domestic servant; and in which no mechanical equipment is used except such as is permissible for purely domestic or household purposes.

**Hotel**- A building in which lodging, with or without meals, is provided and offered to the public for compensation, and which is open to transient guests. Hotels include motels and automobile courts, but do not include group dwellings as defined herein.

**Improvements**- Street grading and surfacing, with or without curbs and gutters, sidewalks, crosswalks, watermains, sanitary and storm sewers, culverts, bridges and street trees and other improvements as required by this Ordinance.

**Industrial District** - Any Industrial District

**Interstate**- Roadway which provides rapid movement of large traffic volumes between major population centers and other arterials. Interstates are multi-lane divided highways with grade separations at all crossroads, full access control and no parking. The locations of roadways classified as interstates shall be as designated on the most recent edition of the North Dakota Department of Transportation functional classification map.

**Junkyard**- The use of any part of any premises whether inside or outside of a building for the storage of, keeping or abandonment of junk, including scrap metals, rags, paper or other scrap material, used lumber, salvage house wrecking and used structural steel material, and equipment or for dismantling. Demolition or storage of unlicensed or abandoned automobiles or other vehicles, or machinery or parts thereof, is included in this definition.

**Kennel** - Any building or lot on which three (3) or more dogs and cats at least four (4) months of age are kept, boarded or trained whether in special buildings or runways or not.

**Livestock** - Any animal raised for food, raw materials or pleasure, including, but not limited to, beef and dairy cattle, bison, sheep, swine, poultry and horses. Livestock also include animals raised for pelts.

**Lot-** The word "lot" when used alone shall mean, unless the context of the article clearly indicates otherwise, a "zoning lot" as defined herein.

**Lot-Auditor's-** Land designated as a separate and distinct lot, parcel or tract on a legally recorded plat of irregular description.

**Lot-Corner-** A zoning lot at the junction of and abutting on two or more intersecting streets or a curved street when the interior angle of the intersection does not exceed one hundred thirty-five degrees.

**Lot, Corner-** A lot abutting upon two (2) or more streets at their intersection.

**Lot Depth-** The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

**Lot, Double-Frontage** - A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.

**Lot-Interior-** A zoning lot other than a corner lot.

**Lot Line-Rear-** The lot line is generally opposite or parallel to the front street line. If a rear lot line is less than ten feet long, or the lot comes to a point at the rear, said rear lot line is assumed to be a line at least ten feet long, lying wholly within the lot, parallel to the front street line, or if the front street line is curbed, parallel to the chord of the arc of said front street line.

**Lot Line, Rear** - The lot line generally opposite or parallel to the front street line.

**Lot-Rural-** All lots not meeting criteria for urban lots as defined herein:

Lot areas may be readjusted in size when, on building sites, the soil classification can be shown to be other than that shown by the soil survey manual. Proof of such differing classification shall be furnished by a qualified soils engineer who has taken soil samples on the site in question. All changes in soil classification must be approved by the Building Official. In no case shall a lot area of less than forty thousand square feet be allowed.

**Lot-Urban-** All lots serviced by a central sewer system and a water system which equals municipal water system fire flow capacities.

**Lot Width:** The mean width of a lot measured at right angles to its depth.

**Lot-Zoning-** A tract of land occupied or to be occupied by a principal building and its accessory buildings, together with such open spaces and yards as are required under the provisions of this article, having not less than the minimum area required by this ordinance for a zoning lot in the district in which such land is situated and having its principal frontage on a dedicated public right-of-way or a permanent, exclusive, non-obstructed access easement to a dedicated public right-of-

way, not less than twenty feet wide. A "zoning lot" need not necessarily coincide with a "record lot" and may consist of:

1. a single record lot; or
2. a portion of a record lot; or
3. a combination of complete record lots, or complete record lots and portions of record lots, or portions of record lots.

**Low and Moderate Income Multi-family housing-** Multi-family housing for persons who are income qualified is usually supported by state and federal funding programs.

**Manufactured Home:** A factory built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with the HUD Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280).

**Manufactured Home Park-** A plat of ground under single ownership or management which has been planned and improved for the placement of at least twenty mobile or manufactured homes which are used for dwelling purposes.

**Master Plan-** Any plan meeting the requirements of Section 40-48 of the North Dakota Century Code.

**Master Plan** - The comprehensive plan, or any portion thereof, made and adopted by the Planning Commission in accordance with the laws of the State of North Dakota and the regulations of the County of Burleigh indicating the general or specific locations recommended for streets, parks, public buildings, zoning districts and all other public improvements.

**Meaning of Certain Words** (Article 31): Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming unit" or "premises" are used in this Ordinance, they shall be construed as though they were followed by the words "or any part thereof". Whenever the masculine pronoun is used, it shall also mean the feminine pronoun.

**Meat Packing Facility** - A facility for the slaughtering and processing of animals and the refining of their byproducts. A meat packing facility includes the preparation of meat products for intrastate or interstate commerce and retail sale but does not include custom processing of an animal or meat products for the owner of the animal or of the meat products, provided all meat products derived from the custom operation are returned to the owner of the animal or of the meat products.

**Meat Packing Facility, Limited** - A facility for the slaughtering and processing of animals and the refining of their byproducts, limited to 100 animal units per week. A limited meat packing facility includes the preparation of meat products for intrastate or interstate commerce and retail sale, but does not include custom processing of an animal or meat products for the owner of the animal or of the meat products, provided all meat products derived from the custom operation are returned to the owner of the animal or of the meat products.

**Microbrew Pub**- A facility that manufactures up to 10,000 barrels (31 gallons/barrel = 310,000 gallons) of fermented malt beverages per year for wholesale or sale directly to the consumer or for consumption on the premises. A microbrew pub may be co-located within a restaurant or a separate stand-alone facility.

**Mobile Home**- A transportable, factory built home, designed to be used as a year-round residential dwelling and built prior to enactment of the HUD Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280).

**Mortuary**: See "Funeral home".

**Motor Vehicle Parts Salvage Yard**- The use of a premises for the storage of motor vehicles for dismantling and sale of used parts thereof.

**Nonconforming Use**- The use of a building or other structure or of a tract of land which does not conform to the use or regulations of this title for the district in which it is located, either at the effective date of this title, or as a result of subsequent amendments which may be incorporated into this title.

**Nonconforming Structure**- A structure which does not conform to the regulations of this title for the district in which it is located, either at the effective date of this title or as a result of subsequent amendments which may be incorporated into this ordinance.

**Off-Street Parking Space**- An off-street area for the parking of one (1) motor vehicle having all-weather surface, a width of not than ten (10) feet and a length of not less than twenty (20) feet and shall have an easy access to a street or alley by a driveway having all-weather surface.

**Operator** - (Article 31)- Shall mean any person who has charge, care or control of a building or parts thereof, in which dwelling units or rooming units are let.

**Ordinary High Water Mark**- The elevation of the Missouri River at a flow rate of 33,000 cubic feet per second. In areas where there are multiple channels, the ordinary high water mark is the landward extent of the floodway, as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps for Burleigh County.

**Owner** - (Article 31): Shall mean any person who is alone, jointly or severally with others:

- a. Shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- b. Shall have charge, care, or control of any dwelling or dwelling unit, as owner or agent as an executor, administrator, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions

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of this ordinance, and of the rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

**Overlay Zone**- A district that contains a set of zoning requirements that is imposed in addition to those of the underlying district. Development within the overlay zone must conform to the requirements of both zones, or if in conflict, the more restrictive of the two.

**Parcel**- A tract of land created by any means other than a subdivision platted pursuant to Chapter 40-50 NDCC.

**Parcel of Record**- A parcel that existed as a separate and unique legal description prior to October 4, 2010. For property not under the County's jurisdiction on October 4, 2010, a parcel that existed as a separate and unique legal description prior to coming under the County's jurisdiction.

**Parking lot, on-site**- An on-site parking lot shall mean any land legally used for the parking of motor vehicles that is located on the same lot or parcel as the use it is intended to serve.

**Parking lot, off-site**- An off-site parking lot shall mean any land legally used for the parking of motor vehicles that is located on a different lot or parcel as the use it is intended to serve.

**Participating Dwelling** - A dwelling on a participating parcel.

**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.

**Person** - (Article 31): Shall mean and include any individual, firm, corporation, association, or partnership.

**Planned Unit Development (PUD)**- A form of development usually characterized by a unified site design for a number of housing units, clustered buildings and providing common space, density increases, and a mix of building types and land acres.

**Planning and Zoning Commission** - The Planning and Zoning Commission of the County of Burleigh, North Dakota.

**Plat**- Any subdivision platted pursuant to Chapter 40-50 NDCC.

**Plat of Irregular Description**- A plat made for taxation purposes at the request of the County Auditor in accordance with Section 57-02-39 NDCC. Such a County Auditor's plat is not platting pursuant to Chapter 40-50 NDCC but rather is made for the convenience of tax officials in describing property on the tax rolls. A plat of irregular description may also be referred to as an Auditor's Plat.

**Plumbing** - (Article 31): Shall mean and include all of the following supplied facilities and

equipment:

1. Gas pipes, gas-burning equipment, water pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes-washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

**Portable Storage Containers-** Containers that are used for storage purposes and are also known as shipping containers, cargo containers, cargo-trailer containers, metal freight containers, metal containers designed for freight and cargo. This definition also includes semi-trailers, buses, vans, and other types of non-permanent containers used for storage purposes hereafter referred to as "container(s)." This definition does not include the following: dumpsters actively used for solid waste or recycling collections, contractors' construction trailers or containers being used at active job sites, or trailers normally associated with private use such as stock car trailers, boat trailers, utility trailers, campers or other similar equipment.

Principal building- See "**Building-Principal**".

**Racetrack-** A course in which vehicular races, either competitive or non-competitive, are run. Such courses shall include racetracks, drag strips, go-cart tracks and other similar facilities.

**Rain Garden-** A planted depression or hole that allows rainwater runoff from impervious urban areas the opportunity to be absorbed prior to entering municipal stormwater facilities.

Record Lot: Land designated as a separate and distinct lot on a legally recorded subdivision platted pursuant to Chapter 40-50 NDCC.

**Recreation Facility - Personal:** A place designed and equipped for the conduct of sports and leisure-time activities provided as an accessory use on the same parcel as the principal permitted use and designed to be used by the occupants of the principal use and their guests.

**Recreational Vehicle-** A unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power, is mounted on, stored in or drawn by another vehicle.

**Recreational Vehicle Park-** A plat of ground of at least ninety thousand square feet under single ownership or management which has been planned and improved for the parking of recreational vehicles and tents regardless of whether or not a charge is made for such accommodation. May also be known as a "RV Park".

**Religious Institution-** A building that primarily provides a meeting area for religious activities and related social events. Examples include churches, chapels, temples, synagogues, mosques or any other building or portion of a building used for this purpose.

**Repair** - (Article 31): Shall mean to restore to good condition.

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Residential District - Any R1 Residential District.

Road-Local - Roadway whose primary function is to provide access to abutting property. Local roads are usually two-lane roads with parking and direct access to adjacent lands.

Road-Collector - Roadway which provides traffic movements between local roads and arterial roads and highways and also provides direct access to abutting property. Collector roads are usually two-lane roads that should be designed to minimize on-street parking and direct driveway access.

Rooming House - A dwelling in which rooms are let for hire or persons are given lodging for compensation.

Row House - A building which has dwelling units erected in a row as a single building on adjoining lots, each being separated from the adjoining unit or units by an approved two-hour or equivalent fire-rated wall extending from the footing to and through the roof and where each dwelling unit is located upon a separate parcel. Each unit in a row house has private front and rear entrances and its own front and rear yards. Row houses are constructed side-by-side and the line(s) dividing the parcel(s) is a straight line from the front property line to the back property line along the common wall.

Row Housing - A building which has not less than three (3) or more than six (6) one family units and erected in a row as a single building on adjoining lots, each being separated from the adjoining unit or units by an approved masonry party wall or walls extended from the basement or cellar floor to the roof along the dividing lot line; and each such building being separated from any other building by space on all sides.

Rubbish - (Article 31): Shall mean combustible and non-combustible materials, except garbage, and the terms shall include the residue from the burning of wood, coke, and other combustible materials, rags, cartons, boxes, wood excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, glass, crockery and dust.

Rural Lot - See "Lot-Rural."

RV Park: A RV Park or recreational vehicle park is a privately owned facility where RVs can park and stay for a temporary period, ranging from a single night to an extended stay.

Salvage Yards - See "Motor vehicle parts salvage yards."

Salvage Yard - A place where used parts of automobiles or other equipment are collected and processed for resale.

Senior Citizen Housing- Multi-family housing designed specifically for occupancy by senior citizens in separate dwelling units within a single building or multiple buildings, including assisted living facilities. Facilities providing a higher degree of care (such as nursing homes and Alzheimer's facilities) are not considered senior citizen housing.

Setback Line- See "Building line."

Short Impact Zone- The land located between the ordinary high water mark of the Missouri River and a line parallel to it at a setback of 50 feet.

Sign - Any device for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any governmental agency, or of any civic, charitable, religious, patriotic, fraternal, or similar organization.

Sign-Outdoor Advertising - Sign, including billboard, which directs attention to a business, commodity, service, entertainment or other activity conducted, sold or offered elsewhere than on the premises upon which the sign is located.

Sight Triangle-URBAN- An area of unobstructed vision at the intersections of streets, alleys and driveways. The purpose of the sight triangle is to ensure visibility for operators of motor vehicles, bicycles and pedestrians on intersecting streets, driveways and alleys. For any use on a corner lot, the sight triangle is the triangle formed by measuring from the point of intersection of the two (2) property lines a distance of twenty-five (25) feet in both directions along the street right-of-way lines and connecting the points to form a sight triangle on the area of the lot adjacent to the street intersection.

1. For a commercial, industrial, institutional or multi-family use on a lot at the intersection of a street and an alley, the sight triangle is the triangle formed by measuring from the point of intersection of the two (2) property lines a distance of fifteen (15) feet along the street right-of-way line and a distance of fifteen (15) feet along the alley right-of-way line and connecting the points to form a sight triangle on the area of the lot adjacent to the intersection of the street and alley.
2. For a commercial, industrial, institutional or multi-family use with a driveway, the sight triangle is the triangle formed by measuring from the point of intersection of the property line adjacent to a street and the edge of the driveway a distance of fifteen (15) feet in along the street right-of-way line and a distance of fifteen (15) feet along the edge of the driveway and connecting the points to form a sight triangle on the area of the lot adjacent to the intersection of the street and the driveway.
3. For commercial, industrial, institutional or multi-family uses, the County Engineer may require a greater sight triangle than indicated above on a case-by-case basis when it is warranted based on the posted speed and traffic volumes on the adjacent roadway, topography, sight distances or any other engineering concern.

**Sight Triangle- RURAL-** A mandatory clear area at intersections, driveways, or alleys, defined by the property/road lines and an imaginary diagonal line, kept free of obstructions like buildings, fences, or tall plants to ensure drivers, pedestrians, and cyclists have clear, unobstructed views for safe movement and to prevent accidents. These triangles are crucial for adequate sight distance, allowing users to see approaching traffic from other directions before entering the intersection.

### 1. Key Components

- a. Formation: Formed by the property lines (or edge of pavement/curb) on two sides and a diagonal line connecting points on those lines on the third side.
- b. Location: Applies at street/street corners, street/driveway/alley intersections, and sometimes parking lot entrances.
- c. Dimensions: Varies by jurisdiction, but often involves measuring a set distance (e.g., 25 feet) along each property line from the corner intersection point. We do no less than 60' non-access lines at intersections for driveway to meet the sight triangle and we prefer a minimum of 100' non-access lines at all intersections.
- d. Clearance: Must be free of any objects that obstruct vision, including structures, signs (except street signs), and vegetation (including trees and bushes). If the mature tree has the bottom of the foliage above 12' then a tree has been considered/reviewed to be allowed due to the driver being able to still see adequately under the mature foliage, but there are issues from a young tree to a mature tree. Bushes are allowed if they are under 3' in mature height as this will not obstruct the vision from a vehicle.

### 2. Purpose

- a. To provide adequate sight distance for drivers to perceive and react to other vehicles or pedestrians.
- b. To enhance safety and reduce collisions at conflict points.

**Site plan-** A plan, to scale, showing uses, structures and associated amenities proposed for a parcel of land.

**Sign-Outdoor Advertising** - Sign, including billboard, which directs attention to a business, commodity, service, entertainment or other activity conducted, sold or offered elsewhere than on the premises upon which the sign is located.

**Small Animal Veterinary Clinic-** A facility in which the veterinary practice conducted is essentially an out-patient type of practice with an occasional confinement limited to domestic household pets.

**Small Wind Energy System (SWES)-** A wind turbine of less than 25 kilowatts maximum output capacity and all appurtenant structures and equipment.

**Solar Collector**- A solar photovoltaic cell, panel, or array, or solar hot water collection device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

**Solar Energy System**- Any active mechanical or passive thermal device or feature of a structure designed to collect, distribute, and/or store the sun's radiant energy. A system may consist of a solar collector, battery, and/or any appurtenant features. Passive solar collecting architectural features, such as windows and skylights, are not included in this definition.

**Sound Pressure Level (SPL)** - The physical intensity of sound.

**Special Use**- A use permitted in a particular zoning district only upon showing that such in a specified location will comply with all the conditions and standards for the location or operation of such use as specified in a zoning ordinance and authorized by the Burleigh County Commission or the Zoning Administrator (where allowed).

**Stabilized Bank** - A riverbank that has been stabilized by the Corps of Engineers or under a Corps of Engineers' permit for bank stabilization. If the plans and specifications for the permitted structure were not approved by the Corps of Engineers, or if the structure was not built in accordance with the Corps approved plans and specifications, certification from a registered professional engineer will be required.

**Stable-Private** - A detached accessory building for the housing of horses, ponies or mules owned by the occupants of the premises and not kept for remuneration, exhibition, hire or sale.

**Stable-Riding** - A structure in which horses, ponies or mules used exclusively for pleasure riding or driving are housed, boarded, or kept for hire, including riding tracks or academies.

**Steep Slope** - Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in the Burleigh County Soil Survey or other technical report. Where specific information is not available, steep slopes are defined as lands having an average slope over 12 percent (12%), as measured over horizontal distances of fifty (50) feet or more, that are not bluffs.

**Storage Unit Building (Personal Self-Serve)** – A storage building that houses individual storage units for personal affects that are either rented or individually owned.

**Storm Water Management** - An implemented set of public policies and/or activities undertaken to regulate the impacts and/or benefits associated with storm water runoff under various specified conditions. Storm water management is primarily concerned with preventing and/or limiting flood damages and environmental impacts associated with rural property development.

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Storm Water Management Plan - A plan developed by a registered professional engineer employed by the owner/developer to manage storm water runoff for a particular project, subdivision development and/or drainage area.

Storm Water Management System - Natural and/or constructed facilities that collect, store, convey, and/or treat storm water runoff. These facilities normally include detention and/or retention facilities, streets, roadway ditches, storm sewers, inlets and open channels.

Story - That portion of a building, other than a cellar included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Story-Half - A space under a sloping roof which has the line of intersection of the roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half-story containing independent apartment or living quarters shall be counted as a full story.

Street- A public thoroughfare which affords principal means of access to abutting property.

Street Line - A dividing line between a lot, tract or parcel of land and a contiguous street.

Street-Collector- Roadway which provides traffic movements between local roads and arterial roads and also provides direct access to abutting property. Collectors are often only two-lane roads but should be planned and designed to minimize on-street parking and direct driveway access.

Street-Local Commercial- Roadway whose primary function is to provide access to abutting commercial, industrial, or multi-family residential property. Local Commercial roads are typically two-lane roads with parking and direct access to adjacent lands within all districts other than R5-Residential and R10-Residential.

Street-Local Residential- Roadway whose primary function is to provide access to abutting residential property. Local Residential roads are typically two-lane roads with parking and direct access to adjacent lands within the R5-Residential and R10-Residential zoning districts.

Street-Parkway- A multi-modal roadway designed according to complete street principles to operate at moderate speeds. Parkways typically include one drive lane and one bike lane in each direction, raised and landscaped median, and landscaped boulevards and sidewalks on both sides of the street.

Street-Minor Arterial- Roadway which provides through traffic movements between areas and links collectors with other arterials. Minor arterials usually have two to four lanes and may be divided or undivided roads, preferably with little or no parking, and limited access. The locations of roadways classified as minor arterials shall be as designated on the most recent edition of the North Dakota Department of Transportation functional classification map.

**Street-Principal Arterial**- Roadway which provides for rapid movements of relatively large traffic volumes between large land areas, major traffic generators and other arterials. Principal arterials should have controlled access and are usually multi-lane roads with no parking. The locations of roadways classified as principal arterials shall be as designated on the most recent edition of the North Dakota Department of Transportation functional classification map.

**Structural Alteration**- Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any structural change in the roof, or in the exterior walls. or dimension of the rooms therein.

**Structure**- Anything constructed or erected, which requires location on the ground or is attached to something having a location on the ground; including but not limited to buildings, advertising signs, billboards and poster panels; but not including customary fences or boundary or retaining walls.

**Structure** ~~Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.~~

**Structural Alterations** - Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

**Subdivision** - (Article 30): The division of a lot, tract or parcel of land into lots for the purpose, whether immediate or future, of sales or building development, including any plat or plan which includes the creation of any part or one or more streets, public easements, or other rights-of-way, whether public or private, for access to or from such lots, and/or including the creation of new or enlarged parks, playgrounds, plazas or open spaces. "Subdivision" includes the re-subdivision of one or more lots in a subdivision made and recorded prior to or after the date these regulations are adopted. However, the division of land for agricultural purposes into parcels of forty (40) or more acres, not involving any new street or easement of access, shall be exempted from these regulations.

**Substandard** - (Article 31): Shall mean any dwelling, dwelling unit, or premises violating any provisions of this Ordinance.

**Supplied** - (Article 31): Shall mean paid for, furnished, or provided by or under the control of the owner or operator.

**Surface Water** - Waters of the state located on the ground surface, such as lakes, reservoirs, rivers and creeks.

**Temporary Housing** - (Article 31): Shall mean any tent, trailer, or other structure used for human shelter which is designed to be transportable, and which is not attached to the ground, to another structure, or to any utilities system and located on the same premises for more than thirty (30) consecutive days.

Temporary Structure - A structure such as a tent or a building of sectional construction whose design and construction is such that it will be used only for a short period of time or that it can be readily moved to another location.

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 or a trailer camp~~ **RV Park** as defined and regulated herein. Temporary worker housing is also referred to as crew camp housing, temporary modular housing and man camps.

Temporary Limited Worker Housing – Temporary worker housing for twenty (20) or fewer workers and for a time period of six (6) months or less that is located on the same property as the activity at which the workers are employed. Limited temporary worker housing may include the use of recreational vehicles/trailers.

Tourist Camp – An area containing one (1) or more structures designed or intended primarily for automobile transients or provided spaces where two (2) or more tents can be erected.

Tourist Home – A dwelling in which sleeping accommodations in less than ten (10) rooms are provided or offered for transient guests for compensation. Any dwelling in which such accommodations for transient guests are offered in ten (10) or more rooms shall be deemed to be a "hotel" as defined herein. The use of a dwelling as a tourist home shall not be considered an accessory use nor a customary home occupation.

Trailer – Any vehicle or structure, including but not limited to an automobile trailer and trailer coach, mounted on wheels for use on highways and streets; propelled or drawn by its own or other motor power; and designed and constructed to provide for living or sleeping quarters for one (1) or more persons or for the conduct of a business, profession, trade or occupation, or use as a selling or advertising device. If wheels of a trailer are removed, except for repair it is deemed to be a building subject to all the regulations therefore.

Trailer Camp – A tract of land, together with open spaces required by this or any other regulation, used, designed, maintained, or held out to accommodate ten (10) or more trailers, including all buildings, structures, tents, vehicles, accessories, appurtenances used or intended as equipment for such trailer camp, whether or not a charge is made for the use of the camp or its facilities. A trailer camp does not include automobile or trailer sales lots on which unoccupied trailers are parked for inspection or sale.

Townhouse – A building which has dwelling units erected together as a single building on adjoining lots, each being separated from the adjoining unit or units by an approved two-hour or equivalent fire-rated wall extending from the footing to and through the roof and where each dwelling unit is

located upon a separate parcel. Each unit in a townhouse has a private front entrance. Townhouses are constructed side-by-side and back-to-back and the lines dividing the parcels are straight lines from the front property line to the back property line along the common walls.

Urban Lot- See "Lot-Urban."

Use- The term referring to:

Any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied; and

1. Any occupation, business, activity or operation carried on (or intended to be carried on) in a building or other structure or on land; or
2. A name of a building, other structure or tract of land which indicates the purpose for which it is arranged, designed, intended, maintained or occupied.

Used - Designed, intended or arranged to be used.

Use Group- Two or more uses similar in physical characteristics, traffic generation, locational, utility or municipal service requirements, or generally compatible with other uses in the use group. Members of the several use groups herein established are specifically listed in this article.

Uses Permitted- Any use permitted by the regulations of this article. The term "permitted" or its equivalent shall not be deemed to include any nonconforming use.

Variance- A device which grants a property owner relief from certain provisions of a zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to increase the financial return.

Variance - A grant of relief from the literal provisions of this Ordinance in situations where strict adherence would cause practical difficulty or unnecessary hardship because of circumstances unique to the property.

Vegetative Clearing, Intense: The complete removal of trees, shrubs or natural vegetation in a contiguous patch, strip, row or block.

Veterinary clinic- See "Small animal veterinary clinic".

Veterinary/Animal Clinic - A facility in which the practice conducted is essentially an out patient type of practice for animals performed by licensed veterinarians.

Veterinary/Animal Hospital - A facility in which the practice conducted includes the confinement as well as the treatment of animal patients by licensed veterinarians.

**Waiver** - A minimum easing of the literal provisions of the subdivision regulations in situations where strict adherence would result in practical difficulty or unnecessary hardship because of circumstances unique to the property being subdivided.

**Waters of the State** - All waters within the jurisdiction of the State of North Dakota, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, except those private waters that do not combine or effect a junction with natural surface or underground waters defined.

**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.

**Yard**- An open space of uniform width or depth on the same zoning lot with a building or group of buildings, which open space lies between the buildings or group of buildings and the nearest lot line and is unoccupied and unobstructed, from the ground upward except as may be specifically provided in this article. In measuring a yard, the line of a building shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building or group of buildings nearest to such lot line, exclusive of such features specified as not to be considered in measuring yard dimensions or as being permitted to extend into a yard and said measurements shall be taken at right angles from the line of the building to the nearest lot line. When a private roadway easement or access easement is located along a lot line, the yard width or depth shall be measured from the interior edge of said easement rather than the actual lot line.

**Yard**- An open space of uniform width or depth on the same zoning lot with a building or group of buildings, which open space lies between the buildings or group of buildings and the nearest lot line and is unoccupied and unobstructed, from the ground upward except as may be specifically provided in this article. In measuring a yard, the line of a building shall be deemed to mean a line parallel to the nearest lot line drawn through the point of a building or group of buildings nearest to such lot line, exclusive of such features specified as not to be considered in measuring yard dimension or as being permitted to extend into a yard, and said measurements shall be taken at right angles from the line of the building to the nearest lot line.

**Yard-Front**- A yard extending across the full width of the lot side yard lines and being the minimum horizontal distance between the street line and any building or any projection thereof, other than the projection of the usual steps or entranceway, and lying between the front line of the lot and the nearest line of the principal building. When a private roadway easement or access easement is located along a front lot line, the front yard width shall be measured from the interior edge of said easement rather than the actual lot line.

**Yard-Rear** - A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot and the rear of any building or any projection other than steps. On corner lots the rear yard shall be considered as parallel to the street upon

[Type here]

which the lot has its least dimension. On both corner lots and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard.

**Yard-Side-** A yard ~~extending from the front lot line to the rear yard line, and being the minimum horizontal distance between the side lot and the side of any building or any projections thereof.~~ between the sideline of the lot and the nearest line of the principal building and extending from the front yard to the rear yard, or, in the absence of either side yards, is a front or rear lot line, respectively, no case being closer than four feet. The first two feet of the overhang shall not be subtracted from the allowable side yard spacing provided that the overhang is not closer than four feet to the property line. When a private roadway easement or access easement is located along a side lot line, the side yard width shall be measured from the interior edge of said easement rather than the actual lot line.

**Zoning Administrator-** The person or persons designated by the Burleigh County Board of Commissioners to administer and enforce the County's zoning and subdivision regulations.

## DRAFT- ORDINANCE 26-004 ZO

### AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 6 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO ARTICLE 6 INCIDENTAL USES, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA.

#### **ARTICLE 6 INCIDENTAL USES 5 – GENERAL PROVISIONS AND USES**

The uses of land and buildings permitted in the several districts established by this Article are designated by listing the principal uses permitted. In addition to such principal uses, it is the intent of this Ordinance, and this Article, to permit in each district those uses customarily incidental to any principal use permitted in the district. Such permitted incidental uses are specifically listed as follows, and any listed use is permitted on the same lot with the principal use to which it is incidental.

##### **Section 1. Accessory Uses and Buildings.**

###### **1. Dwelling Premises**

- a. Private garages or off-street parking spaces are incidental to a dwelling.
- b. Private greenhouse, vegetable, fruit, or flower garden, from which no products are sold or offered for sale.
- c. Children's playhouse, and playground equipment.
- d. Shed, tool room for storage of equipment used in grounds or building maintenance but not including stable, chicken house, or other buildings to house agricultural livestock.
- e. Private swimming pool and bath house.
- f. Statuary, trellises, barbecue stove or similar ornamental or landscaping features.
- g. **Customary domestic pets are allowed in accordance with the provisions of this article.**
  - i. No more than three (3) dogs or cats four months of age or older.
- h. ~~All allowable accessory buildings to a residence shall be limited to a maximum of four percent (4%) of the area of the parcel, a maximum wall height of sixteen and one-half (16½) feet and a maximum building height of twenty-five (25) feet.~~
- i. ~~Accessory buildings for the above computations shall include the following:~~
  - i. Buildings: barns, stables, storage buildings, and detached garages
  - ii. Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling portion of the principal structure to which it is attached.
- j. ~~Construction of a garage or storage building in any R1 or A district is allowed prior to the construction of the principal dwelling provided the following conditions are met:~~
  - i. ~~petition waving any objection to the proposed outbuilding is signed by percent (60%) of all owners of land within one quarter (1/4) mile of the request~~
  - ii. ~~Limitation of the garage or shed constructed pursuant to this section to one structure of no more than one thousand two hundred (1,200) square feet for lots less than ten (10) acres in size, one thousand eight hundred (1,800) square feet~~

~~for lots between ten (10) and thirty four (34) acres, and two thousand four hundred (2,400) square feet for lots over thirty four (34) acres in size.~~

2. Church

- a. Parish house, together with any use accessory to a dwelling as herein listed.
- b. Religious education building
- c. Bulletin board not to exceed twenty (20) square feet in area.
- d. Off-street parking lot for the use without charge of members and visitors to the church

3. Health-Medical Group

- a. Any use accessory to a dwelling
- b. Off-street parking lot for the use without charge of staff members or visitors.
- c. Private garage.
- d. Private garage.
- e. Nun's home, nurses' quarters.
- f. Laundry incidental to hospital.

4. Office-bank, Retail, Commercial Recreation Groups

- a. Storage of customer, client, or operator-owned vehicles.
- b. Storage of supplies, stock and merchandise within a fully enclosed building.

5. Manufacturing and repair facilities incidental to principal use subject to the following limitations:

- a. Floor space so used shall not exceed twenty-five percent (25%) of total space devoted to the principal use.
- b. No motive power other than electricity shall be used.
- c. No motor used on any machine for manufacturing and repair shall exceed one horsepower.
- d. All operations shall be conducted so that no dust, odor, smoke, noise, vibration, heat or glare created by such operation is perceptible from any boundary line of the lot on which the principal use is located.

6. Service Group

- a. Garage, or parking lot for the storage of employee, customer, client, or operator-owned vehicles. **MOVE TO HOME OCCUPATION Section 2 Item 6**

**Section 2 General Requirements.**

1. Accessory uses and buildings shall comply with the following standards and all other applicable regulations of this chapter:

- a. The accessory use or building shall be incidental and customarily associated with the principal use or structure.
- b. The accessory use or building shall be located on the same zoning lot as the principal use or building.
- c. The accessory use or building shall not be injurious to the use and enjoyment of surrounding properties.
- d. No accessory building shall be located within any recorded public easement or over any known public utility.

## **Section 2. Home Occupation Moved to Item 6**

~~There is permitted in a dwelling, any occupation customarily incidental to the principal use as a dwelling, subject to the following limitations:~~

- c. ~~No person, other than a member of the immediate family, occupying a dwelling is there employed, except domestic help.~~
- d. ~~No stock in trade is displayed or sold upon the premises.~~
- e. ~~No alteration of the principal building that changes the character thereof as a dwelling.~~
- f. ~~No illuminated sign is used, and no sign other than one giving the name and occupation, not more than one square foot in area, is displayed.~~
- g. ~~No more than twenty five percent (25%) of the area of one story of the building shall be devoted to the home occupation.~~
- h. ~~The following are hereby declared to be customary home occupations as intended by this section:~~
  - (a) ~~Dressmaker, seamstress.~~
  - (b) ~~Music teacher.~~
  - (c) ~~Artist, sculptor.~~
  - (d) ~~Author.~~
  - (e) ~~Emergency treatment only of patients by physicians, dentists, or licensed drugless physicians.~~
  - (f) ~~Emergency interview only of clients by lawyers, architects, engineers and similar professions.~~
  - (g) ~~Minister.~~

## **2. One and two-family residential accessory uses and buildings.**

- a. Accessory uses and buildings commonly associated with residential uses include recreational activities, raising pets, hobbies and parking occupants' vehicles.
- b. Private swimming pools are allowed in accordance with this chapter.
- c. All allowable accessory buildings to a residence shall be limited to a maximum of four percent (4%) of the area of the parcel, a maximum wall height of sixteen and one-half (16.5') feet and a maximum building height of twenty-five (25) feet.

- d. Accessory buildings for the above computations shall include the following buildings: barns, stables, coops, storage buildings, and detached garages. Attached garages are not included in the above computations, provided the area occupied by an attached garage does not exceed one and one-half times the area of the footprint of the dwelling portion of the principal structure to which it is attached.
- e. Construction of a garage or storage building in any R1 or A district is allowed prior to the construction of the principal dwelling provided the following conditions are met:
  - i. petition waving any objection to the proposed outbuilding is signed by percent (60%) of all owners of land within one-quarter (1/4) mile of the request
  - ii. Limitation of the garage or shed constructed pursuant to this section to one structure of no more than one thousand-two hundred (1,200) square feet for lots less than ten (10) acres in size, one thousand-eight hundred (1,800) square feet for lots between ten (10) and thirty-four (34) acres, and two-thousand four hundred (2,400) square feet for lots over thirty-four (34) acres in size.
- f. The allowable sq./ft. of accessory buildings for all residential and agricultural districts may be increased provided a special use permit is approved by the Planning Commission in accordance with the provisions of Article 8
- g. A private riding arena up to 22,000 square feet, in addition to the accessory buildings allowed in this section for a single-family rural residence, may be located on a lot in the A – Agriculture zoning district with at least thirty-five (35) acres area as a special use in accordance with the provisions of Article 8.

### 3. Multi-family accessory uses and structures.

- a. Accessory uses and buildings commonly associated with multi-family residential uses include recreational activities management offices, and parking of occupants' vehicles.
- b. Customary domestic pets are allowed in accordance with the provisions of Article 6, but not including horses, poultry or agricultural livestock except as allowed in this ordinance. No more than three (3) dogs or cats, four months of age or older are allowed per dwelling unit. TBD
- c. Swimming pools for the use of residents and their guests are allowed.
- d. Accessory buildings shall be located on the side or rear of the principal building and are not permitted within any required front yard.
- e. The design and construction of any accessory building shall be similar to or compatible with the design and construction of the principal building.

f. All allowable accessory buildings shall comply with the applicable provisions of Article 5.

4. Non-residential accessory buildings or uses in residential zoning district.

a. Accessory uses and buildings commonly associated with non-residential uses in residential zoning districts, such as schools and religious facilities, include offices, athletic and recreation facilities, and maintenance facilities.

b. A parish house or similar residential facility is allowed as an accessory use to a religious facility, along with any accessory use and buildings commonly associated with a residential use.

c. Signage shall be subject to the provisions of Article 6

d. All non-residential accessory buildings in residential zoning districts shall be subject to the applicable provisions of Section ~~14-03-05~~.

e. The design and construction of any accessory building shall be similar to or compatible with the design and construction of the principal building.

5. Non-residential accessory uses and buildings in all other zoning districts.

a. Health and Medical Uses. Accessory uses and buildings commonly associated with health and medical uses (health care facilities, not including free-standing medical clinics) include out-patient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias, housing for staff or trainees and maintenance facilities.

b. Office Uses. Accessory uses and buildings commonly associated with office uses, including medical clinics and financial institutions, include cafeterias, health facilities, maintenance facilities and other amenities primarily for the use of the employees in the building.

c. Institutional Uses. Accessory uses and buildings commonly associated with non-residential uses in residential zoning districts, such as schools and religious facilities, include offices, athletic and recreation facilities, and maintenance facilities.

d. Commercial Uses. Accessory uses and buildings commonly associated with commercial uses include offices, storage of goods for sale on the premises and maintenance facilities.

e. Industrial Uses. Accessory uses and buildings commonly associated with industrial uses include offices, cafeterias, health facilities, maintenance facilities and other amenities primarily for the use of the employees in the building.

- f. Gate houses, guard shelters, and structures for parking attendants may be located in a front or side yard at least five (5) feet from the property line and outside of any required sight triangle.
- g. ~~All other accessory buildings and structures, including mechanical equipment and electrical transformers, shall comply with the applicable setbacks (front, side and rear) and lot coverage requirements for principal buildings within the underlying zoning district. The provisions of Section 14-03-05 of the City Code of Ordinances do not apply to non-residential accessory buildings in non-residential zoning districts.~~
- h. The design and construction of any accessory building shall be similar to or compatible with the design and construction of the principal building.
- i. Manufacturing and repair facilities incidental to the principal use subject to the following limitations:
  - i. Floor space so used shall not exceed twenty-five percent of the total floor space devoted to the principal use.
  - ii. No motive power other than electricity shall be used.
  - iii. No motor used on any machine for manufacturing and repair shall exceed one horsepower.
  - iv. All operations shall be conducted so that no dust, odor, smoke, noise, vibration, heat or glare created by such operation is perceptible from any boundary line of the lot on which the principal use is located.

6. **Home Occupations:** A home occupation is permitted as an accessory use on any residential property in any zoning district, subject to the following provisions:

- a. **Permitting Process.** Home occupations are further divided into major and minor types based on standards contained in this section and subject to a separate approval process for each type:
  - i. Minor home occupations are permitted by right. A property owner may choose to request a letter to verify compliance with provisions of this section, and the Zoning Administrator will issue a letter of compliance based on information provided by the property owner and in accordance with a process set by the Zoning Administrator.
  - ii. Permitting for major home occupations shall vary by zoning district:
    - a) In the RR – Residential, RR5 – Residential, or A Agricultural zoning districts, major home occupations are permitted by right.

7. **In all other zoning** districts, major home occupations may be permitted by a special use permit, according to procedures set in Article 8:

- i. Home occupations that do not meet either major or minor standards may be permitted only in RR – Residential, RR5 – Residential, or A – Agricultural zoning districts by a special use permit, according to procedures in Article 8 upon a finding that:
  1. The issuance of the permit would conform to the intent of that zoning district and the goals and objectives of the Comprehensive Plan
  2. Requirements of the International Building Code (IBC) would be met, as applicable.
  3. The proposed home occupation remains clearly subordinate to the principal residential use.
- ii. More than one (1) home occupation may be permitted on any residential property. In such cases, all standards and permits of this section apply to the cumulative total of all home occupations on the property.

8. Minor home occupations. A minor home occupation is any home occupation that meets all of the following standards:

- a. The home occupation is conducted on premises by one (1) or more residential occupants of the dwelling and no more than one (1) additional employee, business partner, independent contractor or any person affiliated with the home occupation that does not reside on premises.
- b. Up to fifty percent (50%) of the floor area of the principal structure and up to one hundred percent (100%) of one (1) accessory structure is utilized by the home occupation, including storage of associated goods, provided that customary residential amenities, such as a kitchen and bathroom, are not removed such that the structure would no longer meet building code standards as a dwelling unit.
- c. There exists no outward visual evidence to indicate the presence of the home occupation to an uninformed person, such as alterations of the dwelling from a customary residential appearance, overnight storage of products or materials outside.
- d. No more than one (1) non-illuminated commercial on premise wall sign is placed on the property of no greater than three (3) square feet, attached to a primary or accessory structure on the lot, subject to all requirements of Article 6.

- e. There exists no noise, odor, vibration, or electrical interference associated with the home occupation that is noticeable at the property line.
- f. Visits from customers, clients, or patients are by appointment only and limited to no more than one (1) party, or up to four (4) students for group lessons, at any time. Notwithstanding, multiple said parties may be present on the property during not more than four (4) events per year, with each event not to exceed four (4) days and no events occurring consecutively. At no time may a home occupation generate traffic significantly greater than that of a conventional residential use.
- g. Visits from customers, clients, patients, or deliveries occur only during the hours of 7 AM to 11 PM.
- h. Not more than two (2) vehicles and/or two (2) trailers associated with the home occupation may park or stand on the property or street, if permitted, at any time, and any on-street parking shall meet requirements of Burleigh County, as applicable.
- i. Any vehicles, including trailers and equipment, associated with the home occupation must be parked in an orderly manner on surface suitable for parking, devoid of tall grass or other potential fire hazards. Debris from vehicles may not enter a public right-of-way.
- j. No vehicles associated with the home occupation which require a Commercial Driver License (CDL) to operate in North Dakota may park overnight on the property or the street.
- k. There is no storage of any flammable, toxic, explosive, or otherwise hazardous materials to a greater extent than stored in a typical residential household, and no hazardous material is discharged into any sewer, storm drain, or the ground.
- l. The use is not an adult entertainment center, adult bookstore, or registered in North Dakota as a compassion center to dispense or produce medical marijuana.

m. In-Home Child Care. Notwithstanding provisions of Article 6 Section 1, in-home childcare may be permitted as a minor home occupation, subject to the following standards:

- i. In any single-family or two-family dwelling, the in-home childcare is licensed by the State of North Dakota as a Family Child Care or a Group Child Care for no more than twelve (12) children under the age of twelve (12) years, including any children of the operator/provider on the premises that are under the age of twelve (12) years.
- ii. In any dwelling unit, the in-home childcare is classified by the State of North Dakota as a Self-Declaration Provider for no more than five (5) children under the age of twelve (12) years, including any children of the operator/provider on the premises that are under the age of twelve (12) years.

9. Major home occupations. A major home occupation is any home occupation that meets all of the following standards:

- i. The home occupation does not meet all standards required of a minor home occupation.
- ii. The home occupation is conducted on premises by (1) one or more residential occupant of the dwelling and no more than three (3) additional employees, business partners, independent contractors or any person affiliated with the home occupation that do not reside on premises.
- iii. Up to fifty percent (50%) of the floor area of the principal structure, one hundred percent (100%) of accessory structures, is utilized for the home occupation, provided that customary residential amenities, such as a kitchen and bathroom, are not removed such that the structure would no longer meet building code standards as a dwelling unit.
- iv. The home occupation may utilize one (1) contiguous outdoor area of up to five (5) percent of the total lot area or 10,000 square feet, whichever is less, including storage of associated goods, vehicles, equipment, and trailers. Notwithstanding, no limit on area of outdoor area shall apply in the A – Agricultural zoning district.
- v. The principal residential dwelling is not altered from a customary residential appearance.
- vi. Outdoor and overnight storage of products or materials associated with the home occupation may not be in a front yard and must be screened by fencing, buildings, or landscaping buffer yards, such that materials are

not clearly visible from a public right-of-way and adjoining properties during all seasons. Trailers may be loaded with items.

- vii. No more than one (1) non-illuminated commercial on premise sign is placed on the property of no greater than three (3) square feet, plus one (1) square foot per acre in the lot, of sign area, subject to all requirements of Article 6 of Burleigh County Ordinances.
- viii. Noise ordinance requirements contained in are met at all times, and there exists no objectionable odor, vibration, or electrical interference associated with the home occupation and above typical residential levels that is noticeable at the property line.
- ix. Visits from customers, clients, patients, employees, or
  - a) deliveries do not create an undue burden on traffic safety and congestion or on-street parking availability in the neighborhood. At no time may a home occupation generate traffic significantly greater than that of a conventional residential use.
- x. Visits from customers, clients, patients, employees, or deliveries occur only during the hours of 7 AM to 11 PM.
- xi. Any vehicles, including trailers and equipment, associated with the home occupation must be parked in an orderly manner on surface suitable for parking, devoid of tall grass or other potential fire hazards, and debris from vehicles may not enter a public right-of-way, in accordance with Article 10 Burleigh County Ordinances.
- xii. Any on-street parking of vehicles associated with the home occupation shall meet requirements of Article 10 Burleigh County Ordinances
- xiii. No more than one (1) vehicle associated with the home occupation which requires a Commercial Driver License (CDL) to operate in North Dakota may park on the property at any time. At no time may said vehicle exceed the load restrictions in place for any time of the year on the adjoining street or park on the street.
- xiv. There is no storage of any flammable, toxic, explosive, or otherwise hazardous materials to a greater extent than stored in a typical residential household, and no hazardous material is discharged into any sewer, storm drain, or the ground.
- xv. The use is not an adult entertainment center, adult bookstore, or registered in North Dakota as a compassion center to dispense or produce medical marijuana.

10. Model Homes. A model home is permitted on any residential property in any zoning district, subject to the following provisions:

- a. Model homes are subject to all sign requirements for Non-Residential Uses in a residential zoning district.
- b. Model homes shall be converted to residential use or removed upon complete development of the subdivision or site.
- c. Model homes may contain ancillary office or indoor storage use provided the principal use of the property remains sales or leasing of homes in the subdivision or site and all building and fire codes of the International Building Code (IBC) are met.

11. Portable Storage Containers.

- a. General Requirements. Container usage in all zoning districts as allowed in this section is subject to the following requirements.
  - i. Containers shall not occupy any required building setback area, landscaped area or buffer yard.
  - ii. Containers shall not be placed within a sight triangle as defined in Article 3.
  - iii. Containers shall be included in lot coverage computations.
  - iv. Containers shall be subject to the provisions of the Fire Code concerning fire department access and hydrant blockage.
  - v. Portable storage containers in industrial zoning districts.

12. Portage storage containers are allowed in the MA and MB Industrial Zoning Districts.

- a. A container that is not temporary in nature may only be used in a manner that would result in the container being subject to taxation as real property and subject to all applicable provisions of the Building Code and Zoning Ordinance.

13. Portable storage containers are allowed in the CA and CG Commercial Zoning Districts for the purpose of storage of seasonal merchandise during the following time periods: November 1 through January 15, and April 1 through June 15.

- a. Portable storage containers – other requirements in non-industrial zoning districts. Container usage in any non-industrial zoning district is allowed only as follows:

- i. Residential moving. Containers may be used for a period not to exceed 30 days for the purpose of loading or unloading furniture and other household goods associated with a residential relocation.
- ii. Loading & unloading. Semi-trailers in the process of transferring goods may occupy a site for up to 48 hours for loading and unloading purposes.
- iii. Parking lot truckload sales, fund raising activities or similar promotional or charitable events which utilize containers are permitted for a period not to exceed 30 days within any 90-day period.

#### 14. Accessory Solar Energy Systems:

- a. Intent: Encourage investment in solar energy generation on all parcels in the city, both residential and non-residential, while providing that all such systems are safe and harmonious with the surrounding area.
- b. Solar Access: an applicant may obtain solar easements from the adjoining property owners to preserve direct access to sunlight, as per NDCC 47-05-01.2. A permit granted by Burleigh County to install a solar energy system does not guarantee solar access.
- c. Accessory Use: Solar energy systems are permitted in all zoning districts as an accessory use, subject to all requirements of this Section 14-03-06 and building code requirements of Title 4 of the Code of Ordinances.
  - i. An accessory solar energy system must be located on the same lot or parcel of land as the primary use it is intended to serve.
  - ii. An accessory solar energy system is intended to produce energy primarily for on-site consumption, but excess electrical power may be transferred to a power supply grid pursuant to utility company interconnection agreements.
- d. Permits Required: The following permits shall be required prior to installation of an accessory solar energy system:
  - i. A building-integrated accessory solar energy system requires no additional permits beyond the building permit required for the structure.
  - ii. A building permit must be obtained prior to installation of any building-mounted or freestanding accessory solar energy system. A building permit will be granted by the Building Official to any applicant who has demonstrated that all requirements of this section and other applicable sections of the Code of Ordinances have been met.

15. Building-mounted Solar Energy Systems: Any system that is mounted to the roof or attached to the wall of a principal or accessory structure shall meet the following requirements:

- a. The building-mounted system shall not render the structure to which it is attached non-compliant with the height or setback requirements of the underlying zoning district.
- b. No roof-mounted system may extend beyond the edge of a roof, and no wall-mounted system may extend beyond the façade of a wall.
  - i. A system mounted to a residential roof shall have a pitch oriented in the same direction as and no more than twenty percent (20%) steeper than the pitch of the roof on which the system is mounted, and no part of the system shall be higher than two (2) feet above the surface of the roof. Measurements are made from any position of an adjustable system.
  - ii. A system mounted to a non-residential roof shall be no higher than twelve (12) feet above the surface of the roof, measured from any position of an adjustable system.
  - iii. A system mounted to a wall of a structure shall not project more than five (5) feet from the structure.

16. Freestanding Solar Energy Systems: Any accessory solar energy system that is ground-mounted or pole-mounted and not attached to a structure shall meet the following requirements:

- a. Freestanding accessory systems shall be counted toward lot coverage requirements of the underlying zoning district.
- b. No freestanding accessory solar energy system on a residential property may exceed eight hundred (800) square feet in area per dwelling unit, except that such systems on lots or parcels zoned A - Agricultural, RR - Rural Residential, or RR5 – Rural Residential are permitted to be up to an additional two hundred (200) square feet in area per acre of land in the lot or parcel.
  - i. No freestanding accessory solar energy system on a non-residential property may exceed one-half (1/2) the area of the building footprint of the principal use on the lot or parcel, except that any system collocated with and above a required off-street parking lot shall not be counted toward total allowable area.
  - ii. A freestanding accessory solar energy system must meet all setback restrictions that apply to accessory buildings in the zoning district in

which it is located, setbacks must be met for all positions of an adjustable system.

- iii. No freestanding accessory solar energy system may exceed twelve (12) feet in height, measured from any position of an adjustable system to the ground adjacent to the base of the system.
- iv. No freestanding accessory solar energy system may extend into or over a legally recorded easement.
- v. All abandoned or unused freestanding accessory solar energy systems in a state of disrepair shall be removed by the property owner within twelve (12) months of the cessation of operations. Removal of any foundation is not required.
- vi. Interconnection: The property owner of any solar energy system that will be connected to the electrical power grid shall receive authorization to enter into an interconnection agreement with the applicable utility company prior to applying for permits from Burleigh County.

17. Appearance: The following provisions apply when any part of an accessory solar energy system may be visible from any public right-of-way of any adjacent street frontage, except for alleys.

- a. All electrical and plumbing lines serving a freestanding accessory solar energy system shall be buried.
- b. All exterior electrical and plumbing lines, batteries, and other appurtenant features serving a building-mounted accessory solar energy system shall be either screened or painted/coated to match the color of adjacent roofing or siding materials. This provision does not apply to a solar collector.
- c. The non-collecting side of a solar collector and other appurtenant features of any freestanding accessory solar energy system shall be screened from view of said public right-of-way with vegetation and/or fencing.

18. Information Requirements: Prior to the issuance of a permit, the Zoning Administrator shall be provided with any requested information necessary to prove compliance with this subsection, including but not limited to:

- a. For freestanding accessory solar energy systems, a scaled and dimensioned site plan of the lot or parcel, including existing structures on the lot, location and orientation of proposed system, property lines, required setbacks, easements, rights-of-way, and a utility diagram applicable to the proposed system.

- b. Specifications and/or drawings of the system and any component parts provided by the manufacturer, including heights and lengths at various positions for adjustable systems.
- c. Acknowledgement from the applicable utility company that an interconnection agreement has been requested, if applicable.

19. Short-Term Rental. A short-term rental is permitted as an accessory use on any residential property in any district, subject to the following provisions:

- a. Residential unit utilized for a short-term rental shall not be altered in a way that changes their general residential appearance.
- b. A short-term rental may be allowed in an accessory dwelling unit.
- c. A recreational vehicle or other vehicle or structure not classified as a permanent residential dwelling unit may not be used as a short-term rental.
- d. Short-term rentals are subject to parking requirements in accordance with Article 10
- e. No noise, odor, vibration, or electrical interference associated with the short-term rental beyond what is typically permitted for residential uses is restricted in accordance with NDCC 42-01-03
- f. Requirements of the International Building Code (IBC) would be met, as applicable.

**DRAFT- ORDINANCE 26-005 ZO**

**AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 7 OF THE 1972 AMENDED ZONING  
ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO ARTICLE 7 - USE GROUPS.  
BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH  
DAKOTA.**

**ARTICLE 7 - USE GROUPS**

**Section 1. Purpose**

In order to carry out the purposes of this Ordinance, certain uses having similar characteristics are classified together as "Use Groups". In any district in which a use group is permitted, it is the intent of this Article to permit any particular member of that use group to be located within that district. In any district in which a use group is not listed as a permitted use, it is the intent of this Article to prohibit each and every member of that use group from locating within that district. These use groups shall apply to all zoning districts

**Section 2. Retail Group A**

A use in Retail Group A is one in which the principal activity is the sale at retail of merchandise, and which:

- i. Depends to some extent on the proximity of other retail and service establishments.
- j. Merchandise is not of such a nature as to be customarily taken away by the customer in a truck.
- k. Includes no incidental manufacturing or processing carried on in such a manner as to produce offensive noise, odor, dust, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.

- 1. The following uses are declared to be in Retail Group A:
  - a. Antique store
  - b. Appliance, radio, television store
  - c. Auto accessory store
  - d. Book, magazine, newspaper store
  - e. Butcher shop
  - f. Camera store, art supply store
  - g. Candy store
  - h. Clothing, clothing accessories store
  - i. Delicatessen
  - j. Department store

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- k. Drug store
- l. Five and ten cent stores
- m. Flower shop
- n. Furniture, office equipment store
- o. Gift shop
- p. Grocery store
- q. Hardware store
- r. Hobby, toy store
- s. Ice cream parlor
- t. Jewelry store
- u. Music store
- v. Notion, variety store
- w. Office supply, stationery store
- x. Photographic studio
- y. Shoe store
- z. Sporting goods store
- aa. Bakery, in which nothing is baked except for retail sale on the premises

### **Section 3. Retail Group B**

A use in Retail Group B is one in which the principal activity is the sale at retail of merchandise, and in which one or more of the following factors is present:

- a. Merchandise is of such nature as to be customarily taken away by the customer in a motorized truck.
- b. Merchandise is of such nature as to require fifty percent (50%) or more of the space within the building for storage of the merchandise.
- c. Merchandise is of such nature as to be stored or customarily displayed outside a building.
- d. The success of the activity is not dependent upon the proximity of uses in Retail Group A.

The following uses are declared to be in Retail Group B:

- i. Auto and truck sales
- ii. Farm implement sales and related agribusiness establishments
- iii. Feed, grain and farm supply sales and related agri-business establishments.
- iv. Trailer Sales
- v. Commercial greenhouse for retail sales
- vi. Lumberyard provided all building materials are stored within a building or fenced area.

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#### **Section 4. Service Group A**

A use in Service Group A is one in which the principal activity is the serving of food for consumption on the premises, personal service, household or clothing service, or the repair of small equipment, and which:

1. Depends to some extent on the proximity of other retail and service establishments.
2. Operations are carried on in such a manner as to produce no offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.
3. The following uses are declared to be in Service Group A:
  - a. Barber shop
  - b. Beauty shop
  - c. Cold storage locker
  - d. Dressmaker, tailor shop
  - e. Dry cleaning and pick-up establishment
  - f. Furniture repair and upholstering shop
  - g. Laundry and pick-up establishment
  - h. Laundromat (self-service)
  - i. Milliner
  - j. Radio and appliance repair
  - k. Restaurant
  - l. Shoe repair
  - m. Soda Fountain
  - n. Watch, jewelry, camera repair
  - o. Dry cleaning plants, providing service for wearing apparel only, and complying with all provisions of the International Building and Fire Code (IBC, IFC).
  - p. Mortuary or funeral home.
  - q. Commercial childcare facility for childcare not in excess of four (4) hours in any twenty-four (24) hour period. Facilities shall provide at least thirty-five (35) square feet of play area per child and one (1) parking space per employee as well as one (1) space per ten (10) children.

#### **Section 5. Service Group B**

A use in Service Group B is one in which the principal activity is technical or vocational instruction by a private organization for profit, repair and service to motor vehicles and other service uses not necessary in or appropriate to neighborhood commercial districts, and for which one or more of the following factors is present:

[Type here]

1. Its success is not dependent upon the proximity of Retail Group A uses.
2. Repair or service operations are such as to produce some offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.
3. The use is one which, if placed on a lot adjacent to a lot in a residential district would create an unusual safety hazard for the lot or other lots in said residential district, or would otherwise unduly depreciate the value of any lot in said residential district.
4. The following uses are declared to be in Service Group B:
  1. ~~Auto laundry~~
  2. Auto repair garage
  3. Commercial school, including business, secretarial, dancing, music, physical culture, technical or trade school
  4. Garage, commercial parking lot
  5. Steam cleaning establishment
  6. Tire, battery repair establishment
  7. Undertaking establishment
  8. Outdoor advertising signs
  9. Parcel delivery establishments
  10. Storage Unit Building (Personal Self-Serve)

## **Section 6. Office-Bank Group**

A use in the office-bank group is one in which the principal activity is the conduct of commercial, governmental, financial, professional, or management activities.

1. The following uses are declared to be **typical uses** in the Office-Bank Group:
  - a. Bank
  - b. General office
  - c. Governmental office
  - d. **Medical office, including doctor, dentist and chiropractor office, where patients are not kept overnight.**
  - e. Insurance office
  - f. Personal loan agency
  - g. Professional office
  - h. Real estate office
  - i. Taxi-cab office
  - j. Telephone exchange
  - k. Utility office

[Type here]

## **Section 7. Commercial Recreation Group**

A use in the commercial recreation group is one in which the principal activity is the furnishing of recreation for a profit, and for which the following factor is present:

1. The activity is not operated by a governmental agency.
2. The following uses are declared to be in the Commercial Recreation Group:
  - a. Bowling alley
  - b. Dance hall
  - c. Pool or billiard parlor
  - e. Roller skating rink
  - f. Sports arena
  - g. Theater
  - h. Bar, saloon or tavern where alcoholic beverages are offered for sale for consumption on the premises
  - i. Miniature golf course

## **Section 8. Wholesale Group**

A use in the Wholesale Group is one in which the principal activity is the sale of merchandise to individuals and corporations for resale to the public, and for which:

1. The merchandise offered for sale is stored wholly within a completely enclosed building.
2. No unusual fire or safety hazard is caused by the storage of the merchandise.
3. No live animals are sold.
4. No junk, wrecked automobiles, secondhand equipment or other salvaged materials or dead animals are stored or sold on the premises.
5. The following uses are declared to be typical uses in the Wholesale Group:
  4. Newspaper, magazine distributor
  5. Wholesale food and grocery sales
  6. Wholesale drug sales
  7. Other wholesale distribution facilities
  8. Warehouses

## **Section 9. Health-Medical Group**

[Type here]

A use in the Health-Medical Group is one in which the principal activity is related to the care and medical treatment of human beings.

1. The following uses are declared to be typical uses in the Health-Medical group:

- a. Hospital for human beings
- b. Medical clinic
- c. Medical schools.
- d. Nursing, Convalescent Home, Assisted Living Facility
- e. Old People's Home
- f. Orphan's Home
- g. Sanitarium

## Section 10. Educational Group

A use in the Education group is one in which the principal activity is the education of children or adults by a public or private non-profit agency.

1. The following uses are declared to be typical uses in the Education Group:

- a. College or Junior College
- b. Grade Elementary school
- c. High school or Junior high school
- d. Kindergarten
- e. Private or Parochial school offering a curriculum substantially equivalent to that offered by public schools
- f. Student or faculty dormitory on college campus
- g. Stadium, gymnasium, field house, as an accessory building on same lot as principal building
- h. Power or heating plant as accessory building and use on same lot as principal building

## Section 11. Group dwelling.

A group dwelling is a building used for residential purposes, and in which:

- a. The occupants are unrelated.
- b. Separate cooking facilities are not provided for individuals or groups of individuals.
- c. Persons residing in the building are domiciled more or less permanently, in contrast to transient residents' characteristic of hotels.
- d. The following uses are declared to be typical group dwelling uses:
  - i. Boardinghouse.

- ii. Convent, monastery.
- iii. Fraternity, sorority house.
- iv. Rooming house or dormitory.
- v. Halfway house.
- vi. Assisted living facility, convalescent or orphan's home.

## **Section 11.12 Public Recreation Group**

A use in the Public Recreation Group is one in which the principal activity is public recreation and which is carried on by a governmental agency.

1. The following uses are declared to be in the Public Recreation Group:
  - a. Community center
  - b. Museum, public
  - c. Park, public
  - d. Playground, public
  - e. Golf course
  - f. Swimming pool.
  - g. Ice arena.
  - h. Zoo.

## **Section 12. 13. Industrial Group A**

A use in the Industrial Group is one involving the manufacturing or the storage and sale of ~~heavy building materials or equipment~~, products and material, and in which the operations create a greater degree of hazard or more annoyance than the operations of uses in industrial group A, but and which conforms to the following requirements:

1. There is no unusual fire, explosion or safety hazard.
2. There is no production of noise at any boundary of this district in which such use is located in excess of the average intensity of street and traffic noise at that point.
3. There is no emission of smoke in excess of any density described as No. 1, as measured by the standard Ringlemann Chart prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 2 on a Ringlemann Chart will be permitted for a period not in excess of four (4) minutes in any thirty (30) minute period.
4. There is no emission of dust, dirt, or toxic or offensive odors or gas.

5. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.
6. The following uses are declared to be **typical uses** in the Industrial Group; provided, however, that if any of the following uses, being established subsequent to the adoption of this Article, is operated or changed so that the use does not comply with the standards for the Industrial Group that use as operated or changed would not be permitted as a new use in the district in which it is located, and then such use shall be declared in violation of this Article:
  - a. Manufacture, compounding, processing, packaging, treatment or assembly of the following materials and products, but excluding the use in any operation of a punch press over twenty (20) tons rated capacity, a drop hammer, or an automatic screw machine:
    - i. Bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, and food products except fish and meat products, sauerkraut vinegar, yeast, and the rendering or refining of fats and oils.
    - ii. Products from the previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, precious metals or stones, fur, glass, hair, horn, leather, paper, plastics, shell, textiles, wood and yarns.
    - iii. Pottery and other ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
    - iv. Electric and neon signs, outdoor advertising signs, commercial advertising structures, and light sheet metal products, including heating and ventilating ducts and equipment, cornices, coves, and similar products.
    - v. Musical instruments, toys, novelties and rubber and metal stamps.
    - vi. Blacksmith shop, welding and machine shop.
    - vii. Laundry, cleaning and dyeing works, and carpet and rug cleaning.
    - viii. Ice manufacturing, soft drink bottling plant.
    - ix. Assembly of electric appliances, electronic instruments and devices, radios, phonographs, and television sets, including the manufacture of small parts only, such as coils, condensers, transformers, crystal holders, and similar products.
    - x. **Soft drink bottling plant.**
  - b. Storage building and warehouses.
  - c. Experimental laboratories.

d. The following uses when conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall, compact hedge or uniformly painted board fence, not less than six (6) feet in height and not be located closer than five hundred (500) feet from any zone in which they are prohibited:

- i. Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the principal use.
- ii. Contractors' equipment, storage yard or plant, or rental of equipment commonly used by contractors.
- iii. Concrete products, material storage and mixing
- iv. Retail lumber yard, including only incidental mill work.
- v. Feed and fuel yard.
- vi. Manufacturing and storage of alcoholic beverages, including brewery.
- vii. Public utility service yard, or electrical receiving or transforming station.
- viii. Pipe yard, or storage, sale or rental of oil and gas well drilling equipment.

#### **Section 14. Industrial group B.**

A use in industrial group B is one involving manufacturing or the storage, sale of products and material, and in which the operations create a greater degree of hazard or more annoyance than the operations of uses in industrial group A, but which conforms to the following requirements:

- a. The design and the operation of the building, and design and use of the premises fully comply with all special requirements established by this paragraph and this article.
- b. There is no emission of smoke in excess of a density described as No. Two as measured by a standard Ringelmann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. Three on a Ringelmann Chart will be permitted for a period not in excess of four minutes in any thirty minute period.
- c. There is no emission of toxic gases or fumes.
- d. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.
- e. The following uses are declared to be typical uses in the industrial group B:
  - i. Any use listed in industrial group A, provided that all other requirements of industrial group B uses are complied with.
  - ii. Manufacture, compounding, processing, refining or treatment of the following materials and products:
    - a) Acetylene.
    - b) Alcohol.
    - c) Asphalt and bituminous products.
    - d) Brick, tile or terra-cotta.

- e) Oilcloth or linoleum.
- f) Paint, shellac, turpentine, lacquer or varnish.
- g) Paper or pulp.
- h) Petroleum products.
- i) Plastics.

f. Any of the following uses provided that they shall not be located closer than five hundred (500) feet from any zone in which they are prohibited:

- i. Cement, lime, gypsum, or plaster of paris manufacture.
- ii. Drop forge industry, manufacturing forgings with power hammer.
- iii. Fertilizer manufacturing.
- iv. Garbage, offal, bone or dead animal reduction.
- v. Gas manufacture or utility regulating stations.
- vi. Propane storage.
- vii. Electric generating plant.
- viii. Smelting of tin, copper, zinc or iron ores.
- ix. Soap manufacture.
- x. Stockyards, feeding pens or livestock sale facilities.
- xi. Slaughter and packing of animals and meat products.
- xii. Tannery, curing or storing raw hides.
- xiii. Petroleum bulk plants,
- xiv. Truck Terminals.

## **Section 13. 15. Utility Service Group**

A use in the Utility Service Group is one necessary for the safe or efficient operation of a gas, water, communication or electric utility or sewage system for the benefit of the public, and is one for which the following factors are present:

1. The structure or use is necessary for the safe or efficient operation of the utility.
2. The utility which the structure or use serves is one available to the general public.
3. The design and location of the premises and structures are in full compliance with all requirements of this section and of this ordinance.
4. The use is located on a lot no smaller area than the minimum area specified in the district in which it is located for any principal use.
5. The use complies with all height and yard regulations for the district in which it is located.
6. ~~Wherever the lot on which the use is located adjoins in a lot in a residential district, there is planted and maintained a landscaped screened planting strip no less than five (5) feet in width adjacent to all lot boundaries so adjoining a lot in a residential district.~~

7. Wherever the lot on which the use is located adjoins a lot in any residential zoning district, a landscaped buffer yard no less than fifteen (15) feet in width is required along the entire length of any side or rear lot line adjacent to the residential zoning district. Said buffer yard shall be planted with two (2) shade trees, two (2) ornamental trees, and two (2) large upright coniferous trees per 100 linear feet in conjunction with site development. Alternative material types and numbers may be allowed in situations where there are concerns with site security. Minimum material size at the time of planting shall be in accordance with the provisions of this Article.
8. Proper security fencing with lot entrances shall be erected at least six (6) feet high around the perimeter of the site and maintained around all installations and structures in which there is any safety hazard whatsoever for children, provided that all structures shall be so located that such safety fence shall be placed as not to encroach on any front yard required in the district in which the use is located.
9. For the proper operation of the utility, it is necessary that the proposed use be located on, or within a short distance of, the site on which it is proposed to be located.
10. The following typical uses are declared to be in the Utility Service Group:
  - a. Electric transformer station, but not a stream generating plant
  - b. Electric transmission line
  - c. Sewage pumping station
  - d. Water pumping station
  - e. Water reservoir
  - f. Radio and/or television transmitting stations
  - g. Buildings, structures, radio towers, and related facilities for communication purposes
  - h. Natural gas facilities and structures
  - i. Gas regulator stations, excluding stations emitting noise of more than fifty (50) decibels at any property line adjacent to any residentially zoned area.
  - j. Radio or cellular communication tower.
11. Fire station. Fire stations are permitted as a principal use in any district as a necessity for the protection and safety of the public, subject to district requirements in which it is located. The design of the structure shall be compatible with surrounding structures in the district.

## **Section 14. 16. Truck Farming Group**

A use in the Truck Farming Group is an agricultural use normally found in suburban or rural areas, but on which poultry and livestock rearing is prohibited.

1. The following uses are declared to be typical uses in the Truck Farming Group:

- a. Flower growing, commercial
- b. Fruit growing
- c. Tree, shrub, plant nursery
- d. Truck gardening
- e. Greenhouse, commercial with no retail sales allowed.

### **Section 15. 17. General Farming Group**

A use in the General Farming Group is one which is customarily carried on in non-urban areas. It is the intent of this article to permit as an integral part of any particular use in the General Farming Group all customary accessory buildings for breeding and rearing poultry and livestock and for the storage of feed and farm crops. All of the livestock related uses in the following list refer to activities that are not defined as animal feeding operations as specified in the Zoning Ordinance.

1. The following uses are declared to be typical uses in the General Farming Group:
  - a. Dairy farming
  - b. Fur animal farming
  - c. Livestock raising and feeding
  - d. Pig farrowing and feeding
  - e. Poultry hatchery
  - f. Riding stable
  - g. Poultry farming and feeding
  - h. Roadside stand for the sale of products grown on the premises
  - i. Field crop farming
  - j. Apiary.
  - k. Tree, shrub or plant nursery.
  - l. Grain elevators
  - m. General animal husbandry
  - n. All customary farming and ranching activities and operations

### **Section 16-18 Manufacturing Group**

A use in the Manufacturing Group is one involving the manufacturing or the storage and sale of heavy building materials or equipment, and which conforms to the following requirements:

1. There is no unusual fire, explosion or safety hazard.
2. There is no production of noise at any boundary of this district in which such use is located in excess of the average intensity of street and traffic noise at this point.
3. There is no emission of smoke.

4. There is no emission of dust, dirt, or toxic or offensive odors or gas.
5. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.
6. The following uses are declared to be in the Manufacturing Group provided however, that if any of the following uses, being established subsequent to the adoption of this Article, is operated or changed so that the use does not comply with the standards for the manufacturing group that use as operated or changed would not be permitted as a new use in the district in which it is located, and then such use shall be declared in violation of this Article:
  - a. Manufacture, compounding, processing, packaging, treatment or assembly of the following materials and products but excluding the use in any operation of a punch press over 20 tons rated capacity, a drop hammer, or an automatic screw machine:
    - i. Pottery and other ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
    - ii. Electric and neon signs, outdoor advertising signs, commercial advertising structures, and light sheet metal products, including heating and ventilation products and equipment, cornices, coves, and similar products.
    - iii. Musical instruments, toys, novelties and rubber or metal stamps.
    - iv. Laundry, cleaning and dyeing works, and carpet and rug cleaning.
    - v. Assembly of electric appliances, electronic instruments and devices, radios, phonographs and television sets, including the manufacture of small parts only, such as coil, condensers, transformers, crystal holders and similar products.
  - b. Storage buildings and warehouses.
  - c. Experimental laboratories.
- d. The following uses when conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall, compact hedge or uniformly painted board fence, not less than 6 feet in height:
  - i. Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the principal use.
  - ii. Contractor's equipment, storage yard or plant or rental of equipment commonly used by contractors.
  - iii. Retail lumber yard, including only incidental mill work
  - iv. Feed and fuel yard
  - v. Public utility service yard, or electrical receiving or transforming station.
  - vi. Pipe yard or storage, sale or rental of oil gas well drilling equipment
  - vii. Prefabrication of dwelling units and building components.

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**DRAFT- ORDINANCE 26-006 ZO**

**AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 10 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO ARTICLE 10 AUTOMOBILE PARKING**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA.**

**Article 10 Off-Street Parking and Loading.**

**Section 1. Purpose.**

The provisions of this section are intended to provide accessible, attractive, secure and well-maintained off-street parking and loading areas with the appropriate number of spaces in proportion to the needs of proposed and future uses and to prevent overflow parking into adjacent properties. The provisions of this section are also intended to help protect the public health, safety and general welfare by:

- a. Helping to avoid and mitigate traffic congestion,
- b. Encouraging multi-modal transportation options and enhanced pedestrian safety; and
- c. Providing flexible methods for responding to the transportation and access demands of various land uses.

**Section 2. Applicability.**

The off-street parking and loading requirements contained herein shall apply to any of the following:

- a. New Development. The parking, stacking and loading requirements of this section shall apply to any new building constructed and to any new use established.
- b. Expansion and Alterations. The parking, stacking and loading requirements of this section shall apply when an existing structure or use is expanded or enlarged. Additional parking and loading spaces will be required only to serve the enlarged or expanded area. The parking, stacking and loading space provided for the existing use prior to the expansion or alteration may not be reduced below what is required.
- c. Change of Use. The parking, stacking and loading requirements of this section shall apply to any change of use that would result in a requirement for more parking, stacking or loading spaces than the existing use. Additional parking, stacking and loading spaces will only be required in proportion to the extent of the change, not for the entire building or use.

- i. In the case of a change of use where the current use does not meet the minimum parking requirements and the proposed change of use would require less parking, stacking or loading spaces than the current use, regardless of the number of spaces actually provided on the site, the Zoning Administrator may allow such change of use provided the parking, stacking and loading spaces for the new use is no less conforming than the current use.

### **Section 3. Reductions and Exemptions.**

- a. Mixed Use Parking Reductions. Parking requirements may be reduced by an additional ten (10) percent for mixed use developments including a combination of residential, or a hotel or motel in combination with office and/or commercial uses.
- b. Bicycle Parking Reductions. The following reductions may be used to provide relief from off-street parking requirements:
  - i. The number of vehicle parking spaces may be reduced by one (1) for five (5) bicycle parking spaces provided on the parcel, up to ten (10) percent of the total required vehicle parking spaces.
  - ii. A fixed bicycle rack shall be installed with the following design guidelines:
    - a. Support the bicycle at two points above its center of gravity.
    - b. Accommodate high security U-shaped bike locks.
    - c. Accommodate locks securing the frame and one or both wheels, preferably without removing the front wheel from the bicycle.
    - d. Provide adequate distance between spaces so that bicycles do not interfere with each other.
    - e. Do not contain protruding elements or sharp edges.
    - f. Do not bend wheels or damage other bicycle parts.
    - g. Do not require the user to lift the bicycle off the ground in order to place it into the rack.

- iii. The bicycle rack is provided with an aisle on one side of the bicycle parking space to allow for adequate access and maneuvering.
- iv. The bicycle rack is connected to an Americans with Disabilities Act (ADA) accessible sidewalk or corridor.
- v. The bicycle rack is placed on a dustless all-weather hard surface material.
- vi. The bicycle rack is located so as to not interfere with pedestrian or motor vehicle traffic.
- vii. Bicycle parking may be provided within a building, but the location must be easily accessible.

c. **Parking Exemption.** Health Medical zoning districts are not subject to the off-street parking and loading requirements of this section.

#### **Section 4. Required Parking.**

Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy in any zone shall be approved unless required parking is provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided.

When the installation of required parking cannot be completed in conjunction with site development due to seasonal constraints, the Zoning Administrator may issue a temporary certificate of occupancy with the understanding that the installation of the required parking be completed by a date agreed upon by the Zoning Administrator and property owner(s).

#### **Section 5. Design Standards for Required Off-Street Parking and Loading Spaces.**

All applications for a building permit or certificate of occupancy shall include a site plan, drawn to scale, that depicts the location and arrangement of required parking and loading spaces, driveways, and walkways as provided for in this section.

- a. **Parking Spaces.** Each required off-street parking space shall be of an area at least nine (9) feet wide and eighteen (18) feet in length, in addition to the ingress and egress driveways required.
- b. **Compact Parking Spaces.** A compact parking space shall be of an area at least eight (8) feet wide and sixteen (16) feet in length in addition to the ingress and egress driveways required. Compact parking spaces may count for up to 10 percent of required parking spaces and must be marked or signed as compact parking.

- c. For each parking space, not under a roof, there shall be provided, additional area for access lanes, aisles and drives necessary for safe and adequate parking maneuvering. Access lanes, aisles and drives must be designed according to acceptable professional industry design standards.
- d. Accessible Parking Spaces and Aisles. The size, number and location of stalls reserved for ADA parking shall be provided and identified as required by applicable ADA regulations. These spaces are included in the calculation for the total required parking.
- e. Electric Vehicle Charging Stations. Charging station stalls must meet local, state and federal requirements. These spaces are included in the calculation for the total required parking.
- f. Surfacing. All applications for required off-street parking and loading spaces and all driveways on private property leading to such parking areas shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock, crushed asphalt, crushed concrete, or gravel shall not be considered an acceptable surfacing material.
- g. Turnarounds. All off-street parking areas shall be designed so that vehicles do not have to back into the public right-of-way to exit parking areas.
- h. Encroachment. No parking space may block access to another parking space. No open area in an off-street parking area shall be encroached upon by buildings, storage or any other use.
- i. Pedestrian Facilities. Off-street parking areas for fifty (50) or more vehicles shall have walkways separated from the parking area and surfaced with a dustless all-weather hard surface material to provide safe access from parking areas, bicycle storage areas, public rights-of-way and existing pedestrian facilities to building entrances.
- j. Striping. All off-street parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement.
- k. All required parking, stacking and loading spaces, and access areas shall be used exclusively for the temporary parking and maneuvering of vehicles and shall not be used for the sale, lease, display, repair, or storage of vehicles,

trailers, boats, campers, mobile homes, merchandise or equipment, or other use not authorized by the provisions of this Title.

I. Loading Facilities. For each off-street loading space required by this section there shall be provided space clear and free of all obstructions, at least ten (10) feet in width, fifty feet (50) feet in length and fourteen (14) feet in height. Off-street parking and off-street loading space shall be provided with methods of ingress and egress such that it will be unnecessary for trucks or tractor trailer combinations to back into them from a public street or out of them into a public street; however, off-street loading spaces may utilize adjacent local streets as needed for ingress and egress when specifically approved in writing by the City Engineer or designee, based upon a submitted drawing using truck turning radius templates that demonstrates how the loading spaces will be utilized.

m. Maintenance. All off-street parking and loading facilities for the use of the public required pursuant to the provisions of this section shall be paved, drained, lighted and periodically maintained by the owner in accordance with specifications of the County Engineer.

n. Reductions. Required off-street parking spaces may not be reduced except upon the approval of the Zoning Administrator and then only after proof that, because of a decrease of floor space, seating capacity, number of employees, or change in other factors controlling the regulation of the number of parking spaces, the proposed reduction is reasonable and consistent with the intent of this section.

## 2. Calculation of Required Parking.

a. When the determination of the number of parking, stacking, bicycle parking or loading spaces results in a requirement of a fractional space, any fraction up to and including one-fourth shall be disregarded and fractions over one-fourth shall require one additional parking, stacking, bicycle parking or loading space.

b. When there are multiple structures on a lot or multiple uses within a structure, parking shall be calculated separately for each different use area within a building or site, including all accessory uses, unless a plan for shared parking or joint-use parking is approved by the Zoning Administrator.

c. One parking space for each twenty-five (25) uninterrupted linear feet of available street frontage of a local roadway useable for on-street parking directly adjacent to a parcel may be deducted from the total off-street parking spaces required for a site. The width of drive accesses, designated

non-parking areas, sight triangles, and similar circumstances may not be considered as available for the purpose of on-street parking space. Parking on roadways classified as an arterial roadway or a collector roadway will not be considered.

- d. Parking spaces required on a per-employee basis shall be based on the maximum number of employees on the largest shift.
- e. When parking is required based on seating as a unit of measurement, all calculations shall be based on the number of fixed seats. If fixed seats are not provided, then parking shall be determined at a rate of one space per five (5) occupants.
- f. The number of parking spaces shall be provided on the basis of the following minimum requirements:

USE	REQUIRED NUMBER OF OFF-STREET PARKING SPACES
<b>Residential Uses</b>	
Single-family	Two (2) spaces for each dwelling unit.
Two-family	Two (2) spaces for each dwelling unit.

Accessory dwelling unit	One (1) space for accessory dwelling unit.
Low and moderate income multi-family housing	0.65 spaces for each dwelling unit.
Multi-family	<p>One (1) space for each efficiency unit or each one-bedroom unit; and</p> <p>Two (2) spaces for each two-bedroom unit or larger.</p>
Rooming & boarding houses	One (1) space for each sleeping room rented, plus two (2) additional spaces for the owner or operator of the house.
Senior housing	0.65 spaces for each living unit.
Dormitories	One (1) space for each sleeping room.
Adult or disabled care centers, convalescent homes and nursing homes	One (1) space for each four (4) patient beds, plus one additional space for each employee on the largest shift.

<b>Institutional Uses</b>	
Elementary and middle schools	One (1) space for each employee, plus additional space for any places of public assembly in accordance with the requirements set forth in this section for such uses.
Schools including colleges, and high schools	One (1) space for each employee, plus additional space for any places of public assembly in accordance with the requirements set forth in this section for such uses and one space for every three (3) students.
Libraries and museums	One (1) space for each three hundred sixty (360) square feet of gross floor area.
Places of public assembly including exhibition halls, convention halls, auditoriums, sports arenas, athletic fields and theaters	One (1) space for each five (5) seats provided. If fixed seats are not provided, then parking shall be determined at a rate of one space per five (5) occupants.
Religious institutions	One space for each five (5) seats provided in an assembly area. If fixed seats are not provided, then parking shall be determined at a rate of one space per five (5) occupants.
<b>Commercial Uses</b>	
Childcare centers	One (1) space for each employee and one (1) space for each ten (10) children.
Motor fueling stations/	Four (4) spaces plus two (2) spaces for each service stall or bay. Facilities designed for sale of other items
Convenience stores	Shall be required to provide additional parking in accordance with other applicable provisions of this Section.
Motor vehicle repair garages	Two (2) spaces for each repair stall, plus additional spaces as needed to store vehicles waiting to be repaired or picked up after repair.
Hospitals	One (1) space for each two (2) patient beds plus one (1) additional space for each two (2) employees.
Hotels and motels	One (1) space for each guest room. If, in addition to the guest rooms, patrons are provided with assembly halls, bars, restaurants, nightclubs, retail shops, service establishments or other businesses, additional off-street parking spaces will be required for such other uses in accordance with the regulations of this Section for those uses.
Funeral homes and mortuaries	One (1) space for each four (4) seats or one (1) space for each seventy-five (75) gross square feet of building area, whichever is greater.

Office buildings	One (1) space for each three hundred sixty(360) square feet of gross floor area.
Medical, chiropractic and dental clinics	One (1) space for each three hundred (300)square feet of gross floor area.
Veterinary clinics	One (1) space for each three hundred (300) square feet of gross floor area.
Sports and fitness clubs	One (1) space for each three hundred sixty(360) square feet of gross floor area.
Retail sales and service	One (1) space for each three hundred (300) square feet of gross floor area.
Multi-tenant shopping center	One (1) space for each three hundred (300) square feet of gross leasable area, provided the area of all dining and drinking establishments within the shopping center do not exceed twenty-five (25) percent of the total leasable area.
Furniture and appliance sales	One (1) space for each seven hundred twenty (720) square feet of gross floor area.
Bar, tavern or lounge	One (1) space for each sixty (60) square feet of gross floor area, plus one (1) space for each employee on the largest shift. Outdoor patio areas shall not be included when calculating floor area.
Full service restaurant	One (1) space for each seventy-five (75) square feet of gross floor dining area, plus one (1) space for each employee. Outdoor patio areas shall not be included when calculating gross floor area. If the restaurant includes designated bar areas, off-street parking shall be provided for that area at a ratio of one (1) space for each sixty (60) square feet of gross floor area.
Fast food restaurant with or without drive-through facilities, including coffee shops, ice cream or yogurt shops	One (1) space for each sixty (60) square feet of gross floor dining area. Outdoor patio areas shall not be included when calculating gross floor area. If a drive-through is included, stacking space in accordance with the applicable provisions of this Section must also be provided.
Take out restaurant with no patron seating	One (1) space for each two hundred forty (240) square feet of gross floor area.
Amusement uses	One (1) space for each three hundred sixty (360) square feet of gross floor area.

<b>Industrial Uses</b>	
Service businesses located within the MA - Industrial or MB - Industrial zoning districts with fifty (50) percent or more of the gross floor area devoted to storage, warehouse and/or industry use, including those facilities commonly referred to as shop condos	One (1) space for each four hundred (400) square feet of each unit storage area.  Sufficient space to park all company-owned or leased vehicles including passenger automobiles, trucks, tractors, trailers and similar company-owned motor vehicles must be provided in addition to the required off-street parking. These provisions shall apply on a per unit basis for multi-tenant or multi-owner buildings such as shop condos.
Self-service storage facilities	A dedicated parking lane with a minimum width of nine (9) feet shall be provided adjacent to each storage unit opening in the building. Driveways adjacent to each parking lane shall be a minimum of twenty (20) feet in width. In facilities provided with a dedicated rental or leasing office, one (1) space for each three hundred (300) gross square feet of office area must be provided.
Manufacturing and industrial plants, public utility buildings, fabricating plants and all other similar structures	One (1) space for each manufacturing employee on the largest shift, plus one (1) space for each three hundred (300) gross feet of office area. Sufficient space to park all company-owned or leased vehicles including passenger automobiles, trucks, tractors, trailers and similar company-owned motor vehicles must be provided in addition to the required off-street parking.
Warehousing and distribution	One (1) space for each employee on the largest shift or one (1) space for each two thousand four hundred (2,400) square feet of gross floor area, whichever is greater, plus one (1) space for each three hundred (300) gross square feet of office area. Sufficient space to park all company-owned or leased vehicles including passenger automobiles, trucks, tractors, trailers and similar company-owned motor vehicles must be provided in addition to the required off-street parking.

I. Interpretation. For uses not specifically listed in this Section, parking requirements shall be determined by the Zoning Administrator on the same basis as required for the most similar listed uses. In such cases, the Zoning

Administrator may also consult parking reference materials including, but not limited to, manuals prepared by the American Planning Association and the Institute of Transportation Engineers.

3. Location of Required Parking Facilities. The off-street parking facilities required by this section shall be on the same parcel of land as the structure they are intending to serve. When practical difficulties prevent the establishment of such facilities upon the same parcel, off-site parking shall be furnished within four hundred (400) feet of the premises to which they are appurtenant. In addition, adequate and safe pedestrian access shall be provided to and from the off-site parking facility.
  
4. Off-street vehicle stacking. Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial use shall be approved unless there is included with the plan for such building improvement or use, a site plan showing the required space designated as being reserved for off-street vehicle stacking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided. Each required vehicle stacking space shall be of an area at least ten (10) feet wide and twenty (20) feet in length. Vehicle stacking lanes shall be located completely upon the parcel of land that includes the structure they are intended to serve and shall be so designed as to not impede on- or off-site traffic movements. All vehicle stacking spaces shall be surfaced with a dustless all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. Crushed rock, crushed asphalt, crushed concrete or gravel shall not be considered an acceptable surfacing material. The number of off-street vehicle stacking spaces shall be provided on the basis of the following minimum requirements:

Type of Use	Minimum Number of Stacking Spaces	Measured From
Financial institution- ATM	3 spaces per lane	Kiosk
Financial institution – teller	4 spaces for first lane, 3 spaces for each additional lane	Window or pneumatic tube kiosk
Drive-through restaurant	12 spaces	Pick-up window
Drive-through coffee shop	10 spaces	Pick-up window
Car wash, automatic	6 spaces per bay	Entrance
Car wash, self-service	3 spaces per bay	Entrance

Drive-through car service (oil change and similar)	3 spaces per bay	Entrance
Drive-through pharmacy	3 spaces	Window
Drive-through cleaners	3 spaces	Window
Drive-through photo lab	3 spaces	Window
Self-service fueling station	2 spaces per fueling island	Each end of the fueling island
Gated parking lots and entrances	2 spaces	Gate

a. Interpretation. For uses not specifically listed above, stacking requirements shall be determined by the Planning and Zoning Commission, in conjunction with approval of a special use permit, on the same basis as required for the most similar listed uses.

5. Special Use Permit for a Drive-in/Drive-through Retail or Service Establishment. Drive-in/drive-through for retail or service establishments are subject to the requirements of Article 8. A drive-through facility with vehicle stacking spaces based on one type of use may not be converted to another type of use without the submittal and approval of a new site plan. A new special use permit shall be required for any change to a use with greater vehicle stacking space requirements.

6. Administrative Approval of Parking and Stacking Alternatives. The Zoning Administrator, where appropriate, may approve a reduction of required parking, provided a parking study prepared by the applicant or their consultant is submitted for review. Such study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers, the American Planning Association, Urban Land Institute, or other acceptable estimates as approved by the zoning administrator. The study should also include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by development type, density, size and scale, and location. Additional considerations will be given to adaptive re-uses surrounding land uses, anticipated users, seasonal uses, low and moderate housing, availability of transportation choices, walkability index score and existing or proposed pedestrian infrastructure. The study shall document the source of data used to develop the recommendations. Any subsequent change in use or dimensions of a site approved utilizing this Section of the ordinance will require a review to determine if adequate parking exists for any new use.

a. Shared Parking. The Zoning Administrator, where appropriate, may approve shared or simultaneous use of parking provided a parking study prepared by the applicant or their consultant is submitted for review. Such study shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers, the American Planning Association,

Urban Land Institute, or other acceptable estimates as approved by the Zoning Administrator. Such study must provide the following requirements are met:

- I. It can be demonstrated that the location and design requirements of this section are met.
- II. Adequate and safe pedestrian access is provided from and to parking areas.
- III. In the event that an off-site parking area is not under the same ownership as the principal use served, a written shared parking agreement, for heirs and assigns of the properties will be required. An attested copy of the agreement between the owners of record must be submitted to the Zoning Administrator for review and approval. The agreement must be recorded with the Burleigh County Recorder prior to the issuance of a building permit for any use served by the off-site parking area.
- IV. Any subsequent change in use or dimensions by either party will require proof that the minimum parking requirements of the approved shared parking agreement are met.

- b. Parking Determination. The Zoning Administrator may apply to the Board of Adjustment for an interpretation of the provisions of this article for required parking, stacking and loading requirements and the Board of Adjustment shall render a decision in writing in the manner provided for in this section for such action.

7. Off-street loading. Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial use shall be approved unless there is included with the plan for such building improvement or use, a site plan showing the required loading space or structural design for off-street loading purposes to be provided in connection with such building, improvement or use, in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided in accordance with those shown on the approved plan.

- a. the number of off-street stacking spaces shall be provided on the basis of the following minimum requirements:

- I. Each department store, freight terminal or railroad yard, medical facility, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment which has an aggregate gross floor area of twenty-five thousand (25,000) square feet or more, arranged, intended or designed for such use, shall provide off-street truck loading or unloading berths in accordance with the following table:

I. Square feet of Aggregate Gross Floor Area Devoted to Such Use	II. Required Number of Berths
III. 25,000 but less than 40,000	IV. 1
V. 40,000 but less than 100,000	VI. 2
VII. 100,000 but less than 160,000	VIII. 2
IX. 160,000 but less than 240,000	X. 4
XI. 240,000 up to and including 320,000	XII. 5
XIII. For each additional 90,000	XIV. 1 additional berth

II. Each auditorium, convention hall, exhibition hall, funeral home, hotel, office building, restaurant, sports arena, or medical facility which has an aggregate gross floor area of fifty thousand (50,000) square feet or more used or intended to be used for service to the arranged, intended or designed uses shall provide off-street truck loading or unloading berths in accordance with the following table:

XV. Square feet of Aggregate Gross Floor Area Devoted to Such Use	XVI. Required Number of Berths
XVII. 50,000 up to and including 250,000	XVIII. 1
XIX. For each additional 250,000	XX. 1 additional berth

8. Continuing character of obligation. The schedule of requirements for off-street parking space and off-street loading space shall be a continuing obligation of the owner of the real estate on which any such structure is located as long as the structure is in existence and its use requiring vehicle parking or vehicle loading facilities continues. It shall be unlawful for an owner of any building affected by this section to discontinue, change or dispense with, or to cause the discontinuance or change of the required vehicle parking or loading spaces apart from the discontinuance, sale or transfer of such structure, without establishing alternative vehicle parking or loading space which meets with the requirements of and is in compliance with this section. It shall be unlawful for any firm or corporation to use such building without acquiring such land or other suitable land for vehicle parking or loading space which meets with the requirements of and is in compliance with this Section.
  
9. Special Use Permit for Off-Site Parking Lots. Off-site parking lots within residential areas are subject to the requirements of Article 8. The off-street loading facilities required by this section shall in all cases be on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this Section. All required off-street parking and loading facilities along with all ingress and egress driveways thereto shall be zoned appropriately for the principal use which they are intended to serve.

10. Nonconforming uses. In the case of nonconforming uses where major repairs, substantial alterations or extensions are made, no such major repairs, substantial alterations or extensions shall be permitted unless and until the off-street parking and off-street loading facility space requirements of this section, so far as they apply to the use to which such building is devoted, shall be fully provided for.

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## **ARTICLE 10 AUTOMOBILE PARKING**

### **Section 1. Off Street Parking**

~~Except as provided elsewhere in this Article, no application for a building permit or certificate of occupancy in any zone shall be approved unless there is included with the plan for such building, improvement or use, a plot plan showing the required open space designated as being reserved for off street parking purposes to be provided in connection with such building, improvement or use, in accordance with this section; and no Certificate of Occupancy shall be issued unless the required facilities have been provided in accordance with those shown on the approved plan. Such off street parking space shall be provided on the basis of the following minimum requirements:~~

#### **1. Dwellings**

~~a. Single family and two family dwellings - two (2) spaces for each dwelling unit.~~

#### **2. Room Houses**

~~a. One (1) space for each two (2) sleeping rooms rented, plus one (1) additional space for the owner or operator of the rooming house.~~

#### **3. Hotels, including clubs**

~~a. One (1) space for each two (2) guest rooms. If, in addition to sleeping rooms, patrons or residents are provided with assembly halls, bars, restaurants, nightclubs, retail shops, service establishments or other business, additional off street parking spaces will be required for such other uses in accordance with the regulations of this section for such uses.~~

#### **4. Tourist Homes, Motels, Trailer Courts**

~~a. One (1) space for each guest room or cabin. Off street parking for auxiliary use in the same building or on the same lot shall be provided in accordance with the regulations set forth in this section for such uses. For tourist homes, there must be provided in addition to off street parking space for guests, one (1) additional space for each family permanently residing in the building.~~

#### **5. Hospitals:**

- a. ~~including sanitariums, asylums, orphanages, convalescent homes, homes for the aged and infirm and similar institutions~~
- b. ~~One (1) space for each two (2) patient beds, plus one (1) additional space for each staff doctor plus one (1) additional space for each two (2) regular employees.~~

6. Restaurants:

- a. ~~including bars, taverns, nightclubs, lunch counters, diners and all other similar dining and drinking establishments.~~
- b. ~~One (1) space for each four (4) seats provided for patron use, or one (1) space for each one hundred (100) square feet of floor area used for patron use whichever requirement is greater.~~

7. Theaters

- a. ~~One (1) space for each five (5) seats provided for patron use.~~

8. Place of Public Assembly:

- a. ~~including private clubs, lodges and fraternal buildings not providing overnight accommodations, assembly halls, exhibition halls, convention halls, auditoriums, skating rinks, dance hall, bowling alleys, sport arenas, stadiums, gymnasiums, amusement parks, racetracks, fairgrounds, circus grounds, churches, funeral homes and mortuaries, community centers, museums and all other similar places of relatively infrequent public assembly.~~
- b. ~~One (1) space for each ten (10) seats provided for patron use, or one (1) space for four hundred (400) square feet of gross floor area used or intended to be used for service to the public as customers, patrons or clients whichever requires the greater number of parking spaces.~~

9. Medical Clinics:

- a. ~~including offices of doctors, dentists and drug physicians~~
- b. ~~Three (3) spaces for each doctor using the office of clinic, plus one (1) additional space for each two (2) regular employees.~~

10. Retail Establishments:

- a. ~~including personal device shops and equipment or repair shops~~
- b. ~~In a Major Commercial District: one (1) space for each two hundred (200) square feet of floor area on the ground floors plus one (1) space for each four hundred (400) square feet of floor area in a basement or any story above the ground floor,~~
  - i. ~~In a Limited Commercial District: one (1) space for each one hundred (100) square feet of floor area.~~

11. Office Building:

- a. ~~including commercial building, governmental building, professional building except as otherwise provided for in this section~~

b. ~~One (1) space for each four hundred (400) square feet of floor area~~

**12. Wholesale, Manufacturing and Industrial Plants:**

a. ~~including warehouse and storage buildings/yards; public utility buildings; contractor equipment and lumber yards; research laboratories; business service establishments such as blueprinting, printing and engraving; soft drink bottling establishments; fabricating plants; and all other structures devoted to similar mercantile or industrial pursuits~~

b. ~~One (1) space for each two (2) employees, plus sufficient space to park all company owned or leased vehicles including passenger automobiles, trucks, tractors, trailers, and similar company owned motor vehicles.~~

**13. Terminal Facilities:**

a. ~~including airports, railroads, passenger and freight stations, bus depots, truck terminals and other similar personal or material terminal facilities~~

b. ~~Off street parking space in an amount determined by the Board of County Commissioners to be adequate to serve the public as customers, patrons, and visitors plus space to provide one (1) off street parking space for each two (2) regular employees, plus space to provide off street parking for all owned, leased or operated commercial vehicles, buses and similar motor vehicles.~~

**14. Schools:**

a. ~~including colleges, elementary schools, junior and senior high schools, and public, private, and parochial schools~~

b. ~~One (1) space for each two (2) staff members or employees, plus one (1) space for each classroom, plus additional space for any place of public assembly in accordance with the requirements set forth in this section for such uses.~~

**Section 2. Off Street Loading**

~~Except as provided elsewhere in this Article, no application for a Building Permit or Certificate of Occupancy for a commercial or industrial use shall be approved unless there is included with the plan for such building improvements or use, a plot plan showing the required space of structural design for off street loading purposes to be provided in connection with such building improvement or use, in accordance with this section; and no Certificate of Occupancy shall be issued unless the required facilities have been provided in accordance with those shown on the approved plan. Such off street loading space shall be provided in accordance with the following minimum requirements:~~

1. ~~Each department store, freight terminal or railroad yard, hospital or sanitarium, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment which has an aggregate gross floor area of 25,000 square feet or more, arranged, intended or designed for such use, shall provide off street truck loading or unloading berths in accordance with the following table:~~

<b>Square Feet of Aggregate Gross Floor Area Devoted to Such Use</b>	<b>Require Number of Berths</b>
25,000 but less than 40,000	1
40,000 but less than 100,000	2
100,000 but less than 160,000	3
160,000 but less than 240,000	4
240,000 up to and including 320,000	5
For each additional 90,000	1 additional

e. ~~Each auditorium, convention hall, exhibition hall, funeral home, hotel, office building, restaurant, sports arena, hospital or welfare institution which has an aggregate gross floor area of 50,000 square feet or more arranged, intended or designed for such use shall provide one (1) off street loading berth for 50,000 square feet up to and including 250,000 square feet and one (1) additional berth for each additional 200,000 square feet of floor space.~~

f. ~~In computing the ground coverage of the principal building and all accessory buildings or any non-residential use, two hundred (200) square feet shall be added to the actual area of the principal building and all accessory buildings to provide off street parking as required by Section 1 of this Article.~~

### **Section 3. Continuing Character of Obligation**

~~The schedule of requirements for off street parking space and off street loading space shall be a continuing obligation of the owner of the real estate on which any such structure is located as long as the structure is in existence and its use requiring vehicle parking or vehicle loading facilities continues. It shall be unlawful for an owner of any building affected by this Article to discontinue, change or dispense with, or to cause the discontinuance or change of the required vehicle parking or loading space apart from the discontinuance, sale or transfer of such structure, without establishing alternative vehicle parking or loading space which meets with the requirements of and is in compliance with this Article. It shall be unlawful for any firm or corporation to use such building without~~

[Type here]

~~acquiring such land or other suitable land for vehicle parking or loading space which meets with the requirements of and is in compliance with this Article.~~

#### **Section 4. Fractional Measurements**

~~When units or measurements determining number of required off street parking and off street loading spaces result in the requirement of a fractional space, any fraction up to and including one fourth (1/4) shall require one (1) off street parking or off street loading space.~~

#### **Section 5. Location of Required Parking and Loading Facilities**

~~The off street parking facilities required by this section shall be on the same lot or parcel of land as the structure they are intended to serve, however, when practical difficulties, as determined by the Board of Adjustment, prevent the establishment of such facilities upon the same lot or parcel, they shall be furnished within four hundred (400) feet of the premises to which they are appurtenant. The off street loading facilities required by this Article shall in all cases be on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off street loading space be part of the area used to satisfy the off street parking requirements of this Article.~~

#### **Section 6. Plan of Required Off Street Parking or Loading**

~~For the purpose of converting parking or loading spaces into the required parking or loading area, plans must be submitted to the Building Official to show how the required parking or loading space shall be arranged in the area supplied for that purpose and to indicate sufficient space for parking maneuvers, as well as adequate ingress and egress to the parking or loading area. For each parking space, not under roof, there shall be provided two hundred (200) square feet in addition to all lanes, alleys, aisles and drives necessary for safe and adequate parking maneuvering. For each off street loading space required by this section, there shall be provided space clear and free of all obstructions, at least ten (10) feet in width, fifty (50) feet in length, and fourteen (14) feet in height. Off street parking and off street loading space shall be provided with methods of ingress and egress such that it will be unnecessary for trucks or tractor trailer combinations to back into them from a street or out of them into a street.~~

#### **Section 7. Use of Required Off Street Parking by Another Building**

~~No part of an off street parking area required for any building or use for the purpose of complying with the provisions of this Article shall be included as a part of an off street parking area similarly required for another building or use unless the type of structure indicates that the periods of usage for such structures will not be simultaneous with each other.~~

### **Section 8. Maintenance of Public Off Street Parking Places**

~~All off street parking facilities for the use of the public required pursuant to the provisions of this Article shall be paved, drained, lighted and periodically maintained by the owner in accordance with specifications of the County Engineer, and such facilities shall be arranged for convenient access and safety of pedestrians and vehicles. No open area in an off street parking area shall be encroached upon by buildings, storage, or any other use; nor shall the number of parking spaces be reduced except upon the approval of the Board of Commissioners and then only after proof~~

~~that, by reason of diminution in floor space, seating capacity, number of employees, or change in other factors controlling the regulation of the number of parking spaces, the proposed reduction is reasonable and consistent with the intent of this Article.~~

### **Section 9. Collective Action Relative to Off Street Parking and Loading**

~~Nothing in this article shall be construed to prevent the joint use of off street parking or off street loading space for two (2) or more buildings or uses, if the total of such spaces when used together shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with this Article.~~

### **Section 10. Mixed Uses**

~~In the case of mixed uses, the total requirements for off street parking and off street loading space shall be the sum of the requirements of the various uses computed separately as specified in Sections 1 and 2 of this Article, and the off street parking and off street loading space for one use shall not be considered as providing the required off street parking or off street loading space for any other use.~~

### **Section 11. Non Conforming Uses**

~~In the case of nonconforming uses where major repairs, substantial alterations or extensions are made, no such major repairs, substantial alterations or extensions shall be permitted unless and until the off street parking and off street loading facility space requirement of this Article, so far as they apply to the use to which such building is devoted, shall be fully provided for.~~

**DRAFT- ORDINANCE 26-007 ZO**

**AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 13 OF THE 1972 AMENDED ZONING ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO ARTICLE 14 "RR" RURAL RESIDENTIAL DISTRICT.**

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH DAKOTA.**

**ARTICLE 14 - "RR" RURAL RESIDENTIAL DISTRICT.**

**Section 1. General Description.**

The RR rural residential district is established as a district in which the principal use of the land shall be for low density, large lot single-family dwellings, limited agriculture, and limited equine husbandry. For the RR residential district, in promoting the general purposes of this title, the specific intent of this section is:

- a. To encourage the construction or placement of and use of land for single-family dwellings on large rural lots **that are no less than five acres in size** and for limited agricultural uses.
- b. To protect the quiet enjoyment of residential property and discourage all uses or activities that interfere with or detract from these principal uses of this zoning district.
- c. To encourage the discontinuation of existing uses that would not be permitted as new uses under the provisions of this title.
  - i. To discourage any use which would generate traffic on the streets of the district other than normal traffic to serve the single-family residences of the area.
  - ii. To provide a zoning classification for existing single-family dwellings on large rural lots that are no less than five acres in size.

**Section 2. Uses Permitted.**

The following uses are permitted.

1. Single-family dwellings.

2. Education group.
3. Public recreational group.
4. Private riding stables in areas outside of the corporate limits, provided that animals shall be used for private use only; that no animal, animal stable, barn or shelter shall be located within one hundred (100) feet of any neighboring residence or structure, that three (3) horses shall be permitted on any premises which contain at least five (5) acres and additional horses shall be allowed at the rate of one (1) horse for every additional three (3) acres of property owned. For the purposes of this ordinance the definition of a horse will be only those horses that are one calendar year of age or older and a miniature horse shall be defined as a horse less than 50 inches high measured at the withers. For the purpose of calculating the number of horses allowed under this section, a miniature horse shall be deemed to be the equivalent of .66 of a horse.
5. Chicken Hens and Coops are allowed provided that the animals are kept for private use only; that no male chickens (roosters) are kept; all hens are kept in a fenced area; all coops and structures meet applicable setbacks and size limitations for allowable accessory structures and are not located less than one hundred and fifty(150) feet of any neighboring residence or structure; and that no more than ten (10) chickens shall be permitted.
6. Animal husbandry activity or project in areas outside of the corporate limits, conducted primarily for educational purposes or school credits, provided such activities are not conducted for commercial purposes and the premises are maintained in a sanitary manner.
7. Family foster home for adults.

The following special uses are permitted as per Article 8 hereof:

- a. Childcare centers.
- b. Religious institution.
- c. Accessory dwelling unit.

### **Section 3. Density.**

Maximum density shall be one dwelling unit per five acres.

[Type here]

#### **Section 4. Lot Area.**

Each principal building erected, together with its accessory buildings, shall be located on a lot containing a minimum area of 5.0 acres with a minimum lot width of 300 feet and a minimum lot depth of 400 feet.

#### **Section 5. Front Yard.**

Each platted lot shall have a front yard of not less than forty (40) feet in depth as measured from the front property line, or local roads. Except when fronting a highway or collector road then the setbacks shall not be less than the following distance outlined below from the centerline of such roadways fronting the property:

Primary Highway	Secondary Highway	Collector Road
250 feet	200 feet	115 feet

#### **Section 6. Side Yard.**

Each lot shall have two (2) side yards, one on each side of the principal and accessory buildings. Each side yard shall be no less than fifteen (15) feet in width. No building on a corner lot shall have a side yard on the side street less than forty (40) feet in width.

#### **Section 7. Rear Yard.**

Each lot or premises shall have a rear yard depth of not less than fifty (50) feet.

#### **Section 8. Height limits.**

No single-family dwelling shall exceed forty (40) feet in height, nor shall any other principal structure exceed fifty (50) feet in height, nor shall any accessory structure exceed twenty-five (25) feet in height. For each foot or fraction thereof, that a building exceeds thirty-five (35) feet in height there shall be added four (4) feet to the minimum depth of each rear yard required by this section.

#### **Section 9. Automobile Parking.**

Adequate automobile parking shall be provided for each dwelling as set forth by Article 10 hereof.

#### **Section 10. Minimum Road Standards**

Unless otherwise shown on the master plan, right-of-way and roadway widths shall conform to the standards set forth by Section 6, Subsection 1(m) of Article 33 hereof.

1. Sufficient temporary construction easements shall be given to allow for proper road construction.
2. All streets to be used for on-street parking shall be forty (40) feet in roadway width.

## **Section 11. Allowable Accessory Buildings**

Customary accessory uses are allowed in the RR Residential District in accordance with Article 6.

## **Section 12. Additional Development Standards for Land Abutting the Missouri River**

Additional Development Standards for Land Abutting the Missouri River. In order to preserve and enhance the environmental and recreational qualities of the Missouri River, conserve the scenic and historic values of the Missouri River shoreland, protect shoreland development from riverbank erosion, and provide for the wise use of the river and related land resources, the following additional development standards are hereby established for land abutting the Missouri River platted after November 25, 2003:

1. Structure Setbacks. All structures shall be setback a minimum of 100 feet from the ordinary high-water mark of the Missouri River. All structures on lots with stabilized banks, either by an existing Corps of Engineers' stabilized structure or as permitted and approved by the Corps of Engineers, shall be set back a minimum of seventy-five (75) feet from the ordinary high-water mark of the Missouri River.
2. Design Criteria. Structures should be placed and designed in a manner to reduce visibility as viewed from the river and adjacent shoreland by vegetation, topography or the color of the structure, assuming summer, leaf-on conditions.
3. Impervious Surface Coverage. The percentage of lot covered by impervious surfaces (structures, paved surfaces, etc.) shall not exceed 25 percent of the lot area.
4. Steep Slopes. For structures and/or facilities to be placed on steep slopes, the County Building Official may attach conditions on the building permit to prevent erosion and preserve existing vegetation.
5. On-Site Sewage Treatment Facility Setbacks. All sewage treatment facilities, including drainfields, shall be setback a minimum of 100 feet from the ordinary high-water mark of the Missouri River.
6. Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements: 1) stairways and lifts shall not exceed four feet in width; 2) landings for stairways and lifts shall not exceed 32 square feet in area; 3) canopies or roofs are not allowed on stairways, lifts or landings; 4) stairways, lifts and landings may be constructed on

posts/pilings or placed in the ground, provided they are designed and built in a manner than controls soil erosion, meets building code requirements, and does not affect the integrity of bank stabilization projects.

7. Boat Docks. The placement of boat docks shall be allowed in accordance with the requirements of the North Dakota Century Code and any other applicable regulations.
8. Shore Impact Zone. Structures and accessory facilities, except stairways and landings, shall not be placed within a shore impact zone.
9. Vegetation Alterations. Intensive vegetative clearing within the shore impact zone and on steep slopes is prohibited. Limited clearing of vegetation is permitted to provide a view of the river from the principal dwelling site and to accommodate the placement of permitted stairways, lifts or landings. Removal of vegetation that is dead, diseased or that poses a safety hazard is allowed.
10. Topographic Alterations Above the Ordinary High-Water Mark. Grading, filling and excavation necessary for the construction of structures, sewage treatment systems or driveways under validly issued permits shall be allowed. Notwithstanding any other applicable regulations, any other topographic alterations must meet the following standards:
  - a. alterations shall not adversely affect adjacent or nearby properties; and,
  - b. alterations must be designed and conducted in a manner that minimizes soil erosion, including the installation of erosion control measures as needed.
11. Topographic Alterations Below the Ordinary High-Water Mark. All topographic alterations below the ordinary high-water mark must be approved by the United States Army Corps of Engineers On-Site Sewage Treatment Facility Setbacks. All sewage treatment facilities, including drainfields, shall be setback a minimum of 100 feet from the ordinary high-water mark of the Missouri River.
  - a. Stairways, Lifts and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements: 1) stairways and lifts shall not exceed four feet in width; 2) landings for stairways and lifts shall not exceed 32 square feet in area; 3) canopies or roofs are not allowed on stairways, lifts or landings; 4) stairways, lifts and landings may be constructed on posts/pilings or placed in the ground, provided they are designed and built in a manner than controls soil erosion, meets building code requirements, and does not affect the integrity of bank stabilization projects.

- b. Boat Docks. The placement of boat docks shall be allowed in accordance with the requirements of the North Dakota Century Code and any other applicable regulations.
- c. Shore Impact Zone. Structures and accessory facilities, except stairways and landings, shall not be placed within a shore impact zone.
- d. Vegetation Alterations. Intensive vegetative clearing within the shore impact zone and on steep slopes is prohibited. Limited clearing of vegetation is permitted in order to provide a view of the river from the principal dwelling site and to accommodate the placement of permitted stairways, lifts or landings. Removal of vegetation that is dead, diseased or that poses a safety hazard is allowed.
- e. Topographic Alterations Above the Ordinary High-Water Mark. Grading, filling and excavation necessary for the construction of structures, sewage treatment systems or driveways under validly issued permits shall be allowed. Notwithstanding any other applicable regulations, any other topographic alterations must meet the following standards: 1) alterations shall not adversely affect adjacent or nearby properties; and 2) alterations must be designed and conducted in a manner that minimizes soil erosion, including the installation of erosion control measures as needed.
- f. Topographic Alterations Below the Ordinary High-Water Mark. All topographic alterations below the ordinary high-water mark must be approved by the United States Army Corps of Engineers.

**DRAFT- ORDINANCE 26-008 ZO**

**AN ORDINANCE TO AMEND AND RE-ENACT ARTICLE 15 OF THE 1972 AMENDED ZONING  
ORDINANCE OF BURLEIGH COUNTY, NORTH DAKOTA RELATING TO ARTICLE 15 - R5 MOBILE  
HOME PARK RESIDENTIAL DISTRICT REGULATIONS  
BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BURLEIGH COUNTY, NORTH  
DAKOTA.**

**~~ARTICLE 15 - R5 MOBILE HOME PARK RESIDENTIAL DISTRICT REGULATIONS~~**

**ARTICLE 19 - MH MANUFACTURED HOME DISTRICT**

**Section 1. General Description**

The MH Residential District is established as a district in which the principal use of the land is for single-family mobile home dwellings located within mobile home parks, provided said parks are not located abutting the Missouri River. For the MH Residential District, the specific intent of this Article is:

1. To encourage the placement of, and the continued use of the and for single-family mobile home dwellings located within mobile home parks,
2. To prohibit commercial and industrial use of the land; and
3. To encourage suitable and proper development of mobile home parks.

**Section 2. Definition**

For the purpose of this section, "Mobile Home Park" shall also mean "Mobile Home Court".

**Section 3. Uses Permitted**

The following uses are allowed by right in the MH Residential District:

1. Single-family mobile home dwellings or manufactured homes not located on a permanent foundation located within mobile/manufactured home parks.
2. Home occupations of:
  - a. Dressmaker
  - b. Artist
  - c. Sculptor
  - d. Author
  - e. Minister

#### **Section 4. Mobile Home Park Restrictions**

1. No business shall be conducted in any mobile home park.
2. Existing mobile home parks shall not be enlarged or extensively altered unless such alteration complies with the provisions of this article.

#### **Section 5. Mobile Home Parks, Plans and Layout**

All layouts for mobile home parks shall be submitted to the Planning Commission for approval prior to consideration of a zoning change request for R5 District uses. All changes thereto must be approved in like manner.

#### **Section 6. Density**

The maximum allowable density of all mobile home parks shall be seven (7) families per net acre.

1. The minimum total area of a mobile home park shall be at least four (4) acres.

#### **Section 7. ~~Lot Dimensions~~ Development Standards.**

1. All entrances, exits and driveways between rows of mobile homes shall be lighted to provide an intensity of 0.3 foot-candles. Mobile home parks shall be provided with walkways at least three and one-half (3½) feet wide between each mobile home lot and service building and other parts of said park. Roadways within the parks shall be hard surfaced, either concrete or bituminized asphalt.
2. All provisions of water supply, laundry, sewage and fire protection to be provided in any mobile home park shall have been approved by the appropriate County and State Departments.
3. All mobile home parks shall have near their main entrance a park office in which there shall be an up-to-date list of all park residents along with their addresses and a diagram of the park layout.
4. All mobile home park lots shall be served by an approved central water and sewer system.
5. For single-wide mobile home dwelling units, minimum lot dimensions shall be fifty (50) feet wide and one hundred (100) feet deep with a minimum lot area of five thousand (5,000) square feet.

6. For double-wide mobile home dwelling units, minimum lot dimensions shall be sixty (60) feet wide and one hundred (100) feet deep with a minimum lot area of six thousand (6,000) square feet.
7. All mobile homes shall be equipped with compatible skirts to completely enclose the underside of the mobile home.
8. Each mobile home shall be anchored to the ground for purposes of withstanding wind pressures specified for single-family dwellings by the County Building Inspection Department prior to occupying the unit.
9. All clotheslines shall be placed in the rear yard.

#### Section 8. Lot Coverage

1. The ground area occupied by a mobile home, attached storm shed, patio, storage building and required off-street parking spaces shall not exceed 50 40-percent (50%) (40%) of the total area of the lot. In computing the ground coverage, four hundred (400) square feet shall be added to the actual area of the mobile home and the accessory buildings for the two (2) required off-street parking spaces. ~~This provision limits a lot to one (1) storm shed, not over ten (10) feet by twelve (12) feet, or one hundred twenty (120) square feet, in area per lot. Each lot shall be limited to one attached utility structure of no more than one hundred twenty (120) square feet. Each lot may also have a detached accessory building(s) in accordance with Article 5, provided the lot coverage requirement is not exceeded,~~ and said building shall be placed on a proper foundation.
2. For single-wide mobile home dwelling units, minimum lot dimensions shall be fifty (50) feet wide and one hundred (100) feet deep with a minimum lot area of five thousand (5,000) square feet.
3. For double-wide mobile home dwelling units, minimum lot dimensions shall be sixty (60) feet wide and one hundred (100) feet deep with a minimum lot area of six thousand (6,000) square feet
4. No mobile home, storm shed, or other legal attachments to said mobile home shall be located less than seven (7) feet six (6) inches from a side lot line. Detached toolsheds shall be located not less than five (5) feet from side or rear lot lines. The ends of a mobile home shall be at least ten (10) feet apart when opposing rear walls are staggered, otherwise fifteen (15) feet apart.

5. Height Limits. No accessory building shall exceed fifteen (15) feet in height, nor shall any legal attachment to a principal building except the height of the principal building.
6. Setbacks. Lot development shall observe the following setbacks:
  - a. Front Yard. No manufactured home or any other legal attachments to said dwelling or any accessory structures shall be located less than twenty (20) feet from the front lot line, measured back from the sidewalk or walkway, provided, however, that on a record lot corresponding to a plat recorded prior to 1979, the following setback standards apply:
  - b. Reference Lots. A sample of reference lots in the vicinity of the proposed activity are used as the basis for front yard setbacks. Reference lots shall be selected as follows:
    - c. Reference lots are the three (3) closest adjacent manufactured homes on either side of the proposed activity, for a total of six (6) reference lots.
    - d. Reference lots are on the same side of the same street.
    - e. Vacant lots or lots with non-residential structures are skipped over for the next closest lot or parcel.
    - f. Reference lots may be selected across local streets, but may not be selected across collector or arterial streets.
    - g. Reference lots must be in the same zoning district as the proposed activity.
    - h. If three (3) lots or parcels that comply with the rules of this section are not available on any side, a corresponding number of lots or parcels are selected on the opposite side of the proposed activity, so that a total number of six (6) reference lots are selected.
    - i. The zoning administrator may adjust the number of reference lots, if necessary to determine a sample representative of the context.
    - j. Contextual Setback. The required front yard for principal or accessory structures shall be the median of all existing front yards measured from reference lots, plus or minus three (3) feet, but no less than the shortest front yard setback or more than the longest front yard setback measured from all reference lots.
    - k. Garage Exception. Notwithstanding the requirements of this section, no front face of a garage or vehicle storage unit shall be closer than twenty

(20) feet from a right-of-way line to allow an additional parking spot in front of the garage without encroaching into the right-of-way.

- I. Side Yard and Spacing. No manufactured home or any other legal attachments to said dwelling or accessory structure shall be located less than six (6) feet from the side lot line measured back from the walkway or sidewalk. Manufactured homes on corner lots shall follow front yard setbacks from all streets. Side yard measurements are to be taken at right angles to the building at the closest points to a property line. Detached accessory buildings shall be located not less than five (5) feet from the side or rear lot lines. The ends of the manufactured homes shall be at least twelve (12) feet apart.
- m. Landscaped setback area. All manufactured home parks must provide a completely and permanently landscaped setback area of at least thirty (30) feet in width around those portions of the park perimeter which border public rights-of-way. The primary landscaping materials used in the setback areas shall be trees, shrubbery, ground cover, hedges, lawn and other live planting materials. The landowners shall be responsible for providing, protecting and maintaining all landscaping materials in healthy growing condition. Fences shall not be permitted within landscaped setback areas, nor shall any structures or accessory uses be installed within such areas by park residents.
- n. Parking. Off-street parking shall be provided in accordance with Article 10 of this ordinance.
- o. Streets. The minimum street or accessway on which each manufactured home fronts shall be at least thirty-six (36) feet from curb to curb in width. Dead-end streets shall terminate in a cul-de-sac with a turning diameter of at least forty (40) feet. All streets shall be hard surfaced, either concrete or bituminized.
- p. Walkways. Manufactured home parks shall be provided with walkways at least four (4) feet wide adjacent to streets or accessways.
- q. Lighting. All entrances, exits, lanes and driveways between rows of manufactured homes shall be lighted to provide an intensity of at least five (5) footcandles, measured at ground level.
- r. Services. All provisions for water supply, sewage and fire protection to be provided in any manufactured home park shall have been approved by the appropriate city department and shall meet urban service standards.

- s. Recreation Area. There shall be provided within each manufactured home park an adequate site or sites for recreation for the exclusive use of the park occupants. Such recreation site or sites shall have a minimum area in the aggregate of four thousand (4,000) square feet plus one hundred (100) square feet for each manufactured home space in said park. The recreation sites shall be approved by the planning commission and provided with adequate equipment.
- t. Enlargement or Alteration. Any enlargement or alteration of a manufactured home park that exceeds ten (10) per cent of the total number of lots or spaces shall comply with the provisions of Subsection 3 of this Section. The remaining portion of a manufactured home park not being enlarged or altered will not be required to comply with the provisions of Subsection 3.
- u. Business Uses. No business shall be conducted in any manufactured home park except manufactured home sales.
- v. Public Right-of-Way. If public right-of-way bisects a manufactured home park, all lots located adjacent to such public right-of-way shall conform to the standards and setbacks as specified in the R5-Residential District.

## **Section 9. Community Storage Buildings.**

Private garages or storage buildings located within manufactured home parks but not located on individual lots may be allowed, provided:

- a. Height Limits. No community storage building sidewall shall exceed fourteen (14) feet in height. The maximum roof pitch of such buildings shall not exceed 3:12.
- b. Activities. No activities other than storage of vehicles and household goods by residents of the manufactured home park shall be allowed.
- c. Dimensions. No single building dimension shall exceed one hundred-twenty (120) feet, and no individual building shall exceed a total of three thousand (3,000) square feet in size. All such buildings must be separated by a minimum of twelve (12) feet. No more than four (4) storage buildings may be grouped together in one location within a manufactured home park. All such groups of buildings must be separated by a minimum of five hundred (500) feet.
- d. Accessways. Accessways to community storage buildings shall be hard surfaced, either concrete or bituminized.
- e. Floors. All floors in community storage buildings shall be hard surfaced.

f. Site Plan. No community storage building or buildings shall be constructed until a site plan has been approved by the Zoning Administrator.

## **Section 10. Community Storage Buildings**

Additional Manufactured Home Requirements. All mobile and manufactured homes shall be installed in conformance with the requirements of Article 19.

## **Section 7. Lot Restrictions**

~~All clotheslines shall be placed in the rear yard.~~

## **Section 8. Mobile Home Park Requirements**

1. ~~The minimum total area of a mobile home park shall be at least four (4) acres.~~
2. ~~The minimum street or roadway on which each mobile home fronts shall be at least thirty (30) feet from curb to curb in width, if automobile parking is limited to one side; and forty (40) feet from curb to curb if automobile parking is allowed on both sides. Dead end streets shall not exceed one hundred seventy five (175) feet in length. Turning circles shall be at least eighty (80) feet in diameter.~~
3. ~~All entrances, exits and driveways between rows of mobile homes shall be lighted to provide an intensity of 0.3 foot candles. Mobile home parks shall be provided with walkways at least three and one-half (3½) feet wide between each mobile home lot and service building and other parts of said park. Roadways within the parks shall be hard surfaced, either concrete or bituminized asphalt.~~
4. ~~All provisions of water supply, laundry, sewage and fire protection to be provided in any mobile home park shall have been approved by the appropriate County and State Departments.~~
5. ~~Off street parking areas shall be provided in all mobile home parks at a ratio of at least two (2) car spaces per mobile space. The area for one (1) car space shall be at least ten (10) feet wide and twenty (20) feet deep, plus ingress and egress.~~
6. ~~Recreation Areas. There shall be provided within each mobile home park an adequate site or sites for recreation for the exclusive use of the park occupants. Such recreation site or sites shall have a minimum area in the aggregate of four~~

~~thousand (4,000) square feet plus one hundred (100) feet for each mobile home space in said park. The recreation sites shall be of appropriate design and provided with adequate and permanent equipment.~~

- ~~7. All mobile home parks must provide a completely and permanently landscaped setback area of at least thirty (30) feet in width around those portions of the park perimeter which border public right of way. Such areas may contain trees, shrubbery, grass, benches, fences, landscaped water resources and the like.~~
- ~~8. Setback areas not bordering public right of way may be used to fulfill the recreation area requirements of the preceding paragraph.~~
- ~~9. All mobile home parks shall have near their main entrance a park office in which there shall be an up to date list of all park residents along with their addresses and a diagram of the park layout.~~
- ~~10. All mobile home park lots shall be served by an approved central water and sewer system.~~

#### **Section 9. Mobile Home Park Restrictions**

- ~~1. No business shall be conducted in any mobile home park.~~
- ~~2. Existing mobile home parks shall not be enlarged or extensively altered unless such alteration complies with the provisions of this article.~~

#### **Section 10. Mobile Home Parks, Plans and Layout**

~~All layouts for mobile home parks shall be submitted to the Planning Commission for approval prior to consideration of a zoning change request for R5 District uses. All changes thereto must be approved in like manner.~~

#### **Section 11. Mobile Home Requirements**

- ~~1. All mobile homes shall be equipped with compatible skirts to completely enclose the underside of the mobile home.~~
- ~~2. Each mobile home shall be anchored to the ground for purposes of withstanding wind pressures specified for single family dwellings by the County Building Inspection Department prior to occupying the unit.~~