

ZONING ORDINANCE OF POPLAR
GROVE TOWNSHIP, RAMSEY COUNTY
NORTH DAKOTA

Table of Contents

A. INTRODUCTION	4
1.1 TITLE	4
1.2 PURPOSE	4
1.3 AUTHORITY	4
1.4 REPEAL	4
1.5 SEVERABILITY	4
1.6 EFFECTIVE DATE	4
1.7 DEFINITIONS	4
B. GENERAL PROVISIONS	10
1.1 JURISDICTION	10
1.2 COMPLIANCE	10
1.3 FARMING OR RANCHING	10
1.4 INTERPRETATION	10
1.5 NON-CONFORMING USES	10
1.6 SANITARY REGULATIONS	11
1.7 FLOOD AND/OR DRAINAGE CONTROL MAINTENANCE	11
1.8 CONSTRUCTIONS OF RIGHT OF WAY APPROACHES	11
1.9 ROADS	11
C. DISTRICTS AND BOUNDRIES	12
1.1 ESTABLISHMENT OF DISTRICT(S)	12
1.2 ZONING MAP	12
1.3 INTERPRETATION OF BOUNDARIES	12
D. ADMINISTRATION AND ENFORCEMENT	13
1.1 TOWNSHIP PLANNING AND ZONING COMMISION	13
1.2 APPEALS	13
1.3 VARIANCES	14
1.4 CONDITIONALLY PERMITTED USES	14
1.5 ZONING ADMINISTRATOR	15
1.6 BUILDING PERMITS	15
1.7 SURETY BONDS	16
1.8 VIOLATIONS OF REGULATIONS	16

1.9	<i>FEES</i>	16
1.10	<i>AMENDMENTS</i>	17
E.	AGRICULTURAL DISTRICT (“AG”)	17
1.1.	<i>PURPOSE</i>	17
1.2.	<i>PERMITTED USES</i>	17
1.3.	<i>CONDITIONALLY PERMITTED USES</i>	18
1.4.	<i>PROHIBITED USES</i>	20
F.	ANIMAL FEEDING OPERATION (“AFO”) REGULATIONS	20
1.1.	<i>INTENT AND PURPOSE</i>	20
1.2.	<i>GENERAL PROVISIONS AND REQUIREMENTS</i>	20
1.3.	<i>REQUIRED SETBACKS AND SEPARATION DISTANCES FOR ANIMAL FEEDING AND THOSE EXPANDING OPERATIONS</i>	21

A. INTRODUCTION

- 1.1 **TITLE:** This ordinance shall be known as the “ZONING ORDINANCE OF POPLAR GROVE TOWNSHIP.”
- 1.2 **PURPOSE:** The purpose of this ordinance is to preserve and promote the health, safety, public convenience, agricultural use of the land, general prosperity, and the general welfare and orderly development of Poplar Grove Township and its residents.
- 1.3 **AUTHORITY:** These regulations are adopted under the authority granted by Chapter 58-03 of the North Dakota Century Code, as well as other state and federal laws and statutes.
- 1.4 **REPEAL:** All other ordinances or regulations or parts thereof of Poplar Grove’s Township in conflict with these regulations are hereby repealed.
- 1.5 **SEVERABILITY:** If any section, paragraph, clause, or provision of this ordinance should be declared invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall be in full force and effect. Toward that end, the provisions of these regulations are declared to be severable.
- 1.6 **EFFECTIVE DATE:** This ordinance shall be in full force and effect from and after its passage and approval by the Poplar Grove Township Board of Supervisors.
- 1.7 **DEFINITIONS:** For the purpose of this ordinance, the following definitions have been adopted
 - 1.7.1 The word “shall” is mandatory, and not discretionary; the word “may” is permissive.
 - 1.7.2 Words used in the present tense shall include the future and words used in the singular shall include the plural, and the plural the singular.
 - 1.7.3 Words shall be given their common usage if not defined.
 - 1.7.4 **ACCESSORY USE OR ACCESSORY STRUCTURE:** A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as garage or tool shed.
 - 1.7.5 **AGRICULTURE:** The use of land for agricultural purposes, including the necessary buildings or structures for farm or farm labor use. Agriculture shall

include farming, dairying, pasturage, horticulture, animal and poultry husbandry, and accessory uses and buildings for packing, treating, or storing produce, providing accessory uses are secondary to normal agricultural activities.

1.7.6 **ANIMAL FEEDING OPERATION (AFO):** Means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

1.7.6.1 Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve month period; and

1.7.6.2 Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

1.7.7 **ANIMAL HOSPITAL:** A facility operated by or under the direct supervision of a licensed veterinarian.

1.7.8 **ANIMAL UNIT (AU):** A unit of measurement used to compare differences in the production of animal manures that employs as a standard the average weight of the animal divided by 1000 pounds. The total number of animal units subject to permit or registration shall be determined by including operations under common ownership or management which utilize a common area or system for manure disposal. For purposes of this ordinance, the following equivalents shall apply (obtained from N.D.C.C. § 58-03-1111.1(2)). For purposes of this sections, animal units are determined as follows:

1.7.8.1 One mature dairy cow, whether milking or dry, equals 1.33 animal units;

1.7.8.2 One dairy cow, heifer, or bull, other than an animal described in subdivision A equals 1.0 animal unit:

1.7.8.3 One weaned beef animal, whether calf, heifer, steer, or bull, equals 0.75 animal unit;

1.7.8.4 One cow calf pair equals 1.0 animal unit;

1.7.8.5 One swine weighing fifty-five pounds (24.948 kilograms) or more equals 0.4 animal unit;

- 1.7.8.6 One swine weighing less than fifty-five pounds (24.948 kilograms) equals 0.1 animal unit;
 - 1.7.8.7 One horse equals 2.0 animal units;
 - 1.7.8.8 One sheep or lamb equals 0.1 animal unit;
 - 1.7.8.9 One turkey equals 0.0182 animal unit;
 - 1.7.8.10 One chicken, other than a laying hen, equals 0.008 animal unit
 - 1.7.8.11 One laying hen equals 0.012 animal unit;
 - 1.7.8.12 One duck equals 0.033 animal unit; and
 - 1.7.8.13 Any livestock not listed in paragraphs 1.7.8.1 through 1.7.8.13 equals 1.0 animal unit per each one thousand pounds (453.59 kilograms) whether single or combined animal weight.
- 1.7.9 **ANIMAL WINTERING OPERATION:** A parcel of land where animals are sheltered incidental to farming at any time between October 15 and May 15 of cash productions cycle when these animals do not obtain majority of their feed and nutrients from grazing. This term includes weaned offspring of cattle and sheep, but it does not include: (1) breeding operations of more than 1000 animal units; or (2) weaned offspring which are kept longer than 120 days and that are not retained for breeding purposes. For purposes of numbers, two or more animal wintering operations under common ownership are as single animal wintering operation if they adjoin each other or if they use a common area or system for manure handling or disposal.
- 1.7.10 **BOARD:** Includes the “Poplar Gove Township Board of Supervisors” or any other word or words meaning the “Poplar Gove Township Board of Supervisors.”
- 1.7.11 **BUILDING:** Any structure used for shelter or enclosure of persons, animals, or chattels.
- 1.7.12 **CAMPGROUND:** A public or private areas for short term [less than fourteen (14) days] parking or camper trailers or tents for business or recreational purposes.
- 1.7.13 **COMMISSION:** Includes the “Poplar Grove Township Planning-Zoning Commission” or any other words or word meaning the Poplar Grove Township Planning-Zoning Commission.”

1.7.14 **CONDITIONAL PERMITTED USE:** A use conditionally permitted to reduce any adverse effects on surrounding property. The words “conditional” and “special” shall be used synonymously.

1.7.15 **CONCENTRATED ANIMAL FEEDING OPERATION (CAFO):** Means an animal feeding operation that is defined as a large concentrated animal feeding operation, as a medium concentrated animal feeding operation, or is a small or other type of animal feeding operation designated as a concentrated animal feeding operation in accordance with Section 33-16-03.1-04 of the North Dakota Century Code. For the purposes of determining animal numbers, two or more feeding operations under common ownership area single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. All concentrated animal feeding operations are required to obtain a North Dakota pollutant discharge elimination system permit pursuant to Chapter 33-16-01 of the North Dakota Administrative Code.

For the purpose of these regulations, Animal Feeding Operations and Concentrated Animal Feeding Operations are divided into small, medium, and large Animal Feeding Operations and Concentrated Animal Feeding Operations as set forth in N.D.A.C. 33-16-03.1-03.

1.7.16 **DISTRICT:** A section or sections of the township for which regulations governing the use of building and premise, the building heights, size of yards, lot area, lot width and the use are uniform.

1.7.17 **DUE PROCESS:** Involved two essential elements: (1) notice; and (2) an opportunity for a hearing. The notice must adequately describe the potential action that might affect the person(s) being notified and it must provide the person(s) a reasonable time to respond. If the person(s) request(s) a hearing, the hearing must be fair and allow for the person(s) to present relevant evidence and arguments.

1.7.18 **DWELLING:** A building or portion thereof occupied exclusively for the residential purposes, but not including mobile recreational vehicles such as motor homes or travel trailers.

1.7.19 **DEWLLING, FARM:** A single family dwelling or permanently established mobile home located on a farm which is occupied by the farm owner’s/operator or person employed thereon.

1.7.20 **DWELLING, NON-FARM:** A single family dwelling or permanently established mobile home located on a farm, or otherwise, of which the

occupant does not derive at least fifty (50) percent of his gross income from agricultural activities.

- 1.7.21 **ESTABLISHED RESIDENCE:** Any residence established by a personal presence, in a fixed and permanent dwelling with an intention to remain there.
- 1.7.22 **EXISTING:** In place and operating on the date this ordinance is effective.
- 1.7.23 **FAMILY:** A group of one or more persons occupying a single premise and living as a single housekeeping unit.
- 1.7.24 **FARM:** Any aggregate areas operated by one person, family, partnership, corporation or joint venture for agricultural or farming purposes.
- 1.7.25 **FARMING:** *See* Agriculture
- 1.7.26 **FEEDLOT:** A parcel of land which contains an animal feeding operation or a confined animal feeding operation as defined by this ordinance.
- 1.7.27 **GRAIN CLEANING PLANT:** A permanent structure for cleaning seeds or grain as a commercial venture.
- 1.7.28 **GRAIN ELEVATOR:** A business for the purpose of buying, selling, and storage of agricultural products and feeds.
- 1.7.29 **HOME OCCUPATION:** Any occupation (1) which is carried in solely by members of the family residing on the premise, (2) is clearly secondary to the use of the dwelling for residential purposes, and (3) does not create excess noise, traffic, or other disturbances.
- 1.7.30 **LIVESTOCK:** Any animal raised for food, raw materials, or pleasure, including, but not limited to, beef and dairy cattle, bison, sheep, swine, poultry, and horses. Livestock also includes fur animals raised for pelts.
- 1.7.31 **LOT:** A parcel of land sufficient to provide the yard requirements of the regulation.
- 1.7.32 **MOBILE HOME:** A mobile home is a dwelling unit designed for transport after construction, thereafter being established on a permanent foundation. A recreational travel trailer or motor home shall not be considered as a mobile home. A “skid shack” shall not be considered a mobile home.
- 1.7.33 **NDDH:** North Dakota Department of Health.

- 1.7.34 **NON-CONFORMING USE:** Any structure, land, or building existing at time of adoption or amendment of this ordinance which does not conform to the provisions of the regulations.
- 1.7.35 **OPERATOR:** An individual, corporation, cooperative, group of individuals, partnership, joint venture, or any other entity owning or controlling one or more venture.
- 1.7.36 **ORDINANCE:** Regulations contained in this document. The words “ordinance” and “regulation” shall be used synonymously.
- 1.7.37 **OWNER:** The person who has title to the property.
- 1.7.38 **PARK:** An area or open space (public or private) set aside for recreational purposes.
- 1.7.39 **PERMIT, STATE:** A document issued by the NDDH which contains requirements, conditions, and compliance schedules relating to the discharge of animal manure pollutants, and, issued to the contractor, owner or operator, cooperative, stating that the feedlot meet the minimum standards as required by this Ordinance and the NDDH.
- 1.7.40 **PERMIT, TOWNSHIP:** A document issued by Poplar Grove Township which contains conditions and compliance schedules relating to the discharge of animal pollutants, and issued to the contractor, owner, or operator, cooperative, stating the feedlot meets the minimum standards as required by this Ordinance and the NDDH.
- 1.7.41 **PERSON:** The word “person” includes a firm, association, organization, partnership, trust, company, cooperative, corporation, or individual.
- 1.7.42 **RANCHING:** *See* Agriculture
- 1.7.43 **SETBACK:** The distance from a property boundary enclosing a concentrated animal feeding operation, including its animal waste collection system, and the nearest occupied residence, the nearest building used for nonfarm or nonranch purposes, or the nearest land zoned for residential, recreational, or commercial purposes.
- 1.7.44 **STOCKYARDS:** A business engaged in the buying and selling of livestock, but not the feeding of livestock.
- 1.7.45 **STRUCTURAL ALTERATION:** Any change in the supporting members or any substantial alteration or change in the roof or exterior walls of a building.

1.7.46 **UTILITIES:** Including, but are not limited to, electrical power and transmission lines, natural gas or petroleum pipelines, water supply lines, and communications or telephone lines.

1.7.47 **VARIANCE:** The grant of relief from the requirements of the ordinance where it can be shown that due to unusual conditions of the property, strict application of the regulations would result in undue hardship.

B. GENERAL PROVISIONS

1.1 **JURISDICTION:** The jurisdiction of the Ordinance shall include all unincorporated areas of Poplar Grove Township in Ramsey County, North Dakota. Provisions contained herein are applicable to all individuals, persona, governmental or nongovernmental agencies, and independent contractors residing or entering in Poplar Grove Township, or whose agent or employees reside in or enter Poplar Grove Township.

1.2 **COMPLIANCE:** Except as hereinafter provided, no building, structure, or land shall be used, occupied, erected, constructed, moved, reconstructed, or structurally altered except in conformity with all the regulations for the district in which it is located.

1.3 **FARMING OR RANCHING:** These regulations shall not be applied for preventing or prohibiting the use of land or building for farming or ranching or any of the normal incidents of farming or ranching, provided the principal income of the operators is derived from agriculture.

IN ANY CASE WHERE AN AGRICULTUREAL USE MAY INTERFERE DIRECTLY WITH REGULAR ROAD MAINTENANCE, THESE REGULATIONS SHALL APPLY REGARDLESS OF THE USE OF THE AREA IN QUESTION

1.4 **INTERPRETATION:** Where this ordinance imposes a greater restriction than existing law, the provisions of this Ordinance shall govern.

1.5 **NON-CONFORMING USES:**

1.5.1 Lawful, non-conforming uses of land or buildings existing at the date of adoption of these regulations may continue, provided no structural alterations except for normal maintenance are performed, and such non-conforming uses shall not be extended to occupy a greater area of land than occupied at the time of adoption. A change in zoning district, amendment to the ordinance, or conditional use permit may be requested of the Township Planning-Zoning Commission for such changes.

- 1.5.2 No land, building, or structure where a non-conforming use has been discontinued for a period of one (1) year, or has changed to a permitted use, shall again be devoted to a non-conforming use.
- 1.5.3 A non-conforming structure destroyed or damaged in the amount of less than fifty (50) percent of its fair market value may be reconstructed within one year of such casualty. If damaged more than (50) percent of its fair market value, such structure shall be reconstructed in conformance with these regulations.
- 1.5.4 The provisions of this section shall not be made applicable to conditional uses, or any use made non-conforming by a change of district regulations.

1.6 **SANITARY REGULATIONS:** All agricultural, residential, business, or industrial structures or activity shall conform to the North Dakota health regulations. District Health regulations as related to wells, irrigation, and septic and/or sanitary systems, or if such regulations are deemed not to be applicable, to regulations and plans arrived at through a mutually agreeable manner between the Planning-Zoning Commission and other parties involved.

1.7 **FLOOD AND/OR DRAINAGE CONTROL MAINTENANCE:** No actions of any individual, corporation, foundation, institution, firm, bureau, partnership, company, association or agency shall engage in any agreement, that will limit the rights or duties of the Township Planning-Zoning Commission or township supervisors to maintain, repair, manage, or promote natural drainage channels to prevent, alleviate and flooding that affects the township or its residents, federal, state, township, and municipal right of ways.

1.8 **CONSTRUCTIONS OF RIGHT OF WAY APPROACHES:**

- 1.8.1 Approach placement or improvement shall be determined by the county engineer of Ramsey County.
- 1.8.2 Each application shall be determined on its own merits. Should such approach be constructed, it shall be done in such a manner as not to impede natural water drainage flow, and any needed culverts shall be the responsibility of the operator, and not the township. Improvements shall be approved before construction begins.

1.9 **ROADS:** The condition and upkeep of the roads in Poplar Grove Township is under the control of the Poplar Grove Township Board of Supervisors.

- 1.9.1 A separate road maintenance agreement for access roads, and for township, county, or other public roadways, stating responsibility for maintenance or reconstruction on roads which are used as ingress and egress routes by the person(s) or business(es) developing the property shall be presented to the Board prior to commencement of such activities.
- 1.9.2 Any person(s) wishing to put in a public boat dock or six (6) or more site campground, shall have a signed road agreement with the Board.

C. DISTRICTS AND BOUNDRIES

- 1.1 ESTABLISHMENT OF DISTRICT(S): To effectively carry out the provisions of these regulations, the land covered by the jurisdiction of these regulations (i.e., Poplar Grove Township) shall be zoned agricultural. Poplar Grove Township Board of Supervisors reserved the right to amend these regulations at a future time to include some, or all, of the following districts and to enact such regulations as may be necessary and appropriate to further the intentions of this ordinance.

Agricultural District 'AG'
Rural Commercial District 'RC'
Rural Residential District 'RR'

- 1.2 ZONING MAP: The location and boundaries of the zoning districts are hereby established as shown on the map entitled POPLAR GROVE TOWNSHIP ZONING MAP, which shall be attached to this ordinance, and is hereby made a part of the regulations.

1.3 INTERPRETATION OF BOUNDARIES:

- 1.3.1 Where the district boundary lines on the ZONING DISTRICT MAP are indicated to follow highway, road, or railroad right-of-way, such boundary lines shall be constructed to be the center line of said right-of-way unless clearly shown to the contrary.
- 1.3.2 Where any uncertainty exists as to the exact location of the zoning district boundary line, the Commission shall determine the location of such boundary lines. Costs incurred for said determinations shall be paid by the requesting parties or from Township General Fund monies if no specific parties originated the request, or if equitable determination for assessment shall take precedence over township zoning.

- 1.3.3 Any incorporated municipality, if any, within the township having established zoning ordinances shall take precedence over township zoning.

D. ADMINISTRATION AND ENFORCEMENT

- 1.1 TOWNSHIP PLANNING AND ZONING COMMISSION: Membership of the Commission shall consist of three members of the Poplar Grove Township Board of Supervisors and two residents of the township as appointed by the Board. Duties of the Commission shall include:
 - 1.1.1 Establishment of rules, regulations, and procedures for administering the zoning ordinance.
 - 1.1.2 Assist the Zoning Administrator in conducting inspections of buildings or other regulate activities, and administering the zoning ordinance.
 - 1.1.3 Hear and decide appeals where it is adjudged by the applicant that an error in judgment has been made by the zoning administrator.
 - 1.1.4 Review and study, from time to time, the provisions of the regulations.
 - 1.1.5 The Planning-Zoning Commission shall serve as advisor to the Township Board. The Township Board of Supervisors shall have final adjudication of all Planning-Zoning Commission decisions.
- 1.2 APPEALS: Any person aggrieved by the provisions of these regulations, or by any order of determination of the Planning-Zoning Administrator may, within sixty (60) days of such action, petition for a hearing to the Township Planning-Zoning Commission. Such appeal shall be in writing and shall specify in detail the grounds for the appeal.
 - 1.2.1 Appeals shall be filed with the Zoning Administrator.
 - 1.2.2 Within thirty (30) days of filing, the Township Planning-Zoning Commission shall fix a date for a hearing.
 - 1.2.3 Notice in writing, by certified mail, shall be given to the petitioner at least five (5) days prior to the date of the hearing.
 - 1.2.4 Within fifteen (15) days after the hearing, the Planning-Zoning Commission shall take action, and shall mail, by certified mail, a copy of its order to the petitioner.

1.3 **VARIANCES:** As used in the ordinance, a variance is authorized only for the height, area, or size of structures or yards. No variance shall be issued that would provide a change in zoning district. **NO VARIANCE SHALL BE AUTHORIZED UNLESS THE PLANNING-ZONING COMMISSION FINDS CAUSE THAT ALL THE FOLLOWING CONDITIONS EXIST:**

- 1.3.1 That there are exceptional and extraordinary circumstances applying to the property in question, or to the intended use of the property that do not apply generally to other properties, class or use in the same zoning district.
- 1.3.2 That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district, and in the vicinity.
- 1.3.3 That the authorization of such variance will not be of substantial detriment to adjacent property and will not material impair the purpose of the regulations, nor the public interest.
- 1.3.4 The owner cannot otherwise obtain reasonable return on his property.
- 1.3.5 The hardship is not self-created
- 1.3.6 The variance request is the minimum necessary to permit a reasonable use of the land.

1.4 **CONDITIONALLY PERMITTED USES:** No permit pertaining to the conditional use of the land or buildings shall be issued unless:

- 1.4.1 An application for a conditional use permit has been submitted to the Planning-Zoning Commission for review, and necessary fees paid to the Township.
- 1.4.2 The Planning-Zoning Commission has held a public hearing.
- 1.4.3 The Planning-Zoning Commission has made written finding certifying compliance with rules governing conditional uses, and that where applicable, satisfactory provision for the following has been made:
 - 1.4.3.1 Entrance and exit to property with references to access, public safety, traffic flow, and convenience.
 - 1.4.3.2 Parking and loading requirements and required open space and yards of the specific use.

- 1.4.3.3 General compatibility with the surrounding property with due consideration for notice, ordo, or other adverse effects.
- 1.4.3.4 Any other applicable circumstances that may need further attention, including, but not limited to; sewer, water, fire, police, and other matters of concern in specific application.
- 1.4.4 Conditional use permits shall be subject to review, and may be canceled according to the terms specified in the permit. The permit, if not utilized within the prescribed period, shall expire automatically as specified in the permit.
- 1.5 **ZONING ADMINISTRATOR:** A Zoning Administrator shall be appointed by the Planning and Zoning Commission. Co-Administrators may be established, or they appoint a designee to execute specific aspects of their duties. Duties of the Zoning Administrator shall include:
 - 1.5.1 Issuance of all permits, and maintains regulations and permits.
 - 1.5.2 Conduct inspections of all buildings, and other activities included under the restrictions, guidelines, or regulations of this ordinance.
 - 1.5.3 Transmit to the Planning-Zoning Commission all applications for appeals, variances, or conditional use permits, and all applications for amendments to the Board.
- 1.6 **BUILDING PERMITS:** No substantial structure [greater than one hundred twenty (120) square feet] for residential or commercial purposes including accessory uses shall be built, altered, or moved, until a permit has been obtained from the Zoning Administrator.
 - 1.6.1 No permit shall be required for maintenance or repair of any building which does not alter the size or plan of the structure.
 - 1.6.2 No building permit shall be required for agricultural use.
 - 1.6.3 No building permits shall be issued until the Zoning Administrator has approved, in writing, and approach permit for access to the lot upon which the permit is requested, and that the approach planned for access to the property for which a permit is sought conforms to Township standards.
 - 1.6.4 The State Building Code, Electrical Code, and Plumbing Code as established pursuant to the North Dakota Century Code shall be the

Building Codes of Poplar Grove Township for regulating and governing the conditions and maintenance of property, buildings, and structures.

- 1.7 SURETY BONDS: Any conditional use permit (for a project exceeding \$500,000.00) will not be issued without an adequate surety bond that ensures the property will be returned to a condition agreeable to the involved parties. The amount of the surety bond will be determined by the Township Board.
- 1.8 VIOLATIONS OF REGULATIONS: A violation of this ordinance is an offense punishable by a fine not to exceed five hundred dollars (\$500.00) per day for each day that any violator fails to comply with the provisions of these regulations. All fines for violations shall be paid to the Township Clerk-Treasurer, and shall be credited to the general fund of the Township. In addition to other remedies, townships may institute any appropriate actions or proceedings in accordance with N.D.C.C. Chapter 58-03-14. Other violations, damage, or willful disregard for these regulations shall be assessed fees equal to triple the cost of repairing or reconstructing said damages, or correcting the actions of violators, or above fees or five hundred dollars (\$500.00), whichever is the greater amount. Whenever a violation of this ordinance occurs, any person who normally resides within the township, or is a qualified elector of the township, or has any other legitimate interests in the township, may file complaint in regard thereto. All such complaints shall be filed with the Zoning Administrator, who shall investigate such violation(s), and report to the Board of Township Supervisors for appropriate action.
- 1.9 FEES: For the purpose of administering this ordinance, the Board may institute fees. Said fees shall not exceed an amount deemed fair and reasonable, using current wage and material costs when fees are assessed, as a basis for establishing said fees, and may be revised at any time without notice.

INITIAL PERMIT FEE SCHEDULE	
Application for Conditionally Permitted Uses	\$200.00
Application for Change in Zoning District	\$500.00
Application for Variance to Zoning Regulation	\$500.00
Application for Amendment to Zoning Regulation	\$500.00
Application for Building Permit	\$50.00

And in addition, the applicant for a conditional use permit and amendment to the zoning ordinance, or building permit, shall be liable for and pay to the township

clerk sufficient sums of money to pay for and cover all the costs incurred by the township for the processing of such application, including, but not limited to: publication costs; attorney's fees; survey fees; engineering fees; mileage; copy expenses; etc. No permit shall be issued until all such costs

1.10 AMENDMENTS:

- 1.10.1 The Township Board of Supervisors may, from time to time, and pursuant to the laws of this State, amend the provisions of this ordinance.
- 1.10.2 Such amendment shall not become effective until after a public hearing at which parties of interest and citizens shall have the opportunity to be heard.
- 1.10.3 At least fifteen (15) days' notice of the time and place of such meeting shall be published in the official newspaper of the county.
- 1.10.4 The description of any land within any zoning districts, together with any restriction therein, or any amendment to the zoning ordinance, shall be filed with the Township Board of Supervisors.

E. AGRICULTURAL DISTRICT ("AG")

1.1. PURPOSE: The Agricultural District is established as a district in which the predominant use of the land is for general agricultural uses. For the Agricultural District in promoting the general purposes of this ordinance is:

- 1.1.1. To encourage the continued use of land for agricultural uses;
- 1.1.2. To discourage scattered commercial, industrial, or other non- agricultural uses of the land which would interfere with an integrated and efficient development of the land; and
- 1.1.3. To discourage any use, which because of its character or size, would create unusual requirements and costs of public services such as police and fire protection, water supply, and sewerage, before such services can be systematically and adequately developed and provided.

1.2. PERMITTED USES:

- 1.2.1. General Farming operations, including farm dwellings (provided such are maintained in connection with a farm or farming operations) and agricultural buildings, nurseries, and tree farms.

- 1.2.2. Single family dwellings related to an individual farming operation.
- 1.2.3. Churches and similar places of worship, parish homes, and cemeteries.
- 1.2.4. Storage of agricultural products and minor handling, according to State Health Department of Regulations.
- 1.2.5. Home occupations and accessory uses customarily incident to the uses permitted in this district.
- 1.2.6. Hunting, fishing, and other recreational activities are permitted without restriction, provided that all laws of traffic, safety, access, game management, and regulations of this ordinance are followed.

1.2.7. Shelter belts and tree planting

- 1.2.7.1. No shelter belts or major tree planting shall be established within 100 feet of any section line, property line, or from the boundary of any township, county, state, or federal highway right-of-way, except by conditional use permit.
- 1.2.7.2. The Board may, by a resolution of record, agree with a request from adjoining and consenting landowners to the placement of a shelterbelt on a property line at a distance less than 100 feet.
- 1.2.7.3. In the event an existing shelterbelt or tree planting is destroyed by or for any reason, replanting must comply with the setback provisions of these regulations.

1.2.8. Water wells for agriculture, and nonfarm dwellings having conditional permits.

1.3. **CONDITIONALLY PERMITTED USES:** The following conditional uses and their accessory uses are permitted, subject to the issuance of a conditional use permit issued in advance by the Township Planning-Zoning Commission. All buildings and structures shall be no less than one hundred (100) feet from all section lines and the centerlines of township and county roads, or from the right-of-way boundary of state or federal roads.

1.3.1. Nonfarm dwelling conditioned upon the following:

- 1.3.1.1. Lot size shall of not less than five (5) acres.
- 1.3.1.2. Lot location shall provide its own access to an existing improved road.

- 1.3.1.3. Minimum width of three hundred fifty (350) feet; Minimum side yard of forty feet (40) feet; Height maximum of thirty-five (35) feet; Setbacks shall be one hundred (100) feet from center line of street or road.
- 1.3.1.4. Mobile homes shall be registered and display current registration.
- 1.3.1.5. Mobile homes shall be anchored.
- 1.3.1.6. All dwellings shall front on, or have direct access to an established township, county, state, or federal road.
- 1.3.1.7. Township bears no responsibility to provide a culvert or approach to any new building, and the care and maintenance of the access road to all buildings shall be the responsibility of the owner.
- 1.3.2. Schools.
- 1.3.3. Oil, gas, mineral and gravel exploration and production:
 - 1.3.3.1. It is not the intent of Poplar Grove Township to discourage the exploration or production of oil, gas minerals, gravel, scoria, or any other surface or subsurface material for private or commercial purposes; however, the township does wish to protect its roads, right-of-ways, and other developments from excessive use and deterioration. As such, all excavation of oil, gas, minerals, gravel, clay, scoria, or other such resources shall be considered as conditional use, and such shall conform to all requirements put on the applicant by the zoning authority.
- 1.3.4. Water well drilling other than agricultural or residential.
- 1.3.5. Radio, television, or other towers.
- 1.3.6. Utilities.
- 1.3.7. Parks.
- 1.3.8. Animal Hospitals.
- 1.3.9. Fire Stations.
- 1.3.10. Grain cleaning plants and grain elevators.

1.3.11. Stockyards.

1.3.12. Animal Feeding Operations subject to the provisions of Section F.

1.4. PROHIBITED USES: Any land uses which are not listed in this section as permitted user or as a conditionally permitted use shall be considered a prohibited use and shall not be allowed in this zoning district.

F. ANIMAL FEEDING OPERATION (“AFO”) REGULATIONS

1.1. INTENT AND PURPOSE: These regulations are designed to allow Animal Feeding Operations for feeding livestock, furbearers, and poultry and at the same time protect the adjoining uses against odor, run off, and other incompatible characteristics with animal feeding operations.

1.2. GENERAL PROVISIONS AND REQUIREMENTS:

1.2.1. **Scope:** From and after the effective of this ordinance and subsequent amendments. All existing or proposed animal feeding operations shall be in the conformity with the provisions of this ordinance.

1.2.2. Animal Feeding Operations are only permitted as conditional uses subject to the provisions of this ordinance and the requirements and permitting of the NDDH. A conditional use permit must be obtained and submitted to the Board for its approval.

1.2.3. In addition to the requirements for a conditional use permit elsewhere contain in this ordinance, and Applicant must provide the following documents for its application to be deemed complete:

1.2.3.1. The application for a conditional use permit to operate a facility for an animal feeding operation shall include a scaled site plan. If the facility will handle more than 1000 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 Township may require any or all of the following elements, or require additional elements, in its site plan review process when needed to determine the nature and scope of animal feeding operations: (1) Proposed number of animal units; (2) Legal descriptions of the site and its associated lands; (3) Existing and proposed roads and access ways within and adjacent to the site of the facility; (4) Surrounding land uses and ownership, if the operation will have the capacity to handle more than

1000 animal units; and (5) A copy of the permit application submitted by the applicant to the Department of Health.

1.2.4. In the event of a violation of this ordinance or a judgement on a civil action by the NDDH, the office of the Attorney General, or a person authorized to maintain and action under N.D.C.C. § 42-01-08, then the Township, after due process, in addition to the other penalties enumerated within this ordinance, can order cessation of a facility for animal feeding within a reasonable period and until the owner/operator corrects or abates the cause(s) of the violation. If the cause(s) of the violation are not remedied within a reasonable period as set by the Township, the permit may be revoked.

1.3. REQUIRED SETBACKS AND SEPARATION DISTANCES FOR ANIMAL FEEDING AND THOSE EXPANDING OPERATIONS:

1.3.1. Required Setbacks and Separation Distances for New Animal Feeding Operation The owner/operator of a new animal feeding operation shall locate the site of that operation pursuant to the distances set forth below from existing residences, businesses, churches, schools, and public parks as well as areas of property that are zoned residential, recreational, of commercial:

1.3.1.1. If there are fewer than three hundred (300) animal units, the setback for any animal operation is 0.5 miles.

1.3.1.2. If there are at least three hundred (300) animal units but no more than one thousand (1,000) animal units, the setback for any animal operation is 0.75 miles.

1.3.1.3. If there are at least one thousand (1,000) animal units but no more than two thousand (2,000) animal units, the setback for a hog operation is 1.125 miles and the setback for any animal operation is 0.75 miles.

1.3.1.4. If there are at least two thousand (2,000) animal units but no more than five thousand (5,000) animal units, the setback for a hog operation is 1.50 miles and the setback for any animal operation is 1.125 miles.

1.3.1.5. If there are at least five thousand one (5,001) or more animal unit, the setback for a hog operation is 2.25 miles and the setback for any other animal operation is 1.50 miles.

The distance of the setback is calculated from the property line of the preexisting use to the facility. In areas agricultural zoned land, the setback distance shall be calculated from the area of residential use.

In addition to the above guidelines, all animal feeding operations shall maintain a setback of one quarter mile (1/4 mi.) for all federal or state highway right-of-way. A one hundred fifty-foot (150') setback from all county township road rights-of-way's and adjacent property lines shall be maintained.

1.3.2. Existing Animal Feed Operations.

1.3.2.1. An individual or entity who wishes to establish a residence, business, church, school, public park, or zone for residential use, must comply with the above-referenced setbacks to provide a separation distance from any existing animal feeding operation.

1.3.2.2. An owner/operator of an existing animal feeding operation may locate the owner's residence or business within the setbacks.

1.3.2.3. Expansion of permitted animal units up to twenty-five (25) percent shall require notification of the Poplar Grove Township Board of Supervisors within ten (10) days of expansion.

1.3.2.4. If notified in writing by an owner/operator of a planned future expansion of an animal feeding operation, the Township may implement the corresponding odor setback for a temporary time not to exceed two years, after which time the setback will remain in effect only if the expansion was completed.

Approved and adopted this _____ day of _____, 2018.

Poplar Grove Township

By: _____

Its: _____

Attest:

Clerk

Table of Contents

A. INTRODUCTION	4
1.1 TITLE	4
1.2 PURPOSE	4
1.3 AUTHORITY	4
1.4 REPEAL	4
1.5 SEVERABILITY	4
1.6 EFFECTIVE DATE	4
1.7 DEFINITIONS	4
B. GENERAL PROVISIONS	10
1.1 JURISDICTION	10
1.2 COMPLIANCE	10
1.3 FARMING OR RANCHING	10
1.4 INTERPRETATION	10
1.5 NON-CONFORMING USES	10
1.6 SANITARY REGULATIONS	11
1.7 FLOOD AND/OR DRAINAGE CONTROL MAINTENANCE	11
1.8 CONSTRUCTIONS OF RIGHT OF WAY APPROACHES	11
1.9 ROADS	11
C. DISTRICTS AND BOUNDRIES	12
1.1 ESTABLISHMENT OF DISTRICT(S)	12
1.2 ZONING MAP	12
1.3 INTERPRETATION OF BOUNDARIES	12
D. ADMINISTRATION AND ENFORCEMENT	13
1.1 TOWNSHIP PLANNING AND ZONING COMMISION	13
1.2 APPEALS	13
1.3 VARIANCES	14
1.4 CONDITIONALLY PERMITTED USES	14
1.5 ZONING ADMINISTRATOR	15
1.6 BUILDING PERMITS	15
1.7 SURETY BONDS	16
1.8 VIOLATIONS OF REGULATIONS	16

1.9	<i>FEES</i>	16
1.10	<i>AMENDMENTS</i>	17
E.	AGRICULTURAL DISTRICT (“AG”)	17
1.1.	<i>PURPOSE</i>	17
1.2.	<i>PERMITTED USES</i>	17
1.3.	<i>CONDITIONALLY PERMITTED USES</i>	18
1.4.	<i>PROHIBITED USES</i>	20
F.	ANIMAL FEEDING OPERATION (“AFO”) REGULATIONS	20
1.1.	<i>INTENT AND PURPOSE</i>	20
1.2.	<i>GENERAL PROVISIONS AND REQUIREMENTS</i>	20
1.3.	<i>REQUIRED SETBACKS AND SEPARATION DISTANCES FOR ANIMAL FEEDING AND THOSE EXPANDING OPERATIONS</i>	21

A. INTRODUCTION

- 1.1 **TITLE:** This ordinance shall be known as the “ZONING ORDINANCE OF POPLAR GROVE TOWNSHIP.”
- 1.2 **PURPOSE:** The purpose of this ordinance is to preserve and promote the health, safety, public convenience, agricultural use of the land, general prosperity, and the general welfare and orderly development of Poplar Grove Township and its residents.
- 1.3 **AUTHORITY:** These regulations are adopted under the authority granted by Chapter 58-03 of the North Dakota Century Code, as well as other state and federal laws and statutes.
- 1.4 **REPEAL:** All other ordinances or regulations or parts thereof of Poplar Grove’s Township in conflict with these regulations are hereby repealed.
- 1.5 **SEVERABILITY:** If any section, paragraph, clause, or provision of this ordinance should be declared invalid or unconstitutional by a court of competent jurisdiction, the remaining provisions of this ordinance shall be in full force and effect. Toward that end, the provisions of these regulations are declared to be severable.
- 1.6 **EFFECTIVE DATE:** This ordinance shall be in full force and effect from and after its passage and approval by the Poplar Grove Township Board of Supervisors.
- 1.7 **DEFINITIONS:** For the purpose of this ordinance, the following definitions have been adopted
 - 1.7.1 The word “shall” is mandatory, and not discretionary; the word “may” is permissive.
 - 1.7.2 Words used in the present tense shall include the future and words used in the singular shall include the plural, and the plural the singular.
 - 1.7.3 Words shall be given their common usage if not defined.
 - 1.7.4 **ACCESSORY USE OR ACCESSORY STRUCTURE:** A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as garage or tool shed.
 - 1.7.5 **AGRICULTURE:** The use of land for agricultural purposes, including the necessary buildings or structures for farm or farm labor use. Agriculture shall

include farming, dairying, pasturage, horticulture, animal and poultry husbandry, and accessory uses and buildings for packing, treating, or storing produce, providing accessory uses are secondary to normal agricultural activities.

1.7.6 **ANIMAL FEEDING OPERATION (AFO):** Means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

1.7.6.1 Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve month period; and

1.7.6.2 Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

1.7.7 **ANIMAL HOSPITAL:** A facility operated by or under the direct supervision of a licensed veterinarian.

1.7.8 **ANIMAL UNIT (AU):** A unit of measurement used to compare differences in the production of animal manures that employs as a standard the average weight of the animal divided by 1000 pounds. The total number of animal units subject to permit or registration shall be determined by including operations under common ownership or management which utilize a common area or system for manure disposal. For purposes of this ordinance, the following equivalents shall apply (obtained from N.D.C.C. § 58-03-1111.1(2)). For purposes of this sections, animal units are determined as follows:

1.7.8.1 One mature dairy cow, whether milking or dry, equals 1.33 animal units;

1.7.8.2 One dairy cow, heifer, or bull, other than an animal described in subdivision A equals 1.0 animal unit:

1.7.8.3 One weaned beef animal, whether calf, heifer, steer, or bull, equals 0.75 animal unit;

1.7.8.4 One cow calf pair equals 1.0 animal unit;

1.7.8.5 One swine weighing fifty-five pounds (24.948 kilograms) or more equals 0.4 animal unit;

- 1.7.8.6 One swine weighing less than fifty-five pounds (24.948 kilograms) equals 0.1 animal unit;
 - 1.7.8.7 One horse equals 2.0 animal units;
 - 1.7.8.8 One sheep or lamb equals 0.1 animal unit;
 - 1.7.8.9 One turkey equals 0.0182 animal unit;
 - 1.7.8.10 One chicken, other than a laying hen, equals 0.008 animal unit
 - 1.7.8.11 One laying hen equals 0.012 animal unit;
 - 1.7.8.12 One duck equals 0.033 animal unit; and
 - 1.7.8.13 Any livestock not listed in paragraphs 1.7.8.1 through 1.7.8.13 equals 1.0 animal unit per each one thousand pounds (453.59 kilograms) whether single or combined animal weight.
- 1.7.9 **ANIMAL WINTERING OPERATION:** A parcel of land where animals are sheltered incidental to farming at any time between October 15 and May 15 of cash productions cycle when these animals do not obtain majority of their feed and nutrients from grazing. This term includes weaned offspring of cattle and sheep, but it does not include: (1) breeding operations of more than 1000 animal units; or (2) weaned offspring which are kept longer than 120 days and that are not retained for breeding purposes. For purposes of numbers, two or more animal wintering operations under common ownership are as single animal wintering operation if they adjoin each other or if they use a common area or system for manure handling or disposal.
- 1.7.10 **BOARD:** Includes the “Poplar Gove Township Board of Supervisors” or any other word or words meaning the “Poplar Gove Township Board of Supervisors.”
- 1.7.11 **BUILDING:** Any structure used for shelter or enclosure of persons, animals, or chattels.
- 1.7.12 **CAMPGROUND:** A public or private areas for short term [less than fourteen (14) days] parking or camper trailers or tents for business or recreational purposes.
- 1.7.13 **COMMISSION:** Includes the “Poplar Grove Township Planning-Zoning Commission” or any other words or word meaning the Poplar Grove Township Planning-Zoning Commission.”

1.7.14 **CONDITIONAL PERMITTED USE:** A use conditionally permitted to reduce any adverse effects on surrounding property. The words “conditional” and “special” shall be used synonymously.

1.7.15 **CONCENTRATED ANIMAL FEEDING OPERATION (CAFO):** Means an animal feeding operation that is defined as a large concentrated animal feeding operation, as a medium concentrated animal feeding operation, or is a small or other type of animal feeding operation designated as a concentrated animal feeding operation in accordance with Section 33-16-03.1-04 of the North Dakota Century Code. For the purposes of determining animal numbers, two or more feeding operations under common ownership area single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. All concentrated animal feeding operations are required to obtain a North Dakota pollutant discharge elimination system permit pursuant to Chapter 33-16-01 of the North Dakota Administrative Code.

For the purpose of these regulations, Animal Feeding Operations and Concentrated Animal Feeding Operations are divided into small, medium, and large Animal Feeding Operations and Concentrated Animal Feeding Operations as set forth in N.D.A.C. 33-16-03.1-03.

1.7.16 **DISTRICT:** A section or sections of the township for which regulations governing the use of building and premise, the building heights, size of yards, lot area, lot width and the use are uniform.

1.7.17 **DUE PROCESS:** Involved two essential elements: (1) notice; and (2) an opportunity for a hearing. The notice must adequately describe the potential action that might affect the person(s) being notified and it must provide the person(s) a reasonable time to respond. If the person(s) request(s) a hearing, the hearing must be fair and allow for the person(s) to present relevant evidence and arguments.

1.7.18 **DWELLING:** A building or portion thereof occupied exclusively for the residential purposes, but not including mobile recreational vehicles such as motor homes or travel trailers.

1.7.19 **DEWLLING, FARM:** A single family dwelling or permanently established mobile home located on a farm which is occupied by the farm owner’s/operator or person employed thereon.

1.7.20 **DWELLING, NON-FARM:** A single family dwelling or permanently established mobile home located on a farm, or otherwise, of which the

occupant does not derive at least fifty (50) percent of his gross income from agricultural activities.

- 1.7.21 **ESTABLISHED RESIDENCE:** Any residence established by a personal presence, in a fixed and permanent dwelling with an intention to remain there.
- 1.7.22 **EXISTING:** In place and operating on the date this ordinance is effective.
- 1.7.23 **FAMILY:** A group of one or more persons occupying a single premise and living as a single housekeeping unit.
- 1.7.24 **FARM:** Any aggregate areas operated by one person, family, partnership, corporation or joint venture for agricultural or farming purposes.
- 1.7.25 **FARMING:** *See* Agriculture
- 1.7.26 **FEEDLOT:** A parcel of land which contains an animal feeding operation or a confined animal feeding operation as defined by this ordinance.
- 1.7.27 **GRAIN CLEANING PLANT:** A permanent structure for cleaning seeds or grain as a commercial venture.
- 1.7.28 **GRAIN ELEVATOR:** A business for the purpose of buying, selling, and storage of agricultural products and feeds.
- 1.7.29 **HOME OCCUPATION:** Any occupation (1) which is carried in solely by members of the family residing on the premise, (2) is clearly secondary to the use of the dwelling for residential purposes, and (3) does not create excess noise, traffic, or other disturbances.
- 1.7.30 **LIVESTOCK:** Any animal raised for food, raw materials, or pleasure, including, but not limited to, beef and dairy cattle, bison, sheep, swine, poultry, and horses. Livestock also includes fur animals raised for pelts.
- 1.7.31 **LOT:** A parcel of land sufficient to provide the yard requirements of the regulation.
- 1.7.32 **MOBILE HOME:** A mobile home is a dwelling unit designed for transport after construction, thereafter being established on a permanent foundation. A recreational travel trailer or motor home shall not be considered as a mobile home. A “skid shack” shall not be considered a mobile home.
- 1.7.33 **NDDH:** North Dakota Department of Health.

- 1.7.34 **NON-CONFORMING USE:** Any structure, land, or building existing at time of adoption or amendment of this ordinance which does not conform to the provisions of the regulations.
- 1.7.35 **OPERATOR:** An individual, corporation, cooperative, group of individuals, partnership, joint venture, or any other entity owning or controlling one or more venture.
- 1.7.36 **ORDINANCE:** Regulations contained in this document. The words “ordinance” and “regulation” shall be used synonymously.
- 1.7.37 **OWNER:** The person who has title to the property.
- 1.7.38 **PARK:** An area or open space (public or private) set aside for recreational purposes.
- 1.7.39 **PERMIT, STATE:** A document issued by the NDDH which contains requirements, conditions, and compliance schedules relating to the discharge of animal manure pollutants, and, issued to the contractor, owner or operator, cooperative, stating that the feedlot meet the minimum standards as required by this Ordinance and the NDDH.
- 1.7.40 **PERMIT, TOWNSHIP:** A document issued by Poplar Grove Township which contains conditions and compliance schedules relating to the discharge of animal pollutants, and issued to the contractor, owner, or operator, cooperative, stating the feedlot meets the minimum standards as required by this Ordinance and the NDDH.
- 1.7.41 **PERSON:** The word “person” includes a firm, association, organization, partnership, trust, company, cooperative, corporation, or individual.
- 1.7.42 **RANCHING:** *See* Agriculture
- 1.7.43 **SETBACK:** The distance from a property boundary enclosing a concentrated animal feeding operation, including its animal waste collection system, and the nearest occupied residence, the nearest building used for nonfarm or nonranch purposes, or the nearest land zoned for residential, recreational, or commercial purposes.
- 1.7.44 **STOCKYARDS:** A business engaged in the buying and selling of livestock, but not the feeding of livestock.
- 1.7.45 **STRUCTURAL ALTERATION:** Any change in the supporting members or any substantial alteration or change in the roof or exterior walls of a building.

1.7.46 **UTILITIES:** Including, but are not limited to, electrical power and transmission lines, natural gas or petroleum pipelines, water supply lines, and communications or telephone lines.

1.7.47 **VARIANCE:** The grant of relief from the requirements of the ordinance where it can be shown that due to unusual conditions of the property, strict application of the regulations would result in undue hardship.

B. GENERAL PROVISIONS

1.1 **JURISDICTION:** The jurisdiction of the Ordinance shall include all unincorporated areas of Poplar Grove Township in Ramsey County, North Dakota. Provisions contained herein are applicable to all individuals, persona, governmental or nongovernmental agencies, and independent contractors residing or entering in Poplar Grove Township, or whose agent or employees reside in or enter Poplar Grove Township.

1.2 **COMPLIANCE:** Except as hereinafter provided, no building, structure, or land shall be used, occupied, erected, constructed, moved, reconstructed, or structurally altered except in conformity with all the regulations for the district in which it is located.

1.3 **FARMING OR RANCHING:** These regulations shall not be applied for preventing or prohibiting the use of land or building for farming or ranching or any of the normal incidents of farming or ranching, provided the principal income of the operators is derived from agriculture.

IN ANY CASE WHERE AN AGRICULTUREAL USE MAY INTERFERE DIRECTLY WITH REGULAR ROAD MAINTENANCE, THESE REGULATIONS SHALL APPLY REGARDLESS OF THE USE OF THE AREA IN QUESTION

1.4 **INTERPRETATION:** Where this ordinance imposes a greater restriction than existing law, the provisions of this Ordinance shall govern.

1.5 **NON-CONFORMING USES:**

1.5.1 Lawful, non-conforming uses of land or buildings existing at the date of adoption of these regulations may continue, provided no structural alterations except for normal maintenance are performed, and such non-conforming uses shall not be extended to occupy a greater area of land than occupied at the time of adoption. A change in zoning district, amendment to the ordinance, or conditional use permit may be requested of the Township Planning-Zoning Commission for such changes.

- 1.5.2 No land, building, or structure where a non-conforming use has been discontinued for a period of one (1) year, or has changed to a permitted use, shall again be devoted to a non-conforming use.
- 1.5.3 A non-conforming structure destroyed or damaged in the amount of less than fifty (50) percent of its fair market value may be reconstructed within one year of such casualty. If damaged more than (50) percent of its fair market value, such structure shall be reconstructed in conformance with these regulations.
- 1.5.4 The provisions of this section shall not be made applicable to conditional uses, or any use made non-conforming by a change of district regulations.

1.6 **SANITARY REGULATIONS:** All agricultural, residential, business, or industrial structures or activity shall conform to the North Dakota health regulations. District Health regulations as related to wells, irrigation, and septic and/or sanitary systems, or if such regulations are deemed not to be applicable, to regulations and plans arrived at through a mutually agreeable manner between the Planning-Zoning Commission and other parties involved.

1.7 **FLOOD AND/OR DRAINAGE CONTROL MAINTENANCE:** No actions of any individual, corporation, foundation, institution, firm, bureau, partnership, company, association or agency shall engage in any agreement, that will limit the rights or duties of the Township Planning-Zoning Commission or township supervisors to maintain, repair, manage, or promote natural drainage channels to prevent, alleviate and flooding that affects the township or its residents, federal, state, township, and municipal right of ways.

1.8 **CONSTRUCTIONS OF RIGHT OF WAY APPROACHES:**

- 1.8.1 Approach placement or improvement shall be determined by the county engineer of Ramsey County.
- 1.8.2 Each application shall be determined on its own merits. Should such approach be constructed, it shall be done in such a manner as not to impede natural water drainage flow, and any needed culverts shall be the responsibility of the operator, and not the township. Improvements shall be approved before construction begins.

1.9 **ROADS:** The condition and upkeep of the roads in Poplar Grove Township is under the control of the Poplar Grove Township Board of Supervisors.

- 1.9.1 A separate road maintenance agreement for access roads, and for township, county, or other public roadways, stating responsibility for maintenance or reconstruction on roads which are used as ingress and egress routes by the person(s) or business(es) developing the property shall be presented to the Board prior to commencement of such activities.
- 1.9.2 Any person(s) wishing to put in a public boat dock or six (6) or more site campground, shall have a signed road agreement with the Board.

C. DISTRICTS AND BOUNDRIES

- 1.1 ESTABLISHMENT OF DISTRICT(S): To effectively carry out the provisions of these regulations, the land covered by the jurisdiction of these regulations (i.e., Poplar Grove Township) shall be zoned agricultural. Poplar Grove Township Board of Supervisors reserved the right to amend these regulations at a future time to include some, or all, of the following districts and to enact such regulations as may be necessary and appropriate to further the intentions of this ordinance.

Agricultural District 'AG'
Rural Commercial District 'RC'
Rural Residential District 'RR'

- 1.2 ZONING MAP: The location and boundaries of the zoning districts are hereby established as shown on the map entitled POPLAR GROVE TOWNSHIP ZONING MAP, which shall be attached to this ordinance, and is hereby made a part of the regulations.

1.3 INTERPRETATION OF BOUNDARIES:

- 1.3.1 Where the district boundary lines on the ZONING DISTRICT MAP are indicated to follow highway, road, or railroad right-of-way, such boundary lines shall be constructed to be the center line of said right-of-way unless clearly shown to the contrary.
- 1.3.2 Where any uncertainty exists as to the exact location of the zoning district boundary line, the Commission shall determine the location of such boundary lines. Costs incurred for said determinations shall be paid by the requesting parties or from Township General Fund monies if no specific parties originated the request, or if equitable determination for assessment shall take precedence over township zoning.

- 1.3.3 Any incorporated municipality, if any, within the township having established zoning ordinances shall take precedence over township zoning.

D. ADMINISTRATION AND ENFORCEMENT

- 1.1 TOWNSHIP PLANNING AND ZONING COMMISSION: Membership of the Commission shall consist of three members of the Poplar Grove Township Board of Supervisors and two residents of the township as appointed by the Board. Duties of the Commission shall include:
 - 1.1.1 Establishment of rules, regulations, and procedures for administering the zoning ordinance.
 - 1.1.2 Assist the Zoning Administrator in conducting inspections of buildings or other regulate activities, and administering the zoning ordinance.
 - 1.1.3 Hear and decide appeals where it is adjudged by the applicant that an error in judgment has been made by the zoning administrator.
 - 1.1.4 Review and study, from time to time, the provisions of the regulations.
 - 1.1.5 The Planning-Zoning Commission shall serve as advisor to the Township Board. The Township Board of Supervisors shall have final adjudication of all Planning-Zoning Commission decisions.
- 1.2 APPEALS: Any person aggrieved by the provisions of these regulations, or by any order of determination of the Planning-Zoning Administrator may, within sixty (60) days of such action, petition for a hearing to the Township Planning-Zoning Commission. Such appeal shall be in writing and shall specify in detail the grounds for the appeal.
 - 1.2.1 Appeals shall be filed with the Zoning Administrator.
 - 1.2.2 Within thirty (30) days of filing, the Township Planning-Zoning Commission shall fix a date for a hearing.
 - 1.2.3 Notice in writing, by certified mail, shall be given to the petitioner at least five (5) days prior to the date of the hearing.
 - 1.2.4 Within fifteen (15) days after the hearing, the Planning-Zoning Commission shall take action, and shall mail, by certified mail, a copy of its order to the petitioner.

1.3 **VARIANCES:** As used in the ordinance, a variance is authorized only for the height, area, or size of structures or yards. No variance shall be issued that would provide a change in zoning district. **NO VARIANCE SHALL BE AUTHORIZED UNLESS THE PLANNING-ZONING COMMISSION FINDS CAUSE THAT ALL THE FOLLOWING CONDITIONS EXIST:**

- 1.3.1 That there are exceptional and extraordinary circumstances applying to the property in question, or to the intended use of the property that do not apply generally to other properties, class or use in the same zoning district.
- 1.3.2 That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district, and in the vicinity.
- 1.3.3 That the authorization of such variance will not be of substantial detriment to adjacent property and will not material impair the purpose of the regulations, nor the public interest.
- 1.3.4 The owner cannot otherwise obtain reasonable return on his property.
- 1.3.5 The hardship is not self-created
- 1.3.6 The variance request is the minimum necessary to permit a reasonable use of the land.

1.4 **CONDITIONALLY PERMITTED USES:** No permit pertaining to the conditional use of the land or buildings shall be issued unless:

- 1.4.1 An application for a conditional use permit has been submitted to the Planning-Zoning Commission for review, and necessary fees paid to the Township.
- 1.4.2 The Planning-Zoning Commission has held a public hearing.
- 1.4.3 The Planning-Zoning Commission has made written finding certifying compliance with rules governing conditional uses, and that where applicable, satisfactory provision for the following has been made:
 - 1.4.3.1 Entrance and exit to property with references to access, public safety, traffic flow, and convenience.
 - 1.4.3.2 Parking and loading requirements and required open space and yards of the specific use.

- 1.4.3.3 General compatibility with the surrounding property with due consideration for notice, ordo, or other adverse effects.
- 1.4.3.4 Any other applicable circumstances that may need further attention, including, but not limited to; sewer, water, fire, police, and other matters of concern in specific application.
- 1.4.4 Conditional use permits shall be subject to review, and may be canceled according to the terms specified in the permit. The permit, if not utilized within the prescribed period, shall expire automatically as specified in the permit.
- 1.5 **ZONING ADMINISTRATOR:** A Zoning Administrator shall be appointed by the Planning and Zoning Commission. Co-Administrators may be established, or they appoint a designee to execute specific aspects of their duties. Duties of the Zoning Administrator shall include:
 - 1.5.1 Issuance of all permits, and maintains regulations and permits.
 - 1.5.2 Conduct inspections of all buildings, and other activities included under the restrictions, guidelines, or regulations of this ordinance.
 - 1.5.3 Transmit to the Planning-Zoning Commission all applications for appeals, variances, or conditional use permits, and all applications for amendments to the Board.
- 1.6 **BUILDING PERMITS:** No substantial structure [greater than one hundred twenty (120) square feet] for residential or commercial purposes including accessory uses shall be built, altered, or moved, until a permit has been obtained from the Zoning Administrator.
 - 1.6.1 No permit shall be required for maintenance or repair of any building which does not alter the size or plan of the structure.
 - 1.6.2 No building permit shall be required for agricultural use.
 - 1.6.3 No building permits shall be issued until the Zoning Administrator has approved, in writing, and approach permit for access to the lot upon which the permit is requested, and that the approach planned for access to the property for which a permit is sought conforms to Township standards.
 - 1.6.4 The State Building Code, Electrical Code, and Plumbing Code as established pursuant to the North Dakota Century Code shall be the

Building Codes of Poplar Grove Township for regulating and governing the conditions and maintenance of property, buildings, and structures.

1.7 SURETY BONDS: Any conditional use permit (for a project exceeding \$500,000.00) will not be issued without an adequate surety bond that ensures the property will be returned to a condition agreeable to the involved parties. The amount of the surety bond will be determined by the Township Board.

1.8 VIOLATIONS OF REGULATIONS: A violation of this ordinance is an offense punishable by a fine not to exceed five hundred dollars (\$500.00) per day for each day that any violator fails to comply with the provisions of these regulations. All fines for violations shall be paid to the Township Clerk-Treasurer, and shall be credited to the general fund of the Township. In addition to other remedies, townships may institute any appropriate actions or proceedings in accordance with N.D.C.C. Chapter 58-03-14. Other violations, damage, or willful disregard for these regulations shall be assessed fees equal to triple the cost of repairing or reconstructing said damages, or correcting the actions of violators, or above fees or five hundred dollars (\$500.00), whichever is the greater amount. Whenever a violation of this ordinance occurs, any person who normally resides within the township, or is a qualified elector of the township, or has any other legitimate interests in the township, may file complaint in regard thereto. All such complaints shall be filed with the Zoning Administrator, who shall investigate such violation(s), and report to the Board of Township Supervisors for appropriate action.

1.9 FEES: For the purpose of administering this ordinance, the Board may institute fees. Said fees shall not exceed an amount deemed fair and reasonable, using current wage and material costs when fees are assessed, as a basis for establishing said fees, and may be revised at any time without notice.

INITIAL PERMIT FEE SCHEDULE	
Application for Conditionally Permitted Uses	\$200.00
Application for Change in Zoning District	\$500.00
Application for Variance to Zoning Regulation	\$500.00
Application for Amendment to Zoning Regulation	\$500.00
Application for Building Permit	\$50.00

And in addition, the applicant for a conditional use permit and amendment to the zoning ordinance, or building permit, shall be liable for and pay to the township

clerk sufficient sums of money to pay for and cover all the costs incurred by the township for the processing of such application, including, but not limited to: publication costs; attorney's fees; survey fees; engineering fees; mileage; copy expenses; etc. No permit shall be issued until all such costs

1.10 AMENDMENTS:

- 1.10.1 The Township Board of Supervisors may, from time to time, and pursuant to the laws of this State, amend the provisions of this ordinance.
- 1.10.2 Such amendment shall not become effective until after a public hearing at which parties of interest and citizens shall have the opportunity to be heard.
- 1.10.3 At least fifteen (15) days' notice of the time and place of such meeting shall be published in the official newspaper of the county.
- 1.10.4 The description of any land within any zoning districts, together with any restriction therein, or any amendment to the zoning ordinance, shall be filed with the Township Board of Supervisors.

E. AGRICULTURAL DISTRICT ("AG")

1.1. PURPOSE: The Agricultural District is established as a district in which the predominant use of the land is for general agricultural uses. For the Agricultural District in promoting the general purposes of this ordinance is:

- 1.1.1. To encourage the continued use of land for agricultural uses;
- 1.1.2. To discourage scattered commercial, industrial, or other non- agricultural uses of the land which would interfere with an integrated and efficient development of the land; and
- 1.1.3. To discourage any use, which because of its character or size, would create unusual requirements and costs of public services such as police and fire protection, water supply, and sewerage, before such services can be systematically and adequately developed and provided.

1.2. PERMITTED USES:

- 1.2.1. General Farming operations, including farm dwellings (provided such are maintained in connection with a farm or farming operations) and agricultural buildings, nurseries, and tree farms.

- 1.2.2. Single family dwellings related to an individual farming operation.
- 1.2.3. Churches and similar places of worship, parish homes, and cemeteries.
- 1.2.4. Storage of agricultural products and minor handling, according to State Health Department of Regulations.
- 1.2.5. Home occupations and accessory uses customarily incident to the uses permitted in this district.
- 1.2.6. Hunting, fishing, and other recreational activities are permitted without restriction, provided that all laws of traffic, safety, access, game management, and regulations of this ordinance are followed.

1.2.7. Shelter belts and tree planting

- 1.2.7.1. No shelter belts or major tree planting shall be established within 100 feet of any section line, property line, or from the boundary of any township, county, state, or federal highway right-of-way, except by conditional use permit.
- 1.2.7.2. The Board may, by a resolution of record, agree with a request from adjoining and consenting landowners to the placement of a shelterbelt on a property line at a distance less than 100 feet.
- 1.2.7.3. In the event an existing shelterbelt or tree planting is destroyed by or for any reason, replanting must comply with the setback provisions of these regulations.

1.2.8. Water wells for agriculture, and nonfarm dwellings having conditional permits.

1.3. **CONDITIONALLY PERMITTED USES:** The following conditional uses and their accessory uses are permitted, subject to the issuance of a conditional use permit issued in advance by the Township Planning-Zoning Commission. All buildings and structures shall be no less than one hundred (100) feet from all section lines and the centerlines of township and county roads, or from the right-of-way boundary of state or federal roads.

1.3.1. Nonfarm dwelling conditioned upon the following:

- 1.3.1.1. Lot size shall of not less than five (5) acres.
- 1.3.1.2. Lot location shall provide its own access to an existing improved road.

- 1.3.1.3. Minimum width of three hundred fifty (350) feet; Minimum side yard of forty feet (40) feet; Height maximum of thirty-five (35) feet; Setbacks shall be one hundred (100) feet from center line of street or road.
- 1.3.1.4. Mobile homes shall be registered and display current registration.
- 1.3.1.5. Mobile homes shall be anchored.
- 1.3.1.6. All dwellings shall front on, or have direct access to an established township, county, state, or federal road.
- 1.3.1.7. Township bears no responsibility to provide a culvert or approach to any new building, and the care and maintenance of the access road to all buildings shall be the responsibility of the owner.
- 1.3.2. Schools.
- 1.3.3. Oil, gas, mineral and gravel exploration and production:
 - 1.3.3.1. It is not the intent of Poplar Grove Township to discourage the exploration or production of oil, gas minerals, gravel, scoria, or any other surface or subsurface material for private or commercial purposes; however, the township does wish to protect its roads, right-of-ways, and other developments from excessive use and deterioration. As such, all excavation of oil, gas, minerals, gravel, clay, scoria, or other such resources shall be considered as conditional use, and such shall conform to all requirements put on the applicant by the zoning authority.
- 1.3.4. Water well drilling other than agricultural or residential.
- 1.3.5. Radio, television, or other towers.
- 1.3.6. Utilities.
- 1.3.7. Parks.
- 1.3.8. Animal Hospitals.
- 1.3.9. Fire Stations.
- 1.3.10. Grain cleaning plants and grain elevators.

1.3.11. Stockyards.

1.3.12. Animal Feeding Operations subject to the provisions of Section F.

1.4. PROHIBITED USES: Any land uses which are not listed in this section as permitted user or as a conditionally permitted use shall be considered a prohibited use and shall not be allowed in this zoning district.

F. ANIMAL FEEDING OPERATION (“AFO”) REGULATIONS

1.1. INTENT AND PURPOSE: These regulations are designed to allow Animal Feeding Operations for feeding livestock, furbearers, and poultry and at the same time protect the adjoining uses against odor, run off, and other incompatible characteristics with animal feeding operations.

1.2. GENERAL PROVISIONS AND REQUIREMENTS:

1.2.1. **Scope:** From and after the effective of this ordinance and subsequent amendments. All existing or proposed animal feeding operations shall be in the conformity with the provisions of this ordinance.

1.2.2. Animal Feeding Operations are only permitted as conditional uses subject to the provisions of this ordinance and the requirements and permitting of the NDDH. A conditional use permit must be obtained and submitted to the Board for its approval.

1.2.3. In addition to the requirements for a conditional use permit elsewhere contain in this ordinance, and Applicant must provide the following documents for its application to be deemed complete:

1.2.3.1. The application for a conditional use permit to operate a facility for an animal feeding operation shall include a scaled site plan. If the facility will handle more than 1000 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 Township may require any or all of the following elements, or require additional elements, in its site plan review process when needed to determine the nature and scope of animal feeding operations: (1) Proposed number of animal units; (2) Legal descriptions of the site and its associated lands; (3) Existing and proposed roads and access ways within and adjacent to the site of the facility; (4) Surrounding land uses and ownership, if the operation will have the capacity to handle more than

1000 animal units; and (5) A copy of the permit application submitted by the applicant to the Department of Health.

1.2.4. In the event of a violation of this ordinance or a judgement on a civil action by the NDDH, the office of the Attorney General, or a person authorized to maintain and action under N.D.C.C. § 42-01-08, then the Township, after due process, in addition to the other penalties enumerated within this ordinance, can order cessation of a facility for animal feeding within a reasonable period and until the owner/operator corrects or abates the cause(s) of the violation. If the cause(s) of the violation are not remedied within a reasonable period as set by the Township, the permit may be revoked.

1.3. REQUIRED SETBACKS AND SEPARATION DISTANCES FOR ANIMAL FEEDING AND THOSE EXPANDING OPERATIONS:

1.3.1. Required Setbacks and Separation Distances for New Animal Feeding Operation The owner/operator of a new animal feeding operation shall locate the site of that operation pursuant to the distances set forth below from existing residences, businesses, churches, schools, and public parks as well as areas of property that are zoned residential, recreational, of commercial:

1.3.1.1. If there are fewer than three hundred (300) animal units, the setback for any animal operation is 0.5 miles.

1.3.1.2. If there are at least three hundred (300) animal units but no more than one thousand (1,000) animal units, the setback for any animal operation is 0.75 miles.

1.3.1.3. If there are at least one thousand (1,000) animal units but no more than two thousand (2,000) animal units, the setback for a hog operation is 1.125 miles and the setback for any animal operation is 0.75 miles.

1.3.1.4. If there are at least two thousand (2,000) animal units but no more than five thousand (5,000) animal units, the setback for a hog operation is 1.50 miles and the setback for any animal operation is 1.125 miles.

1.3.1.5. If there are at least five thousand one (5,001) or more animal unit, the setback for a hog operation is 2.25 miles and the setback for any other animal operation is 1.50 miles.

The distance of the setback is calculated from the property line of the preexisting use to the facility. In areas agricultural zoned land, the setback distance shall be calculated from the area of residential use.

In addition to the above guidelines, all animal feeding operations shall maintain a setback of one quarter mile (1/4 mi.) for all federal or state highway right-of-way. A one hundred fifty-foot (150') setback from all county township road rights-of-way's and adjacent property lines shall be maintained.

1.3.2. Existing Animal Feed Operations.

1.3.2.1. An individual or entity who wishes to establish a residence, business, church, school, public park, or zone for residential use, must comply with the above-referenced setbacks to provide a separation distance from any existing animal feeding operation.

1.3.2.2. An owner/operator of an existing animal feeding operation may locate the owner's residence or business within the setbacks.

1.3.2.3. Expansion of permitted animal units up to twenty-five (25) percent shall require notification of the Poplar Grove Township Board of Supervisors within ten (10) days of expansion.

1.3.2.4. If notified in writing by an owner/operator of a planned future expansion of an animal feeding operation, the Township may implement the corresponding odor setback for a temporary time not to exceed two years, after which time the setback will remain in effect only if the expansion was completed.

Approved and adopted this _____ day of _____, 2018.

Poplar Grove Township

By: _____

Its: _____

Attest:

Clerk

GRAND

HARBOR

SOUTH

A-1

A-1

A-1

R-1

R-1

R-1

R-3

R-3

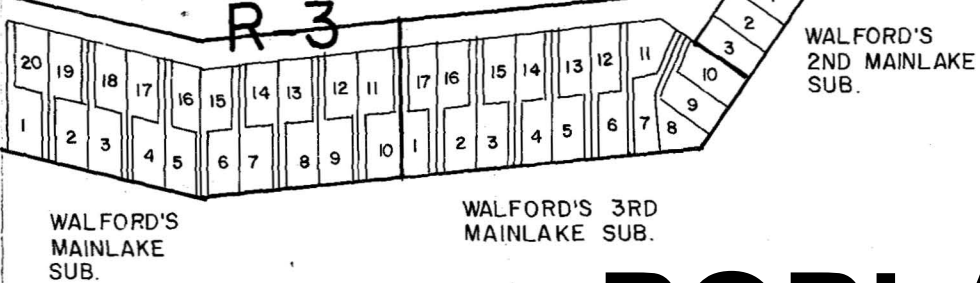
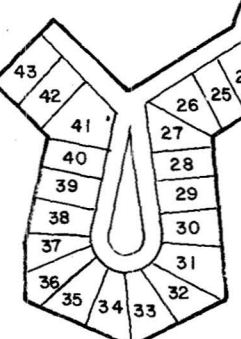
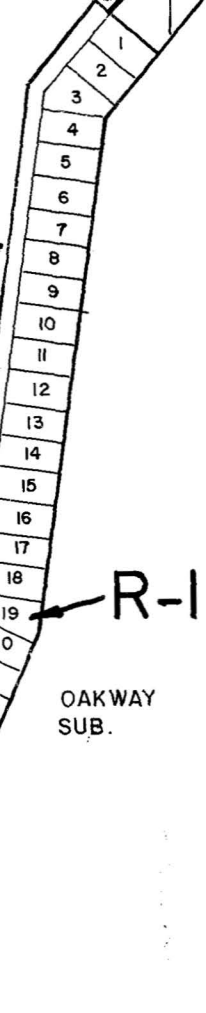
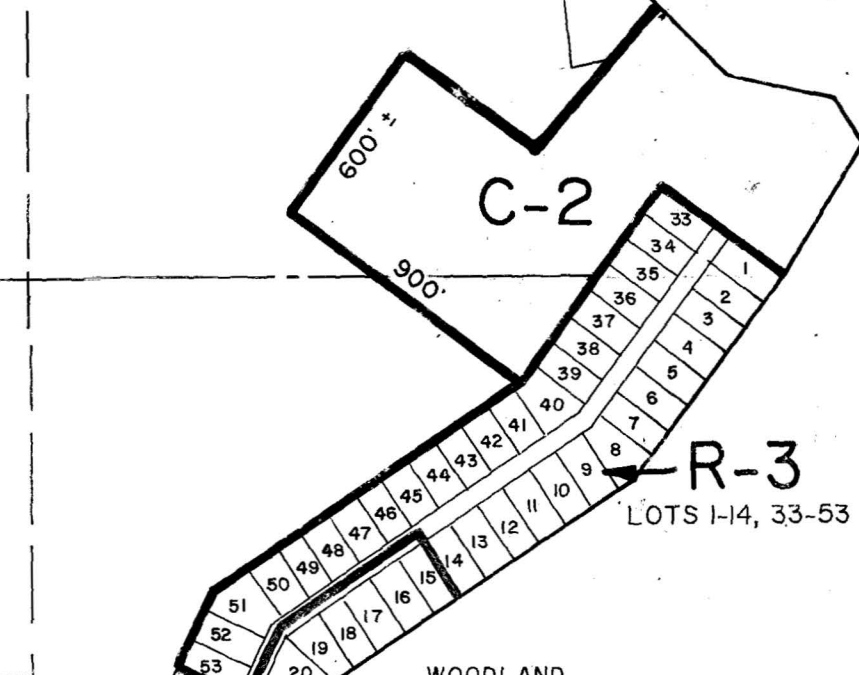
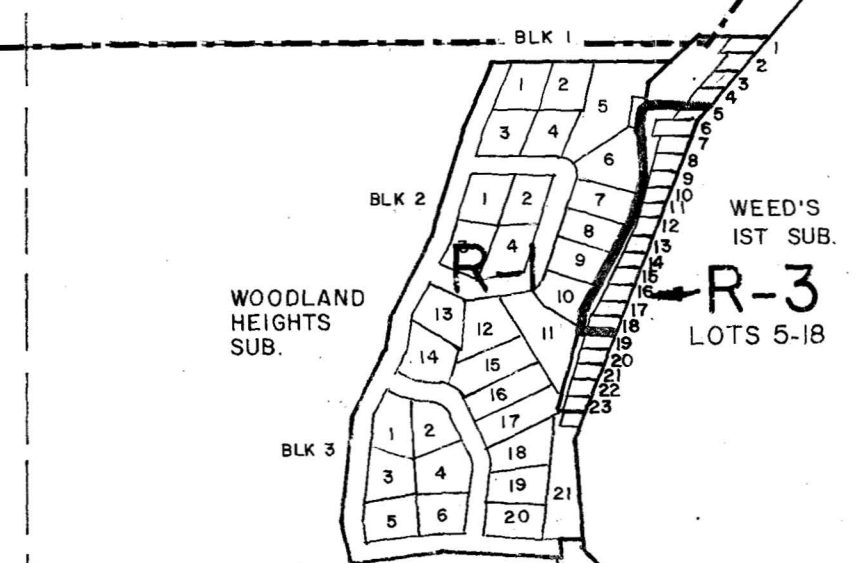
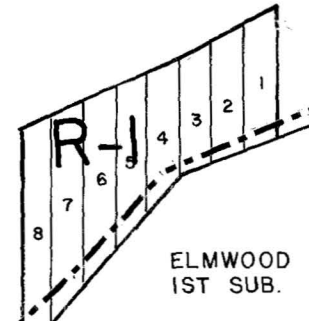
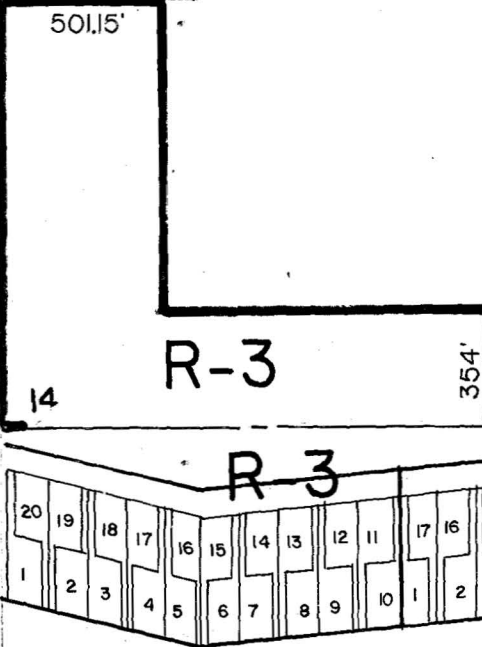
R-1

R-1

R-3

R-3

C-2



POPLAR GROVE TOWNSHIP ZONING MAP