

## ZONING REGULATIONS

### FRESHWATER TOWNSHIP, RAMSEY COUNTY, NORTH DAKOTA

#### ARTICLE I. TITLE AND PURPOSE

##### Section 1. Title

These regulations shall be known and may be cited as the "Zoning Regulations of Freshwater Township, Ramsey County, North Dakota".

##### Section 2. Purpose

The regulations and restrictions established herein have been made in accordance with a comprehensive plan, which plan is designed to:

Lessen congestion in the streets;

Secure safety from fire, panic, and other dangers;

Promote health and general welfare;

Provide adequate light and air;

Prevent the overcrowding of land;

Avoid undue concentration of population; and

Facilitate adequate provisions for transportation, water, sewage, schools, parks, and other public requirements.

And such regulations have further been made with reasonable consideration as to the character of each district and its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the township.

#### ARTICLE II. AUTHORIZATION, INTERPRETATION AND VALIDITY

##### Section 1. Authorization

The Zoning Regulations and Map of Freshwater Township, Ramsey County, North Dakota are authorized by Chapter 58-03 of the North Dakota

Century Code and are hereby declared to be in accordance with all provisions of the Code.

## Section 2. Interpretation

The provisions of these regulations shall be held to be minimum requirements adopted for the promotion of purposes stated herein. Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

## Section 3. Validity

If any article, section, subsection, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions.

## ARTICLE III. DEFINITIONS

### Section 1. General

For the purpose of these regulations, certain words and terms are hereby defined as follows;

Words used in the present tense include the future; words used in the singular number include the plural, and words used in the plural include the singular; the word "building" includes the word "structure" and "structure" includes "building"; the word "shall" is mandatory and not directory. The words "used" or "occupied" shall include within their meaning, "intended, arranged or designed to be used or occupied". The word "person" shall include a corporation, partnership or other legal entity.

Any terms not defined herein shall be construed as defined in the ordinary, or dictionary meaning.

## Section 2. Words and Phrases

Accessory Buildings and Uses. A subordinate building or portion of the main building, the use of which is incidental to that of the main building or to the main use of the premises. An accessory use is one which is incidental to the main use of the premise.

Alley. A public or private thoroughfare which affords only a secondary means of access to property abutting thereon.

Apartment. A room or suite of rooms in a multiple dwelling used or designed for occupancy by a single family.

Basement. A story having part, but not more than one-half (1/2) of its height below grade. A basement is counted as a story for the purposes of height regulations if subdivided and used for dwelling purposes other than by a janitor employed on the premises.

Boarding House. See Lodging House.

Building. Any structure designed or intended for support, enclosure, shelter or protection of persons, animals, chattels, or property.

Building Area. That portion of the lot that can be occupied by the principal use, excluding the front, rear and side yards.

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

Building Line.

That edge of a building nearest a lot line, including any overhang.

Inspecting Officer. The inspecting officer of Freshwater Township Planning-Zoning Commission.

Cellar. A story having more than one half (1/2) of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

District. A section or sections of Freshwater Township for which regulations governing the use of buildings and premises, the height of buildings, the size of yards, and the intensity of use are uniform.

Dwelling. Any building or portion thereof which is designed and used exclusively for residential purposes.

Dwelling, Single Family. A building having accommodations for and occupied exclusively by one family.

Dwelling, Two Family. A building having accommodations for and occupied exclusively by two families.

Dwelling, Multiple. A single building designed for and occupied exclusively by more than two families.

Dwelling Unit. One of more rooms in a dwelling designed for occupancy by only one family unit.

Family. One of more persons occupying a dwelling unit as members of a single housekeeping organization.

Feed Lot. A parcel of land whereon there is contained an operation of feeding or raising animals in excess of 500 head per parcel of land.

Floor Area. The total number of square feet of floor space within the exterior walls of a building, not including space in

cellars, basements, carports or garages.

Frontage. All property on one side of a street between two intersecting streets (crossing or terminating) measured along the property line of the street, or if the street is dead ended, then all property abutting on one side between an intersecting street and the dead end of the street.

Garage. Private. An accessory building or portion of a main building designed or used for the storage of not more than four vehicles and used by the occupants of the building to which it is an accessory.

Garage. Public. A building or portion thereof, other than a private or storage garage, designed or used for equipping, repairing, hiring, servicing, selling, or storage of vehicles.

Garage. Storage. A building or portion thereof, designed or used exclusively for housing more than four vehicles.

Home Occupation. Any occupation or activity carried on in a dwelling by a member or members of the immediate family residing therein. Home occupation shall include the use of a dwelling as an office by a doctor, dentist, lawyer, clergyman, or other person residing therein and not employing more than one person outside the immediate family residing therein. In connection with a home occupation, no sign or display other than a name plate not more than two square feet in area shall be used to indicate from the exterior that the building is being utilized in part for any purpose other than that of a dwelling. No commodity shall be sold in connection with the home occupation except that which is prepared in the dwelling or except that which is furnished in connection with services therein. No mechanical equip-

ment shall be used in connection with the home occupation which shall be objectionable to the surrounding residential district and any equipment permitted in this section shall be properly protected or grounded as necessary.

Hotel or Motel. A building used as a transient abiding place for persons that are lodged for compensation.

Institutions. A building occupied by a non-profit corporation or non-profit establishment for public use,

Lodging House. A building or place where lodging or lodging and boarding is provided (or equipped to provide lodging regularly) by pre-arrangement for definite periods of time, for compensation, for three or more persons in contra-distinction to hotels open to transients.

Lot or Parcel. A piece, plot, or areas of land, or contiguous assemblage as established by survey, plat, or deed, occupied or to be occupied by a building, or a unit group of buildings, and/or accessory buildings thereto or for other use, together with such open spaces as may be required under these regulations and having its frontage on a street or officially approved place.

Lot Area. The legal area within the lot lines.

Lot. Corner. A lot abutting upon two or more streets at their interesection.

Lot. Depth Of. The mean horizontal distance between the front and rear lot lines.

Lot Double Frontage. A Lot having a frontage on two intersecting streets, as distinguished from a corner lot.

Lot. Of Record. A lot which is a part of a subdivision, the plat of which has been recorded in the Office of the Register of Deeds of Ramsey County, North Dakota, or a parcel of land, the deed to which was recorded in the Office of the Register of Deeds of Ramsey County, North Dakota, prior to the adoption of these regulations.

Mobile Home. A single or multi family residential unit which is designed to be transported and can support long term occupancy and requires only minor work after arrival on the site prior to occupancy, in contra-distinction to a prefabricated living unit designed to become a structure.

Mobile Home Park, A parcel of land where one or more trailers can be or are intended to be parked to be used as a living unit for one or more families.

Non-conforming Uses. Any building or land lawfully occupied by a use at the time of passage of these regulations or amendment thereto, which does not conform after the passage of these regulations or amendment thereto with the use regulations of the district in which it is situated.

Nursing Home or Convalescent Home. A home for the aged or infirmed in which three or more persons not of the immediate family are received and provided with food, shelter or care for compensation.

Parking Space. An area, enclosed or unenclosed, sufficient in size to store one automobile, together with a driveway connecting the parking space with a street or alley and permitting ingress and egress of an automobile.

Planned Unit Development (Residential). A grouping of buildings on a site of three or more acres in single ownership which is not limited by the yard or height limitations of the district but maintain the overall density or intensity of uses required, and where the owner submits a site plan of uses, arrangement distances between buildings and circulation for approval by the Freshwater Township Planning-Zoning Commission.

Freshwater Township Planning-Zoning Commission. The Freshwater Township Planning-Zoning Commission.

Premises. A lot, together with all buildings and structures thereon.

Set Back. See Yard, Front.

Service (Filling) Stations. Any building or premises where automotive fuels are stored above ground and made available for sale and dispensing, through fixed equipment into fuel tanks of motor vehicles and where automotive lubricants, supplies and accessories and related services to motorists may or may not be available except that if the sale and dispensing of automotive fuels is incident to the conduct of a public garage, the premises are classified as a public garage.

Signs. Any outdoor advertising having a permanent location on the ground, or attached to or painted on a building, including bulletin boards, billboard, and poster boards, or any device designed to inform or attract attention.

Story. That portion of a building, other than a cellar, included between the surface of the floor and the surface of the floor



next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Story. Half. A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than 60% of the floor area is or may be finished off for use.

Street. Any thoroughfare or public space which has been dedicated to, and accepted by, the public for public use, and includes all the area between the right-of-way side lines.

Street Line. A dividing line, such as the right-of-way side line, between a lot, tract, or parcel of land and a contiguous street.

Structure. Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts and arbors or breeze-ways, but excepting utility poles, fences, retaining walls and ornamental light fixtures.

Structural Alterations. Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girder, or any complete rebuilding of the roof or exterior walls.

Trailers. See Mobile Home.

Trailer Park. See Mobile Home Park.

Variance. The relaxation of the terms of the Zoning Regulations in relation to height, area, size, and open spaces where specific physical conditions, unique to the site, would create an unreasonable hardship in the development of the site for permitted uses.

Yard. An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of side yard, the depth of a front yard or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard. Front. A yard extending across the front of a lot between the side lot lines and extending from the front lot line to the front to the front of the main building or any projections thereof.

Yard. Rear. A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the main building including any projections. On interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard. In the case of through lots and corner lots there will be no rear yards, but only front and side yards.

Yard. Side. A yard extending from the front yard to the rear yard and being the space between the side lot line and the side of the main building including any projections.

#### ARTICLE IV. DISTRICTS AND BOUNDARIES THEREOF

##### Section 1. Districts.

In order to regulate and restrict the use of land and buildings and to accomplish the purposes stated herein, Frehswater Township, Ramsey County, North Dakota, and the area beyond and adjacent to the limits thereof is hereby divided, as shown on the Zone Map, into five (5)

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FRESHWATER TOWNSHIP ZONING MAP

D. Replacement. In the event that the official zoning map becomes damaged, lost, or difficult to read or interpret because of the number or nature of the changes thereto, a new official zoning map shall be prepared by the Inspecting Officer, and shall be approved for certification by the Township Board, and signed by the Township Chairman and certified as the official zoning map by the Township Clerk.

E. Boundaries. In determining the boundaries of zone districts shown on the map, the following rules shall apply.

- (1) Unless otherwise indicated, the zone boundaries are the centerlines of rights-of-way for streets, roads, highways, alleys, channelized waterways and rail-roads or such lines extended:
- (2) In unsubdivided property, zone boundaries shall be determined by use of the scale of the map. A legal description acceptable to the Planning Commission shall be made available if a controversy arises concerning some district boundaries.
- (3) Where a district boundary is shown by a specific dimension as being located at any given distance from any right-of-way line, such specific dimensions shall govern.

### Section 3. Vacations.

Whenever any street, alley, or other public way is vacated by official action of the Board of Township Commissioners, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area

included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended district.

ARTICLE V. GENERAL DISTRICT REGULATIONS

A. No building shall be erected, converted, enlarged, placed, or reconstructed, nor shall any building or land be used except for a purpose permitted in the district in which the building or land is located.

B. No building shall be erected, converted, enlarged, placed, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located.

C. No building shall be erected, converted, enlarged, placed, reconstructed or structurally altered except in conformity with the area and parking regulations of the district in which the building is located.

D. The minimum yards and open spaces, including lot area per family, required by these regulations for each and every building at the time of the passage of these regulations or for any building hereafter erected shall not be encroached upon or considered as a yard or open space requirements for any other buildings, nor shall any lot area be reduced beyond the district requirements of these regulations.

E. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one main building on one lot except as otherwise provided herein.

F. The listing of any use as being permitted in any particular district shall be deemed to be an exception of such use from any other

district, unless such use is specifically permitted in another district under the language set forth in the use regulations.

## ARTICLE VI. R-1. SINGLE FAMILY RESIDENTIAL DISTRICT REGULATIONS

### Section 1. General

The regulations set forth in this article, or set forth elsewhere in these regulations when referred to in this Article are the District Regulations in the R-1, Single Family Residential District.

### Section 2. Use Regulations

A building or premises shall be used only for the following purposes:

A. Dwellings-single family.

B. Churches, provided that each church is set back thirty (30) feet from side lot lines. Each church shall be situated on a lot of at least one-half (1/2) acre.

C. Public buildings, parks, playgrounds and other public recreational facility.

D. Public Schools, elementary and high and private educational institutions having a curriculum the same as ordinarily given in public schools.

E. Colleges.

F. Home occupations, provided that not more than twenty five (25) percent of the dwelling is used for such purposes.

G. Nursing homes and hospitals but not including sanitariums for contagious or infectious diseases or mental institutions.

H. Golf Courses but not including miniature courses or driving ranges operated for commercial purposes, and provided buildings and

structures incidental to the course are located not less than three hundred (300) feet from the nearest residence.

I. Electric substations and gas regulator stations provided:

- (1) For each electric substation where transformers are exposed there shall be an enclosing fence at least six (6) feet high.
- (2) A front yard of not less than thirty (30) feet.
- (3) The height requirements may be exceeded provided that for each additional one (1) foot of height an additional one (1) foot of front, rear and side yard shall be required.

J. Fire Station.

K. Police Station.

L. Telephone exchange, without shops, garages or general administrative offices.

M. Water reservoirs, water storage tanks, water pumping stations and sewer lift stations. For each instance the water and/or sanitation district shall provide plot plans showing the proposed installation and its relationship to any nearby property. The Freshwater Township Planning-Zoning Commission shall prescribe conditions as to setbacks, etc., for each installation so as to protect adjacent properties.

N. Buildings and uses other than academic buildings independent of or incidental to the administration and operation of elementary, high and parochial schools. The Freshwater Township Planning-Zoning Commission shall prescribe conditions for each installation in order to protect adjacent properties.

O. Accessory building and uses customarily incident to the



permitted uses of this district.

P. Signs for permitted uses as required by Section 3, Article XVI.

### Section 3. Parking Regulations

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Section 2.

### Section 4. Height Regulations.

Except as provided in Section 4, Article XVI the height regulations are as follows:

A. No dwelling shall exceed two and one-half (2-1/2) stories or thirty-five (35) feet.

B. No other structure shall exceed three (3) stories or forty-five (45) feet.

### Section 5. Area Regulations

Subject to the modifications set forth in Section 4, Article XVI the area regulations are as follows:

A. Minimum Floor Area. There shall be a minimum floor area of one thousand (1000) square feet per dwelling.

B. Minimum Lot Area. A lot upon which there is erected a dwelling shall contain not less than forty thousand (40,000) square feet, if not served by rural water or sewer. A lot shall contain not less than twenty thousand (20,000) square feet if served by rural water or sewer.

C. Minimum Lot Frontage. There shall be a lot frontage of not less than fifty (50) feet.

D. Minimum Front Yard. Measured from the front property line there shall be a front yard of not less than twenty (20) feet within

the incorporated city and fifty (50) feet in unincorporated areas of the planning area.

E. Minimum Rear Yard. Measured from the rear property line there shall be a rear yard of not less than twenty (20) feet.

F. Minimum Side Yards. Measured from the side property lines there shall be side yards of not less than ten (10) feet on each side of a lot.

ARTICLE VII. A-1. Agricultural General (all areas not otherwise designated)

Section 1. General

The regulations set forth in this article, or set forth elsewhere in these regulations when referred to in this article, are the District Regulations in the A-1, Agricultural District.

Section 2. Use Regulations

A building or premises shall be used only for the following purposes:

A. General farming and dairying, including any of the normal incidents of farming.

B. Churches, provided they are set back thirty (30) feet from side lot lines and each church is situated on at least one (1) acre of ground.

C. Dwelling- single family.

D. Golf course, provided buildings and structures incidental to the course are located not less than three hundred (300) feet from the nearest residence.

E. Home occupations, provided that not more than twenty five

(25) percent of the dwelling is used for such purposes.

F. Library, provided the structure is set back thirty (30) feet from the side lot lines.

G. Non-profit making public park or recreational grounds, provided that the buildings or other structures incidental to the operation of the parks and recreational grounds may not be located closer than one hundred (100) feet from the nearest dwelling.

H. Schools, public and parochial, provided that all structures and buildings are set back not less than fifty (50) feet from side lot lines.

I. Electric substations and gas regulator stations provided:

(1) For each electric substation where transformers are exposed there shall be an enclosing fence at least six (6) feet high.

(2) The height requirements may be exceeded provided that for each additional one (1) foot of height an additional one (1) foot of front, rear and side yard shall be required.

J. Fire station.

K. Police station.

L. Telephone exchange; without shops, garages or general administrative offices.

M. Private outdoor recreational grounds or waters; provided such use is operated for the benefit of members and not for gain, (not including a private club which provides a service customarily carried on as a business). Incidental buildings shall not be closer than three hundred (300) feet from the nearest residence.

N. Water reservoirs, water storage tanks, water pumping stations and sewer lift stations. For each instance the water and/or sanitation district shall provide plot plans showing the proposed installation and its relationship to any nearby property. The Board shall prescribe the conditions as to setbacks, etc., for each installation so as to protect adjacent properties.

O. Buildings and uses other than academic buildings independent of or incidental to the administration and operation of elementary, high or parochial schools. The Board shall prescribe conditions as to setbacks, etc., for each installation so as to protect adjacent properties.

P. Riding academies, public stables and dog kennels, provided

(1) Riding academies and public stables are situated on at least one (1) acre of ground, and manure handled according to Health Department Regulations.

(2) Dog kennels are situated on at least one-half (1/2) acre of ground.

Q. Storage of agricultural products, and manure handled according to Health Department regulations.

R. Processing of agricultural products provided.

(1) All uses shall be regulated by the State Pollution Regulation. (Regulation # 82.)

(2) There are side yards of not less than fifty (50) feet.

(3) There is a rear yard of not less than fifty (50) feet.

S. Greenhouses and nurseries, and manure handled according to Health Department Regulations.

T. Fish hatcheries.

U. The growing and preservation of trees, provided that storage of manure shall not be permitted nearer than one hundred fifty (150) feet to any lot line.

V. Roadside stands for seasonal sale of farm products.

W. Radio or television towers, provided they are situated on a lot which is equal in width and depth to the tower height.

X. Fur farming.

Y. Stock raising, but not including feed lots.

Z. Accessory buildings and uses customarily incident to the uses permitted in this district.

AA. Signs for permitted uses as required by Section 3. Article XVI.

### Section 3. Conditional Uses

A. Livestock sales rings provided:

- (1) Auctioning of farm implements shall be conducted as a secondary "service" or "convenience" to the livestock auction and shall, in no manner, be conducted for the sale of general household wares, appliances or furniture, or miscellaneous items or junk.
- (2) Parking or storage area for farm implements must be screened and enclosed by a chain link fence at least six (6) feet high. No piece of farm equipment shall remain on the premises for more than fifteen (15) consecutive days except for machinery used for maintenance of the livestock sales ring and premises.
- (3) All corrals, or pens for live animals shall be placed at least two hundred (200) feet from any public street or public road and shall be at the rear of main buildings.
- (4) The area shall include adequate off-street parking for vehicles and shall be designed to provide adequate space for the loading and unloading of trucks.
- (5) Livestock sales rings shall not be operated in any

- way to become a public nuisance or affect public health.
- (6) No unusual amount of odor or noise disseminated beyond the boundaries of the lot on which the use is located shall be permitted.
  - (7) No more than ten (10) percent of the total number of animals present for sale at any one auction shall be kept on the premises for more than ten (10) consecutive days preceding or following each auction.
  - (8) The special permit for operation of a livestock auction ring, as provided in these regulations, shall be revoked, if inspection by the Freshwater Township Planning-Zoning Commission or its representatives reveals that the feeding and keeping of animals, as in the manner of a feed lot, is the primary use of the premises
  - (9) Storage of manure according to Health Department regulations.
  - (10) Use of building or structure for restaurant or "coffee shop" purposes shall be permitted during the days of the sale only. Structures used for such purposes shall be subject to all regulations of the Freshwater Township Building Code and State Laboratories Department.
  - (11) When the application for livestock auction-rings is filed with the Freshwater Township Planning-Zoning Commission, the applicant shall present a plan showing the proposed development. The plan shall include the following:
    - (a) Topographic map showing two (2) foot contour intervals for existing and proposed contours.
    - (b) Drainage plan showing method of handling drainage

problems including storm sewer drainage location.

- (c) Location of existing utilities and proposed utility extensions.
- (d) Letters of commitment or intent from the utility companies concerning satisfactory water and sanitary sewer service, or from the State Health Dept. concerning satisfactory sewage facilities.
- (e) Plat showing dimensions and locations of all structures, existing or proposed, on the tract of land.
- (f) Parking plan defining off street parking areas. Such plan subject to the provisions of these regulations.
- (g) Driveway plan indicating all interior driveways, curb cuts and areas for truck maneuverings.

C. Animal feed lots shall be allowed provided they meet the following requirements:

- (1) No unusual amount of odor or noise shall be disseminated beyond the boundaries of the premises on which the use is located, thereby creating a nuisance or hazard.
- (2) All corrals, pens and buildings shall be located at least one hundred fifty (150) feet from any lot line.
- (3) When the application for feed lot is filed with the Freshwater Township Planning-Zoning Commission the applicant shall present a plan showing the proposed development. The following shall be included:
  - (a) Topographic map showing two (2) foot contours for existing and proposed contours.
  - (b) Drainage plan.

- (c) Letters of commitment of intent from the utility companies concerning satisfactory water and sanitary sewer service or from the State Health Department concerning satisfactory water and sewage facilities.
- (d) Location of existing utilities and proposed extensions.
- (e) Plat showing dimensions and locations of all structures, existing or proposed on the land tract.
- (f) Driveway plan indicatinag all interior driveways, curb cuts and areas for maneuvering trucks.
- (g) Parking and loading plan defining off-street parking and loading areas. Such plan subject to Section 2, Article XV of these regulations.
- (h) Petition signed by at least seveny-five (75) percent of the property owners within a two (2) mile radius of the site of the proposed feed lot.
- (i) All plans, plot plans and ppetitions as required to submitted to the Freshwater Township Planning-Zoning Commission.

- (4) Storage of manure shall be in accordance with State Health Department Regulations.

D. Rock Crushers, concrete and asphalt mixing plants, sand and gravel pits or any other such excavation shall be allowed provided they meet the following requirements:

- (1) When the application is filed, the applicant shall provide a plan showing the land proposed for excavation. The plan shall show the existing and proposed contours of the land on at least five (5) foot contour intervals.



any improvements thereon and to a distance of three hundred (300) feet in all directions of the subject.

- (2) The applicant shall also provide a plan showing the contemplated changed condition of the land due to excavation. Plan must include the contemplated re-use of the land, what curing of the land is planned and the proposed final contours on at least five (5) foot intervals,
- (3) No excavation or processing of excavated materials shall be permitted nearer than thirty (30) feet to the boundary of adjacent property nor nearer than one hundred twenty-five (125) feet to any existing residence, unless by written agreement, the owner(s) of adjacent property consent to a lesser distance and such distance approved by the Freshwater Township Planning-Zoning Commission. The Commission may set a greater distance than above mentioned, when in their opinion it is justified.
- (5) The Freshwater Township Planning-Zoning Commission shall specify the degree of slopes of banks for all excavations, the depth of and the distance from any public structure when excavations are made in or near stream beds. When excavations are near or adjacent to irrigation canals or ditches, the applicant shall secure a written agreement from the officials responsible for the canals or ditches as to setbacks from public rights-of-way when excavation is contemplated near such rights-of-way.
- (5) Sand and gravel shall be excavated in such a manner as to leave an average of two (2) feet of undisturbed sand

or gravel, as evenly as possible, over the entire excavation tract, to provide a water bearing strata for any existinag ground water, and more if the Freshwater Township Planning-Zoning Commission deems it necessary.

- (6) After an excavation has been completed, the operator shall spread evenly over the bottom of the excavation the excess waste materials. He then shall spread evenly the topsoil to a minimum depth of eighteen (18) inches. The topsoil shall be spread last so as to produce a new surface for growing crops, trees, shrubs, etc. Operations shall be conducted in such a manner that excavated areas will not collect or permit stagnant water to remain therein.
- (7) An excavation operation shall maintain haulage road within the premises covered by the permit and such roads shall be kept in a reasonably dust-free condition when said dust would be injurious to bordering premises. The Freshwater Township Planning-Zoning Commission shall specify the conditions in each instance to insure this requirement. The hour of operation, unless otherwise specified by the Commission, shall be from 6:00 a.m. to 10:00 p.m., or unless special permission is granted by the Freshwater Township Planning-Zoning Commission.
- (8) Rock crushers, concete and asphalt mixing plants may be permitted providing the Freshwater Township Planning-Zoning Commission finds that the following facts prevail:
  - (a) The use is accessory to the sand and gravel operation, and

- (b) in the finished product the operator uses the product of the sand and gravel pit on which the operation is proposed. The Freshwater Township Planning-Zoning Commission may set out additional conditions under which these operations may be permitted and the said conditions may vary by location due to abutting land uses.
- (9) The operator of any excavation shall post a bond in the form prescribed by the Freshwater Township Planning-Zoning Commission in a sum equal to the number of acres covered by the permit multiplied by five hundred (500) dollars, to insure full compliance with all of the terms and conditions of the permit and the rules and regulations of the Freshwater Township Planning-Zoning Commission pertaining to extraction and processing. The minimum amount of such bond shall be \$1000.00 and the maximum amount, \$25,000. The Freshwater Township Planning-Zoning Commission shall have the power and authority to provide for an alternative method of indemnifying the township in lieu of the posting of the bond herein mentioned.
- (10) The operator shall furnish evidence that he is insured to the extent of not less than \$50,000 against liability for any negligent act or omission arising from the operation or maintenance of an excavation and all activities

connected with or incident thereto.

- (11) Prior to the granting of a permit the property shall be posted for a period of thirty (30) days. This posting shall consist of a sign or signs, the number of which shall be determined by the inspecting officer of a size three (3) feet by four (4) feet above grade, with lettering not less than two (2) inches in size, placed in conspicuous locations visible from the public rights-of-way.
- (12) At least fifteen (15) days prior to the hearing the inspecting officer shall, by registered mail, send notice of the hearing to all property owners within one-half (1/2) mile of the proposed excavation.
- (13) To defray the cost of posting the property, and determining property owners to whom notices must be sent, there shall be collected a fee of fifty (50) dollars.
- (14) Upon the granting of a permit by the Freshwater Township Planning-Zoning Commission the following fee schedule shall apply:
- |  |          |
|--|----------|
| More than one acre to and including two acres    | \$300.00 |
| More than two acres to and including three acres | 400.00   |

More than three acres to and including four acres	500.00
More than four acres to and including five acres	600.00
More than five acres to and including ten acres	1000.00
In addition, land in excess of ten acres (per acre)	25.00

The above fee schedule shall apply to each individual ownership of land which is included in the operation.

- (15) All permits shall be in full force for a period of five (5) years from the date of issuance thereof unless a shorter time is set by the Freshwater Township Planning-Zoning Commission. Such temporary permits may be renewable by the Planning-Zoning Commission for the same period of time or less, without further notice, hearing or posting of the property involved provided, however, that the operator has complied with all the terms and conditions of the original permit. A renewal of a permit shall be construed as a new permit with respect to fees.

- (16) The Freshwater Township Planning-Zoning

Commission shall have the power to cancel permits upon proof of violation of any of these regulations.

- (17) Rock Crushers, concrete and asphalt mixing plants, sand and gravel operations or any other such excavations which are temporary operations six (6) months or less; shall not be subject to any of the regulations of this section, except, they shall be required to obtain a permit from the Freshwater Township Planning-Zoning Commission,

E. Airports and landing strips approved by the Freshwater Planning-Zoning Commission.

#### Section 4. Parking Regulations

Off-street parking spaces shall be provided in accordance with the requirements for specific uses set forth in Section 2, Article XVI.

#### Section 5. Height Regulations

There shall be no height requirements except as may be set forth for airports.

#### Section 6. Area Regulations

Subject to the modifications set forth in Section 4, Article XVI, the area regulations are as follows:

A. Minimum Floor Area. There shall be a minimum floor area of eight hundred (800) square feet per dwelling, not

including basements, cellars, garages or carports.

B. Minimum Lot Area. A lot upon which there is erected a dwelling shall contain an area of not less than one (1) acre.

C. Minimum Lot Frontage. There shall be a minimum lot frontage of not less than one hundred twenty-five (125) feet per dwelling and two hundred (200) feet for other principal structures.

D. Minimum Front Yard. Measured from the front property line there shall be a front yard of not less than fifty (50) feet for all principal structures.

E. Minimum Rear Yard. Measured from the rear property line every principal structure shall have a rear yard of not less than twenty-five (25) percent of the depth of the lot and for every accessory building there shall be a rear yard of not less than ten (10) feet.

F. Minimum Side Yard. Measured from the side property lines there shall be side yards of not less than fifteen (15) feet on each side of the lot.

## ARTICLE VIII. MOBILE HOMES IN RESIDENTIAL DISTRICTS REGULATIONS

### Section 1. General

Mobile home and trailer areas consisting of any premises where one or more mobile homes or trailer coaches are parked for living or sleeping purposes, or any premise used or set apart

for supplying transient parking space for one or more trailer coaches for living or sleeping purposes, and which includes any structures, vehicles or enclosures used or intended for use as part of the equipment of such trailer court or camp; not including a trailer sales area or any other commercial establishment, is a mobile home residential district.

## Section 2. Use Regulations.

A building or premises shall be used only for the following purposes:

- A. Mobile homes.
- B. Accessory buildings and uses incidental to and in conformance with the above use.
- C. Schools, public and parochial, provided that all structures and buildings are set back not less than fifty (50) feet from side lot lines and one hundred fifty (150) feet from front property lines.
- D. Churches, provided they are set back thirty (30) feet from side lot lines.

E. Signs for permitted use as required by Section 3, Article XVI.

## Section 3. Design Requirements

The mobile home residential district may be created upon petition for an amendment to the zone map. When petitioning for this zone change there shall be provided a plot plan by a registered engineer, architect, or qualified planner, complete in detail, meeting and showing the following requirements:

- A. The minimum free-standing district shall not be less



than ten (10) acres, and the density of mobile homes shall not be greater than five (5) to the net acre. Net acreage is defined as the acreage remaining after the deduction of the areas set aside for trash collection points, utility and service, building areas and spaces, roadways, driveways, walkways and off-street parking areas.

B. Location and legal description.

C. Entrance to and exists from the court.

D. Vehicular roadways, driveways, and pedestrian walks.

E. Plans, showing the size and arrangement of mobile home lots and stands, locations of roadways, service and utility buildings.

F. Topography map showing original and final contours and provisions for drainage.

G. Areas set aside for recreation, clothes washing and drying, storage, and off-street parking (see Off-Street Parking, Section 2, Article XVI).

H. Fencing and screen planting of the premises.

I. Provisions for trash and garbage storage and removal.

J. Plans for water supply and distribution.

K. Plans for sewage collection and disposal.

L. Typical lot plan.

M. Statement of conformance with the Federal Housing Administration's Minimum Property standard for Mobile Home Courts, and Impact Statement of the Environmental Protection Agency.

#### Section 4. Mobile Home Court Requirements

A. Minimum width--two hundred fifty (250 ) feet.

B. Minimum front yard setbacks--twenty-five (25) feet within the incorporated city and fifty (50) feet in unincorporated areas.

C. Minimum rear yard setback-- fifteen (15) feet; except when the rear yard abuts a dedicated public right-of-way, the minimum shall be twenty-five (25) feet within the incorporated city and fifty (50) feet in unincorporated areas.

D. Minimum side yard setbacks- ten (10) feet along interior lot lines; fifteen (15) feet along public side streets within the incorporated city and fifty (50) feet in unincorporated areas.

#### Section 5. Mobile Home Lot Requirements

A. Minimum Area.

(1) A maximum of twenty (20 ) percent of the total lots may be seven thousand (7000) square feet.

(2) A minimum of seventy (70) percent of the total lots must be seven thousand five hundred (7500) square feet.

(3) A minimum of ten (10) percent of the total lots must be eight thousand (8000) square feet.

B. Maximum Height of Structures.

(1) Mobile homes--sixteen (16) feet.

(2) Accessory buildings--two and one-half (2-1/2) stories of thirty-five (35) feet.

C. Minimum width of mobile home lot at setback line-- thirty (30) feet.

D. Minimum front yard setback of lot (this shall mean the entry side of the mobile home)-ten (10) feet.

E. Minimum end yard setback of lots for yards with double frontage (these are considered as the front and rear of the mobile home)--eight (8) feet, each end.

F. Minimum rear yard setback of lot--five (5) feet along interior lines.

G. Minimum side yards-- ten (10) feet along the street side of interior roadways or driveways.

H. No single mobile home used as a single family residential home in this said area, unless all of the restrictions pertinent to R-1 have been complied with, and a temporary permit obtained from said Board.

#### Section 7. General Rules

A. No mobile home shall be parked closer than ten (10) feet to a private interior roadway and it must have clear access to said roadway.

B. Primary entrance and exit roadways shall connect to a dedicated public right-of-way and shall not be less than thirty-six (36) foot wide from flow line to flow line. Secondary interior roadways and driveways shall not be less than thirty (30) feet wide, flow line to flow line.

C. Off- street parking space shall be provided for each mobile home lot.

E. Service and utility buildings and appurtenances, garbage and trash containers, racks and rack locations, rodent and insect

control, water and sewage provisions, shall meet with the approval of the State Health Department and the Environmental Protection Agency.

E. Signs for permitted use as required.

## ARTICLE IX. LIMITED COMMERCIAL AND INDUSTRIAL REGULATIONS

### Section 1. General

The regulations set forth in this article, or set forth elsewhere in these regulations, are referred to as the District Regulations.

### Section 2. Use Regulations

A. Any uses herein permitted by these regulations.

B. Business or professional, and/or manufacturing and processing facilities provided the following:

- (1) All permitted uses shall be operated entirely within a completely enclosed structure.
- (2) All uses shall be regulated by the State Pollution Regulations and the Environmental Protection Agency.
- (3) Travel and parking portions of the lot shall be surfaced with asphalt, concrete, or equivalent.

C. Personal service and retail establishments employing not more than five (5) people on the premises, such as barber shop, beauty parlor, laundromat, laundry pick up station, cafe, liquor establishment and grocery.

D. General Industrials such as; Building Supply yards, Dairy processing and distribution, Bottling and storage, Machine

repair , roofing and metal shops and storage warehouses, except that storage of oil, gasoline and petroleum products shall be limited to one thousand (1000) gallons above grade.

### Section 3. Parking Regulations

Off-street parking space shall be provided as set forth in Section 2, Article XVI.

### Section 4. Height Regulations

No structure shall exceed forty-five (45) feet in height or shall not exceed the height of existing structures on adjacent premises (including premises across the street, easements and rights-of-way).

### Section 5. Area Regulations

Area regulations are those as set forth in Section 4, Article XVI except that there are no restrictions for minimum floor area or lot size. No yards are required except when abutting a residential district, in which event the regulations of the residential district shall apply.

## ARTICLE X. O-1 OUTDOOR RECREATIONAL

### Section 1. General

The regulations set forth in this article will be referred to as the District Regulations.

### Section 2. Use

A. Area will be that set aside by the Freshwater Township Planning-Zoning Commission and as designated by the Zoning Map of these zoning regulations.

B. Area will be for the use and enjoyment of persons

engaged in wholesome amusement, diversion, entertainment, pastime or sport for which no admission, entrance fee or charge shall be levied.

C. Any regulations herein, shall not be inconsistent with those of the United States Government.

## ARTICLE XI. SPECIAL REGULATIONS

### Section 1. General

The District Regulations hereinafter set forth in this Article qualify or supplement, as the case may be, the District Regulations appearing elsewhere in these regulations.

### Section 2. Off-Street Parking

#### A. Design Criteria

- (1) An off-street parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives or ramps, and have vertical clearance of at least seven (7) feet.
- (2) All open off-street parking areas with four (4) or more spaces and all loading berths shall be:
  - (a) Improved with a cement binder material pavement to provide a durable, dust free surface.
  - (b) Graded to dispose of all surface water within the area without damage, nuisance or hazard to adjacent premises.
  - (c) Arranged and marked to provide for orderly and safe parking.
  - (d) Provided with access road of eight (8) feet if

residential building from a public street or alley.

- (3) Off-street parking or loading requirements shall be met on the same lot as the building served or on a lot within two hundred (200) feet thereof especially reserved for such parking purposes, except that off-street parking facilities for separate activities may be provided collectively on a separate lot if the total spaces provided are not less than the total requirements of the separate uses.

B. No building shall be erected, enlarged to the extent of increasing the floor area by as much as fifty (50) percent or changed in use, unless there is provided on the lot, space for the parking of automobiles or trucks in accordance with the following minimum requirements.

- (1) Business, professional or public office building, three parking spaces plus one (1) additional space for each additional four hundred (400) square feet of floor space over one thousand (1000) sq feet.
- (2) Church: one (1) parking space for each eight (8) seats.
- (3) Community Center: ten (10) parking spaces plus one (1) additional space for each 300 (300) feet of floor space in excess of two thousand (2000) square feet.

- (4) Dwellings: (Single or multiple) one (1) parking space for each dwelling unit.
- (5) Manufacturing, industrial, garage, warehouse or similar establishments; one (1) parking space for every two (2) employees, plus space to accommodate trucks and other vehicles used in connection with therewith.
- (6) Restaurants, night club or bar, lodge or similar establishment: one (1) parking space for each one hundred (100) square feet of floor space.
- (7) Retail establishment: one (1) parking space for each two hundred (200) square feet of floor area.
- (8) Mobile home: one (1) parking space for each mobile home plus one additional space for each four (4) lots.
- (9) When the number of off-street parking spaces required for a building cannot be determined from the preceding requirements, the off-street parking requirements shall be determined by the Freshwater Township Planning-Zoning Commission, using these regulations as a guide.

### Section 3. Signs

The following regulations shall govern the location and type of signs permitted within the township.

#### A. General Sign requirements.

- (1) All signs shall be structurally safe and shall be



securely anchored or fastened and supported so that they will not be a menace to the safety of persons or property.

- (2) No sign, outdoor commercial advertising device or lighting device constituting a nuisance to an adjacent residential district because of lighting glare, focus, animation or flashing lights shall be erected or continued in operation.
- (3) No sign in any district shall conflict in any manner with the clear and obvious appearance of public devices controlling public traffic.
- (4) Ground signs shall not be located on public property except by specific approval of the governing body.
- (5) Temporary signs or banners on or over public property may be authorized by the governing body for a period not to exceed ten (10) days.
- (6) Signs projecting over a street, alley, or other public space shall project not more than ten (10) feet and be no closer than two (2) feet to a plumbline from the curbline; clearance below such signs shall be a minimum of nine (9) feet.
- (7) Roadside market signs advertising produce grown and sold on the premise on which they are located shall not remain continuously erected for more than six (6) months.

B. Residential Districts:

- (1) One (1) identification sign shall be permitted per residential use provided such sign does not exceed two (2) square feet in area; said sign may be wall, pedestal, ground or projecting type (but not projecting over public property.
- (2) One sign of a temporary nature, such as "for sale" or "for rent" shall be permitted per residential use provided such sign does not exceed six (6) square feet and is not lighted; said sign may be pedestal or ground type.

C. Agricultural District:

- (1) Highway billboards or other such highway oriented advertising devices shall be permitted, provided such signs and devices are located at least one thousand (1000) feet from any existing advertising sign, regardless of political boundaries, width of rights-of-way, existing highways, streets, roads or easements.
- (2) Prior to construction of any highway billboards or other such highway oriented advertising device, an Outdoor Advertising Structure Permit shall be obtained from the inspecting officer. Said permit shall be for a one (1) year term only, and renewable on or before December 31. If the inspecting officer judges any sign to interfere with the

public health, safety and welfare, said sign may be removed by the inspecting officer and costs of removal paid by the permittee. Permits should be clearly visible and firmly attached to the lower one-fourth of the sign, and located four (4) feet above ground level. The fee for said Outdoor Advertising Structure Permit shall be ten (10) dollars, plus five (5) cents per square foot for each sign having a total face advertising area of thirty-two (32) square feet or more. The renewal fee shall be ten (10) dollars.

- D. Public or semi-public uses. One identification sign shall be permitted per public or semi-public use provided such sign does not exceed twenty (20) square feet in area; sign may be wall, pedestal, ground, or projecting.

#### Section 4. Addition Height and Area Regulations

A. Public, semi-public or public service buildings when permitted in a district, may be erected to a height not exceeding sixty (60) feet--churches, seventy-five (75) feet--provided that the front yard depth shall be thirty (30) percent in excess of those specified in these regulations and further provided that the side yards of an interior lot shall be twenty (20) feet and the side yard of a corner lot shall be equal to the front yard requirements as stated hereinabove.

B. Chimneys, church steeples, cooling towers, elevators, bulk heads, fire towers, monuments, stacks, water towers, wire-

public health, safety and welfare, said sign may be removed by the inspecting officer and costs of removal paid by the permittee. Permits should be clearly visible and firmly attached to the lower one-fourth of the sign, and located four (4) feet above ground level. The fee for said Outdoor Advertising Structure Permit shall be ten (10) dollars, plus five (5) cents per square foot for each sign having a total face advertising area of thirty-two (32) square feet or more. The renewal fee shall be ten (10) dollars.

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B. Chimneys, church steeples, cooling towers, elevators, bulk heads, fire towers, monuments, stacks, water towers, wire-

less towers, grain elevators, or necessary appurtenances, are exempt from height regulations as herein contained.

C. Accessory buildings may be built in a required rear yard but such accessory buildings shall not occupy more than thirty (30) percent of a required rear yard and shall not be nearer than two (2) feet to any side or rear lot line, except that when a garage is entered from an alley at right angles, it shall not be located closer than ten (10) feet to the alley line. If a garage is located closer than ten (10) feet to the main building, the garage shall be regarded as a part of the main building for the purposes of determining side and rear yards.

D. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes other than by domestic servants employed on the premises.

E. No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed, unless a conditional permit is obtained specifying the length of time of temporary residence.

F. Open-lattice enclosed fire-escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the inspecting officer for a distance of not more than three and one-half (3-1/2) feet and where the same are so placed as not to obstruct light and ventilation.

G. For the purpose of the side yard regulations, a two family dwelling, or a multiple dwelling shall be considered as one building occupying one lot.

H. Where a lot or tract is used for farming or for a commercial or industrial purpose, more than one main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located.

I. Where lots have double frontage, the required front yards shall be provided on both streets.

J. The required side yard on the street side of a corner lot shall be one-half (1/2) the required front yard on such street provided that no adjacent structures front on the same street, in which case the entire required front yard must be provided, except that the building width shall not be reduced to less than thirty-two (32) feet, and no accessory building shall project beyond the required front yard on either street.

#### ARTICLE XII. NON-CONFORMING USES

##### Section 1. Non-Conforming Uses Discontinued

The lawful use or occupation of land or premises existing at the time of the adoption of these regulations may be continued, although such use or occupation does not conform to the provisions hereof, but if such non-conforming use or occupancy is discontinued for a period of more than two (2) years, any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. If the State or County acquires title

to any land or premises, all further use or occupancy thereof shall be as conforming use or occupancy.

#### Section 2. Non-Conforming Uses Changed or Expanded

Whenever the use of a building becomes a non-conforming use through a change in the Zoning Regulations or district boundaries, such use may be continued and if no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or of a more restricted classification. Whenever a non-conforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

No existing building devoted to a use not permitted by these regulations in the district in which such a building is located, except when required to do so by law, shall be enlarged, extended or reconstructed unless such use is changed to a use permitted in the district in which such building is located. However, in order to provide for off-street parking or loading, a non-conforming use of either building or land may be expanded by enlargement of either the building or land area by not more than twenty-five (25) percent of its size existing at the time of the adoption of these regulations.

#### Section 3. Non-Conforming Use Destroyed or Damaged

When a non-conforming building is damaged by fire, explosion, or act of God, to the extent of more than sixty (60) percent of its fair market value, it shall not be restored except in conformity with the district regulations of the district

in which the building is situated.

Section 4. Unlawful Use Not Authorized

Nothing in these regulations shall be interpreted as authorization for, or approval of the continuance of the use of a building or premises in violation of any regulations in effect at the time of the effective date of these regulations.

ARTICLE XIII . ADMINISTRATION

Section 1. Freshwater Township Planning-Zoning Commission

- A. The Freshwater Township Planning-Zoning Commission consists of five members as follows: three Township Supervisors and two members elected at large by the residents of Freshwater Township, for overlapping terms of three years. Members of the Commission may be removed from office by the Freshwater Township Board for cause, upon written charges and a public hearing. Vacancies shall be filled by appointment by the Freshwater Township Board.
- B. Proceedings. The Freshwater Township Planning-Zoning Commission shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of these regulations. Meetings shall be held at the call of the Chairman and at such other times as the Commission may determine. The Chairman, and in his absence, the acting chairman, may administer oaths and request the presence of witnesses, if necessary. All meetings shall be open to the public with public



notice of administrative meetings and business to be carried on published in a newspaper of general circulation in the township, at least once, five days prior to the meeting.

The Freshwater Township Planning-Zoning Commission shall keep minutes of its proceedings, showing the votes of each member upon each question, or if absent, or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, and the reasons for such actions, all of which shall be a public record and filed in the Freshwater Township Planning-Zoning files.

C. Hearings, Appeals, Notice.

Appeals to the Freshwater Township Planning-Zoning Commission concerning interpretation or administration of these regulations may be taken by any person aggrieved or by any officer of the governing body affected by any decision of the inspecting officer. Such appeal shall be taken within a reasonable time, not exceeding 60 days, Appeal shall be filed with the inspecting officer and the Freshwater Township Planning-Zoning Comm. specifying the grounds thereof. The inspecting officer shall forthwith transmit to the Freshwater Township Planning-Zoning Commission all papers constituting the record upon which the action appealed from was taken and his comments.

The Freshwater Township Planning-Zoning Commission shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as notice to the parties interested, and decide the same within a reasonable time. At the hearing, a party may be represented by an agent or attorney.

The Freshwater Township Planning-Zoning Commission shall decide the appeal within a reasonable time. The Freshwater Township Planning and Zoning Commission may reverse in whole or in part, or may modify the order, requirement, decision, or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end the Freshwater Township Planning-Zoning Commission shall have all the powers of the officer from whom the appeal is taken. Where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of these regulations Freshwater Township Planning-Zoning Commission, in passing on an appeal may vary or modify any of these regulations relating to the use, construction or alteration of buildings or structures or the uses of land so that the spirit of these regulations shall be observed, public safety and welfare secured and substantial justice done.

Notice of any require public hearing shall be published once a week for three (3) consecutive weeks before such public hearing in a newspaper of general circulation within the community and posted at or as near as possible to the

site for which a permit is sought. The notice shall state:

- (1) The location and character of the proposed variance, change, or interpretation of the regulations or the map.
- (2) The time and place of the public hearing; and
- (3) That the application for the variation, change, or interpretation is on file for public inspection at the office of the Township Clerk.

A notice shall be posted in a conspicuous place on or near the property upon which action is pending. Such notice shall be not less than eighteen (18) inches in height and twenty-four (24) inches in width with a white background and black letters not less than one and one-half (1-1/2) inches in height. Such posted notice shall be so placed upon such premises that it is easily visible from a public street or roadway and shall be posted at least ten (10) days before the date of such hearing. It shall be unlawful for any person to remove, mutilate, destroy or change such posted notice prior to such hearing.

#### D. Stay of Proceedings

An appeal stays all proceedings in furtherance of the action appealed from, unless the inspecting officer from whom the appeal is taken certifies to the Freshwater Township Planning-Zoning Commission, after the notice of appeal has been filed with him, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life and property. In

such case, proceeding shall not be stayed other than by a restraining order granted by the Freshwater Township Planning-Zoning Commission or by a court of record on application, on notice to the administrative officer from whom the appeal is.

E. Freshwater Township Planning-Zoning Commission Powers and Duties. The Freshwater Township Planning-Zoning Commission shall have the following power and duties.

(1) Administrative Review- To hear and decide appeals where it is alleged that there is error in any order, regulation, decision or determination made by the inspecting officer in the enforcement or interpretation of these regulations.

(2) Variances- To authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations would result in unnecessary hardship. A variance from the terms of these regulations shall not be granted by the Freshwater Township Planning-Zoning Commission unless and until:

(a) A written application for a variance is submitted, demonstrating:

I That special conditions and circumstances exist which are peculiar to the land, structure

or building involved, and which are applicable to other lands, structures, or buildings in the same district, and

II That literal interpretation of the provisions of these regulations would deprive the applicant of rights commonly enjoyed by owners of other properties in the same district under the terms of these regulations, and

III That the special conditions and circumstances do not result from actions of the applicant and,

IV That granting the variance requested will not not confer on the applicant any special privilege that is denied by these regulations to other land, structure or buildings in the district.

No non-conforming use of neighboring lands, structures or buildings in the same district, and no permitted or conditional use of lands, structures or buildings in any other district shall be considered grounds for the issuance of a variance.

(b) Notice of public hearing shall be given as required in paragraph C.

(c) The public hearing shall be held and any party shall be heard, either in person or by his representative.

(d) The Freshwater Township Planning-Zoning Commission shall make findings that the requirements within this section have been met by the applicant..

(e) The Commission shall further make findings that:

I The reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that would make possible a reasonable use of land, buildings or structures, and

II The granting of the variance will be in harmony with the general purpose and intent of these regulations and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.

In granting any variance, the Commission may prescribe appropriate conditions and safeguards in conformity with these regulations. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of these regulations. Under no circumstances shall the Freshwater Township Planning-Zoning Commission grant any variance to allow a use that is not permissible under the terms of these regulations in the district involved, variances apply only to yards, signs,

height, coverage, or parking and loading requirements, but not to use of land or structures.

F. Decisions of the Freshwater Township Planning-Zoning Commission. The concurring vote of four members of the Commission shall be necessary to reverse any order, requirement, decision, or determination of the inspecting officer, or to decide in favor of an applicant on any matter upon which it is required to pass under this ordinance, or to effect any variance in the application of this ordinance.

G. Appeals from the Decisions of the Freshwater Township Planning-Zoning Commission. Any person (s), or any board, taxpayer, department, or bureau of the township aggrieved by any decision of the Freshwater Township Planning-Zoning Commission may seek review by a court of record of such decision by certiorari in the manner provided by the laws of the state of North Dakota.

#### Section 2. Inspecting Officer

The inspecting officer designated by the Township Board from time to time shall administer and enforce these regulations.

If the inspecting officer shall find that any provisions of these regulations are being violated, he shall notify in writing the person responsible for such violation and order corrective action. He shall order discontinuance of illegal use of land, structures or buildings; removal of illegal buildings or structures or of additions or alterations of structural changes thereto; discontinuance of any illegal work being done; or shall take

any other action authorized by these regulations to insure compliance therewith or to prevent its violation.

Section 3. Administrative Procedure for Inspecting Officer, Freshwater Township Planning-Zoning Commission and Township Board.

It is the intent of these regulations that all questions of interpretation and enforcement shall be first presented to the inspecting officer and that such questions shall be presented to the Freshwater Township Planning-Zoning Commission only on appeal from the decision of the inspecting officer, and that recourse from the decisions of the Freshwater Township Planning-Zoning Commission shall be to the courts, as provided by law.

It is further the intent of these regulations that the duties of the Township Board in connection with these regulations shall not include hearing and deciding questions of interpretation or endorsement that may arise. The procedure for deciding such questions shall be as stated in this section of these regulations. Under these regulations, the Township Board shall have only the duty of considering and adopting or rejecting proposed amendments or the repeal of these regulations, as provided by law. The Freshwater Township Planning-Zoning Commission shall approve permits for conditional uses after hearings thereon.

Section 4. Building Permits

A. Application. Any person or persons intending to construct, re-construct or re-locate a building or other structure or addition thereto, shall before proceeding with said work, or



commencing any excavation in connection therewith, file in the office of the inspecting officer a written application in duplicate designating the kind of building, structure or addition which he intends to erect or make, materials of which the same is to be composed, setting out sewer and water specifications as required, and the legal description and location of the real estate, the part or portion of the real estate to be occupied by the building, or other structure or addition, or improvement, the probable cost thereof and a detailed description of the type of construction and material used therein, and especially for each chimney, smoke stack, flue, and fireplace to be erected or constructed in connection therewith, together with such additional plans and specifications as may be required by the inspecting officer, and shall obtain a permit therefor as hereinafter provided. The Uniform Building Code (Short Form) 1967 edition as published and recommended by the International Conference of Building Officials, together with any amendments hereafter made thereto, three copies of which are on file in the office of the Clerk, are hereby incorporated and made a part of the Article. In construing the subject matter incorporated by reference herein, if any part of said subject matter shall conflict so that it cannot be reconciled with any other code ordinance or resolution duly enacted by the local governing body, the provisions of said regulations which legislate directly and specifically upon the precise matter in question shall prevail.

B Plats. Each application for a building permit shall be accompanied by a plat showing the actual dimensions of the lot to be built upon, the size, shape and location of the building to be erected, and such other information as may be necessary to provide for the enforcement of these regulations. A record of applications and plats shall be kept in the office of the inspecting officer.

C Application, Approval and Requirements; Issuance of Permits. The application shall be filed in the office of the inspecting officer who shall determine whether said applicant and proposed construction meets the requirements of these regulations. If it is determined that the proposed work will conform to the Statutes of the State of North Dakota, these regulations and the ordinances and regulations of the local jurisdiction and that no good cause of any nature exists why said work should not be done, said officer shall thereupon approve said building permit applications and promptly issue a building permit. If the application be disapproved by the inspecting officer or if any citizen of the township shall file objection in writing with the Clerk to the issuance of said permit, the Clerk shall present said application, together with all plans and specifications, objections and findings, to the Freshwater Township Planning-Zoning Commission at their next regular or special meeting and said Commission then shall determine whether the permit shall be issued.

D Building Permit Fee. At the time of issuance of any permit, charge and collection in advance for issuance of said permit, shall

be according to the fee schedule in Section 6 of this Article. Said fee shall be the property of the local jurisdiction and shall be paid over to the Clerk for credit to the General Fund of such jurisdiction.

E. Enforcement. Where there are practical difficulties or unnecessary hardship in the way of carrying out the provisions of this Article, the Freshwater Township Planning-Zoning Commission by resolution, after due notice, may prescribe in a specific case a variation in the application of any provision, in harmony with the general purpose and intent of the section so that the public health, safety and welfare may be conserved, and the Commission may grant in the case of hardship or other unusual circumstance, temporary and conditional permits of not more than one (1) years duration for structures and uses not permitted by these regulations, but which may be necessary for the development of the area. However, prior to any such action, the Commission shall forward to the Township Board, in writing at least twenty (20) days prior to any decision, a request for comments and recommendations. The Commission shall not take any action until these comments and recommendations have been reviewed. If however, said comments are not received from the governing body within fifteen (15) days following their receipt of request for such comments and recommendations, the Commission may proceed with a decision. No building permit shall be issued for the erection of any building unless the plans conform to these regulations and no buildings shall be erected in violation of

of or which shall not conform to the provisions hereof under any permit heretofore issued, unless construction thereof shall have been commenced in good faith prior to the enactment of these regulations.

Section 5. Occupancy Permits.

A. Permits. Subsequent to the effective date of these regulations, no change in use or occupancy of land not any change of use or occupancy in an existing building other than for single family, or two family dwelling purposes, shall be made, nor shall any new building be occupied until a certificate of occupancy has been issued by the inspecting officer. Every certificate of occupancy shall state that the new occupancy complies with all provisions of these regulations.

B. Application. No permit for the erection or alteration of any building shall be issued before the application has been made and approved for a certificate of occupancy and compliance, and no building or premises shall be occupied until such certificate and permit is issued.

C. Certificate of Occupancy for Non-Conforming Uses. A certificate of occupancy shall be required for all lawful non-conforming uses of land or buildings created at the time of passage of these regulations. Application for such certificates of occupancy for non-conforming uses shall be filed with the inspecting officer by the owner or lessee of the land or building occupied by such non-conforming use within two (2) years from the effective date of these regulations. It shall be the duty of

the inspecting officer to issue a certificate of occupancy for a lawful non-conforming use. But failure to apply for such certificate of occupancy for non-conforming use, or failure of the inspecting officer to issue such certificate of occupancy for non-conforming use, may be considered evidence that such non-conforming use did not lawfully exist at the effective date of these regulations.

D. Records. A record of all certificates of occupancy shall be kept on file in the office of the inspecting officer, and copies shall be furnished on request to any person having a proprietary or tenancy interest in land or buildings affected by such certificate.

#### Section 6. Schedule of Fees, Charges and Expenses

The following schedule of fees, charges and expenses and a collection procedure for building permits, certificates of occupancy, appeals, and other matters pertaining to these regulations is established. The schedule of fees listed herein shall be available with the inspecting officer and may be altered or amended only by the Township Board.

No permit, certificate, conditional use or variance shall be issued unless or until such costs, charges, fees and expenses listed herein have been paid in full, nor shall any action be taken on proceedings before the Freshwater Township Planning-Zoning Commission, unless or until preliminary charges and fees have been paid in full.

# FEE SCHEDULE

Private garage construction up to 900 sq ft-----	\$25.00
Garage construction (storage) over 900 sq ft-----	\$50.00
Remodeling and additions up to \$4000.00-----	25.00
Remodeling and additions in excess of \$4000.00-----	50.00
or 0.3% whichever is greater	
Fee for moving in mobile home-----	25.00
All other construction: 0.3% of the cost of construction, minimum----	10.00
Opening gravel pit -----	200.00
plus performance bond to insure proper closing	
Penalty: 2 times permit fee for beginning construction without a permit.	
Conditional Use Fee-----	25.00
Occupancy Permit Fee -----	25.00
*Variance Fee-----	75.00
*Zoning Change Fee-----	75.00
*Plus actual cost if more than \$75.00	
Inspections for insurance and loan purposes, etc.-----	25.00

## Section 7. Complaints Regarding Violations

Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the inspecting officer. He shall record properly such complaint, immediately investigate and take action thereon as provided by these regulations.

## ARTICLE XIV. GENERAL PROVISIONS, LEGISLATIVE PROVISIONS.

### Section 1. Amendments

The Township Board may from time to time on its own motion or on petition initiate any amendment, supplement, change, modification or repeal by resolution the boundaries of districts, regulations, or restrictions herein established. If a protest petition against such change is signed by the owners of twenty (20) percent or more of the area of the lots included in such proposed change or of the area adjacent, extending one hundred fifty (150)<sup>?</sup> from the area to be changed, excluding the width of streets, the amendment shall not become effective except by a favorable vote of three-fourths (3/4) of all of the members of the Freshwater Township Planning-Zoning Commission. Such protest in writing must be filed with the Clerk prior to the time set for the public hearing on the proposed change. Any proposed amendment, supplement, change, modification or repeal shall first be submitted to the local governing body for its recommendations and report to be made in writing. Said report shall subsequently be submitted to the Planning Commission for its review,

recommendations and report at the next regular meeting provided the Planning-Zoning Commission has had adequate and reasonable time for review. Said report shall be submitted in writing to Freshwater Township Planning-Zoning Commission for final approval or disapproval. Said reports shall contain the findings regarding the effect of the proposed amendment, supplement, change, modification or repeal upon adjacent property and upon the Comprehensive Zoning Plan.

Prior to submission of the reports and recommendations of the Planning-Zoning Commission to the Township Board for enactment, the Planning-Zoning Commission shall hold a public hearing in relation thereto, giving notice of the time and place of such hearing, as provided in these regulations. Before any action shall be taken as provided for in this Article, the party or parties proposing or recommending a change in the District regulations or district boundaries shall deposit with the Clerk the sum specified in these regulations to cover the cost of this procedure and under no condition shall said sum, or any part thereof, be refunded for failure of said change to be adopted by the Board. No deposit of money shall be required when any action is recommended by the local jurisdiction on its own motion or by any person or group officially designated to participate in the administration of these regulations. In the event the proposed amendment or change is denied by the Board, no new request shall be made for the same or substantially similar amendment or change within one year of the said denial.



## Section 2. Enforcement

These regulations shall be enforced in accordance with Section 2. Article XIII.

## Section 3. Purpose of Catch Heads

The catch heads appearing in connection with the foregoing sections are inserted simply for convenience, to serve the purpose of an index and they shall be wholly disregarded by any persons, officer, court or other tribunal in construing the terms and provisions of these regulations.

## Section 4. Violation

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or is any building, structure, or land is used in violation of these regulations, the proper Township authorities or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceedings:

A. To prevent such unlawful erection, construction, reconstruction, alteration, repair, a conversion, maintenance, or use.

B. To restrain, correct, or abate such violations.

C. To prevent the occupancy of the building structure or land; or

D. To prevent any illegal act, conduct, business, or use in or about such premises.