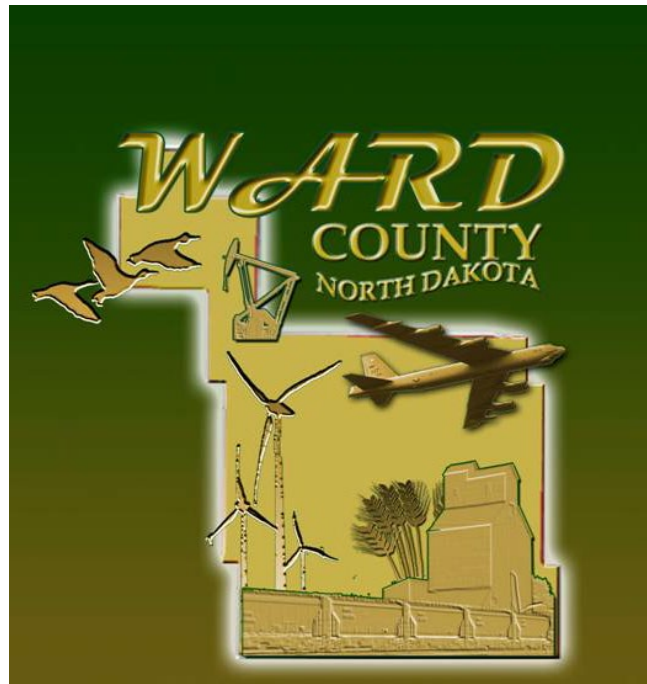


WARD COUNTY



LAND ZONING ORDINANCES

Adopted July 1, 2025

Amended as of May 5, 2026

Ward County Land Zoning Ordinances

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WARD COUNTY LAND ZONING ORDINANCE

Article I. General Provisions

Section 1.01 TITLE

This Ordinance shall be known and may be cited and referred to as the “Ward County Land Zoning Ordinance” and will be referred to herein as “this Ordinance.”

Section 1.02 AUTHORITY AND ENACTMENT

This Ordinance is enacted pursuant to the powers granted and limitations imposed on counties by the laws of the State of North Dakota, including without limitation North Dakota Century Code (herein after referred to as NDCC) §11-09.1, §11-33 and §11-33.2 and by the Ward County Home Rule Charter. The Board of County Commissioners hereby expresses that neither this Ordinance, nor any amendment to it or any decision under it, may be challenged on the basis of an alleged non-conformity with any other planning document; inclusive of the Ward County Comprehensive Plan adopted July 2019.

Section 1.03 PURPOSE

1. The purpose of this Ordinance is to ethically promote the health, safety, public convenience, general prosperity, and public welfare of Ward County and its residents.
2. It is further the purpose of this Ordinance to:
 - a) Facilitate the orderly and efficient development of the County in a manner which is consistent with its Comprehensive Plan, Transportation Plan, Multi-Hazard Mitigation Plan and other adopted plans.
 - b) Protect and guide development of nonurban areas.
 - c) Provide for emergency management.
 - d) Regulate the development and use of buildings and lands for trade, industry, residence, or other purposes.
 - e) Lessen governmental expenditures.
 - f) Conserve and develop natural resources.
 - g) Protect and preserve agricultural land uses.
 - h) Preserve and enhance the character and quality of the County’s rural areas.
 - i) Provide for safety and minimize congestion in the public rights-of-way.

- j) Regulate the subdivision of land.
- k) Provide for the administration of this Ordinance.
- l) Promote the cooperation between the County and Townships in the administration of this Ordinance.

Section 1.04 APPLICABILITY AND JURISDICTION

This Ordinance applies to all buildings, structures, lands, and uses over which the Ward County Board of County Commissioners has jurisdiction under the constitution and laws of the State of North Dakota and of the United States, except for land within the corporate limits of any municipality or land within the area of application of extraterritorial zoning pursuant to §40-47-01.1 of the North Dakota Century Code.

Section 1.05 COMPLIANCE

1. No building or structure shall be erected, converted, enlarged, reconstructed or altered for use; nor shall any land, building or structure be used or changed, nor shall any request for an access connection (new, changed, altered, re-constructed) onto a County highway or county controlled right-of-way which includes any field entrance, driveway or public/private roadway (permanent, temporary or field access/opening), except in accordance with the applicable regulations as set forth within this Ordinance.
2. No lot of record that did not exist on the effective date of this Ordinance shall be created, by subdivision or any other mechanism, that does not conform to the applicable requirements of this Ordinance.
3. No permit or approval may be issued under this Ordinance unless all structures, uses and/or lots and any related terms or conditions of such permit or approval to be authorized by the permit or approval conform to this Ordinance.

Section 1.06 SEVERABILITY

1. If any section, paragraph, clause, phrase or part of this Ordinance is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance; and the application of the remaining provisions to any persons or circumstances shall not be affected.
2. If any application of any part of this Ordinance to a particular lot, tract, parcel, building, structure, land or use is for any reason found to be invalid by a court of competent jurisdiction, such decision shall not affect the application of the same provision to any other lot, tract, parcel, building, structure, land or use not specifically included in the decision.

Section 1.07 EFFECTIVE DATE

1. The Ward County Zoning Ordinance, and any amendment to this Ordinance, shall be effective after its passage, publication, and recordation as provided by NDCC §11-33-09 and

Section 1.08 REPEAL

1. Any Ward County zoning resolutions or regulations previously established by the Ward County Board of County Commissioners, and all amendments of said zoning regulations are hereby repealed.
2. Nothing in this Ordinance shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

Section 1.09 TRANSITIONAL PROVISIONS

1. This Ward County Zoning Ordinance, in part, carries forward some of the provisions governing zoning and subdivision actions and decisions that were effective prior to the effective date of this Ordinance. It is the intention of this Ordinance to continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced, unless specifically surrendered by specific provisions of this Ordinance or altered by changes to the official zoning map of Ward County.
2. The adoption of this Ordinance, and any amendment thereto, shall not adversely affect the County's right to prosecute any violation of the predecessor zoning regulations provided that such violation first occurred while that regulation was in effect.
3. Applications for land use or development that were submitted in complete form and were pending approval on or before the effective date of this ordinance, or any amendment to this ordinance, shall be reviewed wholly under the terms of any regulation as it existed at the time the complete application was submitted.

Article II. Interpretation

Section 2.01 Liberal Interpretation to Further Underlying Purposes

Interpretation and application of this Ordinance are the basic and minimum requirements for the ethical protection of public health, safety, comfort, convenience, prosperity, and welfare. This Ordinance shall be liberally interpreted in order to further its underlying purposes. The meaning of any and all words, terms, or phrases in this Ordinance shall be construed in accordance with the following Rules and Definitions.

Section 2.02 Rules of Construction and Interpretation

1. Words, phrases, and terms defined in this Ordinance shall be given the defined meaning as set forth in the following text. When the context clearly indicates a different meaning than the defined meaning set forth herein, a word shall be given its usual or customary meaning which is consistent with the context.
2. Words, phrases, and terms not defined in this Ordinance shall be given their usual and customary meanings except where the context clearly indicates a different meaning.
3. The word “shall” is mandatory and not permissive; the word “may” is permissive and not mandatory.
4. Words used in the singular include the plural, and words used in the plural include the singular.
5. Words used in the present tense include the future tense, and words used in the future tense include the present tense.
6. In computing any period of time prescribed or allowed by this Ordinance, the day of the notice or final application, after which the designated period of time begins to run, is not to be included. Further, the last day is to be included unless it is not a working day, in which event the period runs until the next working day.
7. Within this Ordinance, sections prefaced “purpose” are intended to convey official statements of legislative findings or purpose. These statements are intended to guide the administration and interpretation of this Ordinance and shall be treated in the same manner as other aspects of legislative history. However, they are not binding standards.

Section 2.03 Definitions

The following words have the specific meaning listed:

1. **ACCESSORY BUILDING** – a building located on the same parcel with the main building, detached or attached, which is subordinate and customarily incidental to the use of the main building.
2. **ACCESSORY DWELLING** - a dwelling which functions as an accessory use and is not essential to the function of the principal use of the parcel on which it is located, and may be

in a separate building from the building which contains the primary use of the parcel. Accessory dwelling residency limit to no more than 5 non-family residents allowed and no more than 1 accessory dwelling is permitted per residential site.

3. ACTIVE SOLAR ENERGY SYSTEM - a solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
4. AGRICULTURAL EQUIPMENT SALES AND SERVICE – a site established for the commercial sale, service, or repair of machinery designed or used for farming and ranching operations.
5. AGRICULTURAL OPERATION - the science and art of producing plants and animals useful to people, by a corporation or a limited liability company as allowed under NDCC §10-06.1, or by a corporation or limited liability company, a partnership, or a proprietorship, sole-proprietorship, and includes the preparation of these products for people's use and the disposal of these products by marketing or other means. The term includes livestock auction markets and horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bee, and any and all forms of farm products, and farm production. It also includes agritourism activities.
6. AGRITOURISM ACTIVITY - any activity, including farming and ranching activities, or any historic, cultural, or natural attraction, that is viewed or enjoyed by members of the general public, for educational, recreational, or entertainment purposes, regardless of whether the member of the public pays to participate in the activity or to view or enjoy the attraction.
7. ALLEY - a public right-of-way which affords a secondary means of access to abutting property.
8. ANHYDROUS AMMONIA STORAGE FACILITY - bulk anhydrous ammonia storage facility with a capacity exceeding 6000 gallons which is owned or operated by a user or vendor of anhydrous ammonia.
9. ANIMAL BOARDING FACILITY - a building and associated land used for boarding, sale, rental, breeding, or raising of animals for remuneration.
10. ANIMAL FEEDING OPERATION - means a lot or facility, other than normal wintering operations for cattle and an aquatic animal production facility, where the following conditions are met: (1) Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for at least forty-five days in a twelve-month period; and (2) Crops, vegetation, forage growth, or postharvest residues are not sustained in the normal growing season over any portion of the lot or facility. As defined in NDCC §11-33-02.1
11. ANIMAL GROOMING OR TRAINING – grooming or training animals for remuneration at a facility that does not board, breed or raise them.

12. 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 5 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. As defined in state law.
13. APARTMENT - a dwelling unit located in a building functioning as a multiple attached dwelling.
14. AUTO SERVICE AND REPAIR STATION - any building, structure, or land used for dispensing, sale, or offering for retail sale automobile fuels, oils, or accessories, or providing minor or major automotive maintenance and repair services, including auto body repair and painting.
15. BASEMENT - that portion of a structure between the floor and ceiling which is wholly or partly below grade and having more than one half of its height below grade.
16. BED & BREAKFAST - a private home that is used to provide accommodations for a charge to the public, with not more than seven lodging units, in which no more than two family-style meals per day are provided.
17. BILLBOARD – an outdoor advertising sign.
18. BLOCK - the property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, undivided acreage, river, or live stream; or between any of the foregoing and any other barrier to the continuity of development.
19. BORROW PIT MINING - use of a site in Ward County for a period of not more than two calendar years for the excavation of material for fill at one or more road, levee, or other construction projects.
20. BUILDABLE LOT - a lot that meets zoning dimensional requirements in the district where it is located.
21. BUILDING - a structure built for the support, shelter or enclosure of persons, animals, chattels, storage, or property of any kind.
22. BUILDING MATERIALS SALES AND STORAGE - establishment that participates in the sale of goods and materials which are commonly used in the construction industry, which often includes the storage of such materials on site as well.
23. BULK PETROLEUM STATION - land and structures used for storage of bulk petroleum products for local distribution and sale.
24. BULK PETROLEUM TERMINAL - land and structures used for storage of bulk

petroleum products for regional distribution including but not limited to petroleum sales to truck jobbers.

25. BURIAL PLOT - an area of land described and established for burial of human remains in a cemetery.
26. CAMPER or CAMPER TRAILER - a structure designed to be used as a temporary dwelling during travel, recreational, and vacation uses that is mounted on a pickup or truck chassis or on a separate wheeled chassis pulled by a motor vehicle. The structure may or may not be constructed with collapsible partial side walls which collapse for transport and unfold for use.
27. CEMETERY - any one, or a combination of more than one, of the following, in a place used, or intended to be used, and dedicated, for interment of human remains: a burial park, for earth interments; a mausoleum, for crypt or vault interments; a crematory, or a crematory and columbarium, for cinerary interments.
28. CLUB – a building or portion thereof or premises owned or operated by a corporation, association, person or persons for a social, educational, or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.
29. COMMERCIAL DAYCARE - a person, entity, or organization operating as a licensed group childcare provider, a licensed child care center, a licensed pre-educational facility, or a licensed educational facility-age program.
30. COMMERCIAL GRAIN FACILITY- grain facilities (elevators) open to the public that are facilities at which grains are received, stored, weighed, and then distributed for direct use, process manufacturing, or export.
31. COMMERCIAL NURSERY - land or greenhouses, excluding tree farms, where trees, shrubs, flowers, and other plant materials are grown, propagated, and/or stored either out of doors or under cover for the purpose of wholesale or retail sales.
32. COMMERCIAL STORAGE FACILITY- self-storage facilities or controlled access warehouse facilities that rent storage space by the unit.
33. COMMUNICATIONS FACILITY - the support structure, antenna, and base station together with all the other structural components at a given site (such as the security fence) established for the purpose of providing wireless transmission of voice, data, images or other information including but not limited to, cellular telephone service, personal communications service, and paging services.
34. COMPASSION CENTER OPERATING AS A DISPENSARY - establishments licensed by the State of North Dakota Department of Health for distribution of medical marijuana.
35. COMPASSION CENTER OPERATING AS A MANUFACTURING FACILITY – establishments licensed by the State of North Dakota Department of Health for the purpose of growing, processing, and manufacturing medical marijuana.

36. **COMPREHENSIVE PLAN** - the adopted official document of a legislative body of a local government that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical and economic development that occurs within its planning jurisdiction that includes a unified physical design for the public and private development of land and water.
37. **CONDITIONAL USE** - a land or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions provided that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the County, and the use is compatible with the existing surrounding land use.
38. **CONTRACTOR'S YARD** - a site used for outdoor or indoor storage of a contractor's construction equipment, equipment parts, materials and supplies, fabrication of subassemblies, and parking of wheeled construction equipment; and where such equipment may be repaired and maintained; and where such contractor may maintain offices for the management of the contracting business.
39. **CREW HOUSING FACILITY** - an area designed specifically to accommodate the siting of Ward County approved housing units for a temporary influx of workers and meeting the requirements for crew camps of this Ordinance.
40. **DATA CENTER** - a building, structure, complex or group of buildings and/or structures, facility, or dedicated space within a building, structure, complex, or facility that houses IT infrastructure, including, but not limited to, computer systems, networks, servers, applications, appliances, services, and other associated components or facilities used for the remote storage, processing, or transmission of digital data associated with those computer systems, networks, servers, applications, appliances, services, and other associated components or facilities. Associated components and facilities may also include air handlers, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations. This definition also includes cryptocurrency mining, which involves the use of blockchain technology to verify and secure cryptocurrency transactions, as the terms "cryptocurrency", "cryptocurrency mining", "blockchain", and "blockchain technology" are defined by any applicable State law or, if no applicable State law, by generally accepted industry standards.
41. **DEVELOPMENT** – a change to improved or unimproved real estate that requires a permit or approval from any agency of the County or of the State of North Dakota, including but not limited to construction, subdivision of land, placement of mobile homes, storage of materials, mining, filling, grading, excavation and drilling activities.
42. **DUAL ATTACHED DWELLING** – a building designed, constructed, and having two dwellings as the principal use.
43. **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.

44. DWELLING - a group of rooms in a building, designed for occupancy by one household, which are interconnected and function as a unit with permanent bathroom, kitchen, and sleeping facilities for the exclusive use of its occupants. Sleeping rooms and recreational vehicles are not dwellings.
45. EASEMENT - an interest in real property generally established in a real estate document or on a recorded plat to reserve, convey or dedicate the use of land for a specialized or limited purpose without the transfer of fee title. Such specified uses may include but are not limited to transportation facilities, utilities, access, stormwater drainage, and solar exposure.
46. EDUCATIONAL FACILITY - any facility providing Pre.K-12 educational facility services, providing vocational or post-secondary educational services, such as specialized training for business, computer/electronics, medical, mechanical, or arts professions. It does not include martial arts or health and fitness training facilities.
47. EXISTING - means in place and operating on the date this ordinance is effective.
48. FARM - a zoned area of Ward County containing at least forty (40) acres, which is used for the growing of the usual farm products such as vegetables, fruit trees, and grain, and their storage on the area, as well as for raising thereon the usual farm poultry and farm animals, such as horses, cattle, sheep, and swine. The term farming includes the operating of such an area for one or more of the above uses, including dairy farms with the necessary accessory uses for treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities.
49. FARMING OR RANCHING - cultivating land for the production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, insects, or fruit.
50. FIREARMS RANGE- an area designed and used for sport shooting, including, but not limited to, sport shooting that involves the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or other similar items.
51. FIREWORKS PRODUCTION FACILITY – a building or land used for the assembly or production of fireworks as defined by the laws of North Dakota, including wholesalers.
52. FIREWORKS SALES FACILITY – a site or location where fireworks as defined by the NDCC are displayed or sold, which has been licensed by the Ward County Sheriff.
53. FLAG LOTS - a flag lot is an irregularly shaped building lot or parcel that has a very limited amount of street or road frontage. The part nearest the street, typically used as a driveway, is skinny like the flag pole. Then the wider part of the lot, the flag in this analogy, is back further away from the road frontage.
54. FOUNDATION – the supporting substructure of a building or other structure, including but not limited to basements, slabs, sills, posts, or frost walls.

55. FRONTAGE (BUILDING)- the horizontal distance between the side lot lines measured at the point where the side lot lines intersect the street right-of-way. All sides of a lot that abut a street shall be considered frontage. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.
56. GARAGE – a building or structure, or part thereof, used or designed to be used for the parking and storage of vehicles.
57. GRADE - the average level of the finished surface of the ground adjacent to the exterior walls of the building.
58. GRAIN TERMINAL TRANSLOADING FACILITY – a large facility designed to store and transport grains to domestic and international markets.
59. GREENHOUSE - permanent structures where trees, shrubs, flowers, and other plant materials are started grown, propagated, and/or stored for the purpose of wholesale or retail sales, and at least 50% of its on-site sales come from the sale of the trees, shrubs, flowers and other plant materials grown or propagated on the site.
60. GROUP HOME - a community based residential home licensed by the appropriate North Dakota State Licensing Authority that provides room, board, personal care, habitation, services, or supervision in a family environment.
61. HARDSHIP - a restriction on property that is unique and distinct from that of adjoining properties in the same zoning district due to exceptional shape of a lot, exceptional topographic conditions, or other exceptional physical conditions of a parcel of land. Hardship shall not include personal or financial hardship or any other hardship that is self-imposed.
62. HEAVY EQUIPMENT SALE, RENTAL, AND SERVICE- an establishment that engages in the sale, rental, and/or service of vehicles and other apparatus commonly used in commercial, industrial or construction operations.
63. HOME DAYCARE - a person, entity, or organization operating as a self-declared childcare provider or a licensed family childcare provider.
64. HOME OCCUPATION - any occupation which: (a) is carried on in a dwelling unit by members of the household; (b) is clearly secondary to the use of the residential dwelling for dwelling purposes; (c) in the case there are non-household members working for the occupation, the number of non-household employees is a minority, and (d) does not create a nuisance, excessive noise, traffic, or conflict with adjoining uses.
65. IMPERVIOUS SURFACE – are solid surfaces that don't allow water to penetrate, forcing it to run off. This can include, but is not limited to roads, paved parking lots, rooftops, buildings or structures, sidewalks, driveways, and other surfaces which prevent or impede the natural infiltration of stormwater runoff which existed prior to development.
66. INDOOR FIREARMS RANGE - a facility operated within a building for the purpose of

shooting with firearms, whether publicly or privately owned and whether or not operated for profit, established under the laws of North Dakota.

67. INDOOR RECREATION FACILITY- an establishment that provides amusement, entertainment, or physical fitness services that typically occur indoors for a fee or admission charge.
68. INDUSTRIAL LANDFILL - a publicly or privately owned area of land where solid waste that is not municipal waste or special waste is permanently disposed in accordance with the laws of North Dakota.
69. INDUSTRIAL WASTE - solid waste, which is not a hazardous waste regulated under NDCC §23.1-04, generated from the combustion or gasification of municipal waste and from industrial and manufacturing processes. The term does not include municipal waste or special waste.
70. LANDFILL - a specially selected, designed, and operated site for disposal of solid waste in accordance with NDCC §23.1-08 and the provisions of this Ordinance
71. LARGE SCALE SOLAR ENERGY SYSTEM - an Active Solar Energy System that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).
72. LAUNDROMAT - a facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.
73. 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. As defined in NDCC §11-33-02.1
74. LIVESTOCK AUCTION YARD- an establishment or place of business where, during the regular course of business, cattle, sheep, swine, or other livestock are offered or exposed for sale, or sold, by weight, or by head, at auction, for compensation or profit, excluding private production sales.
75. LOADING SPACE - an open area of land other than a street, public way, or required parking space, the principal use of which is for standing, loading and unloading motor vehicles of all sizes, and related maneuvering space to avoid undue interference with the public use of streets and alleys.
76. LODGING ESTABLISHMENT - any building or structure, or any part thereof, which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished for pay to transient guests.
77. LOT - a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings, including the open space required by this ordinance and having its principal frontage upon a street or upon an officially approved place.

78. LOT OF RECORD - a lot which is part of a subdivision, the map of which has been recorded in the office of the Ward County Recorder, or a parcel of land, the deed to which was recorded in the office of the Ward County Recorder prior to the adoption of this resolution.
79. 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.
80. MANUFACTURED HOME - a factory built dwelling unit which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site and which does not have permanently attached to its body or frame any wheel or axle and bears a label certifying that it was built in compliance with the latest standards adopted by the U.S. Department of Housing and Urban Development.
81. MEDIUM SCALE SOLAR ENERGY SYSTEM - an Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC).
82. MOBILE HOME - consistent with the North Dakota Century Code, a mobile home is a structure, either single or multi-sectional, which is built on a permanent chassis, ordinarily designed for human living quarters, either on a temporary or permanent basis, owned or used as a residence or place of business of the owner or occupant, which is either attached to utility services or is twenty-seven feet or more in length, and includes a manufactured home as defined in NDCC§41-09-02 other than a manufactured home with respect to which the requirements of subsections 1 through 3 of NDCC §39-05-35, as applicable, have been satisfied.
83. MOBILE HOME PARK - an area designed specifically to accommodate the siting of mobile homes which meets the requirements of this Ordinance for mobile home parks.
84. MOTOR VEHICLE, RV, WATERCRAFT SALES, RENTAL AND SERVICE- an establishment that sells, repairs, services, provides alteration, restoration, towing, painting, cleaning, or finishing of automobiles, light duty trucks, recreational vehicles, boats, golf carts, and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use
85. MOTORIZED OUTDOOR RECREATIONAL FACILITY - any site established for people to engage in outdoor leisure activities that primarily involve the operation of motorized machines including but not limited to racetracks, tractor pulls, mud runs, snowmobile racing, and the like.
86. MULTIPLE ATTACHED DWELLING - a building designed, constructed, and principally used as more than two dwellings.
87. MUNICIPAL WASTE - solid waste that includes garbage; refuse; and trash generated by households, lodging establishments, and recreation facilities, public and private facilities; and commercial, wholesale, private and retail businesses. The term does not include special

waste or industrial waste.

88. NDCC – North Dakota Century Code
89. NON-CONFORMING USE - a use lawfully occurring in a building or on the land at the time a zoning ordinance amendment takes effect, but which does not conform with the use regulations of the district in which it is located after the zoning ordinance amendment takes effect.
90. NON-MOTORIZED OUTDOOR RECREATIONAL FACILITY - any site established for people to engage in outdoor leisure activities (excluding motorized outdoor recreation facilities) including but not limited to golf courses, sports facilities, outdoor movie theaters, BMX (bicycle motocross) tracks, water slides and parks, etc. It does not include outdoor firearms ranges.
91. NURSERY AND LANDSCAPE MATERIALS SALES- the storage and/or sale of plants, trees, shrubs, sand, soil, stone, screenings and other such garden and landscaping materials where such material is stored.
92. NURSING HOME – an extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic medical care to individuals who by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves
93. OUTDOOR CONCERT VENUE – a site established to provide facilities for live outdoor productions of performing arts.
94. OUTDOOR FIREARMS RANGE - any facility, except an indoor firearms range, operated for the purpose of shooting with firearms, whether publicly or privately owned and whether or not operated for profit, including, but not limited to, commercial bird shooting preserves and wild animal hunting preserves established under the laws of North Dakota.
95. OUTLOT - any platted lot that is not a subdivision containing no more than 2 lots being platted together at once.
96. PARCEL – an area of land which has been described by metes and bounds, or can be described via public land survey system reference, or by subdivision recorded in the office of the Ward County Recorder.
97. PARKING LOT - an area for public or private usage containing parking spaces with driving lanes needed to access the parking spaces, and properly related access to a public street or alley.
98. PARKING SPACE - space designated and available for parking a motor vehicle with room for opening doors on both sides, together with maneuvering space and properly related access to a public street or alley.
99. PERMITTED USE - any use which is allowed by right in a zoning district and which is subject to the restrictions applicable to that zoning district.

100. PLACE OF ASSEMBLY - a facility providing for the assembly of persons for interaction as a primary use, including community centers, and religious institutions. They do not include educational facilities, daycare facilities, dwellings, motorized and non-motorized recreational facilities which fall under separate definitions in this Ordinance.
101. PLATTED LOT - a parcel of land that has been established and defined by a subdivision
102. PRE.K-12 EDUCATIONAL FACILITY - any public or non-public elementary, middle, junior high, or high educational facility as defined and regulated by the laws of North Dakota, excluding home schools as defined and regulated by the laws of North Dakota.
103. PRIVATE AIRFIELD – any area of land or water used or intended for landing or takeoff of aircraft including appurtenant area used or intended for airfield buildings, facilities, as well as rights of way together with the buildings and facilities that is closed to the public.
104. PRIVATE GRAIN FACILITY- grain facilities (elevators) not open to the public (privately owned and operated) that are facilities at which grains are received, stored, weighed, and then distributed for direct use, process manufacturing, or export.
105. PUBLIC AIRPORT – a site that is owned or operated by a public entity and intended for public use or government use which receives public funding and meets the minimum requirements of the North Dakota Aeronautics Commission for a public airport.
106. PUBLIC OR PRIVATE PRESERVATION AREA – an area set aside by a private property owner or a public entity for protection, conservation or maintenance of biodiversity, species habitat, or other ecological objectives, or for the protection and maintenance of historical or cultural sites.
107. PUBLIC UTILITIES FACILITY - an improvement, embankment, structure, or service together with its site necessary to provide transportation, drainage, utilities, energy, or similar essential services.
108. RECREATIONAL CAMPGROUND - an area designed specifically to accommodate temporary camping including the placement of tents, camper trailers, and recreational vehicles on the site for time periods not exceeding 14 days.
109. RECYCLING FACILITY – a site for the collection and /or processing of recyclable materials or an establishment engaged in the processing, collection and transfer of recyclable materials. Typical recyclable materials include- glass, paper, plastic, cans, motor oil, or other source-separated, non-decayable materials or a facility that primarily purchases for recycling or reuse principal recyclable materials which have been source-separated by type, such as vegetative yard debris, paper, glass, and metal, by the person who last used the unseparated solid wastes, but not a salvage or junkyard.
110. REMNANT LOT - unplatted portion of land created through the subdivision of adjacent property.
111. RE-SUBDIVISION - includes the division of one or more lots as parcels of land in a

subdivision made and recorded prior to or after the date [these resolutions] are adopted.

112. RIGHT-OF-WAY (RoW) - a type of public easement granted or reserved over the land for transportation purposes. RoW can be used for a highway, county road, local road, public footpath, rail transport, or canal.
113. ROADWAY IMPROVEMENT – a structural change to a proposed or existing roadway to increase capacity, safety, functionality, or to improve the resilience of the roadway (such as to protect it from washing out).
114. RURAL ESTATE - very low density residential development intended for a primary residence and outbuildings together with large areas of open space that may be used for hobby farming, horticulture, keeping of large animals, and other typically rural activities.
115. SALVAGE YARD - a site (excluding a solid waste collection or transfer facility) used for outdoor or indoor storage of discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled, or handled, including but not limited to scrap metal, rags, paper, hides, rubber products, glass products, lumber products, products resulting from the disassembly of automobiles or other vehicles, and oil and gas surplus equipment.
116. SETBACK - the distance (measured in feet typically from the vertical wall or support column) a house or structure must be from the front, side and rear property lines or centerline of the road
117. SHALL - means that the requirement is mandatory, rather than optional.
118. SIGN, OUTDOOR ADVERTISING - any device for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any governmental agency or of any civic, charitable, religious, patriotic, fraternal or similar organization.
119. SINGLE DETACHED DWELLING - a building designed, constructed, and principally used as a dwelling.
120. SOLAR ENERGY CONVERSION FACILITY - any plant, addition, or combination of plant and addition, designed for or capable of generation by solar energy conversion exceeding fifty megawatts of electricity.
121. SOLID WASTE - any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities. The term does include municipal, commercial, and special wastes, but does not include- (a) Agricultural waste, including manures and crop residues, returned to the soil as fertilizer or soil conditioners; or (b) solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to Permit Section 402 of the Federal Water Pollution Control Act, as amended, or

source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended.

- 122. SOLID WASTE COLLECTION OR TRANSFER FACILITY – any site where solid waste is collected for sorting or processing before being transported for eventual disposal at another location.
- 123. SOLID WASTE MANAGEMENT FACILITY - all contiguous land and structures, other appurtenances, and improvements on land which include one or more solid waste management units, such as a transfer station, solid waste storage building, a solid waste processing system, a resource recovery system, an incinerator, a surface impoundment, a surface waste pile, a land treatment area, or a landfill.
- 124. SPECIAL WASTE - solid waste that is not a hazardous waste regulated under NDCC §23.1-04 and includes waste generated from energy conversion facilities; waste from crude oil and natural gas exploration and production; waste from mineral and ore mining, beneficiation, and extraction; and waste generated by surface coal mining operations. The term does not include municipal waste or industrial waste.
- 125. STABLE - a building and associated land used for boarding, sale, rental, breeding, or raising of horses or other large animals for remuneration.
- 126. STORY –that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling above the floor of such story.
- 127. STRUCTURE - anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having a permanent location on the ground, including, but without limiting the generality of the foregoing, mobile homes, and modular storage structures and the like, excluding trees, shrubs and fences.
- 128. SUBDIVISION - the division of a tract or parcel of land into lots or parcels of land for the purpose, whether immediate or future, of sale or of building development, including any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights-of-way whether public or private, for access to or from such lots or parcels of land, and/or including the creation of new or enlarged parks, playgrounds, plaza or open spaces. However, the division of land for agricultural purposes into parcels of 40 or more acres, not involving any new street or easement of access, shall be exempted from these resolutions. The creation of burial plots is not a subdivision.
- 129. SURFACE MINING - any activity, excluding borrow pit mining, relating to the mining of minerals by removing the overburden lying above natural deposits thereof, and mining directly from the natural deposits thereby exposed which will, within one calendar year, result in the removal of 5,000 cubic yards or more of product, including overburden, or affect one-half acres or more.
- 130. SURFACE WATER - means waters of the state located on the ground surface such as lakes, reservoirs, rivers and creeks. As defined in NDCC §23.1-01

131. TEMPORARY HOUSING FACILITY - recreational vehicles, mobile homes, or skid units installed according to County guidelines at or near an industrial site by the business operating at the site for its employees for no more than 6 months.
132. TEMPORARY STRUCTURE - a structure without any foundation or footing that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.
133. TRACT - a lot or combination of lots that are contiguous and under common ownership; they may or may not have a single tax parcel identification.
134. TRANSLOADING FACILITY- facility where the transfer of goods from one mode of transportation to another en route to their ultimate destination.
135. TRAVEL TRAILER - a portable vehicle on a chassis which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses. Travel trailers generally contain sanitary, water, and electrical facilities.
136. TREE FARM - an agricultural operation involved in growing and selling trees as Christmas trees or for landscaping uses.
137. TRUCK SERVICE CENTER- a commercial facility which provides refueling, rest (parking), and often ready-made food and other services to motorists and truck drivers.
138. TRUCKING YARD – a site designed or used for outdoor or indoor parking or storage of five or more heavy trucks and freight on a regular basis. This does not include heavy trucks used for agricultural operations.
139. USE – the purpose for which a lot, building, or structure may be designated, intended, maintained, or occupied; or the conduct of an activity or the performance of a function, or operation, on a site or in a building or facility.
140. VACATION - the termination of, or termination of interest in, an easement, right-of-way, or public dedication of land.
141. VALUE-ADDED AGRICULTURE –
- A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam).
 - The production of a product in a manner that enhances its value, as demonstrated through a business plan (such as organically produced products).
 - The physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system).

As a result of the change in physical state or the manner in which the agricultural commodity or product is produced and segregated, the customer base for the commodity or

product is expanded and a greater portion of revenue derived from the marketing, processing or physical segregation is made available to the producer of the commodity or product.

142. VARIANCE - certain circumstances may exist or arise wherein an unnecessary hardship is created through strict adherence to a zoning ordinance. Granting a variance provides adjustments to the application or enforcement of any provision of an ordinance, so that the public welfare is secured, and substantial justice can be done to those so affected.
143. VETERINARY FACILITY- an establishment where domestic animals are admitted for examination and treatment by one or more veterinarians, and which may include accessory boarding on a temporary basis.
144. WATERS OF THE STATE - means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, 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. As defined in NDCC §61-28.
145. WAREHOUSE/WHOLESALE DISTRIBUTION CENTER- a facility that is receiving products from manufacturers or wholesalers, organizing them and shipping them to their final destinations.
146. WIND ENERGY CONVERSION FACILITY and WIND ENERGY FACILITY - any plant, addition, or combination of plant and addition, designed for or capable of generation by wind energy conversion exceeding one-half megawatt of electricity.
147. YARD (FRONT/REAR/SIDE) - an open space at grade between a building's foundation and the adjoining lot lines, except as otherwise provided herein.

Section 2.04 Responsibility for Interpretation

In the event a question of interpretation arises concerning any provision or the application of any provision of this Ordinance, the Planning and Zoning Administrator, in consultation with the State's Attorney for Ward County as may be necessary, shall be responsible for such interpretation. Such interpretation shall look to the Ward County Comprehensive Plan and the overall purpose and intent of this Ordinance for guidance. The Planning and Zoning Administrator shall provide such interpretations in writing upon request. Records of all such interpretations shall be maintained at the Planning and Zoning Administrator's office for future reference. If any person having an interest in such an interpretation chooses to appeal such a decision, the matter may be referred to the Ward County Board of County Commissioners for review.

Article III. Administration and Enforcement

Section 3.01 Board of County Commissioners

1. Powers and Authority

In addition to all powers and authority granted to the Board of County Commissioners by general or specific law, the Board of County Commissioners shall have the following powers and authority under the provisions of this Ordinance:

2. Appoint Planning and Zoning Administrator and Building Official

The County Commissioners may appoint a Planning and Zoning Administrator and a Building Official. The Planning and Zoning Administrator and Building Official may be employees of Ward County or contract consultants.

3. Appoint Planning Commission

The County Commissioners shall appoint members of the Planning Commission.

4. Comprehensive Plan

The Board of County Commissioners shall have the authority to adopt the Ward County Comprehensive Plan and, from time to time, approve or disapprove amendments to the Comprehensive Plan.

5. Zoning Ordinance and Zoning Map

The Board of County Commissioners shall have the authority to adopt the Ward County Zoning Ordinance and the Official Zoning Map of Ward County, and from time to time, approve or disapprove amendments to the Ordinance and Map.

6. Variance

The Board of County Commissioners shall have the authority to adjust the application or enforcement of a particular provision this Ordinance when a literal enforcement of the provision would result in great practical difficulties, unnecessary hardship, or injustice.

7. Appeals

The Board of Commissioners shall hear and decide any appeals of a decision made by the Planning and Zoning Administrator regarding the administration, interpretation, and enforcement of this Ordinance.

8. Other Actions

The Board of County Commissioners shall have the authority to take other action not delegated to another decision making or administrative body that the Board of County Commissioners deem necessary and desirable to implement provisions of the Comprehensive Plan or this Ordinance.

Section 3.02 Planning Commission

1. The Planning Commission for Ward County shall be known as the “Ward County Planning Commission” and may be referred to as the “Planning Commission.”
2. The membership of the Planning Commission shall consist of nine (9) members appointed by the Board of County Commissioners in a manner consistent with NDCC §11-33-04.
3. The members of the Planning Commission may be compensated in a manner established by the Board of County Commissioners and consistent with NDCC §11-33-05.
4. It shall be the duty of the Planning Commission to hold public hearings and to make recommendations to the Board of County Commissioners on all matters relating to the creation and amendment of the Comprehensive Plan; the creation of zoning districts and zoning regulations; the administration and enforcement of this Ordinance; future amendments to the zoning districts of Ward County; and future amendments to this Ordinance. The Planning Commission is also authorized to confer with and obtain information from City, County, Regional, or State officials, departments, and agencies.
5. It shall be the duty of the Planning Commission to hold public hearings and to make recommendations to the Board of County Commissioners on any applications for conditional use permits as provided herein.
6. The jurisdiction of the Ward County Planning Commission to accomplish its duties as established herein consists of those areas outside of the municipal boundaries and the zoning jurisdictions of the incorporated cities of Ward County.
7. The jurisdiction of the Ward County Planning Commission to accomplish its duties as established herein consists of those areas outside of the boundaries and the zoning jurisdictions of townships within Ward County that have currently effective zoning ordinances.

Section 3.03 Planning and Zoning Administrator

1. There is hereby created the position of Planning and Zoning Administrator, who shall be a duly appointed person charged with the administration, interpretation, and enforcement of this Ordinance.
2. Duties of Planning and Zoning Administrator
The Planning and Zoning Administrator, his assistant, or designee shall:
 - a. Enforce any and all provisions of this Ordinance;
 - b. Keep complete, accurate, and secure records;
 - c. Accept applications and appeals and ensure their appropriateness and completeness;
 - d. Accept and remit fees as established in the adopted administrative procedures;

- e. Update this Ordinance and any associated maps as directed by the Board of County Commissioners.
- f. Undertake any other administrative function appropriate to the Office of Planning and Zoning Administrator upon written approval of the Board of County Commissioners;
- g. Report to the Board of County Commissioners any recommendations for changes and improvements in this Ordinance and procedures therein;
- h. Issue any permit granted by the Board of County Commissioners and make periodic inspections to verify that all conditions of such granted permits are complied with by the applicant or his agent;
- i. Receive and investigate allegations of non-compliance or violations of this Ordinance, report findings to the Board of County Commissioners, and file a complaint where such allegations are based on apparent fact;
- j. Make recommendations to the Planning Commission or to the Board of County Commissioners in connection with any application for conditional use permit, variance, or zoning ordinance amendment, including such conditions as he may deem necessary in order to fully carry out the provisions and intent of this Ordinance.
- k. Determine the location of any district boundary shown on the zoning districts adopted as part of this Ordinance when such location is in doubt; and
- l. Refer to the Planning Commission for placement of all uses not categorically permitted and not sufficiently similar to listed uses for the Planning and Zoning Administrator to establish the appropriate application of this ordinance to such uses.
- m. The Planning and Zoning Administrator shall report regularly to his/her direct supervisor.
- n. Scheduling Planning & Zoning meetings and public hearing notices.

Section 3.04 Appeals

- 1. Any person, unit of government or agency may file an appeal when aggrieved by a decision or interpretation by the Planning and Zoning Administrator, provided that the appeal is based on an allegation that:
 - a. The Planning and Zoning Administrator made an error in the interpretation of this Ordinance, and
 - b. The erroneous interpretation specifically aggrieves the appellant.
- 2. Application and Procedure
 - a. A letter of appeal must be filed with the County Auditor within 30 days of the date of written notice of interpretation or determination. The letter shall cite the decision made and state the alleged error. The letter of appeal shall be accompanied by a fee established by the Board of County Commissioners.

- b. If after such fee has been paid and a properly filed appeal is successful, the fee shall be refunded. Otherwise, no part of any such fee shall be refundable after an appeal is filed and such fee paid.
- c. A letter of appeal is not considered complete until such fee has been paid.
- d. After acceptance of the letter of appeal, the County Auditor shall transmit the letter of appeal to the Board of County Commissioners and the Planning Commission.
- e. The County Auditor shall set a hearing date within 30 days of acceptance of the letter of appeal and payment of the established appeal fee, publish notice thereof as provided for in this Ordinance, and notify all parties of interest. Public notice of the hearing shall be placed in the official County newspaper and any newspaper of general circulation in the County at the discretion of the County Auditor or Planning Commission for two successive weeks prior to the date of the hearing.
- f. Where an appeal concerns a particular piece of property, written notice shall be mailed to all property owners with property within 5280 feet of the subject property at least 15 days prior to the said hearing. Where the subject property abuts a right-of-way, the 5280-foot measurement shall be in addition to this right-of-way along the abutting side.
- g. An appeal under the terms of this Ordinance stays all proceedings in the matters appealed unless the Planning and Zoning Administrator certifies to the Board of County Commissioners that the application, by reason of the facts stated in the certification, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by the Board of County Commissioners or a court of record.
- h. The Planning Commission shall conduct a public hearing on the letter of appeal. At that hearing, the Planning Commission shall review the particular facts and circumstances of appeal and develop findings and conclusions. The Planning Commissioners shall make a decision by motion. The concurring vote of a majority the quorum of the Planning Commission members present shall be necessary to reverse any order, requirement, decision, or determination of the Planning and Zoning Administrator or to decide in favor of the appellant on any other matter.
- i. A hearing may be continued at the request of the applicant or upon motion of the Planning Commission, provided however, that the granting of a continuance is a matter of discretion, resting solely at the determination of the Planning Commission, and a refusal to continue is not a denial of a right, condition or otherwise.
- j. Decision on continuance of a hearing can be reached by a simple majority but must be made prior to voting on the appeal itself.
- k. The decision of the Planning Commission shall be forwarded as a recommendation to the Board of County Commissioners for consideration. The Board of County Commissioners retains the authority to hold an additional public hearing on the matter, and retains the authority to make an independent decision on the appeal.
- l. Any person aggrieved by a decision of the Board of County Commissioners may file an appeal to the district court in the manner provided in NDCC §28-34-01.

3. Findings Required

- a. Every decision of the Board of County Commissioners pertaining to a letter of appeal shall be based upon findings of fact and every finding of fact shall be supported in the record of its proceedings.

Section 3.05 Variance

- 1. Certain circumstances may exist or arise wherein an unnecessary hardship is created through strict adherence to the provisions of this Ordinance. Hereinafter are provisions for the granting of a variance to adjust the application or enforcement of any provision of this Ordinance, so that the public welfare is secured, and substantial justice can be done to those so affected. However, a variance that would allow the placement of a use that is not normally allowed under the zoning of the site shall be neither considered nor granted. An application for a variance may be filed by any property owner or their designated agent for the affected property.
- 2. Application and Procedure
 - a. An application for a variance shall be made on a form provided by the Planning and Zoning Administrator. Requests for more than one variance for the same project on the same property may be filed on a single application and charged a single fee.
 - b. The completed application and fee as set by the Board of County Commissioners shall be submitted to the Planning and Zoning Administrator.
 - c. No part of any such fee shall be refundable after an application is filed and such fee paid.
 - d. An application is not considered complete until such fee has been paid.
 - e. After acceptance by the Planning and Zoning Administrator, the completed application shall be transmitted to the Planning Commission and the Board of County Commissioners.
 - f. The Planning and Zoning Administrator shall set a Planning Commission hearing date, publish notice thereof as provided for in this Ordinance, and notify all parties of interest. Public notice of the hearing shall be placed in the official County newspaper and any newspaper of general circulation in the County at the discretion of the Planning and Zoning Administrator or the Planning Commission for two successive weeks prior to the date of the hearing.
 - g. Written notice shall be mailed to all property owners with property within 5280 feet of the subject property at least 15 days prior to the said hearing. Where the subject property abuts a right-of-way, the 5280-foot measurement shall be in addition to this right-of-way along the abutting side.
 - h. The Planning Commission shall conduct a public hearing on the variance application. At that hearing, the Commission shall review the particular facts and circumstances of the situation and develop findings and conclusions.
 - i. In approving a variance, the Planning Commission may impose such conditions as are, in its judgment, necessary to promote the general provisions of this Ordinance.

- j. The Planning Commission shall make a decision by motion. It shall take the affirmative vote of a majority of the Planning Commissioners present at the hearing to grant a variance. Failing such vote, the request for variance is denied. An affirmative vote by the Planning Commission shall mean that the Planning Commission recommends the Board of County Commissioners approve the requested variance. Any conditions imposed in the Planning Commission's affirmative vote are a part of the Planning Commission recommendation.
 - k. The Board of County Commissioners shall consider the recommendations and findings of fact of the Planning Commission and make a decision to confirm the recommendation of the Planning Commission, or in the case that it disagrees with the findings and recommendation of the Planning Commission, establish its own findings of fact and render a decision consistent with those findings.
 - l. In approving a variance, the Board may impose such conditions as are, in its judgment, necessary to promote the general provisions of this Ordinance.
 - m. The Board of County Commissioners shall make a decision by motion. It shall take the affirmative vote of three members of the Board to grant a variance. Failing such vote, the request for variance is denied.
 - n. An application may be continued at the request of the applicant or upon motion of the Board, provided however, that the granting of a continuance is a matter of grace, resting solely in the discretion of the Board, and a refusal to continue is not a denial of a right, conditional or otherwise.
 - o. Decision on continuance of an application can be reached by a simple majority but must be made prior to voting on the application itself.
 - p. A variance shall be valid indefinitely, provided it is exercised within one year of the date of issuance, or as otherwise provided for by the Board of County Commissioners.
 - q. Only 1 (one) application for a variance on a specific condition will be accepted annually.
 - r. A request may be re-heard only when there has been a manifest error affecting the Board's decision or it appears that a substantial change in facts, evidence, or conditions has occurred. Such determination shall be made by the Planning and Zoning Administrator within 60 days of final action of the Board.
 - s. Any persons aggrieved by a decision of the Board of County Commissioners pertaining to a variance application may file an appeal with a court of competent jurisdiction.
3. Criteria for Consideration; Findings Required
- a. Findings are required to be made by the Board of County Commissioners for approval of a variance. No variance shall be granted unless the Board finds that all of the following conditions are met or found to be not pertinent to the particular case:
 - a. Strict compliance with the provisions of this Ordinance will:
 - 1. Limit the reasonable use of the property, and

2. Deprive the applicant of rights enjoyed by other properties similarly situated in the same district, and
 3. Will result in a hardship to the applicant.
- b. The hardship is the result of lot size, shape, topography, or other circumstances over which the applicant has no control.
 - c. The hardship is peculiar to the property.
 - d. The hardship was not created by the applicant.
 - e. The hardship is not economic (when a reasonable or viable alternative exists).
 - f. Granting the variance will not adversely affect the neighboring properties or the public.
 - g. The variance requested is the minimum variance which will alleviate the hardship.
 - h. Granting the variance will not confer a special privilege that is denied other similar properties in the same district.
- b. Every decision of the Board of County Commissioners and Planning & Zoning Commissioners pertaining to a variance application shall be made by motion and shall be based upon "Findings of Fact" and every Finding of Fact shall be supported in the record of its proceedings. The above criteria required to grant a variance under this Ordinance shall be construed as limitations on the power of the Board to act. A mere finding or recitation of the enumerated conditions unaccompanied by findings of specific fact shall not be deemed in compliance with this Ordinance.

Section 3.06 Conditional Use Permits

1. No structure, building or land shall be used, constructed, altered, or expanded where a Conditional Use Permit is specifically required by the terms of this Ordinance until a Conditional Use Permit for such use has been authorized by the Board of County Commissioners and issued by the Planning and Zoning Administrator.
2. Structures or buildings devoted to any use which is permitted under the terms of this Ordinance, subject to the securing of a Conditional Use Permit, may be altered, added to, enlarged, expanded, or moved from one location to another on the lot only after securing a new Conditional Use Permit.
3. An application for a Conditional Use Permit may be filed by any property owner or their designated agent for the affected property.
4. Application and Procedure
 - a. An application for a Conditional Use Permit shall be made on a form provided by the Planning and Zoning Administrator.
 - b. The completed application and fee as set by the Board of County Commissioners shall be submitted to the Planning and Zoning Administrator.
 - c. No part of any such fee shall be refundable after an application is filed and such fee paid.

- d. An application is not considered complete until such fee has been paid.
- e. After acceptance by the Planning and Zoning Administrator, the completed application shall be transmitted the Planning Commission for their review and evaluation.
- f. The Planning and Zoning Administrator shall set a hearing date, publish notice thereof as provided for in this Ordinance, and notify all parties of interest. Public notice of the hearing shall be placed in the official County newspaper and any newspaper of general circulation in the County at the discretion of the Planning and Zoning Administrator or the Planning Commission for two successive weeks prior to the date of the hearing.
- g. Written notice shall be mailed to all property owners with property within 5280 feet of the subject property at least 15 days prior to the said hearing. Where the subject property abuts a right-of-way, the 5280-foot measurement shall be in addition to this right-of-way along the abutting side.
- h. Any person may submit written comments on the application through the mail, electronic mail, or in person. Any such comments should specifically state how the granting of the request would adversely or injuriously affect their personal or legal interests. All such comments shall become part of the record of the application.
- i. The Planning and Zoning Administrator shall prepare a staff report that provides a detailed overview of the proposed conditional use, its site, context and its compliance with the comprehensive plan and this ordinance. In preparation of the report, the Planning and Zoning Administrator shall, when applicable, seek input from the County Engineer, Sheriff's Office, police, fire, North Dakota Department of Transportation, and other departments as well as other agencies and service providers. In the report the Planning and Zoning Administrator shall propose findings of fact and may propose a recommendation of approval, approval with conditions or denial of the proposal.
- j. The Planning Commission shall conduct a public hearing on the proposed conditional use. At that hearing, the Commission shall review the particular facts and circumstances of the proposed use and develop findings and conclusions in support of its recommendation. If the Commission finds that it complies with the evaluation criteria listed below, it shall recommend approval of the application. If the Commission finds the proposed conditional use fails to comply with such criteria, it shall recommend denial of the application or conditionally approve the request with additional stipulations.
- k. Following the public hearing, unless tabled by the Planning and Zoning Commission and in any case after the Planning and Zoning Commission makes its recommendation, the Planning and Zoning Administrator shall forward the recommendations and findings of fact of the Planning Commission to the Board of County Commissioners.
- l. The Board of County Commissioners shall consider the recommendations and findings of fact of the Planning Commission and make a decision to confirm the recommendation of the Planning Commission, or in the case that it disagrees with the findings and recommendation of the Planning Commission, establish its own findings of fact and render a decision consistent with those findings.
- m. Only 1 (one) application for a Conditional Use Permit on a specific condition will be accepted annually.

5. Criteria for Approval; Findings Required

- a. The Planning Commission in its consideration of the application for a Conditional Use Permit shall grant approval only if the proposal, as submitted, conforms to all of the following applicable general Conditional Use Permit criteria, as well as to all other applicable criteria that may be requested:
 - a. Site Suitability including adequate usable space, adequate access, and absence of environmental constraints.
 - b. Design Appropriateness including the functionality of parking scheme, traffic circulation, open space, fencing or screening, landscaping, wayfinding signage, and lighting.
 - c. Public Services and Facilities Availability in such a manner and adequacy to serve the needs of the use as designed and proposed, including sewer, water, stormwater management, fire protection, police protection, and roads.
 - d. Immediate Neighborhood Impact must be demonstrated to not be detrimental to the surrounding neighborhoods in general. Typical negative impacts which extend beyond the proposed site include excessive traffic generation, noise or vibration, dust, glare, or heat, smoke, fumes, gas, or odors, and inappropriate hours of operation.
- b. Any person may submit written comments on the application through the mail, electronic mail, or in person. Any such comments should specifically state how the granting of the request would adversely or injuriously affect their personal or legal interests. All such comments shall become part of the record of the application.
- c. The burden of proof for satisfying the aforementioned criteria shall rest with the applicant and not the Planning Commission or Board of County Commissioners. The granting of a Conditional Use Permit is a matter of grace, resting in the discretion of the Planning Commission and Board of County Commissioners and a refusal is not the denial of a right, conditional or otherwise.
- d. Decision Based on Findings. Every decision of the Planning Commission and Board of County Commissioners pertaining to the granting, denial, or amendment of a request for a Conditional Use Permit shall be based upon "Findings of Fact", and every Finding of Fact shall be supported in the records of its proceedings.
- e. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with this Ordinance.

Section 3.07 Approval of Application and Granting of Conditional Use Permits

1. Upon rendering a decision to grant a Conditional Use Permit, the Board of County Commissioners shall notify the Planning and Zoning Administrator of their decision, and he or she shall issue a Conditional Use Permit with stipulations, itemized in brief on the face of the permit. The application and all subsequent information, correspondence, evaluations, recommendations, and decisions shall be placed on permanent file in the office of the Planning and Zoning Administrator.

2. Termination and Transferability. Once granted, the Conditional Use Permit, with its terms and conditions, shall:
 - a. Run with the lot, building, structure, or use and shall not be affected by change of ownership.
 - b. Terminate six (6) months from the date of authorization if commencement of authorized activity has not begun:
 - a. Unless otherwise specified in the conditions of approval, or
 - b. Unless the applicant can demonstrate and maintain a continuous effort in good faith (preparing financing, securing state or federal permits, undertaking engineering and design, etc.) in commencing the activity.
3. In the event an application is denied by the Board of County Commissioners, no resubmittal of an application for a Conditional Use Permit may be made for one year from the date of said denial, unless sufficient new evidence or conditions are offered to the Planning and Zoning Administrator to demonstrate to him or her that circumstances have altered, and that further consideration of the application is warranted. In such an event, the resubmitted application shall follow the same procedures as the original and shall be treated as a new application.

Section 3.08 Amendments to this Ordinance and Official Zoning Map

1. The provisions of this Ordinance may, from time to time, and for the furtherance of public necessity, convenience, and welfare and in recognition that circumstances, and conditions may be altered substantially as time passes, be amended, supplemented, changed, modified, or replaced.
2. Text Amendments. Amendments to the provisions of the text of this Ordinance:
 - a. Requests to amend the text of this Ordinance may be initiated by the Board of County Commissioners, the Planning Commission, or any affected party or entity.
3. Application and Procedures
 - a. An application for an Ordinance Amendment shall be made on a form provided by the Planning and Zoning Administrator.
 - b. The completed application and fee as set by the Board of County Commissioners shall be submitted to the Planning and Zoning Administrator.
 - c. No part of any such fee shall be refundable after an application is filed and such fee paid.
 - d. An application is not considered complete until such fee has been paid.
 - e. After acceptance by the Planning and Zoning Administrator, the completed application shall be submitted to the Planning Commission for their review and evaluation.
 - f. After acceptance by the Planning and Zoning Administrator, the completed application shall be reviewed under the regulations in place on the date a complete application is submitted to the Planning and Zoning Administrator.

- g. The Planning and Zoning Administrator shall set a public hearing date and publish notice of the time, place and purpose of the hearing once each week for two consecutive weeks in the official County newspaper and any newspaper published in the County as the County Planning Commission may deem necessary. Said notice shall describe the nature, scope, and purpose of the proposed amendment, and shall state the times at which it will be available to the public for inspection and copying at the office of the County Auditor.
- h. The Planning Commission shall consider the application at the date established for the hearing, and give opportunity for parties of interest and citizens to be heard. The Planning Commission shall make a recommendation to the Board of County Commissioners to grant, amend, or deny the application.
- i. Upon receipt of the recommendation of the Planning Commission, the Board of County Commissioners shall hold a public hearing. Notice of this hearing stating the boundaries of the proposed district, the general character of the proposed regulations, the time and place of the hearing and that the proposed amendments are on file for public inspection at the office of the County Auditor shall be posted and advertised once a week for two weeks prior to the hearing in the official County newspaper and any newspaper of general circulation in the county at the discretion of the Planning and Zoning Administrator or the Board of County Commissioners. Based on the results of the hearing, other public input, the staff report and findings of the Planning Commission, the Ward County Board of Commissioners may adopt the proposed amendments with such changes it may deem advisable.
- j. Upon adoption of the proposed amendment with any changes it deems advisable, the County Auditor shall file a certified copy of the adopted amendment with the county recorder. Immediately after the adoption of the amendment with any changes, the County Auditor shall cause notice of the same to be published for two successive weeks in the official newspaper of the County and in such other newspapers published in the county as the Board of County Commissioners may deem necessary. Said notice of the same shall describe the nature, scope, and purpose of the adopted amendment, and shall state the times at which it will be available to the public for inspection and copying at the office of the recorder. Proof of such publication shall be filed in the office of the County Auditor. If no petition for a separate hearing is filed within 30 days after the first notice publication pursuant to NDCC §11-33-10 or NDCC §11-33.2, the amendment thereto shall take effect upon the expiration of the time for filing said petition. If a petition for a separate hearing is filed within 30 days after the first notice publication pursuant to NDCC §11-33-10 or NDCC §11-33.2, the amendment shall not take effect until the Board of County Commissioners has affirmed such amendment in accordance with the relevant procedures established in the North Dakota Century Code. This Ordinance may, from time to time, be amended or repealed by the Board of County Commissioners upon like proceedings as in the case of its original adoption or subsequent amendment.
- k. In the event that an application to amend this Ordinance is denied by the Board of County Commissioners or that the application for amendment is withdrawn after the hearing of the Planning Commission, the Planning and Zoning Administrator shall have the authority to refuse to accept another application for any similar amendment for one (1) year from the date of hearing of the previous application by the Planning Commission.

4. Official Zoning Map Amendments. Amendments to the zoning district boundaries as established by the official zoning map or creation of new zoning districts on the official zoning map shall follow substantially the same procedures as provided for in Section 3.08 (b) with the following additional requirements to be met:
 - a. The applicant shall provide names and addresses of all property owners with property within 5280 feet of the area affected by the proposed amendment.
 - b. The application for amendment shall be signed by a member of the Board of County Commissioners, a member of the Planning Commission, or an owner of record of land which will be affected by the proposed amendment or his authorized agent.
 - c. When rezoning a previously zoned tract of land, the staff of the Planning Commission shall mail a notice to all property owners included in the proposed amendment area and all property owners adjacent to and with property within 5280 feet of the boundary of the proposed amendment area. (Where the subject property abuts a public right-of-way, the 5280-foot measurement shall be in addition to the right-of-way along the abutting sides.) Such notice shall be mailed no less than 15 days prior to the Planning Commission hearing date.
 - d. Following the public hearing, the Board of County Commissioners may adopt the proposed amendment to the zoning district.
5. In the event that the Board of County Commissioners adopts a text amendment or an official zoning map amendment, they shall notify the Planning and Zoning Administrator of their action and he or she shall be responsible for updating the ordinance text or official zoning map.
6. Evaluation of Amendment Requests. When considering an application for amendment to the provisions of this Ordinance or the official zoning map, the Planning Commission and the Board of County Commissioners shall be guided by and adopt findings of fact based upon the following:
 - a. Whether the zoning regulations are made in accordance with the Comprehensive Plan
 - b. Whether the zoning regulations are designed to:
 - a. Secure safety from fire and other dangers
 - b. Promote public health, safety, and general welfare, and
 - c. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
 - c. Consideration of:
 - a. The reasonable provision of adequate light and air;
 - b. The effect on motorized and non-motorized transportation systems;
 - c. Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
 - d. The character of the district and its intended suitability for particular uses;

- e. Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Section 3.09 Public Hearings Procedure

1. Public Hearings required by this Ordinance shall be conducted pursuant to the standards and procedures of this Section.
2. Notice
 - a. Unless state law requires differently, written notice of the public hearing, pursuant to Section 3.10 Public Notice, shall be sent by mail to the owner of the property that is subject to the public hearing and to owners of land that is with property within 5280 feet of the property that is subject to the public hearing. In addition to the mailed notice, a Public Notice of the hearing that describes the application and provides the time, date and place of the public hearing shall be published in the official county newspaper and any newspaper of general circulation in the county at the discretion of the Planning and Zoning Administrator or the body holding the hearing. The Public Notices shall be mailed, and the published notice shall appear in each newspaper once a week for two successive weeks prior to the date of the hearing.
3. Announcement
 - a. The presiding officer shall announce the purpose and subject of the public hearing, verify that proper public notice was given and provide the opportunity for any member of the Board to declare a conflict of interest.
4. Right to Speak
 - a. Any interested person may appear at the public hearing and submit evidence or make comments either as an individual or on behalf of an organization. Each person appearing at the public hearing shall be identified by name and address of residence and name of organization if applicable.
5. Staff Report Presentation
 - a. The Planning and Zoning Administrator shall present a report that provides a detailed overview of the application and requested decision, its site, context and its compliance with the comprehensive plan and this ordinance.
6. Applicant Presentation
 - a. The applicant shall present any information the applicant deems appropriate.
7. Public Statements
 - a. Members of the public shall be provided the opportunity to speak about the merits or shortcomings of the application. At the discretion of the presiding officer, a reasonable time limit of 5 minutes will be placed on all speakers, unless extended time is granted by the presiding office, in the interest of accommodating all people desiring to speak and to provide for an efficient meeting.
8. Applicant Response

- a. After the public comment the applicant shall be provided the opportunity to respond to any public comments made during the public hearing.
- 9. Staff Response
 - a. After the public comment, the Planning and Zoning Administrator or any other County official shall be provided the opportunity to respond to public comments made during the public hearing.
- 10. Deliberation, Decision
 - a. A motion shall be made, seconded and passed to close the public hearing. The presiding officer shall invite discussion, deliberation and a decision by the body holding the hearing (Board of County Commissioners or Planning Commission).
- 11. Record of Proceedings
 - a. The public hearing and meeting shall be audio taped and the tape shall be retained by the County for the minimum length of time established by the Board of County Commissioners. A recording secretary shall record written minutes of the public hearing. All exhibits, reports, evidence and written materials submitted during the public hearing shall be retained by the County as part of the record of the proceeding.
- 12. Continuance
 - a. The body conducting the public hearing, on its own initiative, may continue the hearing to a future date. Notice of continuance shall be posted in a conspicuous and visible location at the County Courthouse and other regular locations determined by the Planning and Zoning Administrator.

Section 3.10 Public Notice

- 1. Public Notice shall be published in the official newspaper of the County. Public notice may also be published in any other newspaper of general circulation in the county at the discretion of the Planning and Zoning Administrator or the body holding the hearing. The public notice shall contain the following information and comply with public notice requirements of state law.
- 2. Type of Application
 - a. The type of application, such as Conditional Use Permit, Variance, Appeal, Amendment to the Zoning Map or Ordinance.
- 3. Description of Decision
 - a. A brief description of the decision or action sought by the applicant.
- 4. Name of Owner, Applicant
 - a. The name of the landowner and applicant.
- 5. Location of Land
 - a. A legal description and a general description of the location of the subject land.

6. Location, Date, Time
 - a. The location, date and time of the public hearing or public meeting.
7. Where Information Available
 - a. The location where information about the application may be viewed and the general hours available for viewing.
8. Proposed Use
 - a. When applicable, a description of the type of use being proposed.

Article IV. Zoning Districts

Section 4.01 Zoning Districts Established

Ward County is hereby divided into zoning districts for purposes of controlling the use of lands and structures as authorized in NDCC §11-33-02 and by the Ward County Home Rule Charter. The following districts are hereby established:

1. Agricultural Production Districts (AP)
2. Rural Residential District (RR)
3. Residential Transition District (RT)
4. Community Residential District (CR)
5. Rice Lake Recreational District (RL)
6. Rural Industrial District (RI)
7. Highway Commercial District (HC)
8. Air Base Protection District (AB)
9. Air Force Facilities Overlay District (AF)
10. Floodplain Overlay District (FP)

Section 4.02 Official Zoning Map

1. The boundaries of the zoning districts established and described in this Ordinance shall be defined on a map known as the “Official Ward County Zoning Map,” hereafter referred to in this Ordinance as the “Official Zoning Map.” The Official Zoning Map is hereby made a part of this Ordinance.
2. The Official Zoning Map shall be denoted with the title “Official Ward County Zoning Map” and shall have the date of adoption and date of each amendment to the map printed on the map.
3. The zoning district boundaries shall follow lot lines, parcel lines, subdivision lines, section lines, centerlines of roads, streets, highways, alleys, railroad rights-of-way or such lines extended.
4. Where, due to map scale or lack of clarity, there is any uncertainty as to the intended location of a zoning district boundary, the Planning and Zoning Administrator shall interpret and delineate the boundary line in question. Records of all such interpretations shall be maintained at the Planning and Zoning Administrator’s office for future reference. If any person having an interest in such an interpretation chooses to appeal such a decision, the matter may be referred to the Board of County Commissioners for review.
5. Official Zoning Map to be housed in the Planning & Zoning Administrators Office.

Section 4.03 Agricultural Production 2 District

1. Purpose and Intent – The purpose of the Agricultural Production District is to maintain and support the dominant use of land for agricultural operations. This includes farming or ranching, animal feeding operations, value-added agriculture, and services directly supporting agricultural operations. It is further the purpose of this district to provide for the development of uses which are (a) reasonably appropriate for location in the agriculture preservation region of the County due to the uses' close relationship with agricultural operations, or (b) appropriate for the location by necessity due to potential conflicts of the uses in more concentrated development areas.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = 2 acres
 - b. Minimum Lot Width = 150 feet
 - c. Minimum Front Yard Setback for all buildings from center line of a Township, Section lines, County, State or Federal road = 125 feet
 - d. Minimum Front Yard Setback for all buildings from the dominant front property line on flag lots = 10 feet
 - e. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees and shrubs from center line of township or County road = 100 feet
 - f. Minimum Side Yard Setback for primary building = 10 feet
 - g. Minimum Side Yard Setback and Rear Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - h. Minimum Rear Yard Setback for primary buildings = 10 feet
4. Specific District Standards
 - a. Animal Feeding Operation Specific requirements.
 1. Outlined and defined in Article V Section 5.02 of this ordinance

Section 4.04 Agricultural Production 3 District

1. Purpose and Intent – The purpose of the Agricultural Production 3 District is to maintain and support the dominant use of land for agricultural operations. This includes farming or ranching, animal feeding operations, value-added agriculture, and services directly supporting agricultural operations. It is further the purpose of this district to provide for the development of uses which are (a) reasonably appropriate for location in the agriculture preservation region of the County due to the use's close relationship with agricultural operations, or (b) appropriate for the location by necessity due to potential conflicts of the uses in more concentrated development areas.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = 3 acres
 - b. Minimum Lot Width = 150 feet
 - c. Minimum Front Yard Setback for all buildings from center line of a Township, Section lines, County, State or Federal road = 125 feet
 - d. Minimum Front Yard Setback for all buildings from the dominant front property line on flag lots = 10 feet
 - e. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees and shrubs from center line of township or County road = 100 feet
 - f. Minimum Side Yard Setback for primary building = 10 feet
 - g. Minimum Side Yard Setback and Rear Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - h. Minimum Rear Yard Setback for primary buildings = 10 feet
4. Specific District Standards
 - a. Animal Feeding Operation Specific requirements.
 1. Outlined and defined in Article V Section 5.02 of this ordinance

Section 4.05 Agricultural Production 5 District

1. Purpose and Intent – The purpose of the Agricultural Production 5 District is to maintain and support the dominant use of land for agricultural operations. This includes farming or ranching, animal feeding operations, value-added agriculture, and services directly supporting agricultural operations. It is further the purpose of this district to provide for the development of uses which are (a) reasonably appropriate for location in the agriculture preservation region of the County due to the use's close relationship with agricultural operations, or (b) appropriate for the location by necessity due to potential conflicts of the uses in more concentrated development areas.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = 5 acres
 - b. Minimum Lot Width = 150 feet
 - c. Minimum Front Yard Setback for all buildings from center line of a Township, Section lines, County, State or Federal road = 125 feet
 - d. Minimum Front Yard Setback for all buildings from the dominant front property line on flag lots = 10 feet
 - e. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees and shrubs from center line of a township or County road = 100 feet
 - f. Minimum Side Yard Setback for primary building = 10 feet
 - g. Minimum Side Yard Setback and Rear Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - h. Minimum Rear Yard Setback for primary buildings = 10 feet
4. Specific District Standards
 - a. Animal Feeding Operation Specific requirements.
 1. Outlined and defined in Article V Section 5.02 of this ordinance

Section 4.06 Agricultural Production 10 District

1. Purpose and Intent – The purpose of the Agricultural Production 10 District is to maintain and support the dominant use of land for agricultural operations. This includes farming or ranching, animal feeding operations, value-added agriculture, and services directly supporting agricultural operations. It is further the purpose of this district to provide for the development of uses which are (a) reasonably appropriate for location in the agriculture preservation region of the County due to the use's close relationship with agricultural operations, or (b) appropriate for the location by necessity due to potential conflicts of the uses in more concentrated development areas.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = 10 acres
 - b. Minimum Lot Width = 150 feet
 - c. Minimum Front Yard Setback for all buildings from center line of a Township, Section lines, County, State or Federal road = 125 feet
 - d. Minimum Front Yard Setback for all buildings from the dominant front property line on flag lots = 10 feet
 - e. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees and shrubs from center line of a Township or County road = 100 feet
 - f. Minimum Side Yard Setback for primary building = 10 feet
 - g. Minimum Side Yard Setback and Rear Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - h. Minimum Rear Yard Setback for primary buildings = 10 feet
4. Specific District Standards
 - a. Animal Feeding Operation Specific requirements.
 1. Outlined and defined in Article V Section 5.02 of this ordinance

Section 4.07 Rural Residential District

1. Purpose and Intent – The purpose of the rural residential district is to encourage the continued use of valuable farmland while accommodating clustered rural residential and rural estate types of residential development at a density that will maintain the overall rural character of the area. It provides for small scale agricultural activities like hobby farming or organic farm to table farming, stables, animal boarding facilities, nurseries, and similar uses. It is also the purpose of this district to discourage land uses which, because of their character or size, would create unusual requirements and costs for public services.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = 2 acres
 - b. Minimum Lot Width = 150 feet
 - c. Minimum Front Yard Setback for all buildings from center line of a Township, Section lines, County, State or Federal road = 125 feet
 - d. Minimum Front Yard Setback for all buildings from center line of a subdivision road = 80 feet
 - e. Minimum Front Yard Setback for all buildings from the dominant front property line on flag lots = 10 feet
 - f. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees and shrubs from center line of a Township or County road = 100 feet
 - g. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees, and shrubs from subdivision road centerline = 100 feet
 - h. Minimum Side Yard Setback for primary building = 10 feet
 - i. Minimum Side Yard Setback and Rear Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - j. Minimum Rear Yard Setback for primary buildings = 10 feet
4. Specific District Standards – (Reserved)

Section 4.08 Residential Transition District

1. Purpose and Intent – The purpose of the residential transition district is to provide for major subdivisions, and more densely developed residential areas than what is intended in the rural residential district. It also allows for rural estate-type development. It is intended that residential lots in this district use on-site septic systems and are dependent on rural water services instead of urban-development water supply systems. Limited non-commercial agricultural uses (including the keeping of rabbits, chickens, geese, or other small agricultural animals or fowl for the private use of the residents only) is also allowed.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = 1 acre
 - b. Minimum Lot Width = 75 feet
 - c. Minimum Front Yard Setback for all buildings from center line of a Township, Section lines, County, State or Federal road = 125 feet
 - d. Minimum Front Yard Setback for all buildings from center line of a subdivision road = 80 feet
 - e. Minimum Front Yard Setback for all buildings from the dominant front property line on flag lots = 10 feet
 - f. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees and shrubs from center line of adjoining ROW for a County or township road = 100 feet
 - g. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees, and shrubs from subdivision road centerline = 75 feet
 - h. Minimum Side Yard Setback for primary building = 10 feet
 - i. Minimum Side Yard Setback and Rear Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - j. Minimum Rear Yard Setback for primary buildings = 10 feet
 - k. No building with its accessories shall occupy in excess of 26% of an inside lot nor in excess of 45% of a corner lot. Where there is an alley to the rear of the lot, one-half of said alley area shall be added to the lot area for the purpose of determining the above percentages.
 - l. Impervious surfaces shall not cover in excess of 50% of lot.
4. Specific District Standards – (Reserved)

Section 4.09 Community Residential District

1. Purpose and Intent – The purpose of the community residential district is to provide for development on small lots which are either served by municipal water supply and sanitary sewer collection systems or are part of unincorporated townships. When such development in this district is adjacent to existing municipal boundaries it must be a part of an orderly annexation agreement. The County recognizes the existence of the small rural unincorporated townships that were developed some time ago and which include a mixture of land uses. When such development is part of unincorporated townships, no new development may occur that is not consistent with sanitary sewage and potable water safety requirements of the ND Department of Health. This district is also intended to allow for small scale commercial uses which are anticipated to serve adjacent residential development. This district is further intended to allow for limited and compatible planned expansion of existing land uses in the unincorporated townships in the County.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = ½ acre
 - b. Minimum Lot Width = 50 feet
 - c. Minimum Front Yard Setback for all buildings from centerline of a Township, Section lines, County, State or Federal road = 125 feet
 - d. Minimum Front Yard Setback for all buildings from the center line of a subdivision road = 80 feet
 - e. Minimum Front Yard Setback for all buildings from the dominant front property line on flag lots = 10 feet
 - f. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees and shrubs from center line of adjoining ROW for a County or township Road = 100 feet
 - g. Minimum Setback to the centerline of fences (excepting barbed wire or electric fence), trees, and shrubs from subdivision road centerline = 75 feet
 - h. Minimum Side Yard Setback for primary building = 10 feet
 - i. Minimum Side Yard Setback and Rear Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - j. Minimum Rear Yard Setback for primary buildings = 10 feet
 - k. No building with its accessories shall occupy in excess of 26% of an inside lot nor in excess of 45% of a corner lot. Where there is an alley to the rear of the lot, one-half of said alley area shall be added to the lot area for the purpose of determining the above percentages.
 - l. Impervious surfaces shall not cover in excess of 50% of lot.
4. Specific District Standards –(Reserved)

Section 4.10 Rice Lake Recreational District

1. Purpose and Intent – The purpose of the Rice Lake Recreational District is to provide limited residential and recreational uses in the vicinity of Rice Lake that support the existing residential development while minimizing the conflicts with other land uses from the surrounding area. The purpose of the Rice Lake Recreational District is to provide limited residential and recreational uses that are consistent with the unique development characteristics at Rice Lake. The intent is to support the existing residential development while minimizing conflicts with other land uses in from the surrounding area. It should accommodate the historical context of development while providing a consistent approach to land use management of the area. All residential lots within the Rice Lake Recreational District, that are less than two (2) acres in size shall provide a potable supply of cold water and a public sanitary sewer system. Septic systems shall not be permitted on lots below this size threshold.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = 7,500 square feet
 - b. Minimum Lot Width = 65 feet
 - c. Minimum Front Yard Setback for all buildings from front property line of lakeside properties = 18 feet
 - d. Minimum Front Yard Setback for all buildings from front property line of non-lake side properties = 25 feet
 - e. Minimum Setback of fences trees and shrubs = shall not extend past property line
 - f. Minimum Side Yard Setback for primary building = 5 feet
 - g. Minimum Side Yard Setback for accessory buildings smaller than the primary building = 5 feet
 - h. Minimum Rear Yard Setback for primary and accessory buildings on non-waterfront lots = 10 feet
 - i. Impervious surfaces shall not cover in excess of 50% of lot.
4. Specific District Standards
 - a. All single detached dwelling units and permanent structures must be located on a grade that is at or higher than 2049.5 feet NGVD29 (2050.83 feet NAVD88) above mean sea level.
 - b. There must be a minimum distance of 18 feet between the edge of roadside property line and recreational vehicles and campers.

Section 4.11 Rural Industrial District

1. Purpose and Intent – The purpose of the Rural Industrial District is to provide for a wide range of heavy commercial or industrial activities that are located in the Rural-Urban Transition Region of Ward County or adjacent to small communities when such use is not appropriate or allowed within the small community.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = 2 acres
 - b. Minimum Lot Width = 200 feet
 - c. Minimum Front Yard Setback for all buildings from centerline of a Township, Section lines, County, State or Federal road = 125 feet
 - d. Minimum Setback for fences (excepting barbed wire or electric fence), trees and shrubs from centerline of a Township or County road = 100 feet
 - e. Minimum Side Yard Setback for primary building = 10 feet
 - f. Minimum Side Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - g. Minimum Rear Yard Setback for primary and accessory buildings = 10 feet

Section 4.12 Highway Commercial District

1. Purpose and Intent – The purpose of the Highway Commercial District is to provide for service uses, heavy commercial activities or light industrial activities that are located along regionally significant county roads, and state and federal highways. Greater performance and mitigation requirements utilizing increased setbacks, landscape buffering, access control, and signage restrictions are established for this district. This is in order to protect the County's major travel ways from non-essential encroachments, to limit access points to support improved traffic flows, and to preserve scenic corridors and entrance ways to communities.
2. Permitted Uses/Conditional Uses
 - a. See Permit Table for Permitted and Conditional uses.
3. Dimensional Standards
 - a. Minimum Lot Area = 2 acres
 - b. Minimum Lot Width = 200 feet
 - c. Minimum Front Yard Setback for all buildings from centerline of a Township, Section lines, County, State or Federal road = 125 feet
 - d. Minimum Setback for fences (excepting barbed wire or electric fence), trees and shrubs from centerline of a Township or County road = 100 feet
 - e. Minimum Side Yard Setback for primary building = 10 feet
 - f. Minimum Side Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - g. Minimum Rear Yard Setback for primary and accessory buildings = 10 feet

Section 4.13 Air Base Protection District

1. Purpose and Intent – The purpose of the Air Base Protection District is to maintain the same area and level of protection previously provided by the Resolution 1 Zoning District first established March 17, 1955. The United States Air Force has established an Airbase in Ward County and in order to permit the orderly development of the County in and around said Airbase, so as to prevent large congestions of population and as to prevent undesirable buildings, structures, businesses or the conduct of undesirable activities around said Airbase and in order to meet the requirements as set forth by The United States Air Force regarding heights of buildings and types of obstructions which would interfere with the operations of said Airbase.
2. Permitted Uses
 - a. See Permit Table for Permitted uses.
3. Conditional Uses
 - b. See Permit Table for Conditional uses.
4. Dimensional Standards
 - a. Minimum Lot Area = 2 acres
 - b. Minimum Lot Width = 150 feet
 - c. Minimum Front Yard Setback for all buildings from centerline adjoining ROW for a County road = 125 feet
 - d. Minimum Setback for fences (excepting barbed wire or electric fence), trees and shrubs from centerline adjoining ROW for a County road = 100 feet
 - e. Minimum Front Yard Setback for all buildings from road center line of a township road = 125 feet
 - f. Minimum Setback for fences (excepting barbed wire or electric fence), trees and shrubs from centerline of township road = 100 feet
 - g. Minimum Side Yard Setback for primary building = 10 feet
 - h. Minimum Side Yard Setback for accessory buildings smaller than the primary building = 10 feet
 - i. Minimum Rear Yard Setback for primary and accessory buildings = 10 feet
5. Specific District Requirements
 - a. Plats dividing property are limited to those incident to farming and those involving property containing a habitable residential structure that has been completed and existing for at least five years prior to the date of plat application.
 - b. There shall be no buildings, structures, or other edifice erected in this district which could be used for mass meetings such as clubs, places of assembly, dance halls, educational facilities, night clubs, restaurants, recreational centers, bowling alleys or roller-skating rinks.
 - c. There shall be no buildings, structures, or other edifice erected in this district which could be used for hotels, motels, multiple attached dwellings, trailer courts, or other housing not

incident to farming.

- d. There shall be no other buildings or structures erected in this district where human lives may be jeopardized by operation of the Minot Air Force Base except that residential structures, existing and habitable on the date of application for a building permit may be replaced in their entirety provided the existing structure is demolished or removed from the property within 90 days of occupancy of the replacement dwelling, and except that construction of garages, sheds, stables and other non-residential and non-commercial buildings of less than 1000 square feet may be constructed on property containing a habitable residential structure. Such structures that are 1000 square feet or more are prohibited.
 - e. Additions may be made to existing and habitable residential structures and they may also be replaced if demolished or destroyed by weather or fire or other cause.
 - f. All structures or buildings other than those prohibited by the specific district standards (a) through (e) shall conform to the requirements of the State Building Code as established by NDCC §54-21.3 and amendments thereto.
 - g. Initiators of any development activity within mapped clear zones outside the MAFB are required to notify the Ward County Planning Office and MAFB Community Planner or Chief of Portfolio Optimization to assess potential conflicts with MAFB operations.
6. (Reserved)

Section 4.14 Air Force Facilities Overlay District

1. Purpose and Intent – The purpose of the Air Force facilities overlay district is to provide additional review of development in areas surrounding launch facilities and missile alert facilities, and to limit uses which would conflict with the mission of these facilities. It is the further purpose of this overlay district is to establish guidelines and procedures that will help implement the Joint Land Use Study.
2. Dimensional Standards
 - a. The dimensional standards and yard requirements in any area where the Air Force Facilities Overlay District applies shall be the standards and requirements of the applicable underlying zoning district except as denoted by the Specific District Requirements.
3. Specific District Requirements
 - a. No structure may be constructed or exist within the 1,200 foot no-building easements of launch facilities.
 - b. Any structure which has been constructed within the 1,200 foot no-building easements of launch facilities is a non-conforming use as of the effective date of this Ordinance, and upon due process and determination by the Ward County Board of County Commissioners shall be considered subject to demolition or removal after an appropriate amortization period.
 - c. Despite permitted or conditional uses generally allowed within the base zoning district where a launch facility or missile alert facility exists, no habitable structure may be constructed within 2,500 feet of launch facilities or missile alert facilities.
 - d. Initiators of any oil and gas development activity within 2,500 feet of launch facilities or missile alert facilities are required to notify the Ward County Planning Office and MAFB Community Planner or Chief of Portfolio Optimization to assess potential conflicts with County and MAFB facilities.
 - e. A no-fee development review is required for any construction within 2,500 feet of launch facilities or missile alert facilities.

Section 4.15 Floodplain Overlay District

1. Purpose and Intent - The purpose of the floodplain overlay district is to provide additional review for development located in the flood fringe.
2. Dimensional Standards
 - a. The dimensional standards and yard requirements in any area where the Floodplain Overlay District applies shall be the standards and requirements of the applicable underlying zoning district and the Ward County Floodplain Ordinance
3. Specific District Standards
 - a. Any proposed development in the floodplain overlay district must be reviewed for compliance with the Ward County Floodplain Ordinance

Article V. Supplemental Requirements

Section 5.01 Off-Street Parking and Loading Requirements

1. In all districts there shall be provided at the time any building or structure is erected or structurally altered (except as specified in Paragraph 2 of this Article), off-street parking spaces in accordance with the following requirements:
 - a. Dwelling, including single, two and multiple attached dwellings; one-parking space for each dwelling unit.
 - b. Rooming or boarding house; one parking space for every two sleeping rooms.
 - c. Fraternity or Sorority; one parking space for every four beds.
 - d. Private club or lodge; one parking space for every ten members.
 - e. Church or temple; one parking space for each eight seats in the main auditorium.
 - f. School (except high school or college); one parking space for each ten seats in the auditorium or main assembly room, or one space for each classroom, whichever is greater.
 - g. College or high schools; one parking space for each eight seats in the main auditorium or three spaces for each classroom, whichever is greater.
 - h. Country club or golf club; one parking space for each five members.
 - i. Community center, library, museum or art gallery; ten parking spaces plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet.
 - j. Hospital; one parking space for every four beds.
 - k. Sanitarium, convalescent home, home for the aged or similar institution; one parking space for every six beds.
 - l. Theatre or auditorium (except school); one parking space for every five seats or bench seating spaces.
 - m. Sports arena, stadium, or gymnasium; one parking space for every five seats or seating spaces.
 - n. Hotel; one parking space for every three sleeping room or suites plus one space for every 200 square feet of commercial floor area contained therein.
 - o. Tourist home, cabin or motel; one parking space for each sleeping room or suite.
 - p. Dance hall, assembly or exhibition hall without fixed seats; one parking space for every

100 square feet of floor area used therefore.

- q. Business or professional office, studio, bank, medical clinic or dental clinic; three parking spaces plus one additional parking space for each 400 square feet of floor area over 1,000.
- r. Bowling alley; five parking spaces for each alley.
- s. Mortuary or funeral home; one parking space for each 50 square feet of floor space in slumber rooms, parlors, or individual funeral service rooms.
- t. Restaurant, night club, café or similar recreation or amusement establishment; one parking space for every 100 square feet of floor area.
- u. Retail store or personal service establishment, except as otherwise specified herein; one parking space for every 200 square feet of floor area
- v. Furniture, appliance, or hardware store, wholesale establishments, machinery or equipment sales and service, clothing or shoe repair or service shop; two parking spaces plus one additional parking space for every 300 square feet of floor area over 1,000.
- w. Printing or plumbing shop or similar service establishment; one parking space for every three persons employed therein.
- x. Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse, or similar establishment; one parking space for each two employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.

2. Number of Parking Spaces

- a. In computing the number of such parking spaces required, the following rules shall govern:
 - i. “Floor area” shall mean the gross floor area of a specific use.
 - ii. Where fractional spaces result, the parking spaces required shall be construed to the nearest whole number.
 - iii. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.
 - iv. Whenever a building or use constructed or established after the effective date of this resolution is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to the effective date of this resolution is enlarged to the extent of 50 percent or more in floor area or in the area used, said building or use shall then and

thereafter comply with the parking requirements set forth herein.

- v. In the case of mixed uses, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

3. Location of Parking Spaces

- a. All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishment, the required spaces may be located not to exceed 300 feet from an institutional building served and not to exceed 500 feet from any other non-residential building served.
- b. Not more than 50 percent of the parking spaces required for theatres, bowling alleys, dance halls, night clubs or cafes, and up to 100 percent of the parking spaces required for a church or school auditorium may be provided and used jointly by banks, office, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours; provided however, that written agreement thereto is properly executed and filed as specified below.
- c. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such space are collectively or jointly provided and used, a written agreement to assure their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form and executed by the States Attorney and shall be filed with the application for a building permit.

4. Loading Spaces

- a. Every building or part thereof erected or occupied for retail business, service, manufacturing storage, warehousing, hotel, mortuary or any other use similarly involving the receipt or distribution by vehicles of materials or merchandise, shall provide and maintain on the same premises loading space in accordance with the following requirements:
 - a. In the highway Commercial District and in the Rural Industrial District, one loading space for each 10,000 square feet or fraction thereof, of floor area in the building.

5. Compassion Centers

- a. Compassion Centers cannot be located within 1,000 feet of a property line of a pre-existing public or private school and applicants must comply with any and all North Dakota Health Department regulations as per NDCC §19-24.1-12
- b. A manufacturing facility for the purpose of growing, processing and manufacturing medical marijuana to supply the product to dispensaries will be permitted as a Conditional Use to locate with in Rural Industrial zoning district.

- c. A dispensary for the purpose of distribution of medical marijuana to qualified patients or designated care givers will be permitted to locate within Highway Commercial zoning district or by conditional use permit in the Rural Industrial district.

Section 5.02 Performance and Design Standards

1. In order to provide for the public health, safety, and welfare in Ward County, certain development requirements may be required for various types of development. These requirements may include specific or unique requirements to the proposed development, as well as general development requirements that are applicable for many types of development. The Development Plan Requirements Table summarizes the general development requirements which must be met for specified uses. These requirements may include:
 - a. Site Plan. The applicant shall provide a site plan illustrating the location of primary structures and activities, parking, vehicular and pedestrian circulation, ingress and egress locations and acceleration and turning lanes. The site plan shall also identify the additional requirements as they are determined appropriate to the application by the planning and zoning administrator.
 - b. Stormwater Management Plan. The applicant shall provide a stormwater management plan that shows how the site development will be in compliance with National Pollutant Discharge Elimination System (NPDES) requirements. It shall demonstrate that the rate of stormwater runoff leaving the site will not be greater than pre-development levels. The plan shall illustrate the location of drainage paths and structures, and provide facilities and systems to ensure contaminated water does not leave the site. Any plan will be sent to the Ward County Highway Department and Ward County Water Board for their review and recommendation back to the Ward County Planning & Zoning. All recommendations will be included when passed on to the Ward County Commission.
 - c. Lighting Plan. The applicant shall provide a lighting plan explaining the operation of lighting facilities on the proposed site and demonstrating it minimizes visibility from off-site.
 - d. Waste Disposal Plan. The applicant shall provide a waste disposal plan that addresses the following requirements as they are determined appropriate to the application: public restroom facilities; animal waste disposal; garbage collection, storage, and disposal; potential hazardous materials releases.
 - e. Screening. The applicant shall provide appropriate screening to maintain a positive visual appearance and prevent potential property value deterioration of surrounding properties. The effect of screening shall be a visual barrier at least 8 feet high. All screening must form a structurally sound visual barrier which is orderly and uniform in appearance and must be maintained in such condition. Screening whether a solid barrier or plantings or earthen mounds shall be maintained so as to constantly achieve the intended screen effect.
 - f. Emergency Management Plan. The applicant shall provide an emergency management

plan that addresses the following requirements as they are determined appropriate to the application: signage and lighting that allows emergency responders to easily find specific buildings or locations within the site; hazardous materials storage locations and type of materials shall be identified on a map and provided to the county emergency manager; emergency procedures shall be established, and practiced in collaboration with the county emergency manager; a fire protection plan shall be established and must be approved by the fire chief of the applicable fire district or fire department; emergency shelter locations and capacity shall be determined and established when required by the county emergency manager.

- g. **Weed Management Plan.** The applicant shall provide documentation that the site has been inspected for invasive and/or noxious weeds by the County Weed Officer before the proposed activity commences. Inspection shall occur at a time determined by the Weed Officer. The Weed Officer shall provide documentation to the applicant of the inspection results and any required treatment plan. No proposed activity may commence until the Weed Officer has determined it is appropriate. Surface mining operations may require the following treatment plan components: pit opening, overburden material stockpile, active pit mining, buffer zone, reclamation, annual inspections.
- h. **Haul Route Plan.** The applicant shall provide a haul route plan showing the routes to be used by heavy trucks and equipment to reach the site, and from the site to their ultimate destination. (for transloading facilities, gravel, waste disposal, solar and wind farms installation)
- i. **Decommissioning, Restoration, Reclamation, Closure, and Abandonment.** The applicant shall provide a Closure Plan acceptable to the Planning Commission and Board of County Commissioners for the closure, decommissioning, abandonment, restoration, and reclamation of the site. The plan shall identify the process and required outcome of vacating the site and returning it to pre-development conditions to the maximum extent practical. The County retains the right, after the receipt of an appropriate court order, to enter the site, and complete the Closure Plan. Details of the closure plan will be dependent on the type of facility and determined by the planning and zoning administrator.
- j. **Historical, Cultural, and Archeological Protection.** The applicant shall meet all federal, state, and local requirements regarding removal, relocation, and preservation of historical, cultural, or archaeological artifacts at the site.
- k. **Financial Security.** The applicant shall provide an irrevocable letter of credit, or other acceptable form of financial security for the proposed activity before receiving final approval. The amount of the financial security shall be determined by the Board of County Commissioners and shall be based on the amount determined necessary for decommissioning, closure, and restoration or reclamation of the site. Where an operator is operating at more than one site in Ward County, a single instrument of financial security may be established to cover all sites.

- i. Irrevocable Letter of Credit
 1. Irrevocable letters of credit from financial institutions located in the State of North Dakota are the only acceptable instrument allowed by Ward County to provide financial assurance for project improvements and site restoration.
 2. The applicant must furnish the County with an irrevocable letter of credit from a financial institution providing authorization and guarantee that the County may draw on the applicant's account amounts not to exceed the required financial guarantee.
 3. Each irrevocable letter of credit shall be provided in a form acceptable to the Zoning Administrator.
 4. The irrevocable letter of credit shall extend at least 1 year beyond the expiration date of the anticipated project completion date.
 5. The irrevocable letter of credit shall be irrevocable and shall provide for sixty (60) days' notice to the County and approval of any change, amendment, or termination.
 6. The irrevocable letter of credit shall be accepted as a financial guarantee only after review and approval by the Zoning Administrator and States Attorney.
1. Operations Plan. If required by this ordinance, the Planning Commission, or the Board of County Commissioners, the applicant shall provide an operations plan which describes the overall activities proposed to be done if the application is approved by the County. This plan may include the following components as determined by the planning and zoning administrator: hours of operation, dust control, dewatering, erosion control, and site/operations safety and security measures.
2. Public Airports. Ward County has two public airports, the Kenmare general aviation airport, and the Minot International Airport. The Minot Air Force Base is a military base with its own separate zoning district to manage land uses which could be in conflict with air base operations. The Minot International Airport and land requiring zoning standards pertaining to the airport are located wholly within the zoning jurisdiction of the City of Minot. The following standards and requirements are intended to minimize potential conflicts between the existing Kenmare general aviation airport and nearby land which is not within the zoning or subdivision authority of the City of Kenmare. These standards and requirements will also apply to any additional general aviation airport which could be proposed in the future.
- b. A public airport or any part thereof is subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements shall be met continuously:
 - i. There is sufficient distance between the end of each runway and the airport boundary to satisfy the requirement of the Federal Aviation Administration and the North Dakota Aeronautics Commission. In cases where air rights or easements have been

acquired from owners of abutting properties, in which approach zones fall, satisfactory evidence thereof shall be included with the application for a conditional use permit.

- ii. There is sufficient distance between the end of each runway and any public roadways to ensure that the roadway will not be impacted in any way by the location of the runway.
 - iii. There are no pre-existing residences, places of public assembly, or other buildings where people live or congregate located within 1000 feet of the boundary of the airport.
 - iv. Maximum noise impacts shall be determined based on maximum potential airport noise as determined by standard airport planning guidelines under the North Dakota Aeronautics Commission.
- c. The application for authorization of a public airport shall be accompanied by a plan, drawn to scale, showing the proposed location of the airport; boundary lines; dimensions; names of the owners of abutting properties; proposed layout of runways, landing strips or areas, taxi strips, aprons, roads, parking areas, hangars, buildings, and other structures and facilities; the location and height of all buildings; structures, trees, and overhead wires falling within the airport approach zone and less than 500 feet distant from the boundary lines of the airport, other pertinent data such as topography and grading plan, drainage, water, and sewage, or other data as may be required by the planning and zoning administrator.
3. Private airfields. There exist in Ward County several private airfields or landing strips which are not regulated by the FAA or required to be registered by the North Dakota Aeronautics Commission. These existing airfields or additional private airfields which may be proposed in the future have the potential to be in conflict with land uses in their vicinity. The following standards and requirements are intended to minimize such conflicts, maintain harmony of land uses in the rural part of Ward County, and to protect the public health, safety and welfare.
- a. Any proposed private airfield is subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements shall be met continuously:
 - i. There shall be a minimum distance of 500 feet between the sides of each usable private runway and property not owned by the operator of the runway
 - ii. There shall be a minimum distance of 1,200 feet between the sides of each usable private runway and any habitable structure not owned by the operator of the runway.
 - iii. There shall be a minimum distance of 1,200 feet between the ends of runways and property not owned by the runway operator.

- iv. The requirements listed in i, ii, and iii may be waived in cases where air rights or easements have been obtained from the owners of abutting properties. Satisfactory evidence thereof shall be submitted with the application.
 - v. For any private airfield used for crop dusting or other frequent take-off and landing activities, there shall be a minimum distance of one half mile between the sides and end of the runway(s) and any residence except that belonging to the operator of the airfield.
4. Cemetery. The purpose of this subsection is to provide guidance on decisions relating to a cemetery, mausoleum, columbarium or crematory may be developed upon approval of a conditional use permit. Approval shall not be considered complete until it has been filed with the recorder of the county as a public burying place. A cemetery is subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements shall be met continuously:
- 6. No conditional use permit shall be approved until after proof of compliance with all ND Department of Health requirements is provided.
 - 7. A crematorium is an accessory use to a cemetery, and may be constructed and operated on the cemetery grounds if it meets all relevant state and federal requirements, including licensure requirements.
 - 8. Abandoned cemeteries are tracts of land that have been used as burial plots, which have not been filed with the recorder of the county, or where the board of county commissioners determines the existence of an abandoned cemetery.
5. Compassion Centers. The purpose of this subsection is to provide guidance on decisions pertaining to the location and use of compassion centers as defined by ND law. Compassion centers are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements for a compassion center operating as a dispensary shall be met continuously:
- a. The facility may not be located within 1000 feet of the property boundary of any residence, place of public assembly, educational facility, park, playground, outdoor recreation facility, indoor recreation facility, bar, adult entertainment establishment, library, museum, designated historic building or site, or other public building.
 - b. The facility may not be located within 1000 feet of the district boundary of any residential zoning district.
 - c. In addition to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits, the following requirements for a compassion center operating as a manufacturing facility shall be met continuously:

- i. The facility may not be located within 1500 feet of the property boundary of any residence, place of public assembly, educational facility, park, playground, outdoor recreation facility, indoor recreation facility, bar, adult entertainment establishment, library, museum, designated historic building or site, or other public building.
 - ii. The facility may not be located within 1500 feet of the district boundary of any residential zoning district.
- 6. **Non-Motorized Outdoor Recreation Facility.** The purpose of this subsection is to provide guidance regarding decisions pertaining to the location and activity of a variety of outdoor recreational facilities which may exist or be proposed in Ward County that do not result in high levels of noise or impact to surrounding land uses, or involve activities with a high degree of risk to participants. These include facilities for golfing, horseback riding, fishing, bicycle riding, soccer, baseball, skateboarding, drive-in theaters, tennis, ropes course or zip-lines, water-slides, mini-golf or similar outdoor activities. It does not include zoos, go-cart tracks, firearms ranges, racetracks for motorized racing, or similar facilities.
 - a. Non-motorized outdoor recreational facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements shall be met continuously:
 - i. Off-street parking must be provided for 100% of the estimated maximum occupancy of the facility. This parking may include a mix of primary parking on-site and back-up parking off-site so long as the parking locations do not require pedestrians to cross public right-of-way, and proof of an agreement for use of the off-site parking location is provided.
 - ii. Hours of operation must be limited to after 9 a.m. and before 10 p.m. if located within one quarter mile of a residential subdivision or any existing residence.
 - iii. Any food service facilities must continuously meet North Dakota Department of Health requirements, and pass annual inspections by the First District Health Unit.
 - b. Non-motorized outdoor recreational facilities may include go-cart tracks, bumper car tracks, or similar minor motorized facilities if the boundaries of the site are at least one-half mile from any residence or residential subdivision. If such minor motorized facilities are proposed, the facility shall meet the relevant requirements of a motorized outdoor recreational facility.
- 7. **Motorized Outdoor Recreational Facility.** The purpose of this subsection is to provide guidance regarding decisions pertaining to the location and activity of a variety of outdoor recreational facilities which may exist or be proposed in Ward County that result in high levels of noise or involve activities with greater impacts to surrounding land uses than non-motorized outdoor recreational facilities. These include racetracks or facilities for the use of recreational equipment or vehicles that have motors including enduro tracks and racetracks for major motorized racing, or similar facilities.

- a. Motorized outdoor recreational facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements shall be met continuously:
 - i. Off-street parking must be provided for 100% of the estimated maximum occupancy of the facility. This parking may include a mix of primary parking on-site and back-up parking off-site so long as the parking locations do not require pedestrians to cross public right-of-way, and proof of an agreement for use of the off-site parking location is provided.
 - ii. Hours of operation must be limited to after 9 a.m. and before 10 p.m. if located within one half mile of a residential subdivision or any existing residence.
 - iii. Any food service facilities must continuously meet North Dakota Department of Health requirements, and pass annual inspections by the First District Health Unit.
 - b. Non-motorized outdoor recreational facilities may be allowed at the same site as motorized outdoor recreational facilities, but must meet the requirements of the motorized outdoor recreational facility.
9. Firearms Ranges. The purpose of this subsection is to provide guidance regarding decisions pertaining to the location and activity of a variety of outdoor recreational activities that involve firearms. Examples include trap, skeet, and sporting clay shooting, target shooting, law enforcement weapons training, or similar uses. NDCC §42-01-01.1 indicates that a sports shooting range is not a nuisance when it is in compliance with noise control or nuisance abatement rules or ordinances in effect on the date on which it commenced operation. It also indicates that a political subdivision may regulate the location and construction of a sport shooting range after August 1, 1999. It further defines a sport shooting range as an area designated and operated by a person for the sport shooting of firearms or any area so designated and operated by the state or a political subdivision, regardless of the terms for admission to the sport shooting range.
- a. Any weapons range or training site involving the use of firearms or explosives is subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements shall be met:
 - i. The site may not be closer than 1 mile from any habitable structure.
 - ii. Proof of compliance with state and federal environmental and firearms regulations must be provided.
10. Recreational Campgrounds. The purpose of this subsection is to provide guidance on decisions relating to the location and use of recreational campgrounds. Recreational campgrounds are specifically distinguished from crew housing facilities in that the former are intended for temporary occupancy for tourism and people using them while acting as tourists or recreational users. This is in contrast to crew housing facilities where the occupancy is

generally longer term and the reason for occupancy is a place to live while working in the area. Recreational campgrounds are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements shall be met continuously:

- a. A recreational campground camp may be permitted as a conditional use in all districts except the Air Force Protection District when meeting specified conditions.
 - b. The recreational campground may not contain permanent residential structures with the exception of a single residence for occupancy by an on-site campground manager.
 - c. The recreational campground shall be designed and constructed to accommodate tents, campers or travel trailers, and recreational vehicles.
 - d. The minimum total area of the premises shall be 90,000 square feet.
 - e. The minimum unit area of premises used or occupied by each tent, camper or travel trailer, or RV shall be 2,000 square feet, clearly defined on the ground by stakes, posts or other markers.
 - f. No tent, camper, travel trailer, or RV shall be placed within 20 feet of any other tent, camper, travel trailer, or RV, or within 30 feet of the right-of-way line of any street, or within 10 feet of any other boundary of the recreational campground.
 - g. No business shall be conducted from any tent, camper, travel trailer, or RV while at the recreational campground.
 - h. Every recreational campground, if in the opinion of the Planning Commission it is necessary, shall have erected around its border suitable woven wire or open metal fence not less than five feet, nor more than six feet in height, having only necessary openings for ingress and egress to public street, highway or alley. Barbed wire shall not be used in the construction of any fence.
 - i. All provisions for water supply, laundry, sewage, and fire protection to be provided in any recreational campground shall have been approved by the appropriate county, or state officer or agency.
11. **Animal Processing Facilities.** The purpose of this subsection is to provide guidance on the use of land and buildings for meat packing operations. This includes the slaughter of animals and processing of carcasses for eventual sale and distribution and human consumption. This also includes processing or rendering of byproducts as an ancillary activity. This does not include secondary processing of meat into packaging for retail sale. These guidelines are intended to mitigate or solve potential problems from this activity including traffic impacts, stormwater impacts, public health hazards, light, odor, insect, and disease concerns stemming from the existence of the use. Animal processing facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements shall

be met continuously:

- a. Meat packing facilities may be permitted in the Rural Industrial District and the Ag Production District when it meets general requirements for conditional use permits and the following specific requirements.
 - b. Meat packing operations must include a pandemic plan reviewed and approved by the First District Health Unit or the North Dakota Department of Health to prevent the spread of infectious disease between workers and/or through the meat products.
 - c. The facility may not be located within one half mile of a residence or the boundary of a residential subdivision.
 - d. Temporary housing of animals must be demonstrated to meet industry standards and provide for humane treatment of animals.
 - e. Disposal plan for waste products including diseased or injured animal carcasses must be approved by the North Dakota Department of Environmental Quality
 - f. A site plan that demonstrates onsite lighting, stormwater management, waste handling facilities, adequate parking for all employees, queueing of trucks hauling animals and meat products, and adequate turning lanes and acceleration lanes for all traffic.
 - g. Wastewater and Stormwater management plans that control runoff from the property and prevents odors or contaminated water from leaving the site.
 - h. Pest control plan to prevent the attraction or harboring of birds, reptiles or animals that might be attracted to the site.
 - i. Manure handling plan that limits odors, prevents groundwater contamination, and minimizes nuisances of manure disposal to other property owners.
12. Animal Feeding Operations. The purpose of this subsection is to provide guidance on the use of Animal Feeding Operations.
- a. General Provisions
 - i. 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 300 animal units (a.u.), and so forth, are listed in the following table.

		Equivalent Numbers of the Livestock (hd) for Four Sizes (a.u.) of Animal Feeding Operations			
Livestock Type	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, >55lbs	0.4	750	2,500	5,000	12,500
1 goose or duck	0.2	1,500	5,000	10,000	25,000
1 sheep	0.01	3,000	10,000	20,000	50,000
1 swine, nursery	0.01	3,000	10,000	20,000	50,000
1 turkey	0.0182	16,500	55,000	110,000	275,000
1 chicken	0.01	3,000	10,000	20,000	50,000

- ii. 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 Environmental Quality and with any permits granted by that department.
 - iii. Enforcement- In the event of a violation of this ordinance or a judgement on a civil action by the North Dakota Department of Environmental Quality, the County, 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 cause(s) of the violation. If the cause(s) of the violation are not remedied within a reasonable period of time as set by the County, the permit may be revoked.
 - iv. 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.
- b. Setback Requirements
- i. Water Resource Setbacks-
 - 1. The operator of a new animal feeding operation that has more than 1,000 animal units (except for swine, 700 animal units shall be applicable) shall not locate or establish that operation:
 - 2. 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.
 - 3. Within 1,200 feet (365.6 meters) of a private ground water well which is not owned by the operator or within 1,500 feet (457.1 meters) of a public ground water well which does not have a delineated source water protection area.

4. Within 1,000 feet (304.7 meters) of surface water which is not included in a source water protection area.

ii. Odor Setbacks

1. The operator of a new facility for an animal feeding operation shall not locate that operation within the extra territorial zoning jurisdiction of an incorporated city.
2. 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.

<u>Number of Animal Units</u>	<u>Hog Operations</u>	<u>Other Animal Operations</u>
fewer than 300	none	none
300 - 1000 (300-700 for swine)	0.50 mi (0.805 km)	0.50 mi (0.805 km)
1001 or more (701 or more for swine)	0.75 mi (1.207 km)	0.50 mi (0.805 km)
2001 or more (1401 or more for swine)	1.00 mi (1.609 km)	0.75 mi (1.207 km)
5001 or more (3501 or more for swine)	1.50 mi (2.414 km)	1.00 mi (1.609 km)

3. The operator of a new animal feeding operation shall locate the site of that operation from existing residences, businesses, churches, schools, public parks and areas of property that are zoned residential so as to exceed the corresponding listed setback from these places.
4. 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.
5. The County may, upon recommendation of the Planning & Zoning Commission or Planning & 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 setback distance is necessary or acceptable, respectively, based upon site conditions or demonstrable safety, health, environmental or public welfare concerns.

c. Conditional Uses- Permit Procedures

i. 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 conditional use of land as listed below, shall apply for and obtain a conditional permit.
 - aa. A new animal feeding operation that would be capable of handling, or that expands to handle, more than 1,000 animal units is a conditional (or special) use of land; except for swine for which 700 animal units will apply.
 - bb. An existing animal feeding operation that expands to handle more than 1,000 animal units is a conditional (or special) use of land; except for swine for which 700 animal units will apply.
2. Whenever the capacity of an animal feeding operation is expanded to handle more than 2,000 or 5,000 animal units, (1,400 or 3,500 animal units for swine) the operator shall apply for a new conditional use permit.

ii. Procedure

1. The County may practice any or all of the provisions in the following subparagraphs in harmony with the permitting process of its general zoning regulations.
2. Application for a conditional use permit shall be submitted to the County for tentative approval. The County shall notify the Department of Health that it has received such application.
3. The County shall notify by certified mail all property owners having property within the corresponding odor setback distance of a proposed new animal feeding operation. This notification must occur within 21 days of receiving the application. The approval process utilized by the County may include at least one advertised public hearing.
4. Following tentative approval or denial of the application by the County, 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 use permit, together with the tentative approval by the County, to the North Dakota Department of Environmental Quality.
6. Following a review by the Department of Health of the operator's application for a state permit, the Department of Environmental Quality will notify the County of its decision.
7. The conditional use permit will become final following the granting of a permit by the Department of Environmental Quality.

8. A conditional 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 to continue.

iii. Application Requirement

1. The application for a conditional use permit to operate a facility for an animal feeding operation shall include a scaled site plan. If the facility will handle more than 1,000 animal units, (except for swine, for which 700 animal units will apply), the scaled site plan shall be prepared by a registered land surveyor, a civil engineer or other person having comparable experience or qualifications. The County may require any or all of the following elements, or require additional elements, in its site plan review process when needed to determine the nature and scope of the animal feeding operation.
 - aa. Proposed number of animal units.
 - bb. Total acreage of the site of the facility.
 - cc. Existing and proposed roads and access ways within and adjacent to the site of the facility.
 - dd. Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units, except for swine, for which 700 animal units will apply.
 - ee.. A copy of the permit application submitted by the applicant to the Department of Health.

d. Ownership Change

- i. An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the County of the sale, or the transfer of the ownership of that operation

e. Operating Change

- i. An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the County of intent to include an alternate livestock type. The notice shall be given at least 120 days prior to the anticipated date of the change.

13. Adult Entertainment. The purpose of this subsection is to provide guidance on the regulations in regards to adult entertainment establishments. Studies have shown that lowered property values and increased crime rates tend to accompany and are brought about by the concentration of adult entertainment establishments as defined herein. Regulation of these uses is necessary to ensure that these effects do not contribute to the blighting of surrounding neighborhoods and to protect the integrity of the County's educational facilities, places of assembly, childcare centers, parks and playgrounds which are typically areas in which juveniles congregate. It is the intent of this

provision to establish reasonable regulations to prevent a concentration of adult entertainment establishments within the areas where the County has zoning authority and to separate adult entertainment establishments from those sensitive uses noted below. Adult Entertainment establishments are regulated by this Ordinance in order to prevent secondary impacts while allowing constitutionally protected activities and uses. Adult Entertainment establishments are classified in this Ordinance into adult media stores and all other adult entertainment establishments. Adult media stores are allowed with restrictions in the Highway Commercial District and the Rural Industrial Zone. All other adult entertainment establishments are allowed only in the Rural Industrial Zone. Adult entertainment businesses are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements apply to adult entertainment establishments as specified:

- a. Each adult entertainment establishment is a principal use, and no more than one principal use may be allowed within a single building or within a single lot.
- b. No adult entertainment establishment may be located:
 - i. Within 1000 feet of another adult entertainment establishment when measured from lot line to lot line of the lots containing said businesses.
 - ii. Within 1500 feet of a residence, place of assembly, educational facility, day care facility, library, museum, or other public building, designated historic building or site, park, playground, or the district boundary of any residential zoning district.
- c. No adult entertainment establishment may operate later than 10 p.m. or earlier than 8 a.m.
- d. All adult arcade stations, booths, or viewing areas must be open to an adjacent public room so that the area inside is visible to persons in the adjacent public room from a point within two feet of the entrance into the adjacent public room. The unobstructed view into the adult arcade booths or stations from the adjacent public room by direct line of sight must remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times.
- e. No adult arcade station, booth, or viewing area may be obscured by any curtain, door, wall, or other non-transparent enclosure. There may be no door, curtain, partition, or other device extending from the floor to the top of the doorframe with the exception of a door that is completely transparent, and constructed of safety glass as specified in the applicable building codes such that the activity and occupant inside the enclosure may be clearly and easily viewed or seen by persons outside the enclosure from a point within two feet of the entrance into the adjacent public room.
- f. No adult arcade station or booth may be occupied by more than one person at a time.
- g. The interior of the premises of an adult arcade shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms.

- h. Restrooms of an adult arcade and of an adult cabaret may not contain video reproduction or other image-projection equipment, or electronic sound transmission or reproduction equipment.
- i. Sufficient lighting in an adult arcade and in an adult cabaret shall be provided and equally distributed throughout the public area of the premises so that all objects are plainly visible at all times. A minimum lighting level of thirty lux semi-cylindrical measured at thirty inches from the floor on ten-foot centers is hereby established for all areas of (a) the adult arcade where members of the public are admitted, including the interior of the adult arcade stations or booths, and of (b) the adult cabaret premises where members of the public are admitted and where performers offer live entertainment.
- j. The portion of an adult cabaret premises in which persons appear nude or seminude or where live performances characterized by the exposure of “specified anatomical areas” or the depiction of “specified sexual activities” are conducted (performance area) shall be a stage or platform at least eighteen inches in elevation above the level of the patron seating areas, and shall be separated by a distance of at least eight feet from all areas of the premises to which patrons have access. A continuous railing on the floor, at least three feet in height and located at least eight feet from all points of the performance area, shall separate the performance area and the patron seating areas. The stage and the entire interior portion of cubicles, rooms, or stalls wherein live entertainment exposing “specified anatomical areas” and/or depicting “specified sexual activities” is provided must be visible from the common area of the premises and at least one manager’s station. Visibility shall not be clinied or obscured by doors, curtains, drapes, or any other obstruction whatsoever.
- k. Constitutional protection does not extend to activity or material which is considered obscene. For the requirements of this ordinance pertaining to adult entertainment establishments, any activity or material is obscene:
 - i. Which the average person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest; and
 - ii. Which explicitly depicts or describes patently offensive representations or descriptions of (i) ultimate sexual acts, actual or simulated; or (ii) masturbation, fellatio, cunnilingus, bestiality, excretory functions or lewd exhibition of the genitals or genital area; or (iii) violent or destructive sexual acts including but not limited to human or animal mutilation, dismemberment, strangulation, rape or torture; and
 - iii. Which, when considered as a whole, and in the context in which it is used, lacks serious literary, artistic, political, or scientific value.

1. Definitions relevant to the zoning regulation of adult entertainment establishments include:
 - i. Adult entertainment establishment is an inclusive term used to collectively describe the following: escort service, adult cabaret, adult motion picture theater, adult arcade, sex shop, and/or adult media store.
 - ii. Escort Service is any business, agency, or person who, for a salary, fee, tip, commission, hire, profit or other consideration, furnishes, offers to furnish, advertises to furnish, or arranges for persons to accompany other persons for companionship, or who, for a salary, fee, tip, commission, hire, profit or other consideration, furnishes, offers to furnish, advertises to furnish or arranges for persons to privately model lingerie or privately perform erotic dancing for another person.
 - iii. Adult Cabaret is a building or a portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specific sexual activities or specified anatomical areas for observation by patrons therein.
 - iv. Adult Motion Picture Theater is an establishment emphasizing or predominantly showing sexually oriented movies.
 - v. Sex Shop is an establishment offering goods for sale or rent and that meets any of the following tests:
 1. The establishment offers for sale items from any two of the following categories: (i) adult media, (ii) lingerie, or (iii) leather goods marketed or presented in a context to suggest their use for sadomasochistic practices; and the combination of such items constitutes more than 10 percent of its stock in trade or occupies more than 10 percent of its floor area.
 2. More than 5 percent of its stock in trade consists of sexually oriented toys or novelties.
 3. More than 5 percent of its gross public floor area is devoted to the display of sexually oriented toys or novelties.
 - vi. Adult Arcade is a building or portion of a building where a film, video cassette, other video or digital reproduction, or live entertainment which depicts specified sexual activities or exposes specified anatomical areas may be seen from a viewing space, booth, or station of less than 600 square feet.
 - vii. Adult Media means magazines, books, videotapes, movies, slides, cd-roms or other devices used to record computer images or other media that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to hard-core material.
 - viii. Adult Media Store is an establishment that rents and/or sells adult media, and that meets any of the following three tests:

1. 40 percent or more of the gross public floor area is devoted to adult media.
2. 40 percent or more of the stock in trade consists of adult media.
3. It advertises or holds itself out in any forum as “XXX,” “adult,” “sex,” or otherwise as an adult entertainment establishment other than an adult media store, adult motion picture theater, or adult cabaret.

ix. Media Store is an establishment that either as an accessory function or as a primary function, rents or sells magazines, books, videotapes, movies, cd-roms or other devices used to record computer images or other media.

14. Wind Energy Facilities. The purpose of this subsection pertaining to Wind Energy Facilities is to provide a regulatory framework for the siting, construction, and operation of wind energy facilities in the County, subject to reasonable restrictions, which will preserve the safety and well-being of the residents, while allowing equitable and orderly development of wind energy facilities. Wind energy facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following requirements and definitions are applicable:

- a. Zoning - Wind energy facilities may be constructed within the county, subject to the restrictions and conditions of this Ordinance.
- b. Principal or Accessory Use - A different existing use or an existing structure on the same parcel shall not preclude the installation of a wind energy facility or a part of such facility on such parcel. Wind energy facilities that are constructed and installed in accordance with the provisions of this Ordinance shall not be deemed to constitute expansion of a nonconforming use or structure.
- c. Applicability - The requirements of this Ordinance shall apply to all wind energy facilities with one or more wind turbines rated at one hundred (100) kilowatts nameplate capacity or larger per turbine constructed after the effective date of this Ordinance. No operation of an existing wind energy facility shall be allowed without full compliance of the application for Conditional Use Permits and any other procedures as may be required with this Ordinance, and no modification or alteration of an existing wind energy facility shall be allowed without issuance of a new Conditional Use Permit pursuant to this Ordinance.
- d. Application for Permit - No work, except for wind monitoring, soil testing, and other survey work, may commence to construct a wind energy facility until a county Wind Energy Facility Siting Permit ("Permit") has been issued by the Board of County Commissioners. The prospective permittee shall submit an application for said Permit to the Planning and Zoning Commission. The application shall be signed by an authorized representative of the prospective permittee and include a fee to be determined by the Board of County Commissioners for each proposed wind turbine and the following information:

- i. The complete name, legal address, and phone number of the prospective permittee and responsible contact person.
 - ii. A United States Geological Survey topographical map of an area which includes the wind energy facility and five hundred (500) feet of all adjoining properties along the wind energy facility perimeter. This topographical map shall have included on it all existing features, including property boundaries, structures, improvements, roads, utility lines, public facilities, and natural features. The map shall also show location of all proposed improvements for the wind energy facility, including wind turbines, MET towers, electrical lines, and roads. Each proposed wind turbine shall be numbered and fully described in technical details, including rotor diameter, model, and manufacturer, and distances, measured in feet, from property lines and from existing improvements for each proposed wind turbine.
 - iii. Details as to how the prospective permittee will comply with each item in General Requirements for Wind Energy Facilities, and Minimum Ground Clearance.
 - iv. A schedule for the proposed start and completion of construction of the wind energy facility.
 - v. Copies or signed summaries of all leases and easements for wind turbines and associated equipment and infrastructure to be sited within the county and any written agreements between the prospective permittee and affected parties holding associated wind rights on adjoining properties established for the purpose of seeking a setback variance(s).
- e. Upon receipt of the application, the Planning and Zoning Commission and any experts it may retain shall review the application and, in its discretion, may hold a public hearing on the application providing at least fifteen (15) days' notice prior to the hearing in the official newspaper of Ward County and mailing written notice to property owners 5,280 feet of the proposed wind energy facility.
 - f. Deliberation and Decision - If the Planning and Zoning Commission finds that the prospective permittee will comply with all requirements, it may, within a reasonable time after its finding, submit a recommendation for approval or denial of a Wind Energy Siting Permit to the Board of County Commissioners.
 - g. Demonstration of Compliance - The permit issued shall be contingent upon the permittee's final demonstration of compliance with the requirements of the permit following completion of construction of the wind energy facility. Within ninety days of wind energy facility construction, the permittee shall submit to the Planning and Zoning Commission an updated and final USGS topographical map, or survey, if available, providing all required information and demonstrating actual compliance with the requirements and conditions of the Permit.
 - h. General Requirements for Wind Energy Facilities – Appearance, Lighting, Facility Footprint, Agricultural Operations, Roads, and Power Lines
 - i. Wind turbines shall be painted a non-reflective, non-obtrusive color.

- ii. Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.
 - iii. Each wind turbine shall be marked with a visible identification number to assist with provision of emergency services. The permittee shall file with local fire departments, law enforcement, and the county emergency management coordinator a wind energy facility map identifying wind turbine locations and numbers.
 - iv. Wind turbines shall not be artificially lighted, except to the extent required by the FAA or other applicable authority.
 - v. At wind energy facility sites, the design of the buildings and related structures shall, to the extent reasonably possible, use materials, colors, textures, and location that will blend the wind energy facility to the natural setting and existing environment.
 - vi. At wind energy facility sites, the location and construction of access roads and other infrastructure shall, to the extent reasonably possible, minimize disruption to farmland, the landscape, and agricultural operations within the county.
 - vii. The permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the wind energy facility's life, unless otherwise negotiated with the affected landowner. When the permittee installs a gate in an electric fence, the permittee shall provide for continuity in the electric fence circuit.
 - viii. The permittee shall ensure that, following completion of construction of a wind energy facility, county roads will be repaired or restored to a condition at least equal to the condition prior to construction of such facility.
 - ix. The permittee shall place electrical lines, known as collectors, and communication cables underground when located on private property. Collectors and communication cables shall also be placed within or adjacent to the land necessary for wind turbine access roads, unless otherwise negotiated with the affected landowner. (This paragraph does not apply to feeder lines.)
 - x. The permittee shall place overhead feeder lines on public rights-of-way, if a public right-of-way exists, or the permittee may place feeder lines on private property. A change of routes may be made as long as the feeders remain on public rights of way and approval has been obtained from the governmental unit responsible for the affected right-of-way. When placing feeders on private property, the permittee shall place the feeder in accordance with the easement negotiated with the affected landowner.
- i. General Requirements for Wind Energy Facilities -Setbacks - The following setbacks and separation requirements shall apply to all wind turbines in a wind energy facility:
- i. Occupied Structures and Facilities: Each wind turbine shall be set back from the nearest occupied dwelling unit, commercial building or publicly used structure or

facility at a distance not less than 1.25 times its total height or seven hundred fifty (750) feet, whichever is greater.

- ii. Public Roads and Above Ground Communication and Electrical Lines: Above ground communication and electrical lines shall be set back a distance not less than two hundred (200) feet from the center of the existing right-of-way.
 - iii. Wind Energy Facility Perimeter: Each wind turbine shall be set back from the wind energy facility perimeter at a distance not less than two and one half (2.5) times the rotor diameter of the wind turbine. A variance may be granted if an authorized representative or agent of the permittee and those affected parties on adjoining properties with associated wind rights sign a formal and legally binding agreement expressing all parties' support for a variance that waives or reduces the setback requirement.
- j. Minimum Ground Clearance - The blade tip of any wind turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet.
- k. Restoration of Property - Within one hundred eighty (180) days of termination or abandonment of leases or easements for a wind energy facility in the county, the permittee shall cause, at its expense, removal of all structures to a depth of four feet below pre-construction grade.
- l. Transfer of Wind Energy Facility Siting Permit - In the event of a change in ownership or controlling interest in a wind energy facility and the transfer of the Permit, any successors and assigns of the original permittee shall comply with the requirements and conditions of such Permit for the duration of operation of a wind energy facility permitted in the county. Within thirty days of such change in ownership or controlling interest of any entity owning a wind energy facility, the parties to the transaction shall notify the Board of County Commissioners by letter and provide all contact information and a description of the new owner organization. The letter shall be signed by the authorized representatives or agents of both the original permittee and the entity to which the Permit is being transferred.
15. Solar Energy Facilities. The purpose of this subsection is to provide guidance on the reasonable placement and use of facilities and equipment used for solar energy generation. This green energy solution has become more cost effective in recent years and is an increasingly viable technology for use on individual buildings including private homes, at a community scale, and at commercial/industrial scale. By establishing streamlined processes for local government review of solar energy production facilities, the non-equipment costs can be minimized, and solar energy can become a significant contribution to sustainability in the county. Solar energy facilities have very limited nuisance factors or impacts on surrounding property, thus limiting the amount of analysis and oversight that may be needed prior to approval and installation. For the purposes of this Ordinance, solar energy generation will be broadly construed to include passive and active systems. Solar energy facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, the following terms and requirements pertain to solar energy generation:

- a. Solar Energy System means solar energy devices or design features of a building used for the collection, storage, and distribution of solar energy for space heating, space cooling, lighting, electric generation, or water heating.
- b. Active Solar Energy System means a solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.
- c. Grid-Intertie Solar Energy System means a photovoltaic system that is connected to an electric circuit served by an electric utility.
- d. Ground-Mounted Solar Energy System an Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).
- e. Large-Scale Solar Energy System means an Active Solar Energy System that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).
- f. Medium Scale Solar Energy System means an Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10 - 250 kW DC).
- g. Off-Grid Solar Energy System means a photovoltaic solar energy system in which the circuits energized by the solar energy system are not electrically connected in any way to electric circuits that are served by an electric utility.
- h. Passive Solar Energy System means a solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.
- i. Roof-Mounted Solar Energy System means an Active Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale).
- j. Small Scale Solar Energy System means an Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less).
- k. Solar Thermal System means an Active Solar Energy System that uses collectors to convert the sun's rays into useful forms of energy for water heating, space heating, or space cooling.
- l. Solar Collector means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.
- m. Solar Energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.
- n. Photovoltaic System means an active solar energy system that converts solar energy directly into electricity.

- o. Rated Nameplate Capacity means the maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).
- p. Passive Solar Energy Systems are allowed as a use by right in any zoning district.
- q. Small Scale Solar Energy Systems are allowed as a use by right in any zoning district provided that a ground mounted one must meet all relevant setback and yard requirements.
- r. Small Scale Solar Energy Systems that are roof mounted do not require a building permit.
- s. Small Scale Solar Energy Systems that are ground-mounted can be treated as accessory uses, and only need a building permit prior to installation.
- t. Medium Scale Solar Energy Systems are allowed as a conditional use in the Transitional Residential District and the Community Residential District and as a use by right in all other zoning districts.
- u. Large Scale Solar Energy Systems are allowed as a conditional use in all zoning districts except the Transitional Residential District and the Community Residential District.
- v. Prior to issuance of a building permit or a conditional use permit for any Medium Scale or Large-Scale Solar Energy System, the proposed site plan must be reviewed and approved by the Planning and Zoning Administrator to verify the proposed system installation will not adversely affect adjacent property owners and residents, and that the proposed installation is consistent with this Ordinance.
- w. Emergency Access. Roof-mounted solar energy systems shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation opportunities, and provide emergency egress from the roof.
 - i. For buildings with pitched roofs, solar collectors shall be located in a manner that provides a minimum of one three-foot wide clear access pathway from the eave to the ridge on each roof slope where solar energy systems are located as well as one three-foot smoke ventilation buffer along the ridge.
 - ii. Residential rooftops that are flat shall have a minimum three-foot-wide clear perimeter and commercial buildings that are flat shall have a minimum four-foot wide clear perimeter between a solar energy system and the roofline, as well as a three-foot wide clear perimeter around roof-mounted equipment such as HVAC units.
 - iii. To the extent practicable, the access pathway shall be located at a structurally strong location on the building (such as a bearing wall).
- x. Safety. No roof-mounted solar energy system shall be located in a manner that would cause the shedding of ice or snow from the roof into a porch, stairwell or pedestrian travel area.
- y. Reasonable efforts, as determined by the Planning and Zoning Administrator, shall be made to place all utility connections from solar photovoltaic installations underground,

depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

- z. A Large-Scale Solar Energy System conditional use application must include:
 - 1. documentation of actual or prospective access and control of the project site,
 - 2. proof of liability insurance,
 - 3. a public outreach plan, with a timeline, that shows how the project will be completed, and how contact with the public, especially adjacent property owners will be accomplished.
- aa. A large-scale ground-mounted solar energy system which has reached the end of its useful life or has been abandoned consistent with Paragraph 26(d) shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Planning and Zoning Administrator by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - i. Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
 - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning and Zoning Administrator may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
- bb. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale ground mounted solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning and Zoning Administrator. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 180 days of abandonment or the proposed date of decommissioning, the county retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.
- cc. Medium and large-scale solar energy systems are required to maximize ground cover with vegetation that will provide habitat for pollinators and will minimize the potential for noxious weeds. The owner or operator of the system shall include how this ground cover will be maintained in the operation and maintenance plan of the system.

16. Bulk Petroleum Stations and Terminals. The purpose of this subsection is to provide guidance on the reasonable placement and use of facilities and equipment used for petroleum storage, loading, and transport. Bulk petroleum stations and terminals are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application for a bulk petroleum station or terminal:
 - a. All fuel storage structures must be surrounded by a containment system capable of holding 1.5 times the volume of the storage structure.
 - b. The fuel storage facility must not be located within 1320 feet of a residence or public assembly building.
 - i. An emergency management plan for the facility must be approved by the County Emergency Manager, the ND Fire Marshal, and the fire chief of the fire department having fire protection responsibility. This plan must include contribution to local fire protection equipment and training, and ongoing emergency response training exercises.
17. Anhydrous Ammonia Storage Facility. The purpose of this subsection is to provide guidance on the reasonable placement and use of facilities and equipment used for anhydrous ammonia storage, loading, and transport. It is recognized that anhydrous ammonia is a necessary component of farming and ranching, while it poses substantial health and safety risks for people located in the vicinity of the facility and for people who may be loading and transporting the substance. Anhydrous ammonia storage facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application for an anhydrous ammonia storage facility:
 - a. The anhydrous ammonia storage facility must not be located within 1320 feet a residence or educational facility or place of assembly building.
18. Commercial Storage Facility. The purpose of this subsection is to provide guidance on the reasonable placement and use of facilities and equipment used for commercial storage. They are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits.
19. Bed and Breakfast. The purpose of this subsection is to provide guidance for bed and breakfast facilities. Bed and breakfasts are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:
 - a. Proof of compliance with state Department of Health regulations.
20. Fireworks Sales Facilities. The purpose of this subsection is to provide guidance for fireworks sales facilities. They are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use

- permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:
- a. Proof of compliance with federal and state regulations.
 - b. The fireworks sales facility must be located at least 1000 feet from any residential structure.
21. Agricultural Equipment Sales and Service. The purpose of this subsection is to provide guidance for agricultural equipment sales and service facilities. Agricultural equipment sales and service facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:
- a. A site plan that demonstrates adequate space for traffic movements and parking, and illustrates landscaping to enhance the view of the facility from adjacent roads and property.
 - b. Provisions for turning movements and acceleration lanes if required by the County Engineer.
 - c. Proof of compliance with applicable federal and state regulations.
22. Grain Terminal Transloading Facility. The purpose of this subsection is to provide guidance on the reasonable placement and use of facilities and equipment used for grain terminal/transloading facilities. It is recognized that such facilities are a necessary component of farming and ranching, while they can pose substantial health and safety risks for people located in the vicinity of the facility and for people who may be working at the site. Grain terminals and transloading facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:
- a. The facility must not be located within 1320 feet a residence, place of assembly or educational facility building.
23. Places of Assembly. The purpose of this subsection is to provide guidance on the reasonable use of land and buildings for public assembly and interaction for various purposes as the primary use. These purposes include the corporate practice of religion, assembly of community members for various social, fraternal and entertainment activities where groups of people assemble for the primary purpose of interaction. This includes venues for weddings, reunions and similar gatherings. Places of assembly do not include community education or art centers, educational facilities, instructional centers, daycare facilities, family day shelters, conservatories, convention centers, libraries, museums, residential dwellings, recreational and entertainment facilities, theaters or social service distribution facilities which fall under separate definitions in this code. Places of assembly are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:

- a. Proof of compliance with federal and state regulations.
24. Educational Facility. The purpose of this subsection is to provide guidance on the reasonable use of land and buildings for public education for various purposes as the primary use. This includes public k-12 educational facilities, private non-profit k-12 educational facilities, post-secondary educational facilities, community education and other special function educational facilities where education is the primary function of the buildings or land. It does not include daycares or pre-school facilities. Educational facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits.
25. Daycare and Pre-School Facilities. The purpose of this subsection is to provide guidance on the reasonable use of land and buildings for daycare and pre-school facility facilities. There are two classes of daycares and pre-school facilities. Home daycares and pre-school facilities provide services to a limited number of children as defined by ND law. Public daycare and pre-school facility facilities provide services to more than the maximum number of children that are allowed in a home daycare or pre-school facility. When a public daycare or pre-school facility is a part of another land use and is not the primary land use at a site, it must meet the zoning requirements for the primary land use, and the requirements hereinafter described for public daycares and pre-school facilities. Daycare and pre-school facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits.
26. Manufacturing and Assembly Plants. The purpose of this subsection is to provide guidance on the reasonable placement and use of facilities and equipment used for manufacturing and assembly plants. This does not include asphalt plants, manufacture of petroleum products, cement manufacture, manufacture of fertilizers, pesticides or other hazardous materials, alcoholic beverage manufacture, explosives manufacture, slaughterhouses or meatpacking plants, or processing of solid waste. It is recognized that while manufacturing and assembly plants are valuable economic engines for the cities in the county, the space needed for some of these facilities may not be available within a population center, or the impacts may make the uses a poor fit for population centers. Manufacturing and assembly plants are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. Setbacks will be based on a case by case basis, including screening, buffering and other similar design requirements.
27. Crew Housing Facility. The purpose of this subsection is to provide guidance on the reasonable placement and use of crew housing facilities. Crew housing facilities are facilities designed to accommodate Ward County approved housing units for a temporary influx of workers. Crew housing facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. Setbacks will be based on a case by case basis, including screening, buffering and other similar design requirements. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:
- a. A guest registration and management plan that provides clear documentation.
28. Communication Facilities. The purpose of this subsection is to protect the public health, safety, and welfare by:

- a. Encouraging the most efficient location of sites (least number of sites for county wide coverage) for wireless communication facilities.
- b. Encouraging minimum obstruction or impairment of the natural landscape to preserve the visual character quality of the county.
- c. Preventing construction of such facilities in ways or places that result in unnecessary risk to public safety.
- d. The following terms shall be used as herein defined by this subsection:
 - i. Collocation – establishment of telecommunication services by two or more telecommunication providers at a single site and on a single telecommunication support structure
 - ii. Telecommunication Support Structure – the tower or other structure upon which the telecommunication antenna is mounted
 - iii. Telecommunication Facility – the support structure, antenna, and base station together with all the other structural components at a given site (such as the security fence)
 - iv. Telecommunication Antenna – the apparatus which is mounted on the support structure which is used to send and receive telecommunication signals
 - v. Telecommunication Base Station – the apparatus which is not mounted on the support structure but is necessary to be located at the telecommunication facility in order for the facility to function
 - vi. Telecommunications Facility Perimeter – the outermost extent of all structures at the site of a telecommunications facility including anchor points in the case of a guyed support structure (not the leased or owned area for the facility which may be a larger area)
- e. Communication facilities are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:
 - i. Number of towers shall be minimized through the use of shared towers, use of existing structures, and analysis of coverage areas to ensure that tower placement will result in most efficient location
 - ii. Setbacks of structures from property lines, access easements, adjoining habitable structures, and other situations where failure of the structure could cause property damage or personal injury shall be established at tower sites.
 - iii. Potential facility features shall be designed to blend in, in order to minimize disruption to the landscape.
 - iv. Fencing shall be required to limit the potential for trespass and subsequent injury from falls or other activities by unauthorized people at tower sites.

- v. Collocation of Telecommunication Facility – When a telecommunication provider applies to use an existing freestanding telecommunication support, it will be evaluated for approval as a permitted use because the existing support structure has already been approved through the conditional use permitting process.
- vi. Freestanding Telecommunication Facility – conditional use permit required in all districts.
- vii. Existing Building or Other Structure – When a telecommunication provider applies to use an existing industrial building or other industrial structure as the telecommunication support structure, it will be evaluated for approval as a permitted use; otherwise it will be evaluated as a conditional use.
- viii. Portable or Temporary Telecommunication Facilities will be evaluated for approval as a permitted use.
- ix. Relationship to other telecommunication facilities - A service area analysis must be provided to show why the telecommunication facility site will be the best site to meet the county’s objective of the minimal number of sites in the county while providing adequate service to the entire county.
- x. Design and Height:
 - 1. Support structures shall be the minimum height needed to meet the service requirements of the applicant and anticipated collocators.
 - 2. Support structures which are 50 feet to 100 feet high must be designed to serve at least two telecommunications providers.
 - 3. Support structures over 100 feet high must be designed to serve at least three telecommunications providers.
 - 4. All proposed support structures are subject to FAA height requirements where applicable.
- xi. Support structure type – applicable only to freestanding telecommunication facilities.
 - 1. Guyed support structures are not permitted unless a structural engineer certifies that a monopole or lattice support structure is not a feasible design option due to soil stability conditions.
 - 2. Monopole support structures are permitted in all zoning districts.
 - 3. Lattice support structures are recommended in rural preservation districts and discouraged in all other districts.
- xii. Setbacks – applicable only to freestanding telecommunication facilities.
 - 1. The perimeter of any telecommunication facility must be at least 25 feet away from all public rights-of-way, access easements, utility easements, and property lines.

2. The telecommunications support structure shall be located a distance at least 1.25 times the height of the support structure (including all attached appurtenances and antennas) away from all public rights-of-way, access easements, utility or drainage easements, property lines, and habitable structures.
 3. The telecommunications support structure shall be located at least 500 feet away from any residence existing or permitted prior to final approval of the relevant telecommunications facility.
- xiii. Fencing and Security – applicable only to freestanding telecommunication facilities.
1. The telecommunications facility shall have a chain link fence 8 foot tall or taller and locked entry points installed at its perimeter.
 2. The required chain link fence shall have signs posted at least one per side warning trespassers to stay away.
- xiv. Landscaping – applicable only to freestanding telecommunication facilities
1. To the maximum extent possible existing trees, shrubs, and ground cover shall be maintained at the telecommunications facility site.
 2. The county may require appropriate vegetative buffering around the perimeter of the facility to buffer its view from neighboring residences, public areas, public rights-of-way, scenic or historic sites, or for other purposes consistent with the County's comprehensive plan.
- xv. Lighting - Lighting shall be limited to that required by the FAA
- xvi. Visibility and Aesthetics
1. Unless required by the FAA, freestanding support structures shall be a galvanized finish or painted gray or another color which will allow it them to blend into the surrounding landscape.
 2. Telecommunications base stations and other structures shall be of building materials and colors which cause them to blend into the surrounding landscape.
- xvii. Engineering Standards
1. All telecommunication facilities shall be built, operated, and maintained to the standard of the industry and all applicable and adopted Federal, State, and local codes, regulations, and guidelines.
 2. The design and construction of the telecommunications support structure and attached antennas or other appurtenances shall be approved by a structural engineer licensed in the State of North Dakota.
- xviii. Signage – applicable only to freestanding telecommunication facilities

1. No signage except warning signs required by this Ordinance shall be allowed on the site.
- xix. Building Permit Required - building permits are required for any facility construction.
- xx. Abandonment and Removal
 1. Letter of Credit or Bond for Abandoned Telecommunication Facilities - The owner of a telecommunications facility shall be required to provide a letter of credit or post a bond in the amount of \$40,000 to pay for the removal of said telecommunication facility if it is abandoned or no longer being operated.
 2. The owner of the telecommunications facility and the landowner must both sign an agreement providing access to the site and granting the right to remove an abandoned telecommunications facility.
29. Ag related industrial uses such as equipment or grain bin manufacturing. The purpose of this subsection is to provide guidance on the reasonable placement and use of ag related industrial uses. Ag related industrial uses are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits.
30. Salvage yards. The purpose of this subsection is to provide guidance on the reasonable placement and use of salvage yards. Salvage yards can become a public nuisance and be detrimental to the public health safety and welfare by harboring pests and by unsightliness that may negatively impact property values and the time it takes to sell property in its vicinity. Salvage yards must obtain a conditional use permit in order to operate. Salvage yards are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:
 - a. No part of the salvage yard may be located within 1000 feet of the nearest edge of the right of way of any county, state, or federal highway unless:
 - i. The contents of the salvage yard shall be screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of such rights of-way.
 - ii. Any portion of the salvage yard which cannot be screened in accordance with subpart a. above must be removed or relocated.
 - b. No part of the salvage yard may be located within 1000 feet of any pre-existing residence, place of public assembly, or educational facility, park or public facility.
 - c. No part of the salvage yard may be located within 200 feet of any commercial buildings.
 - d. No salvage yard may be located in areas, which due to high water table, flooding, and soil conditions, may affect the quality of surface and ground water.

- e. Any storage of hazardous materials within the salvage yard must meet state and federal standards for their storage, and must be reported to the County emergency manager on an annual basis.
 - f. Any salvage yard which is not actively being operated for a period of more than two years must be completely cleaned of all salvage materials so as to eliminate the potential for harboring pests and posing a health and safety hazard.
31. Landfills and solid waste sites. The purpose of this subsection is to provide guidance on the reasonable placement and use of landfills and solid waste sites. This includes any location where municipal waste is collected or stored before being brought to a landfill for permanent disposal. It does not include special waste or industrial waste landfills which are not included as an allowable use in Ward County. Landfills and solid waste sites are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:
- a. No part of a landfill may be located within 1000 feet of the nearest edge of the right of way of any county, state, or federal highway.
 - b. No part of a landfill may be located within one half mile of any pre-existing residential subdivision, residence, place of public assembly, or educational facility, park or public facility.
 - c. No part of a landfill may be located within 1000 feet of any commercial buildings.
 - d. No landfill or solid waste site may be located in areas, which due to high water table, flooding, and soil conditions, may affect the quality of surface and ground water.
 - e. The landfill must be continuously licensed and approved by the State Department of Environmental Quality as to location and operation.
 - f. There must be no substantive evidence that the facility will endanger the public health or the environment.
 - g. The County hereby adopts solid waste provisions as set out by NDCC, to assure meeting the purposes of this Ordinance and the Ward County Comprehensive Plan.
 - h. All solid waste sites require review and approval by the Board of County Commissioners.
 - i. Recycling Facility Permitting Standards. Because of the nature of recycling facilities as permanent structures, zoning approval and a building permit are required. The following are required conditions for approval:
 - i. The facility does not abut residential or public uses.
 - ii. The facility will be screened from the public right-of-way.
 - iii. The facility shall not be placed in the floodplain.
 - iv. The site shall be free of litter and other undesirable materials. Containers shall be clearly marked to identify the type of material that may be deposited.

- v. There shall be a pest and vector control plan for review and approval.
32. Excavation Regulations Surface Mining. The purpose of this subsection is to provide guidance on the reasonable location and operation of sand, gravel, rock, scoria, top soil, and clay or other mineral mining activities. This does not include borrow pits as separately defined and regulated by this Ordinance. Surface mining is subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits. In addition, each of the following criteria shall be considered when evaluating the disposition of an application:
- a. No excavation of sand, gravel, scoria, top soil, clay, or rock shall be allowed except as provided by this section a conditional use permit shall be required before beginning any excavation of sand, gravel, scoria, top soil, clay, or rock within Ward County.
 - b. Borrow activities related to public road construction are exempt from these standards, except when any aggregate mining is taking place. Borrow activities for private, noncommercial use are also exempt from these standards.
 - c. Conditional Use Permits for surface mining under this section are for a five-year period and/or tied to the lease of the land and must be renewed or reclaimed prior to expiration.
 - d. Application Requirements. The applicant for a permit for excavating sand, gravel, rock, scoria, top soil, and clay shall submit the following:
 - i. North Dakota contractor's license.
 - ii. Vicinity map showing site, proposed haul route, and all residences, and public facilities within one mile of the site and one mile of the haul route.
 - iii. Site map that shows surveyed site boundary and identifies the total acreage to be excavated.
 - iv. Evidence of compliance with all county, state and federal regulations.
 - v. Written evidence of a reclamation plan or agreement binding on the pit operator, applicant and owner of the materials to be mined.

- vi. All contractors performing mineral exploration and production shall be licensed with Ward County to ensure the contractor(s) financial credibility, a letter of credit is required in conjunction with the contractor's county mineral exploration and production license. The letter of credit amount shall be based on the number of pits the contractor is using. The letter of credit scale for pit contractors is set by resolution of the Ward County Board of Commissioners. Additional requirements for the letter of credit are provided in Section 5.
- vii. Written road agreement binding on the pit operator, applicant, surface owners of lands utilized to access the pit other than access by public easement or public right-of-way, and owner of the materials to be mined.
- e. Conditions for Approval. A conditional use permit may not be approved unless the following requirements are met:
 - i. No application shall be for a site of more than 80 surface acres.
 - ii. A Haul Road Agreement shall be entered into between the surface owner and/or pit operator and the political subdivisions whose roads will be impacted by the operation detailing road maintenance responsibility and dust control measures which must accompany the application. The agreement shall be in place during mining and stockpiling activities.
 - iii. Approved dust control plan.
 - iv. Weed Management Plan approved by the Ward County Weed Officer:
 - 1. Documentation provided that the site has been inspected for invasive and/or noxious weeds by the County Weed Officer before excavation commences. The inspection shall occur at a time determined by the County Weed Officer. The Weed Officer shall provide the applicant with documentation of the inspection.
 - 2. If during the inspection, it is determined that the site is infested with invasive and/or noxious weeds, the applicant shall be required to submit a weed treatment plan that has been reviewed and approved by the County Weed Officer.
 - v. Signage and contact information shall be placed at all road access points to the property which identifies:
 - 1. Operator emergency contact information
 - 2. County emergency contact information (iii) Legal owners of the property
 - 3. Pit operator
 - 4. Legal description of the real property upon which development is occurring
- f. Standards and Setbacks.

- i. All mining and excavation sites shall be located to protect and preserve agricultural land and to minimize the traffic, noise, dust, fumes, vibration impact on adjoining uses, and disruption of known water sources.
 - ii. The perimeter of the approved excavation site shall be at least:
 - 1. ¼ mile (1,320 feet) away from any residence, parks and playgrounds, occupied structures intended for public or institutional use, including but not limited to schools, religious institutions, medical facilities, libraries, museums, day cares, and elderly care facilities, unless there is an agreement binding the owner of the residence, the applicant, and the pit operator allowing a lessor distance.
 - 2. 100 feet away from any property line
 - 3. 100 feet (plus any additional distance needed to allow for a 3:1 slope) away from any undeveloped section line
 - 4. 150 feet (plus any additional distance needed to allow for a 4:1 slope) away from local, state, and federal road centerlines and developed section lines
- 33. Public Utility facilities including, fenced facilities for rural water, power, telecommunications, and similar facilities. The purposes of this subsection is to show guidance on regulations pertaining to Public Utility Buildings. This Ordinance essential service facilities shall be classified into two (2) categories (major and minor essential service facilities) and regulated according to the procedures described herein. Required maintenance or rebuilding of any major or minor essential service facility, when such maintenance or rebuilding does not expand the capacity or change the capability or location of the existing facility, shall be exempt from the regulation of this Section. This excludes communication towers.
 - a. Minor Essential Services. All underground telephone lines, pipelines for local distribution or collection, underground transmission lines, overhead utility lines, and electric transmission lines less than 35kv, as well as public utility buildings not customarily considered industrial in use are minor essential services, and are permitted uses in zoning districts subject to the following:
 - i. Before construction of any Essential Services, the owner shall file with the Planning and Zoning Administrator such maps and drawings of the proposed service relating to site location as shall be requested. The Planning and Zoning Administrator shall consult the County Engineer and make suggestions to the owner as to modifications considered desirable under this Ordinance.
 - ii. Essential Service located in right-of-way requires a permit from the road authority.
 - iii. Any Essential Service line located outside of the right-of-way shall meet a 150 foot setback from center line of road, unless the owner of the utility has submitted a signed, notarized agreement with the road authority to relocate their utility, at their cost, if the road is upgraded.

- iv. The County Engineer may require in conjunction with the issuance of a permit, that the applicant submit as-built drawings of the essential service after construction.
 - b. Major Essential Services. A Conditional Use Permit shall be required for all transmissions pipelines (i.e., pipelines not required for local distributing network), overhead transmission and substation lines in excess of 35 kv, electrical substations and similar essential services structures, and sewage lagoons shall be subject to the following procedural requirements. Unless specifically exempted herein, all activities in this section shall be conducted only under a conditional use permit issued pursuant this Ordinance.
 - i. The applicant shall, on forms provided by the county, file an application, with the Planning and Zoning Administrator. The application shall include such maps indicating location, alignment, and type of service proposed, together with the status of any applications made or required to be made under state or federal law to any state or federal agency. The application shall provide the name, address and telephone number of a contact person to which post construction inquiries related to exact location and depth of essential service facilities may be addressed. The application, in the case of pipelines other than water, shall outline a contingency plan including steps to be taken in the event of a failure, leak, or explosion occurring during operation of the pipeline. The operator of the pipeline shall demonstrate its capability and readiness to execute the contingency plan. The county shall have sixty (60) days from the date of initial completed application to accept, reject or modify the application.
 - ii. One set of the information required in this subsection shall be furnished to the County Engineer, who shall review the information and forward his comments and recommendations to the County Planning Commission and County Board.
34. Data Centers. The purpose of this subsection is to provide guidance on data centers. Data centers are intensive land uses that can consume large quantities of water and electricity. Buildings often include industrial HVAC systems or water cooling/storage systems to prevent computer servers from overheating. Such systems commonly generate continuous sound that can spread across property lines. The low-frequency sounds emitted by data centers consist of long wavelengths that are not easily absorbed by the air or blocked by a sound barrier. Long-term exposure to noise impacts the health of Ward County residents. This subsection is adopted to allow data centers in appropriate locations in Ward County and minimize the potential off-site impacts of development to protect public health, safety, and the general welfare of Ward County residents. Data Centers are subject to the general development requirements specified in the Development Plan Requirements Table and the approval standards for conditional use permits.
- a. Permitting- The installation or construction of a data center, or any modification to a lawfully existing data center beyond routine maintenance, requires a Conditional Use Permit. Installation or construction of a data center, or any modifications to a lawfully existing data center beyond routine maintenance, also requires a Ward County Building Permit obtained from the County Building Inspector. Data centers may only be permitted in the Rural Industrial (RI) District with a Conditional Use Permit.

- b. Exemption- Data centers which are solely located on an oil and gas well site or underground gathering pipeline line facility and which are subject to the exclusive jurisdiction of the North Dakota Industrial Commission pursuant to N.D.C.C. Chapter 38-08, or any successor statute, are exempt from this Section.
- c. Application Requirements- The application for the installation or construction a data center, or for modifications to a lawfully existing data center beyond routine maintenance, shall follow the application procedures for Conditional Use Permits and any other procedures as may be required by this Ordinance for data centers, such as zoning map amendments, platting, or variances. In addition, applications shall include the following:
 - i. Applicant name(s) and contact information. The applicant must also identify on the application, if different than the applicant, the record owner of the property, the occupant or lessee of the property, and the operator of the data center.
 - ii. A narrative describing the proposed project, including a description of how the project meets market demand, the facility's processing capacity, and the facility's anticipated water and electricity needs.
 - iii. A study prepared by an acoustical engineer that describes the anticipated noise level of the facility and any proposed mitigation efforts such as sound walls, baffles, ventilation silencers, etc.
 - iv. A site plan, drawn to scale, showing the location and dimensions of all existing and proposed structures, screening, fencing, lighting, electrical connections, property lines, and roadway access.
 - v. A map of the project area showing all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks located within two (2) miles of the exterior boundaries of the property where the data center will be located.
 - vi. All application fees, including the required fees for a Conditional Use Permit and building permits, in the amounts determined by the Board of County Commissioners.
 - vii. Copies of signed permits or other documentation that indicates compliance with all applicable State and Federal laws, statutes, rules, regulatory standards, including but not limited to the North Dakota State Electrical Board and the North Dakota State Electrical Code, and any amendments thereto.
 - viii. Copy of the signed electrical power purchase agreement.
 - ix. Financial security for the following:
 - 1. Financial security for maintenance of the data center, as fully constructed and operational or, if the project only involves modifications to a lawfully

existing data center beyond routine maintenance as permitted by this Ordinance, financial security for maintenance of the lawfully existing data center as modified. The financial security shall be in the amount of 125% of the estimated cost to maintain the data center, as fully constructed and operational, or as modified, as determined by the applicant's engineer, who must be a State of North Dakota registered engineer, with such estimated costs subject to review and approval by the Ward County Engineer; and

2. Financial security for reclamation and restoration of any data center and the property on which the data center is located or, if the project only involves modifications to a lawfully existing data center beyond routine maintenance as permitted by this Ordinance, financial security for reclamation and restoration of the property on which the data center as modified is located. Reclamation and restoration shall include, but is not limited to, the removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and the removal and disposal of all other facilities, structures, equipment, and materials on or under the property. The financial security shall be in the amount of 125% of the estimated cost to reclaim and restore property on which the data center, or the data center as modified, is located as determined by the applicant's engineer, who must be a State of North Dakota registered engineer, with such estimated costs subject to review and approval of the Ward County Engineer. Any financial security provided by the applicant which is required by this Chapter shall be subject to review and approval by the County and be in the form of one or more of the following:
 - (aa) an irrevocable letter of credit issued by an FDIC insured financial institution authorized to do business in the State of North Dakota to be effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and provides for annual automatic renewals continuing to the date when full reclamation and restoration is complete as approved by the County;

- (bb) a surety bond which is effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and provides for annual automatic renewals continuing to the date when full reclamation and restoration is complete as approved by the County; and/or (iii) cash in escrow to be held in trust by Ward County effective beginning on the date that installation and/or construction of, or the approved modifications to, the data center start and continuing to the date when full reclamation and restoration is complete as approved by the County. The financial security required above shall be provided to Ward County prior to commencement of any work to install and/or construct the data center, or to modify a lawfully existing data center beyond routine maintenance, but no later than the date determined by the Board of County Commissioners in approving the data center or in approving the modifications to a lawfully existing data center beyond routine maintenance.
- x. Other relevant studies, reports, certifications, or approvals as may be required by Ward County to ensure compliance with this Chapter and this Ordinance.

9. Design Standards-

- i. Separation from sensitive properties. Data centers shall be set back at least two (2) miles from all single-family and multi-family dwellings, schools, churches, synagogues, and other similar religious institution or structures, and public parks as measured from the nearest property line of any of these sensitive properties to the data center's exterior property lines.
- ii. Height. All buildings, structures, and appurtenances on the property where the data center will be located shall meet the height requirements of the Rural Industrial (RI) District in this Ordinance.
- iii. Electrical wiring. All electrical wiring shall be buried underground, except where wiring is brought together for interconnection to system components or the local utility power grid, provided that all electrical wiring shall comply with the North Dakota State Electrical Board, and any of its rules and regulations.
- iv. Security fencing. A secured chain link or solid wood or masonry fence at least six (6) feet in height shall be constructed and maintained around the entire perimeter of the facility to prevent unauthorized entry onto the property or into the facility.
- v. Buffering and screening. Landscaped buffers shall be required around the entire perimeter of the property where the data center is located in and shall include;

3. To the maximum extent possible existing trees, shrubs, and ground cover shall be maintained at the data center facility site.
 4. The county may require appropriate vegetative buffering around the perimeter of the facility to buffer its view from neighboring residences, public areas, public rights-of-way, scenic or historic sites, or for other purposes consistent with the County's comprehensive plan.
-
- vi. Exterior Lighting Standards. Exterior lighting for the Data Center shall be hooded and directed downward.
 - vii. Accessory structures and appurtenances. All accessory structures or appurtenances, including those constructed for noise mitigation, shall be designed in a manner that is complementary with the primary building(s) and shall be finished in a non-obtrusive color.
 - viii. Roads. All adjacent exterior access roads serving a data center shall conform to Section 8.04 of the Design Standards in this Ordinance. Exterior road construction or improvements shall be subject to approval by the Ward County Highway Engineer or their designee. A road maintenance agreement with any government entity having jurisdiction over the adjacent exterior access roads shall be required during installation or construction of the data center, or during modification of a lawfully existing data center beyond routine maintenance. All interior roads serving the data center shall be subject to review by the Ward County Fire Inspector to ensure safe and adequate access by emergency services personnel.
 - ix. Storm Drainage, Erosion Control, Grading, and Drainage. The data center shall comply with the storm drainage, erosion control, grading, and drainage requirements in Section 5.02 of the Performance and Design Standards in this Ordinance.
 - x. Development Agreement. The applicant and, if different than the applicant, the record owner of the property, the occupant or lessee of the property, and/or the operator of the data center and of the property on which the data center will be located, as determined appropriate by the County, must sign a development agreement which shall include provisions related to, but are not limited to, the posting and use of financial security, exterior and interior road construction or improvement, road maintenance, improvements related to storm drainage, erosion control, grading, and drainage, reclamation and restoration, and/or any other condition imposed by this Chapter, this Ordinance, or the Board of County Commissioners in approving installation of construction of the data center or modifications to a lawfully existing data center beyond routine maintenance.

10. Abandonment or Ceasing Operations- It is the responsibility of the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and the operator of the data center to notify Ward County in writing, at least six (6) months in advance, of the intent to abandon or cease operations of the data center. Any data center that is not operated for a continuous period of six (6) months shall automatically be considered abandoned, and the County may require the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and the operator of the data center to reclaim and restore the property within 180 days after written notice to reclaim and restore the property from the County. Any such reclamation and restoration shall include, but is not limited to, removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and removal and disposal of all other facilities, structures, equipment, and materials on or under the property. If the property is not fully reclaimed and restored as required by this Chapter and/or any Development Agreement within 180 days after written notice from the County, the County may reclaim and restore the property, or cause the property to be reclaimed and restored, including, but not limited to, removal and disposal of all above-ground structures, underground structures, and utilities to depth of four feet, and removal and disposal of all other facilities, structures, equipment, and materials on or under the property and recover costs directly from the original applicant, or if different, the record owner of the property, the occupant or lessee of the property, and/or the operator of the data center. The County may also, in its discretion, recover such costs, by access to and use of the financial security provided and on file for the data center, or by lien or special assessment, or any other remedy, authorized by law or the Development Agreement entered into under this Chapter. Nothing in this Chapter is intended to impose, or imposes, a mandatory obligation on the County to reclaim and restore the property.

Article VI. Issuance of Building and Occupancy Permits

Section 6.01 Enforcement, Building Permits, Approval of Plans

1. A building inspector shall be appointed by the Board of County Commissioners to enforce the provisions of this regulation.
2. PERMITS: No structure of any kind used for residential, commercial or industrial purposes, including accessories thereto, shall hereafter be built, altered or moved within the zoned area of Ward County until a building, alteration, or moving permit has been obtained from the office of the Building Inspector. Such permit shall be good only for one year from date of issuance and any construction beyond said date shall be with the approval of the Board of County Commissioners. No permit is required for maintenance or repair of existing residences, commercial structures, or accessory structures which does not alter the strength or plan of said structure or its mechanical installations, but such maintenance or repair shall comply with all requirements of this regulation. The Board of County Commissioners, prior to the granting of a moving permit, shall hold a public hearing, due notice of which shall have been published once, at least ten days before the date of such hearing, in the official newspaper of the County of Ward. The cost of publication of such notice of hearing is to be paid by the party requesting the moving permit.
3. FEES: There shall be fees payable to the County for applications for plat approval, building permits and other services provided by the County in administering this resolution. Such fees shall be established by the Board of Ward County Commissioners and may be amended from time to time as deemed necessary. All fees collected under provisions of this article shall be credited to the general fund of the county.
 - a. If construction has not begun within said six (6) months after the date of issuance of the permit, said permit shall be cancelled, unless the Board of County Commissions grant an extension of the same as per the adopted International Building Code.
 - b. All structures hereinafter built, altered, or moved within the zoned areas of Ward County are subject to inspection by the Board of County Commissioners or any authorized official appointed by such board.
 - c. It shall be unlawful for any association, company, person, firm, cooperative, or corporation to use, or permit to use, or to supply electric current for electrical wiring for lights, heat, or power in any building or structure within the zoned area of Ward County, unless the required permits and a Certificate of Inspection and approval of such building, structure, and electrical circuits have been issued by the Board of County Commissioners of the County of Ward, Ward County Building Inspector, or by an authorized representative thereof. The Certificate of Approval shall be attached to the electrical meter.
 - d. The fees for building permits shall be established by the County Commission by resolution.

Section 6.02 Construction Requirements, Single Dwelling Units and Multiple-Attached Dwelling Units and Accessory

1. All structures or parts of structures used for single dwelling units, multiple attached dwelling units, commercial structures and accessory structures thereto shall be designed and constructed in such a manner as to comply with the following requirements:
 - a. For the purpose of establishing rules and regulations for the construction, alteration, equipment and maintenance of all residential structures and accessory buildings, constructed or reconstructed within the zoned area of Ward County, that certain building code shall be the same as the North Dakota State Building Code as identified in Section §54-21.3-03 of the NDCC and amendments thereto and on file in the office of the Ward County Building Inspector and the same is hereby made a part of this resolution and incorporated therein fully as if set out at length herein, and from the date of this resolution takes effect the provisions thereof shall be controlling in the construction of all residential buildings accessory thereto.

Section 6.03 Construction Requirements, Commercial Structures and Accessories Therein

1. For the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, and maintenance of commercial and industrial structures and accessories thereto within the zoned areas of Ward County, that certain building code shall be the same as the North Dakota State Building Code as identified in Section §54-21.3-03 of the NDCC and amendments thereto and on file in the office of the Ward County Building Inspector and the same are hereby adopted and incorporated as fully as if set out at length herein; and, from this date on which this regulation shall take effect, the provisions thereof shall be controlling in the construction of all commercial and industrial structures or accessories thereto constructed, reconstructed, altered, or moved within the zoned areas of Ward County.

Section 6.04 Permit Requirements for Farm Properties

1. The provisions of this ordinance regarding “off-street parking and loading requirements”, “building permits”, “demolition permits”, “moving permits”, as outlined in Article V and Article VI of this ordinance, shall not apply to farm buildings, or farm lands meeting the definition of a “Farm” as described and defined in Article II Section 2.03 of this ordinance. Determination to be known as the Permit Exemption for Farm Properties (PEFP) for structures that are exempt from any permitting.
2. All structures regardless of permit exempt status must meet required setbacks from all public roads as described in the “Dimensional Standards” of the zoning district wherein the property lies.

3. Farm residential structures, other habitable structures or structures open to the public are required to apply for Farm Property Building Permit as defined by state law. Habitable structures and structures open to the public will require a development review performed by the Building Inspector, Planning & Zoning and County Engineer to ensure the property and structure meet the requirements of the PEFP and to determine compliance with other provisions included in this ordinance from which farm residential structures, habitable structures and structures open to the public are not exempt, including Ward County Floodplain Regulations.

Section 6.05 Billboards and Signs

1. For the purpose of establishing rules and regulations for the construction, alteration, removal, demolition, equipment, and maintenance of billboards and signs within the zoned areas of Ward County, the Uniform Sign Code and its Amendments as may hereafter be established is the governing authority and amendments thereto and on file in the office of the Ward County Building Inspector and the same are hereby adopted and incorporated as fully as if set out at length herein; and, from this date on which this regulation shall take effect, the provisions thereof shall be controlling in the construction of all billboards and signs thereto constructed, reconstructed, altered, or moved within the zoned areas of Ward County.

Section 6.06 Bond Requirements

1. No structure of any kind used for residential, commercial, or industrial purposes, shall be moved into the zoned area or within the zoned area covered by this resolution until a bond has been posted with the County of Ward in an amount sufficient to construct such improvements, the amount to be determined by the County Building Inspector and the form and surety of the bond to be approved by the appropriate county legal office. Until a bond has been posted with the Building Inspector, no permit shall be issued by the Building Inspector.

Section 6.07 Inspection/Sanitary Requirements

1. No building other than those used for farming in the zoned areas of Ward County shall hereafter be erected, reconstructed, moved, or any work started upon same until proper permits have been obtained from the Building Inspector as provided by this ordinance. The building inspector shall not issue a permit until the following has been determined:
 - a. Source of Water Supply: Whenever a building is to be and not connected to an approved water supply, evidence shall be submitted showing that the system to be provided is considered as being safe and satisfactory by the State Health Department or other designated agency.
 - b. Sewage Disposal: Whenever a building to be erected is not connected to an approved sanitary sewer system, evidence shall be submitted showing that the system and the method of disposal are considered satisfactory by the State health Department or other designated agency. Such information shall include leaching capabilities of the particular soil in question.

Article VII.

Section 7.01

Floodplain Regulations

See Ward County Floodplain Zoning Ordinance

Article VIII. Subdivision Regulations

Section 8.01 Purpose

1. In order to provide for the proper arrangement of streets in relation to other existing and planned streets, and to the subdivision plan; to provide for adequate and convenient open spaces, for recreation, for light and air; in order to avoid congestion of population; in order to provide for traffic, for utilities, for access of fire-fighting apparatus; in order to provide for and improve the public health, safety and general welfare of the County of Ward, the following rules and regulations for the plating and subdivision of zoned land within the County of Ward are made part of this regulation in accordance with the laws of the State of North Dakota.

Section 8.02 Procedure

1. Before preparing the general plan of a subdivision, the subdivider should consult informally with the County Planning Commission and the County Engineer concerning the relation of his property to existing conditions, future plans, community facilities, utilities and services.

Section 8.03 Tentative Approval

1. The subdivider shall apply to the Planning Commission for tentative approval of a subdivision plat.
2. Three prints of the preliminary plan of the subdivision shall be filed with the Planning Commission at the time application for tentative approval is made. The plat shall comply with the provisions of this section. Fees charged for the filing of a subdivision plat shall be paid in full, on the basis of estimated number of lots created, at the time of application for tentative approval.
3. The Planning Commission shall approve, approve conditionally or disapprove such preliminary plat. If approved with modification or waiver of certain requirements by the Planning Commission, the reasons therefore shall be specified. If approved conditionally, the conditions and reasons therefore shall be stated. In any conditional approval, the Planning Commission may require the subdivider to submit a revised preliminary plat. If disapproved, the reasons for that action shall be stated, and if possible, the Planning Commission shall make recommendations on the basis of which the proposed subdivision may be approved.
4. Items that may also be required for the approval process of a subdivision plat are, but not limited to; financial instruments for development of infrastructure, a stormwater management plan, HOA, Hydrologic and Hydraulic (H&H) Study, approval for connection to sewer services or on-site septic, a potable supply of cold water, additional egress, a master plan of development.

5. The action of the Planning Commission shall be entered on the official records of the Planning Commission, including any conditions imposed and the reasons for any disapproval of a preliminary plat. The approval or disapproval of the Planning Commission shall be noted on two prints of the preliminary plat, one of which prints shall be returned to the subdivider and the other retained by the Planning Commission.
6. Tentative approval of a preliminary plat by the Planning Commission is not an acceptance of the subdivision plat for record, but is rather an expression of approval of a general plat as a guide to preparation of a subdivision plat for final approval and recording upon fulfillment of all requirements of these regulations.
7. Tentative approval shall be effective for a maximum period of twelve months, unless, upon application by the developer, the Planning Commission grants an extension. If the final plat has not been submitted for final approval within this time limit, a preliminary plat must again be submitted to the Planning Commission for tentative approval.

Section 8.04 Design Standards.

1. Streets and Alleys.
 - a. The arrangement, character, extent, width, grade and location of all streets shall conform to the Subdivision Plan and shall be considered in relation to existing and planned streets, to topographical conditions, and to the proposed uses of lands to be served thereby.
 - b. Where it is now shown on the Subdivision Plan, the arrangement of streets in a subdivision shall either:
 - i. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
 - ii. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance of or conformance to existing streets impractical.
 - c. Minor streets shall be so laid out that their use by through traffic is discouraged.
 - d. Where a subdivision abuts or contains an existing or proposed major street, the Planning Commission may, at its discretion, require marginal access streets, reverse frontage of lots with a screen planting contained in a no-access reservation along the rear property lines, deep lots with rear service alleys, or other treatment that it deems advisable to give adequate protection to residential properties and afford separation of through and local traffic.
 - e. Private streets shall be prohibited.
 - f. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the county under conditions approved by the Planning Commission.

- g. Street jogs shall be avoided.
- h. A tangent at least 100 feet long shall be introduced between reverse curves on major and secondary streets.
- i. When connecting street lines deflect from each other by more than ten degrees, they shall be connected by a curve of adequate radius to insure clear visibility for all vehicles.
- j. Intersecting streets shall be laid out at as nearly right angles as possible, and no such angle of intersection shall be less than 60 degrees.
- k. Property lines at street intersections shall be rounded with a radius of ten feet, or of a greater radius where the Planning Commission may deem necessary. The Planning Commission may permit chords or cut-offs in place of rounded corners.
- l. Right- of-way and roadway widths in a subdivision shall be not less than as follows:

Class of Road	Right of Way
Frontage Roads	80 ft (40 ft from centerline)
Rural Subdivision Roads	80 ft (40 ft from centerline)

Plats proposed along existing roads or statutory right-of-ways, such plats shall show existing North Dakota statutory right-of-way.

- m. Interior subdivision roads shall meet building setbacks established for the zoning district in which they are located.
- n. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other standards of these regulations, and where the planning commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever there exists a half-street adjacent to a tract to be subdivided, the other half shall be platted within such tract.
- o. Dead-end streets designed to be permanently without outlet shall be no longer than 500 feet, and shall be provided at the closed end with a turn-around having an outside roadway diameter of at least 100 feet.
- p. No street names will be used that will duplicate or be confused with the names of existing streets. Streets that are now or will eventually be continuations of existing streets shall be called by the names of the existing streets.
- q. All streets shall have a grade of not less than 0.5 percent. No major street shall have a grade in excess of 8 percent and no other street shall have a grade in excess of 10 percent, or as the Planning Commission shall approve.
- r. The width of all residential alleys shall be 20 feet; all other alleys shall be 30 feet.
- s. Dead-end alleys should be avoided, but if unavoidable, shall be provided with 50 feet in diameter turn-around facilities at the closed end.

- t. Minimum road standards for township subdivision roads:
 - i. Culvert design frequency 25 years
 - ii. Culvert diameter minimum 18 inches
 - iii. Graded roadbed width 30 feet
 - iv. Right-of-way width 80 feet
 - v. Slopes (in, out and back) 4' to 1'
 - vi. Base of ditch width 5 feet
 - vii. Road bed elevation * 1 foot above side terrain*
 - viii. * Or 13 feet minimum from shoulder to a point level with roadbed when 3 to 1 slopes and 4 foot ditch are inclusive.
 - ix. Depth of roadbed gravel 6 inches
 - x. Maximum gradient 7 percent and up to 10 percent if not longer than 300'
 - xi. Cul-de-sac radius 60' of road surface plus additional 15' of boulevard to equal 75'
 - xii. Finished road surface width 24 feet
 - xiii. Ditch depth shall be a minimum of two feet below shoulder of new road. If curb and gutter is used, the ditch requirements will be eliminated.
- u. The platting of land for a rural subdivision that includes public access roads shall have the roads built to the minimum design standards (definition found in Subsection 1). The building of the public access roads is a condition precedent to the recording of the plat, unless an Escrow or Irrevocable Letter of Credit can be provided. The submitter proposing the rural subdivision shall be required to provide an estimate of the costs to build said road along with a preliminary plan and profile drawing with the preliminary plat for review by the county Engineer. Upon approval of the estimate and preliminary plan by the County Engineer, the submitter will be allowed to post a financial instrument with the submission of the final plat for recording, to assure building of the road. The road will be required to be designed and inspected by a professional engineer so that a certification can be provided at the completion of the road construction. The certification shall provide language that the road was built to generally accepted construction standards including the minimum design standards contained herein.
- v. Financial Instrument Requirements, including Escrow or Irrevocable Letter of Credits.

- i. Requirements for projects prior to recording of the plat.
 - 1. Full set of final plans stamped/signed by a licensed engineer.
 - 2. An Engineer's cost estimate including contingency and engineering.
 - 3. A copy of the construction contract with bid items to complete the project.
 - 4. Project would require a contract bond.
 - 5. Escrow or irrevocable letter of credit document with funding in the account equal to or greater than the construction contract + 20% contingency + Engineering cost for inspection and certification.
 - aa. Irrevocable letters of credit from financial institution located within the State of North Dakota are the only acceptable instrument allowed by Ward County to provide financial assurance for project improvements and site restoration.
 - bb. The applicant must furnish the County with an irrevocable letter of credit from a financial institution providing authorization and guarantee that the County may draw on the applicant's account amounts not to exceed the required financial guarantee.
 - cc. Each irrevocable letter of credit shall be provided in a form acceptable to the Zoning Administrator.
 - dd. The irrevocable letter of credit shall extend at least 1 year beyond the expiration date of the anticipated project completion date.
 - ee. The letter of credit shall be irrevocable and shall provide for sixty (60) days' notice to the County and approval of any change, amendment, or termination.
 - ff. The irrevocable letter of credit shall be accepted as a financial guarantee only after review and approval by the Zoning Administrator and States Attorney.
 - 6. Development Agreement
 - 7. County would sign off on the documents, and the plat can be recorded.
- ii. If using an Escrow account for funding, the continued requirements after plat is recorded and prior to releasing any funds from escrow include;
 - 1. Ward County would receive a copy of the contract bond.
 - 2. All payments will be made by progressive estimate, approved by engineer and then the county.

3. All payments will require a contractor's affidavit of payment.
 4. Any contingency funds would be held until the project is completed and certified by the engineer and a release letter from the county.
 5. No building permits will be issued until the project is complete.
- w. For any residential development creating more than thirty (30) dwelling units, existing or proposed, at least two (2) separate and approved public access routes shall be provided. Residential developments shall be provided with at least two separate and approved fire access roads when the number of dwelling units exceeds thirty (30). When two or more subdivisions, developments, or land divisions utilize the same primary access road or point of ingress/egress, the total number of existing and proposed residential lots served by that access shall be calculated cumulatively. If the combined total exceeds the maximum number of lots permitted for a single access, a secondary access shall be required as a condition of approval for the new or expanded development.

The secondary access road shall be placed at a location that provides geographic separation from the primary route to ensure reliable emergency access in the event of blockage, weather, or roadway failure. The secondary access route shall be designed and constructed to meet applicable roadway standards and must connect to an existing public road network independent of the primary access. No lot shall be recorded beyond the 30th unit until the secondary access route is completed.

The requirement for a secondary access may be waived only when the applicant demonstrates, through an engineered traffic and emergency access analysis, that adequate safety, turnaround, and evacuation conditions exist without an additional access route. The study shall include an evacuation time assessment demonstrating that all residents can exit the subdivision within an acceptable timeframe under emergency conditions using a single access route. No waiver shall be granted without written recommendation or studies from the Fire Chief, Emergency Manager, and County Engineer to be presented to Planning Commission for their recommendation and ultimately be presented to County Commission for final approval. Waivers may not be granted for developments exceeding sixty (60) lots or 600 daily vehicle trips

2. Easements.

- a. Easement across lots or centered on rear or side lot lines shall be provided at least ten feet wide where necessary for overhead or underground utilities.
- b. Where a subdivision is traversed by a water course, coulee, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction or both that will be adequate for such purpose. Parallel streets or parkways may be required in connection with such drainage easement.

3. Blocks.

- a. Residential block length should usually not exceed 1,000 feet nor be less than 300 feet.
- b. Pedestrian crosswalks not less than 15 feet wide may be required in blocks longer than 600 feet where such crosswalks are deemed by the Planning to schools, playgrounds, shopping centers, transportation, or other community facilities.
- c. The width of blocks shall generally be sufficient to allow two tiers of lots.
- d. Blocks intended for business and industrial use should specifically be designated for such purposes with adequate space set aside for off-street parking and delivery facilities.
- e. Where frontage is on a major or secondary street, the long dimension of the block should front thereon.

4. Lots.

- a. Lot dimensions and areas shall follow the district parcel is located in, unless a variance is granted in accordance with Section 8 of this article.
- b. Lots served by public water supply and sanitary sewers:
 - i. Minimum Width at: 50 feet
- c. Lots served by only public water supply or sanitary sewers:
 - i. Minimum Width at: 75 feet
- d. Lots served by neither public water supply nor sanitary sewers:
 - i. Minimum Width at: 150 feet
- e. Platting of lots for commercial purposes should be avoided in favor of the comprehensive design of a balanced shopping center providing for off-street parking and loading space.
- f. All lots shall abut on a street or other public right-of-way.
- g. Double frontage and reverse frontage lots shall be avoided.
- h. Corner lots shall be of extra width sufficient to maintain building lines on both streets.
- i. Side lot lines shall be approximately at right angles or radial to street lines.
- j. A screen planting easement may be required between residential and commercial or industrial lots.

5. Outlots and Outlot Plats

- a. In addition to all applicable design standards described in this Article, outlots and outlot plats shall meet the following requirements:

- i. An outlot plat shall contain no more than two lots. Plats including more than two lots shall be prepared as subdivision plats.
- ii. In accordance with other provisions of this resolution, all outlots and lots resulting from subdivisions of outlots shall meet the minimum acreage requirements for the district wherein they reside.
- iii. All lots shall border and be tangent to a publicly maintained road's existing right-of-way or the centerline of the road where no platted or statutory right-of-way exists as a means of access to the lot. Primary access to any lot by easement is not allowed. If a lot does not access a publicly maintained roadway, then the roadway shall be improved to meet the minimum standards:
 - 1. Culvert design frequency of 25 years
 - 2. Culvert diameter minimum of 18 inches
 - 3. Graded roadbed width of 30 feet
 - 4. Right-of-way width of 66 feet
 - 5. Slopes (in, out, and back) with a ratio of 4:1
 - 6. Base of ditch width of 5 feet
 - 7. Road bed elevation of 1 foot above the side terrain or a minimum of 13 feet from the shoulder to a point level with the roadbed when 3:1 slopes and a 4 foot ditch are inclusive
 - 8. Depth of roadbed gravel at least 6 inches
 - 9. Maximum gradient of 7 percent and up to 10 percent if not longer than 300 feet
 - 10. Cul-de-sac radius of at least 60 feet of road surface plus an additional 15 feet of boulevard for a total of 75 feet
 - 11. Finished road surface width of at least 24 feet
 - 12. Ditch depth shall be a minimum of 2 feet below shoulder of new road. If curb and gutter is used, the ditch requirements will be eliminated.
- iv. Where a strip of land included in a platted outlot or lot is intended as access to the lot (for a driveway), such strip shall be a minimum of 30 ft. wide unless the length of the strip of land is greater than 150 feet in which case the strip shall be a minimum of 40 ft. wide.
- v. Existing right-of-way shall be clearly shown on plats.
- vi. Outlot plats must be submitted on cardstock with a minimum paper weight of 67#.

- vii. Outlot Plats are exempt from right-of-way dedications required in Article VIII, Section 8.04.

Section 8.05 Specifications for Plats.

1. The preliminary plat shall contain the following:
 - a. Proposed name of subdivision.
 - b. Location by section, township and range, or by other legal description.
 - c. Names and addresses of developer and surveyor who made the plat.
 - d. Scale of plat, which shall be one inch equals 100 feet.
 - e. Date.
 - f. North point indication.
 - g. Boundary line of proposed subdivision indicated by a solid heavy line.
 - h. Total acreage within subdivision.
 - i. Name, location and width of all existing or prior platted streets, indication of type and width of surfacing thereon; name, dimensions and location of railroad and other utility right-of-way, parks and other public open spaces, permanent buildings or structures, corporation boundaries and section lines within or adjacent to the subdivision.
 - j. Existing water mains, storm sewers, sanitary sewers, culverts, bridges and other utility structures within the tract, indicating pipe sizes, grades and exact locations, as obtained from public records.
 - k. Existing zoning of proposed subdivisions and adjacent tracts, in zoned areas.
 - l. Boundary lines of adjacent tracts of subdivided and unsubdivided land, showing owners.
 - m. Contours with a minimum contour of five feet.
 - n. Layout of proposed streets, alleys, crosswalks, and easements, showing all widths and proposed street names.
 - o. Layout, numbers and dimensions of lots.
 - p. Parcels of land intended to be dedicated or reserved for public use, or set aside for use of property owners of subdivisions.
 - q. Building setback lines, showing dimensions.
 - r. A key map at a scale of 1 inch equals 400 feet or less, showing the boundary of the

proposed subdivision and covering the area within a half-mile radius thereof.

- s. One hundred year flood zone, flood way and recorded flowage easements.

2. Final Plat.

- a. The final plat shall be submitted on 18 x 24 mylar provided that when more than one sheet is required, the number of sheets in the set shall be shown on each sheet. The final plat shall contain the following:
 - b. Name of subdivision.
 - c. Location by section, township and range, or other legal description.
 - d. Names of owners and surveyor.
 - e. Scale, which shall be 1 inch equals 100 feet and shall be shown graphically.
 - f. Date.
 - g. North point indication.
 - h. Boundary line of subdivision based on an accurate traverse with angular and lineal dimensions indicated.
 - i. Exact location, width and name of all streets within and adjoining the subdivision and the exact location of all alleys and crosswalks.
 - j. True angles and distances to the nearest established street lines or official monuments (not less than 3) which shall be accurately described on the plat.
 - k. City, township, county or section lines accurately tied to the boundary lines of the subdivision by distance and angles.
 - l. Radii internal angles, points of curvature; tangent bearings and lengths of all arcs.
 - m. All easements for right-of-way provided for public services and public utilities.
 - n. All lot numbers and lot lines, with accurate dimensions in feet and hundredths.
 - o. Accurate location of all monuments, which shall be of concrete, 6 inches by 6 inches by 30 inches, with an iron pipe cast in the center. One such monument shall be placed at each corner and in each change of direction in the boundary line of the subdivision; one such monument shall be placed at each block corner; and one such monument shall be placed at the point of curvature and point of tangency of each curve in a street line on one side of the street.
 - p. Accurate outlines and legal descriptions of any areas (not including streets, alleys, or public utility easements) to be dedicated or reserved for public use, with purposes

indicated thereon; and any area to be reserved by deed covenant for common use of all property owners.

- q. Building setback lines, accurately shown with dimensions.
- r. Certification by registered surveyor to the effect that the plat represents survey made by him or her, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.
- s. Notarized certification by the owners of the land of the adoption of the plat and the dedication of sewers, water distribution lines and other improvements and of streets and other public areas.
- t. Proper form for the approval of the Planning Commission.
- u. Proper form for acceptance of plat, and amendment of Subdivision Plan by Board of County Commissioners.
- v. One hundred year flood zone, floodway and recorded flowage easements.
- w. Final mylar shall be submitted to the Planning & Zoning Administrator no later than 60 days after County Commission approval to secure County Chairman's signatures. If failure to submit final mylar within timeframe, applicant shall be required to resubmit plat with Planning Commission, unless extension has been provided.
- x. After final approval of the subdivision by County Commission, subdivider shall record approved mylar with the County Recorder within 12 months of approval, unless an extension has been provided to accommodate building of infrastructure or egress.

3. Protective Covenants.

- a. Any proposed protective covenants that are to run with the land will be submitted with the final plat. These covenants may be shown upon the final plat but if they are not so shown, they shall be submitted with the final plat in form for recording, and shall be recorded in the Ward County Recorder's office at the same time the final plat is recorded.

4. Additional requirements for all subdivision and outlot plats:

- a. State Plane Coordinates for a minimum of two corners of the platted parcel shall be indicated on the plat within six (6) inches. Whenever possible, the State Plane Coordinates indicated on the plat shall include the end points of the longest baseline on the plat.
- b. The coordinate basis shall be the North American Datum of 1983 Zone 3301 (North Dakota – North). Units used in State Plane Coordinates shall be U.S. Survey Feet (1m=39.37 inches).
- c. The name of the National Geodetic Survey Station used to establish State Plane

Coordinates for the platted parcel, along with the Station's State Plane Coordinate, shall be indicated on the plat.

- d. An Appropriate scale factor for converting distances shown on the plat to distances consistent with the State Plane Coordinate System shall be indicated on the plat to a minimum of eight (8) decimal places.
- e. An electronic copy of the plat in SutoCAD format shall be submitted with the hard copies of all plats to be supplied to the County Engineer by the Planning Commission Secretary. The coordinate basis of the electronic drawing file shall be the North American Datum of 1983 Zone 3301 (North Dakota – North).
- f. Plats are to be submitted in grid coordinates only.

Section 8.06 Outlot and Subdivision Plat Approval

- 1. Final plats of outlots and subdivisions of land located within the boundaries of the district(s) covered by this Resolution shall be approved by the Board of Ward County Commissioners in accordance with the procedures described in NDCC §11-33.2-12 and/or as it may be amended. The Ward County Planning Commission is hereby empowered to investigate and to conduct public hearings into the public use and interest proposed to be served by proposed plats and to consider the public health, safety and welfare elements of NDCC §11-33.2-12 paragraph 3 and, if relevant, the potential effect on the value of adjoining property in making a recommendation for approval or disapproval to the Board of Ward County Commissioners. No outlot or subdivision plat of land included within the boundaries of the zoning districts covered by this Resolution shall be recorded in the office of the Ward County Recorder's Office until approved by the Board of Ward County Commissioners.
- 2. A parcel of land of 40 acres or more, or land to be used for farming shall not require a plat so long as it is not irregularly shaped, can easily be described, and has access from a public road.

Section 8.07 Vacation.

- 1. Vacation of subdivisions, plats, outlots, streets or alleys or any part thereof, shall be with the approval of the Ward County Planning Commission and shall conform to the rules as the Planning Commission may set forth.

Section 8.08 Variances.

- 1. Hardship.
 - a. Where it can be shown in the case of a particular proposed subdivision, that strict compliance with the requirements of these regulations would result in extraordinary hardship to the subdivider because of unusual topography, or other such conditions would result in retarding the achievement of the objective of these regulations, then the Planning

Commission may vary, modify or waive requirements so that substantial justice may be done and the public interest secured; provided that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of these regulations, or of the Subdivision Plan.

- a. In no case shall any variance, modification or waiver be more than a minimum easing of the requirements;
- b. in no case shall it have the effect of reducing the traffic capacity of any major or secondary street;
- c. in no case shall it be in conflict with existing zoning regulations.
- d. In granting variances, modification or waivers, the Planning Commission may require such conditions as will in its judgment; secure substantially the objectives of the standards and regulations so affected.

2. Large Scale Developments.

- a. These regulations may be modified by the Planning Commission in the case of a plan for a new town or a complete community or neighborhood unit, with a building and development program which, in the judgment of the Planning Commission, provides and dedicates adequate public open spaces and improvements for the circulation, recreation, education, light, air and service needs of the tract when fully developed and which provides such covenants, financial guaranties, and other legal assurances that the plan will be followed and will be achieved.

Section 8.09 Fees.

1. In order to cover the costs of examining plans, advertising and holding public hearings, and other expenses incidental to the approval of a subdivision, the subdivider shall pay a fee at the time of application for tentative approval of a preliminary plat. Such fee will be based upon the estimated number of lots created. At the time of application for final approval of the subdivision the required fee will be re-calculated on the basis of the actual number of lots created, and an adjustment of the fee will be made, the subdivider to pay an additional amount or to receive a refund of any portion of the fee if the subdivider fails to apply for final approval of the subdivision. If, because of the failure of the subdivider to submit a final plat within 12 months after receiving tentative approval of a preliminary plat, it is necessary to re-submit a preliminary plat for tentative approval, the subdivider shall be required to pay the fee currently in effect at the time of resubmission.
 - a. The fees for all applications and for all permits shall be established by the County Commission by resolution. The acceptance of all applications, issuance of permits, or recording of any plat shall not occur until a complete application has been filed and the appropriate fees have been paid.
 - b. All fees and penalties collected shall be credited to the general fund of the County of

Ward.

- c. All fees established by this section are in addition to any sums paid to cover the costs of review of improvement plans and filed inspection of construction required under the provisions of these regulations.

Section 8.10 Effective Date

1. This resolution shall be in full force and effect from and after its passage, publication and recordation as provided by law.

Section 8.11 Amendments-Planning Commission.

1. The Planning Commission may, from time to time, adopt and amend rules and instructions for the administration of these subdivision regulations to the end that approval of plats will be expedited.
2. These subdivision regulations may be changed or amended by the Planning Commission after a public hearing, due notice of which shall have been given in the official newspaper of the County of Ward and such other newspaper as the Planning Commission shall designate, at least ten days before the date of such hearing.
3. These subdivision regulations, and any amendments thereto, shall be published, and shall be recorded with the Ward County Recorder's Office in the appropriate county or counties, as provided by law.

Section 8.12 Severability.

1. If any section, paragraph, clause, phrase or part of these subdivision regulations is for any reason held invalid, such decision shall not affect the validity of the remaining provisions of these regulations; and the application of those provisions to any persons or circumstances shall not be affected thereby.

Section 8.13 Board of County Commissioners to Act as Board of Appeal Separate Hearings.

1. Any person aggrieved by any provision of a resolution adopted hereunder, or any amendment thereto, may, within sixty (60) days after the taking effect of such provision, petition for a separate hearing thereon before the Board of County Commissioners. The petition shall be in writing and shall specify in detail the ground of the objections. The petition shall be filed with the County Auditor. A hearing thereon shall be held by the Board no sooner than ten (10) days, nor longer than forty (40) days, after the filing of the petition with the County Auditor who shall notify the petitioner of the time and place of the hearing. At this hearing the Board of County Commissioners shall consider the matter complained of and shall notify the petitioner, by registered mail, what action, if any, it proposes to take thereon. The provisions

of this action shall not operate to curtail or exclude the exercise of any rights or powers of the Board of County Commissioners or any citizen.

2. May Adjust Enforcement.

- a. The Board of County Commissioners is authorized to adjust the application or enforcement of any provision of a resolution hereunder in any specific case where literal enforcement of such provision would result in great practical difficulties, unnecessary hardships, or injustice, so as to avoid such consequences, provided such action shall not be contrary to the public interest or the general purposes hereof.

3. Appeals to District Court.

- a. Any person or persons jointly or severally aggrieved by a decision of the Board of County Commissioners, under this act, may appeal to the district court in the manner provided in Chapter 11-11 of the North Dakota Century Code, as amended.

Section 8.14 Amendments-County Commission.

1. The Board of County Commissioners may, from time to time, amend this regulation by supplementing, changing, modifying, or repealing any of the regulations, restrictions, or other provisions thereof, or of district map, or the districts on said map, or of the boundaries of such districts. A proposed amendment may be initiated by proceedings as established by Chapter 11-33 of the North Dakota Century Code.

Section 8.15 Enforcement and Legal Procedure.

1. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this resolution, the proper authorities of the County, or any person the value or use of whose property is or may be affected by such violation, in addition to other remedies, may institute any appropriate action or proceedings in equity to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conducted business, or use in or about such premises.

Section 8.16 This Regulation Not to Affect Farming.

1. No part of this regulation shall be construed as prohibiting or restricting the use of land or buildings for farming or any normal incidents of farming.

Section 8.17 Severability.

1. If any section, subsection, sentence, clause, or phrase of this regulation is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the regulation. The Board of County Commissioners of the County of Ward hereby declare that it would have passed this regulation and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases may be declared invalid or unconstitutional.

Section 8.18 Repeal of Conflicting Provisions.

1. The resolution establishing Zoning District No 1 dated June 9, 1955, resolution establishing Zoning District No 2 dated June 9, 1955, resolution establishing Zoning District No. 3 dated June 9, 1955, the resolution establishing Zoning District No. 4 dated January 3, 1957, the resolution establishing Zoning District No. 5 dated April 20, 1961, resolution establishing Zoning District No. 6, dated September 18, 1962, resolution establishing Zoning District No. 7, dated May 16, 1995 and resolution establishing Zoning District No. 8, dated January 7, 2003 with all amendments thereto, are hereby repealed, as are all regulations or parts of regulations in conflict with this resolution.

Article IX. Enforcement and Penalties

Section 9.01 Purpose and Procedure

1. The Zoning Administrator, Building Inspector, or other designated person shall inspect for violations of these Ordinances or Codes, including without limitation, failure to comply with any of its requirements and violations of conditions and safeguards established in connection with grants of variances, and shall investigate reports of such violations. When the Zoning Administrator, Building Inspector, or other designated person determines that a violation has occurred, the Zoning Administrator, Building Inspector, or other designated person, shall give written notice to the owner or occupant of the property that a violation has occurred and order the violation be abated and the property, structure or use be brought into compliance with these Ordinances, Codes or granted variances.
2. A reasonable amount of time, but no less than five (5) days nor more than forty-five (45) days must be allowed for compliance, unless such violation is deemed to have created emergent conditions that cause threat to human safety and welfare, then such abatement may be immediate.
3. It shall be a violation for any person or organization, whether as owner, lessor, agent, manager, employee, tenant or occupant, to violate any provision of these Ordinances or Codes. In addition, it shall be a violation for any person or organization to cause or, with knowledge, permit such violations. A violation of any provision of these Ordinances or Codes shall constitute the maintenance of a public nuisance.
4. Any person or organization shall be deemed to have committed a separate violation for each and every day during any portion of which a violation of any provision of these Ordinances or Codes is committed, caused, with the knowledge permitted, or continued by such person or organization and shall be subject to the remedies as provided by this section and North Dakota law.
5. The Zoning Administrator, Building Inspector, State's Attorney or other designated person may institute appropriate action or proceedings for the purpose of:
 - a. Prosecuting any violation
 - b. Restraining, correcting, or abating such violation.
 - c. Preventing any illegal act, conduct, business or use in or about any building, structure or land use in violation of these Ordinances or Codes.

6. The Ward County Planning Commission, and approved by the board of the Ward County Commissioners may establish a schedule for permit fees and violations of pertaining to these Ordinances and Codes as set out in the fee schedule of Ward County Planning and Zoning Ordinances. Any person or organization which violates any provision of these Ordinances or Codes, or, caused or with the knowledge permitted, the violation or fails to comply with any of its requirements including the conditions or modification of use, building or structure shall, upon a finding of the violation thereof forfeit the fee established by the Ward County Planning Commission and approved by the board of the Ward County Commissioners. The schedule of fees shall be posted in the offices of the Ward County Auditor, Ward County Engineer and the Ward County Treasurer, and may be altered or amended by the Ward County Planning Commission and the board of the Ward County Commissioners.
7. Nothing herein contained shall prevent the County from taking such other lawful action as is necessary to prevent or remedy any violation, including pursuing criminal prosecution. A person that violates these Ordinances and Codes or causes or with knowledge allows the violation may be found to have committed a class B misdemeanor, and can be punished by a fine or penalty not to exceed \$1,000 or by imprisonment not to exceed 30 days, or both such fine and imprisonment. An organization found to have violated these Ordinances or Codes, or causes or with knowledge allows the violation may be subject to a fine not to exceed \$10,000. Such fines and imprisonment may be altered or amended for a class B misdemeanor by the North Dakota Legislature.
8. Any fines and fees assessed for violations of these Ordinances or Codes during a particular fiscal year, and not paid by October 1 of the year assessed, shall be certified as a levy against the affected property and be included on the property tax bill and continue until paid.

First Reading: June 3rd, 2025
Publication Dates: June 5th & 12th, 2025
Second Reading: July 1st, 2025

Adopted this _____ day of _____, 2025.

Ward County Chairman

Attest

Permitted and Conditional Use Table	Agricultural Production 2, 3, 5, 10 District	Rural Residential District	Residential Transition District	Community Residential District	Rice Lake Recreational District	Rural Industrial District	Highway Commercial District	Air Base Protection District
Accessory Dwelling	C	C	C	C	C	C	C	NP
Adult Entertainment	NP	NP	NP	NP	NP	C	C	NP
Ag Equipment Sales and Service Facility	C	C	C	C	NP	C	P	NP
Ag Related Industrial Uses	C	NP	NP	NP	NP	C	C	NP
Anhydrous Ammonia Storage Facility	C	C	C	C	C	C	C	NP
Animal Boarding Facility	C	C	C	C	NP	C	C	C
Animal Feeding Operation	C	NP	NP	NP	NP	C	C	C
Animal Processing Facility	C	C	C	C	C	C	C	NP
Auto Service and Repair Station	P	C	C	C	C	C	P	NP
Bar, winery, brewery, restaurant	C	C	C	C	C	C	C	NP
Bed & Breakfast	C	P	P	P	C	C	P	NP
Borrow Source	C	C	C	C	C	C	C	C
Building Materials Sales and Storage	C	C	C	C	NP	P	P	NP
Bulk Petroleum Station	C	NP	NP	NP	C	C	C	NP
Bulk Petroleum Terminal	C	NP	NP	NP	NP	C	C	NP
Cemetery	C	C	C	C	NP	C	P	C
Commercial Grain Facility	C	C	C	C	NP	C	P	NP
Commercial Storage	C	C	C	C	C	P	P	NP
Communications Facility	C	C	C	C	C	C	C	C
Compassion Center Operating as a Dispensary	C	C	C	C	NP	C	C	NP
Compassion Center Operating as a Manufacturing Facility	C	C	C	C	NP	C	C	NP
Contractor Yard	C	C	C	C	NP	P	P	NP
Crew Housing Facility	C	NP	NP	NP	NP	C	C	NP
Data Centers	NP	NP	NP	NP	NP	C	NP	NP
Daycare/Preschool	P	P	P	P	P	P	P	NP
Dual Attached Dwelling	C	C	P	P	C	C	C	NP
Educational Facility	C	C	P	P	C	C	C	NP
Farming, Ranching and the normal incidents of farming and ranching	P	P	C	C	C	P	P	P
Firearms Range	C	C	C	C	NP	C	C	NP
Fireworks Sale Facility	C	C	C	C	C	C	C	NP
Grain Terminal Transloading Facility	C	C	C	C	NP	C	C	NP
Heavy Equipment Sales, Rental, and Service	C	C	C	C	NP	P	P	NP
Home Occupation	P	P	P	P	P	P	P	C
Indoor Recreation Facility	C	C	C	C	NP	C	P	NP
Landfill and Solid Waste Site	C	NP	NP	NP	NP	C	C	C
Lodging Establishment	C	C	C	C	C	C	P	NP
Livestock Auction Yard	C	NP	NP	NP	NP	C	P	NP
Manufacturing and Assembly	C	NP	NP	NP	NP	C	C	NP
Manufactured Home Sales and Service	C	C	C	C	NP	P	P	NP
Meat Packaging Facility	P	C	C	C	NP	P	C	NP
Mobile Home Park	C	C	C	C	NP	C	C	NP
Motor Vehicle, RV, Watercraft sales, Rental and Service	C	C	C	C	C	P	P	NP
Motorized Outdoor Recreation Facility	C	C	C	C	NP	C	C	NP
Multiple Attached Dwelling	C	C	C	C	NP	C	C	NP
Non-motorized Outdoor Recreation Facility	C	C	C	C	NP	C	C	NP
Nursery and Landscape Materials Sales	P	C	C	C	NP	P	P	NP
Place of Assembly	C	C	C	C	C	C	P	NP
Private Airfield	C	C	C	C	NP	C	C	NP
Public Airport	C	C	C	C	NP	C	C	NP
Private Grain Facility	P	C	C	C	NP	P	P	NP
Public or Private Preservation Area	P	P	P	P	P	P	P	P
Public Utility Facility	C	C	C	C	C	C	C	C
Recreational Campground	C	C	C	C	C	C	C	NP
Salvage Yard	C	C	C	C	NP	C	C	NP
Single Detached Dwelling	P	P	P	P	P	P	P	P
Solar Energy Facility	C	C	C	C	NP	C	C	C
Stable	C	C	C	C	C	C	C	C
Surface Mining	C	NP	NP	NP	NP	C	C	C
Transloading Facility	C	C	C	C	NP	C	C	NP
Truck Service Center	C	C	C	C	NP	P	P	NP
Trucking Yard	C	C	C	C	NP	P	P	NP
Veterinary Facility	C	C	C	C	NP	C	P	NP
Warehousing/Wholesale Distribution Center	C	C	C	C	NP	P	P	NP
Wind Energy Facility	C	C	C	C	NP	C	C	C
One single detached dwelling unit or two mobile home or two recreational vehicle or one camper trailer or one travel trailer.					P			
Three or four temporary recreational camper trailers or recreational vehicles for not more than two weeks as long as a temporary campground permit has been obtained from First District Health.					P			
At the discretion of the County Board of Commissioners					C			
Other Uses of Land or Buildings existing as of January 1, 1990								P

Allowed Uses (Permitted)	P
Conditional Use Permit Required (Conditional)	C
Not Permitted	NP

[illegible]

Public Notice

Ward County Land Zoning Ordinance

I, Marisa Haman, the County Auditor/Treasurer of Ward County, North Dakota, do hereby certify that the Ward County Land Zoning Ordinances as presented at the public hearing on July 1, 2025 during the County Commission meeting is a true, correct and complete copy of the ordinance adopted by the Board of County Commissioners at its regular meeting, which ordinance is a part of the minutes of said Board; and that a copy thereof has been filed with the County Recorder's office and will be available to the public for inspection and copying thereat from and after this date.

Witness my hand and the official seal of said County this 1st day of July, 2025.



Marisa Haman
Marisa Haman
Ward County Auditor/Treasurer

July 5th & 12th