

Dunn County Land Development Code

Adopted on February 5th, 2022

DUNN COUNTY LAND DEVELOPMENT CODE

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DUNN COUNTY LAND DEVELOPMENT CODE

I. GENERAL PROVISIONS

- A. Title** – This Ordinance shall be known and may be cited and referred to as the “Dunn County Land Development Code.”
- B. Purpose** – The purpose of this Ordinance is to promote the health, safety, morals, and general welfare of Dunn County and its residents. It is further the purpose of this Ordinance to facilitate the orderly and efficient development of the county in a manner which is consistent with its Comprehensive Plan.
- C. Statutory Authority** – This Ordinance is adopted pursuant to the authority granted by Chapters 11-33 and 11-33.2 of the North Dakota Century Code.
- D. Severability** – If any section, provision, or portion of this Ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- E. Nonconforming Lots, Uses, and Structures** – In every case where the provisions of this Ordinance, upon its effective date, cause lots or parcels, structures, and uses of land or structures to be out of compliance with the requirements of this Ordinance, such cases of non-compliance shall be allowed to continue until they are removed or changed to come into compliance. After such removal or change to compliance occurs, no further non-compliance shall be allowed. Whenever a structure is destroyed or damaged by fire or other casualty to the extent of more than fifty percent (50%) of its market value, it shall not be restored unless said structure shall conform to the provisions of the district in which it is located. No case of non-compliance shall be allowed to expand beyond the degree of non-compliance occurring at the effective date of this Ordinance. In the case where amendments to this Ordinance cause additional lots or parcels, structures, and uses of land or structures to be out of compliance, these same rules governing non-conformance shall apply.
- F. Effective Date** – This Ordinance shall be in full force and effect from and after the date of its final passage and publication.

II. INTERPRETATION

- A. Applicability and Jurisdiction** – The regulations of this Ordinance apply to all land in Dunn County which is outside the jurisdiction of the Bureau of Indian Affairs and is outside the municipal boundaries of Dodge, Dunn Center, Halliday, and Killdeer, and any extraterritorial areas established by these four municipalities.
- B. Provisions of Ordinance Declared to be Minimum Requirements** – In its interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standard shall govern.
- C. General Rules of Construction** – The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:
 - 1. Tense and Form – Words used or defined in one tense or form shall include other tenses or derivative forms.

2. Number – Words in the singular shall include the plural number, and words in the plural number shall include the singular number.
3. Gender – The masculine gender shall include the feminine and neuter. The feminine gender shall include the masculine and neuter. The neuter gender shall include the masculine and feminine.
4. Person – The word “person” includes individuals, firms, partnerships, joint ventures, trusts, trustees, estates, corporations, associations, and any other similar entities.
5. Shall and May – The words “shall,” “must,” and “will” are mandatory in nature and establish an obligation or duty to comply with the particular provision. The word “may” is permissive.
6. Undefined Terms – Any words not defined in this Ordinance shall be construed as defined in standard dictionary usage or trade or industry usage, unless defined by the Board of County Commissioners of Dunn County.

D. Definitions

1. Accessory Dwelling - a dwelling which functions as an accessory use and is not essential to the function of the principal use of the parcel on which it is located, and may be in a separate building from the building which contains the primary use of the parcel
2. Accessory Truck Parking – parking for no more than 5 commercial trucks at the residence where the drivers thereof reside, or no more than 20 commercial trucks at a saltwater disposal site while waiting to unload materials to be disposed at the site
3. Accessory Uses – uses which are incidental to the primary use of a parcel which do not create a nuisance or conflict with surrounding uses
4. Adult Entertainment – any business where a customer is provided the opportunity to view materials, live or recorded performances of activities of a sexual nature which are characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks
5. Agricultural – land uses and activities that primarily involve cultivating land for production of agricultural crops or livestock, or the raising or producing of livestock or livestock products, poultry or poultry products, milk or dairy products, or fruit or horticultural products
6. Agricultural Machine Equipment – machinery designed for farming and ranching operations
7. Agricultural Machine Equipment Sales – storage and sale of agricultural machine equipment
8. Alteration – As applied to a building or structure, a change or rearrangement in the structural parts of an existing facility, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another
9. Animal Unit– A unitless number developed from the nutrient and volume characteristics of manure from a specific livestock type. The term animal unit is used to normalize the number of animals for each specific livestock type which produce comparable bulk quantities of manure
10. Appeal - a request for a review of the Code Administrator's interpretation of any provision of this ordinance or a request for a variance.
11. Area of Special Flood Hazard – The land in the floodplain subject to a one percent or greater chance of flooding in any given year

12. Automotive and Machine Equipment Sales – storage and sale of motor vehicles, large construction equipment, and other types of motorized or mechanical equipment which is not equipment
13. Bars – businesses selling or serving alcoholic beverages for on-site consumption
14. Base Flood or 100-year flood – the flood having a one percent chance of being equaled or exceeded in any given year
15. Base Flood Elevation (BFE) - the height of the base flood or 100-year flood usually in feet above mean sea level.
16. Basement – any area of the building having its floor subgrade (below ground level) on all sides
17. Batch Plant – in contrast to a drum type mixing plant, a batch plant is an assembly of mechanical and electronic equipment where aggregates, recycled materials or other additives are mixed with binder to produce an asphalt mixture meeting established specifications, and then discharged from the pugmill in one batch
18. Bed and Breakfast - a single family dwelling which contains additional bedrooms and bathroom facilities not used by the family and available for rent, and which meets applicable laws and standards of the State of North Dakota
19. Best Available Data (BAD) - water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).
20. Block – A part of the platted area bounded by rights-of-way, intersecting streets and/or railroad, but for the purposes of this definition, alleys shall not be said to be a right-of-way or street
21. Borrow Pit – The temporary use of a site to excavate material for fill at a single County or State road or bridge construction project taking place in Dunn County.
22. Building - A structure with a permanent foundation on the ground, fully enclosed, with permanent hookup to water and sewer facilities which does not have wheels or other means to facilitate transport to another site
23. Building Line – The vertical plane created by that part of a building which is closest to lot lines and is enclosed by implied or constructed walls – roof overhangs are excluded to the extent there is not floor space beneath the roof
24. Business and Financial Services – services in the fields of business, accounting, banking, insurance, and real estate which may or may not require licensure or certification by state law
25. Butcher – retail businesses that provide meat processing from pre-processed carcasses into cuts of meat, and which may provide slaughter services not involving more than the equivalent of more than five mature beef cattle per day
26. Cabin – structures which are designed and constructed for human living quarters, have pitched roofs and generally fit the appearance of a small single family house, but are often modular structures and may be designed to be transported from site to site, but cannot be licensed as an RV
27. Campground – an area designed specifically to accommodate temporary camping including the erection of tents for temporary use on the site
28. Club – a private lodge which is a non-profit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages

29. Code Administrator – the person appointed by the Board of County Commissioners to oversee the administration of this Ordinance
30. Commercial – land uses and activities that primarily involve the conduct of business which does not constitute industrial or agricultural uses
31. Commercial Storage – storage facilities for short or long term rental to multiple parties
32. Commercial Truck – a motorized vehicle with a gross vehicle weight rating exceeding 26,000 pounds, a trailer with a gross vehicle weight rating exceeding 10,000 pounds, any airbraked vehicle or trailer, or any combination thereof.
33. Commercial Truck Parking – a space designed or used for parking commercial trucks other than accessory uses to the primary use of the land
34. Communication Tower -- a structure built to support equipment used to transmit communication signals including but not limited to cellular communications, radio and television transmission towers, telephone relay towers, and special purpose communications signals except upstream communication towers
35. Compassion Center – Dispensary - an entity registered by the ND department of health as a compassion center authorized to dispense usable marijuana to a registered qualifying patient and a registered designated caregiver
36. Compassion Center – Manufacturing Facility - an entity registered by the ND department of health as a compassion center authorized to produce and process and to sell usable marijuana to a dispensary
37. Compressor Station/Pumping Station - an industrial facility that compresses natural gas to manage the pressure and flow rate of the gases within a pipeline network or that functions to manage the flow rate of liquid hydrocarbons or saltwater within a pipeline network
38. Concentrated Feeding Operation -- any livestock feeding, handling, or holding operation, or feed yard, where 2000 or more animal units are concentrated in an area that is not normally used for pasture or for growing crops and in which animal wastes may accumulate. The term does not include normal wintering operations for cattle.
39. Construction Services – general contractors, concrete and masonry construction, carpenters, metal building construction, and other similar construction-related services
40. Conveyance or hydraulic conveyance - a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.
41. Crew Camp – an area designed specifically to accommodate the siting of Dunn County approved housing units for a temporary influx of workers and meeting the requirements for crew camps of this Ordinance
42. Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.
43. Dwelling - A group of rooms in a building, designed for occupancy by one family, which are interconnected and function as a unit with permanent bathroom, kitchen, and sleeping facilities for the exclusive use of its occupants. Sleeping rooms and recreational vehicles are not dwellings.
44. Equipment and Materials Storage – storage of equipment and materials needed for oil and gas development activity in the same vicinity where the storage land is leased, no improvements to the land are made with the possible exception of a security fence

45. Excavation – in the context of Section W. Sand, Gravel, Rock, Scoria, and Clay Mining, excavation refers to the mining activity for sand gravel, scoria, clay and/or rock.
46. Family - A group of related people and not more than 4 unrelated people living as a single housekeeping unit
47. Farm - A zoned area of Dunn County containing at least forty (40) acres that is used for the production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include the production of timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services. Concentrated feeding operations which are operated as a separate pursuit shall be deemed concentrated feeding operations and shall not be construed as farming or incidental to a farming operation.
48. Flood Insurance Rate Map (FIRM) - the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A, AE, AO, AH, A1-A30 or A-99.
49. Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.
50. Flood or flooding - a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or; from the unusual and rapid accumulation or runoff of surface waters from any source.
51. Floodproofing (Dry) - protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.
52. Floodway or regulatory floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
53. Frac Water Processing – a facility where water used for hydraulic fracturing is stored temporarily
54. Fuel Storage as an Accessory Industrial Use – fuel storage structures exceeding 1000 gallons per storage unit or 10,000 gallons per site which are accessory to industrial uses (such as truck parking, contractor yards, or oil and gas development and production uses)
55. Grade – The land elevation at the intersection of the ground and the building
56. Group Living Quarters -buildings constructed for human habitation where there are private or semiprivate sleeping rooms and shared living and eating spaces including nursing homes and elderly housing, but not including bed and breakfasts or crew camps
57. Hazardous Waste – Hazardous waste as it is defined in NDCC 23-20.3.
58. Heavy Industrial – land uses and activities that involve hazardous materials, chemicals, bulk aggregate and other raw material storage and handling, mineral extraction, and other similar uses which may generate relatively high levels of impact on surrounding uses
59. Home Occupation - Any occupation which: (a) is carried on in a dwelling unit by members of the family; (b) is clearly secondary to the use of the residential dwelling; and (c) does not create a nuisance, excessive noise, traffic, or conflict with adjoining uses

60. Hotel – A building or portion thereof or a group of buildings which provides sleeping accommodations for hire in separate units or rooms for transients on a daily, weekly, or similar short-term basis
61. HVAC Services – heating, ventilation, and air conditioning sales, installation, and maintenance services
62. Improvements - Street grading, surfacing, installation of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, and trees
63. Indoor Recreational Facilities – facilities such as bowling alleys, health and fitness centers, theaters, and roller skating rinks
64. Industrial – land uses which fit the definition of either light industrial or heavy industrial
65. Industrial Modular Building – a modular building which is not a manufactured home, park model trailer, recreational vehicle, mobile home, or skid unit used for human living quarters or a place of business, on a temporary or permanent basis
66. Industrial Support Offices – Offices which function in support of industrial activities including oil and gas development
67. Industrial Waste – Industrial waste means solid waste, which is not a hazardous waste regulated under NDCC chapter 23-20.3, generated from the combustion or gasification of municipal waste and from industrial and manufacturing processes. The term does not include municipal waste or special waste.
68. Inert Landfill – an inert landfill as defined by the ND Department of Environmental Quality
69. Salvage Yard – aka Junkyard; Land or buildings where waste or discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled, or handled including but not limited to scrap metal, rags, paper, hides, rubber products, glass products, lumber products, products resulting from the wrecking of automobiles or other vehicles, and oil and gas surplus equipment
70. Kennels – any building or lot where dogs, cats, or other household pets are boarded, bred, or maintained for compensation
71. Landfill – a specially selected, designed, and operated site for disposal of solid waste in accordance with NDCC 23-29-03 and the provisions of this Ordinance
72. Large Crew Camp – a crew camp designed for more than 25 housing units or more than 50 people which meets the requirements of this Ordinance and conditions as established by the Planning and Zoning Commission and Board of County Commissioners
73. Light Industrial – land uses and activities that primarily involve the mechanical or chemical transformation of materials into new products, processing, assembling, fabrication, warehousing, packaging, wholesale, service, repair and other similar uses which may generate low to moderate impacts on surrounding uses
74. Livestock – Domestic animals customarily raised or kept on farms for profit or other purposes including cattle, bison, goats, sheep, antelope, elk, llama, alpaca, horses, mules, swine, emu, ostrich, mink, but not including animals which customarily live in the wild and are predators
75. Lot – A parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, and having its principal frontage upon a street or road
76. Lot, Corner – A lot abutting on two or more intersecting streets, other than an alley, where their lot frontages intersect

77. Lot, Double Frontage – A lot having frontage on two non-intersecting streets
78. Lot Line – the property line bounding a lot
79. Lot Line, Front – A lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line can be chosen by the property owner. However, a double frontage lot has two front lot lines.
80. Lot Width – the distance between the side lot lines measured along a straight line parallel to the front property line or parallel to the chord of the front property line at the front setback line
81. Lowest floor - the lowest floor of a structure including the basement.
82. Manufactured Home – A factory built dwelling unit which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site and which does not have permanently attached to its body or frame any wheel or axle and bears a label certifying that it was built in compliance with the latest standards adopted by the U.S. Department of Housing and Urban Development
83. Master Development Plan – A document including maps and data for physical development of an area as provided by this Ordinance
84. Mechanical Repair Services – services involving or related to the repair and maintenance of motor vehicles or other types of machinery and equipment
85. Medical Services – services in fields related to mental or physical health that involve licensure or certification by North Dakota state law
86. MET Tower - Temporary and permanent meteorological towers used for the measurement of wind speed
87. Mining – Mining is any activity when applied to the surface of land will produce sand, gravel, scoria, clay and/or rock, or other subsurface minerals as defined in the North Dakota Century Code.
88. Mobile Home – consistent with the North Dakota Century Code, a mobile home is a structure, either single or multi-sectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet or more in length, and includes a manufactured home as defined in NDCC 41-09-02 other than a manufactured home with respect to which the requirements of subsections 1 through 3 of NDCC 39-05-35, as applicable, have been satisfied.
89. Mobile Home Park – an area designed specifically to accommodate the siting of mobile homes which meets the requirements of this Ordinance for mobile home parks
90. Multiple Family Dwelling - a building designed, constructed, and principally used as more than one dwelling
91. Municipal Waste – Municipal waste means solid waste that includes garbage, refuse, and trash generated by households, motels, hotels, and recreation facilities; by public and private facilities; and by commercial, wholesale, and private and retail businesses. The term does not include special waste or industrial waste.
92. New construction - structures for which the "start of construction" commenced on or after the effective date of this ordinance.

93. Nursing and Assisted Living Homes – Group living quarters where nursing and medical care are provided
94. Oilfield Service Industries – industries that directly support oil and gas exploration, development, and production without themselves engaging in oil and gas exploration, development, and production including but not limited to pump repair, tool fishing, emergency well control, and spill containment and cleanup
95. Oilfield Waste Treatment Facility – a site where soil admixtures generated by oil well development are processed to be injected into salt water disposal wells or long term storage in a landfill
96. Park Model Trailer – a recreational vehicle not to exceeding forty feet in length, built on a single chassis with a gross trailer area not exceeding four hundred square feet of enclosed living space in the setup mode, and certified by the manufacturer as complying with A119.5 Recreational Park Trailer Standard of the American National Standards Institute
97. Parking Space – An off-street area designated for parking of automobiles accessible from a public street or alley
98. Permanent Foundation – load bearing walls set on footings, or pier and beam load bearing systems, which are constructed with reinforced concrete and are installed on undisturbed soil below the frost line
99. Permittee – When referring to a wind energy facility, a person who leases or owns the wind rights, wind turbines and the associated improvements, and all subsequent assignees and/or transferees of these rights, and who submits a Wind Energy Facility Siting Permit application, develops a wind energy facility, and subsequently operates such facility
100. Personal Services – services such as spas, tanning salons, and hair salons that may or may not require licensure or certification by state law
101. Pipeline - a pipe or conduit of pipes used for the transportation, gathering, or conduct of crude oil, natural gas, water produced in association with oil and gas, or carbon dioxide, but excluding compressor stations or pumping stations
102. Planning and Zoning Commission -- the advisory body appointed by the Board of County Commissioners to carry out responsibilities allowed by the North Dakota Century Code
103. Portable Food Service – a structure designed for temporary location at a site and housing food preparation and sales which is required to be licensed for operation by the North Dakota Department of Health
104. Professional Services – services in the fields of engineering, law, and other technical fields that typically involve licensure or certification by state law
105. Reasonably safe from flooding - base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
106. Recreational Vehicle - A vacation trailer or other vehicular or portable unit which is either self-propelled or towed and which is intended for human occupancy and is designed for vacation or recreational purposes but not permanent residential use.
107. Recreational Vehicle Park – an area designed specifically to accommodate the siting of recreational vehicles which meets the requirements for recreational vehicle parks of this Ordinance

108. Recycling Facility – a place where any material including yard waste, oil, glass, metal, plastic, paper, or cardboard is processed for an end use
109. Refinery/Processing Plant - an industrial plant which separates and/or converts crude oil and/or natural gas into petroleum products such as diesel, gasoline, heating oils, pipeline quality natural gas, hydrocarbon liquids or other by-products.
110. Regional Flood – A flood baseline determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in Dunn County, North Dakota
111. Residential – land uses and activities that primarily involve human habitation and land uses commonly associated with human habitation such as parks, schools, and similar amenities to neighborhoods that are primarily established for human habitation
112. Residential lot – a separate parcel upon which a dwelling is the primary use of the lot
113. Restaurant – a business operating out of a permanent building and location which prepares, sells, and serves food to be consumed on the premises and which is licensed by the North Dakota Department of Health, excluding Portable Food Services
114. Retail Establishments – businesses involved primarily in the sale of goods and services to the end user
115. Retirement and Group Homes - Group living quarters where nursing and medical care are not provided
116. Right-of-Way – A strip of land designated or dedicated for transportation including alleys, bikeways, sidewalks, streets, roads, or highways, or for utilities such as electric transmission lines, telephone and telecommunications lines, oil or gas pipelines, sanitary sewer, storm sewer, or water
117. Rotor Diameter – the diameter of the circle formed by the swept area of a wind turbine’s blades
118. Salt Water Disposal Operator Housing – housing units installed at a saltwater disposal site limited only to the use of site operators who stay at the site while not on duty. The housing units may not be recreational vehicles.
119. Salt Water Storage Tank – a permanent structure to store salt water at a salt water disposal site in preparation for disposal
120. Sanitary Landfill – a municipal landfill as defined by the ND Department of Environmental Quality
121. Setback – The line within a property defining the required minimum distance between the front lot line and the building line, or similar minimum distances between side or rear lot lines and building lines
122. Sign – Any emblem, name, identification, description, or illustration which is used for outdoor advertising having a permanent location on the ground or attached to or painted on a building including bulletin boards, poster boards, and billboards, but excluding real estate for sale signs, political campaign signs, public information, and traffic signs
123. Single Employer Temporary Housing - recreational vehicles, mobile homes, or skid units installed in accordance with County guidelines at an industrial site by the business operating at that site for its employees for a short time while more permanent accommodations are being found
124. Single Family Dwelling - a building designed, constructed, and principally used as a dwelling

125. Site Plan – A detailed plan for making improvements to parcel(s) of land as provided in this Ordinance
126. Skid Unit – A structure or group of structures, either single or multi-sectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters or place of business, on a temporary or permanent basis
127. Sleeping Room – A room, within a building principally used for commercial or industrial purposes, that is designed and constructed (in accordance with all applicable regulations of the State of North Dakota and Dunn County) for sleeping by employees of the business which occupies the building
128. Solid Waste – any garbage, refuse, sludge from a waste treatment plant, water treatment plant, or air pollution control facility, and other discarded waste material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. The term does include municipal, commercial, and special wastes, but does not include: (a) Agricultural waste, including manures and crop residues, returned to the soil as fertilizer or soil conditioners; or (b) solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to Permit Section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.
129. Special Flood Hazard Area (SFHA) - an area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.
130. Special Waste – Special waste means solid waste that is not a hazardous waste regulated under NDCC 23-20.3 and includes waste generated from energy conversion facilities; waste from crude oil and natural gas exploration and production; waste from mineral and ore mining, beneficiation, and extraction; and waste generated by surface coal mining operations. The term does not include municipal waste or industrial waste.
131. Start of construction - includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
132. Street – A public right-of-way for vehicular and pedestrian traffic
133. Street, Local – A public right-of-way intended for low volume traffic which provides access to major or collector streets
134. Street, Collector – A public right-of-way which typically carries traffic from local streets to arterial streets and is characterized by higher speeds and wider surfaces than a local street
135. Street, Major – A public way, arterial or collector streets, used primarily for carrying a large volume of traffic

136. Street, Arterial – A public right-of-way used primarily to carry large volumes of traffic over longer distances
137. Structure - Anything constructed or erected which has permanent location on the ground, excluding fences
138. Subdivision – The division of a lot, parcel of land, or tract creating one or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or of building development
139. Substantial Completion –the stage in the progress of development or construction when the level of development or construction is sufficiently complete that the owner can occupy or use the development or structures for their intended and approved use
140. Substantial Damage - damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
141. Substantial improvement - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:
- 1) Before the improvement or repair is started; or
 - 2) If the structure has been damaged and is being restored, before the damage occurred.
- For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- The term does not, however, include either:
- 1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or
 - 2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
142. Temporary Use – a land use or activity which is determined to be appropriate for a specific timeframe and place, but is not considered to be an appropriate permanent land use, and is accordingly only authorized for a specific timeframe of 6 months with the potential for up to two 12 month extensions. A Temporary Use is a conditional use when authorized by the conditional use hearing process.
143. Total Height – When referring to a wind turbine, the distance measured from the ground level to the blade extended at its highest point
144. Utility – The basic facilities for public use such as water, sanitary and storm sewers, electricity, gas, and telephone lines
145. Upstream Communication Tower – a structure constructed on or near an oil and gas well/exploration site and/or pipeline facility which is used for transmission of communication signals necessary for monitoring and operating upstream oil and gas operations.
146. Variance – A relaxation of the terms of these regulations where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant for a variance, the literal enforcement of these regulations would result in unnecessary and undue hardship.

147. Veterinary Facilities – buildings and lots used for medical treatment of animals
148. Warehousing – temporary storage of goods before transport to point of sale or another warehouse location
149. Water Depot – a facility where ground or surface water is pumped into tanks or other structures for temporary storage and then dispensed to tanker trucks or other transports
150. Water Pumping Station - a facility for transporting water for oil and gas extraction operations which does not involve the use of freight trucks for transportation
151. Wholesale Establishments – businesses involved primarily in the sale of goods to retail establishments
152. Wind Energy Conversion System – Any device that is designed to convert wind power to another form of energy such as electricity, mechanical, or heat (also referred to by such common names as wind charger, wind turbine, and windmill).
153. Wind Energy Facility – A facility directly generating electricity or indirectly generating electricity or energy through production of hydrogen, compressed air, or other energy carrier from conversion of wind to energy and consisting of one or more wind turbines under common ownership or operating control, and includes substations, temporary and permanent MET towers, cables/wires and other buildings accessory to such facility, whose main purpose is to supply electricity, directly or through wind energy conversion to another form of energy, to off-site customer(s)
154. Wind Energy Facility Perimeter – The boundary of the wind energy facility as defined by the external property lines of landowners who have a contractual relationship with the permittee and who will receive wind energy compensation payments or other forms of revenue derived from wind turbines sited within such wind energy facility
155. Wind Energy Facility Siting Permit – A construction and operating permit granted in accordance with the provisions of this Ordinance
156. Wind Turbine – A wind energy conversion system which converts wind energy into electricity, hydrogen, compressed air, or some other energy carrier and includes the turbine, blade, tower, base, and pad transformer, if any; provided that such a system shall only be a wind turbine for the purposes of Section IV.W.3 if it has a nameplate capacity of 100 kilowatts or greater. Wind turbines of less than 100 kilowatts will be regulated as a utility.
157. Yard – the required unoccupied or unobstructed open space on a lot between a lot line and the building line
158. Yard, Rear – A yard that extends across the full width of the lot, as the least distance between the rear lot line and the rear building line.
159. Yard, Side – A yard between the front and rear yards, as the least distance between the side building line of the principal building and the side lot line.
160. Yard, Front – A yard that extends across the full width of the lot, as the least distance between the front building line and the front lot line.

III. ZONING DISTRICTS AND OFFICIAL ZONING MAP

A. Zoning Districts Established – The following Zoning Districts are hereby established to carry out the purposes of this Ordinance:

1. Rural Preservation District

2. Industrial Development District
 3. Rural Residential District
 4. Manning District
 5. Floodplain Overlay District
- B. Official Zoning Map Established** – There shall be a map named the Official Zoning Map of Dunn County which is maintained by the Code Administrator and is on file at the Dunn County Courthouse which map provides the official boundaries for all Zoning Districts within the County.
- C. General Objective of Zoning Districts** – The zoning districts which are established in this Ordinance are generally intended to promote the objective of compact settlements separated by a rural landscape in such a way that the more intensive residential, commercial, and industrial developments are clustered and that the rural character of Dunn County is preserved.
- D. Rural Preservation District**
4. Purpose – to preserve the majority of the County for farming and ranching and rural tourism, and to minimize the scale and impact of any other development in the zone
 5. Permitted Uses – those uses which are identified in Table 1 as permitted uses in the Rural Preservation District and which meet applicable **SUPPLEMENTAL REGULATIONS AND STANDARDS** are permitted in this District
 6. Conditional Uses - those uses which are identified in Table 1 as conditional uses in the Rural Preservation District are allowed when a conditional use permit specifically allows them
 7. Accessory Uses – uses which are incidental to the primary use of a lot and which do not impact adjacent lots in any way may be permitted as part of a permitted use or an approved conditional use
 8. Prohibited Uses – all uses not specifically listed as permitted uses or conditional uses are prohibited
 9. Lot and Yard Requirements
 - (a) Any lot with a habitable building, except a lot used primarily for farming and ranching, shall have frontage on a dedicated right-of-way
 - (b) Minimum lot size for any dwelling in this district is 5 acres
 - (c) Minimum lot size for any other use in this district is that size which allows all applicable yard requirements to be met
 - (d) Front yard setback is 25 feet
 - (e) Side yard setback is 10 feet
 - (f) Rear yard setback is 10 feet
 - (g) Accessory structures setback is 3 feet
 - (h) Minimum lot width for single family dwellings is 75 feet
 - (i) The setback from the centerline of county roads shall be 100 feet to the building line or trees, whether for front, side, or rear yard
 10. Special Provisions
 - (a) No Concentrated Feeding Operation shall be located closer than one mile from an existing Industrial Development District, Rural Residential District or the Manning District.
 - (b) Mobile homes (or cabins meeting HUD or IBC standards) are allowed as permitted accessory dwellings in the Rural Preservation District under certain conditions, including:

- (1) No more than two accessory dwellings on the primary building site
- (2) Must be on permanent foundations and attached to sewer and water facilities
- (3) Must be supplemental housing for family members or employees where no rent is charged
- (c) Mobile homes, or cabins meeting HUD or IBC standards, or recreational vehicles may be allowed as accessory dwellings in the Rural Preservation District when they are approved conditional uses. There cannot be more than a total of two accessory dwellings whether permitted or conditionally approved.
- (d) Recreational vehicles are allowed as a permitted temporary use in Rural Preservation Districts when the duration of the stay is less than 30 days within a six-month period
- (e) No adult entertainment shall be located closer than 4 miles from any Industrial Development District, Rural Residential District or the Manning District, nor shall it be located closer than 1 mile from any dwelling unit, nor shall it be located within 4 miles of any state or federal park or recreational area.

E. Industrial Development District

- 1. Purpose – to focus a limited amount of uses which cannot be accommodated in areas under the authority of incorporated municipalities of the county into clusters of higher density at appropriate locations within the County where appropriate public services and infrastructure can be provided.
- 2. Permitted Uses - those uses which are identified in Table 1 as permitted uses in the Industrial Development District and which meet applicable **SUPPLEMENTAL REGULATIONS AND STANDARDS** are permitted in this District
- 3. Conditional Uses - those uses which are identified in Table 1 as conditional uses in the Industrial Development District and which meet applicable **SUPPLEMENTAL REGULATIONS AND STANDARDS**, may be permitted in this District
- 4. Accessory Uses – uses which are incidental to the primary use of a lot and which do not impact adjacent lots in any way may be permitted as part of a permitted use or an approved conditional use
- 5. Prohibited Uses – all uses not specifically listed as permitted uses or conditional uses are prohibited
- 6. Lot and Yard Requirements
 - (a) Any lot with a habitable building, except a lot used primarily for farming and ranching, shall have frontage on a dedicated right-of-way
 - (b) Minimum lot size for any single family dwelling with an on-site septic system in this district is 40,000 square feet unless approved by the North Dakota Department of Health for a smaller area
 - (c) Minimum lot size for any other single family dwelling is 5,000 square feet so long as it meets applicable yard requirements
 - (d) Minimum lot size for multi-family dwellings shall be 5000 square feet for the first dwelling unit and 2500 square feet for each additional unit so long as it meets all other applicable yard requirements
 - (e) Minimum lot size for any industrial use shall be 2 acres
 - (f) Minimum lot size for any other use in this district is that size which allows all applicable yard requirements to be met
 - (g) Front yard setback is 25 feet
 - (h) Side yard setback is 10 feet

- (i) Rear yard setback is 10 feet
 - (j) Accessory structures setback is 3 feet
 - (k) The setback from the centerline of county roads shall be 100 feet to the building line or trees, whether for front, side, or rear yard.
 - (l) The setback for living snowfences (treelines) with the potential to be over 30 feet in height is 160 feet from the centerline of any adjacent right-of-way.
7. Special Provisions
- (a) No Industrial Development District shall be located closer than one mile from an existing concentrated feeding operation.
 - (b) Open storage of material, including waste products or salvage, shall not be permitted closer than 100 feet from any dwelling unit.
 - (c) No building or structure shall be used for industrial purposes within 1250 feet of any dwelling unit
 - (d) Conditional use permits for large crew camps must be reviewed annually by the Planning and Zoning Commission
 - (e) All conditional use permits with annual review requirements except for large crew camps must be reviewed annually by the Code Administrator unless a violation is found during the year. In that case, the annual review must be done by the Planning and Zoning Commission.

F. Rural Residential District

1. Purpose – to provide for clustered rural residential development at appropriate locations within the County where appropriate public services and infrastructure can be provided.
2. Permitted Uses - those uses which are identified in Table 1 as permitted uses in the Rural Residential District and which meet applicable **SUPPLEMENTAL REGULATIONS AND STANDARDS** are permitted in this District
3. Conditional Uses - those uses which are identified in Table 1 as conditional uses in the Rural Residential District and which meet applicable **SUPPLEMENTAL REGULATIONS AND STANDARDS**, may be permitted in this District
4. Accessory Uses – uses which are incidental to the primary use of a lot and which do not impact adjacent lots in any way may be permitted as part of a permitted use or an approved conditional use
5. Prohibited Uses – all uses not specifically listed as permitted uses or conditional uses are prohibited
6. Lot and Yard Requirements
 - (a) Any lot with a habitable building, except a lot used primarily for farming and ranching, shall have frontage on a dedicated right-of-way
 - (b) Minimum lot size for any single family dwelling with an on-site septic system in this district is 40,000 square feet unless approved by the North Dakota Department of Health for a smaller area
 - (c) Minimum lot size for any other single family dwelling (which has community or non-community sewage treatment) is 6,000 square feet so long as it meets applicable yard requirements
 - (d) Minimum lot size for multi-family dwellings (which has community or non-community sewage treatment) shall be 6000 square feet for the first dwelling unit and 2500 square feet for each additional unit so long as it meets all other applicable yard requirements

- (e) Minimum lot size for any other use (which has community or non-community sewage treatment) in this district is that size which allows all applicable yard requirements to be met
 - (f) Front yard setback is 25 feet
 - (g) Side yard setback is 10 feet
 - (h) Rear yard setback is 10 feet
 - (i) Accessory structures setback is 3 feet
 - (j) The setback from the centerline of county roads shall be 100 feet to the building line or trees, whether for front, side, or rear yard.
 - (k) The setback for living snowfences (treelines) with the potential to be over 30 feet in height is 160 feet from the centerline of any adjacent right-of-way.
7. Special Provisions
- (a) No Rural Residential District shall be located closer than one mile from an existing concentrated feeding operation.
 - (b) Crew Camps are not permitted in Rural Residential Districts

G. Manning District

1. Purpose – The Manning District is intended to provide a way for the unincorporated village to continue its unique function as the county seat and a centrally located mixed use development
2. Permitted Uses - those uses which are identified in Table 1 as permitted uses in the Manning District and which meet applicable **SUPPLEMENTAL REGULATIONS AND STANDARDS** are permitted in this District
3. Conditional Uses - those uses which are identified in Table 1 as conditional uses in the Manning District and which meet applicable **SUPPLEMENTAL REGULATIONS AND STANDARDS**, may be permitted in this District
4. Accessory Uses – uses which are incidental to the primary use of a lot and which do not impact adjacent lots in any way may be permitted as part of a permitted use or an approved conditional use
5. Prohibited Uses – all uses not specifically listed as permitted uses or conditional uses are prohibited
6. Lot and Yard Requirements
 - (a) Any lot with a habitable building, except a lot used primarily for farming and ranching, shall have frontage on a dedicated right-of-way
 - (b) Minimum lot size for any single family dwelling with an on-site septic system in this district is 40,000 square feet unless approved by the North Dakota Department of Health for a smaller area
 - (c) Minimum lot size for any other single family dwelling (which has community or non-community sewage treatment) is 5,000 square feet so long as it meets applicable yard requirements
 - (d) Minimum lot size for multi-family dwellings (which have community or non-community sewage treatment) shall be **6000** square feet for the first dwelling unit and 2500 square feet for each additional unit so long as it meets all other applicable yard requirements
 - (e) Minimum lot size for any industrial use shall be 2 acres

- (f) Minimum lot size for any other use in this district (which has community or non-community sewage treatment) is that size which allows all applicable yard requirements to be met
 - (g) Front yard setback is 25 feet or if the prevailing front yard depth is less than 25 feet, the lesser prevailing distance
 - (h) Side yard setback is 7 feet
 - (i) Rear yard setback is 3 feet
 - (j) Accessory structures setback is 3 feet
7. Special Provisions

- (a) For parcels with residential uses, no more than one working truck can be parked on the residential lot or adjacent to any residential lot

H. Table 1. Permitted and Conditional Uses by Zoning District

USE	RP	ID	RR	MD	?
Accessory Dwelling – Detached	p		p		
Accessory Truck Parking	c(3)				
Accessory Uses	p	p	p	p	
Adult Entertainment	c				
Agricultural Machine Equipment Sales	aa	aa		aa	
Automotive & Machine Equipment Sales				aa	
Bars				c	
Batch Plant	c	c			
Bed & Breakfasts	c		p	c	
Borrow Pit	aa	aa			
Business or Financial Services		p		p	
Butcher	c	p		c	
Campgrounds	c				
Cemeteries	p	p	p	p	
Coal Exploration	c				
Coal Mining	c				
Commercial Airport	c				
Commercial Grain Elevators	c	c			
Commercial Storage		c		c	
Communication Towers	c	p	c	c	
Compassion Center-Dispensary					
Compassion Center-Manufacturing Facility	c				
Compressor Stations	c	c			
Concentrated Feeding Operations	c				
Construction Services, excluding gas & oil support services		p			
Distribution Lines	p	p	p	p	
Drycleaning					
Electric Power Generation	c	c			
Equipment & Materials Storage	c	p			
General Contractor				c	

USE	RP	ID	RR	MD	?
Farming and Ranching	p	p	p	p	
Fire Suppression Water Storage	p	p	p	p	
Frac Water Processing	c	p			
Fuel Storage as an Accessory Industrial Use	c	p			
Heavy Industrial		c			
Home Occupations	p		p	p	
Hotels					
HVAC Services		p			
Indoor Recreational Facilities					
Industrial Support Offices	c	p			
Inert Landfill	c	c			
K-12 Education Facilities	c				
Kennels	c	p			
Large Crew Camp		c			
Laundry Services without Drycleaning		p		c	
Licensed Daycare Facilities	c	c	p	p	
Light Industrial	c(1)	p			
Mechanical Repair Services	c(1)	p		p	
Mobile Home Park (3-25 Units)			c		
Multi-Family Dwelling			c	c	
Natural Habitat Protection Areas	p	p	p	p	
Nursing & Assisted Living Homes					
Oil & Gas Development & Production	p(5)	p(5)			
Oil & Gas Exploration	p	p			
Oilfield Service Industries		p			
Oilfield Waste Treatment Facility	c	c			
Other Mineral Exploration	c				
Other Mineral Mining	c				
Parks	p	p	p	p	
Personal Services		p	c	p	
Pipelines	c	c			
Petroleum Storage Facilities	c	c			
Portable Food Service		p		c	
Professional Services		p	c	p	
Public Facilities and Utilities	p	p	p	p	
Recreational Vehicle	p(2)	p			
Refinery/Processing Plant	c	c			
Religious Facilities	c		c	p	
Restaurants				c	
Retail Establishments				p	
Retirement & Group Homes (non-med)					
Rural Home Occupation	p		c		
Salt Water Disposal Operator Housing	c(4)	c(4)			

USE	RP	ID	RR	MD	?
Salt Water Storage Tank & Similar Facilities	c	c			
Salvage Yards aka Junkyard	c	c			
Sand, Gravel, Rock, Scoria, & Clay Mining	c				
Sanitary Landfill	c	c			
On-site Septic Systems (with permit)	p	p	p	p	
Community Sewage Treatment Facilities		c	c	c	
Non-Community Sewage Treatment Facilities		c	c	c	
Single Employer Temporary Housing		c			
Single Family Dwelling	p		p	p	
Sleeping Rooms		c			
Temporary Uses	c	c	c	c	
Temporary Water Pumping Station	aa	aa	aa	aa	
Transmission Lines	p	p	c	c	
Upstream Communication Tower	aa	aa	aa	aa	
Veterinary Facilities	p	p			
Warehousing		c			
Water Depots	c	p			
Water Storage & Treatment Facilities	c	p			
Wholesale Establishments					
Wind Energy Generation	c				

NOTES FOR TABLE 1:

- 1) Light manufacturing and mechanical repair, when accessory uses, are allowed in farm and ranch operations so long as the number of employees does not exceed 6 family members and 4 full time equivalent additional employees.
- 2) Recreational vehicles are allowed as a permitted temporary use in Rural Preservation Districts when the duration of the stay on a parcel is less than 30 days within a six month period
- 3) Accessory Truck Parking is for truck parking at the residence of the driver and allows no more than 5 trucks
- 4) Saltwater Disposal Operator Housing is only allowed at a saltwater disposal site, is only for the site operators, and can include no more than two structures or buildings.
- 5) This applies only to the specific uses authorized by the Industrial Commission which the County therefore does not have authority to regulate. Any ancillary use not specifically named by an Industrial Commission permit is regulated by the County.

I. Floodplain Overlay District

1. Findings of Fact

- (a) The flood hazard areas of Dunn County are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood

protection and relief, and impair the tax base, all of which adversely affect the public health, safety, and general welfare.

- (b) Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to the flood loss.
2. Statement of Purpose for Floodplain Regulations – It is the purpose of these floodplain regulations to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:
 - (a) To protect human life and health;
 - (b) To minimize expenditure of public money for costly flood control projects;
 - (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (d) To minimize prolonged business interruptions;
 - (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in special flood hazard areas;
 - (f) To help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;
 - (g) To ensure that potential buyers are notified that property is in a special flood hazard area;
 - (h) To ensure that those who occupy the special flood hazard areas assume responsibility for their actions.
 3. Methods of Reducing Flood Losses – In order to accomplish its purposes, this ordinance includes methods and provisions for:
 - (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
 - (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
 - (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.
 4. Lands to Which These Floodplain Regulations Apply – These floodplain regulations shall apply to all special flood hazard areas within the zoning jurisdiction of Dunn County.
 5. Basis for Establishing the Special Flood Hazard Areas – The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for Dunn County, dated December 7, 2017," with an accompanying Flood Insurance Rate Map, effective December 7, 2017 and all subsequent Letters of Map Revision are hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at 205 Owens Street, Manning, ND.
 6. Compliance – No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.
 7. Warning and Disclaimer of Liability for Floodplain Regulations – The degree of flood protection required of by this ordinance is considered reasonable for regulatory purposes and

is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Dunn County, North Dakota any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder

8. Establishment of Development Permit – A development permit shall be obtained before construction or development begins within any special flood hazard area established in Section III.I.5 Basis for Establishing the Special Flood Hazard Areas. Application for a development permit shall be made on forms furnished by the Code Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:
 - (a) Elevation in relation to mean sea level, of the lowest floor of all structures;
 - (b) Elevation in relation to mean sea level to which any structure has been floodproofed;
 - (c) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section III.I.13(b), Nonresidential Construction; and,
 - (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
9. Designation of the Code Administrator – The Code Administrator is hereby appointed to administer and implement these floodplain regulations by granting or denying development permit applications in accordance with its provisions.
10. Duties and Responsibilities of the Code Administrator – Duties of the Code Administrator shall include, but not be limited to:
 - (a) Permit Review
 - (1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.
 - (2) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 - (3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section III.I.14(a) are met.
 - (b) Use of Other Base Flood Data
When base flood elevation data has not been provided in accordance with Section III.I.5, Basis for Establishing the Flood Hazard Areas, the Code Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available data) from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with Section III.I.13, Specific Standards for Flood Hazard Reduction.
 - (c) Information to be Obtained and Maintained
 - (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

- (2) For all new or substantially improved floodproofed structures:
 - (i) Obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed;
 - (ii) Maintain the floodproofing certifications required in Section III.I.8(c)
- (3) Maintain for public inspection all records pertaining to the provisions of these floodplain regulations
- (d) Alteration of Watercourses
 - (1) Notify nearby communities, water resource districts and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and,
 - (3) Notify the appropriate water resource district prior to removal or placement of fill within 200 feet of the bank of a body of water during normal flow or stage.
- (e) Interpretation of Flood Insurance Rate Map (FIRM) Boundaries

Make interpretation where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section III.I.11.

11. Floodplain Variance Procedure

(a) Appeal Board

- (1) The Board of County Commissioners shall hear and decide appeals and requests for variances from the requirements of these floodplain regulations.
- (2) The Board of County Commissioners shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Code Administrator in the enforcement or administration of these floodplain regulations this ordinance.
- (3) Those aggrieved by the decision of the Board of County Commissioners, or any taxpayer, may appeal such decision to the District Court, as provided in NDCC 40-47-11, 11-33-12, or 58-03-14.
- (4) In passing upon such applications, the Board of County Commissioners shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:
 - (i) the danger that materials may be swept onto other lands to the injury of others;
 - (ii) the danger to life and property due to flooding or erosion damage;
 - (iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (iv) the importance of the services provided by the proposed facility to the community;
 - (v) the necessity to the facility of a waterfront location, where applicable;
 - (vi) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;
 - (vii) the compatibility of the proposed use with existing and anticipated development;

- (viii) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (xi) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (5) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre to less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section III.I.11(1)(d) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
 - (6) Upon consideration of the factors of Section III.I.11(1)(d) and the purposes of this ordinance, the Board of County Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
 - (7) The Code Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (b) Conditions for Variances from Floodplain Regulations
- (1) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
 - (2) Variances shall not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Variances shall only be issued upon:
 - (i) a showing of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in Section III.I.11(1)(d), or conflict with existing local laws or ordinances.
 - (5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

12. General Standards for Flood Hazard Reduction – In all special flood hazard areas the following standards are required:

- (a) Anchoring
 - (1) All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure.

- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
- (b) Construction Materials and Methods
 - (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) All new and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (c) Utilities
 - (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
 - (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- (d) Subdivision Proposals
 - (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
 - (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
 - (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).
- (e) Until a Regulatory Floodway is designated, no encroachment may increase the Base Flood level more than 1 foot.
- (f) In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must:
 - (1) Be elevated and anchored; OR
 - (2) Be on the site for less than 180 consecutive days; OR
 - (3) Be fully licensed and highway ready.
- 13. Specific Standards for Flood Hazard Reduction – In all special flood hazard areas where base flood elevation data have been provided as set forth in Section III.I.5, Basis for Establishing Special Flood Hazard Areas or Section III.I.10(b), Use of Other Base Flood Data, the following provisions are required:
 - (a) Residential Construction
 - New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation.

(b) Nonresidential Construction

Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities shall:

- (1) Be floodproofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water.
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
- (3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section III.I.10(c)(2).

(c) Manufactured Homes

- (1) Manufactured homes shall be anchored in accordance with Section III.I.12(a)(2).
- (2) All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated on fill to at least one foot above the base flood elevation, and is securely anchored to an adequately anchored foundation system.

14. Floodways

Located within the special flood hazard areas established in Section III.I.5, Basis For Establishing the Special Flood Hazard Areas are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

- (a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (b) If Section III.I.14(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section III.I.12,13, and 14.

15. Definitions Applicable Only to these Floodplain Regulations – The following definitions are specifically applicable to Section III.I of this Ordinance:

- (a) "Manufactured Home" This term applies only to the floodplain regulations and means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle," but does include "mobile home".
- (b) "Manufactured Home Park or Subdivision" This term applies only to the floodplain regulations and means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (c) "Recreational Vehicle" - this term applies only to the floodplain regulations and means a vehicle which is:
 - (1) built on a single chassis;
 - (2) 400 square feet or less when measured at the largest horizontal projection;
 - (3) designed to be self-propelled or permanently towable by a light duty truck;
 - (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to;

- (5) travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.
- (d) "Structure" – this term applied only to the floodplain regulations and means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.

IV. SUPPLEMENTAL REGULATIONS AND STANDARDS

A. Zone District Change Requirements – Applicants for a change to the zoning map from Rural Preservation Zone to Rural Development Zone shall demonstrate compliance with the following requirements, and such other requirements as may be determined by the Planning and Zoning Commission or Board of County Commissioners:

1. A master development plan shall be prepared which identifies the intended uses and general lot layouts of the area being proposed for said zoning map change. The master development plan shall also identify how the area to become a Rural Development Zone will be provided with sewer, water, appropriate drainage, streets, parks and open space, and buffers between potentially conflicting uses. The master development plan shall also address any other topics required by the Code Administrator.
2. Proximity to County Primary Road System
3. The proposed Rural Development Zone shall not be less than 120 acres in size
4. A Rural Development Zone may be expanded but such expansion shall require a separate application and review process to ensure compatibility with the previously established area of a Rural Development Zone
5. A preliminary plat consistent with the master development plan may be submitted for approval at the same time as the master development plan is submitted in support of a zoning map amendment application.
6. The proposed zoning district change shall be consistent with all applicable requirements of this Ordinance
7. The proposed zoning district change shall be consistent with the Dunn County Comprehensive Plan
8. Uses proposed by a master development plan within any district will be internally compatible, or buffered in such a way as to mitigate any potential conflicts between uses
9. There shall be adequate provision for the protection of the health, safety, and welfare of the inhabitants and workers of the surrounding area and the County
10. The applicant shall demonstrate a diligent effort to minimize impacts to surrounding area
11. Small Rural Development Zones (under 120 acres) existing as of December 31, 2014 may be allowed to expand their area up to 1.5 times the existing area to a cap of 20 total acres. This expansion is only to be allowed one time. If such a small Rural Development Zone is proposed to expand to 120 acres or more, this expansion limitation not applicable.

B. Fences – the following standards and requirements apply to fences in all Districts:

1. No permanent fence shall be constructed on a road right-of-way or on the backslope even if it is not on the right-of-way
2. Electrical fences shall conform in all respects to the State of North Dakota regulations for electrical wiring and shall be energized only with Underwriters Laboratories approved equipment
3. No sight obscuring fence over four feet in height shall be erected within the front yard of any lot used for residential purposes

4. Any corner lot shall not have a fence or any other sight obscuring object or structure for a sight triangle distance of 25 feet from the intersection of the two road surfaces
5. All swimming pools which are over 1 foot deep shall be enclosed behind a fence which is difficult to climb and at least five feet tall

C. Mobile Home Park Requirements

1. The purpose of the requirements in this subsection is to provide guidelines for mobile home parks that will result in housing areas that are safe, sanitary, attractive, and which provide adequate and appropriate areas for parking, solid waste disposal, adequate water and sewage facilities, storage, and open space.
2. Any mobile home park which shall hereafter be developed or expanded to include additional sites for mobile homes, or accessory uses such as storage facilities within the mobile home park must conform with all the requirements of this subsection, and this ordinance.
3. Mobile homes in mobile home parks approved after December 31, 2014 must be new mobile homes at the time they are installed in a mobile home lot.
4. Mobile homes in lots which did not exist in existing mobile home parks prior to December 31, 2014 must be new at the time they are installed in a mobile home lot.
5. Lots for any new mobile home park approved after December 31, 2014 must meet the following standards:
 - (a) Minimum lot area – 6000 sq ft
 - (b) Minimum lot width – 60 ft
 - (c) Minimum lot depth – 100 ft
 - (d) Front yard minimum – 25 ft
 - (e) Rear yard minimum – 10 ft
 - (f) Side yard minimum – 8 ft
 - (g) Maximum lot coverage – 30%
 - (h) Accessory buildings may not be located in front yards
 - (i) Accessory building side yard minimum – 3 ft
 - (j) Accessory building rear yard minimum – 3 ft
 - (k) Accessory building maximum size – 600 sq ft
 - (l) Minimum off street parking area – 400 sq ft
 - (m) Off street parking area must be surfaced with gravel, scoria, concrete, asphalt or another suitable all weather surface which is approved by the Code Administrator
6. Roads in any new mobile home parks approved after December 31, 2014 must meet the following standards:
 - (a) Roads must be surfaced with gravel, scoria, concrete, asphalt or another suitable all weather surface which is approved by the Code Administrator
 - (b) Roads surface width minimum (excluding any area used for parking) – 26 ft
 - (c) Roads must be constructed with appropriate subgrade materials and provide appropriate crowning to allow water to drain to the sides of the road
 - (d) Appropriate drainage swales must be designed and constructed on both sides of roads to allow snowmelt and rainfall to drain out of the mobile home park

- (e) Roads in mobile home parks shall have at least two accesses onto public streets and must not have dead ends or cul-de-sacs in order to provide adequate access for emergency response vehicles
 - (f) Engineering design of roads in mobile home parks must be reviewed and approved by the County Engineer prior to commencement of construction activities
 - (g) An approved dust control plan must be submitted and maintained
7. Appropriate water retention or detention facilities must be designed and constructed to manage stormwater for any new mobile home parks approved after December 31, 2014. The stormwater management system must meet the standards identified in this ordinance.
 8. Mobile home parks constructed after December 31, 2014 must be constructed with community water supply and wastewater collection systems adequate to handle the needs of the mobile home park. The County Engineer shall evaluate the community water supply and wastewater collection plans to determine their adequacy. Such water supply and wastewater collection systems must meet minimum North Dakota Department of Health requirements.
 9. Any new mobile home park constructed after December 31, 2014 shall provide a suitable area for the collection of solid waste from the subdivision, and shall provide a high quality fence at least 8 feet tall to screen the waste collection site from view and to keep any solid waste materials from blowing across the landscape.
 10. Any new mobile home park approved after December 31, 2014 may provide additional rental storage facilities for the use of residents of the mobile home park.
 11. Any new mobile home parks approved after December 31, 2014 shall provide an area or areas of public open space or playgrounds with suitable facilities for the use of residents. The sum of the areas of public open space or playgrounds shall be equal to or greater than ~~the~~ 400 square feet times the number of mobile home sites in the park. These facilities shall be constructed and maintained by the mobile home park owner.
 12. A site plan showing location of streets, utilities, off-street parking, driveways, walkways, blocks, lots, playground and park area, and accessory buildings to be used for park residents must be submitted for approval prior to the issuance of a conditional use permit
 13. Access onto county roads must be approved by the Road Superintendent
 14. Each mobile home shall be installed in a manner which is consistent with North Dakota State laws and regulations
 15. All lots in the mobile home park shall be accessible at all times to emergency vehicles
 16. Evidence of compliance with the rules and regulations of North Dakota State Health Department and North Dakota Laboratories Department must be provided prior to issuance of a conditional use permit
 17. All mobile homes in the mobile home park shall be served by underground utilities unless waived by the Board of County Commissioners

D. Parking and Loading Requirements

1. Off-street parking space is required for all commercial and industrial development as identified in the Parking Requirements Table
2. Parking Requirements Table

Development Type	# spaces per employee, bedroom, or other measure (round up to whole #)	# spaces per 1000 sq ft Gross Floor Area
Single family dwellings	0.5 per bedroom	
Multi-family dwellings	0.5 per bedroom	
Office oriented businesses	1 per employee	2.8
High traffic retail businesses		3.5
Other retail businesses		2.5
Contractor and industrial activities	1 per employee	
Restaurants	1 per 2 seats	12
Automotive services		3
Multi-tenant commercial		2
Manufacturing/production	1 per employee	1
Laundry services – self serve	1 per 3 washers	
Laundry services – drop off		3
Other uses	To be determined by Code Administrator	

3. Off street parking lots shall be designed in accordance with best practices and shall meet the approval of the Code Administrator
4. Parking lot designs shall be submitted to the Code Administrator for review and approval and shall be drawn to scale and show parking space dimensions, curve radius, width of parking drive lanes, planting, wheel stop, and island locations and dimensions.
5. Parking lots shall be designed with adequate space for vehicles to queue at entrances and exits without being impacted by nearby parking maneuvers.
6. Parking which is intended to accommodate commercial trucks must provide appropriate lengths for parking spaces and ingress and egress driving lanes for said parking spaces.
7. Accessible parking spaces for people with disabilities shall be provided as follows:
 - (a) 1 space for the first 10 spaces and an additional 1 space for the second 10 spaces
 - (b) 1 space for each additional 30 spaces up to a total of 110 spaces
 - (c) 1 space for each additional 50 spaces over 110 spaces
8. For land uses which require freight loading and unloading, designated loading areas shall be provided which are separated from parking spaces and parking drive lanes. Freight loading and unloading areas shall be designed to accommodate such activities on-site and shall not inhibit the normal internal traffic patterns or access to the site.

E. Landscape Requirements

1. Purpose – the following landscaping requirements are established in order to help fulfill the policies and objectives of the comprehensive plan, to enhance the natural landscape of Dunn County, to reduce the impact of unsightly development on surrounding properties, to provide screening and mitigation of potential conflicts between activity areas and site elements, to enhance outdoor spaces, and to reduce erosion and stormwater runoff.

2. Application – the following landscaping requirements apply to:
 - (a) All major and minor subdivisions approved by the County after December 31, 2014 except as noted in 3(a) of this section.
 - (b) All commercial and industrial development approved by the County after December 31, 2014.
3. Subdivision Landscaping Standards
 - (a) Each major and minor subdivision (except subdivisions with only residential development) shall provide a landscaped frontage area at its perimeter to contain landscaping elements in the form of high quality fencing which meets the landscaping standards of this Ordinance or a natural buffer which includes any combination of trees, shrubs, lawns, water features, and xeriscaping features.
 - (b) The minimum area for landscaped frontage at the perimeter of a major or minor subdivision shall consist of:
 - (1) 1 row of coniferous trees spaced no more than 25 feet apart within a 10 foot wide landscape zone that also contains lawns or xeriscaping or water features.
 - (2) 2 rows of deciduous trees spaced no more than 30 feet apart within a 20 foot wide landscape zone that also contains lawns, water features, xeriscaping features, or native plants and shrubs
 - (3) a high quality fence within a 5 foot wide landscape zone that also contains any combination of earthen berms, lawns, or xeriscaping features.
 - (c) The landscaped frontage area must be designed to allow adequate sight lines at all access points into the subdivision.
 - (d) The landscaped frontage area may incorporate signing and other features to identify entrances and otherwise enhance the features of the subdivision.
 - (e) A landscaping plan and a landscaping maintenance plan must be submitted for approval along with the final plat of a major or minor subdivision. The landscaping maintenance plan shall establish responsibility for maintaining the proposed landscaping in perpetuity. Plants and trees that die must be replaced within 1 year.
4. Buffers Between Uses
 - (a) When the Planning and Zoning Commission determines that proposed development may have visual character that is incompatible with adjacent uses or that is inconsistent with the rural landscape which is envisioned by the Comprehensive Plan, the Planning and Zoning Commission may at its discretion require landscaping elements to provide a visual buffer between uses or between the development and nearby roadways.
 - (b) No landscaping element shall be higher than 30" in the sight triangle at any entrance or exit to a development. The size of the sight triangle shall be in conformance with the guidelines provided in the 2011 AASHTO Policy on Geometric Design of Highways and Streets.
 - (c) Vegetation Requirements
 - (1) Plantings be appropriate to climate and soil conditions
 - (2) Trees must be at least 5 feet tall at planting
 - (d) Berms
 - (1) Standalone berms must be five feet above adjoining lot grade at the lot line
 - (2) Mixed berm plus plantings must be designed to have a total height of six feet within two years from planting date

- (3) Undeveloped open space may be used as a buffer if there is at least 200 feet between buildings
 - (e) Fencing
 - (1) Fences must be at least 6 feet tall and 80% opaque to qualify as a buffer
- 2. Frontage/front yard landscape requirements
 - (a) The purpose of this requirement is to enhance property values and to provide positive visual character to the built environment of Dunn County
 - (b) All development shall have some form of landscaping on lot sides which front on roads.
 - (c) Landscaping forms may include:
 - (1) Pre-existing trees
 - (2) Planted trees
 - (3) Shrubs
 - (4) Lawns
 - (5) Rock gardens
 - (6) Artificial turf
 - (7) Any combination of the above
 - (d) Landscaping coverage shall include from the lot line to the building line
 - (e) Landscaping features must include a mix of forms and may not be only rock surfacing
- F. Junk or Salvage Yards** – All sites for salvage yards aka junkyards require approval by the Board of County Commissioners. The following standards apply to the location of all salvage yards aka junkyards:
 - 1. No salvage yard aka junkyard shall be located within one thousand (1,000) feet of a residential development or within two hundred (200) feet of commercial buildings and structures.
 - 2. No salvage yard aka junkyard shall be located in areas, which due to high water table, flooding, and soil conditions, may affect the quality of surface and ground water.
 - 3. No salvage yard aka junkyard shall be located nearer than five hundred (500) feet from any road or highway rights-of-way.
 - 4. All salvage yards aka junkyards and their operations shall be screened from public view. Such screening shall be at least ten (10) feet in height, and be by natural vegetation, berms, buildings and/or fences.
 - 5. Storage items shall not be higher than ten (10) feet.
- G. Public Nuisances** - The maintenance of public nuisances including, but not limited to noxious weeds, smoke, gases, radio interference, blighted structures or buildings, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall be subject to the provisions of any applicable county ordinances.
- H. Noise** - Sustained noise of over 80 dB during the day and 70 dB at night is not allowed.
- I. Concentrated Feeding Operations**
 - 1. Concentrated feeding operations as defined by this Ordinance are only permitted as conditional uses subject to the provisions of this Ordinance and the requirements of the North Dakota State Health Department.
 - 2. All concentrated feeding operations shall be designed and constructed with all reasonable preventative measures to avoid surface run-off including construction of sealed collection and retention ponds.

3. There shall be sufficient drainage to avoid pollution of the ground and surface water from the standing effluents.
4. Concentrated feeding operations shall not be placed in the Floodplain Overlay District.
5. The applicant shall submit a plan for removal and disposal of the liquid and/or solid waste generated by the concentrated feeding operation.
6. No concentrated feeding operations shall be located nearer than one-half mile from a dwelling other than the owner/operator's. New development, whether a new concentrated feeding operation or other development such as residences, parks, churches, or schools shall maintain the setbacks listed in the Setback Distances for Concentrated Feeding Operations Table.
7. Setback Distances for Concentrated Feeding Operations Table

Number of Animal Units	Hog Operations	Other Operations
100-299	1 Mile	0.50 Mile
300-999	2 Miles	1 Mile
1,000 or more	2 Miles	2 Miles

8. An "animal unit equivalent" is a unitless number developed from the nutrition and volume characteristics of manure for a specific livestock types. The term "animal units" is used to normalize the number of animals (e.g., head) for each specific livestock type which produce comparable bulk quantities of manure. The animal equivalent units for types of livestock and the number of livestock for facility size thresholds of three hundred (300) animal units (a.u.), and so forth, are listed in the following table.
9. Animal Unit Equivalency Table

Livestock Type Equivalent	Animal Unit	300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse	1.0	300	1,000	2,000	5,000
1 dairy cow	1.33	225	750	1,500	3,750
1 mature beef	1.0	300	1,000	2,000	5,000
1 beef feeder-finishing	1.0	300	1,000	2,000	5,000
1 beef feeder- Backgrounding	.75	400	1,333	2,667	6,667
1 mature bison	1.0	300	1,000	2,000	5,000
1 bison feeder	1.0	300	1,000	2,000	5,000
1 swine>55 lbs	0.4	750	2,500	5,000	12,500
1 goose or duck	0.2	1,500	5,000	10,000	25,000
1 sheep	0.1	3,000	10,000	20,000	50,000
1 turkey	0.2	1,500	5,000	10,000	25,000
1 chicken	0.1	3,000	10,000	20,000	50,000

10. Water Resource Requirements for Concentrated Feeding Operations. The owner of a new concentrated feeding operation that has more than 2,000 animal units shall not locate or establish that operation:
 - (a) Within a delineated source water protection area for a public water system.
 - (b) Within 1,200 feet of a private ground water well which is not owned by the operator or within 1,500 feet of a public ground water well which does not have a delineated source water protection area.
 - (c) Within 1,000 feet of surface water which is not included in a source water protection area.

11. Application Procedure and Requirements for Concentrated Feeding Operations - The application for a conditional use permit to operate a facility for a commercial feeding operation shall include a scaled site plan. If the facility will handle more than 2,000 animal units, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer, or other person having comparable experience or qualifications. The application shall also list or provide:
 - (a) The proposed number of animal units. It is a violation of this Ordinance for a concentrated feeding operation to exceed the number of animal units proposed in the application.
 - (b) Total acreage of the site of the facility.
 - (c) Existing and proposed roads and access ways within and adjacent to the site of the facility.
 - (d) Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units.
 - (e) A copy of the permit application submitted by the applicant to the North Dakota State Department of Health.

J. Accessory Dwelling Standards

1. Dwellings must be constructed to meet current building, fire, plumbing, and electrical codes of North Dakota, and must be sized for a minimum of 750 square feet for the first 2 occupants of the dwelling, and no more than 1 additional occupant per additional 200 square feet.
2. No more than two accessory dwellings may be allowed on any farm or ranch parcel.
3. No more than one accessory dwelling may be allowed on a non-farm residential lot.
4. Accessory dwellings in the Rural Development Zone must pass the following criteria in order to be approved as conditional uses:
 - (a) Accessory dwellings may only be located on residential parcels not adjoining parcels used for industrial or commercial purposes.
 - (b) Accessory dwellings may not be located within 1250 feet of parcels used for industrial purposes.
5. When sleeping rooms, kitchen facilities, or bathroom facilities are constructed in a non-residential building which is not a hotel or motel or large crew camp, they must be constructed and used in accordance with the following standards:
 - (a) No more than 10 sleeping rooms may be allowed on a single parcel or site occupied by the same business, and the sleeping occupants must be employees of the site's business.
 - (b) There shall be no more than one occupant in a single sleeping room.
 - (c) Any kitchen or bathroom facilities which are constructed in a building shall be designed, constructed, and without direct access to any sleeping room in the building.
 - (d) All sleeping rooms, kitchen facilities, and bathroom facilities must be constructed in compliance with all applicable codes and regulations of North Dakota including Department of Health requirements and the International Building Code.

K. Home Occupations

4. A home occupation in an unincorporated community or a Rural Development Zone:
 - (a) The occupation shall be limited to the dwelling and the area of the occupation shall not exceed twenty-five (25) percent of the main floor area, not including basement or garage floor space.
 - (b) Structural changes shall not be made in the dwelling, unless a building permit is obtained.
 - (c) No more than two full-time or four part-time non-resident employees shall be employed at the site.
 - (d) Only a single sign may be permitted and it may not be larger than four (4) square feet.
 - (e) Other than a sign, evidence of the occupation shall not be visible from the road.
 - (f) The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.
5. Home occupations outside of unincorporated communities or a Rural Development Zone shall conform to the requirements of Section IV.K.1 above, except:
 - (a) Home occupations may be located in a separate non-residential or farm building provided any building principally used for the home occupation shall not exceed one thousand two hundred eighty (1,280) square feet.
 - (b) No more than two full-time or four part-time non-resident employees shall be employed at the site.
 - (c) Structural additions may be made to a dwelling unit provided the alterations shall not exceed twenty-five (25) percent of the main floor area of the dwelling unit, but not including basement or garage floor area. A certificate of occupancy is required before a structural addition may be used for the home occupation.

L. Sanitary Landfills and Solid Waste Sites - 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. A solid waste disposal facility may be allowed in Rural Preservation Districts as a conditionally permitted use provided:

1. It is located at least one-half (1/2) mile from any residence or residential subdivision unless written approval is obtained from the owner of any residence within this area.
2. It is continuously licensed and approved by the State Health Department as to location and operation.
3. There is no substantive evidence that the facility will endanger the public health or the environment.
4. The county hereby adopts solid waste provisions of NDCC 11-33-20, to assure meeting the purposes of this Ordinance and the Dunn County Comprehensive Plan.
5. All solid waste sites require a review and approval by the Board of County Commissioners.
6. Recycling Facility Permitting Standards. Because of the nature of recycling facilities as permanent structures, zoning approval and a building permit are required. The following are required conditions for approval:
 - (a) The facility does not abut residential or public uses.
 - (b) The facility will be screened from the public right-of-way.
 - (c) The facility shall not be placed in the floodplain.

(d) The site shall be free of litter and other undesirable materials. Containers shall be clearly marked to identify the type of material that may be deposited.

(e) There shall be a pest and vector control plan for review and approval.

M. Collection, Transport, and Storage of Solid Waste – No person may collect or transport waste materials for a fee without obtaining a permit from Dunn County. Storage of solid waste materials shall be confined to buildings and structures designed specifically for such purpose and shall be secure by appropriate fences and gates. The openings to such buildings and structures, including but not limited to conveyors, doors, ramps, and other points of access for use by transport or moving vehicles when not in use, shall be closed air tight to minimize the impact from odor and concentration of insects and rodents.

N. Temporary Uses Requirements - temporary uses shall only be granted a 6 month period with the possibility of two 12 month extensions which each require a separate application. No permanent improvements shall be made to the site except for a security fence.

O. Sign Standards

Purpose – Dunn County, in its comprehensive plan, has established a fundamental principle of minimizing the impact of development on the rural character and landscape of the county’s environs. To this end, it has aimed (with the concept of rural development districts) to minimize where rural farm/ranch/natural scenic character is interrupted by additional development. These rural development districts are intended to serve as centers of development which for various reasons cannot occur in the existing cities of Dunn County. But even within these rural development districts, it is the County’s intent to encourage development that (a) is in character with the rural farm/ranch/natural scenic character of the County and (b) has the minimum possible impact on the surrounding rural areas. Regulating signs in a way that minimizes impact on the rural area is an extension of this same principle and policy.

To this end, the County finds that minimizing impacts on the rural character and landscape of the County should be accomplished by:

- (a) Prohibiting changeable messaging signs
- (b) Prohibiting billboards
- (c) Limiting the size and illumination of signs to that which is necessary for readability by citizens under the normal circumstances by which they would be viewed.
- (d) Limiting the density and location of signs to that which reasonably allows comprehension without distraction while driving
- (e) Allowing temporary signs only when they are needed for a short duration, and only when they are considered as an exception instead of a norm
- (f) Home occupation signs should be limited to a small size and unobtrusive character in order not to detract from the character of residential development

1. Definitions

(a) Animated Sign - A sign employing actual motion, the illusion of motion, or light and/or color changes achieved through mechanical, electrical, or electronic means. Animated signs, which are differentiated from changeable signs as defined and regulated by this Ordinance, include the following types:

- (1) Environmentally Activated: Animated signs or devices motivated by wind, thermal changes, or other natural environmental input. Includes spinners,

- pinwheels, pennant strings, and/or other devices or displays that respond to naturally occurring external motivation.
- (2) Mechanically Activated: Animated signs characterized by repetitive motion and/or rotation activated by a mechanical system powered by electric motors or other mechanically induced means.
 - (3) Electrically Activated: Animated signs producing the illusion of movement by means of electronic, electrical, or electromechanical input and/or illumination capable of simulating movement through employment of the characteristics of one or both of the classifications noted below:
 - (i) Flashing: Animated signs or animated portions of signs whose illumination is characterized by a repetitive cycle in which the period of illumination is either the same as or less than the period of non-illumination. For the purposes of this Ordinance, flashing will not be defined as occurring if the cyclical period between on-off phases of illumination exceeds four (4) seconds.
 - (ii) Patterned Illusionary Movement: Animated signs or animated portions of signs whose illumination is characterized by simulated movement through alternate or sequential activation of various illuminated elements for the purpose of producing repetitive light patterns designed to appear in some form of constant motion.
 - (4) Billboard - See Off-Premise Sign and Outdoor Advertising Sign.
 - (5) Building Sign – A sign that is applied or affixed to a building, excluding window signs.
 - (6) Changeable Sign - A sign with the capability of content change by means of manual or remote input, includes the following types:
 - (i) Manually Activated - Changeable sign whose message copy or content can be changed manually on a display surface.
 - (ii) Electrically Activated - Changeable sign whose message copy or content can be changed by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination may be integral to the components, such as characterized by lamps or other light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display. See also: Electronic Message Center.
 - (7) Electronic Message Center or Sign (EMC) - An electrically activated changeable sign whose variable message and/or graphic presentation capability can be electronically programmed by computer from a remote location. Also known as an EMC.
- (b) Freestanding Sign - A sign principally supported by one or more columns, poles, or braces placed in or upon the ground. May also be referenced as a Ground or Monument Sign.
 - (c) Off-Premise Sign – A sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the lot on which it is displayed.

- (d) On-Premise Sign - A sign erected, maintained or used in the outdoor environment for the purpose of the display of messages appurtenant to the use of, products sold on, or the sale or lease of, the lot on which it is displayed.
- (e) Outdoor Advertising Sign - A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the lot on which it is displayed. May also be referenced as an Off-Premise Sign, Billboard, or Commercial Outdoor Advertising Sign.
- (f) Real Estate Sign - A temporary sign advertising the sale, lease, or rental of the property or premises upon which it is located.
- (g) Sign - Any device visible from a public place whose essential purpose and design is to convey either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any other flags displayed from flagpoles or staffs will not be considered to be signs.
- (h) Sign Structure - Any structure designed for the support of a sign.
- (i) Sign Copy - The letters, numerals, figures, symbols, logos and graphic elements comprising the content or message of a sign, exclusive of numerals identifying a street address only.
- (j) Sign Face - The surface upon, against or through which the sign copy is displayed or illustrated, not including structural supports, architectural features of a building or sign structure, nonstructural thematic or decorative trim, or any areas that are separated from the background surface upon which the sign copy is displayed by a distinct delineation, such as a reveal or border.
 - (1) In the case of panel or cabinet type signs, the sign face shall include the entire area of the sign panel, cabinet or face substrate upon which the sign copy is displayed or illustrated, but not open space between separate panels or cabinets.
 - (2) In the case of signs painted on a building, or individual letters or graphic elements affixed to a building or structure, the sign face shall comprise the sum of the geometric figures or combination of regular geometric figures drawn closest to the edge of the letters or separate graphic elements comprising the sign copy, but not the open space between separate groupings of sign copy on the same building or structure.
 - (3) In the case of sign copy enclosed within a painted or illuminated border, or displayed on a background contrasting in color with the color of the building or structure, the sign face shall comprise the area within the contrasting background, or within the painted or illuminated border.
- (k) Sign Area - The area of the smallest geometric figure, or the sum of the combination of regular geometric figures, which comprise the sign face. The area of any double-sided or "V" shaped sign shall be the area of the largest single face only. The area of a sphere shall be computed as the area of a circle. The area of all other multi-sided signs shall be computed as fifty (50) percent of the sum of the area of all faces of the sign.
- (l) Temporary Sign - A sign intended to display either commercial or noncommercial messages of a transitory or temporary nature. Portable signs or any sign not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

- (m) Wayfinding Sign – A sign, frequently off-premise, specifically designed to provide exclusively directional or destination information. See also, Off-Premise Sign.
 - (n) Window Sign - A sign affixed to the surface of a window with its message intended to be visible to the exterior environment.
2. Sign Types, Locations, and Duration
- (a) Signs, as regulated by this Ordinance, are classified in the following ways:
 - (1) Temporary or Permanent Signs. Any sign not a temporary sign as defined by this Ordinance is a permanent sign.
 - (2) On-premise or Off-premise Signs. Any sign not an on-premise sign as defined by this Ordinance is an off-premise sign.
 - (3) Free-standing or Building Signs. Any sign not a building sign as defined by this Ordinance is a free-standing sign.
 - (b) Off-premise signs, except wayfinding signs and temporary signs, are prohibited in all zoning districts.
 - (c) Except for the gas price signs at gas stations, animated signs and changeable signs (including electronic messaging signs) are prohibited in all zoning districts.
 - (d) Temporary signs, except real estate signs, A-frame well-site location signs, and construction announcement signs, may not be displayed for more than 60 days in any 12 month period.
 - (e) Signs containing noncommercial speech are permitted anywhere that commercial (advertising or business) signs are permitted, subject to the same regulations applicable to such signs.
 - (f) Permanent signs as permitted by Dunn County are allowed as permanent uses so long as they are in conformance with Dunn County standards and requirements. When signs are no longer legible or pose a hazard to public health or safety they must be removed by sign owner and/or property owner.
 - (g) Any sign determined by the County Code Administrator or the Road Superintendent to pose a public safety risk must be modified or removed so that the risk is eliminated.
 - (h) Traffic signs and other signs required by local or state governments do not require permits and may be located in road right-of-way at the discretion of the responsible government agency.
 - (i) All signs except traffic signs and other signs required by local or state governments are permitted uses when conforming to the requirements of this Ordinance, and must receive a zoning certificate prior to installation. Zoning certificates for signs may be issued by the Code Administrator. If the Code Administrator determines that a zoning certificate does not meet the requirements of this Ordinance, the applicant shall be notified and given the opportunity to submit an application for a conditional use instead.
 - (j) Signs which do not conform to the sign standards of this Ordinance may be approved by the conditional use process at the discretion of the Planning and Zoning Commission when proposed standards are demonstrated to be consistent with the rationale and research base used in these regulations, the purpose of this Ordinance, and the Dunn County Comprehensive Plan.
3. Sign Standards
- (a) Free-standing signs must comply with the following size and illumination requirements:
 - (1) Design and construction of signs over 10 feet above the ground must be approved by a structural engineer in order to obtain a permit.

- (2) The bottom of sign face must be no less than 7 feet above grade
- (3) Signs must be positioned so that when viewed from the primary road that passes by the site frontage there is an unobstructed view of the sign within 1000 feet.
- (4) Except in the case of industrial parks or commercial centers which are characterized by common access points, freestanding signs must be located on the lot in which the business or use to which it pertains is located.
- (5) Except in the case of industrial parks or commercial centers, only one freestanding sign is allowed on a lot (or contiguous lots of a business site). In the case of industrial parks or commercial centers, except for a sign less than 10 feet in height to mark each entrance to the park or center, no more than two freestanding signs are allowed for the entire industrial park or commercial center.
- (6) Unless otherwise regulated by specific reference herein, the sign area, letter height, and height above the predominant grade from which the sign will be viewed of any freestanding sign shall not exceed the amounts specified in the Freestanding Sign Standards Table below.
- (7) Freestanding Sign Standards Table

Speed Limit	Village Areas			All Other Areas		
	Area (s.f.)	Letter Height (in.)	Sign Height (ft.)	Area (s.f.)	Letter Height (in.)	Sign Height (ft.)
25	24	12	14	50	10	22
30	28	15	16	72	10	26
35	32	17	18	98	13	30
40	36	20	22	128	15	34
45	40	22	26	162	15	38
50				200	19	40
55				242	21	40
60				288	23	40
65				338	25	40

- (8) In the case of industrial parks and commercial centers, the 2 freestanding signs may each have a sign area of no more than 450 square feet.
- (9) Freestanding signs located in residential subdivisions may not be larger than 8 square feet.
- (10) Wayfinding signs which are within the area along roads regulated by the NDDOT must meet the requirements of this Ordinance and the NDDOT.
- (11) Wayfinding signs that are illuminated may not exceed a maximum luminance level of 250 cd/m² or Nits, regardless of the method of illumination.
- (12) Signs that are illuminated may not exceed a maximum luminance level of 750 cd/m² or Nits, regardless of the method of illumination.
- (13) Signs that have external illumination, whether the lighting is mounted above or below the sign face or panel, shall have lighting fixtures or luminaires that are fully shielded.

- (14) Signs that have external illumination shall be designed and constructed so that the lighting does not spill beyond the lesser of (a) the property line on which the sign is located or (b) 500 feet from the sign.
- (15) No additional lights (such as strobe lights) may be affixed to or directed at the sign.
- (b) Building signs must comply with the following size and illumination requirements:
 - (1) Signs that are illuminated may not exceed a maximum luminance level of 750 cd/m² or Nits, regardless of the method of illumination.
 - (2) When there is no free-standing on-premise sign for a lot (or contiguous lots of a business site) sign size on sides of a building may not be larger than allowed by the Freestanding Sign Standards Table
 - (3) Signs affixed to buildings other than residences and other buildings in residential subdivisions may not be larger than the lesser of the size allowed by the Freestanding Sign Standards Table and the size allowed by the Building Sign Standards Table
 - (4) Unless otherwise regulated by specific reference herein, the area of a building sign shall not exceed the amounts specified in the Building Sign Standards Table below.
 - (5) Building Sign Standards Table

Distance of sign from road or adjacent development	Percentage of building elevation façade permitted for sign area
0-100 feet	15%
101-300 feet	20%
Over 300 feet	35%

- (6) Signs may not be affixed to the roof of residential buildings or buildings in residential subdivisions.
- (7) Signs affixed to residences or to buildings in residential subdivisions may not be larger than 8 square feet.
- (c) Temporary signs must comply with the following size, illumination, and other requirements:
 - (1) Maximum size of a temporary sign is 40 square feet per face with a maximum of two faces.
 - (2) A temporary sign may not be illuminated
 - (3) A temporary sign may not be located in a road right-of-way
 - (4) Spacing between temporary signs must be at least 500 feet

P. Telecommunication Towers and Facilities

- 1. Purpose and Intent - The purpose of these regulations is to protect the public health, safety, and welfare by:
 - (a) Encouraging the most efficient location of sites (least number of sites for county wide coverage) for wireless communication facilities
 - (b) Encouraging minimum obstruction or impairment of the natural landscape to preserve the visual character quality of the county

- (c) Prevent construction of such facilities in ways or places that result in unnecessary risk to public safety
2. Governmental Interest and Means of Regulation –
 - (a) Number of towers shall be minimized through the use of shared towers, use of existing structures, and analysis of coverage areas to ensure that tower placement will result in most efficient location
 - (b) Setbacks of structures from property lines, access easements, adjoining habitable structures, and other situations where failure of the structure could cause property damage or personal injury shall be established at tower sites
 - (c) Potential facility features shall be designed to blend in in order to minimize disruption to the landscape
 - (d) Fencing shall be required to limit the potential for trespass and subsequent injury from falls or other activities by unauthorized people at tower sites.
 3. Definitions –
 - (a) Collocation – establishment of telecommunication services by two or more telecommunication providers at a single site and on a single telecommunication support structure
 - (b) Telecommunication Support Structure – the tower or other structure upon which the telecommunication antenna is mounted
 - (c) Telecommunication Facility – the support structure, antenna, and base station together with all the other structural components at a given site (such as the security fence)
 - (d) Telecommunication Antenna – the apparatus which is mounted on the support structure which is used to send and receive telecommunication signals
 - (e) Telecommunication Base Station – the apparatus which is not mounted on the support structure but is necessary to be located at the telecommunication facility in order for the facility to function
 - (f) Telecommunications Facility Perimeter – the outermost extent of all structures at the site of a telecommunications facility including anchor points in the case of a guyed support structure (not the leased or owned area for the facility which may be a larger area)
 4. District Uses and Permitting
 - (a) Collocation of Telecommunication Facility – When a telecommunication provider applies to use an existing freestanding telecommunication support, it will be evaluated for approval as a permitted use because the existing support structure has already been approved through the conditional use permitting process
 - (b) Freestanding Telecommunication Facility – conditional use permit required in all districts
 - (c) Existing Building or Other Structure – When a telecommunication provider applies to use an existing industrial building or other industrial structure as the telecommunication support structure, it will be evaluated for approval as a permitted use; otherwise it will be evaluated as a conditional use.
 - (d) Portable or Temporary Telecommunication Facilities will be evaluated for approval as a permitted use

5. Design Standards

- (a) Relationship to other telecommunication facilities - A service area analysis must be provided to show why the telecommunication facility site will be the best site to meet the county's objective of the minimal number of sites in the county while providing adequate service to the entire county
- (b) Design and Height
 - 1) Support structures shall be the minimum height needed to meet the service requirements of the applicant and anticipated collocators
 - 2) Support structures which are 50 feet to 100 feet high must be designed to serve at least two telecommunications providers
 - 3) Support structures over 100 feet high must be designed to serve at least three telecommunications providers
 - 4) All proposed support structures are subject to FAA height requirements where applicable
- (c) Support structure type – applicable only to freestanding telecommunication facilities
 - 1) Guyed support structures are not permitted unless a structural engineer certifies that a monopole or lattice support structure is not a feasible design option due to soil stability conditions
 - 2) Monopole support structures are permitted in all zoning districts
 - 3) Lattice support structures are recommended in rural preservation districts and discouraged in all other districts
- (d) Setbacks – applicable only to freestanding telecommunication facilities
 - 1) the perimeter of any telecommunication facility must be at least 25 feet away from all public rights-of-way, access easements, utility or drainage easements, and property lines
 - 2) the telecommunications support structure shall be located a distance at least 1.25 times the height of the support structure (including all attached appurtenances and antennas) away from all public rights-of-way, access easements, utility or drainage easements, property lines, and habitable structures
 - 3) the telecommunications support structure shall be located at least 500 feet away from any residence existing or permitted prior to final approval of the relevant telecommunications facility
- (e) Fencing and Security – applicable only to freestanding telecommunication facilities
 - 1) The telecommunications facility shall have a chain link fence 8 foot tall or taller and locked entry points installed at its perimeter
 - 2) The required chain link fence shall have signs posted at least one per side warning trespassers to stay away
- (f) Landscaping – applicable only to freestanding telecommunication facilities
 - 1) To the maximum extent possible existing trees, shrubs, and ground cover shall be maintained at the telecommunications facility site
 - 2) The county may require appropriate vegetative buffering around the perimeter of the facility to buffer its view from neighboring residences, public areas, public

rights-of-way, scenic or historic sites, or for other purposes consistent with the County's comprehensive plan

(g) Lighting - Lighting shall be limited to that required by the FAA

(h) Visibility and Aesthetics

- 1) Unless required by the FAA, freestanding support structures shall be a galvanized finish or painted gray or another color which will allow it them to blend into the surrounding landscape
- 2) Telecommunications base stations and other structures shall be of building materials and colors which cause them to blend into the surrounding landscape

(i) Engineering Standards

- 1) All telecommunication facilities shall be built, operated, and maintained to the standard of the industry and all applicable and adopted Federal, State, and local codes, regulations, and guidelines.
- 2) The design and construction of the telecommunications support structure and attached antennas or other appurtenances shall be approved by a structural engineer licensed in the State of North Dakota.

(j) Signage – applicable only to freestanding telecommunication facilities

- 1) No signage except warning signs required by this Ordinance shall be allowed on the site

(k) Building Permit Required - building permits are required for any facility construction

(l) Abandonment and Removal

- 1) Letter of Credit or Bond for Abandoned Telecommunication Facilities - The owner of a telecommunications facility shall be required to provide a letter of credit or post a bond in the amount of \$40,000 to pay for the removal of said telecommunication facility if it is abandoned or no longer being operated.
- 2) The owner of the telecommunications facility and the landowner must both sign an agreement providing access to the site and granting the right to remove an abandoned telecommunications facility

Q. Conditional Use Requirements – Applicants for Conditional Use permits have the burden of proof to show that the conditions of this subsection and the Supplemental Design Standards are met.

1. Proposal is consistent with all applicable requirements of this Ordinance
2. Proposal is consistent with the intent of the district in which the use is located
3. Proposal is consistent with the Dunn County Comprehensive Plan
4. Uses proposed will be compatible with the existing surrounding land uses
5. Uses proposed will be compatible with future development of the surrounding area as permitted by existing zoning and with proposed development as projected by any applicable master development plan
6. There is adequate provision for the protection of the health, safety and welfare of the inhabitants and workers of the surrounding area and the County
7. In the case of a proposed temporary housing camp designed to house at least 100 occupants, a person with CPR and First Aid Certification is on-site full-time, and an AED is located where readily accessible to each housing unit at all times

8. All buildings shall be clearly marked and identified with lighted signs for emergency response purposes
9. The applicant has made a diligent effort to minimize impacts to surrounding area
10. In the case of a proposed temporary housing camp, or a site for oil and gas development or production activities, or a site with uses which are ancillary to oil and gas development or production, the applicant has provided a detailed plan for removing all facilities and structures from the site and returning it to its pre-development conditions
11. Issues raised by public comment have been appropriately addressed
12. Any bonds or fees required by the Board of County Commissioners have been provided
13. Any development agreement required by the Board of County Commissioners has been signed by the applicant
14. Applicant has provided a site plan detailing the location and design of facilities required by the supplemental design standards

R. Supplemental Design Standards for Conditional Uses – Applicants for conditional use permits shall demonstrate compliance of their proposed use and development with the following design standards in the application and shall continue to meet these standards if the conditional use permit is approved:

1. Adequate water service in terms of quality, quantity, and dependability is available to the site to serve the uses permitted
2. Adequate sewer service is available
3. Adequate fire protection measures are available
4. Compliance with the following stormwater management standards:
 - (a) Onsite retention facilities designed to retain stormwater runoff from the fully developed site from a 100 year storm shall be provided except that a concentrated feeding operation must meet all applicable County, State and Federal requirements
 - (b) Drainage facilities must be designed by a North Dakota licensed engineer to protect downstream areas from erosion and inundation and must meet all requirements of North Dakota law.
5. Proposals in areas deemed by the Planning and Zoning Commission to be flood-prone must provide adequate protection from flooding to a 500 year level as determined by a hydrologic and hydraulic analysis
6. All parking and loading and vehicle storage activities shall take place on the site and shall be constructed with paved or crushed aggregate surfaces, and no parking shall be permitted within any public right-of-way except in approved residential areas
7. An access and traffic management plan shall be provided which identifies anticipated traffic volumes and provides appropriate access locations and circulation patterns within the site. The County may require service roads, and acceleration, deceleration, and turning lanes to facilitate the safe and expedient movement of traffic.
8. Any proposal which involves truck traffic must have an approved dust control plan
9. No development shall be approved which changes the skyline or ridgeline of pristine areas in the rural protection zone
10. Any rural development zone proposal must include a landscape plan which incorporates berms or trees and bushes to screen the development from surrounding areas and which helps to blend the development into the rural landscape

11. Any development for industrial uses must incorporate appropriate buffering and screening to mitigate noise, lighting, heat or other potential impacts from surrounding uses
12. Responsibility for maintenance of the land being developed and a standard for the control of weeds and grass shall be established

S. Oilfield Waste Disposal Facility Conditional Use Requirements – The following conditions must be met before approval of an oilfield waste disposal facility may be approved:

1. A system of documenting the oilfield waste material delivery and disposition shall be used for all oilfield waste handling in Dunn County. The system shall document all volume delivered to the site, the volume disposed via salt water disposal injection and the volume removed from the site for long term storage in a landfill or for any other purpose. The conditional use permit will be rescinded if audits of the materials documentation determine discrepancies or irregularities.
2. Each load of oilfield waste must be tested and its level of radioactivity documented upon delivery to the facility.
3. Any oilfield waste with a radioactivity level exceeding 5pCi-gm may not be disposed of in Dunn County, despite any standards established by the NDIC or any authorization to dispose of the same at a Dunn County oilfield waste disposal facility.
4. A site plan for the OWTF and adjoining salt water disposal facility and any other adjacent development must be submitted to the County with the CUP application and must meet the County's approval. The site plan must include stormwater management; contaminated materials storage, handling, and containment; vehicle parking and circulation plans; and such additional information as may be required by the Code Administrator.
5. There must be a facility operations plan that documents where all materials not injected into a salt water disposal facility are disposed of, and that only licensed material haulers are carrying the materials to an approved disposal site. The conditional use permit will be rescinded if audits of the disposal site and hauler documentation determine discrepancies or irregularities.
6. The facility must be designed to prevent runoff from the site carrying any suspended solids or liquids which have been contaminated by the oilfield waste.
7. Minimum setback from residences and wellhead protection areas and aquifer recharge areas shall be 2640 feet.
8. Any additional requirements established by the NDIC must also be met.

T. Oil and Gas Exploration, Drilling, and Production.

1. No person shall engage in the exploration for oil or gas within Dunn County without first providing to the Code Administrator evidence of compliance with the provisions of NDCC Chapters 38-08 and 38-08.1.
2. No person engaged in the discovery, exploration, testing, discovery, production, transportation, storage, disposal, or sale of oil, gas, coal, uranium, or other minerals or by-products thereof or substances produced therefrom in Dunn County shall engage in such activities, specifically including, but not limited to, the drilling of oil wells, gas wells, fluid injection wells, or salt water disposal wells, without first obtaining a county road approach permit from the Board of County Commissioners.
3. The Board of County Commissioners may charge each applicant for such county road approach permit a fee, the amount of which is to be determined by the Board of County

Commissioners, to cover processing and administrative expenses, plus any mileage and expenses of the County Road Superintendent at the rate allowed county officials by state law, should it be deemed necessary to conduct on-site inspections. Said fee or expenses, if any, must be paid prior to the approval and issuance of the county road approach permit.

4. The County Road Superintendent, in reviewing any application for such county road approach permit, shall consider, in addition to any other criteria deemed appropriate, the following:
 - (a) Proposed use and the condition of the Dunn County roads and bridges at the time of the application, considering public safety concerns, Dunn County maintenance costs, weather conditions, etc.

U. Coal Exploration and Mining

1. The provisions of this section shall not apply to any digging, drilling, or excavation for agricultural purposes, the operation of coal mines and the digging, drilling or excavation by Dunn County and its incorporated cities. The applicant for a coal exploration permit shall meet the following requirements:
 - (a) Provide a copy of the approved North Dakota State Public Service Commission Permit Application form for Coal Exploration.
 - (b) Provide a copy of the complete North Dakota State Public Service Commission Coal Exploration Compliance Bond form.
 - (c) Upon completion, the operator shall file with the County Recorder the actual location of the testing.
 - (d) The duration of permit for coal exploration shall not exceed 90 days.
2. These provisions shall not apply to excavation of coal for private non-commercial uses. The applicant shall submit the following items:
 - (a) Copies of all non-confidential information that was submitted to the Public Service Commission concerning site operations, locations, and ownership patterns.
 - (b) Copies of all information submitted to the North Dakota Public Service Commission concerning site reclamation.
 - (c) Evidence of approval by the Public Service Commission for operation of the mine or excavation, if required by state law.
 - (d) Conformance with all State and Federal laws relating to the preservation, removal, or relocation of historical or archaeological artifacts and to reclamation of strip-mined lands.
 - (e) Post performance bond for reclamation of the site, with the County Auditor, if not already posted with the state.

V. Other Subsurface Mineral Exploration and Mining

1. These provisions shall not apply to any digging, drilling, or excavation for agricultural purposes the operation of coal mines and the digging, drilling or excavation by Dunn County. The applicant for a mineral exploration permit shall meet the following requirements:
 - (a) Evidence of approval of the North Dakota State Industrial Commission for Subsurface Mineral Exploration.
 - (b) A copy of the approved application of the North Dakota State Industrial Commission Mineral Exploration Compliance Bond.
 - (c) The duration of the permit shall be no more than 90 days.

- (d) Upon completion of the operations, the operator shall file with the County Recorder the actual location of testing
- 2. These provisions shall not apply to private, non-commercial mining of subsurface minerals. The applicant shall meet the following requirements:
 - (a) Copies of all non-confidential information that was submitted to the State Geologist concerning site operations, location, and ownership patterns.
 - (b) A copy of all information submitted to the North Dakota State Geologist concerning site reclamation.
 - (c) Written evidence of approval by the State Geologist for operations of the mine or excavation, if required by state law.
 - (d) Conformance of all State and Federal laws relating to the preservation, removal, or relocation of historical or archaeological artifacts and to reclamation of strip-mined lands.
 - (e) Posting a performance bond for reclamation of the site with the County Auditor, if not already posted with the state.

W. Sand, Gravel, Rock, Scoria, and Clay Mining

- 1. Applicability and Covered Activities.
 - (a) No excavation of sand, gravel, scoria, clay, or rock shall be allowed except as provided by this section.
 - (b) The provisions of this section shall not apply to any excavation for agricultural purposes or for uses requiring less than 5,000 cubic yards of excavation.
 - (c) The provisions of this section shall not apply to any Borrow Pit as defined in this ordinance.
 - (d) Except as allowed by paragraph 1(b) and 1(c) of this section, a conditional use permit shall be required before beginning any excavation of sand, gravel, scoria, clay, or rock within Dunn County.
- 2. Application Requirements. The applicant for a permit for excavating sand, gravel, rock, scoria, and clay shall submit the following:
 - (a) North Dakota contractor's license
 - (b) Vicinity map showing site, proposed haul route, and all residences, and public facilities within one mile of the site and one mile of the haul route
 - (c) Site map that shows surveyed site boundary and identifies the total acreage to be excavated
 - (d) Reclamation Plan
 - (e) Written evidence of a reclamation agreement binding on the pit operator, applicant and owner of the materials to be mined that authorizes the County and the surface owner to enforce the same.
 - (f) Weed Management Plan - Provide documentation that the site has been inspected for invasive and/or noxious weeds by the County Weed Officer before mining and excavation commences. The inspection shall occur at a time determined by the County Weed Officer. The Weed Officer shall provide the applicant with documentation of the inspection and the Applicant shall submit such documentation with the Conditional Use Permit Application. If during the inspection, it is determined that the site is infested with invasive and/or noxious weeds, the Applicant shall be required to submit a weed

treatment plan that has been reviewed and approved by the County Weed Officer. The plan shall at a minimum include the following components:

- 1) Pit opening Plan, which would include an inspection prior to opening of the pit;
- 2) Overburden Material Stockpile Plan;
- 3) Active Pit Mining Plan;
- 4) Buffer Zone Area Plan;
- 5) Mine Area Reclamation Plan; and,
- 6) Yearly Inspection Proposal Plan which would include annual inspection by the County Weed Officer.

The Plan shall be submitted as part of the conditional use application. Weed control treatments shall be completed and a reinspection by the Weed Officer shall be completed prior to the commencement of mining operations. A written reinspection report shall be filed with the Dunn County Zoning Administrator prior to the commencement of mining operations.

- (g) Truck Hauling/Road Route Plan – a map shall be submitted showing all routes within all counties proposed to be used for hauling the excavated material from the excavation site to the final destination(s).
 - (h) Written road agreement binding on the pit operator, applicant, surface owners of lands utilized to access the pit other than access by public easement or public right-of-way, and owner of the materials to be mined.
 - (i) Operations Plan including a timetable for the operation of the mining activity, and scaled maps showing property lines, site boundaries, existing contours, proposed contours after reclamation, depth of excavation, storage location of mined materials on site, storage location of topsoil and overburden, access roads and points of access to the site, staging plan, stormwater management plan, location of structures, location of vehicle parking, and other site features.
3. Conditions for Approval. A conditional use permit may not be approved unless the following requirements are met:
- (a) No application shall be for a site of more than 80 surface acres
 - (b) Approved haul route and road agreement between the pit operator, applicant, and owner of the materials to be mined and the owners of all easements, rights-of-way, and lands utilized to haul mined materials from the pit, whether such easements, rights-of-way, or lands are in Dunn County or not.
 - (c) Approved dust control plan
 - (d) Approved reclamation plan
 - (e) Approved weed management plan
 - (f) Bond requirements as determined by the Board of County Commissioners that are a minimum of at least:
 - 1) 0-19 acres – \$30,000
 - 2) 20-39 acres - \$50,000
 - 3) 40+ acres - \$100,000
 - (g) Approved hours of operation
 - (h) Signage and contact information shall be placed at all road access points to the property which identifies:

- 1) Operator emergency contact information
 - 2) County emergency contact information
 - 3) Legal owners of the property
 - 4) Pit operator
 - 5) Legal description of the real property upon which development is occurring
4. Standards and Setbacks.
- (a) All mining and excavation sites shall be located so as to protect and preserve agricultural land and to minimize the traffic, noise, dust, fumes, vibration impact on adjoining uses, and disruption of known water sources.
 - (b) The perimeter of the approved excavation site shall be at least:
 - 1) 1000 feet away from any residence unless there is an agreement binding the owner of the residence, the applicant, and the pit operator allowing a lesser distance
 - 2) 100 feet away from any property line
 - 3) 100 feet (plus any additional distance needed to allow for a 3:1 slope) away from any undeveloped section line
 - 4) 150 feet (plus any additional distance needed to allow for a 4:1 slope) away from local, state, and federal road centerlines and developed section lines
 - (c) The applicant shall conform to all requirements regarding preservation, removal or relocation of historical or archaeological artifacts.
5. Reclamation Requirements.
- (a) Reclamation of the site shall be completed within one year of the resource being exhausted, the site being abandoned, or the last calendar month in which mining operations were conducted on at least four days.
 - (b) Reclamation of the site shall be consistent with the reclamation plan approved by the County during the conditional use permit approval process.
 - (c) All top soil shall be replaced.
 - (d) Natural protective vegetation shall be planted and replanted as necessary until the site vegetation is firmly established.
 - (e) There shall be compatibility with the existing surrounding landform with respect to vegetation, slope, surface materials and ground water resources.

X. Wind Energy Facilities

1. Purpose. The purpose of this subsection pertaining to Wind Energy Facilities is to provide a regulatory framework for the siting, construction, and operation of wind energy facilities in the County, subject to reasonable restrictions, which will preserve the safety and well-being of the residents, while allowing equitable and orderly development of wind energy facilities.
2. Definitions.
 - (a) Decibel – A unit of sound measurement, abbreviated dB. dB(A) - A frequency weighting that relates to the response of the human ear. The weighted sound pressure level by the use of the A metering characteristic and weighting specified in American National Standards Institute (ANSI) Specification of Sound Level Meters.
 - (b) Height (of turbine) - The vertical distance from the construction grade of the property to the highest point of a turbine rotor blade when in the upright position.
 - (c) Non-Participating Dwelling - A dwelling on a non-participating parcel.

- (d) Non-Participating Parcel - A parcel of real estate that is not a participating parcel.
 - (e) Occupied Structure - A building in which people live, work or frequent.
 - (f) Participating Dwelling - A dwelling on a participating parcel.
 - (g) Participating Parcel - A parcel of real estate on which any turbine of the wind energy facility will be constructed, or for which a participation agreement has been executed.
 - (h) Sound Pressure Level (SPL) - The physical intensity of sound.
 - (i) Wind Energy Facility - One or more wind turbines, including appurtenant structures and facilities, rated at an individual or combined nameplate capacity of 100 kilowatts or greater.
3. Conditional Use Permit Required. No work, except for wind monitoring, soil testing, and other survey work, may commence to develop a wind energy facility until a county Wind Energy Facility Conditional Use Permit ("Permit") has been issued by the Board of County Commissioners.
 4. Applicability - The requirements of this Ordinance shall apply to all wind energy facilities with one or more wind turbines rated at one hundred (100) kilowatts nameplate capacity or larger per turbine constructed after the effective date of this Ordinance or relevant amendments. No operation of an existing wind energy facility shall be allowed without full compliance with this Ordinance and its Wind Energy Facility Conditional Use Permit, and no modification or alteration of an existing wind energy facility shall be allowed without issuance of a new Wind Energy Facility Conditional Use Permit pursuant to this Ordinance.
 5. Application Requirements for a Wind Energy Facility Conditional Use Permit. The prospective permittee for a Wind Energy Facility shall submit an application for said Permit to the Planning and Zoning Code Administrator. The application shall be signed by an authorized representative of the prospective permittee and include (1) a fee to be determined by the Board of County Commissioners for each proposed wind turbine and (2) the following information:
 - (a) The complete name, legal address, and phone number of the prospective permittee and responsible contact person.
 - (b) Details as to how the prospective permittee will comply with each item in this Ordinance and all conditions and requirements of the Wind Energy Facility Conditional Use Permit.
 - (c) A schedule for the proposed start and completion of construction of the wind energy facility.
 - (d) Copies or signed summaries of all leases and easements for wind turbines and associated equipment and infrastructure to be sited within the county and any written agreements between the prospective permittee and affected parties holding associated wind rights on adjoining properties established for the purpose of seeking a setback variance(s) pursuant to this Ordinance.
 - (e) Two (2) copies of a site plan submitted on high quality paper on sheets thirty (30) inches by thirty-six (36) inches, provided that when more than one sheet is required, there shall also be submitted an index sheet on high quality paper and of the same dimensions, showing the entire wind energy facility project on one sheet and giving section, township and range numbers. The applicant must also submit this data in electronic digital format as specified.

- (f) The site plan shall be drawn to a scale of one (1) inch equals one thousand (1,000) feet or less with scale to be shown graphically.
- (g) To provide adequate coverage, the site plan shall show an area up to a minimum of three-quarters ($\frac{3}{4}$) mile (3,960 feet) beyond the outermost wind turbine towers, meteorological towers, all wind energy facility access roads and appurtenant project structures.
- (h) Site plans shall contain the following elements:
 - 1) Name of the wind energy facility
 - 2) Name and address of the wind energy facility owner
 - 3) Name, address, and registration number of the professional surveyor involved in preparing the site plan
 - 4) Date the site plan was prepared
 - 5) North point indication
 - 6) Section, township and range numbers
 - 7) Topographic contours with a minimum contour interval of ten (10) feet, with indication of datum used
 - 8) A location map inset showing the township(s) in which the project is located and the boundary of the proposed project
 - 9) Location of all existing public roadways and rights-of-way within three-quarters ($\frac{3}{4}$) mile (3,960 feet) of proposed turbine locations
 - 10) General location and railroad rights-of-way, as available from public documents, within three-quarters ($\frac{3}{4}$) mile (3,960 feet) of proposed turbine locations
 - 11) Name, dimensions and location of any utility easements, as available from public documents, within five hundred (500) feet of proposed turbine locations
 - 12) Name, dimensions and location of any parks, public land, historic resources, multi-use trails, or areas of recreational significance, as available from public documents, within three-quarters ($\frac{3}{4}$) mile (3,960 feet) of proposed turbine locations
 - 13) Name, dimensions and location of habitable structures
 - 14) Location of any corporate or township boundaries
 - 15) General location and identification of section lines, as available from public documents
 - 16) General property ownership boundary lines, as available from public documents, for properties within three-quarters ($\frac{3}{4}$) mile (3,960 feet) of proposed turbine locations
 - 17) Names of property owners, identified as participating or non-participating, within three-quarters ($\frac{3}{4}$) mile (3,960 feet) of proposed turbine locations
 - 18) Streams, rivers, watercourses, lakes, and any marshy or swampy areas
 - 19) Federally designated wetland areas
 - 20) All affected public or private airstrips with the FAA identification number
 - 21) Proposed turbine locations
 - 22) Participating residences, non-participating residences within three-quarters ($\frac{3}{4}$) mile (3,960 feet) of proposed turbine locations, and parks, boat ramps, swimming beaches or other public recreation areas within three-quarters ($\frac{3}{4}$) mile (3,960 feet) of proposed turbine locations, as available from public documents or as reasonably apparent during the applicant's examination and consideration of the site

- (i) Other Submittal Items:
 - 1) Statement of assurance that the project will not alter any existing surface water drainage patterns.
 - 2) Plan for Restoration of the Site after Construction
 - 3) Sound Modeling Study
 - 4) Shadow Flicker Study
 - (j) Copies of letters of application from the applicant to the following agencies requesting review of the proposed wind energy facility:
 - 1) United States Fish and Wildlife Service (USFW)
 - 2) North Dakota Game and Fish Department (NDGF)
 - 3) The State Historic Preservation Office (SHPO) at the State Historical Society of North Dakota
 - (k) Proof of compliance with Federal Aviation Administration (FAA) requirements
6. Planning and Zoning Commission Review. Upon receipt of the application, the Planning and Zoning Commission and any experts it may retain shall review the application and, at its discretion, may hold a public hearing on the application providing at least fifteen (15) days' notice prior to the hearing in the official newspaper of Dunn County and mailing written notice to property owners whose parcels are, partly or entirely, within one mile of a quarter section containing any part of a participating parcel. The applicant shall be responsible for providing the names and addresses of all such property owners.
 7. Deliberation and Decision. If the Planning and Zoning Commission finds that the prospective permittee will comply with all requirements, it may submit a recommendation pertaining to the application for a Wind Energy Facility Conditional Use Permit to the Board of County Commissioners. If the Planning and Zoning Commission does not make a recommendation to the Board of County Commissioners within or before its third regularly-scheduled meeting after having begun a public hearing on the application for a Wind Energy Facility Conditional Use Permit, the Board of County Commissioners shall take up consideration of the Wind Energy Facility Conditional Use Permit application, and make a decision on said application.
 8. Transfer of Wind Energy Facility Conditional Use Permit - In the event of a change in ownership or controlling interest in a wind energy facility and the transfer of the Permit, any successors and assigns of the original permittee shall comply with the requirements and conditions of such Permit for the duration of operation of a wind energy facility permitted in the county. Within thirty days of such change in ownership or controlling interest of any entity owning a wind energy facility, the parties to the transaction shall notify the Board of County Commissioners and the Code Administrator by letter and provide information pursuant to this Ordinance. The letter shall be signed by the authorized representatives or agents of both the original permittee and the entity to which the Permit is being transferred.
 9. Zoning District - Wind energy facilities may only be constructed within the Rural Preservation District of the county, subject to the restrictions and conditions of this Ordinance.
 10. Principal or Accessory Use - A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on

such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this Ordinance shall not be deemed to constitute expansion of a nonconforming use or structure.

11. Demonstration of Compliance - The permit issued pursuant to Section IV.X.5 shall be contingent upon the permittee's final demonstration of compliance with the requirements of the permit following completion of construction of the wind energy facility. Within 180 days of substantial completion of wind energy facility construction, the permittee shall submit to the Planning and Zoning Code Administrator a copy of the as-built plans and specifications, in both hard copy and in electronic digital format as specified by the Code Administrator, providing all information pursuant to Section IV.X.5 and demonstrating actual compliance with the requirements and conditions of the Permit. Status updates shall be submitted every 90 days until substantial construction is complete.
12. Standards for Wind Energy Facilities - All applicants for proposed Wind Energy Facilities shall demonstrate that the following standards shall be met by their proposed facility.
 - (a) Setbacks. The following setbacks and separation requirements shall apply to all wind turbines in a wind energy facility:
 - (a) Setbacks from Dwellings, Commercial Buildings, Publicly Used Structures or Facilities – Each wind turbine shall be set back (measured from the center of the turbine monopole) at least 1500 feet from participating residences, unless the participating property owner agrees to a lesser distance in which case the minimum distance shall be 1.1 times the height of the turbine, and at least 2000 feet from existing non-participating residences and commercial or public buildings, and further as necessary to meet the sound level requirements in this Ordinance. The horizontal distance between the center of a turbine monopole and any park, boat ramp, swimming beach or other public recreation area shall not be less than one-half ($\frac{1}{2}$) mile (2,640 feet).
 - (b) Setbacks from Public Roads, Railroads, and Above Ground Communication and Electrical Lines – Each wind turbine shall be set back (measured from the center of the turbine monopole) not less than 1.1 times the height of the turbine from interstate or state roadway right-of-way; not less than 75 feet greater than 1.1 times the height of the turbine from the centerline of any county or township road or from a section line without a road. Each wind turbine shall be set back not less than 1.1 times the height of the turbine from any railroad right-of-way or from any above ground communication or electrical line (excluding transmission, feeder, and collector lines proposed for the wind energy facility).
 - (c) Wind Energy Facility Perimeter – Each wind turbine shall be set back from the wind energy facility perimeter at a distance not less than two and one half (2.5) times the rotor diameter of the wind turbine.
 - (d) Setbacks from Non-participating Properties. Each wind turbine shall be set back not less than 1.1 times the height of the turbine from any non-participating parcel.
 - (e) Reverse Setbacks. Building permits will not be issued to construct any proposed habitable structure within 1.1 times the height of any existing turbine (the center of a turbine monopole) or approved turbine location.

- (b) Electrical Lines Location.
 - 1) The permittee shall place overhead or underground electric lines, known as feeder lines, on private land immediately adjacent to public rights-of-way (whether improved or not) except as necessary to avoid or minimize human, agricultural, or environmental impacts.
- (c) Appearance.
 - 1) Wind turbines, towers, and blades shall be painted with a non-reflective coating and in a uniform, off-white color. A color sample should be submitted with the application.
 - 2) Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
 - 3) Each wind turbine shall be marked with a visible identification number to assist with provision of emergency services. The permittee shall file with local fire departments, law enforcement, and the county emergency management coordinator a wind energy facility map identifying wind turbine locations and numbers.
 - 4) Wind turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
 - 5) At wind energy facility sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, and location that will blend the wind energy facility to the natural setting and existing environment.
- (d) Turbine Design.
 - 1) All turbines shall be commercially available, utility scale, with an operational history of at least one year. Prototype turbines are not allowed.
 - 2) Turbines shall be installed on tubular, monopole-type towers.
 - 3) Minimum Ground Clearance - The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.
- (e) Sound Levels. A sound study which includes modeling of wind turbine sound levels within 100 feet of every residence and commercial or public building within one mile of any proposed wind turbine shall be completed. The modeled sound levels caused by wind turbines at a distance of 100 feet from any non-participating residence and commercial or public buildings shall not exceed 40 dBA (leg). The modeled sound levels caused by wind turbines at a distance of 100 feet from any participating residence shall not exceed 50 dBA (leg). Construction noise or reasonable and necessary maintenance activities are allowed to exceed this sound limit except between the hours of 11 p.m. and 7 a.m.
- (f) Shadow Flicker Levels. A shadow flicker analysis, assuming typical meteorological conditions, shall be completed for every residence and commercial or public building within one mile of any proposed wind turbine. The maximum acceptable level of shadow-flicker exposure for homes in the study shall be 30 hours per year. The applicant shall provide commercially reasonable efforts to remedy shadow-flicker complaints from any non-participating owners of a residence or commercial building with a window view of a wind turbine on a case-by-case basis by undertaking measures such as trees or vegetation plantings, awning installations, or providing light-blocking curtains or shades.

- (g) Stormwater Management Requirements as required in this Ordinance and additional requirements as may be directed by the Code Administrator
13. Conditions for Approval. In addition to other conditions which may be determined during the application review and hearing process, the following list are potential conditions for approval which shall be considered by the Planning and Zoning Commission when considering an application for a Wind Energy Facility Conditional Use Permit:
- (a) Site Plan shall be submitted demonstrating setback requirements will be met
 - (b) Project Description shall be submitted demonstrating appearance and design standards will be met
 - (c) Applicant shall provide proof that insurance requirements have been met
 - (d) Public Safety Plan shall be submitted and determined acceptable by all relevant agencies and organizations. The Public Safety Plan shall provide a wind energy facility map identifying all wind turbine and accessory building locations, identification, and addresses, and shall document needs for any special rescue equipment and training necessary to accommodate emergency operations within the facility. The identifying system must be acceptable for registry in Dunn County's emergency 911 system. The applicant and operator of the wind energy facility shall provide to the Emergency Manager contact information of a person or persons who are always available to respond to any issue pertaining to the construction and operation of the facility. This contact information shall be continuously updated by the applicant and operator of the facility. The applicant shall meet with all local fire departments, law enforcement, local ambulance and first responder units, and the County Emergency Manager to explain the Public Safety Plan, to discuss their capacity, and to obtain their approval of the Public Safety Plan. The applicant shall provide educational materials to landowners within the site boundaries and, upon request, to interested persons, about the project and any restrictions or dangers associated with the project. The applicant shall also provide any necessary safety measures, such as warning signs and gates for traffic control, and restricted public access to turbine access roads, substations and wind turbines.
 - (e) Overweight Load Permits must be approved by the County Road Superintendent and a copy provided to the Code Administrator before any materials or heavy equipment are moved into the County. The applicant is responsible for abiding by the state and local overweight load permitting processes in accordance with NDCC Chapter 39-12. A conditional use permit issued under this ordinance to erect a wind energy facility does not negate a hauler's obligation to obtain overweight load permits prior to hauling.
 - (f) Approach Permits for all temporary and permanent approaches and new or improved access points are approved by the County Road Superintendent before any materials or heavy equipment is moved into the County
 - (g) Road Maintenance Agreement with Dunn County must be approved by the County Road Supervisor. Prior to the start of any construction, and the movement of any materials or heavy equipment into the County, a road maintenance agreement shall be signed by the applicant and approved by the County Road Supervisor. The road maintenance agreement shall address details (including obtaining permits) for road use, access road intersections, maintenance and repair of damages.

- 1) Any road damage caused by the applicant, its independent contractor, employee, agent, contractor, or subcontractor shall be promptly repaired at the applicant's expense to current standards as established by the Dunn County Road Superintendent. If it is reasonably foreseeable that continued trips will make prompt repair to this standard unreasonable, intermediary measures must be taken by the applicant, if approved by the political subdivision in charge of the road, to ensure the public road remains passable and useable as has been the tradition in the community. Final repairs to these standards must be made promptly after the completion of the construction of the wind energy facility.
- (h) At wind energy facility sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape, and agricultural operations within the county.
- (i) Lay down yards must be at least 1500 feet from any inhabited residence.
- (j) Hazardous Waste. The applicant shall be responsible for compliance with all federal, state and local laws applicable to the generation, storage, transportation, clean up and disposal of hazardous wastes generated during any phase of the project's life.
- (k) Trimming or removal of trees within the public right-of-way to allow for safe construction of power lines shall be allowed.
- (l) Pre-construction Meeting must be conducted. Prior to the start of any construction, the applicant shall conduct a preconstruction meeting with the Code Administrator to coordinate field monitoring of construction activities. The pre-construction meeting shall be open to all interested parties and shall address staging, complaints, emergency plans, and other pertinent issues. The applicant shall submit a construction plan which governs the process of construction, including the minimization of agricultural field soil compaction, and mitigates other potential impacts to the maximum extent possible. No construction shall be allowed until the County Board of County Commissioners approves the construction plan.
- (m) Biological Resource Evaluation must demonstrate no conflicts. The applicant, in consultation with the US Fish & Wildlife Service - Ecological Services Office (USFW) and the North Dakota Department of Game and Fish (NDGF) shall, for the project site, conduct a pre-construction inventory of existing wildlife management areas, scientific and natural areas, recreation areas, native prairies and forests, wetlands, and any other biologically sensitive areas and wildlife resources, particularly birds and bats, within the site and assess the presence of state- or federally-listed or threatened species, and other protected species, such as migratory birds. The results of the survey shall be submitted to the Code Administrator, USFWS and NDGF.
- (n) Electromagnetic Interference Evaluation must demonstrate no conflicts. The applicant shall submit an assessment of microwave signal patterns in the project area prior to commencement of construction of the project.
 - 1) The assessment shall be designed to provide data that can be used in the future to determine whether the turbines and associated facilities are the cause of disruption or interference of microwave patterns in the event residents complain about such disruption or interference after the turbines are placed in operation. The assessment shall be completed prior to operation of the turbines.

- 2) The applicant shall be responsible for alleviating any disruption or interference caused by the turbines or any associated facilities of residents' cell phone, television, radio, computer, satellite or other electronic transmissions, receptions, or services.
 - 3) The applicant shall not operate the wind energy facility so as to cause microwave, television, radio, telecommunications or navigation interference contrary to Federal Communications Commission (FCC) regulations or federal, state or local laws.
 - 4) In the event the wind energy facility or its operations cause such interference as described in items 2 and 3 above, the applicant shall take measures necessary to correct the problem within thirty (30) calendar days.
- (o) Complaint and Communications Plan must be approved by the Board of County Commissioners. The Complaint and Communications Plan shall provide local contact information, and a plan to receive and address any complaints pertaining to the facility construction and operation. The local contact shall be authorized by the applicant to receive service and respond to all notices, demands, complaints, concerns or other requests. Local contact information must include the name of the local representation, local phone number and physical address. Said contact information must be filed with the Code Administrator prior to commencement of construction of the wind energy facility.
- (p) Operational Plan must be approved by the Board of County Commissioners. The applicant shall submit a plan explaining the anticipated operations of the proposed wind energy facility. The plan shall explain the circumstances under which the facility and individual turbines are anticipated to be in operation, in lockdown, and undergoing maintenance. The plan shall include provisions for extraordinary events and wildlife incidents as follows:
- 1) Within twenty-four (24) hours of an extraordinary event, the applicant shall notify the Code Administrator. Extraordinary events include, but shall not be limited to, fires, tower collapse, thrown blade, collector or feeder line failure, or injured wind energy facility worker or private person. The applicant shall, within thirty (30) calendar days of the extraordinary event, submit a report to the Code Administrator describing the cause of the extraordinary event and the steps taken to avoid future extraordinary event.
 - 2) Any fatality or injury to any state- or federally-listed species or migratory bird or bat shall immediately be reported to the U.S. Fish and Wildlife Service (USFWS)-North Dakota Field Office and the USFWS Office of Law Enforcement. Also, if a dead or injured whooping crane or sandhill crane is found, operation of all turbines shall be immediately curtailed until it has been determined by the USFWS that there is no longer a threat to other birds in the area. If a whooping crane or sandhill crane is sighted by a wildlife biologist within two (2) miles of any wind turbine, that turbine or turbines must be immediately shut down until the USFWS determines that there is no threat to these species in the area.
- (q) Bonding and Insurance Requirements. The owner/operator of a wind energy facility must provide a reclamation bond and proof of liability insurance prior to commencing construction. The bond shall cover the first ten years of operation until such time as the bond required by the Public Service Commission becomes effective. The bond shall

cover the full cost of decommissioning and removing the wind energy facility as required by this Ordinance. Dunn County shall be listed as a certificate holder for the liability insurance coverage. Certificates shall provide not less than thirty (30) calendar days' notification to the certificate holder prior to cancellation or material change in coverage. Throughout the duration of this conditional use permit, the owner/operator of a wind energy facility shall provide liability and other insurance coverages as established by the Board of County Commissioners, but not for less than the amounts specified below:

- 1) Workers' Compensation: Statutory
- 2) Employer's Liability:
Each Accident: \$1,000,000
Disease, Policy Limit: \$1,000,000
Disease, Each Employee: \$1,000,000
- 3) General Liability:
General Aggregate: \$2,000,000
Each Occurrence
(Bodily Injury and Property Damage): \$1,000,000
- 4) Excess Umbrella Liability:
Each Occurrence: \$5,000,000
General Aggregate: \$5,000,000
- 5) Automobile Liability:
Combined Single Limit (Bodily Injury and Property Damage):
Each Accident \$1,000,000
- 6) Other Conditions (specify):
A Commercial General Liability policy shall be endorsed to add Dunn County, its employees, officers, agents and contractors as additional insured.
Certificates evidencing required insurance shall be provided to Dunn County upon approval of the conditional use permit and prior to commencement of construction.

(r) Decommissioning Plan. A decommissioning plan which complies with the North Dakota Century Code and the North Dakota Administrative Rules shall be submitted as part of the Building or Conditional Use Permit application.

(s) Changes to Plans must be approved by the Board of County Commissioners. Any minor changes in the location or character of wind turbine facilities and structures may be authorized in writing by Board of County Commissioners as long as affected property owners have given written acceptance of the minor changes. All other changes shall require approval of an amended conditional use permit under these same ordinance requirements.

(t) PSC approval must be provided to the Board of County Commissioners

14. Restoration of Property Following Cessation of Operations – When a commercial wind energy conversion facility has been determined by the Public Service Commission to be at the end of its useful life, the facility owner or operator shall decommission the facility and restore the facility site within eighteen months after it reaches the end of its useful life.

15. Building Permit Application Requirements – The Codes Administrator shall in consultation with Building Inspection staff establish building permit application requirements which shall include information needed to perform inspections, and documentation to verify the Conditional Use Permit conditions have been satisfied. No building permit shall be issued for construction of any part of the wind energy facility unless all application requirements have been met.

Y. Special Waste or Industrial Waste Landfills – The purpose of this subsection pertaining to Special Waste Landfill and Industrial Waste Landfills is to provide a regulatory framework for the siting, construction, and operation of a special waste landfill or an industrial waste landfill in the County which will protect the environment from adverse impacts, ensure that ground and surface waters are not degraded from deposits of any waste material at the special waste or industrial waste landfill, reduce the risk of harm to the environment and the health of people from other sites where byproducts of oil and gas production may be disposed, preserve the health, safety and well-being of the residents, and protect property values while allowing appropriate development of a landfill to properly dispose of waste materials from oil and gas production.

2. Zoning - Special waste landfills or industrial waste landfills may be constructed within the county, subject to the restrictions and conditions of this Ordinance, and any additional conditions and requirements which may be established during the review and approval process.

3. Additional Conditions and Requirements – The Planning and Zoning Commission and the Board of County Commissioners may at its discretion require any additional standards, requirements and assurances as they may determine appropriate to meet the purpose of this subsection pertaining to special waste landfills or industrial landfills.

4. Definitions – all terms in this subsection shall have the meaning of such terms as they are defined in the North Dakota Century Code and the North Dakota Administrative Rules.

5. Applicability - The requirements of this Ordinance shall apply to all special waste or industrial waste landfills located in Dunn County, and to the disposal of radioactive waste subject to regulation under NDCC 33-10-23 meeting the definition of TENORM.

6. Application for Permit - No work, except geological and hydrogeological evaluation, soil boring, and other survey work, may commence toward the construction of a special waste landfill/industrial waste landfill until a county Special waste landfill/industrial waste landfill Conditional Use Permit ("Permit") has been issued by the Board of County Commissioners. The prospective permittee shall submit an application for said Permit to the Planning and Zoning Commission. The application shall be signed by an authorized representative of the prospective permittee and include a special evaluation fee to be determined by the Board of County Commissioners for the costs of evaluating the proposed Special waste landfill/industrial waste landfill. The application shall include the following information:

(a) The complete name, legal address, and phone number of the prospective permittee and responsible contact person.

(b) A United States Geological Survey topographical map or similar map of an area which includes the special waste landfill/industrial waste landfill facility parcels and extending 2500 feet outwards from the special waste landfill/industrial waste landfill facility parcels including all surrounding properties. This topographical map shall have included

on it all existing features, including property boundaries, structures, improvements, roads, utility lines, public facilities, and natural features. The map or a separate map shall also show location of all proposed improvements for the special waste landfill/industrial waste landfill, including proposed full and final landfill extents, monitoring systems, storage and unloading facilities, stormwater management facilities, utility lines, fences, roads, and any other constructed features of the landfill facility and operation.

- (c) Details as to how the prospective permittee will comply with each requirement of this Ordinance.
 - (d) A schedule for the proposed start and completion of construction of the special waste or industrial waste landfill.
 - (e) A detailed operations plan.
 - (f) A detailed landfill closure plan.
 - (g) Appropriate financial assurances in accordance with this Ordinance.
 - (h) Approved pre-approval from the State of North Dakota for the proposed facility.
6. Upon receipt of the application, the Planning and Zoning Commission and any experts it may retain shall review the application and shall hold an informational meeting on the application providing at least fifteen (15) days' notice prior to the meeting in the official newspaper of Dunn County and notice by certified mail to property owners within 2 miles of the proposed special waste landfill/industrial waste landfill facility parcel.
7. At such time as the Planning and Zoning Commission may determine that it has sufficient information in hand to consider recommending approval or denial of the application, it shall hold a formal public hearing on the application. Notice of a formal public hearing providing at least fifteen (15) days' notice prior to the hearing shall be published in the official newspaper of Dunn County and notice by certified mail shall be sent to property owners and known occupants of all land within 2 miles of the proposed special waste landfill/industrial waste landfill facility parcel.
8. Deliberation and Decision - If the Planning and Zoning Commission finds that the prospective permittee will comply with all requirements, it may submit a recommendation for a Special Waste Landfill Conditional Use Permit or an Industrial Waste Conditional Use Permit to the Board of County Commissioners. The Board of County Commissioners shall make all final decisions as to the disposition of the application for a Special Waste Landfill Conditional Use Permit or an Industrial Waste Conditional Use Permit.
9. Demonstration of Compliance - The permit issued pursuant to this Ordinance shall be contingent upon the permittee's final demonstration of compliance with the requirements of the permit following completion of construction of the special waste landfill/industrial waste landfill. Within ninety days of special waste landfill or industrial waste landfill construction, the permittee shall submit to the Planning and Zoning Commission an updated set of as-built plans demonstrating actual compliance with the requirements and conditions of the Permit.
10. General Requirements for Special Waste Landfills or Industrial Waste Landfills – Siting
- (a) The County shall, at its sole discretion, select and engage an expert consulting firm with appropriate experience and knowledge of geologic and hydrogeologic evaluation to oversee the evaluation of the facility proposed by the applicant. Applicants for special

waste landfills/industrial waste landfills must pay an application fee at or before the time of the application and must fully reimburse County's costs in evaluating the application and the adequacy of the proposed landfill site. County shall establish a schedule of estimated costs. Applicants must deposit the estimated costs according to County's schedule at or before the time of the application. No conditional use permit issued hereunder may take effect until County's costs have fully been reimbursed. If County's costs are less than the estimated amount deposited by the applicant, County shall reimburse the excess deposit within a reasonable time after the application has been approved or denied by County or withdrawn by the applicant.

- (b) Landfill may not be constructed within 1000 feet of a confined aquifer system and the perimeter of the landfill facility must be at least 2500 feet horizontally from any unconfined aquifer, or surface water bodies.
- (c) Surrounding underground characteristics of the proposed landfill facility must be such that ground water travel has been demonstrated by field testing to take more than 1000 years' time of travel from the perimeter of the landfill leachate collection system to the border of the landfill parcel, unless additional information becomes available that demonstrates a lesser travel time is reasonable.
- (d) The proposed landfill facility is at least 1000 feet away from any pipe carrying water for human or animal consumption.
- (e) The boundary of the proposed landfill parcel must be at least 2500 feet from all residences and water wells unless the property owner of land containing a well or residence within 2500 feet signs a waiver agreeing to a lesser distance from the perimeter of the landfill parcel. Any such waiver shall be recorded at the County Recorder's Office as a part of the permanent record of all applicable parcels.

11. General Requirements for Special Waste Landfills or Industrial Waste Landfills - Acceptable Materials for Disposal - The following requirements pertaining to materials disposal and cover apply are applicable to the special waste landfill/industrial waste landfill:

- (a) Solid waste disposal in industrial waste landfills and special waste landfills must be limited to those wastes identified in the permit application or permit. Regulated infectious waste, used oil as a free liquid, and hazardous waste may not be accepted for disposal at the landfill. TENORM waste may only be accepted under the provisions of NDAC chapter 33-20-11.
- (b) TENORM waste up to, but not exceeding 50.0 picocuries per gram of radium-226 plus radium-228, may be disposed in a landfill which complies with NDAC chapter 33-20-07.1 or chapter 33-20-10, except that the accumulated amount must not exceed twenty-five thousand tons [22,679.22 metric tons] per year or three thousand tons [2,721.55 metric tons] in any one month unless larger amounts in one month resulting from special cleanup projects are preapproved by the Department of Health. Drums or shipping containers of TENORM waste which are not of uniform concentration must not exceed an average concentration of 50.0 picocuries per gram of radium-226 plus radium-228.
- (c) Equipment contaminated with TENORM which does not exceed a maximum exposure level of one hundred microrentgen per hour, including background radiation, at any accessible location may be disposed in a landfill which complies with NDAC chapter 33-20-07.1 or chapter 33-20-10.

- (d) Only radioactive waste subject to regulation under NDAC 33-10-23 meeting the definition of TENORM may be disposed at a Dunn County special waste landfill or industrial waste landfill.
12. Radiation Measurement Details and Radiation Levels -The following rules shall apply to the operation of the special waste landfill/industrial waste landfill:
- (a) Every truckload, every container, and the contents of every truckload and container carrying waste for disposal at a Dunn County special waste landfill or industrial waste landfill must be tested for radiation levels by the facility operator.
 - (b) Every truckload, every container, and the contents of every truckload and container carrying waste for disposal at a Dunn County special waste landfill or industrial waste landfill must be tested for radiation levels by an independent auditor on behalf of the County.
 - (c) Devices for testing radiation levels of containers and contents transported for disposal at a Dunn County special waste landfill/industrial waste landfill must be approved by the Dunn County Board of County Commissioners and must be calibrated on a regular basis to be determined by the Dunn County Board of County Commissioners.
 - (d) Only TENORM wastes with radiation levels below 50.0 picocuries per gram of radium-226 plus radium-228 may be accepted for disposal at a special waste landfill or industrial waste landfill in Dunn County.
13. Landfill Design – the following requirements apply to the design of the special waste landfill/industrial waste landfill:
- (a) Any new or lateral expansion of an industrial waste landfill or special waste landfill must be designed with an appropriate hydraulic barrier and leachate management system capable of collecting and removing leachate and contaminated surface water within the disposal unit.
 - 1) Whether a proposed landfill is classified as a special waste landfill or an industrial waste landfill, it shall be required to include a double liner system and a double leachate collection system as required for large industrial waste landfills in North Dakota. The liner and leachate removal system must be compatible with the waste and leachate. Additional stipulations for the double liner system beyond those required by the ND Department of Health Division of Waste Management may be required.
 - 2) The liner and leachate removal system must maintain its integrity during the operating period and through the postclosure period.
 - 3) The system must have a collection efficiency of ninety percent or better and must be capable of maintaining a hydraulic head of twelve inches [30.5 centimeters] or less above the liner.
 - 4) The composite liners must be at least a sixty mil flexible membrane liner.
 - 5) The drainage layer(s) must have a hydraulic conductivity of 1×10^{-3} centimeters per second or greater throughout. The drainage layer must have a sufficient thickness to provide a transmissivity of 3×10^{-2} centimeters squared per second or greater.
 - 6) The liner and leachate removal system in combination with the final cover must achieve a site efficiency of at least ninety-eight and one-half percent or better for collection or rejection of the precipitation that falls on the facility.

- 7) The requirements of this subsection for a liner and leachate collection system may be modified by the County if the permit applicant demonstrates that, based on factors such as geology and hydrology of the facility, characteristics of the waste, and engineering design, any leachate migration can be prevented or controlled.
- (b) The collection and disposal of leachate from any special waste landfill/industrial waste landfill located in Dunn County shall be managed so as to prevent any birds or animals from coming in contact with the leachate, and that the leachate is disposed in a manner that does not pose a health or environmental risk.
14. Landfill Operation – The applicant shall continuously meet all of the following requirements pertaining to operation of the proposed special waste/industrial waste landfill:
- (a) On all areas of the landfill where final cover or additional solid waste will not be placed within six months, eight inches [20.3 centimeters] or more of compacted clay-rich soil material, similar material, or a synthetic cover must be placed to prevent ponding of surface water, to minimize infiltration of surface water, and to control windblown dust.
- (b) All solid wastes deposited at the landfill must be spread and compacted as densely as practicable to minimize waste volume and promote drainage of surface water.
- (c) TENORM waste must be covered by at least one foot of non-TENORM waste or daily cover material by the end of each operating day. Landfill hours of operation shall be limited to 40 hours per week.
- (d) TENORM waste must be disposed at depth greater than ten feet below the surface of the final landfill cover.
- (e) For a landfill that is subject to NDAC chapter 33-20-07.1, if any part of the final cover has slope greater than fifteen percent, then the final cover must have an additional two feet of low permeability soil, for a total minimum cover thickness of five feet.
- (f) In order to accurately assess radionuclide concentration resulting from TENORM waste deposited at the landfill, the leachate collection system and groundwater monitoring network shall be analyzed for background concentration of radionuclide parameters prior to receipt of any TENORM waste. Leachate shall be analyzed for radionuclides at the same frequency as groundwater samples are collected. If radionuclides are detected in the leachate at a concentration greater than the concentrations listed below, then the groundwater monitoring network must begin analysis for radionuclide parameters.
- 1) Radon: 4,000 picocuries per liter (pCi/L).
 - 2) Combined radium-226 and radium-228: 5 pCi/L.
 - 3) Alpha particle activity (including radium-226, excluding radon and uranium): 15 pCi/L.
 - 4) Uranium: 30 micrograms per liter (ug/L).
- (g) Landfills approved for the disposal of TENORM waste shall file with the County a quarterly summary report stating the date, type, and total quantity by weight in tons, generator, and final disposal facility of each TENORM transferred. Each report shall be filed within thirty days of the end of each quarter. If no transfers of TENORM have been made during the reporting period, the report must so indicate.
- (h) Landfills approved for the disposal of TENORM waste shall implement a worker training program and safety program to meet the requirements of NDAC section 33-10-23-27, so that protection of workers complies with radiation protection standards of NDAC

chapters 33-10-04.2 and 33-10-10.1. The training and safety program shall be approved by the North Dakota Department of Health prior to receipt of any TENORM waste.

- (i) Any load brought to the landfill facility for disposal that is rejected for radiation levels that are unacceptably high shall be reported immediately to the North Dakota Department of Health, and the manifest accompanying the load shall be annotated with the date and time and level of radiation which caused the load to be rejected.
 - (j) A system shall be established to ensure that the all loads brought to the landfill facility are transported and unloaded in conditions that prevent dust from escaping the transport and the facility. Radioactive materials must be transported in a fully enclosed container while in transport to the landfill facility. Radioactive materials with the potential to become windblown while on the landfill site must be moistened until they are under cover to prevent them from doing so.
 - (k) The perimeter of the landfill facility shall be fenced with a ten foot high chain link fence to keep any game animals or domestic animals, or people from accidentally entering the facility. The permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the landfill's life.
 - (l) Access to the landfill facility shall be controlled and secured by a manned gate system that is locked when the landfill is not in operation. All road access points to the facility shall be monitored continuously by security cameras.
 - (m) The applicant and facility operator shall establish a system to reduce the potential for airborne particles to be blown off-site and to minimize potential for workers to breath in radioactive material.
 - (n) Drill cuttings and other similar materials may not be used as cover for TENORM unless specific testing standards, operational requirements and any other conditions determined by the County as appropriate to protect the public health and safety are established and maintained.
 - (o) The permittee shall ensure that, following completion of initial development of a special waste landfill or industrial waste landfill, county roads will be repaired or restored to a condition at least equal to the condition prior to construction of such facility.
 - (p) As a condition of operation, the permittee shall fully cooperate with a special waste landfill/industrial waste auditor employed by the County. Said auditor shall have appropriate training and expertise to oversee all aspects of the operation of the special waste landfill/industrial waste landfill, and independently verify it is maintaining its conformance with all requirements for operation. The permittee shall pay an annual fee to the County for the express purpose of funding the special waste auditor position and related expenses.
15. Landfill Closure, Reclamation, Decommissioning, and Post-Operation Requirements – The applicant shall meet the following requirements pertaining to the special waste landfill or industrial waste landfill as each cell of the landfill is completed, and after the entire landfill facility is closed or taken out of operation for a time period exceeding one year:
- (a) In addition to NDAC sections 33-20-04.1-05 and 33-20-04.1-09, at closure, an owner or operator shall cover an existing unit with a layer of compacted soil material having a thickness of eighteen inches [45.7 centimeters] or more, and a saturated hydraulic conductivity of 1×10^{-7} centimeters per second or less. A second layer of twelve inches

[30.5 centimeters] or more of clay-rich soil material suitable for serving as a plant root zone must be placed over the compacted layer. At least six inches [15.2 centimeters] of suitable plant growth material must be placed over the covered landfill and the facility planted with adapted grasses. The total depth of final cover must be three feet [91.4 centimeters] or more. The requirements of this section may be modified by the Department of Health if the permit applicant demonstrates that an alternative design will appropriately limit percolation of liquid into the waste.

- 1) If the permit applicant wishes to pursue an alternative cover design, one of the following methods shall be used to demonstrate that the alternative cover design will appropriately limit the amount of percolation that may enter the waste:
 - a. Hydrologic modeling;
 - b. Lysimetry or instrumentation using a field-scale test section;
 - c. Comparison of the soil and climatic conditions of the site with the soil and climatic conditions at a site where the Department of Health has previously approved the same alternative cover design; or
 - d. Other method approved by the Department of Health.
- 2) To demonstrate that an alternative cover design will appropriately limit percolation of liquid into the waste, the alternative cover design must be shown to limit the average rate of percolation of liquid into wastes to an equal or lower value than the final cover design described in this section or to an average long-term percolation rate less than 0.2 inches [5.0 millimeters] per year.

16. Financial Assurances

- (a) The Board of County Commissioners shall make the final determination on all financial assurances
- (b) Items to be covered by financial assurances:
 - 1) All owners and operators of special waste landfill/industrial waste landfill facilities are required to demonstrate that they will have the financial resources to properly close the facility or unit when its operational life is over, or provide the appropriate emergency response in the case of an accidental release of radioactive material.
 - 2) All owners and operators of special waste landfill/industrial waste landfill facilities are required to maintain accident liability insurance during the active life of their hazardous waste management units or facilities. This liability coverage ensures that sufficient money will be available to compensate third parties that are either physically harmed or have property damaged by an accidental release of hazardous constituents from a hazardous waste Treatment, Storage, and Disposal Facilities.
 - 3) Insolvency or bankruptcy or any other reason the owner/operator does not continue to operate the facility as permitted
 - 4) Human error or misdeed pertaining to design, construction, operation, closure, and/or post closure care of the facility [that results in or could result in release of radioactive material beyond the perimeter of the facility]
 - 5) A natural event or disaster that causes or could cause radioactive material to move beyond the perimeter of the facility
 - 6) Liner or leachate collection system malfunction

- 7) Fire, windstorm, tornado or another destructive event that damages facilities to the point that the facility cannot be operated in the manner it was designed to operate
 - 8) Acts of war or terrorism that result or could result in release of radioactive material beyond the perimeter of the facility
- (c) Acceptable mechanisms and instruments for financial assurances:
- 1) An owner/operator may secure a guarantee from a surety company (in the form of a bond) that all closure and post-closure care requirements will be fulfilled. If the owner/operator fails to meet the requirements specified in the bond, the surety company is liable for the costs. If using a surety bond, the owner/operator must also establish a standby trust fund into which the surety company will make payments if the owner/operate fails to comply with its financial responsibilities. This money deposited into the standby trust fund can then be used to pay a third party to perform closure/post-closure. See 40 CFR §264.143(b) and (c) and §265.143(b). An owner/operator may use two types of bonds to meet the financial assurance requirements:
 - (i) Payment bond - guarantees that if the owner/operator fails to pay for closure and post-closure, the surety company will pay the costs into the standby trust fund.
 - (ii) Performance bond - guarantees that if the owner/operator fails to perform all the required closure and post-closure care activities, the surety company will either perform the required activities or pay sufficient funds into the standby trust fund.
17. Transfer of Special waste landfill/industrial waste landfill Conditional Use Permit - In the event of a change in ownership or controlling interest in a special waste landfill or industrial waste landfill and the transfer of the Permit, any successors and assigns of the original permittee shall comply with the requirements and conditions of such Permit for the duration of operation of a special waste landfill or industrial waste landfill permitted in the county. Within thirty days of such change in ownership or controlling interest of any entity owning a special waste landfill or an industrial waste landfill, the parties to the transaction shall notify the Board of County Commissioners by letter and provide information pursuant to this Ordinance. The letter shall be signed by the authorized representatives or agents of both the original permittee and the entity to which the Permit is being transferred.
18. Definitions specific to special waste/industrial waste landfill requirements
- (a) Landfill facility – the surveyed footprint where waste materials will be disposed together with all other elements of the landfill operation including monitoring wells, leachate storage ponds, landfill cover materials stockpiles, stormwater management ponds, scalehouse, and other structures pertaining to the operation of the proposed special waste or industrial waste landfill.
 - (b) Landfill parcel – the parcel of contiguous property owned by the landfill owner or operator within which the landfill facility is located.

Z. Standards and Requirements for Administrative Review and Approval of Temporary Water Pumping Stations

1. Application shall include a cover letter or paragraph describing the proposed activity
2. The applicant (if applicable) shall have a Certificate of Good Standing from the State of North Dakota
3. The applicant shall have a current Certificate of Liability Insurance
4. Application shall include a description of units or equipment on site
5. Application shall include Landowner's address and contact information
6. Application shall include applicant address and contact information when different from the land use
7. Applicant shall provide verification of a Permit from the State for a Temporary Water Permit
8. Application shall include an aerial view of the site using dunngisworkshop.com or another aerial photo showing section township range information
9. Applicant shall provide Weed and Grass maintenance and control
10. Written Dust Control Plan (if applicable) may be required

AA. Standards and Requirements for Administrative Review and Approval of Agricultural Machine Equipment Sales

1. Applicability and Covered Activities.
 - (a) No agricultural machine equipment sales shall be constructed or operated unless approved on the basis of the administrative review process of this ordinance
 - (b) The provisions of this section apply only to agricultural machine equipment sales as defined in this ordinance
2. Application Requirements – The applicant for a permit to install agricultural machine equipment sales shall submit the following:
 - (a) Site map showing the location of the proposed agricultural machine equipment sales
 - (b) Name and contact information of the owner and operator of the agricultural machine equipment sales business
 - (c) Documentation explaining how access to agricultural machine equipment sales site will be accomplished and maintained with approval of any pertinent landowners
 - (d) Documentation specifying the area and location of the agricultural machine equipment sales site
 - (e) Any additional information considered appropriate by the code administrator for review and approval of the application
3. Conditions for Approval
 - (a) All application requirements are determined to be satisfactory by the code administrator
 - (b) The proposed agricultural machine equipment sales meet the standards established by this ordinance.
 - (c) Documentation of access authorization for access to the agricultural machine equipment sales business site has been provided.
 - (d) The code administrator finds no unusual circumstances that might be cause for further review of the application.
4. Standards and Requirements
 - (a) The agricultural machine equipment sales sites are situated so as to minimize potential conflict with surrounding land uses and reasonably anticipated activities in the vicinity of the business.

- (b) The agricultural machine equipment sales activities do not cause harm to or interfere with pre-existing uses in the vicinity of the business.
- (c) Any structure constructed on the site which may be used for equipment maintenance or business operations will meet state building electrical and plumbing code requirements

BB. Standards and Requirements for Administrative Review and Approval of Upstream Communication Towers

1. Applicability and Covered Activities.
 - (a) No upstream communication tower shall be constructed or operated unless approved on the basis of the administrative review process of this ordinance
 - (b) The provisions of this section apply only to upstream communication towers as defined in this ordinance
2. Application Requirements – The applicant for a permit to install upstream communication towers shall submit the following:
 - (a) Site map showing the location of the proposed upstream communication towers
 - (b) Name and contact information of the owner and operator of the oil and gas well or pipeline facility
 - (c) Documentation explaining how access to installation sites will be accomplished with approval of any pertinent landowners and how future access for maintenance or removal of the towers will be accomplished with approval of any pertinent owners
 - (d) Documentation specifying the footprint and height of the upstream communication towers
 - (e) Any additional information considered appropriate by the Code Administrator for review and approval of the application
3. Conditions for Approval
 - (a) All application requirements are determined to be satisfactory by the Code Administrator
 - (b) The proposed upstream communication towers meet the standards established by this ordinance.
 - (c) Documentation of access authorization for installation and maintenance of the upstream communications towers has been provided.
 - (d) The Code Administrator finds no unusual circumstances that might be cause for further review of the application.
4. Standards and Requirements
 - (a) The upstream communications towers are not more than 40 feet above natural grade at the installation sites.
 - (b) So as to minimize potential conflicts with surrounding land uses, the upstream communications tower sites are situated and protected from potential impacts by reasonably anticipated activities in the vicinity of their installation.
 - (c) The upstream communications towers may not be used for any other communications purposes than monitoring or operating the oil and gas well or pipeline facility of which they are a part.
 - (d) The upstream communications towers do not cause harm to or interfere with pre-existing uses in the vicinity of the towers.

CC. Standards and Requirements for Administrative Review and Approval of Borrow Pits

1. Applicability and Covered Activities.
 - (a) No borrow pit shall be opened or operated unless approved on the basis of the administrative review process of this ordinance
 - (b) The provisions of this section apply only to borrow pits as defined in this ordinance
2. Application Requirements. The applicant for a permit for a borrow pit shall submit the following:
 - (a) North Dakota contractor's license
 - (b) Site map that shows surveyed site boundary and identifies the total acreage to be excavated
 - (c) Reclamation Plan
 - (d) Written evidence of a reclamation agreement binding on the contractor that will open the borrow pit and/or the government agency paying the contractor that authorizes the County and surface owner to enforce the same.
 - (e) Weed Management Plan
 - (f) Truck Hauling/Road Route Plan – a map shall be submitted showing all routes within all counties proposed to be used for hauling the excavated material from the excavation site to the final destination(s).
3. Conditions for Approval. A conditional use permit may not be approved unless the following requirements are met:
 - (a) Haul route and road agreement between contractor, the applicable government agency, and/or the owners of all easements, rights-of-way, and lands utilized to haul mined materials from the pit, whether such easements, rights-of-way, or lands are in Dunn County or not.
 - (b) Weed Management Plan approved by the Dunn County Weed Officer
 - 1) Documentation provided that the site has been inspected for invasive and/or noxious weeds by the County weed Officer before excavation commences. The inspection shall occur at a time determined by the County Weed Officer. The Weed Officer shall provide the applicant with documentation of the inspection.
 - 2) If during the inspection, it is determined that the site is infested with invasive and/or noxious weeds, the applicant shall be required to submit a weed treatment plan that has been reviewed and approved by the County Weed Officer.
 - (c) Bond documentation for at least \$30,000
4. Reclamation Requirements.
 - (a) Reclamation of the site shall be completed within one year of the resource being exhausted, the site being abandoned, or the last calendar month in which mining operations were conducted on at least four days.
 - (b) Reclamation of the site shall be consistent with the reclamation plan approved by the County during the administrative approval process.
 - (c) All top soil shall be replaced.
 - (d) Natural protective vegetation shall be planted and replanted as necessary until the site vegetation is firmly established.
 - (e) There shall be compatibility with the existing surrounding landform with respect to vegetation, slope, surface materials and ground water resources.

DD. Medical Marijuana – The purpose of this subsection pertaining to Medical Marijuana is to provide a regulatory framework for the siting, construction, and operation in Dunn County of “compassion centers” as defined by North Dakota Century Code 19-24.1 which will allow the operation of such facilities while minimizing the impacts of such facilities on the County’s resources, protecting the morals, health, safety and well-being of County residents, and protecting property values. Nothing in this subsection is intended to authorize, legalize, or permit operations that violate any County, State of North Dakota or federal law.

1. Zoning – Compassion centers may be constructed within the county, subject to the restrictions and conditions of this Ordinance and compliance with all applicable State laws, and any additional conditions and requirements which may be established during the review and approval process for a proposed compassion center.
2. Additional Conditions and Requirements – The Planning and Zoning Commission and the Board of County Commissioners may at their discretion require additional standards, requirements and assurances as they may determine appropriate to meet the purpose of this subsection pertaining to compassion centers.
3. Definitions – The following terms shall, in this subsection, have the meaning of such terms as they are defined in the North Dakota Century Code 19-24.1 and the North Dakota Administrative Rules 33-44-01: Compassion Center, Dispensary, Manufacturing Facility
4. Applicability - The requirements of this Ordinance shall apply to all compassion centers located in Dunn County, and to the disposal of waste marijuana plants and substances involved in the development of medical marijuana products as they are allowed under NDCC 19-24.1.
5. Application for Permit – No building permit for any development pertaining to a compassion center may be issued until after said compassion center has received a conditional use permit to operate as a compassion center by the Dunn County Board of County Commissioners and authorization from the North Dakota Department of Health. The prospective permittee shall submit an application for a conditional use permit to the Planning and Zoning Commission. The application shall be signed by an authorized representative of the prospective permittee. An application fee as established by the Board of County Commissioners shall be paid at the time the application is submitted. The application shall include the following information:
 - (a) The complete name, legal address, and phone number of the prospective permittee and responsible contact person.
 - (b) The name, legal address, and phone number of all persons having an ownership interest in the proposed compassion center.
 - (c) Details as to how the prospective permittee will comply with each requirement of this Ordinance.
 - (d) A schedule for the proposed start and completion of construction of the compassion center.
 - (e) A detailed operations plan that includes a description of all products and services to be produced or sold by the facility
 - (f) A detailed security plan.

- (g) A detailed waste management plan that includes all marijuana plants, and substances involved in the development of medical marijuana products as they are allowed under NDCC 19-24.1.
 - (h) The applicant shall sign a notarized affidavit acknowledging applicant understands applicable federal laws and that marijuana is a “controlled substance” under federal law
 - (i) Appropriate financial assurances in accordance with this Ordinance.
 - (j) The applicant shall sign an affidavit certifying that the operation of the facility will comply with all requirements of North Dakota Century Code Chapter 19-24.1 and North Dakota Administrative Code Chapter 33-44.
6. Upon receipt of the application, the Planning and Zoning Commission shall review the application and at such time as the Planning and Zoning Commission may determine that it has sufficient information in hand to consider recommending approval or denial of the application, it shall hold a formal public hearing on the application. Notice of a formal public hearing providing at least fifteen (15) days’ notice prior to the hearing shall be published in the official newspaper of Dunn County and notice by certified mail shall be sent to property owners and known occupants of all land within 1 mile of the proposed compassion center parcel.
 7. Deliberation and Decision - If the Planning and Zoning Commission finds that the prospective permittee will comply with all requirements, it may submit a recommendation for a Conditional Use Permit to the Board of County Commissioners. The Board of County Commissioners shall make all final decisions as to the disposition of the application for a compassion center.
 8. Annual Renewal – An application for a conditional use permit to operate a compassion center must be submitted to the Board of County Commissioners annually for renewal.
 9. Annual Fees – A compassion center shall pay an annual fee to offset the costs of policing, site inspections, monitoring, storage of media, regulation, and any other administration or enforcement activities associated with the compassion center. The Board of County Commissioners shall establish the amount of the annual fee. This fee shall include costs associated with training law enforcement officers in Dunn County to determine the physical signs of drug impairment.
 10. General Requirements for a compassion center functioning as a Dispensary
 - (a) A Dispensary may not be located within 1250 feet of the property boundary of any existing residence except the residence of the owner or operator of the Dispensary. A Dispensary may not be located within 2640 feet of the property boundary of any public or private school, public outdoor recreation facility, public indoor recreation facility, park, church, bar, adult entertainment center, or daycare center.
 - (b) A Dispensary may only be located within a Municipal Development Zone.
 - (c) A Dispensary may not be located within 1250 feet of a residential or commercial zoning district of a municipality located in Dunn County.
 - (d) A Dispensary may operate only between the hours of 8:00 a.m. and 5:00 p.m.
 - (e) A Dispensary must have a security camera system that provides continuous coverage of all spaces within Dispensary structures and that provides continuous coverage of all exterior areas within the site on which the Dispensary is located. The security camera system shall provide a continuous live feed to the applicant’s security personnel, and all

footage of all security cameras shall be recorded. The security camera system shall have a power supply backup system that ensures continuous power to the system will be maintained at all times. The recordings of all security cameras shall be saved for a minimum of 90 days.

- (f) All medical marijuana products and waste products must be locked in a vault or equally secure space whenever the dispensary is not open for business. The construction of a Dispensary shall be designed to prevent theft of any medical marijuana products and waste products.
- (g) All medical marijuana products sold in Dunn County must be packaged in childproof packaging.
- (h) The County sheriff or his designee must be granted entrance to a compassion center at all reasonable times to ensure compliance.
- (i) Where applicable, an eight foot high continuous chain link fence with a lockable gate of similar material shall surround the entire facility. The fence shall be topped with 1 foot long 45 degree angled arms facing both in and out from the fence, each of which is strung with at least three strands of barbed wire. Alternatively, barbed wire may be installed in coils with at least 1 foot height above the chain link fencing. The chain link fence shall be buried at least 1 foot into the ground to reduce the potential for intruders to crawl under the fence.
- (j) The physical design and security system for the facility shall be approved by a licensed private security service or consultant of the applicant.
- (k) Upon approval by the North Dakota Department of Health, an applicant with an approved Conditional Use Permit to operate a compassion care center by Dunn County must submit a copy of the entire application and all documentation of approval by the North Dakota Department of Health to the Dunn County Code Administrator before authorization will be granted to begin construction or operation of said compassion care center.

11. General Requirements for a compassion center functioning as a Manufacturing Facility

- (a) A Manufacturing Facility may not be located within 1250 feet of the property boundary of any existing residence except the residence of the owner or operator of the Manufacturing Facility. A Manufacturing Facility may not be located within 2640 feet of the property boundary of any public or private school, public outdoor recreation facility, church, bar, adult entertainment center, or daycare center.
- (b) A Manufacturing Facility may only be located within a Rural Preservation Zone.
- (c) A Manufacturing Facility may not be located within 1250 feet of a residential or commercial zoning district of a municipality located in Dunn County.
- (d) A Manufacturing Facility must have a security camera system that provides continuous coverage of all spaces within Manufacturing Facility structures and that provides continuous coverage of all exterior areas within the site on which the Manufacturing Facility is located. The security camera system shall provide a continuous live feed to the applicant's security personnel, and all footage of all security cameras shall be recorded. The security camera system shall have a power supply backup system that ensures continuous power to the system will be maintained at all times. The recordings of all

security cameras shall be saved for a minimum of 90 days. Additionally, the Manufacturing Facility shall have on-site security personnel at all times.

- (e) All medical marijuana products and waste products must be locked in a vault or equally secure space except when manufacturing facility staff are producing medical marijuana products. The construction of a Manufacturing Facility shall be designed to prevent theft of any medical marijuana plants, products and waste products.
- (f) All marijuana plants being grown at a manufacturing facility must be identified in accordance with North Dakota Century Code 19-24.1-26.
- (g) The County sheriff or his designee must be granted entrance to a compassion center at all reasonable times to ensure compliance.
- (h) An eight foot high continuous chain link fence with a lockable gate of similar material shall surround the entire facility. The fence shall be topped with 1 foot long 45 degree angled arms facing both in and out from the fence, each of which is strung with at least three strands of barbed wire. Alternatively, barbed wire may be installed in coils with at least 1 foot height above the chain link fencing. The chain link fence shall be buried at least 1 foot into the ground to reduce the potential for intruders to crawl under the fence.
- (i) The physical design and security system for the facility shall be certified by a licensed private security service or consultant of the applicant.
- (j) Upon approval by the North Dakota Department of Health, an applicant with an approved Conditional Use Permit to operate a compassion care center by Dunn County must submit a copy of the entire application and all documentation of approval by the North Dakota Department of Health to the Dunn County Code Administrator before authorization will be granted to begin construction or operation of said compassion care center.

V. SUBDIVISION REGULATIONS

A. Platting Procedures

1. Applicability

- (a) Any division of land for the purpose of sale or development is subject to platting review and approval as established in this section unless it is exempt for one of the following reasons:
 - (1) A division of land which may be ordered or approved by a court or affected by testamentary or intestate provisions;
 - (2) A division of land for use as right-of-way for public facilities which do not involve any new streets or easements of access;
 - (3) A division of land made to correct errors in prior divisions of land pursuant to applicable provisions of the North Dakota Century Code;
 - (4) A division of land into lots, tracts, or parcels of ten acres or more in size for the purpose of agricultural use which does not involve any new streets or easements;
 - (5) A division of land into lots, tracts, parcels in which one lot, tract, or parcel has existing a single family residential dwelling and the other lot(s), tract(s), or parcel(s) is/are also exempt by the previous stated exemptions.

- (b) No building permit or zoning certificate may be issued for construction or a use of land unless the lot, tract, or parcel on which the building or use shall occur is determined to be in conformance with the provisions of this Ordinance.
2. Classification of Procedures
- (a) All divisions of land for the purpose of sale or development (except those declared to be exempt according to Section V.A.1(a)(1) shall be reviewed and considered for approval under one of two classifications:
 - (1) Minor Subdivisions include any subdivision of land which:
 - (i) Involves four or fewer lots
 - (ii) Fronts on an existing platted street or section line road
 - (iii) Does not involve the creation of a new street
 - (iv) Does not involve the creation of any new easements for utilities or stormwater conveyance or other public purposes
 - (v) Does not involve a re-subdivision of a previous plat approved through the minor subdivision review and approval process
 - (vi) Involves 40 acres or more for residential use in the Rural Preservation Zone
 - (vii) Involves land that is part of an approved expansion of an existing Rural Development Zone
 - (viii) Does not adversely affect the remainder of the parcel or adjoining property
 - (ix) Is not in conflict with the Comprehensive Plan or land development regulations
 - (2) Major Subdivisions include any subdivision of land not exempted by a rule of this Ordinance, other than a minor subdivision.
3. Major Subdivision Procedures
- (a) General Procedures – a major subdivision requires a pre-application conference, a preliminary plat, and a final plat
 - (b) Applicants for major subdivisions must attend a pre-application conference with the Code Administrator to discuss the applicant’s plans for development and the County’s guidelines for subdivision approval
 - (c) Preliminary Plat application and approval
 - (1) A preliminary plat application must be submitted to the Code Administrator 40 days before the Planning and Zoning Commission meeting at which a public hearing on the proposed plat will be scheduled
 - (2) Preliminary plat application submission requirements are established by the Code Administrator.
 - (3) The Code Administrator shall consult with all relevant organizations and agencies to determine whether the proposed plat meets the requirements and objectives of this Ordinance and the Dunn County Comprehensive Plan, and shall prepare a report of findings to the Planning and Zoning Commission
 - (4) At the Planning and Zoning Commission public hearing for the preliminary plat application, the Planning and Zoning Commission shall consider the preliminary plat application submitted by the applicant, the report of the Code

Administrator, any relevant information from the public hearing, and shall decide to:

1. Approve the application without conditions,
2. Approve the application with conditions, or
3. Deny the application

- (5) If the application is approved with or without conditions, the applicant must submit a final plat application within one year of the preliminary plat approval or the preliminary plat approval shall be considered null and void

(d) Final Plat application and approval

- (1) An application for final plat approval may include some or all of the land included in the preliminary plat which was approved or approved with conditions by the Planning and Zoning Commission
- (2) Final plat application submission requirements are established by state law, the County Recorder's office, and the Code Administrator.
- (3) Upon approval of a preliminary plat with conditions, an applicant must submit an application for final plat approval to the Code Administrator at least 30 days before the final plat application will be considered by the Board of County Commissioners for final plat approval
- (4) A final plat application must be determined by the Code Administrator to have fulfilled all conditions of conditional preliminary plat approval before it will be placed on the Board of County Commissioners agenda for consideration of final plat approval
- (5) Upon approval of a preliminary plat without conditions, an applicant must submit an application for final plat approval to the Code Administrator at least 22 days before the final plat application will be considered by the Board of County Commissioners for final plat approval
- (6) In determining whether a plat shall be finally approved or disapproved, the Board of County Commissioners shall inquire into the public use and interest proposed to be served by the subdivision. It shall determine if appropriate provisions are made for the public health, safety, and general welfare, and other purposes as enumerated in NDCC 11-33.2-12. The board shall consider all other relevant facts and determine whether the public interest will be served by the subdivision. If it finds that the proposed plat makes appropriate provisions for those reasons enumerated in NDCC 11-33.2-12, and that the public use and interest will be served by the platting of such subdivision, and that the proposed plat complies with the county resolution such plat shall be finally approved with such conditions as the Board of County Commissioners may deem necessary.
- (7) Upon approval of a final plat by the Board of County Commissioners, the applicant shall submit for review to the Code Administrator 2 mylar 24x36 copies of the final plat as reviewed and approved by the Board of County Commissioners bearing the signatures of the property owner, the County Auditor, the Chairman of the Board of County Commissioners, and the Chairman of the Planning and Zoning Commission, and in a format meeting County

Recorder guidelines. The required type of mylar submitted shall be 8 mil Polyprop Water Resistant Brt Wht mylar sheets.

- (8) The applicant shall file the final plat with the County Recorder within 60 days of final plat approval by the Board of County Commissioners or the final plat shall be considered null and void, and the applicant must reapply for final plat approval, unless the applicant shows good cause to the satisfaction of the Board of County Commissioners.

1. Minor Subdivision Procedures

- (a) General Procedures – a minor subdivision requires a pre-application conference and a final plat
- (b) Applicants for minor subdivisions must attend a pre-application conference with the Code Administrator to discuss the applicant’s plans for development and the County’s guidelines for subdivision approval
- (c) Final plat application and approval
 - (1) A final plat application must be submitted to the Code Administrator 40 days before the Planning and Zoning Commission meeting at which a public hearing on the proposed plat will be scheduled
 - (2) Final plat application submission requirements are established by state law, the County Recorder’s office, and the Code Administrator
 - (3) Planning and Zoning Commission shall review final plat applications at a public hearing, and may, at its discretion, deny, approve with conditions, or approve without conditions the application for final plat approval
 - (4) Upon Planning and Zoning Commission approval of a final plat with conditions, an applicant must submit an application for final plat approval to the Code Administrator at least 30 days before the final plat application will be considered by the Board of County Commissioners for final plat approval
 - (5) A final plat application must be determined by the Code Administrator to have fulfilled all conditions of conditional final plat approval before it will be placed on the Board of County Commissioners agenda for consideration of final plat approval
 - (6) Upon approval of a final plat without conditions, an applicant may submit the final plat to the Code Administrator for consideration by the Board of County Commissioners
 - (7) In determining whether a plat shall be finally approved or disapproved, the Board of County Commissioners shall inquire into the public use and interest proposed to be served by the subdivision. It shall determine if appropriate provisions are made for the public health, safety, and general welfare, and other purposes as enumerated in NDCC 11-33.2-12. The board shall consider all other relevant facts and determine whether the public interest will be served by the subdivision. If it finds that the proposed plat makes appropriate provisions for those reasons enumerated in NDCC 11-33.2-12, and that the public use and interest will be served by the platting of such subdivision, and that the proposed plat complies with the county resolution such plat shall be finally approved with such conditions as the Board of County Commissioners may deem necessary.

- (8) Upon approval of a final plat by the Board of County Commissioners, the applicant shall submit for review to the Code Administrator 2 mylar 24x36 copies of the final plat as reviewed and approved by the Board of County Commissioners bearing the signatures of the property owner, the County Auditor, the Chairman of the Board of County Commissioners, and the Chairman of the Planning and Zoning Commission, and in a format meeting County Recorder guidelines. The required type of mylar submitted shall be 8 mil Polyprop Water Resistant Brt Wht mylar sheets.
- (9) The applicant shall file the final plat with the County Recorder within 60 days of final plat approval by the Board of County Commissioners or the final plat shall be considered null and void, and the applicant must reapply for final plat approval, unless the applicant shows good cause to the satisfaction of the Board of County Commissioners.

B. Improvements & Maintenance Assurances

1. Platted roads will not be maintained by the County without separate action by the Board of County Commissioners to accept public road dedications. Therefore, internal platted road systems must have a property owner organization to maintain them. Said organization must be established in form so that upon purchase new owners assume a role in organization.

C. Platting Standards & Requirements

1. Natural Environment
 - (a) The design and development of subdivisions must provide satisfactory building sites, which are properly related to topography, and should, to the extent possible, preserve the natural terrain, natural drainage, topsoil, trees, and other existing vegetation.
2. Lots and Blocks
 - (a) Each lot must contain a satisfactory building site and conform to health department regulations, applicable zoning regulations, and this Ordinance.
 - (b) No lot may be divided by a township, municipal, or county boundary line or a by zoning district boundary.
 - (c) Each lot must abut and have access to a public road or a private street or road. Alleys may not be used to provide the primary access to a lot.
 - (d) Side lot lines must be substantially right angles to street or road lines and radial to curved street or road lines.
 - (e) Lots with frontage on two non-intersecting roads are prohibited except when they are essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation
 - (f) Blocks must be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of topography.
 - (g) Unless impractical, block length must not be more than 1,600 feet.
 - (h) Blocks must be wide enough to allow for two tiers of lots unless a narrower configuration is essential to provide separation of residential development from traffic arteries, or to overcome specific disadvantages of topography or orientation, or unless the governing body approves a design consisting of irregularly shaped blocks indented by cul-de-sacs.

- (i) Rights-of-way for adequate and safe pedestrian access, at least 10 feet wide, must be provided where deemed essential by the planning and zoning commission to provide circulation to schools, playgrounds, shopping, transportation, and other community facilities.
3. Roadways
- (a) All new roadways created by a plat must be designed to handle the internal traffic generated by the platted subdivision.
 - (b) The Code Administrator or the County Road Superintendent may require the preparation of a Traffic Impact Analysis to assist in determining potential traffic volumes and the need for turning lanes, traffic merging lanes, or other improvements to safely allow the movement of estimated traffic off and onto the site.
 - (c) Subdivision street names will be assigned to all streets by a County official designated with this responsibility. This to ensure that street names fit within the rural 911 addressing system and that street names promote clear direction for emergency response.
 - (d) All streets must either be dedicated to the public with the Board of County Commissioners approval or be private streets to be owned and maintained by an approved property owners' association.
 - (e) All streets must have two points of intersection with adjoining streets. No street may have only one outlet.
 - (f) Residential driveways in platted subdivisions must not have a driveway with direct access onto a State Highway. Any vehicular access onto a state highway must be approved by the North Dakota Department of Transportation. Any vehicular access onto a county road must be approved by the County Road Superintendent.
 - (g) Whenever a subdivision abuts an existing highway the governing body may require frontage roads or other treatment as may be necessary to adequately separate arterial and local traffic.
 - (h) Streets without the full right-of-way width for the anticipated roadway are prohibited. When such a situation exists and is adjacent to a tract to be subdivided, the other half of the street must be platted within the new subdivision.
 - (i) Streets must intersect at 90 degree angles wherever possible. Under no circumstances shall the angle of an intersection be less than 60 degrees to the centerline of the roadway being intersected.
 - (j) No more than two streets may intersect at one point.
 - (k) Two streets meeting a third street from opposite sides must be offset at least 125 feet for local roads, and 300 feet for arterial roads and collector roads.
 - (l) Intersections must be designed to provide adequate visibility for traffic safety based on the designed operating speeds of the intersecting roadways.
 - (m) All roadway improvements including pavement, curbs, gutters, sidewalks, and drainage must be constructed in accordance with the specifications and standards approved by the county engineer.
 - (n) Streets and roads must be designed to ensure proper drainage. This may require surface crowning, culverts, curbs and gutters, drainage swales, and storm drains.

- (o) Roadway subgrades must be free of topsoil, sod, vegetation or organic matter, soft clay, and other substandard materials. Subgrades must be properly rolled, shaped, and compacted, and must be approved by the county engineer.
4. Stormwater Management
- (a) The purpose of stormwater management requirements is to encourage appropriate protection of downstream and surrounding property from the effects of increased drainage volumes and rates due to development.
 - (b) Development proposed in FEMA designated flood hazard areas must meet the requirements of this Ordinance pertaining to floodplain management in addition to meeting all the relevant requirements of this subsection of the Ordinance.
 - (c) Stormwater Management Plans are required when five or more lots are proposed to be platted or when 50 or more acres are proposed to be developed.
 - (d) Changes in drainage within a watershed of 80 acres or more must also comply with ND State Water Commission drainage permit requirements.
 - (e) Stormwater Management Plans shall model the pre-development and post-development volume and rate runoff characteristics using the same base land use for both, but modify the post-development scenario based on estimated additional impervious coverage
 - (f) Alternatively, the Stormwater Management Plan may model pre- and post-development volume and rate runoff characteristics using a change in base land use
 - (g) Modeling shall address the both 10-year and 100-year events
 - (h) SCS, ND Regression Equations, or other models approved in the ND Hydrology Manual are appropriate
 - (i) Storms shall be set for 6 hour and 24 hour durations, and rainfall shall be by Atlas 14
 - (j) Stormwater Management Plans shall propose a drainage and retention plan which does not allow any increase in the runoff rate of a 10 year event
 - (k) Ponds or other retention structures shall not overlap on a 100 year event and shall have a minimum of one foot of freeboard
 - (l) Developer shall verify what additional permits may be required such as USACE 404 permit, North Dakota State Water Commission drainage permit or construction permit, and floodplain development permits
 - (m) For any plat which is not required to complete a Stormwater Management Plan, the applicant must provide a topographic map such as a USGS map or map based on a topographic survey which shows the general pattern of existing and proposed drainage for the land being platted. Additionally the applicant shall provide a site plan documenting the general location(s) of development and how stormwater will be directed and controlled on-site so as to manage the increased rate and volume of stormwater which may occur because of the increased hard surface areas or loss of natural stormwater retention or detention properties of the platted area.
 - (n) Construction or development shall not occur prior to submittal and approval of a Stormwater Management Plan or drainage plan. Dunn County reserves the right to require additional measures to prevent additional flow rates or volumes where deemed appropriate by the County Engineer.

- (o) Drainage systems must be designed and certified by a professional engineer licensed in the state of North Dakota.
 - (p) Stormwater management plans must be reviewed and approved by the County Engineer and fees for said review must be paid by the applicant.
5. Utilities
- (a) The applicant must provide adequate and appropriate easements for construction and maintenance of utilities within the subdivision. The applicant must obtain any easements necessary to extend utilities to the subdivision.
 - (b) Utility facilities must be designed by utility firms in cooperation with the applicant. These facilities are subject to all applicable laws, rules, and regulations of the appropriate authorities.
6. Park Land Support Donation
- (a) In the case of residential development, the applicant will donate cash to support the existing county park board. The value of the donation shall be a minimum of \$10,000 up to a maximum of 5% of the purchase price of the land.

D. Information Required On or With Plats

1. Preliminary plat application requirements. The preliminary plat shall cover the entire contiguous area owned or controlled by the applicant if it is less than 120 acres even though only a portion of it is proposed for development at the time. The applicant may be required by the Code Administrator to submit a master development plan if he owns or controls more than twenty contiguous acres of land. Supplemental information about the existing conditions and the surrounding area shall also be submitted as required by the Code Administrator. The applicant shall provide two 24x36 inch paper copies and digital files in CAD and PDF formats of the preliminary plat. The preliminary plat shall include the following:
- (a) The preliminary plat drawn at a scale of not smaller than one inch representing two hundred feet
 - (b) Name and location of the subdivision.
 - (c) Date, graphic scale, and North point.
 - (d) Total acreage within the subdivision and within each proposed lot.
 - (e) A topographic map (major subdivisions) or USGS contour map of the site (minor subdivisions)
 - (f) Such other information as may be required by law.
2. Final plat application requirements – the final plat shall cover the area which is realistically designated for transfer or sale of lots. The applicant shall provide two 24x36 inch paper copies and digital files in CAD and PDF formats of the final plat. The final plat shall conform to all provisions of this Ordinance and conditions set forth by the Board of County Commissioners. The final plat shall include the following:
- (a) Name of subdivision and date of tentative approval by the Board of County Commissioners.
 - (b) Location by section, township and range, or other legal description.
 - (c) Names of owners and surveyor or other professional preparing the plat.
 - (d) Plat map with scale of not smaller than one inch representing one hundred (100) feet.
 - (e) Date, graphic scale, and North point.

- (f) Boundary line of subdivision based on an accurate traverse, showing distances and bearings.
- (g) Exact location, width, and name of all streets within and adjoining the subdivision and the exact location of all alleys and crosswalks.
- (h) True bearing and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat.
- (i) City, township, county, or section lines accurately tied to the boundary lines of the subdivision by bearing and distance.
- (j) Radii, internal angles, points of curvature, tangent bearings, and lengths of all arcs.
- (k) All easements for rights-of-way provided for public services and public utilities.
- (l) All lot numbers and lot lines, with accurate dimensions in feet and hundredths.
- (m) Accurate location of all monuments, which shall be of material and size in accordance with the standards of the city, the county, and the state.
- (n) Accurate outlines and legal descriptions of any areas (not including streets, alleys, or public utility easements) to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for common use of all property owners
- (o) Building setback lines, accurately shown with dimensions.
- (p) Where required by this Ordinance or the Code Administrator, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed
- (q) Building or property covenants (in a separate document)
- (r) Stormwater management plan for major subdivisions (in a separate document)
- (s) Certification by registered surveyor to the effect that the plat represents a survey made by him, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct
- (t) Notarized certification by the owner of the land of the adoption of the plat and the dedication of sewers, water distribution lines, and other improvements and of streets and other public areas.

VI. ADMINISTRATION

- A. Board of County Commissioners** - The Board of County Commissioners has the following responsibilities pertaining to the administration of this Ordinance:
 1. Upon receipt of recommendations from the Planning and Zoning Commission, take action on applications for conditional use permits, land development code text amendments, zoning map amendments, preliminary major subdivision plats, final major and minor subdivision plats, and any other matters allowed by law.
 2. Upon receipt of recommendations from the Planning and Zoning Commission, take action on potential changes to the Dunn County Comprehensive Plan
 3. Appoint members to the Planning and Zoning Commission
 4. Appoint a Code Administrator to manage administrative support for planning functions identified in this Ordinance and such other duties as may be assigned

- B. Planning and Zoning Commission** - The Planning and Zoning Commission has the following responsibilities:
1. Hold hearings and recommend actions pertaining to conditional use permits, land development code text amendments, zoning map amendments, preliminary major subdivision plats, final minor subdivision plats, and any other purposes consistent with the laws of North Dakota
 2. Consider potential changes to the Dunn County Comprehensive Plan, and from time to time hold hearings and recommend potential amendments to the same
 3. Take action on alleged violations of this Ordinance including instituting civil action or referring them to the States Attorney in appropriate cases
- C. Code Administrator** - The Code Administrator has the following responsibilities:
1. Serve as the point of contact for applicants for all permits and approvals required by this Ordinance
 2. Manage the administration and enforcement of this Ordinance
 3. Administer notice of construction and building permits
 4. Decide questions regarding interpretation of the provisions of this Ordinance that have not been decided by the Board of County Commissioners or Planning and Zoning Commission and apply this Ordinance to individual instances.
 5. Refer alleged violations of this Ordinance to the Planning and Zoning Commission
 6. Such other duties as assigned by the Board of County Commissioners
- D. Fees** - The Board of County Commissioners shall establish fees for the administration of this Ordinance and to defray the cost impacts of proposed development in the county.
- E. Procedures for Consideration of Conditional Use Permits, Zoning Map Amendments, and Land Development Code Text Amendments**
1. Application shall be made on forms provided by the Code Administrator, and shall include all supplemental information as required by the Code Administrator or this Ordinance. Such application shall include payment of a fee for said application.
 2. Upon receipt of an application, the Code Administrator shall review the application for completeness and upon determination that the application is complete shall schedule a hearing for the application before the Planning and Zoning Commission
 3. The Code Administrator shall oversee the preparation and publication of a notice of a public hearing by the Planning and Zoning Commission in the official county newspaper, and the Code Administrator shall oversee the mailing of said notice to property owners as required by this Ordinance.
 4. The Code Administrator shall prepare a staff report summarizing the application and identifying issues which may warrant consideration by the Planning and Zoning Commission.
 5. After the conclusion of a public hearing, the Planning and Zoning Commission shall decide whether to recommend approval or denial of the application, or to table its consideration.
 6. After the Planning and Zoning Commission decision, the Code Administrator shall prepare a record of the hearing and decision, and forward the record to the Board of County Commissioners for consideration at a regularly scheduled meeting of the Board of County Commissioners.

F. Application Time Requirements

1. Substantial Completion - Whenever a Conditional Use Permit is approved by the Board of County Commissioners, the applicant shall have 12 months from the date of the approval to substantially complete the development or construction which is allowed by the Conditional Use Permit. The Conditional Use Permit shall be considered null and void if substantial completion does not occur within 12 months. In the case that substantial completion does not occur within 12 months, the applicant must re-apply for a Conditional Use Permit before additional development or construction activities may take place on the site.

G. Procedures for Consideration of Variances

1. A request for variance shall be made on forms provided by the Code Administrator, and shall include all supplemental information as required by the Code Administrator or this Ordinance. Such request for variance shall include payment of a fee for said application.
2. Upon receipt of a request for variance, the Code Administrator shall review the request for completeness, and upon determination that the request is complete shall schedule a hearing for the request at a Board of County Commissioners meeting.
3. A notice of public hearing by the Board of County Commissioners shall be published in the official county newspaper once prior to the hearing.
4. The Code Administrator shall prepare a staff report summarizing the request for variance and identifying issues which may warrant consideration by the Board of County Commissioners.
5. The Board of County Commissioners shall consider the request for variance and may adjust the application or enforcement of any provision of this Ordinance in any specific case when a literal enforcement of such provision would result in great practical difficulties, unnecessary hardship, or injustice, so as to avoid such consequences, provided such action shall not be contrary to the Comprehensive Plan, the public interest, or the general purposes hereof.

H. Implications of Approved Conditional Use Permit

1. A conditional use permit, if granted, is granted for the tract of land for which said CUP application is made, and runs with that tract of land in perpetuity, unless the underlying zoning district no longer allows the conditional use or unless the underlying zoning district changes to one which does not allow the conditional use.
2. In the case where the underlying zoning district no longer allows the conditional use or the underlying zoning district changes to one which does not allow the conditional use, the use becomes a nonconforming use, and intensity of the use cannot be increased.
3. In the case where the use stops for any reason and any length of time, unless underlying zoning district no longer allows the conditional use or unless the underlying zoning district changes to one which does not allow the conditional use, the conditional use may be started again.

I. Procedures for Hearings

1. Notices of hearings by the Planning and Zoning Commission and the Board of County Commissioners shall be published in the legal notice section of the official county newspaper for two consecutive weeks prior to the day of the hearing
2. Notices of hearings shall be mailed 12 or more days prior to the day of the hearing to the property owner of each parcel within 500 feet of the parcel(s) for which a hearing is being

held. Notices of hearings for zoning text amendments shall not require mailing to property owners, but shall require publication of the hearing notice as a display ad in addition to the legal notice section of the paper.

3. Costs for notices of hearings shall be paid by the applicant, and such costs shall include a fee for staff hours spent in preparing the notice and the list of addresses for property owner notification, as well as postage and publication fees
4. Except in cases of bad faith or intentional omission, failure to mail notice to a property owner does not invalidate any decision by the Planning and Zoning Commission or by the Board of County Commissioners if the notice was published in the official county newspaper under Section VI.I.1.
5. The applicant or, if the applicant is a corporation or other business entity with authority to do business in North Dakota, a principal of the applicant shall be personally present at the hearing. The applicant may be accompanied by legal or other representation. If an applicant fails to appear in person at a hearing, the Planning and Zoning Commission or Board of County Commissioners shall, in its discretion, either postpone the hearing or deny the application.

J. Application Waiting Period - If any application is submitted to the County for approval, and is denied by the Board of County Commissioners, the applicant must wait at least 120 days from the date of denial before re-applying for any approval relating to the same site.

K. Enforcement and Penalties for Violation

1. The Code Administrator shall inspect for violations of this Ordinance (including, without limitation, failure to comply with any of its requirements and violations of conditions and safeguards established in connection with grants of variances or conditional uses) and shall investigate reports of such violations. When the Code Administrator determines that a violation has occurred, the Code Administrator shall give written notice to the owner or occupant of the property that a violation has occurred and order that the violation be abated and the property, structure, or use be brought into compliance with this Ordinance. A reasonable amount of time, but no less than five (5) days nor more than forty-five (45) days, must be allowed for compliance.
2. If, upon expiration of the time allowed by the Code Administrator after written notice to abate the violation, the violation continues, such violation shall be deemed a violation of NDCC 11-33-21 and may be prosecuted as maintaining a public nuisance, a class B misdemeanor as defined by the North Dakota Century Code. Each day such violation continues shall be considered a separate offense.
3. In addition to criminal prosecution, the County shall, upon expiration of the time allowed by the Code Administrator after written notice to abate the violation, have the option to seek civil relief from the district court, including but not limited to injunctive relief to abate the violation, damages for the cost of abating the violation, and attorney fees and costs incurred in pursuing such relief.
4. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

5. Nothing herein shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation.

L. Procedures for Administrative Review and Approval

1. A request for administrative review and approval, for any use identified in Table 1 as a use where administrative review and approval is allowed, shall be made on forms provided by the Code Administrator, and shall include all supplemental information as required by the Code Administrator or this Ordinance. Such request for administrative review and approval shall include payment of a fee for said application.
2. If an applicant receives a new Temporary Water Permit from the State, the applicant must apply for a new permit from Dunn County
3. Upon receipt of a request for administrative review and approval, the Code Administrator shall review the request for completeness, and upon determination that the request is complete evaluate the application based on standards and requirements set forth in this Ordinance.
4. If the Code Administrator finds that the application meets all standards and requirements for said use, the Code Administrator may approve the application. If the Code Administrator finds that the application does not meet all standards and requirements for said use, the application shall be denied.
5. The Code Administrator shall prepare a staff report summarizing the request for administrative review and approval, and shall document the reasons for the decision made.
6. If an application was denied by the Codes Administrator, the applicant may choose to submit a standard application for said use for review by the Planning and Zoning Commission may choose to submit the application for consideration by the Planning and Zoning Commission. If the Planning and Zoning Commission finds the application does not meet all standards and requirements for said use, the Planning and Zoning Commission shall deny the application.
7. Although Administrative Review and Approval will require a much shorter time than a conditional use permit, the Code Administrator may take up to two weeks to review and approve the permit.