

BLOOM TOWNSHIP

ZONING ORDINANCE

REVISED

JANUARY 2005

Affidavit of Publication

STATE OF NORTH DAKOTA.

County of Stutsman.

{ SS

Mildred Langhammer of said County and State, being first duly sworn, on oath says: — That the JAMESTOWN DAILY SUN, is a Daily newspaper of general circulation, printed and published in the City of Jamestown, in said County and State, by Hansen Brothers. (a corporation) and has been such newspaper during the times hereinafter mentioned; and that I *Mildred Langhammer* the undersigned, am the clerk, and during all such times have been the clerk of said newspaper, and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed *Notice Hearing (Bloom Township)*

a printed copy of which is hereto attached, was printed and published in the said newspaper on *April 1, 1961*

Subscribed and sworn to before me this *3rd* day of *April* 19*61*

Clarence Reed
Notary Public, Stutsman County, N. D.

My commission expires *Feb. 7, 1962*

CLARENCE REED
Notary Public, Stutsman County, N.D.
My Commission expires February 7, 1962

Copy of Legal Notice

NOTICE HEARING
YOU ARE HEREBY NOTIFIED that a public hearing will be held at the Bloom Township Hall in Stutsman County, North Dakota, on the 17th day of April, 1961, at 8:00 o'clock P.M. for the purpose of establishing the regulations of restrictions, and boundaries of BLOOM TOWNSHIP ZONING DISTRICT NO. 1, which includes all of Bloom Township including Sections 1, 12, 13 and 24, Township 140, Range 64, Stutsman County, North Dakota, which sections were duly annexed to Bloom Township by proceedings dated January 11, 1906, at which time all interested parties will be heard.
This notice is given pursuant to the authority vested in the Bloom Township Board of Supervisors under Section 58-03-13 of the North Dakota Century Code.
BLOOM TOWNSHIP
BOARD OF SUPERVISORS
By: Victor Legler
Township Clerk
April 1, 1961.

Amount *4.06*

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BLOOM TOWNSHIP BOARD OF SUPERVISORS

By: Victor Legler

Township Clerk

Jamestown Sun - April 1, 1961

FINAL REPORT AND RECOMMENDATION

TO: LeRoy Gasal, Earl Haskins and Ted Bietz, Board of Township Supervisors,
Bloom Township, Stutsman County, North Dakota.

Gentlemen:

In re: Bloom Township Zoning Commission
Final Report and Recommendation

Pursuant to Public Hearing and proper action taken by the Bloom Township Zoning Commission, I have been directed to file with your Board the final report and recommendations of the Bloom Township Zoning Commission with reference to the investigation and study of the requested zoning problem lying in Bloom Township adjacent to the municipality of Jamestown, North Dakota.

The Bloom Township Zoning Commission has held a public hearing as required by law, and has unanimously adopted the appropriate action recommending to the Board of Township Supervisors that the zoning ordinance covering properties as more specifically set forth in said zoning ordinance attached be adopted by your Board in the form of the attached Zoning Ordinance No. 1, which attached Ordinance is made a part hereof by reference thereto as though the same were fully set forth herein.

The Bloom Township Zoning Commission further recommends that your Board take immediate action to conduct proper public hearings to place this Ordinance into effect.

Dated this 31st day of March, 1961.

BLOOM TOWNSHIP ZONING COMMISSION

By Clinton R. Ottmar
Secretary



ORDINANCE NO. 1

AN ORDINANCE CREATING AGRICULTURAL ZONE DISTRICT NUMBER 1

BE IT ORDAINED by the Bloom Township Board of Township Supervisors of Stutsman County, North Dakota,

That there is hereby created Bloom Township Zoning District No. 1 which shall encompass various and sundry lands as hereinafter set forth. The purpose of this Ordinance being the promotion of health, safety, morals and general welfare, and to secure the orderly development of approaches to the municipality of Jamestown, North Dakota; said Ordinance further regulating and restricting the erection, construction, alteration and repair or use of buildings and structures and land use as hereinafter set forth. No regulation or restriction contained herein shall prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming.

- A. Agriculture - Definition; the term agriculture as used in this Ordinance shall mean a person actually engaged in agriculture who derives the support of himself and his family in whole or the principal portion thereof from the cultivation of the said land; it must be something more than a garden or fruit orchard.
- B. Agricultural Zone District Number 1 shall consist of all of Bloom Township including Sections 1, 12, 13 and 24, Township 140, Range 64, Stutsman County, North Dakota, which sections were duly annexed to Bloom Township by proceedings dated January 11, 1900.

USES PERMITTED

- 1. All agricultural uses shall be permitted as set forth in the definition of the term Agriculture above.

USES EXCLUDED

- 1. Trailer courts, trailer parks and similar structures designed for occupancy in the foregoing District are prohibited.
- 2. Dwelling construction or structurally altered buildings used for dwellings are prohibited except that farm dwellings shall be permitted together with other farm buildings when same are used in the course of normal farming operations as set forth above.
- 3. All uses of any type of construction or use of the land is prohibited unless it complies with the conditions set forth in the definition of the term Agriculture.
- 4. Construction of any type of building within 200 feet from the midline of existing roads is prohibited.

No construction, remodelling, reconstruction or repair of any building, excepting buildings for the agricultural and farming operations, shall be constructed without first applying for and obtaining a building permit from the Bloom Township Zoning Commission. The fee for said building permit shall be determined by the Bloom Township Zoning Commission and the proceeds thereof shall be deposited with the treasurer of Bloom Township. The Bloom Township Zoning Commission of Stutsman County, North Dakota, acting within their sound discretion, may approve or disapprove, or refuse permits, including building permits and permits for special uses, and allow or disallow variances, exceptions and deviations from, or alterations of the provisions of this Ordinance, including the issuance of non-conforming use permits.

NON-CONFORMING USES

The lawful use of land existing at the time of the adoption of the zoning regulation, although such use does not conform to the provisions thereof, may continue; but if such non-conforming use is discontinued for a one-year period, or if the building or buildings in which said non-conforming use is carried on be totally destroyed or destroyed not greater than 50% of its condition prior to the loss and not repaired to its original condition or better within one year of said loss, any future use of said land shall be in conformity with the provisions of this regulation.

ENFORCEMENT AND ADMINISTRATION

It shall be the duty of the Board of Township Supervisors and the Township Zoning Commission to see that the provisions of this Ordinance are properly enforced.

APPEALS

Appeals from any rule, regulation, restriction or decision of the Board of Township Supervisors or Township Zoning Commission may be made to the District Court of Stutsman County, North Dakota.

VIOLATION

In addition to those remedies set forth in the North Dakota Century Code, if any person shall violate any of the provisions of this Ordinance, he shall, upon conviction thereof, be punished by a fine not to exceed \$100.00, or imprisonment not to exceed 30 days, or by both such fine and imprisonment. Each day that a violation is permitted to exist shall constitute a separate offense.

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SECTION I
INTRODUCTION

A. Title:

This ordinance, its regulations, and the district zoning map shall be known as the Bloom Township Zoning Ordinance.

B. Purpose and Intent:

1. The foremost intention of this Ordinance is to protect the property values of the land and property in Bloom Township, to promote the aesthetic flavor of neighborhoods, and enrich and enhance the lives of the citizens of Bloom Township.
2. To promote the public health, safety, and general welfare of the people of Bloom Township.
3. To secure safety from fire, panic, noxious fumes, obnoxious odors hazardous to health, and other dangers.
4. To promote the orderly development of land and water resources.

C. Authority:

The authority for this ordinance is found in Section 58-03-11 through 58-03-15 of the North Dakota Century Code.

D. Interpretation:

These regulations shall be held to be minimum requirements adopted for promotion of purposes cited in "Purpose and Intent." Whenever, the requirements of these regulations are at variance with the requirements other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive shall govern unless otherwise specifically stated.

E. Severability:

If any part or provision of this ordinance or the application thereof to any person, property, or circumstance is adjudged invalid by any court of competent jurisdiction, such judgement shall be confined in its effect to the part, provision, section, or application expressly involved in the controversy and shall not affect or impair the integrity or validity of the remainder of the ordinance or its application to other persons, property, or circumstances.

F. Definitions:

1. Assessory Use or Structure: A subordinate building or portion of the main building the use of which is clearly incidental to and serves exclusively the principal building
2. Agricultural Districts: All lands and areas used for cultivating the soil, producing crops, and/or raising of livestock, and so designated by the Township Zoning Map.
3. Board of Adjustment: Consists of the duly elected board of Township Supervisors who shall hear appeals, act on complaints or disputes under their jurisdiction, and grant variances where deemed appropriate.
4. Building: Any structure designed, or intended, for the enclosure, shelter, or protection of persons, animals, or property.
5. Building Height: The vertical distance from the grade to the highest point of the roof.
6. Conditional Use: Any use to which the Planning Commission; shall set specific conditions, all of which must be met prior to approval of said use in a district.
7. Dwelling, Single Family: A detached residential unit, other than a mobile home, designated for and occupied by one family.
8. Dwelling, Mobile Home: A structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes plumbing, heating, air conditioning, and electrical systems contained therein.
9. Dwelling, Duplex: A detached residential unit, other than a mobile home, designed for and occupied by two families with separate living, cooking, and sleeping spaces.
10. Dwelling, Multiple Family: A single building or portion thereof, containing more than two dwelling units.
11. Feedlot: A piece of land which contains a commercial operation for feeding or raising of 200 (two hundred) or more animal units and which is operated as a separate activity and not incidental to farming.
12. Frontage of Service Road: Minor streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from traffic.
13. Animal Hospital or Kennel: A building or premises set up for treatment and boarding of domestic animals including veterinary facilities.

14. Lot: A tract of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and open space as required.

15. Lot Coverage: The total area of buildings expressed as a percentage of the total lot, plot, or tract.

16. Lot Depth: The distance between the straight lines connecting front and rear lot lines.

17. Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.

18. Lot Width: The distance between the straight lines connecting front and rear lot lines at each side of the lot, measured at the rear of the required front yard.

19. Mobil Home Park: A tract of land designed and developed to accommodate mobile homes, each occupying a portion of the site on a purchase, lease, or rental basis, and each provided with the necessary utilities and other amenities so that the total development serves as a suitable environment for long-term residential occupancy.

20. Motor Vehicle: Any vehicle requiring a motor vehicle licence in the State of North Dakota.

21. Non-Conforming Use: Any building or tract of land lawfully occupied by a use, at the time of the passage of this ordinance or amendments thereto, which does not conform with the provisions of this ordinance or amendments thereto.

22. Permitted Use: Any use which complies with the requirements of a zoning district.

23. Residential District: The area designated by the Township Officers on the Zoning District Map for the development of residential dwelling units.

24. Setback: The line within a property defining the required minimum distances between any structure or use and the adjacent right-of-way or property line of any other lot.

25. 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.

26. Variance: A relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.

27. Zoning District Map: The map showing the zoning districts of the township and officially adopted by the Board of Township Supervisors.

28. Land Suitability:

1.1 No land shall be used for seasonal or permanent use because of inadequate drainage, soil limitations, or any other condition likely to be harmful to the health and safety of the users of the area or harmful to the township.

1.2 Where any uncertainty exists as to the suitability of the land for uses such as on-site sewage disposal (septic tank and drain field), State Health Department and Natural Resources Conservation Service rules and regulations shall apply.

29. Flood Plain: An area which may be covered by flood water including but not limited to regional floods.

30. Encroachment: Any fill, building, structure or use including accessory used projecting into the required yard areas or public and private property.

31. Public Roadway or Public Way: Any dedicated and recorded right-of-way including alleys, sidewalks, streets, roads or highways.

32. Planned Development: A grouping of buildings and structures on a site of five (5) or more acres in single ownership which is not limited by the yard or building height limitations but is based on a detailed development plan and recorded in the Office of the County Register of Deeds upon approval by the Township Board of Supervisors.

33. Zoning Commission/ Planning Commission: A body consisting of the three (3) Township Supervisors and, if needed or desired, appointed members of Chapter 58-03-13 of the North Dakota Century Code to review planning issues, arrange public hearings, prepare plans, review zoning requests, review conditional uses, and make recommendations to be acted on by the Board of Township Supervisors.

34. Shooting Preserves, "Bed and Breakfast's" and Hunting Lodges and Resorts: A place where temporary lodging and meals may be provided and legal hunting may be permitted.

35. Farmstead: Non-farm residences of five (5) acres or more established in an agricultural district where no more than twenty (20) "animal equivalent units" are kept at one time.

SECTION II

GENERAL PROVISIONS

A. Jurisdiction:

The jurisdiction of this ordinance shall include all lands within the Township of Bloom, exclusive of that area under the zoning jurisdiction of the City of Jamestown.

B. Compliance:

No building or land shall hereafter be used or occupied and no building shall be erected, moved, or altered unless in conformity with the regulations set forth in this ordinance.

C. Amendments:

The Township Board of Supervisors may, from time to time, amend, supplement or repeal any part of these regulations after a public notice and hearing.

D. Comprehensive Plan:

These regulations are administered and enforced to implement the Comprehensive Plan of the Township, a document adopted by the Board of Supervisors as a policy guide for protection of the townships natural resources and accommodating the type of development deemed appropriate including but not limited to the following objectives.

1. To conserve and enhance the taxable value of land and buildings in the township.
2. To encourage the most appropriate use of land in the township.
3. To protect the character and maintain the stability of farming activities and production.
4. To regulate and restrict the location and intensity of use of buildings and land not related to farming.
5. To separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.
6. To facilitate traffic movement and promote development of compatible uses.

E. Non-conforming Uses:

The lawful use of a building or premises existing at the date of adoption of these regulations may be continued. When a non-conforming use is discontinued for a period of more than twelve consecutive calendar months any subsequent use or occupancy of such premises shall conform to these regulations. Whenever a building is destroyed or damaged by fire or other casualty to the extent of more than sixty percent (60%) of its market value it shall not be restored unless said building shall conform to the provisions of the district in which it is located. Non-conforming uses shall not be expanded to occupy a larger area of land than existed at the date of adoption of these regulations unless approved by the Zoning Commission after a public hearing.

F. Conditionally Permitted Uses:

Where a use is classified as a conditional use under these regulations and exists at the date of adoption of these regulations, it shall be considered a permitted use. Where a use is not allowed as a conditional use or permitted use, under these regulations, and exists at the date of adoption of these regulations, it shall be considered non-conforming and shall be subject to the non-conforming buildings and use provisions.

G. Land Suitability:

No land shall be used for a purpose which is held unsuitable for the reason of flooding, soil limitations, inadequate drainage, incompatibility with adjoining uses or any condition likely to be harmful to the health, safety or the welfare of the people in the area. The Township Zoning Commission may require information and data to determine the land suitability. The Township may consult with county and state agencies to assist in its determination.

H. Road and Highway Access:

A permit for access to the township roads is required by the Board of Supervisors. In granting the access permit to the township roads, the Board of Supervisors may adopt rules and regulations as to the number of access points per mile, the width, construction and other features of the access to the adjoining properties. The Board of Supervisors may place conditions when granting a road access permit. Farm drive-ways and field access points are exempt from these provisions.

I. Road and Highway Setback - Tree Plantings, Shelterbelts:

All buildings and structures shall be placed at least 100 (one hundred) feet from county and state highway rights-of-way and 75 (seventy five) feet from the township road rights-of-way for the purpose of preventing hazardous accumulations of snow and to allow for future widening of public right-of-ways. Tree plantings and shelterbelts shall be planted 120' from center of N and W roads and 100' from center of S and E roads.

Township Plat

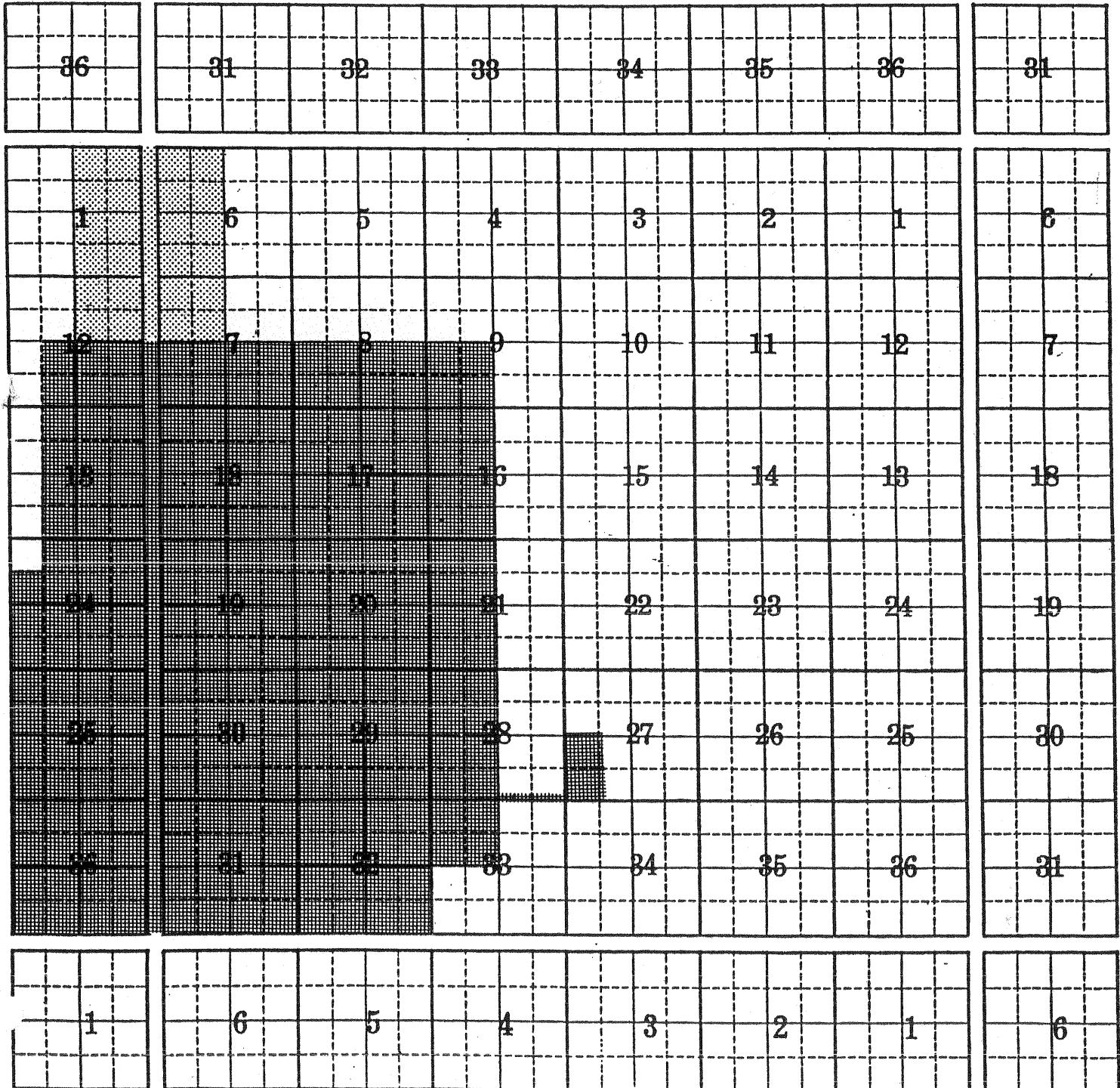
Showing Adjoining Sections of the Surrounding Townships

Bloom Township

Section _____

Township 140 N

Range 63W



RESIDENTIAL DISTRICT 

CONTROLLED BY THE
CITY OF JAMESTOWN 

AGRICULTURAL DISTRICT 



MAP OF

BLOOM

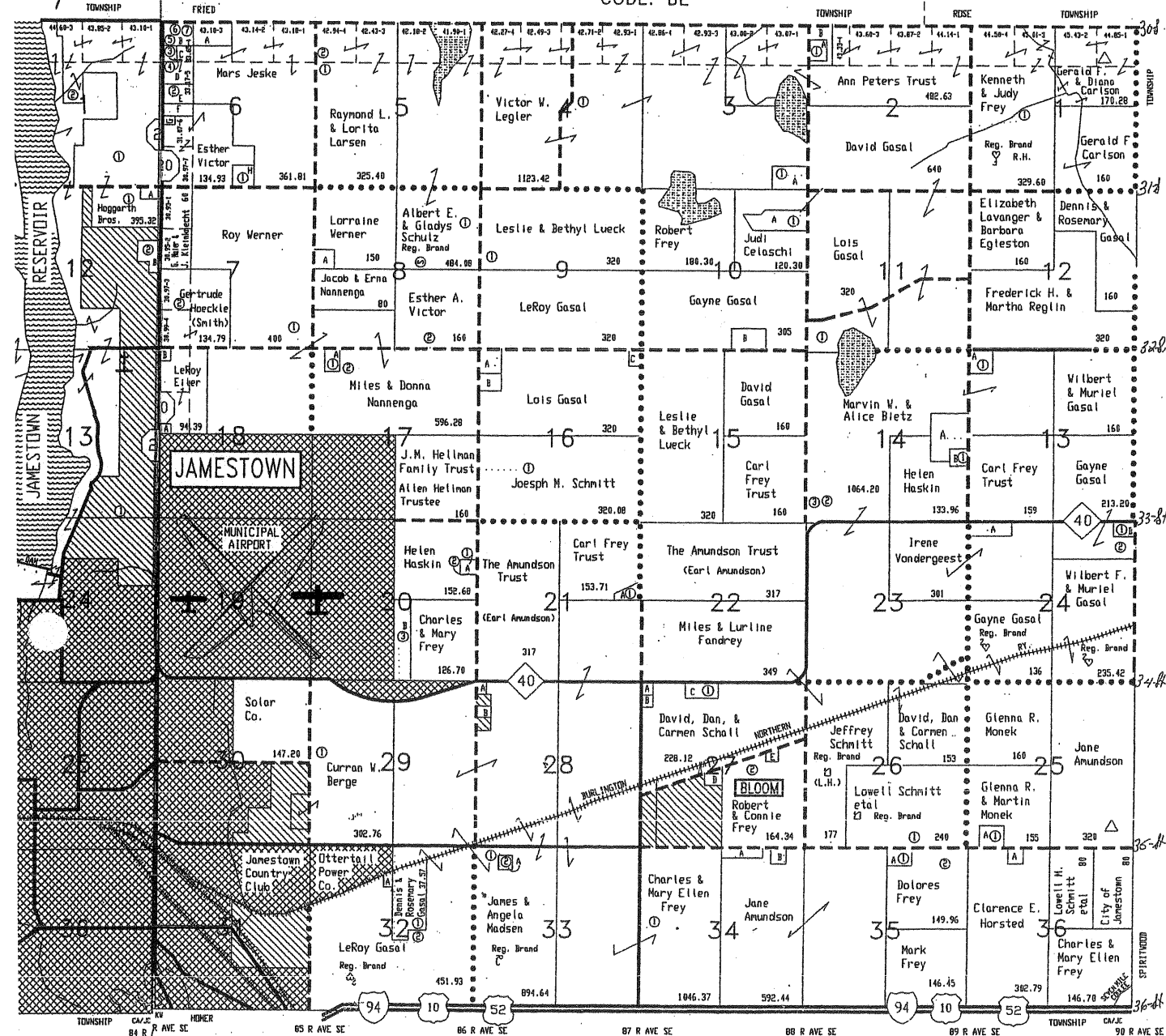


TOWNSHIP: 140 N

MIDLAND ATLAS CO. INC. COPYRIGHT 1996

RANGE: 63 W

CODE: BL



Sections 1, 12, 13 of Midway Township, R64-5140
are a part of Bloom Township R63-140

SECTION III

ZONING DISTRICT BOUNDARIES AND MAP

A. Zoning Districts

In order to carry out the purposes and provisions of these regulations, the following zoning districts are hereby established:

1. Agricultural District
2. Residential District

B. Zoning District Map

1. Zoning Districts: The location and boundaries of the zoning districts are hereby established as shown on the "Zoning District Map" (Map follows this section).
2. Public Roads and Highways as Boundary: Where zoning district boundary lines are indicated as following roads and highways or extensions thereof, such boundary lines shall be construed to be the center line of said roads and highways or extension thereof unless clearly shown to the contrary.
3. Property Line as Boundary: Where a zoning district boundary line coincides approximately but not exactly with the property line, the zoning boundary shall be construed to be the lot line at that location. All section lines, quarter section lines and quarter quarter section lines may be construed as the property lines.
4. District Description for Unsubdivided Lands: For unsubdivided property, zoning district boundaries are determined by metes and bounds description or by a legal description as deemed necessary.
5. Vacated Areas: Where a public road or highway is vacated by official action of the Board of Township Supervisors, the zoning district boundaries shall be extended to the center of the vacated public road or highway.
6. Zoning District Boundary Interpretation: Where any uncertainty exists as to the zoning district boundary lines, the Board of Supervisors shall determine the location of such boundary lines.

SECTION IV

ZONING DISTRICT REGULATIONS

A. Agricultural District

1. Purpose: The purpose of this district is to provide for preservation and protection of agricultural lands and to discourage uses incompatible with agricultural operations or detrimental to agricultural lands utilization.

B. Permitted Uses

1. All types of farming and ranching operations including dairying, livestock and poultry raising, apiaries and fur farming.
2. Grain Elevators and Accessory Structures.
3. Accessory Buildings and Structures.
4. Farmsteads.
5. Cemeteries.
6. Churches.
7. Home Occupations.
8. Public and Private Schools.
9. Public Buildings and Facilities Including County Garages.
10. Single Family Non-farm Residential Units on 5 (five) acres or more.
11. Stock Piling of Sand and Gravel for Road Construction and maintenance.
12. Construction and Maintenance of Drainage Systems to Manage the Water Run-off.
13. Utility Lines and Pipe Lines Including Substations for Transformers, Pumping Stations and Lift Stations.
14. Water Reservoirs.

C. Conditionally Permitted Uses

Any requested use not herein listed and which might qualify as a "Conditionally Permitted Use" must be presented in writing to the Township Board of Supervisors

The Board of Supervisors will then call a hearing and determine if the “conditionally permitted use” will warrant a permit to proceed.

1. Antique, Craft, and/or Hobby shops.
2. Manufacturing and Processing of agricultural products produced in the area.
3. Animal Hospitals, Domestic Animal Kennels, Veterinary Clinics (must be not nearer than 500 (five hundred) feet from any residence except the residence of the owner or operator).
4. Feedlots. Feedlots must comply with the requirements of the special provisions as listed at the end of this ordinance.
5. Storage of Farm Related Chemicals (must comply with all County, State, and Federal regulations).
6. Mining and Extraction of Sand and Gravel.
7. Exploration, Drilling, and extraction of minerals, oil, and/or gas.
8. Mobile Homes.

D. Lot Area and Lot Width

1. For non-farm residential uses the lot area shall not be less than 5 (five) acres.
2. For non-residential uses the lot area shall not be less than 5 (five) acres.
3. The lot width for any use in the agricultural district shall not be less than 250 (two hundred fifty) feet.

E. Yard Requirements

1. The minimum front yard, measured from the front lot line shall not be less than 75 (seventy five) feet for properties abutting township roads and 100 (one hundred) feet for properties fronting on other rights-of-ways.
2. The minimum rear yard measured from the rear lot line shall not be less than 50 (fifty) feet.
3. The minimum side yard, measured from the side lot line shall not be less than 50 (fifty) feet.

F. Building Height

1. The building height for residential buildings shall not exceed two and one-half stories or 35 (thirty five) feet except for farm buildings and structures.
2. The building heights for manufacturing of agricultural products shall be determined by the Township Board of Supervisors.
3. The building height, excepting the radio and TV towers and church steeples for all other uses shall not exceed 35 (thirty five) feet. Radio, TV, and all other communication towers must have adequate, regulation lighting.

G. Approaches

1. Approaches leading off of graveled township roads and connecting other roads, must have culverts of at least 18 (eighteen) inches in diameter.
2. Approaches leading to yards or fields must have culverts of at least 15 (fifteen) inches in diameter.

H. Residential District

1. Purpose: The residential district is primarily established to promote a suitable residential environment and to accommodate single and multi-family density residential uses largely consisting of single and multi-family dwelling units. The minimum size of residential districts shall be twenty (20) acres.
2. Permitted Uses:
 - a. Single family detached and two family dwelling units.
 - b. Multi-family dwelling units.
 - c. Condominium and attached single family dwelling units.
 - d. Manufactured homes installed on permanent foundations or basements.
 - e. Churches, schools and day care facilities.
 - f. Home occupation.
 - g. Accessory buildings and structures.

3. Conditional Uses:

3.1 Bed and breakfast establishments.

3.2 Public and private utilities and structures including overhead and underground wires and related pipelines; and facilities and pipelines for providing rural water to private properties by rural water districts.

3.3 Mobile home parks are subject to the following requirements:

- a. A site plan showing location of streets, utilities, off-street parking, driveways, walkways, blocks, lots, playground and park area.
- b. The mobile home park shall contain a minimum of five (5) acres of land.
- c. Each mobile home shall be placed on a lot at least fifty (50) feet wide with a minimum area of five thousand (5,000) square feet.
- d. Each unit shall be placed on a stand and anchored to provide a firm foundation and prevent accidental movement or overturning.
- e. Each unit shall have a minimum setback of twenty (20) feet within the parks and thirty (30) feet from public streets.
- f. Each unit shall have a minimum side yard of ten (10) feet and a rear yard of twenty (20) feet.
- g. The design and construction of the private streets within the park shall conform to the design standards used by the City of Jamestown.
- h. All units shall be served by underground utilities unless waived by the Zoning Board of Supervisors.
- i. There shall be two (2) off-street parking spaces per unit.

3.4 Hospitals, medical clinics, convalescent homes.

4. Lot Area and Lot Width:

4.1 The minimum lot area in residential districts for residential uses shall be:

- a. Two (2) acres for single family units;
- b. Three (3) acres for two family units; and
- c. Five (5) acres for each multi-family unit excluding the yard requirements.

5. Yard Requirements:

5.1 The minimum front yard, measured from the front lot line, shall not be less than thirty five (35) feet for a single family, multi-family uses and non-residential uses.

5.2 The minimum rear yard, measured from the rear lot line, shall not be less than thirty five (35) feet.

5.3 The minimum side yard, measured from the side lot line, shall not be less than two (2) feet on each side.

5.4 The land or lot owner shall be responsible for the cost of approaches and culverts.

5.5 The landowner or developer shall be responsible for the cost of original roads within a residential district which are not on section lines.

6. Building Height:

6.1 No residential building shall be more than two and one-half (2 1/2) stories or thirty five (35) feet high.

6.2 Non-residential building height shall not exceed four (4) stories or forty five (45) feet excepting church steeples and communication antennas.

SECTION V

SPECIAL PROVISIONS

A. **Sanitary Regulations**

These provisions shall apply to the agricultural and residential districts of Bloom Township unless otherwise stated in the district regulations. This ordinance recognizes that certain activities, conditions, and uses may affect all districts and may be detrimental in certain districts unless proper safeguards are taken. Therefore, the following regulations have been made to protect the welfare of the people of the township.

1. Sanitary Regulations:

Certain soil types in Bloom Township have severe limitations for soil absorption disposal systems (septic tanks).

1.1 An applicant desiring to install a soil absorption sewage disposal facility (septic tank) shall consult the zoning board of supervisors to determine the limitations of the soil on the proposed site of construction.

1.2 Soils having severe limitations shall not be used for soil absorption sewage disposal facilities unless the facility is designed to negate the limitations.

1.3 Soil absorption systems shall be located at a point lower than the elevation grade of any nearby water well or spring.

1.4 Soil absorption systems shall not be closer than fifty (50) feet to any dwelling or cistern and shall not be closer than seventy five (75) feet to any property line.

1.5 No part of a seepage pit or drain field shall be located closer than twenty (20) feet to any property line nor closer than one hundred (100) to any stream or drainage ditch.

1.6 No part of a seepage pit or drain field will be allowed to drain into a reservoir or large body of water.

2. State Requirements:

All residential business or industrial structures shall conform to the North Dakota Health Regulations as it refers to wells, irrigation, septic tanks, and sanitary systems.

B. Mining of Sand, Gravel, and Excavation

The purpose of these provisions is to provide for mining and extraction of sand and gravel for commercial uses, and to protect and preserve agricultural land by guiding such operations, and to minimize the traffic, noise, dust, fume and vibration impact on the adjoining uses and the road network.

1. All sand and gravel mining and excavation site locations require approval by the Board of Township Supervisors excepting those related to farming and township road maintenance.
2. A site plan for operation and reclamation of the mined land including maps showing location of the land to be mined, location of roads and points of access to the site, maps showing the existing and proposed contours after the land is mined and a time table for operation of the site.
3. A written agreement submitted to and approved by the Board of Township Supervisors which secures that the operation and/or procedures relative to the reclamation of the site shall guarantee that all work will be completed within two(2) years after the site is closed.
4. It must be shown that there is compatability with the existing land form including the vegetation, surface and ground water resources.

C. Exploration for, and Extraction of Oil and Gas, and Mining of Minerals

The purpose of these provisions is to provide for exploration, extraction, or mining of minerals, oil, and gas. It is directed that these efforts and activities shall protect and preserve agricultural land by guiding such operations to minimize the traffic, noise, dust, fumes, and vibration impact on the adjoining uses and the road network.

1. All extraction or mining site locations require the approval by the Township Board of Supervisors.
2. A site plan showing location of land to be mined, or land from which oil and gas is to be explored or extracted, shall show location of roads and points of access to the site and the plans for reclamation when the operation ceases. Such site plan shall be submitted to the Township Board of Supervisors for their approval.
3. Reclamation compatability shall be in conformance with that of the sand and gravel regulations in this ordinance or in conformance with State regulations applicable to townships in effect at the time this work is done.

D. Utilities

The purpose of these provisions is to encourage orderly development of utilities in relationship to the agricultural and nonagricultural uses and to provide for the safety of the Township residents.

1. The utilities include but are not limited to electric power, electrical transmission lines, electrical towers and substations, natural gas pipelines, petroleum product pipelines, rural water pipelines, water and sewer pipelines, telephone lines and other above ground or underground communication and energy transfer lines and pipelines.

2. All utility line crossing township roads shall be bored and require a permit from the Township Board of Supervisors.

3. All new utility lines and pipelines are considered conditional uses and require a permit from the Township Board of Supervisors.

4. All pipelines, natural gas, petroleum pipelines and other energy transfer lines shall be placed deep enough in the ground so as to not interfere with or become hazardous to normal farming operations.

5. Excavation for tunneling of any pipelines under roads, farm drains, group drains and local drains shall be done by the company owning or leasing said pipelines and the cost of said excavation and damages will be borne by said company.

6. Permit and inspection fees are required for all road crossings.

E. Public and Non-Profit Wildlife Management Areas

The purpose of these provisions are designed to address the need for Public Wildlife Management Areas and at the same time preserve and protect the interest of the township for its tax lease and investment in construction and maintenance of public roads and other township expenses.

1. All publicly owned and non-profit agency wildlife management areas established after adoption of these regulations require a conditional use permit subject to the hearing procedures outlined in this ordinance.

2. If the area is leased for this purpose, the public agency is required to provide the following as a part of the petition for a conditional use permit:

2.1 A road maintenance agreement specifying duties and responsibilities of the owner/lessee for access and through roads.

2.2 A written agreement signed by the responsible agency shall list the duties and responsibilities of the owner/lessee for control of noxious weeds in the wildlife management area.

3. If the land is purchased by a public agency for such a purpose, the public agency shall arrange for compensating the township for the loss of the property tax.

4. When a township road provides access to the wildlife management area, a road maintenance agreement specifying the duties and responsibilities of the public agency shall be a part of the conditional use permit.

F. Houses Moved Within the Township

All buildings moved into or within the township shall conform to the State building, electrical, and plumbing codes and shall meet the approval of the Zoning Commission. A permit and fees paid are required before a building can be moved.

F. Streets and Roads

The arrangement, character, extent, width, grade, and location of all streets shall conform to road standards of Bloom Township and shall be considered in their relation to existing planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

1. The standard road width for all graveled township roads is sixty six (66) feet.
2. The minimum depth of gravel surfacing on all roads shall not be less than four (4) inches crushed to 3/4 inches, spread the full width of the road or street, or four (4) inches of asphalt on a proper base and subgrade.
3. All streets must be constructed to an adequate height to ensure proper clearance for snow removal.
4. Adequate culverts shall be installed to handle all drainage, with a minimum size of eighteen (18) inches on center line.
5. All drainage under side streets, private drives, and approaches must have culverts installed where required by the Stutsman County Engineer or the Superintendent of roads, with a minimum size of fifteen (15) inches.
6. Developers or builders are responsible for all costs of roads leading from township section lines into residential areas.
7. The Bloom Township Zoning Commission shall inspect the completed roads before assuming responsibility for maintenance of the roads or streets.

SECTION VI

ADMINISTRATION AND ENFORCEMENT

A. Bloom Township Zoning Commission

The Authority for the creation of the Bloom Township Zoning Commission by the Bloom Township Board of Supervisors is given in accordance with Section 58-03-11 through 58-03-15 of the North Dakota Century Code.

1. Duties:

- 1.1 Issue all zoning certificates, permits and maintain records thereof.
- 1.2 Issue all building and repair permits.
- 1.3 Approve or deny applications and permits.
- 1.4 Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
- 1.5 Receive, file and forward to the Zoning Commission all applications for zoning amendments, site approvals and conditional uses.
- 1.6 Prepare and publish notices and notify adjoining property owners.
- 1.7 Conduct hearings on conditional uses and set conditions for certain uses.

(1. Duties cont'd:)

1.8 Notify, in writing, the property owner or user upon finding violation of these regulation and cite the nature of violation clearly and require compliance within a reasonable length of time. If the notification is not replied to or steps are not taken to correct the violations within thirty (30) days, the zoning board chairman shall make a report of the findings to the other board supervisors.

B. Zoning Administrator

The chairman of the Bloom Township Board of Supervisors shall act as Zoning Administrator unless a majority of the board determines that the position of zoning administrator should be other than the chairman of the board, in which case the board may appoint someone to the position. The Township Board at their discretion may appoint the township Clerk the task of issuing permits.

C. Board of Adjustment

The authority for the Board of Adjustment rests with the Board of Township Supervisors and they shall act as the Board of Adjustment.

1. Duties:

1.1 The Board shall hear appeals from any persons, party, firm, or organization aggrieved by the actions or decisions of the zoning commission.

1.2 The Board shall authorize a variance from the terms of this ordinance when the literal enforcement of the provisions of this ordinance would result in undue hardship and said variance will not be contrary to the public interest.

D. Building Permit Applications

Any person or persons intending to construct or reconstruct or locate a building or make alteration, shall, before proceeding with the work, or commencing any excavation in connection with it, shall obtain a permit from the Zoning Administrator. These regulations shall also apply to the mobile homes.

1. Each application for a building permit shall be accompanied by a legal description and a map showing the actual dimension of the lot to be build upon, the size, shape and location of the building for observing the yard requirements of these regulations.

2. The application shall specify the type of the buildings structure, material of which it is composed, the part or portion of the lot to be occupied by the principal building and accessory buildings and the probable cost, together with such additional plans and specifications as required by these regulations.

E. Building Permits

The Zoning Administrator shall issue a building permit if the proposed building or structure conforms to zoning and building provisions of these regulations. If the Zoning Administrator denies a permit because of nonconformance with these regulations, he shall inform the applicant of his/her right to appeal to the Board of Supervisors.

F. Notice of Hearings

The Zoning Commission shall fix a reasonable date for hearing of applications for zoning district amendments, conditional use permits, site approval applications and other matters before it, give public notice thereof in the official newspaper of the county and the nearest regularly published newspaper at least fifteen (15) days prior to the hearing. The notices shall give time and place of hearing and shall state the purpose of the hearing and that the applications and supporting documents for zoning district amendments and conditional use permits shall be available for public inspection by the Zoning Administrator.

G. Zoning Ordinance Notification

It shall be the duty of the seller to provide the purchaser with an up-to-date copy of this ordinance. That copy shall be obtained from the Zoning Administrator of Bloom Township.

H. Variances

1. Variance from the terms of these regulations may be granted provided that the applicant establishes proof of practical difficulty or undue hardship.
2. For a variance to be approved, the applicant must show that special conditions exist which are peculiar to the premises and which are not applicable to other premises in the same zoning district.
3. For a variance to be approved, the applicant must show that the special conditions and circumstances have not resulted from actions of the applicant, and that further, in granting the variance requested, the applicant has not been given or conferred any special privileges that are denied by these regulations to other premises.
4. The variance is the minimum which would make possible a reasonable use of the premises.
5. For a variance to be approved, the variance must be in harmony with the general purpose of these regulations and will not be injurious to the surrounding premises or neighborhood and will not be contrary to the comprehensive plan and purposes of these regulations.

I. Issues Not Covered

Any issue not covered by this ordinance shall be resolved by the Bloom Township Board by following the guidelines of this ordinance.

J. Applicant Notification

Applicants for permits shall be advised that there will be two inspections--one when the development, structure, or use change is underway and then when a final inspection is made at the time the development, structure, or use change is completed or near completion. If the zoning board determines that additional inspections are advisable to assure compliance, a majority vote of the board will be cause for this to be done. If all aspects of the special conditions and the normal zoning regulations have not been complied with, the zoning board, at its discretion, shall not allow the premises to be occupied or used until full compliance has been made.

K. Violations and Penalties

1. Complaints Regarding Violations:

1.1 Whenever a violation of this ordinance 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 the Zoning Administrator. The Administrator shall record properly said complaint, notify the Zoning Commission, and make inspection of the affected site.

2. Remedies Regarding Violations:

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

- 2.1.1 Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use.
- 2.1.2 Restrain, correct, or abate such violations.
- 2.1.3 Prevent the occupancy of the building, structure, or land.
- 2.1.4 Prevent any illegal act, conduct, business, or use in or about such premises.
- 2.1.5 Any construction commenced before a permit is issued is a violation and subject to penalty.

3. Penalties for Violation:

3.1 A violation of any provision of this ordinance or the regulations and restrictions made therein shall constitute the maintenance of a public nuisance and upon conviction there shall be a penalty of a fine of not more than two (2) percent of the assessed value or two hundred (200) dollars, whichever is greater. The fine may be assessed for each day that a violation is not corrected at the discretion of the Zoning Board.

SECTION VII

RATES FOR PERMITS

Rates for Houses, Buildings, and Other Structures

1. \$10.00 up to \$500.00 of cost, plus \$1.00 for each \$1,000.00 above the \$500.00, plus \$25.00 for each inspection (2 inspections required).

Rates for All Other Installations

1. All other installations such as towers, cables, rural water, boring roads, etc., are subject to permit requirements and shall be set by the Bloom Township Zoning Board.
2. Fees as of January 1, 2005, shall be \$100.00 for each permit plus \$25.00 for each inspection (2 inspections required).

SECTION VIII

SPECIAL PROVISIONS GOVERNING COMMERCIAL FEEDLOTS

A. Purpose

These regulations are designed first and foremost to protect the value of all property in Bloom Township. Commercial feedlots will be allowed only to the extent enforced by State law. Commercial feedlots include livestock, fur bearers, poultry, and exotic animals of all types. It is the intent of this ordinance to adhere to the strictest rules possible and allowed under State law. Regulations are designed to protect property owners against the ravages of odor, run off, contamination of streams, rivers, potholes, groundwater and surrounding land, along with other incompatible characteristics associated with feedlots.

B. General Requirement

1. All feedlots as defined by these regulations are only permitted as conditional uses subject to the provisions and requirements of the North Dakota Health Department.
2. All feedlots shall be designed and constructed with all reasonable preventive measures to avoid surface run-off including construction of sealed collection and retention ponds.
3. There must be sufficient drainage to avoid pollution of the ground water from standing effluents.
4. Feedlots shall not be placed in flood plains.
5. The applicant, as a part of site approval, must show provision for adequate disposal of the liquid and solid waste generated by the feedlot.
6. No feedlot shall be located nearer than the distance set by the township board from a residential development in the unincorporated area or the corporate limits of the nearby City of Jamestown to the extent the Township of Bloom has jurisdiction.

C. Specific Provisions

An addendum with specific provisions is attached to and becomes a part of this Bloom Township Zoning Ordinance:

SECTION 2.9 ANIMAL FEEDING OPERATIONS

1. General Provisions
 - A. Definitions
 - B. Equivalent Animal Numbers
 - C. Environmental Provisions
 - D. Holding Facilities
 - E. Enforcement
 - F. Penalty
 - G. Severability
 - H. Closure and Abandonment
 - I. Complaints
2. Setback Requirements
 - A. Water Resource Setbacks
 - B. Odor Setbacks
3. Conditional Uses
 - A. Permit Procedures
 - B. Fees
 - C. Application Requirements

2.9.1 General Provisions

2.9.1A Definitions

Terms used in this ordinance have the same meaning as given by the laws and rules of the state of North Dakota, specifically chapter 33-16-03 of the North Dakota Administrative Code. The definitions for these terms and for additional terms (bold print) are:

“Agriculture (Farming, Ranching)” means the art or science of cultivating the soil and activities incidental thereto; cultivating land for production of agricultural crops or livestock; raising, feeding, or producing livestock, poultry, milk, or fruit. The term shall include incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished off the public right-of-way. The term does not include producing timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies, provides grain, harvesting grain, or other farm services. See also Section 11-33-02 of the North Dakota Century Code.

This definition shall replace the definition of agriculture as stated on page 2 of these Ordinances.

“Animal feeding operation” means a place where: livestock have been, are or will be confined, concentrated and fed for 45 or more days in any 12 month period; pasture, crops or other vegetation are not normally managed or sustained for grazing during the normal growing season; and , animal waste or *manure* accumulates. This term does not include an *animal wintering operation*. Two or more feeding operations under common ownership shall be considered a single animal operation, if they use a common system for manure handling.

“Animal Feeding Operation Structure” means lagoon, formed manure storage, wash water storage structure, earthen manure storage basin, or any animal confinement building.

“Animal wintering operation” means the confinement of cattle or sheep used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. The term includes the weaned offspring of cattle and sheep, but it does not include (1) breeding operations of more than 1,000 animal units or (2) weaned offspring which are kept longer than 150 days and that are not retained for breeding purposes.

“Applicant” means an individual, corporation, group of individuals, partnership, joint venture, owners, or any other business entity having charge or control of one or more animal feeding operations.

“Aquifer” means a geologic formation, group of formations, or part of a formation capable of storing and yielding ground water to wells and springs.

“Closure” means taking of those actions to close and reclaim a feedlot. Closure actions may include, but are not limited to, cleaning of buildings, disposal of manure, and demolition and/or removal of all manure storage structures.

“Due process” involves 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 the person(s) to present relevant evidence and arguments.

“Earthen Manure Storage Basin” means an earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from an animal feeding operation and from which accumulated wastes from the basin are removed at least once a year.

"Established Residence" means any residence established by a personal presence, in a fixed and permanent dwelling with an intent to remain there.

"Existing" means in place and operating on the date this ordinance is effective.

"Farming" - see Agriculture

"Feedlot" - delete definition as found on page 4 of these Ordinances.

"Flood plain" means lowland and relatively flat areas adjoining inland and coastal waters that are inundated by a one-hundred (100) year flood.

"Ground Water" means water below the land surface in a geological unit in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

"Lagoon" means an impoundment made by excavation or earth fill for biological treatment of animal or other agricultural wastes. Lagoons can be aerobic, anaerobic or facultative, depending on their loading and design.

"Livestock" means 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.

This definition shall replace the definition of livestock as defined on page 5 of these Ordinances.

"Manure" means fecal material and urine from livestock, as well as animal-housing wash water, bedding material, rainwater or snow melt that comes in contact with fecal material or urine.

"Operator" means an individual or group of individuals, a partnership, a corporation, a joint venture, or any other entity owning or controlling one or more *animal feeding operations* or *animal wintering operations*.

"Pollution, Air" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is or may be injurious to human health, welfare, or property, animal, or plant life or which unreasonably interferes with the enjoyment of life or property.

"Pollution, Water" means manmade or man-induced alteration of the physical, chemical, biological integrity of any Waters of the State.

"Shall" means that the requirement is mandatory, rather than optional.

"Source-Water Protection Area" means a boundary which defines the surface and subsurface area surrounding a water well or a well field, which supplies a public water system and through which contaminants are likely to move toward and reach such water well or field.

"Stream" means any running body of surface water that ordinarily flows within a channel. This includes both perennial and intermittent streams.

"Surface water" means *water of the state* located on the ground surface such as lakes, reservoirs, rivers and creeks.

"Waters of the state" means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state, except those private waters that do not combine or effect a junction with natural surface or underground waters just defined.

2.9.1B EQUIVALENT ANIMAL NUMBERS

An "animal unit equivalent" is a unitless number developed from the nutrient and volume characteristics of *manure* for a specific *livestock* type. The term "animal units" is used to normalize the number of animals (e.g., head) for each specific livestock type which produce comparable bulk quantities of *manure*. The animal unit equivalents for types of *livestock* and the numbers of *livestock* for facility size thresholds of 500 animal units (a.u.) and so forth, are listed in the following table.

Livestock Type	Animal Unit Equivalent	Equivalent Numbers of Livestock (hd) for Four Sizes (a.u.) of Animal Feeding Operations			
		500 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse	2.0	250 hd	500 hd	1,000 hd	2,500 hd
1 dairy cow	1.33	375	750	1,500	3,750
1 mature beef	1.0	500	1,000	2,000	5,000
1 beef feeder finishing	1.0	500	1,000	2,000	5,000
1 beef feeder backgrounding	0.75	666	1,333	2,667	6,667
1 mature bison	1.0	500	1,000	2,000	5,000
1 bison feeder	1.0	500	1,000	2,000	5,000
1 swine, > 55 lbs	0.4	1,250	2,500	5,000	12,500
1 goose or duck	0.2	2,500	5,000	10,000	25,000
1 sheep	0.1	5,000	10,000	20,000	50,000
1 swine, nursery	0.1	5,000	10,000	20,000	50,000
1 turkey	0.0182	27,500	55,000	110,000	275,000
1 chicken	0.01	50,000	100,000	200,000	500,000

2.9.1C ENVIRONMENTAL PROTECTION

The *operator* of a new facility for animal feeding is expected to locate, construct, operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. The *operator* of an existing facility is expected to operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. Each *operator* shall comply with applicable state laws and rules, including the laws and rules administered by the North Dakota Department of Health and with any permits granted by that department.

2.9.1D HOLDING FACILITIES

Earthen Manure Storage Basin

- (a) Plans for an earthen structure for any operation shall be approved by Professional Engineer (P.E.) Registered in the State of North Dakota.
- (b) Soil testing to determine the engineering properties of the earthen structure and natural liner materials shall be conducted under the supervision of a qualified professional soil scientist.
- (c) The bottom side slopes shall be made of relatively impervious material that will permit a maximum seepage rate not to exceed 1/56 inch per day.
- (d) The bottom of the storage facility shall be at least four (4) feet above the highest water table elevation.
- (e) Any manure storage structure which is unused or abandoned for three (3) or more years shall have proper closure to the satisfaction of the State Health Department.

All manure holding facility valves shall have proper security measures to prevent accidental or malicious opening.

2.9.1E ENFORCEMENT

This Animal Feeding Operation Ordinance shall be administered and enforced by the Bloom Township Zoning Administrator with assistance from other Township officers, the County States Attorney, or other government agencies as deemed necessary. The Zoning Administrator shall have the following duties and powers:

- (a) Review permits, management plans and other information as required by this Ordinance.
- (b) Order work stopped whenever work is being done contrary to the provisions of this Ordinance. Such notice shall be personally served upon the owner or operator.

- (c) Issue authorization to proceed when violations of this Ordinance have been remedied.
- (d) Assist feedlot owners or operators with the permitting process.
- (e) Process applications to ensure compliance with this Ordinance.
- (f) Issue permits required by this Ordinance.
- (g) Forward any recommendations or information to the State Health Department or other appropriate agency.
- (h) Maintain records and permits as required by this Ordinance. Any records required to be maintained by the State Health Department shall be provided by the Zoning Administrator upon request.
- (i) Provide information to feedlot owners and operators and the general public concerning this Ordinance.
- (j) Inspect feedlot operations to insure compliance with the standards of this Ordinance.

In the event of a violation of this ordinance or a judgement on a civil action by the North Dakota Department of Health, the Township of Bloom, after due process, can order cessation of a facility for animal feeding within a reasonable period of time and until such time as the *operator* corrects or abates the causes of the violation. The Township may institute appropriate actions or proceedings, including requesting injunctive relief, to prevent, restrain, correct or abate such violations. If the cause(s) of the violation are not remedied within a reasonable period of time set by the Township, the permit may be revoked. All costs incurred for corrective action may be recovered by the Township in any manner recommended by the Office of the States Attorney. These and other remedies, as determined by the Board of Township Supervisors, may be imposed upon the owner, operator or other responsible person either in addition to or separate from other enforcement actions.

2.9.1F PENALTY

If it is shown that any Animal Feeding Operation is in violation of any portion of this Ordinance or regulation thereunder, the Operation is guilty of a Class B Misdemeanor pursuant to Section 11-33-21, North Dakota Century Code. Notice of violations shall be personally served upon the owner or operator.

Unless another penalty is specifically prescribed, a person violating this Ordinance, or any rule, order, or condition in a permit issued under this Ordinance, may be subject to a civil penalty pursuant to Section 23-29-12, North Dakota Century Code.

If such violations are not remedied within a reasonable period of time as set by the Board of Township Supervisors, the Special Use Permit for Animal Feeding Operations may be revoked. Such notice shall be personally served upon the owner or operator.

2.9.1G SEVERABILITY

If any paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance.

If the application of this Ordinance to any particular property, building, or structure is for any reason held to be invalid or unconstitutional by a decision of competent jurisdiction, such decision shall not affect the validity of any other property, buildings, or structures.

2.9.1H CLOSURE AND ABANDONMENT

The landowner, owner and operator of any concentrated animal feeding operation shall be responsible for the ongoing management of manure and the final closure of the feedlot including the cleaning of buildings and proper disposal of manure from all manure storage structures and demolition and/or removal of all manure storage structures.

Owners and operators of any concentrated animal feeding operation shall have joint and several liability for clean-up, closure or remediation of abandoned sites.

2.9.1I COMPLAINTS

Any complaint against a Concentrated Feeding Operation must be in writing and signed.

All such complaints shall be investigated by the Zoning Administrator and, if necessary, referred to the State Department of Health or other appropriate agency.

2.9.2 SETBACK REQUIREMENTS

2.9.2A WATER RESOURCE SETBACKS

The operator of a new *animal feeding operation* that has more than 500 animal units shall not locate or establish that operation:

- A. Within ½ mile of a delineated source of water protection area for a public water system. For the *surface-water* intakes of public water systems, source water protection areas include all or portions of the surface water that supplies the water for the public water system, including all or portions of the surface-water's shoreline.

B. Within a designated 100 year flood plain.

2.9.2B ODOR SETBACKS

An owner of property shall locate and establish a residence, business, church, school, public park or zone for residential use so as to provide a separation distance from any existing *animal feeding operation*. The separation distances, or setbacks, are listed in the following table. An owner of property who is an *operator* may locate the owner's residence or business within the setbacks.

Setback Distances for <i>Animal Feeding Operations</i>			
Number of Animal Units	Hog Operations	Other Animal Operations	
fewer than 500	1.00 mi. (1.609 km.)	1.00 mi. (1.609 km.)	
501- 1000	1.00 mi. (1.609 km)	1.00 mi. (1.609)	
1001 or more	1.50 mi. (2.414 km)	1.50 mi. (2.414)	
2001 or more	2.00 mi. (3.218)	1.50 mi. (2.414 km)	
5001 or more	2.50 mi. (4.023)	2.00 mi. (3.218)	
	Animal Units	Hog Operations	Other Animal Operations
Federal or State Highway ROW	Less than 500	1:00 mi. (1.609 km.)	1:00 mi. (1.609 km.)
	500 to 1,000	1:00 mi.	1:00 mi.
	1,001 to 10,000	1.50 mi. (2.414 km)	1:00 mi.
	More than 10,000	2.00 mi. (3.218)	1:00 mi.
County Road ROW and Adjacent Property Lines	Less than 500	150 Feet	150 Feet
	500 to 1,000	150 Feet	150 Feet
	1,001 to 10,000	150 Feet	150 Feet
	More than 10,000	150 Feet	150 Feet

The *operator* of a new *animal feeding operation* shall locate the site of that operation from the above stated existing areas so as to exceed the corresponding listed setback.

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

The Board of Township Supervisors, upon a recommendation of the Zoning Administrator, may increase or decrease a setback distance for a new *animal feeding operation* after consideration of the proposed operator's plans, if it determines that a greater or lesser setback distance is necessary or acceptable, respectively, based upon site conditions or demonstrable safety, health, environmental or public welfare concerns.

2.9.3 CONDITIONAL USES

2.9.3A PERMIT PROCEDURES

Applicability

The *operator* of a new *livestock* facility or an *existing livestock* facility, which meets the definition of an *animal feeding operation* and which is a conditional (or special) use of land as listed below, shall apply for and obtain a conditional (or special) use permit.

1. A new *animal feeding operation* that would be capable of handling, or that expands to handle, more than 500 animal units is a conditional (or special) use of land.
2. An existing *animal feeding operation* that expands to handle more than 500 animal units is a conditional (or special) use of land.

Whenever the capacity of an *animal feeding operation* is expanded to handle more than 1,000 or 10,000 animal units, the *operator* shall apply for a new conditional (or special) use permit.

Whenever a signed complaint has been received by the Zoning Administrator or the North Dakota Health Department and inspection reveals that the animal feeding operator should have had a permit pursuant to this Ordinance, the operator shall apply for a Special Use Permit.

Whenever a change in ownership or operational control occurs, the new owner or operator shall apply for a new Special Use Permit.

Ownership Change

An operator of a facility that includes an animal feeding operation having a permit granted by this Ordinance shall notify the Board of Township Supervisors of the sale or the transfer of the ownership of that operation.

Operating Change

An operator of a facility that includes an animal feeding operation having a permit granted by this Ordinance shall notify the Zoning Administrator of intent to include an alternate livestock type. The notice shall be given at least one hundred and twenty (120) days prior to the anticipated date of the change.

Procedure

1. Application for a conditional use(or special use) permit shall be submitted to the Zoning Administrator for tentative approval. The Zoning Administrator shall notify the Department of Health that it has received such application. The conditional use(or special use) permit application shall be available for public inspection at the Office of the Zoning Administrator for fourteen(14) days prior to the Public Hearing.
2. The Zoning Administrator shall notify by certified mail all property owners having property within the corresponding odor setback distance of a proposed new *animal feeding operation* or the expansion of an existing animal feeding operation. This notification must occur within 21 days of receiving the application. Along with the application, the applicant shall provide the names and addresses of all landowners to be notified.
3. Upon receipt of the Special Use Permit application, the Bloom Township Board of Supervisors shall hold at least one (1) Public Hearing in a location to be prescribed by the Zoning Administrator. At least fourteen (14) days in advance of each hearing, notice of the time and place of such hearing shall be published in the official newspaper of the County. All townships within the set back requirements shall be notified by U.S. mail as to the time and place of the Public Hearing.
4. Following tentative approval or denial of the application by the Board of Township Supervisors, the applicant shall be notified by letter of the decision, including conditions imposed, if any.
5. The applicant shall then forward its application for a conditional (or special) use permit, together with the tentative approval by the Board of Supervisors to the North Dakota Department of Health.
6. Following a review by the Department of Health of the operator's application for a state permit, the Department of Health will notify the Bloom Township Board of its decision.
7. The conditional (or special) use permit will become final following the granting of a permit by the Department of Health.
8. A conditional (or special) use permit granted to the operator of a new animal feeding operation shall be put into use within twenty-four (24) months, or the permit shall lapse and the operator must re-apply.

10. No construction shall take place until the permit has been issued by the North Dakota Department of Health.

2.9.3B FEES

The fee for each Special Use Permit application shall be similar to the building permit fees of this Ordinance. In addition to the building permit fees, the applicant shall pay all mailing, advertising and publication costs incurred by the Bloom Township Zoning Commission in the processing of the application.

2.9.3C APPLICATION REQUIREMENTS

- (1) The application for a conditional use (or special use) permit to operate a facility for an *animal feeding operation* shall include a scaled site plan. If the facility will handle more than 1,000 animal units, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer or other person having comparable experience or qualifications. The site plan shall include building and waste system locations, ground elevations, setback from roads and/or highways and adjoining property, current land use, location of any active or abandoned wells, the location of any surface water, the drainage patterns of the site, and all existing or proposed accesses.
- (2) Owners name, address and telephone number.
- (3) Legal description of the site
- (4) Number and type of animals
- (5) Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units.
- (6) A copy of the application submitted to the Department of Health including photocopies of the manure management and operation plan, the management plan for fly and odor control, the management plan for disposal of dead animals, and the nutrient management plan.
- (7) Information on soils and aquifers.
- (8) Other information as required in the application and/or requested by the Zoning Administrator or the Planning and Zoning Commission.

Miscellaneous

- (1) The applicant shall develop, maintain, and follow a nutrient plan to ensure safe disposal of manure for the protection of surface and ground water as per guidelines listed in the latest draft of the "North Dakota Department of Health Guidelines for Approval of Livestock

Waste Systems". A copy of such plan as submitted to the North Dakota Health Department shall be provided to the Zoning Administrator.

- (2) The applicant shall develop, maintain, and follow a manure management and operation plan to ensure safe storage and application of manure and to protect surface and ground water as per North Dakota Health Department requirements. A copy of such plan shall be submitted to the zoning Administrator.
- (3) The Planning and Zoning Commission may request information relating to an animal feeding operation not contained in these regulations.
- (4) The Bloom Township Zoning Commission may impose, in addition to the standards and requirements set forth in these regulations, additional conditions which the Zoning Commission considers necessary to protect the public health, safety, and welfare of the citizens of Bloom Township. This shall include additional monitoring if the possibility exists that groundwater or surface water may be compromised.
- (5) Any and all cost to implement any additional conditions as set forth by the Zoning Commission of Bloom Township shall be borne by the owner of the facility.
- (6) When considering an application, the Bloom Township Zoning Commission will take into consideration a current and past violations relating to animal feeding operations that the applicant or operator has or has had an interest in.
- (7) All State and Federal regulations shall be adhered to.