

ESTHERVILLE TOWNSHIP & CITY OF REGAN ZONING ORDINANCE

RESOLUTION ADOPTING PROPOSED ORDINANCE

INTRODUCTION – MISSION STATEMENT

Whereas, it is recognized that there is a need to control the use of land and real estate in Estherville Township and the City of Regan in order to promote the health, safety, morals and general welfare throughout the Township and City, by means of a comprehensive land use plan which is in part carried out by the provisions of this Ordinance. It is the intent of the Ordinance to provide regulations, standards, and guides for the Townships' and City's development which will:

1. Protect the right of persons now using the real estate for agricultural purposes and related purposes from depreciation through non-agricultural uses.
2. Prevent uses of the land which restrict or prohibit modern techniques of farming and irrigation.
3. Conserve the value of the property.
4. Maintain the productivity of the land.
5. Encourage the most appropriate use of the land for agricultural purposes.
6. Preserve the agricultural nature and character of the Township and City.
7. Prohibit all littering on roadsides and etc.

This Ordinance shall be known as and may be referred to as the Estherville Township and City of Regan Zoning Ordinance.

NOW, THEREFORE, be it resolved by the Estherville Township and City of Regan Zoning Commission of Estherville Township and City of Regan, Burleigh County, North Dakota, more particularly described as Township 143 N, Range 78 W, and all of Regan within the city limits.

That a single A-Agricultural District, encompassing the entire Estherville Township and City of Regan, is hereby established to provide a District that will allow suitable areas in the Township and City to be retained exclusively for agricultural use; to prevent scattered and uncontrolled non-farm development; to accomplish the purposes set forth in the introduction to this Resolution, to secure the greatest economy in governmental expenditures for the persons owning property in the Township and City; to discourage any use which will depreciate the value of agricultural land or city, reduce productive capacity, or interfere with the development and employment of modern techniques of farming and irrigation.

DEFINITIONS

A-Agricultural District.....A District in which the predominant use of land is for general agricultural uses.

Agriculture.....The actual engaging in farming of the land or engaging in the raising of livestock or other similar operations normally associated with farming and ranching, by the farmer with not less than 50% of his annual gross income being gained thereby; the term "farmer" means an individual who normally devotes the major portion of his/her time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such product's unmanufactured state and who normally receive not less than 50% of his/her annual gross income from any one or more of the foregoing activities, and the term also includes individual who is retired because of illness or age and who at the time of retirement owned and occupied, as a farmer, the premises.

Commercial.....The engaging in a trade, business, or other activity, the purpose of which is to make a profit thereby.

Farm to Market Road.....That part of the road system of Burleigh County designated as Farm to Market Road by the Burleigh County Board of Commissioners.

Non-Conforming 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 Ordinance, either at the effective date of this Ordinance, or as a result of subsequent amendments which may be incorporated into this Ordinance.

Residential Subdivision.....A development of single or multiple unit dwellings, the purpose of which is to provide housing for persons engaged in non-agricultural activities.

USES PERMITTED

The following uses shall be permitted within the A-Agricultural District:

1. Agriculture, including the construction, maintenance, and use of farm dwellings and related agricultural buildings on 40 acres or more.

CONDITIONAL USES

The following uses may be allowed according to the exclusive discretion of the members of the Estherville Township and City of Regan Zoning Commission, who may allow the following agricultural conditional uses after issuance of a permit:

1. Non-agricultural single and multiple-family dwellings, including mobile homes.
2. Junkyards.
3. Commercial outdoor recreation areas.
4. Organized group camps or group campgrounds.
5. Local power distribution lines, providing that such power distribution lines are constructed and operated on quarter section lines or parallel to within 250 feet of existing section lines, except where such lines are within one mile of their final destination.
6. Water supply facilities and essential public utility and service structures.
7. Landfills.
8. Commercial livestock, hog, and poultry feeding operations.
9. Commercial dog kennels.
10. Commercial radio, television or communication transmitting stations and towers.
11. Residential subdivisions.
12. Coal mines and facilities for the extractions of minerals.
13. Advertising signs and billboards.
14. Parks, recreational and wildlife conservation areas.
15. Sand and gravel extraction.

The above is intended to be but a partial list of the possible conditional uses within the Township and City. It is the express intent of this Ordinance that any use not specifically allowed under this Ordinance shall only be allowed upon the issuance of a conditional use permit. The Estherville Township and City of Regan Zoning Commission shall have full authority and discretion in the issuance of such conditional use permits, provided that said Commission shall consider each such application for a conditional use permit individually upon its merits, and further, that said Commission, when considering all such applications, shall be guided and shall follow the intent of the Ordinance and the Comprehensive Plan for the zoning of Estherville Township and City of Regan. Should an application be denied, the Commission shall state, in writing, the reasons for such denial. The Commission shall have the authority to conduct, or have conducted, such investigations concerning the impact of any proposed conditional use, as it sees fit.

SETBACKS

All structures shall be of a design to provide the following building setbacks from the centerline of highways when lots front and have direct access to:

Residential Buildings:

Primary	Secondary	Farm to Market	
<u>Highway</u>	<u>Highway</u>	<u>Road</u>	<u>Rural Road</u>
150 feet	150 feet	150 feet	150 feet

Commercial Buildings:

Primary	Secondary	Farm to Market	
<u>Highway</u>	<u>Highway</u>	<u>Road</u>	<u>Rural Road</u>
300 feet	300 feet	300 feet	300 feet

After shelterbelts and all solid type fences of a height of six feet or more, sufficient to cause an accumulation of snow, shall be placed at least 180 feet from the center of all roads within the Township. The City of Regan will have its own setback regulations.

The Estherville Township and City of Regan Zoning Commission shall have the power to grant a variance from the requirements of the above setbacks. Any person so desiring such a variance shall make an application to the Commission. A fee of five hundred dollars (\$500.00) shall be charged for each meeting called by the Commission for the purpose of considering an application for such a variance. Such fee shall be due and payable, regardless of whether or not a variance is, in fact, granted. Should such an application be denied, the Commission shall state, in writing, the reasons for such denial.

NON-CONFORMING USES

Definition: Any lawful use of the land or buildings existing at the date of the enactment of this Ordinance, and which would not be permitted as a new use under the provisions of this Ordinance, is hereby declared to be non-conforming use, and not in violation of this Ordinance at the date of the enactment of such Ordinance. Provided, however, a non-conforming use shall be subject to, and the owner shall comply with the following regulations:

1. Expansion of a non-conforming use is not permitted outside the original building or beyond the limits of the specified land.
2. No building used for a non-conforming use shall be enlarged, extended, reconstructed, or structurally altered unless the use is changed to one which complies with the provisions of this Ordinance.
3. If any building in which there is a non-conforming use is damaged by fire, flood, explosion, wind, war, or other catastrophe, in an amount equal to or greater than 50% of its assessed valuation, it shall not be again used or reconstructed to be used for any use except one complying with the provisions of this Ordinance.
4. If any building in which there is a non-conforming use is moved any distance whatsoever, the building thereafter shall be used only in compliance with the provisions of this Ordinance.
5. A non-conforming use may be continued in accordance with the provision of this section, but it shall not be changed to any other use except one which would be permitted as a new use under the provisions of this Ordinance.
6. If for any reason, a non-conforming use of land ceases for a continuous period of more than two years, the land shall thereafter not be used except in compliance with the provisions of this Ordinance.
7. If, for any reason, a non-conforming use of a building ceases for a continuous period of more than two years, the building shall thereafter not be used except in compliance with the provisions of this Ordinance.

FEES

The following fees shall be charged by the Estherville Township and the City of Regan Zoning Commission prior to the issuance of any conditional use permit according to the provision of this Ordinance. The City of Regan will issue conditional use permits and fees according to their own Ordinance.

1. \$500.00 shall be charged for each meeting of the Estherville Township and City of Regan Zoning Commission called for the purpose of considering the question of whether or not to grant a conditional use permit. Such fee shall be due and payable regardless of whether such a conditional use permit is, in fact, granted.
2. A fee of 1/10 of 1% of the estimated construction costs of all proposed commercial buildings or facilities, constructed under a conditional use permit, shall be charged by the Township and City for each permit which is granted provided that the extraction of sand, gravel, and other minerals shall be specifically excluded from the necessity of payment of such 1/10 of 1% fee.

3. **Maps for routes of travel must be provided. The Estherville Township and City of Regan Zoning Commission has the authority to re-route if necessary.**
4. **A \$40,000.00 Bond per mile is required by the Commission, for any damage that may be incurred by the continuous traffic of heavy equipment.**