

## ARTICLE 3

### DEFINITIONS

For the purposes of this ordinance certain terms and words are hereby defined. Words used in the present tense shall include the future: the singular number shall include the plural the plural shall include the singular: the word "shall" is mandatory and not directory.

ACCESSORY BUILDINGS ----- A subordinate building, the use of which is customarily incidental to that of principal building on same lot.

ADULT BOOKSTORE ----- An enclosed building having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by the emphasis on matter depicting or describing specific 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 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 numbers of patrons who may be able to view the presentation at one time.

ADULT ENTERTAINMENT CENTER - An adult bookstore, 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:)

Specified anatomical areas:

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

Specified sexual activities:

- (1) Human genitals in a state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse or sodomy;
- (3) Fondling of human genitals, pubic region, buttock or female breast.)

AGRICULTURAL DISTRICT ----- Shall include any lands or areas so designated A-Agricultural by the Board of County Commissioners under authority of this ordinance.

ALLEY ----- (ARTICLE 30). 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; 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 one thousand (1,000) or more animal units shall be defined as an animal feeding operation. This term does not include an animal wintering operation. Adjoining animal feeding operations under common ownership are considered to be one animal feeding operation if they use common areas or systems for manure handling. An animal feeding operation in place and operating on the date this ordinance is effective September 5, 2001 shall be considered an existing animal feeding operation and shall not be subject to the requirements of this ordinance unless it expands by any number of animal units.

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 HOSPITAL ----- See "Veterinary".

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 one thousand (1,000) animal units or 2) weaned offspring which are kept longer than one hundred-twenty (120) days and that are not retained for breeding purposes. Animal wintering operations are not subject to the requirements of this ordinance.

**ANIMAL UNIT EQUIVALENT---**

A unitless 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:

<i>Livestock Type</i>	<i>AUE</i>	<b>Equivalent Numbers of Livestock</b>			
		<i>300</i>	<i>1,000</i>	<i>2,000</i>	<i>5,000</i>
Horse	2.0	150	500	1,000	2,500
Dairy Cow	1.33	225	750	1,500	3,750
Mature Beef	1.0	300	1,000	2,000	5,000
Beef Feeder – Finishing	1.0	300	1,000	2,000	5,000
Beef Feeder – Backgrounding	0.75	400	1,333	2,667	6,667
Mature Bison	1.0	300	1,000	2,000	5,000
Bison Feeder	1.0	300	1,000	2,000	5,000
Elk	1.0	300	1,000	2,000	5,000
Swine, >55 lbs	0.4	750	2,500	5,000	12,500
Swine, Nursery	0.1	3,000	10,000	20,000	50,000
Sheep	0.1	3,000	10,000	20,000	50,000
Goose or Duck	0.2	1,500	5,000	10,000	25,000
Turkey	0.0182	16,500	55,000	110,000	275,000
Chicken	0.01	30,000	100,000	200,000	500,000

**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.

**AUTO WRECKING -----**

See "Junk Yard".

**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".

BLOCK -----	The property abutting one side of a street and lying between the two (2) nearest intersecting streets, or between the nearest such street and railroad right-of-way, undivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.
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 -----	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, 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 INSPECTOR -----	The Building Inspector of the County of Burleigh, North Dakota, or his authorized representative.
BUILDING LINE -----	A line established, in general parallel to the front street line beyond which no part of a building shall project, except as otherwise provided by this resolution.
BUILDING, The PRINCIPAL ---	A building in which is conducted the principal use of the lot on which it is located.
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.
CITY -----	City of Bismarck, North Dakota.
COMMERCIAL DISTRICT -----	Any CL-Limited Commercial, or CM-Major Commercial District.
COUNTY -----	County of Burleigh, North Dakota.

COUNTY HEALTH OFFICER ----(ARTICLE 31): shall mean the legally designated health authority of the County of Burleigh or authorized representative. Whenever the term "County Health Officer" is used hereafter in this ordinance it shall be construed to also mean the "Building Inspector".

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, exclusive 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.

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). 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 - 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.

EASEMENT ----- A grant by the property owner of the use of a strip 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.

FAMILY ----- A group of one (1) or more persons occupying a premises 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.

FARM -----	<p>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.</p>
FILLING STATION -----	<p>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.</p>
FLOOR AREA RATIO -----	<p>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 50% of the total basement floor area. In calculating floor area, the following need not be included:</p> <ul style="list-style-type: none"> <li>a) Attic space providing structural head room of less than 7 feet, 6 inches;</li> <li>b) Uncovered steps;</li> <li>c) Terraces, breezeways and open porches;</li> <li>d) Automobile parking space in basement or private garage, but not to exceed 600 square feet for single-family dwellings; 800 square feet for a two-family dwelling; and 200 square feet per car space required by the provisions of this resolution for any other use.</li> </ul>
FRONTAGE -----	<p>All the property on one side of the street or highway between two (2) intersecting streets or highways (crossing or terminating) measured along the line of the street or highway, or if the street or highway is dead-</p>

	ended, then all of the property abutting on one side between an intersecting street or highway and the dead-end of the street or highway.
GARBAGE -----	(ARTICLE 31): Shall mean the animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.
GARAGE, PRIVATE -----	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 -----	Any building or premises used for equipment, repairing, hiring, selling or storing motor-driven vehicles.
GROUP DWELLING -----	See "DWELLING - GROUP".
GROUP-USE -----	See "USE 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 the highest of the following three (3) levels: <ul style="list-style-type: none"> <li>a) Street curb level</li> <li>b) The established or mean street grade in case the curb has not been constructed; or</li> <li>c) The average finished ground level adjoining the building if it sets back from the street line to level of the highest point at the roof beams of flat roofs, or roofs inclining not more than 1 inch to the foot, and to the mean height level of the top of the main plate and highest ridge for other roofs.</li> </ul>
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 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 is open to transient guests. Hotels include motels and automobile courts, but do not include group dwelling as defined herein.
IMPROVEMENTS -----	Street grading and surfacing with or without curbs and gutters, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, street, trees and other improvements as required by this ordinance.
INDUSTRIAL DISTRICT ---	Any I Industrial District
INFESTATION -----	(ARTICLE 31): Shall mean the presence, within or around a dwelling of any insects, rodents or other pests.
JUNK YARD -----	The use of any area of any lot whether inside or outside a building, or the use of any portion of that half of any lot that adjoins any street, for the storage, keeping or abandonment of junk, including scrap metal, rags, paper or other scrap materials, used lumber, salvaged house wrecking and structural steel materials and equipment, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery parts thereof.
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 -----	A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, including the open space required by this ordinance and having its principal frontage upon a street or upon an officially approved place.

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.
LOT, DOUBLE-FRONTAGE --	A lot having a frontage on two (2) non-intersecting streets, as distinguished from a corner lot.
LOT LINE, REAR -----	The lot line generally opposite or parallel to the front street line.
LOT OF RECORD -----	A lot which is part of a subdivision, the map of which has been recorded in the office of the Register of Deeds of Burleigh County; or a parcel of land, the deed to which was recorded in the office of the Register of Deeds prior to the adoption of this ordinance.
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 resolution, having not less than the minimum area required by this resolution for a zoning lot in the district in which such land is situated, and having its principal frontage on a street or a permanent, exclusive, non-obstructed easement of access of right-of-way to a street, not less than twenty (20) feet wide. A "zoning lot" need not necessarily coincide with a "record lot" as herein defined.
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).
MANUFACTURING DISTRICT -	Any M Manufacturing District.
MANURE-----	Fecal material and urine from livestock, as well as animal-housing wash water, bedding material, rainwater or snow melt that comes in contact with fecal material or urine.
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.

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).

MOBILE HOME PARK ----- A plat of ground under single ownership or management which has been planned and improved for the placement of at least twenty (20) mobile homes which are used for dwelling or sleeping purposes, regardless of whether or not a charge is made for such accommodations.

MOTOR VEHICLE PARTS  
SALVAGE YARD ----- The use of not more than fifty (50) percent of the premises of a motor vehicles repair garage or a motor vehicle body repair shop for the storage of motor vehicles for dismantling and sale of used parts thereof.

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 article for the district in which it is located, either at the effective date of this article, or as a result of subsequent amendments which may be incorporated into this article.

OCCUPANT ----- (ARTICLE 31): Shall mean any person, over one (1) year of age, living, sleeping, cooking, eating in, or having actual possession of a dwelling or dwelling unit or rooming unit.

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 Map for Burleigh County.

OWNER -----	(ARTICLE 31): Shall mean any person who 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, executrix, administrator, administratrix, 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 of this ordinance, and of the rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.
PERSON -----	(ARTICLE 31): Shall mean and include any individual, firm, corporation, association, or partnership.
PLANNING COMMISSION --	The Planning Commission of the County of Burleigh, North Dakota.
PLUMBING -----	(ARTICLE 31): Shall mean and include all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, water closets, sinks, installed dishwashers, lavatories, bath tubs, 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.
REPAIR -----	(ARTICLE 31): Shall mean to restore to good condition.
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 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.
SALVAGE YARD -----	A place where used parts of automobiles or other equipment are collected and processed for resale.
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.
STABILIZED BANK -----	A river bank 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, as measured over horizontal distances of 50 feet or more, that are not bluffs.

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.

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.

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.
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.

USE -----

The term referring to:

- a) Any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied; and ...
- b) Any occupation, business activity or operation carried on (or intended to be carried on) in a building or other structure or on land; or ...
- c) A name of a building, or structure or tract of land which indicated the purpose for which it is arranged, designed, intended, maintained or occupied.

USED -----

Designed, intended or arranged to be used.

USE GROUP -----

Two (2) or more uses similar in physical characteristics, traffic generation, location, utility, governmental service requirements, or generally compatible with other uses in a use group. Members the several use groups herein established are specifically listed in Article 8.

USES PERMITTED -----

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

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.

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.

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 front of a lot between the 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 entrance-way.

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 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.

## 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.

#### 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:

- (a) Depends to some extent on the proximity of other retail and service establishments;
- (b) Merchandise is not of such a nature as to be customarily taken away by the customer in a truck;
- (c) 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.
- (d) The following uses are declared to be in Retail Group A:
  - 1. Antique store
  - 2. Appliance, radio, television store
  - 3. Auto accessory store
  - 4. Book, magazine, newspaper store
  - 5. Butcher shop
  - 6. Camera store, art supply store
  - 7. Candy store
  - 8. Clothing, clothing accessories store
  - 9. Delicatessen
  - 10. Department store
  - 11. Drug store
  - 12. Five and ten cent store
  - 13. Flower shop
  - 14. Furniture, office equipment store
  - 15. Gift shop
  - 16. Grocery store
  - 17. Hardware store
  - 18. Hobby, toy store
  - 19. Ice cream parlor
  - 20. Jewelry store
  - 21. Music store

22. Notion, variety store
23. Office supply, stationery store
24. Photographic studio
25. Shoe store
26. Sporting goods store
27. 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 a nature as to be customarily taken away by the customer in a motorized truck.
- (b) Merchandise is of such a nature as to require 50% or more of the space within the building for storage of the merchandise.
- (c) Merchandise is of such a 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.
- (e) The following uses are declared to be in Retail Group B:
  1. Auto and truck sales
  2. Farm implement sales and related agri-business establishments
  3. Feed, grain and farm supply sales and related agri-business establishments
  4. Trailer sales

### 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:

- (a) Depends to some extent on the proximity of other retail and service establishments;
- (b) 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.
- (c) The following uses are declared to be in Service Group A:
  1. Barber shop

2. Beauty shop
3. Cold storage locker
4. Dressmaker, tailor shop
5. Dry cleaning and pick-up establishment
6. Furniture repair and upholstering shop
7. Laundry and pick-up establishment
8. Laundromat (self-service)
9. Milliner
10. Radio and appliance repair
11. Restaurant
12. Shoe repair
13. Soda fountain
14. Watch, jewelry, camera repair
15. Dry cleaning plants, providing service for wearing apparel only, and complying with all provisions of the City of Bismarck Fire Prevention Code for a Class 4 System.

#### 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:

- (a) Its success is not dependent upon the proximity of Retail Group A uses;
- (b) 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;
- (c) 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;
- (d) 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

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.

(a) The following uses are declared to be in the Office-Bank Group:

1. Bank
2. General office
3. Governmental office
4. Insurance office
5. Personal loan agency
6. Professional office
7. Real estate office
8. Taxi-cab office
9. Telephone exchange
10. Utility office

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:

- (a) The activity is not operated by a governmental agency;
- (b) The following uses are declared to be in the Commercial Recreation Group:

1. Bowling alley
2. Dance hall
3. Pool or billiard parlor
4. Roller skating rink
5. Sports arena
6. Theater
7. Bar, saloon or tavern
8. 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:

- (a) The merchandise offered for sale is stored wholly within a completely enclosed building;
- (b) No unusual fire or safety hazard is caused by the storage of the merchandise;
- (c) No live animals are sold;

- (d) No junk, wrecked automobiles, second hand equipment or other salvaged materials or dead animals are stored or sold on the premises;
- (e) The following uses are declared to be in the Wholesale Group:
  - 1. Newspaper, magazine distributor
  - 2. Wholesale food and grocery sales
  - 3. Wholesale drug sales
  - 4. Other wholesale distribution facilities
  - 5. Warehouses

Section 9. HEALTH-MEDICAL GROUP

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.

- (a) The following uses are declared to be in the Health-Medical group:
  - 1. Hospital for human beings
  - 2. Medical clinic
  - 3. Nursing, Convalescent Home
  - 4. Old People's Home
  - 5. Orphan' Home
  - 6. Sanitarium

Section 10. EDUCATION 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.

- (a) The following uses are declared to be in the Education Group:
  - 1. College or Junior College
  - 2. Grade school
  - 3. High school or Junior high school
  - 4. Kindergarten
  - 5. Private or Parochial school offering a curriculum substantially equivalent to that offered by public schools
  - 6. Student or faculty dormitory on college campus
  - 7. Stadium, gymnasium, field house, as an accessory building on same lot as principal building
  - 8. Power or heating plant as accessory building and use on same lot as principal building

Section 11. 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.

- (a) The following uses are declared to be in the Public Recreation Group:
1. Community center
  2. Museum, public
  3. Park, public
  4. Playground, public
  5. Golf course

Section 12. INDUSTRIAL GROUP

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

- (a) There is no unusual fire, explosion or safety hazard;
- (b) 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;
- (c) 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;
- (d) There is no emission of dust, dirt, or toxic or offensive odors or gas;
- (e) There is no production of heat or glare perceptible from any lot line of the premises on which the use is located;
- (f) The following uses are declared to be 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:
1. 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;
    - (a) 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.



- (b) 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.
  - (c) Pottery and other ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
  - (d) 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.
  - (e) Musical instruments, toys, novelties and rubber and metal stamps.
  - (f) Blacksmith shop and machine shop.
  - (g) Laundry, cleaning and dyeing works, and carpet and rug cleaning.
  - (h) Ice manufacturing, soft-drink bottling plant.
  - (i) 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.
- 2. Storage building and warehouses.
  - 3. Experimental laboratories.
  - 4. 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:
    - (a) Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the principal use.
    - (b) Contractors' equipment, storage yard or plant, or rental of equipment commonly used by contractors.
    - (c) Retail lumber yard, including only incidental mill work.
    - (d) Feed and fuel yard.
    - (e) Public utility service yard, or electrical receiving or transforming station.
    - (f) Pipe yard, or storage, sale or rental of oil and gas

well drilling equipment.

5. Concrete products and mixing.
6. Petroleum bulk plants, if in compliance with the Revised Ordinances of the City of Bismarck.
7. Manufacture, compounding, processing, refining, and treatment of the following materials and products:
  - (a) Acetylene
  - (b) Alcohol
  - (c) Asphalt
  - (d) Slaughter and packing of animals and meat products
  - (e) Tannery or curing or storage of raw hides
8. Truck Terminals.

Section 13. 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:

- (a) The structure or use is necessary for the safe or efficient operation of the utility.
- (b) The utility which the structure or use serves is one available to the general public.
- (c) The design and location of the premises and structures are in full compliance with all requirements of this section and of this ordinance.
- (d) The use is located on a lot no smaller in area than the minimum area specified in the district in which it is located for any principal use.
- (e) The use complies with all height and yard regulations for the district in which it is located.
- (f) 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.
- (g) Proper fencing with lot entrances shall be erected at least six (6) feet high 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.

- (h) 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.
- (i) The following uses are declared to be in the Utility Service Group:
  - 1. Electric transformer station, but not a stream generating plant
  - 2. Electric transmission line
  - 3. Sewage pumping station
  - 4. Water pumping station
  - 5. Water reservoir
  - 6. Radio and/or television transmitting stations
  - 7. Buildings, structures, radio towers, and related facilities for communication purposes
  - 8. Natural gas facilities and structures

Section 14. 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.

- (a) The following uses are declared to be in the Truck Farming Group:
  - 1. Flower growing, commercial
  - 2. Fruit growing
  - 3. Tree, shrub, plant nursery
  - 4. Truck gardening
  - 5. Greenhouse, commercial

Section 15. 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.

- (a) The following uses are declared to be in the General Farming Group:
  - 1. Dairy farming
  - 2. Fur animal farming
  - 3. Livestock raising and feeding
  - 4. Pig farrowing and feeding
  - 5. Poultry hatchery
  - 6. Poultry farming and feeding
  - 7. Roadside stand for the sale of products grown on the premises
  - 8. Field crop farming
  - 9. Grain elevators
  - 10. General animal husbandry

11. All customary farming and ranching activities and operations

Section 16. 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:

- (a) There is no unusual fire, explosion or safety hazard.
- (b) 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.
- (c) There is no emission of smoke.
- (d) There is no emission of dust, dirt, or toxic or offensive odors or gas.
- (e) There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.
- (f) 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:
  - 1. 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.
    - a. Pottery and other ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
    - b. 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.
    - c. Musical instruments, toys, novelties and rubber or metal stamps.
    - d. Laundry, cleaning and dyeing works, and carpet and rug cleaning.
    - e. 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.

2. Storage buildings and warehouses.
3. Experimental laboratories.
4. 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:
  - a. Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the principal use.
  - b. Contractors' equipment, storage yard or plant or rental of equipment commonly used by contractors.
  - c. Retail lumber yard, including only incidental mill work.
  - d. Feed and fuel yard.
  - e. Public utility service yard, or electrical receiving or transforming station.
  - f. Pipe yard or storage, sale or rental of oil gas well drilling equipment.
  - g. Prefabrication of dwelling units and building components.

## ARTICLE 8

### SPECIAL USES

In order to carry out the purposes of this article, the Board of County Commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, be reviewed by the County Planning Commission and the Board of County Commissioners prior to the granting of a building permit or certificate of occupancy therefore; and that the Planning Commission and the Board of County Commissioners be, and are hereby given limited discretionary powers relating to the granting of such permit or certificate.

#### Section 1. General Provisions

- (a) The uses listed in this section are designated as special uses and no building permit or certificate of occupancy shall be issued by the County Building Inspector until the application for such permit or certificate has been reviewed by the Planning Commission and authorized by the Board of County Commissioners.
- (b) Special use permit applications shall be submitted to the Planning Department at least twenty-one (21) days prior to a meeting of the County Planning Commission. The following items shall accompany the special use permit application:
  - 1. A fee in accordance with Article 25 of the Zoning Ordinance.
  - 2. Three (3) copies of a scaled site plan containing all items required by the Zoning Ordinance for each particular special use, as specified by the county planner.
  - 3. A photographic reduction or digital copy of the site plan described above as specified by the County Planner.
- (c) Following submission of a special use permit application, the Planning Department shall set a time and place for a public hearing before the County Planning Commission. Notice of the time and place of such public hearing shall be published in a newspaper of general circulation in the County of Burleigh once each week for two (two) consecutive weeks prior to the date of the hearing. Not less than ten (10) days prior to the scheduled public hearing all known adjacent property owners within 1,320 feet shall be notified by letter of the hearing. The Planning Commission may approve, deny or table the application for further consideration and study.
- (d) Following the public hearing, the Planning Department shall forward the proposed special use to the Board of County Commissioners together with the Planning Commission's recommendation and a report fully setting forth the reasons for such recommendation.
- (e) Upon receipt of the Planning Commission's recommendation and report, the Board of County Commissioners shall consider the proposed special use and shall take final action on the request. The Board of County Commissioners may approve, deny or table the request for further consideration and study.

- (f) Before approving the issuance of a Building Permit or Certificate of Occupancy for a special use, the Board of County Commissioners shall find:
1. The proposed use in harmony with the purpose of this regulation and of portions of the Master Plan of the County of Burleigh for the district.
  2. The proposed use will not adversely affect the health and safety of the public and the workers and residents, or farmers in the area, and will not be detrimental to the use or development of adjacent properties or of the general neighborhood.
  3. The proposed use will comply with all appropriate regulations for the district in which it will be located.
  4. The proposed use will comply with all special regulations established by this section and all special conditions necessary for the sanitation, safety, and general welfare of the public.
- (g) The Board of County Commissioners is authorized to impose any conditions on the granting of a Building Permit or Certificate of Occupancy for a special use that it deems necessary for the protection of the neighborhood and the general welfare of the public.
- (h) The Board of County Commissioners shall not authorize the location of a special use in any district from which it is prohibited.
- (i) The Board of County Commissioners shall refuse to authorize the issuance of a Building Permit or Certificate of Occupancy for any special use if the Board finds that such special use would fail to comply with any of the requirements of this Ordinance.
- (j) The Board of County Commissioners shall require the applicant for authorization of a special use to furnish any engineering drawings or specification, site plans, operating plans or any other data the Board finds necessary to appraise the need for or effect, of such special use.
- (k) A special use granted under this article must be put into use within twenty-four (24) months or it shall lapse and the land owner must re-apply.
- (l) Failure to comply with any condition set forth as part of a special use permit shall be a violation of this Ordinance and is subject to the enforcement process. Continued non-compliance shall be grounds for revocation of the special use permit, as determined by the Board of County Commissioners following a public hearing on the issue.
- (m) When a special use has been established and is discontinued for any reason for a period of two (2) years or longer, the special use permitted shall be considered abandoned.

## Section 1A. General Provisions – Animal Feeding Operations

- (a) The operator of a new livestock facility, or an existing livestock facility which meets the definition of an animal feeding operation and which meets the following criteria shall be considered an animal feeding operation subject to the conditions specified in this section:
  - 1. A new animal feeding operation that would be capable of handling one thousand (1,000) or more animal units.
  - 2. An existing animal feeding operation that expands to handle one thousand (1,000) or more animal units.
  - 3. An existing animal feeding operation with one thousand (1,000) or more animal units that expands by any number of animal units.
- (b) Special use permit applications shall be submitted to the Planning Department at least thirty (30) days prior to a meeting of the Planning Commission. The following items shall accompany the special use permit application:
  - 1. A fee in accordance with Article 25 of the Zoning Ordinance.
  - 2. Three (3) copies of a scaled site plan including the total acreage of the site; existing and proposed roads and access ways within and adjacent to the site; topographic contours with a minimum interval of five (5) feet; surface water, streams, drainage areas and one-hundred (100) year floodplain and floodway elevations; existing and proposed building locations; waste system locations; surrounding land uses, zoning and ownership; and locations of existing wells. Such site plans shall be prepared by a registered land surveyor, a civil engineer or other person having comparable experience or qualifications.
  - 3. A description of the operation, including the proposed number of animal units; the proposed waste and nutrient management system; and any aquifers, sources of drinking water and wells.
  - 4. A copy of the state permit application to be submitted by the applicant to the North Dakota Department of Health.
  - 5. A photographic reduction or digital copy of the site plan as specified by the County Planner.
- (c) Following submission of a special use permit application, the Planning Department shall notify the Department of Health that it has received such application and shall set a time and place for a public hearing before the Planning Commission. Notice of the time and place of such public hearing shall be published in a newspaper of general circulation in the County of Burleigh once each week for two (2) consecutive weeks prior to the date of the hearing. Not less than ten (10) days prior to the scheduled public hearing all known adjacent property owners within the corresponding odor setback distances specified in Section 19 of this Article shall be



notified by letter of the hearing. The Planning Commission may approve, deny or table the application for further consideration and study.

- (d) Following the public hearing, and approval by the Planning Commission, the Planning Department shall forward the proposed special use to the Board of County Commissioners together with the Planning Commission's recommendation and a report fully setting forth the reasons for such recommendation.
- (e) Upon receipt of the Planning Commission's recommendation and report, the Board of County Commissioners shall consider the proposed special use and shall take action on the request. The Board of County Commissioners may approve, deny or table the application for further consideration and study. If granted approval by the Board of County Commissioners, such action shall be considered tentative until a state permit for the operation is granted by the North Dakota Department of Health.
- (f) The applicant shall then forward its application for a special use permit, together with the tentative approval by the Board of County Commissioners, to the North Dakota Department of Health.
- (g) Following a review by the Department of Health of the operator's application for a state permit, the Department of Health will notify the Planning Department of its decision.
- (h) The special use permit will become final following the granting of a state permit by the Department of Health.
- (i) The special use permit granted to the operator of an animal feeding operation shall be put into use within twenty-four (24) months, or the permit shall lapse and the operator may re-apply.
- (j) Prior to construction or establishment of an animal feeding operation with 5000 or more animal units, one or more confinement buildings, and one or more manure storage structures, the operator may be required to file an irrevocable surety bond with the County Auditor. Such bond shall be in an amount equal to an engineer's estimate of the cost of removing or demolishing such facilities and shall be held for the duration of the animal feeding operation. The amount of the bond may be reviewed by the County Board of Commissioners on an annual basis and adjusted if needed. This bond may be used to cleanup the animal feeding operation, including manure storage structures such as lagoons, should they be abandoned by the operator.
- (k) Failure to comply with any condition set forth as part of a special use permit for an animal feeding operation shall be a violation of this Ordinance and is subject to the enforcement process. Continued non-compliance shall be grounds for revocation of the special use permit, as determined by the Board of County Commissioners following a public hearing on the issue.
- (l) When a special use for an animal feeding operation has been established and is discontinued for any reason for a period of two (2) years or longer, the animal feeding operation shall be considered abandoned.

## **Section 2. Airports**

An airport or heliport may be permitted in any District as a special use, provided:

- (a) The area shall be sufficient to meet the Federal Aviation Administration requirements for the class of airport proposed.
- (b) There is no existing flight obstruction such as towers, chimneys, or other tall structures, or natural obstructions outside the proposed airport which would fall within the approach zone to any of the proposed airport runways or landing strips.
- (c) There is sufficient distance between the end of each usable landing strip and the airport boundary to satisfy the requirements of the Federal Aviation Administration, or any other appropriate authority. In cases where air rights or easements have been acquired from the owners of abutting properties, in which approach zones fall, satisfactory evidence thereof shall be submitted with the application.
- (d) Any building, hangars, or other structures shall be at least 100 feet from any street or lot line.
- (e) Adequate space for off-street parking for at least 50 vehicles shall be provided. If, in the opinion of the Board of County Commissioners, off-street parking space for more than 50 vehicles will be required, the Board shall increase this requirement.
- (f) The application for authorization of an airport shall be accompanied by a plan, drawn to scale, showing the proposed location of the airport; boundary lines; dimensions; names of the owners of abutting properties; proposed layout of runways, landing strips or areas, taxi strips, aprons, roads, parking areas, hangars, buildings, and other structures and facilities; the location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zone and less than 500 feet distance from the boundary lines of the airport, other pertinent data such as topography and grading plan, drainage, water, and sewage, etc.
- (g) The plans for the proposed airport shall be reviewed by the County Planning Commission. In its review of the proposed airport, the Planning Commission shall make at least the following two (2) findings:
  - 1. The airport is not in conflict with any existing element of the Master Plan;
  - 2. The benefits of and need for the airport are greater than any possible depreciating effects and damages to the neighboring property.

## **Section 3. Cemeteries**

A cemetery, mausoleum, columbarium or crematory may be permitted in any District as a special use, provided:

- (a) No graves shall be located less than 100 feet distant from any property line.

- (b) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the ground, there shall be a strip at least 75 feet in width adjacent to all boundaries of the cemetery landscaped and maintained as a green area; and that as a portion of the landscaped area there shall be a dense evergreen hedge at least six (6) feet in height; and that such dense evergreen hedge shall be at least 70 feet distant from any boundary of the cemetery which is a street line.
- (c) In any cemetery in which markers or monuments rising above the surface of the ground, and private tombs or mausoleums are prohibited, there shall be planted and maintained a landscaped strip at least 75 feet in depth adjacent to all boundaries of the cemetery, but there need not be a dense evergreen hedge planted as part of the landscaping.
- (d) No public mausoleum, columbarium, crematory, cemetery chapel shall be erected within 100 feet of any boundary of the lot or parcel on which it is located.
- (e) The owners of any cemetery parcel which lies across any proposed major or secondary thoroughfare shown on a Master Plan shall reserve and dedicate a right-of-way for such thoroughfare having a minimum width of 100, or such greater minimum width as the County Engineer or the Board of County Commissioners shall determine as necessary; and those portions of said cemetery lying on either side of such dedicated thoroughfare shall be considered as cemeteries for the purpose of determining grave setbacks, landscaped strips, and building setbacks.

#### **Section 4. Drive-in Theater**

A drive-in-theater may be permitted in an Agricultural, Major Commercial, or Industrial District as a special use, provided:

- (a) No part of such theater shall be located closer to the boundary of any residential district than 1,000 feet nor closer to any highway or adjoining property line than 100 feet.
- (b) The area accessible to patrons' vehicles shall be treated with a suitable material to prevent dust.
- (c) Reservoir parking space off the street shall be provided for patrons awaiting admission in an amount not less than 30% of the vehicular capacity of the theater.
- (d) The vehicular circulation shall be so designed and constructed as to permit only one way traffic within the boundaries of the tract on which the theater is to be located.
- (e) Ingress and egress from the highway shall be so designed and constructed as to provide for safe traffic movement.
- (f) The screen shall be so located and shielded that the picture shown thereon shall be invisible from any highway.
- (g) A structure for the sale and service of food and non-alcoholic beverages may be permitted as an accessory use for a drive-in-theater when approved by the governing

health authority.

## **Section 5. Golf Driving Range**

A golf driving range not an accessory use to a golf course may be permitted in an Agricultural, Major Commercial or Industrial District as a special use, provided:

- (a) The area within 500 feet of all boundaries of the lot is not developed as residential to a greater density than one family per acre.
- (b) Any flood lights used to illuminate the premises are so directed and shielded as not to be an annoyance to any developed residential property.
- (c) The driving range shall be arranged so as to keep golf balls from leaving the property, particularly near public rights-of-way.

## **Section 6. Tourist Campgrounds**

A recreation vehicle park may be permitted in a Major Commercial, Industrial, Manufacturing, or Agricultural District as a special use, provided:

- (a) A minimum total area of the premises shall be 90,000 square feet;
- (b) The minimum unit area for each recreational vehicle site shall be at least 1,500 square feet in area;
- (c) Provisions shall be made for draining surface water so as to prevent accumulation of stagnant water;
- (d) The minimum widths of interior roads and driveways serving individual parking sites shall be twenty (20) feet in width and surfaced with an all-weather surface. All roads shall be well drained and shall have a minimum internal radius of sixty (60) feet. Turn-arounds shall be provided for all dead end roads with a minimum internal radius of sixty (60) feet;
- (e) Each recreational vehicle stand shall be designed and constructed to allow for safe and efficient placement and removal of recreational vehicles. The stand shall be constructed to minimize the development of ruts or low spots by the vehicle tires. The site shall be graded to provide drainage but shall not exceed three (3) inches per ten (10) feet across the width of the stand;
- (f) All water and sewer systems shall meet the requirements of Chapter 19 of the North Dakota State Plumbing Code as revised 1977;
- (g) Swimming and bathing facilities shall meet the requirements of the North Dakota State Health Department;
- (h) All electrical systems shall comply with the requirements of the North Dakota State Electrical Code;

- (i) Designated outdoor fire locations, if provided, shall be in safe convenient areas where they will not constitute fire hazards to vegetation, undergrowth, trees, and recreational vehicles.

## **Section 7. Salvage Yards**

A salvage yard may be permitted in an Agricultural or Industrial District as a special use, provided:

- (a) That the total area of the premises shall be at least five (5) acres.
- (b) That only automobiles and trucks will be processed.
- (c) That the premises will be fenced with a tight board or solid metal fence at least six (6) feet high.
- (d) That the automobile and trucks being processed or to be processed, will be confined within the fenced area.
- (e) That the buildings comply with the setback requirements of the County regulations and the fenced area will be no nearer than 150 feet to the front property line.
- (f) That the operation will be conducted in such a manner as to prevent unsightliness of the area.

## **Section 8. Junkyards**

A junkyard may be permitted in an Agricultural or Industrial District as a special use, provided:

- (a) That the total area of the premises shall be at least five (5) acres;
- (b) That no burning of salvaged material or junk be permitted on premises;
- (c) That the buildings comply with the setback requirements of the County Zoning regulations;
- (d) That the entire junkyard be fenced with a solid board or solid metal fence at least six (6) feet high;
- (e) That the fence be set back at least 100 feet from the front property line;
- (f) That all junk be stored within the fenced area;
- (g) That the operation not be located immediately adjacent to any major highway or major areas within an Industrial area where junkyard operations may be operated;
- (h) That the operation and adjacent area will be operated in such a manner as to prevent unsightliness of the adjacent area.

## **Section 9. Individual Mobile Homes**

Special use permits for mobile homes has been removed in its entirety, Ordinance 90-14, Final passage and adoption: December 4, 1990.

## **Section 10. Temporary Uses and Permits**

The Zoning Administrator is authorized to grant a permit for temporary uses as follows:

- (a) For a carnival or circus in an Agricultural or Industrial District for a period not to exceed 21 days, or other area approved by the Board of County Commissioners.
- (b) For a religious meeting in a tent or other temporary structure in a Major Commercial, Industrial, or Agricultural District for a period not to exceed 60 days.
- (c) Contractors' offices and equipment sheds in any district for a period not to exceed two (2) years; provided further, that such temporary certificate may be renewed for additional periods of one (1) year.
- (d) For temporary asphalt and concrete batch plants, provided:
  1. The use is located within an Agricultural District.
  2. The temporary asphalt or concrete batch plant is for a specific construction project and not for general sale of product to the public.
  3. The site is located at least 1,320 feet (¼ mile) from any residentially zoned property.
  4. A site plan is submitted showing the overall dimensions of the site, the location of specific activities, fences, parking areas and access roads.
  5. A written narrative is submitted describing the operation of the facility, including fugitive dust management, run-off control, and spill containment, and explaining the length of time needed for the use.
  6. A permit to operate is issued by the North Dakota Department of Health prior to operation of the facility, if required.
  7. The County Engineer has approved the proposed access (ingress/egress) and routes for the operation.
  8. The use is for a specified period of time, tied to the duration of the construction project, which shall be clearly stated in the approval of the temporary use permit.
  9. The equipment must be removed from the site within 60 days of the completion of the construction project, and the site restored to its original condition.
  10. The Zoning Administrator may impose such conditions of approval that are necessary to ensure compliance with the intent of the Zoning Ordinance.

## **Section 11. Moving of Buildings and Structures**

Moved-in buildings and structures that have been previously located for use may be permitted in any district as a special use provided:

- (a) The structure be inspected prior to moving to determine if said structure meets the requirements of the County Building Code.
- (b) A petition be signed by sixty percent (60%) of the property owners within one-quarter (1/4) mile of the proposed location of the moved structure waiving objection to the said structure.
- (c) A performance bond be posted with the County Auditor of an amount to be decided by the County Commissioners to insure compliance with all County Building Codes.
- (d) A building permit issued and a foundation for the structure be in place before the issuance of a moving permit.
- (e) A routing request designating roads to be used shall be submitted to the County Engineer's Office for approval.
- (f) The moving of a structure shall be performed by a bonded housemover and such bond shall be in the sum of not less than \$5,000.00 to be filed with the County Auditor with the form thereof approved by the State's Attorney and the surety by the Board of County Commissioners. Said bond to run to the County and conditioned among other things, that the person seeking the moving permit will pay all damages which may result to the County or to any person residing in the County, or lawfully upon the dedicated public right-of-ways within the County, and as a result of the moving of such structures, said damage to either person or property of any person or to any public right-of-way or other public property of the County, and whether such damage is the result of the person seeking such permit or his employees.
- (g) The moved-in structure shall be compatible with the surrounding neighborhood.
- (h) The moved-in structure is a principal building of any size or an accessory building that is twelve hundred (1,200) square feet larger in size.

## **Section 12. Veterinary/Animal Clinic**

A veterinary or animal clinic may be permitted in any Agricultural, Industrial, Manufacturing, Major Commercial, or Limited Commercial District within Burleigh County as a special use, provided:

- (a) The structure shall be sufficient to meet the requirements set forth by the Animal and Plant Health Service, Department of Agriculture.
- (b) The structure's setback lines be approved by the Burleigh County Planning Commission on a case-by-case basis.
- (c) The clinic be maintained within a completely enclosed sound resistant building. The

building must contain adequate heating and the ventilation system must have filters incorporated so as to absorb all objectionable inside odor.

- (d) The building must be constructed so as to contain sound and odors in such a way as to produce no objectionable noise or odors outside the building.
- (e) Off-street parking space be provided at a rate of three (3) spaces per doctor and one (1) additional space for every employee.

### **Section 13. Veterinary/Animal Hospital/Enclosed Kennel**

A veterinary or animal hospital or an enclosed kennel may be permitted in any Agricultural, Industrial, Manufacturing, or Major Commercial District within Burleigh County as a special use, provided:

- (a) The structure shall be sufficient to meet the requirements set forth by the Animal and Plant Health Service, Department of Agriculture.
- (b) The structure's setback lines be approved by the Burleigh County Planning Commission on a case-by-case basis.
- (c) The hospital or kennel which includes treatment rooms, cages, or pens be maintained within a completely enclosed sound-resistant building. The building must contain adequate heating and the ventilation system must have filters incorporated so as to absorb all objectionable inside odors.
- (d) The exercise yard or runs and the corrals may be maintained without an enclosed structure provided they are shielded from view and the sound is muffled by a fixed and immovable barrier.
- (e) The building must be constructed so as to contain sound and odor in such a way as to produce no objectionable noise or odor outside the building.
- (f) Off-street parking space be provided at a rate of three (3) spaces per doctor and one and one-half additional spaces for every employee.

### **Section 14. Solid Waste Disposal Facility**

Solid waste disposal facilities as regulated by this section shall include all facilities for the incineration or disposal of solid waste or solid waste residue which are required to be permitted under statute or rule by the North Dakota Department of Health and Consolidated Laboratories. A solid waste disposal facility may be allowed in any A Agricultural district as a special use provided:

- (a) It is located at least one-half (1/2) mile from any residence or residentially zoned area unless written approval is obtained from the owner of any residence within this area.
- (b) It is continuously licensed and approved by the State Health Department as to location and operation.



- (c) There is no substantive evidence that the facility will endanger the public health or the environment.
- (d) The special use permit will be valid for a period of time set by the Board of County Commissioners. For the permit to be approved seventy-five percent (75%) of all property owners within one-half (1/2) mile of the proposed location must approve of the proposed facility.

### **Section 15. Adult Entertainment Centers**

Notwithstanding anything in this zoning ordinance to the contrary, an adult entertainment center shall be permitted only in an I district and in no other district, providing the center meets the following conditions:

- (a) The center is located no closer than one-half mile (2,640 feet) from any preexisting church, school, or residentially zoned property and/or property used for residential purposes.
- (b) The center excludes from its premises those persons less than eighteen (18) years of age.
- (c) The center displays no signs visible from the exterior of the center except signs identifying the center as an adult bookstore or adult cinema or both.
- (d) No materials depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of the center.
- (e) The manager and the owners of the center are registered with the County Sheriff and have provided him with such information as he reasonably may require with respect to their identities, including fingerprints, and prior criminal records, if any.
- (f) The business premises of the center which are generally open to its patron are open equally at the same time without charge to members of the Sheriff's Department who may wish to enter thereon, provided the entry is in the course of the discharge of the official's duties.
- (g) The business premises of the center which are generally open to its patrons shall be closed to its patrons from 1:00 a.m. to 8:00 a.m. daily, except on Sundays from 12:01 a.m. to 8:00 a.m. the following day.

### **Section 16. Vehicular Racetracks**

A racetrack for competitive automobile, motorcycle, bicycle or other vehicular competition may be allowed as a special use in any A or I district for a period of five (5) years provided:

- (a) Adequate direct road access to the site is provided;
- (b) Sufficient off-road parking areas are provided to handle normal participant and spectator parking needs;

- (c) A petition waiving any objection to the racetrack shall be signed by the owners of seventy-five percent (75%) of the land within one-half (1/2) mile of the proposed racetrack.

### **Section 17. Rodeo or Rodeo Events**

Rodeo events may be permitted in an Agricultural or Public District as a special use, provided:

- (a) The applicant shall submit a complete site plan at the time of initial consideration. This site plan shall include at least the size of the site, location of all proposed land uses, location of all buildings and fences, parking areas and access roads.
- (b) The applicant shall submit a listing of all activities to be carried out on the site and the beginning and ending hours for site activities.
- (c) All food and beverage sales shall be subject to applicable county regulations. Permits must be obtained, where necessary, before any event.
- (d) All livestock shall be continuously confined within a securely fenced area.
- (e) Permit shall be valid for sixty (60) days at a time, but may be renewed.
- (f) The applicant shall submit a petition waiving any objections to the event signed by seventy-five percent (75%) of the land owners within one-half (1/2) mile of the proposed event.

### **Section 18. Trap or Skeet or Sporting Clays Shooting Range**

Trap or Skeet or Sporting Clay Shooting Ranges may be permitted in an A-Agricultural, I-Industrial or M-Manufacturing District as a special use, provided:

- (a) The applicant shall submit a petition waiving any objection to the range signed by seventy-five percent (75%) of the land owners within one-half (1/2) mile of the proposed range.
- (b) The applicant shall submit a complete site plan at the time of initial consideration. This site plan shall include the size of the site, location of all proposed land uses, location of all buildings and fences, parking areas and access roads.
- (c) The hours of operation for such uses shall be limited to between 8:00 a.m. and 10:00 p.m.
- (d) Sufficient off-road parking areas shall be provided to handle normal participant and spectator parking needs.
- (e) The proposed use shall be located at least one-quarter (1/4) mile from any residentially zoned area.
- (f) The total area of the premises shall be at least twenty (20) acres.

- (g) Use of firearms will be limited to normal trap or skeet or sporting clays shotguns and ammunition.

## Section 19. Animal Feeding Operations

Animal feeding operations may be permitted in an A-Agricultural District as a special use provided:

- (a) Environmental Protection. The operator of a new facility for animal feeding is expected to locate, construct, operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. The operator of an existing facility is expected to operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. Each operator shall comply with applicable state laws and rules, including the laws and rules administered by the North Dakota Department of Health and with any permits granted by that department.
- (b) Location Requirements. The operator of a new animal feeding operation that has one thousand (1,000) or more animal units shall not locate or establish that operation:
1. Within a delineated source water protection area for a public water system. The source water protection areas for water supply wells include the entire wellhead protection area. For the surface-water intakes of public water systems, source water protection areas include all or portions of the surface water that supplies the water for the public water system, including all or portions of the surface-water's shoreline.
  2. Within one thousand two hundred (1,200) feet of a private ground water well that is not owned by the operator or within one thousand five hundred (1,500) feet of a public ground water well which does not have a delineated source water protection area.
  3. Within one thousand (1,000) feet of surface water which is not included in a source water protection area.
  4. Within the extra-territorial zoning jurisdiction of an incorporated city.
  5. Less than the following specified distance from existing residences, businesses, churches, schools, public parks and areas of property that are zoned residential:

Odor Setback Distances for Animal Feeding Operations		
Number of Animal Units	Hog Operations	Other Animal Operations
Less than 1000	None	None
1000 – 1999	0.75 mile	0.5 mile
2000 – 4999	1.0 mile	0.75 mile
5000 or More	1.5 miles	1.0 miles

The County Board of Commissioners, upon recommendation of the Planning Commission, may increase or decrease a setback distance for any new animal feeding operation after consideration of the proposed operation's plans, if it determines that a greater or lesser setback distance is necessary or acceptable, respectively, based upon site conditions or demonstrable safety, health or environmental concerns.

- (c) **Reverse Odor Setback.** An owner of property shall locate and establish a residence, business, church, school, or public park so as to provide a separation distance from any existing animal feeding operations that meets or exceeds the corresponding setback from those places listed in the above odor setback table. An owner of property who is an operator may locate the owner's residence within the setbacks.
- (d) **Temporary Odor Setback.** If notified in writing by an operator of a planned future expansion of an animal feeding operation, the County may implement the corresponding odor setback for a temporary time period not to exceed two (2) years, after which time the setback will remain in effect only if the expansion was completed.
- (e) **Sale or Transfer of Ownership.** An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the County of the sale or the transfer of ownership of the property.
- (f) **Inclusion of Alternative Livestock Type.** An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the County in writing of intent to include an alternative livestock type at least one hundred-twenty (120) days prior to the anticipated date of the change.

## **Section 20. Asphalt Plants & Concrete Batch Plants**

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

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

## ARTICLE 11

### A AGRICULTURAL DISTRICT REGULATIONS

#### Section 1. Description

- a. The A Agricultural District is established as a district in which the principal use of land is for general agricultural uses. The regulations are intended to prohibit commercial and industrial usage of the land and to prohibit any other use which would interfere with the development or continuation of the agricultural use of the land; and to discourage any use, which because of its character or size, would create requirements and costs for public services such as police and fire protection, water supply, and sewerage before such services can be systematically and adequately provided.

#### Section 2. Definition of "Farm"

- a. For the purpose of the administration of this ordinance, a "farm" shall mean a single tract, or contiguous tract, of agricultural land containing a minimum of ten (10) acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, with not less than fifty percent (50%) of his annual net income; and the term "farmer" means an individual who normally devotes the major portion of his time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' un-manufactured state and who normally receives not less than fifty percent (50%) of his annual net income from any one or more of the foregoing activities; and the term also includes an individual who is retired because of illness or age and who at the time of retirement owned and occupied, as a farmer, the premises.

#### Section 3. Permitted Uses

- a. The following uses are allowed by-right in the A-Agricultural District:
  - (1) Agricultural structures and activities
  - (2) General farming group
  - (3) Truck farming group
  - (4) Livestock sales pavilion
  - (5) Public recreation group
  - (6) Utility service group
  - (7) Radio or television transmitting station
  - (8) Sand or gravel extraction
  - (9) Oil or gas well
  - (10) Railroad line trackage
  - (11) Single-family dwelling
  - (12) Manufactured home dwelling, when located on a permanent perimeter foundation in accordance with County codes governing construction

- (13) Private golf course, and customary accessory uses

#### Section 4. Special Uses

- a. The following special uses are allowed in the A-Agricultural District, in accordance with Article 8:
- (1) Airport or heliport
  - (2) Cemetery
  - (3) Drive-in theater
  - (4) Golf driving range, not accessory to a golf course
  - (5) Recreational vehicle park
  - (6) Salvage yard
  - (7) Junkyard
  - (8) Veterinary/animal clinic
  - (9) Animal hospital/kennel
  - (10) Solid waste disposal facility
  - (11) Vehicular race tracks
  - (12) Rodeo or rodeo events
  - (13) Trap or skeet shooting range
  - (14) Animal feeding operations, as defined herein

#### Section 5. Accessory Uses

- a. Customary accessory uses are allowed in the A-Agricultural District, in accordance with Article 6.

#### Section 6. Development Standards (Non-agricultural Uses)

- a. Lot Area. Each permitted residential structure, together with its accessory buildings, shall be located on a lot or tract of land as follows:

Property Description	Minimum Lot/Tract Size
Metes and Bounds, Auditor's Plat or Deed	40 acres
Aliquot part of a Section of land	Intended to comprise 40 acres
Government Lot	35 acres

- b. Lot Width. Each lot shall have a width of not less than six hundred-forty (640) feet, measured along the front property line.
- c. Front Yard. Each lot shall have a front yard as follows, measured from the property line:

Roadway Classifications	Minimum Front Yard (feet) -Residential Buildings	Minimum Front Yard (feet) -Commercial Buildings
Arterial Road	175	225
Collector Road	65	115
Local Road	40	140

- d. Side Yard. Each lot shall have two (2) side yards, one on each side of

- all principal and accessory buildings. Each side yard shall not be less than fifteen (15) feet. No building on a corner lot shall have a side yard on the side street less than the front yard requirements specified in this section.
- e. Rear Yard. Each lot shall have a rear yard not less than fifty (50) feet in depth. If such rear yard abuts an arterial or collector road right-of-way, building locations shall also conform to the front yard requirements specified in this section.
  - f. Height Limits. No principal building for any permitted use shall exceed thirty-five (35) feet in height. No accessory building shall exceed twenty-five (25) feet in height.
  - g. Residential Building Permit. A building permit to construct or improve a single family or manufactured home dwelling and allowed accessory buildings shall be issued only after the following conditions have been met:
    - (1) An auditor's plat or a deed describing the property has been prepared and recorded at the Register of Deed's Office.
    - (2) A road approach permit has been granted by the County Engineer.
  - h. Non-residential Building Permit. A building permit to construct or improve any other non-agricultural building shall be issued only if such building is located in a platted subdivision.

#### **Section 7. Additional Development Standards For Land Abutting The Missouri River (Non-agricultural uses)**

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 river bank erosion, and provide for the wise use of the river and related land resources, the following additional development standard for non-agricultural uses is hereby established for land abutting the Missouri River:

- a. Structure Setbacks. All structures on lots or parcels with unstablized banks shall be set back a minimum of 100 feet from the ordinary high water mark of the Missouri River. All structures on lots or parcels 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 75 feet from the ordinary high water mark of the Missouri River.