

COOLIN TOWNSHIP

ZONING ORDINANCE AND REGULATIONS

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**PREAMBLE  
AND ORDINANCE ESTABLISHING COMPREHENSIVE ZONING  
REGULATIONS FOR THE TOWNSHIP OF COOLIN,  
TOWNER COUNTY, NORTH DAKOTA**

The following describes the intent of these zoning regulations:

Promote the health, safety, morals, and general welfare of the township people and the orderly development of lands within the township;

Preserve and maintain agricultural lands for farm use;

Encourage non-farm growth to locate within existing communities or community-service districts;

Promote a healthy and visually attractive environment;

Promote the development of utility corridors which utilize the least productive agricultural land;

Regulate development in the drainage basin so as to reduce flood damage and protect and maintain stream flows;

Discourage development or activity which exceeds the carrying capacity of the land, air or water resources;

Discourage any development which places an excessive financial burden on the township or county government;

Discourage or regulate any activity within the township which may be detrimental to the health, well-being, peace-of-mind, or financial status of township residents.

These regulations are hereby adopted effective this 21 day of August, 2002.

/s/ Roger Copeland  
Chairman, Coolin Township Supervisors

/s/ Roger Copeland  
Planning and Zoning Commissioner

/s/ Janice Wagner      
Clerk, Coolin Township

    /s/      
Supervisor, Coolin Township

    /s/ Roger Copeland      
Planning & Zoning Commissioner

    /s/ Clayton Dammen      
Supervisor, Coolin Township

    /s/ Janice Wagner      
Clerk/Treasurer, Coolin Township

First Reading     June 23, 2002    

Second Reading     August 21, 2002    

Final Reading     August 21, 2002

## **ARTICLE I - INTRODUCTION**

- Section 1. TITLE: This ordinance shall be known as the “ZONING REGULATIONS OF COOLIN TOWNSHIP.”
- Section 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 Coolin Township and its residents.
- Section 3. AUTHORITY: These regulations are adopted under the authority granted by Chapter 58-03 N.D.C.C., as well as other state and federal laws and statutes.
- Section 4. REPEAL: All other ordinances or regulation or parts thereof of Coolin Township in conflict with these regulations are hereby repealed.
- Section 5. SEVERABILITY: In the event that any particular 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.
- Section 6. EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage and approval by the Board of Township Supervisors for Coolin Township in Towner County, North Dakota.

## **ARTICLE II – GENERAL PROVISIONS**

- Section 1. JURISDICTION: The jurisdiction of this ordinance shall include all unincorporated areas of Coolin Township in Towner County, North Dakota. Provisions contained herein are applicable to all individuals, persons, governmental or nongovernmental agencies, and independent contractors residing in or entering in Coolin Township, or whose agents or employees reside in or enter Coolin Township.
- Section 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 of the regulations for the district in which it is located.
- Section 3. FARMING OR RANCHING. [t]hese regulations shall not be applied for the purpose of preventing or prohibiting the use of land or buildings 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 AGRICULTURAL USE MAY INTERFERE DIRECTLY WITH REGULAR ROAD MAINTENANCE, THESE REGULATIONS SHALL APPLY REGARDLESS OF THE USE OF THE AREA IN QUESTION.

Section 4. INTERPRETATION: In the interpretation and application of this ordinance, (i.e., regulations), the provisions of this ordinance shall be held to be the minimum requirements. Where this ordinance imposes a greater restriction than existing law, the provisions of these regulations (i.e., ordinance) shall govern.

Section 5. NON-CONFORMING USES:

- A. 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.
- B. 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.
- C. 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 (1) year of such casualty. If damaged more than fifty (50) percent of the fair market value, such structure shall be reconstructed in conformance to these regulations.
- D. 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.

Section 6. UTILITIES.

- A. Utilities shall be defined to including, but are not limited to, electrical power and transmission lines, natural gas or petroleum pipelines, water supply lines, and communications or telephone lines.
- B. New utilities shall be considered as a conditional use and shall conform to all requirements put upon them by the Township Zoning Board/Township Board.
- C. Unless otherwise expressly permitted within, and as a condition to, a conditional use permit, no conditional use permit shall be issued for a utility unless satisfactory provisions for the following have been made:
  - 1. The proposed utilities shall not interfere with the reasonable established plans of adjoining townships or municipalities, or with the orderly development and safety of Coolin Township and adjoining townships and municipalities.

2. Unless otherwise approved, underground utilities shall be placed a minimum depth of four (4) feet, so as not to constitute a hazard to normal farming or general county or township maintenance.
3. Above ground utilities shall be placed in a manner which will conform with state law.
4. Utility placement shall conform with section lines, highway (federal, state, township, and municipal), and railroad right of ways.
5. The utilities and their placement shall not result in undue damage or injury to roads, bridges, right of ways, or to any public or private property.
6. All costs in construction or maintenance of a utility shall be borne by the contract or owner of the utility.

Section 7. OIL, GAS, MINERAL AND GRAVEL EXPLORATION AND PRODUCTION.

- A. It is not the intent of Coolin Township to discourage the exploration or production of oil, gas, minerals, gravel or any other surface or subsurface material for private or commercial purposes; however, the

township does wish to protect its roads, right of ways, bridges and other developments from excessive use and deterioration. As such, all excavations of oil, gas, minerals, gravel, clay, scoria, or other such resources shall be considered as a conditional use, and such shall conform to all requirements put on the applicants by the zoning authority. No conditional use permit shall be issued unless satisfactory provision for the following has been made:

1. The activities will not result in undue damage or injury to roads, bridges, right of ways in the township or to any public or private property.
2. Evidence of written agreement between the applicant and property owner(s) that excavation, processing, or drilling shall not take place within 300 feet of an adjacent property line, or within five hundred feet (500') of an existing residence, and that all access, sanitary, and safety plans and precautions shall have been made and approved by the zoning authority prior to commencement of said activities.
3. Written evidence of reclamation and maintenance agreement with the owner(s).



4. 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 haul routes by the person(s) or business(es) removing the products shall be presented to the Board prior to commencement of such activities.
5. The applicant shall conform to all national, State, County and Township requirements regarding preservation, removal or relocation of historical, archaeological artifacts, or cemeteries or other areas of significance.

Section 8. CONSTRUCTION OF RIGHT OF WAY APPROACHES.

- A. Construction of new approaches for agricultural uses, or improvement of existing approaches, shall be considered a conditional use.
- B. Each application shall be determined on its own merits, but a general guideline shall be that permission for approach construction shall not be granted where an approach already exists within one-half (1/2) mile of the proposed approach on land that is continuously owned or operated by the same farmer. Should such approach be constructed, it shall be done in such a manner as to not 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.

Section 9. FLOOD AND/OR DRAINAGE CONTROL AND MAINTENANCE.

No actions of any individual, corporation, foundation, institution, firm, bureau, partnership, company, association or agency shall engage in any agreement, business, bargain, settlement, enterprise, transaction, understanding, cooperation, assent, approval, compromise, treaty, contract, or pact that will limit, restrict, bar, obstruct, modify, diminish, suppress, terminate or abrogate the rights or duties of the township zoning board or township supervisors to maintain, keep, repair, renew, care for, keep up, control, manage, direct, sustain, preserve, attend to, safeguard, or promote natural drainage channels to prevent, hinder, restrain, block, arrest, impede, check, avert, retard, obstruct, inhibit, restrict, block off, limit, hold back, offset, control, arrest, preclude, regulate, constrain, impede, curb, stop, deter, counteract, neutralize, intercept, put an end to, turn aside, or alleviate any flooding that affects the township or its residents.

Section 10. 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 to not be applicable, to regulations and plans arrived at

through a mutually agreeable manner between the Zoning Board and the other parties involved.

Section 11. SHELTER BELTS.

- A. No shelter belts or major tree plantings shall be established within 100 feet of any section line, property line or the center line of any township or county road, or from the boundary of any state or federal highway right of way, except by conditional use permit.
- B. The township 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.
- C. In the event an existing shelter belt or tree planting is destroyed by or for any reason, replanting must comply with the setback provisions of these regulations.

Section 12. CONCENTRATED ANIMAL FEEDING OPERATION REGULATIONS.

A. GENERAL PROVISIONS

- 1. Applicability. All new animal feeding operations that exceed 300 animal units shall be considered as a conditional use and, as such, shall conform to all requirements put on them by the planning commission of Coolin Township prior to the issuance of a conditional use permit.

Further, an existing animal feeding operation that expands to handle more than 300 animal units shall be considered as a conditional use and, as such, shall conform to all requirements put on them by the planning commission of Coolin Township prior to the issuance of a conditional use permit.

No conditional use permit shall be issued unless satisfactory provisions for all requirements under these regulations have been made.

The operator of a new livestock facility or an existing livestock facility, which meets the definition of an "animal feeding operation" and which adequate supply of healthy livestock, poultry and other animals is essential to the well-being of township residents; however, livestock, poultry and other animals produce manure, odor and waste which may, where improperly stored, transported, or disposed, negatively affect the environment of Coolin Township. Such animal manure, odor and waste must be controlled where it may add to air, surface water, ground water, or land pollution.

These regulations/ordinance are based on the Model Zoning Ordinance for Animal Feeding Operations issued by the North Dakota State Health Department (March 2000) regulating the permitting, location, development, and expansion of feedlots has been adopted to protect the natural environment and to safeguard the public health, safety, and general welfare of the citizens of Coolin Township.

These Ordinances are in addition to and complementary to all Federal and State Regulations and guidelines.

2. 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 number of livestock for facility thresholds of 300 animal units (a.u.), and so forth are listed in the following table:

**Equivalent Numbers of the Livestock (hd) for Three Sizes (a.u.) of Animal Feeding Operations**

Livestock	Animal Unit Equivalent	300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse	2.0	150 hd	500 hd	1,000 hd	2,500 hd
1 dairy cow	1.33	225	750	1,500	3,750
1 mature beef	1.0	300	1,000	2,000	5,000
1 beef feeder-finishing	1.0	300	1,000	2,000	5,000
1 beef feeder-backgrounding	0.75	400	1,333	2,667	6,667
1 mature bison	1.0	300	1,000	2,000	5,000
1 bison feeder	1.0	300	1,000	2,000	5,000
1 swine > 55 lbs	0.4	750	2,500	5,000	12,500
1 goose or duck	0.02	1,500	5,000	10,000	25,000
1 sheep	0.1	3,000	10,000	20,000	50,000
1 swine, nursery	0.1	3,000	10,000	20,000	50,000
1 turkey	0.0182	16,500	55,000	110,000	275,000
1 chicken	0.01	30,000	100,000	200,000	500,000

3. 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

healthy. 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.

4. Holding Facilities.

a. Earthen Manure Storage Basin

- (1) Plans for an earthen structure for any operation shall be approved by Professional Engineer (P.E.) registered in the State of North Dakota.
- (2) 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.
- (3) The bottom side slopes shall be made of relatively impervious material that will permit a maximum seepage rate not to exceed 1/32 inch per day.
- (4) The bottom of the storage facility shall be at least four (4) feet above the highest water table elevation.
- (5) Any manure storage structure which is unused or abandoned for two (2) or more years shall have proper closure to the satisfaction of the State Health Dept.

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

c. All manure holding structures shall be enclosed with suitable fencing to preclude entrance of livestock and discourage trespassing. A vehicle access gate of sufficient width to accommodate mowing equipment shall be provided. All access gates shall be provided with a lock. Fences shall be located away from the outside toe of storage basin to facilitate dike mowing and maintenance operations. Appropriate signs shall be provided along the fence around the storage structure to designate the nature of the facility and advise against trespassing.

d. Holding Facilities. The operator shall meet all the requirements for the construction of an earthen manure storage facility under the laws and rules as administered by the North Dakota Health Department, including any requirements set forth in the North Dakota Livestock Design Manual.

5. Enforcement.

a. This Animal Feeding Operation provisions of this ordinance (i.e., regulations) shall be administered and enforced by the Coolin Township Zoning Administrator with assistance from other township, county and state departments and officials as deemed necessary. The Zoning Administrator shall have the following duties and powers:

- (1) Review permits, management plans and other information as required by this Ordinance.
- (2) Assist feedlot owners or operators with the permitting process.
- (3) Process applications to ensure compliance with this Ordinance.
- (4) Issue permits required by this Ordinance.
- (5) Forward any recommendations or information to the State Health Department or other appropriate agency.
- (6) Maintain records and permits as required by this Ordinance. Any records required to be maintained by the State Health Department shall be provided to the Zoning Administrator upon request.
- (7) Provide information to feedlot owners and operators and the general public concerning this Ordinance.
- (8) Inspect feedlot operations to insure compliance with the standards of this Ordinance.

6. Penalty

- a. All statutory penalties for any environmental violations shall be enforced through the North Dakota Department of Health.
- b. 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 (i.e., Section 11-33-21 NDCC). Notice of violation(s) shall be personally served upon the owner or operator.
- c. 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 (i.e., Section 23-29-12 NDCC).
- d. 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.

7. Insurance Requirements.

A financial assurance instrument (irrevocable letter of credit, cash surety bonds or cash bonds) shall be posted in an amount sufficient to ensure proper closure. Such letter or bond shall be posted prior to the time of final site approval by the Township. The exact amount shall be site-specific and shall be determined by a study conducted by a professional engineer or consultant licensed by the State of ND. The permit applicant shall supply a list of three professional engineers licensed by the State of North Dakota to the Township, from which list the Township shall select at least one engineer to conduct the study. The cost of the engineer's or consultant's study will be paid for by the posting entity. The owner, operator or permittee shall provide the Township with a minimum of thirty (30) days written notice prior to permanent cessation or abandonment of the animal feeding operation or any part of the wastewater treatment system. It shall be a violation of these rules to permanently cease the use or abandon any facility or site or any part of the wastewater treatment system, including but not limited to pits, lagoons, impoundments, piping, disposal areas, storage areas, and land application sites without complying with notice and closure requirements. Closure shall at a minimum require lagoon draining, cleaning, removal of waste handling facilities and equipment, disposal of animal parts and carcasses, and any other conditions to assure public health and safety. Upon proper closure, as determined by an inspection

by the North Dakota State Health Department, any financial assurance instrument required shall be returned to the posting entity.

8. Discontinuance of Use of Animal Waste Storage Facilities.
  - a. No animal waste storage facility may be abandoned except in compliance with this ordinance.
  - b. Each application for a permit under this ordinance shall include a "Discontinuance of Use" or abandonment plan. The plan shall include provisions for future operation of the animal waste storage facility. The plan shall specify:
    - (1) provisions to remove and properly dispose of all accumulated manure in the animal waste storage facility;
    - (2) provisions to remove any concrete or synthetic liner, and to properly dispose or beneficially reuse removed liner materials;
    - (3) provisions to remove and properly dispose of any soil saturated with animal waste from the animal waste storage facility;
    - (4) provisions to remove or permanently plug the animal waste transfer system serving the animal waste storage facility; and
    - (5) provisions to fill and shape the area so as not to retain water, covering all disturbed areas with topsoil, seeding the areas with a grass mixture, and mulching the seeded area, unless used for an approved alternate use.
  - c. The owner or operator of an animal waste storage facility shall notify the township in writing at least 60 days before the abandonment.
  - d. Animal waste must be removed from the animal waste storage facility within 360 days after animals are removed from the animal feeding operation. The owner of the animal waste storage facility shall provide a statement of current and future uses of the animal feeding operation and date of abandonment, if appropriate.
  - e. If the animal waste storage facility is not abandoned properly, it may be deemed a nuisance. If the facility is deemed a nuisance, the township may act to abate the

nuisance and require the cleanup of the facility at the property owner's expense.

9. Right of Entry Required Permit Condition. Each conditional use permit for a CAFO shall be subject to the requirement that the owner of the land on which it is located, together with the occupant, if operated by a person other than the owner, shall constitute a right of entry to Township officers and employees and to entry to all parts of the CAFO for inspection purposes relating to conformity of its construction and operation to the terms of this Ordinance and the permit. Such inspections shall, except for emergencies, take place between 7:00 a.m. and 7:00 p.m. Monday through Saturday and shall be conducted in conjunction with the North Dakota Department of Health inspections if possible. The Township shall cooperate with the North Dakota Department of Health in notifying the owner or occupant at least 24 to 48 hours in advance of the proposed inspection.
10. Complaints.
  - a. Any complaint against a Concentrated Feeding Operation must be in writing and signed.
  - b. All such complaints shall be investigated by the Zoning Administrator and, if necessary, referred to the State Department of Health or other appropriate agency.

## B. SETBACK REQUIREMENTS

1. Water Resource Setbacks. The operator of a new animal feeding operation that has more than 300 animal units shall not locate or establish that operation:
  - a. Within a delineated source water protection area for a public water system. The source water protection areas for water supply wells include the entire wellhead protection area. For the surface-water intakes of public water systems, source water protection areas include all or portions of the surface water that supplies the water for the public water system, including all or portions of the surface water's shoreline.
  - b. Within 1,200 feet of private wells not owned by the operator, public water supplies, defined aquifers, lakes and streams.
  - c. Within 1,000 feet of other waters of the States.
  - d. Within a designated 100 year flood plain.



2. Odor Setbacks

- a. An owner of property shall locate and establish a residence, business, church, school, public park or zone for residential use so as to provide the same separation distance from any existing animal feeding operation, unless a waiver is executed and duly recorded with the property deed at the Office of the County Recorder. 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 Distance for Animal Feeding Operations**

Animal Units	Hog Operations	Other Animal Operation
Fewer than 300	0.50 mile	0.50 mile
300 - 1,000	1.00 mile	0.75 mile
1,001 – 2,000	1.50 miles	1.00 mile
2,001 – 5,000	2.00 miles	1.50 miles
5,001 – 10,000	2.50 miles	2.00 miles
10,001 or more	3.00 miles	2.00 miles

- b. 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.
- c. If notified in writing by an operator of a planned future expansion of an animal feeding operation, the township board may implement the corresponding odor setback for a temporary time period not to exceed two (2) years, after which time the setback will remain in effect only if the expansion was completed.
- d. The Township may, upon recommendation of the Planning and Zoning Commission or Zoning Administrator, increase or decrease a setback distance for a new animal feeding operation after consideration of the proposed operation's plans, if it determines that a greater or lesser distance is necessary or acceptable, respectively, based upon site conditions or demonstrable safety, health, environment or public welfare concerns.

C. CONDITIONAL USE PERMIT.

- 1. Application. Animal feeding operations that exceed 300 animal units are considered a conditional use in the Agricultural District of these regulations and, as such, shall conform to all requirements put on them by the Planning and Zoning Commission of Coolin

Township. In addition to the permitting processes described in ARTICLE IV of these regulations, and other provisions of these regulations, the following requirements also apply to animal feeding operations:

a. Applicability

(1) 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 special use of land as listed below, shall apply for and obtain a Conditional Use Permit:

(a) A new animal feeding operation that would be capable of handling, or that expands to handle, more than three hundred (300) animal units is a special use of land.

(b) An existing animal feeding operation that expands to handle more than three hundred (300) animal units is a special use of land.

(2) Whenever the capacity of an animal feeding operation is expanded to handle more than one thousand (1000) or more than ten thousand (10,000) animal units, the operator shall apply for a new Conditional Use Permit.

(3) Whenever a former animal feeding operation is to be restocked after being idle for two (2) or more years, the operator shall apply for a new Conditional Use Permit.

(4) 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 Conditional Use Permit.

b. Lapse of Conditional Use Permit

(1) Any conditional use permit shall be put into use within three years of the date of its issuance, or the permit shall lapse without further action by the Township, its officers, or employees.

(2) For purposes of this section, "put into use" means that the acts and practices authorized by the

conditional use permit have been engaged in by the person who was issued the permit.

- (3) For purposes of this section, when applied to a new animal feeding operation, “put into use” means that at least 75% of the animal units for the animal capacity specified in the conditional use permit have been confined, concentrated, and fed for 45 or more days in a twelve-month period in compliance with all applicable laws and permits.
- (4) For an existing animal feeding operation which has been issued a conditional use permit for expansion, “put into use” means that at least 75% of the animal units constituting 100% of the prior permitted capacity plus 75% of the expanded animal capacity have been confined, concentrated, and fed for 45 or more days in a twelve-month period in compliance with all applicable laws and permits.
- (5) The time and date of lapse shall be at midnight on the second annual anniversary date of the date of the permit’s issuance.
- (6) The zoning administrator will notify the permit holder by mail of the lapse of a permit within 30 days following the lapse date.
- (7) The holder of a lapsed permit may request a hearing of the Zoning Commission regarding the issue of the permit’s lapse. Such request must be in writing and must be mailed or delivered to the Zoning Commission within 30 days of the date the notice of lapse was mailed by the zoning administrator.
  - (a) The Zoning Commission shall have authority to reinstitute a lapsed conditional use permit if it finds that the permit has been put into use.
  - (b) The Zoning Commission shall have the authority to reinstitute a lapsed conditional use permit and grant an extension of not more than one year only if it finds that the permittee has exercised substantial diligence toward putting the permit into use. Substantial diligence shall include a consideration of all relevant factors. A permittee shall not have exercised substantial diligence if less than 75% of the proposed

structures and facilities needed for operation under a permit, or expansion under a permit, has been completed. Among other considerations, substantial modifications in the permittee's plans or designs, financial and economic factors whether within or outside of the permittee's control, or delays in receiving other federal, state, or local administrative permit approvals shall not be considered as factors excusing or reducing the permittee's obligation to exercise substantial diligence toward putting the permit into use.

c. Ownership Change

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

d. Operating Change

An operator of a facility that includes an animal feeding operation having a permit granted by this Ordinance shall notify the local unit of government 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.

e. Procedure

(1) Application for a Conditional Use Permit shall be submitted to the Zoning Administrator along with the animal feeding operation information form a minimum of twenty-one (21) days prior to the Public Hearing. The Zoning Administrator shall notify the Department of Health that such application has been received. This 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 be within twenty-one (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 and animal feeding operation information form, the Township Planning and Zoning Commission shall hold at least one (1) public hearing in a location to be prescribed by the Planning and Zoning Commission. 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 and any other such paper as deemed necessary by the Zoning Administrator. All townships within two (2) miles and all incorporated municipalities and unincorporated platted limits within six (6) miles shall be notified by U.S. mail as to the time and place of the Public Hearing.
- (4) The Township Planning and Zoning Commission shall report its findings to the Board of Township Supervisors.
- (5) Following tentative approval or denial of the application by the Board of Township Supervisors, the applicant shall be notified by mail of the decision, including conditions imposed, if any.
- (6) The applicant shall then forward its application for a Special /Conditional Use Permit together with the tentative approval by the Board of Township Supervisors to the North Dakota Department of Health.
- (7) Following a review by the Department of Health of the operator's application for a state permit, the Department of Health will notify the Township of its decision.
- (8) The Special Use Permit will become final following the granting of a permit by the Department of Health.
- (9) A Special Use Permit granted to the operator of a new animal feeding operation shall be put into use within thirty-six (36) 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.

f. Application Requirements

- (1) The application for a Special Use Permit to operate an animal feeding operation shall include a complete copy of the North Dakota Department of Health application for a permit including the manure management and operation plan, the fly and odor control plan, the dead animal disposal plan, the nutrient management plan, and information on soils and aquifers as submitted to the North Dakota Department of Health.
- (2) The application for a Special Use Permit to operate an animal feeding operation shall include a scaled site plan. If the facility will handle more than one thousand (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 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.
- (3) Owners name, address and telephone number.
- (4) Legal description of the site.
- (5) Number and type of animals.
- (6) Surrounding land uses and ownership, if the operation will have the capacity to handle more than one thousand (1,000) animal units.
- (7) A copy of the application submitted to the Department of Health.
- (8) Manure management and operation plan, photocopy as submitted to the North Dakota Department of Health.

- (9) Management plan for fly and odor control, photocopy as submitted to the North Dakota Department of Health.
- (10) Management plan for disposal of dead animals, photocopy as submitted to the North Dakota Department of Health.
- (11) Nutrient management plan, photocopy as submitted to the North Dakota Department of Health.
- (12) Information on soils and aquifers.
- (13) Other information as required in application and/or requested by the Zoning Administrator or the Planning and Zoning Commission.

g. Miscellaneous

- (1) The applicant shall conform to all the rules and regulations governing animal feeding operations in the State of North Dakota as enforced and administered by the North Dakota Department of Health.
- (2) 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 Department of Health shall be provided to the Zoning Administrator.
- (3) 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 Department of Health requirements. A copy of such plan shall be submitted to the Zoning Administrator.
- (4) The Planning and Zoning Commission may request information relating to an animal feeding operation not contained in these regulations.
- (5) The Planning and Zoning Commission may impose, in addition to the standards and requirements set forth in these regulation, additional conditions which

the Planning and Zoning Commission considers necessary to protect the public health, safety, and welfare of Coolin Township citizens. This shall include additional monitoring if the possibility exists that groundwater or surface water quality may be compromised.

- (6) Any and all cost to implement any additional conditions as set forth by the Planning and Zoning Commission shall be borne by the owner of the facility.
- (7) When considering an application, the Planning and Zoning Commission will take into consideration current and past violations relating to animal feeding operations that the applicant or operator has or has had an interest in.
- (8) The owner or operator of a CAFO located outside of Coolin Township shall notify the Coolin Township Board ten (10) days before it intends to land apply any manure on property located in Coolin Township and shall pay a \$50.00 application fee at the time it gives notice to Coolin Township. The application of manure shall follow all the rules and regulations set forth and administered by the North Dakota Department of Health.
- (9) All State and Federal regulations shall be adhered to.

### Section 13. ROADS.

The condition and upkeep of the roads under the control of Coolin Township, and that Coolin Township is financially responsible for, being of a primary importance to the welfare, well-being, and general quality of life in Coolin Township, the following regulations shall apply to road use.

- A. Road Care: The Township Board and the advisory capacity of the Planning and Zoning Board will direct the contracted maintenance of the roads to be generally designated as "Normal Use/Maintenance", and shall do so in a manner deemed as practical as possible, financially. Certain roads designated as "Restricted" or "Non-Maintenance" shall not be subject to normal blading, mowing, snowplowing or other work usually performed for "Normal Use" roads. Under special conditions and determinations, the Board of Supervisors may direct certain work be done on said roads. Such "Non-Maintenance" roads shall include all unimproved section lines commonly known as "prairie trails". These and other roads that may have some improvements shall be declared "CLOSED TO ALL TRAFFIC" when conditions dictate, except for those



Township Residents or Owner/Operators who have immediate and necessary agricultural business that cannot be conducted unless that particular road is used in an efficient manner, and damages are kept to an absolute minimum. If these roads are used under the conditions that dictate their closure, repair or reconstructive work shall be planned for, under approval of the Zoning Board, and shall be completed in a timely manner. Excessive costs for damage repair to the roads shall be assessed to those parties responsible in a manner described under these regulations. "Non-Maintenance Roads" shall be kept up to a degree which facilitates their use for agricultural purposes. Other work such as blading, gravel, mowing, snow plowing, and so on, shall not be performed at township expense except at the special designation of the Township Supervisors.

**DESIGNATED ROAD MAINTAINENCE:** All designations shall be determined by the Township Supervisors, under the advisement from the Planning and Zoning Commission.

- B. Speed and Weight Limits: Additional restrictions of speed or weight, or other restrictions shall be designated at appropriate times and locations by the Township Supervisors.
- C. Excess weights, speed, or other violations shall be assessed fines in a manner consistent with the State or County fine system.
- D. Signs: As determined by the Zoning Board or Supervisors, cautionary or regulatory signs shall be erected where and when necessary for safety, to assist in regulations of road use, and to promote the general welfare of township residents, and their roads. Notice shall also be posted concerning this ordinance, regarding general regulations of building restrictions and land use.
- E. Any and/or all violations or alleged violations of any section of this ordinance may be reported to any member to the Zoning & Planning Commission by any person who resides within the Township, or who pays taxes within the Township, or by any other person with legitimate vested interests within the Township. Upon such report, the Commission shall determine the appropriate action, and may elect to either:
  - 1. Contact the alleged violator(s) and inform them as to the appropriate actions necessary for them to place themselves in compliance with the ordinance; or
  - 2. Contact appropriate Law Enforcement Officials; including, but not limited to: Sheriff's Office, State's Attorney's Office, County Commissioners, North Dakota Highway Patrol, Attorney General's Office; for pursuit of legal redress and correction of the violation(s), and possible assessment of fees or fines.

## **ARTICLE III – DISTRICTS AND BOUNDARIES**

### **Section 1. ESTABLISHMENT OF DISTRICT(S).**

In order to effectively carry out the provisions of these For the purpose of these regulations, the land covered by the jurisdiction of these regulations (i.e., Coolin Township) shall be zoned agricultural. Coolin Township reserves 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 effectuate the intentions of this ordinance:

- Agricultural District
- Rural Residential District
- Commercial District
- Industrial District
- Rural Recreational District

### **Section 2. ZONING MAP.**

The location and boundaries of the zoning districts are hereby established as shown on the map entitled ZONING DISTRICT MAP, which accompanies, and is hereby made a part of the regulations. A map further describing such designations shall be attached to this ordinance for further identification.

### **Section 3. INTERPRETATION OF BOUNDARIES.**

- A. Where the district boundary lines on the ZONING DISTRICT MAP are indicated to follow highway, road, or railroad rights-of-way, such boundary lines shall be construed to be the centerline of said rights-of-way unless clearly shown to the contrary.
- B. Where any uncertainty exists as to the exact location of the zoning district boundary line, the Zoning Board 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 of fees cannot be determined.

### **Section 4. AGRICULTURAL DISTRICT.**

- A. Purpose: The Agricultural District (i.e., "A") is established as a district in which the predominant use of land is for general agricultural uses. For the Agricultural District in promoting the general purposes of this ordinance is:
  - 1. To encourage the continued use of land for agricultural uses;
  - 2. To discourage scattered commercial, industrial, or other non-

agricultural uses of the land and to discourage any other use which would interfere with an integrated and efficient development of the land;

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.

B. Permitted Uses:

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.
2. Single family dwellings related to an individual farming operation.
3. Churches and similar places of worship and parish homes.
4. Public parks and other public buildings, and public or quasi-public recreational facilities, provided precautions for safety and the general public and residents' welfare are considered, and planned for, and such plans are approved by the Zoning Commission; and that such areas shall not place an unfair or onerous burden on the financial status of the District.
5. Storage of agricultural products and minor handling, according to State Health Department regulations.
6. Home occupations and accessory uses customarily incident to the uses permitted in this district, but not including feedlots or other concentrated animal feeding operations.

C. Conditional 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 Zoning Board:

1. Non farm dwellings conditioned upon the following:
  - a. Lot size of not less than two (2) acres, and no more than one non-farm dwelling per 40 acres;
  - b. Lot location shall provide its own access to an existing improved road;
  - c. Minimum lot width of 350 feet;
  - d. Minimum side yard of 40 feet;

- e. Height maximum of 35 feet (residential) and 40 feet (non-residential);
  - f. Setbacks shall be obeyed (i.e., 100 feet);
  - g. No new dwelling (farm or non-farm) to be constructed within ½ mile of any existing anhydrous ammonia or fertilizer plant;
  - h. All dwellings shall front on, or have direct access to an established township, county, state or federal road. 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.
2. Schools;
  3. Sanitary disposal facilities including landfills and solid waste, subject to stipulations of the Zoning Board and those set forth in C 1 and 2 and 3;
  4. Oil, gas, mineral and gravel exploration and extraction;
  5. Water or other drilling;
  6. Animal feeding operations;
  7. Wrecking, salvage or junk yards;
  8. Radio, television or other towers;
  9. Utilities;
  10. Airports and Heliports;
  11. Parks or open land recreational use;
  12. Animal hospitals;
  13. Fire stations;
  14. Churches and/or cemeteries;
  15. Grain cleaning plants;
  16. Grain elevators and/or grain storage facilities. Anhydrous ammonia and/or fertilizer plants may be permitted, provided they are placed no closer to any occupied dwelling, whether dwelling is in the Zoning District, or in a jurisdiction adjacent to it, than a distance of one (1) mile, and all other stipulations of the Zoning

Board are met, regarding the planning and provisions for public safety and the general welfare of the public and the residents.

17. Recreational parks, travel trailer campgrounds, or other similar activities shall be planned to allow for access, parking, sanitation, and public safety, and be approved by the Zoning Commission.
18. Motels, service stations, or other commercial ventures shall be planned with safety, parking, access, sanitation, and other considerations being approved by the commission before construction is commenced.
19. 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.
20. Shelter belts as authorized under these regulations.
21. Sanitary disposal facilities, including landfill and solid waste disposal facilities provided proof of the following minimum requirements, along with any additional conditions required by the township, is provided by the applicant:
  - a. Satisfactory proof of that all permits and requirements of the State of North Dakota and North Dakota Department of Health are obtained.
  - b. Sites shall be restricted to disposal of inert solid waste and municipal solid waste. Waste which is classified as hazardous, is hazardous in nature, or exhibits hazardous waste characteristics shall not be permitted for disposal. Nuclear waste and industrial waste is not permitted.
  - c. All disposal sites must be in compliance with all applicable federal, state and local environmental statutes and rules.
  - d. All excavation and actual disposal areas shall maintain a minimum setback of 150 feet from all property lines.
  - e. A facility shall develop a comprehensive plan for controlling surface water drainage which is in compliance with the North Dakota Department of Health and Consolidated Laboratories requirements and such plan shall be on file in the auditor's office.

- f. Unauthorized entry to the site shall not be permitted. In addition, facility personnel must be on site during all times of active disposal.
  - g. A chain link fence 6 feet high shall be installed along the boundaries of the active disposal area.
  - h. Operation of the facility shall not present any substantial evidence of danger to surface and groundwater resources.
  - i. Any collector hauling waste generated by residential, business, commercial or other establishments in a county shall register in the county and disclose the name of any other counties in which such collector hauls refuse.
  - j. The door of any private vehicle used to haul shall be clearly marked with the business name and address of the hauler.
  - k. The facility must be located at least one (1) mile from any residence or residentially zoned area, unless written approval is obtained from the owner of any residence within this area.
  - l. It is continuously licensed and approved by the State Health Department as to location and operation.
  - m. There is no substantive evidence that the facility will endanger the public health or the environment.
  - n. The conditional or special use permit will be valid for a period of time set by the Township Board. For the permit to be approved, sixty percent (60%) of all property owners within the township of the proposed location must approve of the proposed facility.
- D. Prohibited Uses. Any land uses which are not listed in this Section as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district.
- E. Dimensional Standards. All buildings and structures shall be no less than 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.

#### **ARTICLE IV – ADMINISTRATION AND ENFORCEMENT**

Section 1. PLANNING AND ZONING COMMISSION. The administration and enforcement of these zoning regulations is hereby vested in the Planning and Zoning

Commission of Coolin Township. Members of the Planning and Zoning Commission shall be appointed by the Board of Township Supervisors and shall consist of three members of the Township Board, and two residents/landowners of Coolin Township.

Section 2. ZONING ADMINISTRATOR. A Zoning Administrator shall be appointed by the Zoning Board. Co-Administrators may be established, or they may appoint a designee to execute specific aspects of their duties. Duties of the Zoning Administrator shall include:

- A. Issuance of all permits.
- B. Conduct inspection of all buildings, and other activities included under the restrictions, guidelines, or regulations of this ordinance.
- C. Maintain regulations and permits.
- D. Transmit to the Zoning Board all applications for appeals, variances, or conditional use permits, and all applications for amendments to the Board of Township Supervisors.

Section 3. TOWNSHIP PLANNING AND ZONING BOARD. Membership of the Board shall consist of three members of the Township Board, and two residents/landowners of Coolin Township. Duties of the Board shall include:

- A. Establishment of rules, regulations, and procedures for the purpose of administering the zoning ordinance.
- B. Assist the zoning administrator in conducting inspections of buildings or other regulated activities, and administering the zoning ordinance.
- C. Hear and decide appeals where it is adjudged by the applicant that an error in judgment has been made by the zoning administrator.
- D. Review and study from time to time, the provisions of the regulations.
- E. The Zoning Board shall serve as an advisor to the Township Board. The Township Board shall have final review of all zoning board decisions.
- F. APPEALS: Any person aggrieved by the provisions of these regulations, or by any order of determination of the zoning administrator; may, within sixty (60) days of such action, petition for a hearing to the township zoning board. Such appeal shall be in writing and shall specify in detail the grounds for the appeal.

G. PROCEDURES:

1. Appeals shall be filed with the zoning administrator.
2. Within thirty (30) days of filing, the township zoning board shall fix a date for a hearing.
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.
4. Within fifteen (15) days after the hearing, the township zoning board shall take action, and shall mail by certified mail, a copy of its order to the petitioner.

H. VARIANCES: As used in this ordinance, a variance is authorized only for height, area, or size of structures or yards.

NO VARIANCE SHALL BE AUTHORIZED UNLESS THE TOWNSHIP ZONING BOARD FINDS CAUSE THAT **ALL** OF THE FOLLOWING CONDITIONS EXIST:

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.
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.
3. That the authorization of such variance will not be of substantial detriment to adjacent property and will not be of substantial detriment to adjacent property and will not materially impair the purpose of the regulations, nor the public interest.
4. The owner cannot otherwise obtain a reasonable return on this property.
5. The hardship is not self-created.
6. The variance request is the minimum necessary to permit a reasonable use of the land.

I. CONDITIONAL USES: No permit pertaining to the conditional use of land or buildings shall be issued unless:



- a. An application for a conditional use permit has been submitted to the township zoning board for review.
- b. The board has held a public hearing.
- c. The board has made written findings certifying compliance with rules governing conditional uses, and that where applicable, satisfactory provision for the following has been made:
  1. Entrance and exit to property with references to access, public safety, traffic flow, and convenience.
  2. Parking and loading requirements of the specific use.
  3. General compatibility with the surrounding property with due consideration for noise, order or other adverse effects.
  4. Required open space and yards.
  5. 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 applications.

Section 4. **BUILDING PERMITS:** No structure for residential, commercial, or industrial purposes including accessory uses shall be built, altered, or moved, until a permit has been obtained from the zoning administrator. No structure for agricultural purposes used in connection with an animal feeding operation, including accessory structures, shall be built, altered, or moved until a permit has been obtained from the zoning administrator. No permit shall be required for maintenance or repair of any building which does not alter the plan of the structure.

**A. NO BUILDING PERMIT WITHOUT APPROVED ACCESS:**

1. No building permit shall be issued until the Zoning Administrator has approved in writing an approach permit for access to the lot upon which the permit is requested.
2. No building permit or approach permit may be issued unless and until all roadways which are necessary for access to the property for which a permit is sought are constructed to County standards, and approved in writing by the zoning administrator.

**B. NO ELECTRIC POWER WITHOUT PROPER PERMITS:** It shall be unlawful for any association, company, person, firm, cooperative,

corporation or other entity to use, or permit to be used, or to supply electrical current for electrical wiring for lights, heat, or power for any purpose in any building or structure within the township, unless the required permits and approval of such building, structure, and electrical circuits have been issued by the Township Board, or by an authorized representative thereof. The Certificate of Approval shall be attached to the electrical wiring circuits prior to the installation of the electrical meter.

- C. **BUILDING CODE:** The State Building Code, as established under N.D.C.C. ch. 54-21.3, shall be the Building Code of Coolin Township for regulating and governing the conditions and maintenance of property, buildings, and structures.

Structures for agricultural purposes used in connection with an animal feeding operation shall comply with standards and specifications set forth in the plans submitted by the owner to the North Dakota Department of Health and the guidelines set forth in applicable USDA-NRCS Technical Standards.

- Section 5. **VIOLATIONS OF REGULATIONS:** A violation of this ordinance is an offense punishable by a fine not to exceed two hundred dollars (\$200.00) PER DAY for each and every 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 Section 58-03-14, NDCC. Other violations, damage, or willful disregard for these regulations shall be assessed fees equal to triple the costs of repairing or reconstructing said damages, or correcting the actions of violators, or above fees of \$200.00 per day, 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 a complaint in regard thereto. All such complaints shall be filed with the Zoning Administrator, who shall investigate such violations(s), and report to the Board of Township Supervisors for appropriate action.

- Section 6. **FEES:** For the purpose of administering this ordinance, fees may be instituted by the Board of Township Supervisors. Said fees shall not exceed an amount deemed fair and reasonable, using current wage and material costs at such time as fees are assessed, as a basis for establishing said fees. Initial fees are as follows:

- (1) All applications and fees required by this Zoning Resolution shall be collected by the Zoning Administrator unless otherwise noted. No applicant shall be entitled to a refund as a result of denial of any request.

(2) Administrative and/or permit fees for development request shall be as follows:

(a) Signs:

- (1) Billboards-----\$40.00/Billboard
- (2) Portable signs-----\$20.00/sign
- (3) Signs located in the public right-of-way-----\$10.00/sign
- (4) All other signs where permits are required--\$40.00/sign

(b) Mobile Home Permit-----\$40.00 Each

(c) Special Use Permits-----\$150.00 Each\*

(d) Amendment/Rezoning-----\$100.00 Each

(e) Confined Animal Feeding Operation

- (1) Initial application-----\$1000.00 Each
- (2) Annual fee-----\$500.00 Each
- (3) Building Permits-----\$100.00 plus \$2.00/\$1000.00  
of Building Cost

\*Plus additional costs if needed.

Section 7. REMUNERATION: Any member of the Zoning & Planning Commission who fulfills the required duties of the office shall receive payment as follows:

- A. Regular or special local meeting of the board shall be paid the maximum allowable by law, not to exceed the current amount paid supervisors for regular township meetings, or the amounts paid the Clerk-Treasurer for extra duties.
- B. Inspection, certification, or other work associated with the position shall be paid as follows:
  - 1. The wage per hour shall be 150% of the current Federal minimum wage, or more, not to be less than \$10.00 per hour.
  - 2. The current rate of mileage as paid by the County Commissioners shall be paid for all travel, while executing the duties of the position.
  - 3. All vouchered and authorized expenses incurred in the fulfillment of these duties shall be paid upon receipt of vouchers requesting payment.

Section 8. **AMENDMENTS:** The Township Board of Supervisors may, from time to time, and pursuant to the laws of this State, amend the provisions of this ordinance. 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. At least fifteen (15) days notice of the time and place of such meeting shall be published in the official newspaper of the county. The description of any land within any zoning district, together with any restriction therein, or any amendment to the zoning ordinance, shall be filed with the Township Board of Supervisors.

## **ARTICLE V - DEFINITIONS**

Section 1. **DEFINITIONS:** For the purpose of this ordinance, the following definitions have been adopted.

A. **Rules:**

1. Words used in the present shall include the future, the singular number shall include the plural.
2. The word “person” includes a firm, partnership, association, corporation, or individual.
3. The word “shall” is mandatory.
4. The words “ordinance” and “regulation” shall be used synonymously.
5. The phrases “Planning and Zoning Commission”, “Planning Commission” and “Zoning Commission” shall be used synonymously herein.
6. The words “Conditional” and “Special” shall be used synonymously.

B. **LIST OF DEFINITIONS:**

**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 a garage or tool shed.

**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.

Animal Feeding Operation – 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 animal feeding operations under common ownership shall be considered a single animal operation if they are within a one-mile radius of each other, or if they use a common area, or if they use a common system for manure handling.

Animal Feeding Operation Structure – lagoon, formed manure storage, washwater storage structure, earthen manure storage basin, or any animal confinement building.

Animal Wintering Operation – The confinement of cattle or sheep used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. The term includes the weaned offspring of cattle and sheep, but it does not include (1) breeding operations of more than 1,000 animal units or (2) weaned offspring which are kept longer than 120 days and that are not retained for breeding purposes.

Applicant – 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 – Geologic formation, group of formations, or part of a formation capable of storing and yielding ground water to wells and springs.

**BUILDING:** Any structure used for shelter or enclosure of persons, animals, or chattels.

Closure – 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.

**CONDITIONAL USE:** A use conditionally permitted in order to reduce any adverse effects on surrounding property.

**DISCONTINUANCE OF USE and DISCONTINUE THE USE OF or ABANDONMENT:** The situation where an animal feeding operation or concentrated animal feeding operation removes the animal units that were principally using the animal waste storage facility and empties the animal waste storage facility within 1 year.

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

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

**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.

**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.

**EARTHEN MANURE STORAGE BASIN** – An earthen cavity, either covered or uncovered, which, on a regular basis, receives waste discharges from an animal feeding operation and where accumulated wastes from the basin are removed at least once a year.

**ESTABLISHED RESIDENCE** – Any residence established by a personal presence, in a fixed and permanent dwelling with an intention to remain there.

**EXISTING** – In place and operating on the date this ordinance is effective.

**EXPANSION** – A change in the capacity of an animal feeding operation from an animal capacity of less than 300 animal units to a capacity of more than 300 animal units; from a capacity of less than 1,000 animal units to a capacity of more than 1,000 animal units; from a capacity of less than 2,000 animal units to a capacity of more than 2,000 animal units; from a capacity of less than 5,000 animal units to a capacity of more than 5,000 animal units; or from a capacity of less than 10,000 animal units to a capacity of more than 10,000 animal units. Expansion shall also mean any 5 percent or greater increase in the animal capacity of a concentrated animal feeding operation, regardless of whether the expansion reaches 1,000, 2,000, 5,000, or 10,000 animal unit thresholds.

**FAMILY:** A group of one or more persons occupying a single premise and living as a single housekeeping unit.

**FARM:** Any aggregate area operated by one person, family, partnership, corporation or joint venture for agricultural or farming purposes.

**FARMING** – See Agriculture

**FEEDLOT:** The use of land or buildings for the exclusive purpose of concentrated feeding or fattening of livestock for marketing. The application of feedlot regulations shall be applicable to farm and non-farm related enterprises.

**FLOOD PLAIN** – Lowland and relatively flat areas adjoining inland and coastal waters that are inundated by a one-hundred (100) year flood.

**GROUND WATER** – 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.

**HOME OCCUPATION:** Any occupation (1) which is carried on 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.

**JUNK YARD:** Any land or buildings used for commercial storage, sale, or dismantling of obsolete vehicles, junk, and/or other machinery.

**LAGOON** – 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** – 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.

**LIVESTOCK TYPE** – Livestock type means a species of domesticated farm animal, a breed within a species of a species of domesticated farm animal, and a particular age cohort within a breed. A change in livestock type means: (1) a change from one species of domesticated animal to another species; or (2) a change from one age cohort of a livestock breed to another age cohort.

**LOT:** A parcel of land sufficient to provide the yard requirements of the regulations.

**MANURE** – means fecal material and urine from livestock, as well as animal-housing wash water, bedding material, rainwater, or snowmelt that comes in contact with fecal material or urine.

**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.

**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.

**OPERATOR** – An individual, corporation, cooperative, group of individuals, partnership, joint venture, or any other entity owning or controlling one or more animal feeding operations or animal wintering operations.

**OWNER** – The person who has title to the property where the animal feeding operation is located or the person who has title to the animal feeding operation structures. It does not include a person who has a lease to use the land where the animal feeding operation is located or to use the animal feeding operation structures.

**POLLUTION, AIR** – 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** – Manmade or man-induced alteration of the physical, chemical, biological integrity of any Waters of the State.

**PUBLIC WELL** – A well that accesses the Waters of the State for distribution to the public. This includes the defined source-water production area landmass around the well.

**RANCHING** – See Agriculture

**RUNOFF** – The portion of precipitation or irrigation or other liquid that makes its way toward streams, rivers, lakes, or other bodies of water as surface or subsurface flow.

**SETBACK:** The open space extending the full width of a lot between a building and a public right-of-way line, easement, or front property line.

**SHALL** – The requirement is mandatory, rather than optional.

**SOURCE – WATER PROTECTION AREA** – 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** – Any running body of surface water that ordinarily flows within a channel. This includes both perennial and intermittent streams.

**STRUCTURAL ALTERATION:** Any change in the supporting members or any substantial alteration or change in the roof or exterior walls of a building.

**SURFACE WATER** – Waters of the State located on the ground surface such as lakes, reservoirs, rivers, and creeks.

**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.



VEGETATIVE BUFFER STRIP – A permanently vegetated corridor of land immediately adjacent to waters of the state. It shall be a minimum of 35 feet in horizontal width as measured perpendicularly from the high water mark of the stream, lake, or other body of water making up the waters of the state. It shall be a permanent strip of dense perennial vegetation established parallel to the contours of and perpendicular to the dominant slope of the field for the purposes of slowing water runoff, enhancing water infiltration, and minimizing the risk of any potential nutrients or pollutants from leaving the field.

WATERS OF THE STATE – 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 accumulation of water surface and 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.

