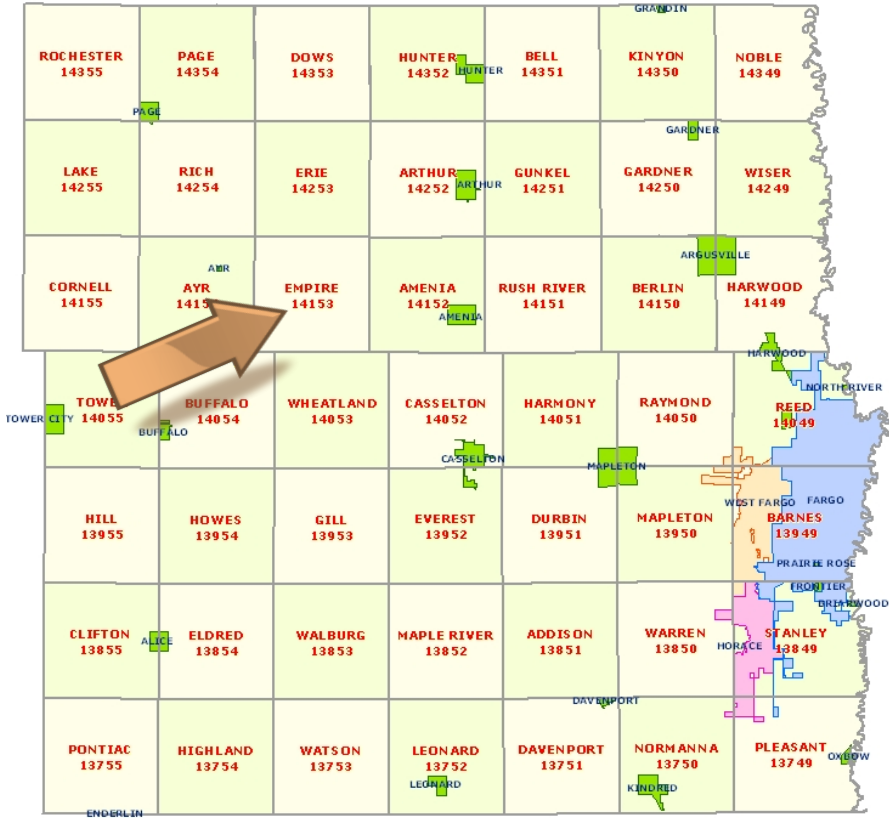


ZONING ORDINANCE

FOR

EMPIRE TOWNSHIP
CASS COUNTY, NORTH DAKOTA
March 21, 2018



March 2018

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SECTION ONE

Introduction

A. Title

This Zoning Ordinance shall be known as the "Zoning Ordinance of Empire Township, Cass County, North Dakota".

B. Authority

These Rules and Regulations [hereinafter called "Zoning Ordinance"] are adopted by the Board of Township Supervisors for Empire Township, Cass County, North Dakota, under the authority granted by Chapter 58-03 of the North Dakota Century Code [N.D.C.C.].

C. Jurisdiction

The jurisdiction of this Zoning Ordinance shall include all lands within the boundaries of Empire Township. When an incorporated municipality has declared its intent in exercising its extraterritorial authority as provided by Chapter 40-47 of the N.D.C.C., these regulations shall not apply to the area delineated for that purpose.

D. Purpose and Intent

This Zoning Ordinance is to facilitate traffic movement, encourage orderly growth and development of the municipality and adjacent areas, promote health, safety, and general welfare, and provide for emergency management.

E. Minimum Requirements

The provisions of this Zoning Ordinance shall be interpreted as the minimum requirements necessary to advance the Zoning Ordinance's stated purposes. No building or structure may be erected, converted, enlarged, reconstructed, or altered and no land use may occur except in accordance with all of the regulations established by this Zoning Ordinance for the zoning district in which the building, structure, or land use is located.

F. Conflicting Provisions

If any part of this Zoning Ordinance is adjudged to be invalid by a court of competent jurisdiction, the remainder of this Zoning Ordinance shall not be affected thereby.

If the provisions of this Zoning Ordinance are inconsistent with those of the state, federal government, or other provisions found in other adopted ordinances or regulations of the City, the more restrictive provision will control, to the extent permitted by law.

G. Exceptions

In accordance with N.D.C.C. § 58-03-11.1, the Board of Township Supervisors for Empire Township, Cass County, North Dakota, takes the following general positions with respect to all real property under its jurisdiction, pursuant to law:

1. Under N.D.C.C. § 58-03-11(3), a board of township supervisors may not prohibit or prevent the use of land or buildings for farming or ranching or any of the normal incidents of farming or ranching.
2. Under N.D.C.C. § 58-03-11(4), a regulation may not preclude the development of a concentrated feeding operation in the township.

3. Under N.D.C.C. § 58-03-11(5), a board of township supervisors may not prohibit the reasonable diversification or expansion of a farming or ranching operation.
4. Under N.D.C.C. § 58-03-11(6), a board of township supervisors may adopt regulations that establish different standards for the location of concentrated feeding operations based on the size of the operation and the species and type being fed.
5. Under N.D.C.C. § 58-03-11(7), if a regulation would impose a substantial economic burden on a concentrated feeding operation in existence before the effective date of the regulation, the board of township supervisors shall declare that the regulation is ineffective with respect to any concentrated feeding operation in existence before the effective date of the regulation.
6. Under N.D.C.C. § 58-03-11(8), a board of township supervisors may regulate the nature and scope of concentrated feeding operations within the districts.

H. Effective Date

This Zoning Ordinance shall be effective after a public hearing and adoption by the Board of Township Supervisors for Empire Township, Cass County, North Dakota.

SECTION TWO

General Provisions

A. Comprehensive Plan

These regulations are administered and enforced to implement the Comprehensive Plan of the Township as adopted by the Board of Township Supervisors as a policy guide for protection of the townships natural resources and to accommodate the type of development deemed appropriate.

B. Amendments

In accordance with N.D.C.C. § 58-03-13, The Board of Township Supervisors may establish, and from time to time change, the boundaries of districts and establish, amend, supplement, and enforce regulations and restrictions in the districts. No boundary, regulation, or restriction will become effective until after a public hearing at which interested parties and citizens have an opportunity to be heard.

C. Compliance

No building, structure, or land shall hereafter be used or occupied and no building or structure shall be may be erected, converted, enlarged, reconstructed, or altered, or used unless done in conformity with all of the provisions of this Zoning Ordinance.

D. Non-Conforming Uses

The lawful non-conforming use of a building, structure, or land existing at the time of the adoption of this Zoning Ordinance may continue although such use does not conform to the provisions of this Zoning Ordinance. The total structural repairs or alterations to such a non-conforming use or structure shall not, during its life, exceed fifty (50) percent of the assessed value of the building or structure unless permanently changed to a conforming use. If a non-conforming use is discontinued for a period of twelve (12) months, any future use of the building, structure, or land shall conform to this Zoning Ordinance.

E. Land Suitability

No land shall be used for a purpose which is held unsuitable for the reason of flooding, soil limitations, inadequate drainage, incompatibility with adjoining uses, or any condition likely to be harmful to the health, safety, or welfare of the people in the area or harmful to the objectives of Empire Township, Cass County, North Dakota as expressed in this Zoning Ordinance.

F. Permitted Uses and Conditionally Permitted Uses

This Zoning Ordinance identifies permitted uses within each identified district requiring no additional zoning action by the Board of Township Supervisors in the event of a proper application for a building permit, or any other application seeking township authorization.

To each identified district, there also exists a list of conditionally permitted uses. Upon proper application for a building permit, or any other application seeking township authorization for any use described as a conditional use, the Zoning Administrator will identify all conditions in writing which will allow for such conditional use. Where a use is not allowed as a permitted or conditional use under these regulations, it shall be considered non-conforming and shall be subject to the non-conforming use provisions.

G. Road and Highway Access

A permit for access to township roads is required by the Board of Township Supervisors. In granting the access permit to the township roads, rules and regulations may be adopted as to

the number of access points per mile, the width, construction, and other features of the access to the adjoining properties. The Board of Township Supervisors may place conditions when granting a road access permit. Farm driveways and field access points are exempt from these provisions.

H. Watercourse Setbacks

No building or structure may be erected, converted, enlarged, reconstructed, or altered within the Minimal Disturbance Zone Setback or within the Limited Disturbance Zone Setback unless such building or structure conforms to the regulations of the Cass County Subdivision Ordinance.

Where the standards and management requirements of this setback are in conflict with other laws, regulations, ordinances or policies regarding streams, steep slopes, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrictive requirements shall apply.

I. Standards

All buildings or structures shall conform to the requirements of the International Building Code, North Dakota State Building Code [Chapter 54-21.3 of the N.D.C.C.], National Fire Protection Association, National Electrical Code, and the North Dakota Plumbing Code.

SECTION THREE

Administration and Enforcement

The administration and enforcement of this Zoning Ordinance is hereby vested in the Board of Township Supervisors of Empire Township, Cass County, North Dakota, the Planning Commission, and the Zoning Administrator.

A. Board of Township Supervisors

The Board of Township Supervisors shall have the following powers and duties:

1. Approve or deny all text amendments to the Zoning Ordinance;
2. Take final action to approve or deny subdivision applications;
3. Hear appeals of the Planning Commission's decision regarding conditional use permits;
4. Hear and take final action on all variances;
5. All amendments to the text of the Zoning Ordinance, zoning district map, all conditional use permits and all variances shall be approved or disapproved by the Board of Township Supervisors following a public hearing and with consideration given to the recommendations of the Zoning Administrator.

B. Planning Commission

The Planning Commission shall be the Board of Supervisors. The Planning Commission shall have the following powers and duties:

1. Recommend the establishment of plan rules, regulations, and procedures for the purpose of administering this ordinance;
2. Assist the Zoning Administrator in conducting inspections of land uses and administration of this ordinance;
3. Hear and forward recommendations on appeals;
4. Hear and recommend action on all applications for zoning map amendments;
5. Hear and advise the Board of Township Supervisors regarding conditional use permits and variances;
6. Conduct public hearings and forward recommendations to the Board of Township Supervisors on applications;
7. Review from time to time the provisions of this ordinance; and
8. Recommend to the Board of Township Supervisors such plans, policies, ordinances, and procedures as it deems appropriate in order to promote or secure the development or re-development of the Township in accordance with the Comprehensive Plan.

C. Zoning Administrator

The Board of Township Supervisors shall appoint the Zoning Administrator from the Board of Supervisors. The Zoning Administrator shall have the following powers and duties:

1. Receive, issue, and file all permit applications and petitions for amendments to the Zoning Ordinance and zoning district map; issue building permits, certificates of compliance, make inspections, and maintain records;.
2. Report all complaints to the Board of Township Supervisors;
3. Report and investigate all zoning violations to the Board of Township Supervisors for appropriate action;
4. Identify additional necessary conditions in writing in the event of an application for a conditional use permit or variance and shall make recommendations to the Board of Township Supervisors upon said matters. The Zoning Administrator may recommend approval, denial, or modification of the application; and
5. Interpret allowed accessory uses.

D. Violations and Penalties

Any person who violates any provision of these regulations or fails to comply with any of the requirements shall be subject to penalties and enforcement. Whenever a violation of this Zoning Ordinance occurs, any person may file a complaint in regard thereto. All such complaints shall be filed with the Zoning Administrator who shall investigate such violation and report to the Board of Township Supervisors for appropriate action. The Board of Township Supervisors, in addition to other remedies provided by law, may institute any appropriate action or proceeding:

1. To prevent such unlawful intentions to erect, convert, enlarge, reconstruct, alter, or use;
2. To restrain, correct, or abate such violation;
3. To prevent the occupancy of the building, structure, or land; or
4. To prevent any illegal act, conduct, business, or use in or about such premises.

SECTION FOUR

Procedures and Permitting Requirements

A. Public Hearings

Notice of all such public hearings shall be published at least once each week for 2 successive weeks at least fifteen (15) days prior to the hearing in the official newspaper of the county and also in the official newspaper of the municipality in relation to which the zoning action is taken. The notice of hearing shall: 1) indicate the time and place of the scheduled public hearing; 2) describe the property by street address, legal description, or map; 3) describe the nature, scope, and purpose of the proposal; and 4) indicate the location and source of additional information on the proposal.

B. Meetings

Meetings of the Planning Commission shall be held at the call of the Chairperson and at such other times as the Planning Commission may determine. All meetings shall be open to the public and any person may speak for or in opposition of an application.

The Planning Commission, at the public hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon completion of its review, the Planning Commission shall take action for recommendation of approval, denial, or modification of the proposal or may require additional information before it completes its findings and makes a recommendation to the Board of Township Supervisors. Thereafter, the Board of Township Supervisors shall review the matter at a public hearing for final decision. Written findings upon which the decision is based must be included within the record of the commission or board.

C. Appeals

Any person, firm, or corporation aggrieved by the actions or recommendations of the Planning Commission may appeal within thirty (30) days of such action. Appeals shall be in writing, shall specify in detail the grounds for the appeal, and be filed with the Zoning Administrator. The Planning Commission shall transmit to the Board of Township Supervisors all records on which the action or recommendation was based. Upon filing, the Board of Township Supervisors shall schedule a hearing and take action.

D. Building Permits

Any person, firm, or corporation intending to erect, convert, enlarge, reconstruct, alter, or use a building or structure shall obtain a permit from the Zoning Administrator before proceeding with the work. If the building or structure for which a permit is requested meets all applicable zoning regulations, a building permit may be issued. If requirements are not met, the Zoning Administrator may counsel the applicant on how to meet the minimum requirements or the applicant may request a hearing to petition for a variance, conditional use, or amendment to the Zoning Ordinance or zoning district map.

E. Moving Permits

No building or structure shall be moved into the Township whether from outside the township or wholly within the township from one lot or parcel to another, without having a permanent foundation or slab on to which the building or structure must be placed within five (5) days of being moved into the township without first making application to the Zoning Administrator and securing a permit.

No moving permit shall be required for moving farm structures of any size or for the moving of any other building or structure or part thereof in size smaller than the following dimension: eight (8) feet high, ten (10) feet wide, and fifteen (15) feet long.

No building or structure shall be moved to a location within the township unless it will conform to the building, plumbing, heating, electrical, and other construction regulations of the township relating to new structures. If construction, alteration, or repair work on such building or structure will be necessary to conform to such regulations, a permit for such work shall be obtained before such building or structure is moved and shall be done within ninety (90) days after such building or structure is located.

F. Certificate of Compliance

Following all new construction, alterations, or structural modifications to existing buildings, no building or structure shall be occupied until inspection of the completed work and a "Certificate of Compliance" has been issued for determining the conformity of said building, alterations, or structural modifications with the requirements of this Zoning Ordinance and for the specifications upon which the building permit was issued.

G. Conditional Use Permits

No application for a conditional use shall be granted by the Board of Township Supervisors unless all the following conditions are present:

1. The conditional use will not be detrimental to or endanger the public health, safety, or general welfare;
2. The conditional use will not impair or diminish the uses, values, and enjoyment of other property in the area;
3. The conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;
4. Adequate utilities, access roads, drainage, and other necessary site improvements have been made or are being provided;
5. The conditional use shall conform to all applicable regulations of the Comprehensive Plan, Zoning Ordinance, and district in which it is located; and
6. Where uncertainty exists as to the suitability of the land for onsite sewage disposal, the Board of Township Supervisors may request a study of the soil conditions or other pertinent conditions.

H. Variances

The Board of Township Supervisors shall hear and decide on variances based on the terms of this Zoning Ordinance and will not be contrary to the public interest, and where the literal enforcement of this Zoning Ordinance would result in practical difficulty or unnecessary hardship to a property owner. The Board of Township Supervisors shall base its decision for a variance from this Zoning Ordinance upon the evidence presented to it and shall determine that all the following conditions are present:

1. The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district, and that are not a result of the owner's intentional action;

2. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
3. The strict application of the applicable standards will constitute an unnecessary physical hardship (not economic hardship) because the property cannot be used for an otherwise allowed use without coming into conflict with applicable site development standards;
4. The variance desired will not adversely affect the public health, safety, or general welfare; and
5. The variance is the minimum variance that will overcome the hardship.

I. Zoning Changes

Zoning map amendments must be filed with the Zoning Administrator who will review each proposed change and recommend to the Planning Commission approval or denial. The Planning Commission will hold a public hearing on the proposed zoning map amendment and make a recommendation to the Board of Township Supervisors.

J. Data Submission Requirements

All applications for permits shall be accompanied by a legal description and map showing the actual dimension of the lot to be built upon, the size, shape, location of the building, and zoning district classification of the area. The application shall specify the type of building or structure, and material of which it is composed, and such information as may be necessary to provide for the enforcement of this Zoning Ordinance.

Any permit issued pursuant to these provisions shall expire twelve (12) months from the date of issuance.

Type of Application	Zoning Administrator	Planning Commission	Board of Township Supervisors
Amendments	R	R	DM
Zoning Map Amendments	R	R	DM
Subdivisions			
Minor		R	DM
Major	R	R	DM
Conditional Use Permits	R	DM	A
Building Permits	DM	A	
Certificates of Compliance	R, DM		
Variations	R	DM	A

R=Review, DM=Decision-Making Body, A=Appeal

SECTION FIVE

Subdivision Regulation

A. Lot Splits

Lot splits, by deed or otherwise, are defined as the division of a lot created by a previous subdivision into no more than two parts in which at least one part will not be a buildable lot according to applicable zoning regulations and in which no existing easements or accesses are affected or no new easements or accesses are required. Lot splits are generally permitted without platting provided the following conditions are met:

1. That any platted lot has not been previously split under the terms of this provision;
2. That the lots meet the minimum standards for lot width and area for the zoning district in which they are located;
3. That the division does not result in a split zoning classification or the creation of a nonconforming structure or use on a single lot; and
4. There is no proposed or perceived need of public improvements as a result of the split.

B. Subdivision Development

When the platting of land is proposed by a property owner or his agents, the proposed plat shall be governed by the requirements as set forth in the Cass County Subdivision Ordinance before being submitted to the Board of Township Supervisors for approval. The Board of Township Supervisors shall not allow the subdivision of land that is unsuitable for development due to flooding, improper drainage, steep slopes, soil types, adverse earth formations, topography, utility easements, or other features which may be harmful to the present or future inhabitants of the subdivision and/or surrounding area. The Board shall consider whether the subdivision of land is in conformity with the Zoning Ordinance, whether the land is suitable for the purpose intended, and whether adjoining developments previously in existence will be protected.

The following shall not be considered a subdivision and shall be exempt:

1. A division of land which may be ordered or approved by a court or affected by testamentary or intestate provisions;
2. A division of land made to correct errors in prior divisions pursuant to Chapter 40-50.1 of the N.D.C.C.;
3. A division of land for use as right-of-way for municipal public facilities which does not involve any new streets, easements, or accesses;
4. A division of land into lots, tracts, or parcels of ten (10) acres or more in size for the purpose of agricultural use with no anticipation of dwelling unit construction and does not involve any new streets, easements, or accesses other than field accesses; or
5. A lot split as defined by this Zoning Ordinance.

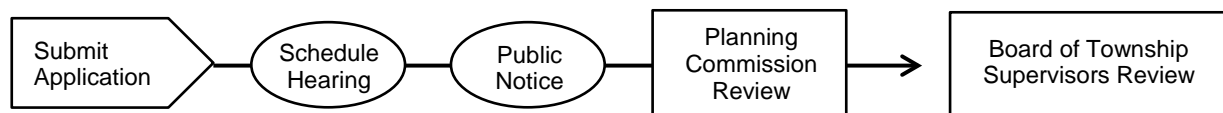
C. Procedures for Subdivision Approval

Applicants shall prepare and submit a preliminary plat to the Zoning Administrator. The preliminary plat shall provide sufficient design information to demonstrate conformance with the

requirements of this Zoning Ordinance. The Planning Commission shall identify whether the plat meets or does not meet the objectives of these regulations.

Preliminary Plats shall be prepared by an engineer, registered land surveyor, or landscape architect and correctly show the following information:

1. All contiguous lands owned or controlled by the subdivider even if only a part of it is proposed for development at that time;
2. The name and address of the owner or owners of land to be subdivided;
3. The name of the land surveyor;
4. The date of the map, north arrow, scale, and proposed title of the subdivision (subdivided land shall be considered an "Addition" if the land is within the corporate limits of a City and shall be considered a "Subdivision" if the land is outside the corporate limits of a City);
5. An accurate legal description of the property;
6. The location of property with respect to surrounding property and streets, the names of all adjoining property owners of record or the names of adjoining developments, and adjoining streets;
7. The location of existing streets, easements, water bodies, streams, special flood hazard areas, and other pertinent features;
8. The location and width of all proposed streets, easements, public right-of-ways, and any dedications; and
9. Identification of existing sewers, water mains, culverts, and utility locations.



If the preliminary plat has been approved, applicants shall prepare a final plat and submit an application with the Zoning Administrator. The Planning Commission shall hold a public hearing and recommend approval or denial of the final plat to the Board of Township Supervisors. The Board of Township Supervisors shall hold a public hearing on all final plats and shall approve, conditionally approve, or deny the final plat. Upon final plat approval, that plat shall be submitted to the County to be recorded.

SECTION SIX

Special Provisions

A. Garbage or Sewage Plants

No building, structure, or land shall hereafter be used or occupied to operate or maintain a plant for:

1. The treatment, purification, and disposal of liquid or solid wastes, sewage, and night soil that did not arise out of the actual use and occupancy of the building, structure, or land where such plant is located; and
2. The disposal of garbage that did not arise out of the actual use and occupancy of the building, structure, or land where such plant is located. This prohibition shall not apply to an underground sanitary sewer system provided the treatment plant is located entirely within the corporate limits of a municipality.

B. Salvage and Junk Yards

1. All sites for salvage and junk yards require approval by the Board of Township Supervisors;
2. No salvage or junk yard shall be located within five hundred (500) feet of a residential district and two hundred (200) feet of a commercial or industrial building or structure;
3. No salvage or junk yard shall be located in areas, which due to high water tables, flooding, and soil conditions may affect the quality of surface and ground water;
4. No salvage or junk yard shall be located nearer than one hundred (100) feet of all road and highway rights-of-way; and
5. All salvage yards and operations shall be screened from the public view unless the salvage material is placed five hundred (500) feet away from any highway right-of-way and screened by natural vegetation, building, and landform.

C. Animal Feeding Operations

These regulations are designed to allow Animal Feeding Operations for feeding of livestock, fur bearers, and poultry at the same time protect the adjoining uses against odor, run off, and other incompatible characteristics associated with feed lots.

1. Animal feeding Operations are only permitted as conditional uses subject to the provisions of this ordinance and the requirements and permitting of the NDDH. A Cass County Special Use Permit must be obtained and submitted to the Board for its approval.
2. In addition to the requirements for a conditional use permit elsewhere contained in this ordinance, an Applicant must provide the following documents in order for its application to be deemed complete:

- a. 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, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer or other person having comparable experience or qualifications. The Township may require any or all of the following elements, or require additional elements, in its site plan review process when needed to determine the nature and scope of the animal feeding operation:
 - i. Proposed number of animal units.
 - ii. Legal descriptions of the site and its associated lands.
 - iii. Existing and proposed roads and access ways within and adjacent to the site of the facility.
 - iv. Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units.
 - v. A copy of the permit application submitted by the applicant to the Department of Health

In its discretion, the zoning commission may require further submissions from an Applicant in order to evaluate whether the proposed operation is compatible with surrounding land uses.

3. All Animal Feeding Operations shall be designed and constructed with all reasonable preventative measures to avoid surface run-off including construction of sealed collection and retention ponds.
4. In the event of a violation of this ordinance or a judgment on a civil action by the NDDH, the office of the Attorney General, or a person authorized to maintain an action under N.D.C.C. § 42-01-08, then the Township, after due process, can order cessation of a facility for animal feeding within a reasonable period of time and until such time as the owner/operator corrects or abates the cause(s) of the violation. If the causes(s) of the violation are not remedied within a reasonable period of time as set by the Township, the permit may be revoked.

REQUIRED SETBACKS AND SEPARATION DISTANCES FOR ANIMAL FEEDING OPERATIONS AND THOSE EXPANDING

5. Required Setbacks and Separation Distances for New Animal Feeding Operation: The owner/operator of a new animal feeding operation shall locate the site of that operation pursuant to the distances set forth below from existing residences, businesses, churches, schools, and public parks as well as areas of property that are zoned residential, recreational, or commercial:
 - a. If there are fewer than three hundred animal units, there is no minimum setback requirement
 - b. If there are at least three hundred animal units but no more than one thousand animal units, the setback for any animal operation is .75 miles.
 - c. If there are at least one thousand one animal units but no more than two thousand animal units, the setback for a hog operation is 1.125 miles and the setback for any other animal operation is .75 miles.

- d. If there are at least two thousand one animal units but no more than five thousand animal units, the setback for a hog operation is 1.50 miles and the setback for any other animal operation is 1.125 miles.
- e. If there are five thousand one or more animal units, the setback for a hog operation is 2.25 miles and the setback for any other animal operation is 1.50 miles.

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

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

6. Existing Animal Feeding Operations.

- a. An individual or entity who wishes to establish a residence, business, church, school, public park or zone for residential use, must comply with the above-referenced setbacks so as to provide a separation distance from any existing animal feeding operation.
- b. An owner/operator of an existing animal feeding operation may locate the owner's residence or business within the setbacks.
- c. Expansion of permitted animal units up to twenty-five percent shall require notification of the Howes Township Board of Supervisors within ten (10) days of expansion.
- d. If notified in writing by an owner/operator of a planned future expansion of an animal feeding operation, the Township may implement the corresponding odor setback for a temporary lime period not to exceed two years, after which time the setback will remain in effect only if the expansion was completed.

ANIMAL FEEDING OPERATION CLOSURE

- 7. Responsible Parties The landowner, owner and operator of any animal feeding operation shall be responsible for the ongoing management of manure and the final closure of the animal feeding operation including the cleaning of buildings and the emptying and proper disposal of manure from all manure storage structures.
- 8. Closure Plan. If an animal feeding operation ceases operation, the owner shall submit to the Township a Closure Plan.
 - a. The Closure Plan shall be submitted at least sixty (60) days prior to the final day of operation. This plan shall be prepared by a registered Professional Engineer.
 - b. Closure may be postponed for a period of twelve (12) months if the property is posted for sale. However, pollution hazards must be remediated immediately.

- c. Manure storage structure closure shall include the removal of the sludge in the facilities and its disposal by proper land application at agronomic rates or by other legally permissible method. Manure storage structure and the seeding of the area.
- d. All wastes from the feedlot operation and its waste control system must be removed and disposed of on land or in some other manner which is legally permissible as soon as practical and in accordance with the approved Plan in order to promote and protect public health.
- e. Each time ownership of the feedlot changes, the new owner must notify the Howes Township Zoning and Planning Commission in writing within sixty (60) days of the transfer of ownership that the approved Plan has been read and is understood and that all provisions of the Plan will be implemented.
- f. If the new ownership will continue to operate the feedlot, closure shall not be required.

ABANDONMENT

9. Owners and operators of animal feeding operations shall have joint and several liability for clean-up, closure or remediation of abandoned animal feeding operation sites, including cases of neglect. Abandoned live animals shall be assessed for health by the State Veterinarian and costs of disposal shall be assessed against the bond.

D. Mining of Sand, Gravel, Clay, and General Ground Excavation

The purpose of these provisions is to provide for mining and extraction of materials for commercial uses, to protect and preserve agricultural land guiding such operations, and to minimize the traffic, noise, dust, fumes, and vibration impact on the adjoining uses and area.

No sand and gravel operation shall be nearer than five hundred (500) feet from any residential uses and shall obtain a permit from the Zoning Administrator prior to starting any mining or excavation.

E. Slaughtering of animals

1. A facility where animals are slaughtered shall be considered a commercial slaughtering facility if more than 10 animal units are slaughtered per year on the property.
2. Commercial slaughtering facilities are only permitted as conditional uses subject to the provisions of this ordinance and the requirements under state and federal law.
3. In addition to the requirements for a conditional use permit elsewhere contained in this ordinance, an Applicant must provide the following documents in order for its application to be deemed complete:
 - a. A site plan of the facility;
 - b. Legal descriptions of the site and associated lands;
 - c. A copy of the Grant of Inspection license from the State of North Dakota;
 - d. In its discretion, the zoning commission may require further submissions from an Applicant in order to evaluate whether the proposed operation is compatible with surrounding land uses.

F. Solar Farms

1. Solar Farms shall be considered facilities covering five (5) acres or more, and which are used to convert solar energy to electricity.
2. Solar farms are only permitted as conditional uses subject to the provisions of this ordinance and the requirements under state and federal law.
3. The total lot coverage of a lot with freestanding solar panels cannot exceed the greater of 50% lot coverage or the maximum allowable coverage for the district in which they are located.
4. Freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed twenty-five (25) feet in height above the ground.
5. Solar panels and accessory structures shall be set back at least one hundred (100) feet from all lot lines.

G. Wind Energy System

The purpose of these provisions is to provide a regulatory framework for siting, construction and operation of wind energy systems in the Township that will protect the health and safety of residents and facilitate equitable and orderly development.

1. Application Requirements. The following materials are required:
 - (a) Boundaries of the site proposed for the Wind Energy System on United States Geological Survey Map or other map as appropriate.
 - (b) Preliminary map of turbine locations, access roads, collector and feeder lines, and other associated structures and buildings comprising the Wind Energy System.
 - (c) A schedule for the proposed start and completion of construction of the Wind Energy System.
2. Standards. A Wind Energy System shall meet the following standards:
 - (a) Appearance Standards.
 - 1) Wind turbines shall be installed on tubular, monopole-type towers.
 - 2) Wind turbines shall be painted a non-reflective, non-obtrusive color.
 - 3) Wind turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy System.
 - 4) The design of buildings and related structures that are components of the Wind Energy System shall, to the extent reasonably possible, use materials, colors, textures, and locations that will blend the Wind Energy System with the natural setting and existing environment.

5) All wind turbines shall not be lighted, except to the extent required by the Federal Aviation Administration or other applicable authority.

(b) Construction, Maintenance, and Safety Standards.

1) Each wind turbine shall be marked with a visible identification number to assist with provision of emergency services, and the permittee shall file with local fire and law enforcement departments a Wind Energy System map identifying wind turbine locations and numbers.

2) At Wind Energy System 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 Township.

3) The permittee shall promptly replace or repair all fences or gates removed or damaged during all phases of the Wind Energy System's life, unless otherwise negotiated with the affected landowner.

4) The permittee shall take into account, avoid, promptly repair or replace all drainage tiles broken or damaged during all phases of the Wind Energy System's life unless otherwise negotiated with the affected landowner.

5) The permittee shall identify all township haul roads to be used in connection with constructing the Wind Energy System. The permittee is responsible for coordinating a pre-construction haul road inspection with the appropriate township road authorities to document existing haul road conditions and weight and size restrictions. It is understood that as a minimum condition, township haul roads and bridges shall be restored to pre-construction conditions or better at the permittee's expense.

3. Setbacks. Horizontal setbacks shall be measured between the center of the base of the Wind Energy System turbine to any object. The vertical height of any Wind Energy System turbine is measured from the ground surface to the tip of the blade when in a fully vertical position.

(a) Distance of at least one thousand four hundred (1,400) feet from existing occupied residences.

(b) Distance of one and one-tenth times the height of the turbine plus seventy-five feet from the centerline of any county or maintained township roadway.

(c) Distance of one and one-tenth times the height of the turbine from interstate and/or state roadway right of way.

(c) Distance of one and one-tenth times the height of the turbine from any railroad right of way.

(d) Distance of one and one-tenth times the height of the turbine from a one hundred fifteen kilovolt or higher transmission line.

(e) Distance of one and one-tenth times the height of the turbine from the property line of a nonparticipating parcel, unless waived in writing by the landowner.

- (f) Distance of one hundred and fifty (150) feet from section lines.
4. 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.
 5. Restoration of Property. Within 180 days of termination or abandonment of leases or easements for a Wind Energy System in the Township, the current permittee shall cause, at its own expenses, removal of all structures to a depth of three (3) feet below pre-construction grade. Underground collection and communication cables are not required to be removed, but any easements of record must be released.
 6. Permit Assignment. A conditional use permit for a Wind Energy System may be assigned conditioned upon prior written notice of such assignment to the Township Board of Supervisors and the explicit, written agreement of the new permittee to comply with all conditional use permit conditions. Such written agreement may be in letter form and shall be signed by the authorized representatives or agents of both the current permittee and the prospective permittee.
 7. Permit Duration. The conditional use permit shall expire three (3) years from the date upon which it becomes effective if construction has not commenced. Upon written request to the Board of Township Supervisors and prior to the conditional use permit expiration date, a one (1) year time extension may be granted by the Board of Township Supervisors. With Respect to Wind Energy Systems, this provision supersedes the permit expiration provision set forth in Section 4.

SECTION SEVEN

Zoning Map

A. Zoning District Map

The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning District Map" on file in the office of the Zoning Administrator.

The following rules shall govern interpretations regarding the location of zoning district boundaries shown on the Zoning District Map:

Zoning district boundary lines shall follow the centerlines of streets, alleys, waterways, railroad rights-of-way, and other similar features unless otherwise clearly indicated.

Where uncertainty exists as to the exact location of the zoning district boundary line, the Board of Township Supervisors, with recommendation from the Planning Commission, shall determine the location of such boundary line.

SECTION EIGHT

Zoning Districts

For the purposes of this Zoning Ordinance, all lands under the jurisdiction of the Board of Township Supervisors for Empire Township, Cass County, North Dakota, may contain the following zoning districts:

Description	Abbreviation
Agricultural	AG
Single-Dwelling Residential	SR
Multi-Dwelling Residential	MR
Mobile Home Park	MHP
Neighborhood Commercial	NC
General Commercial	GC
Limited Industrial	LI

A. AG, Agricultural District

The predominant use of land within this district is agriculture and undeveloped land. The purpose is to provide for preservation and protection of agricultural land, limit development upon flood prone land, provide for future expansion in areas near municipalities, and to discourage uses incompatible with agricultural operations.

1. Allowed Uses

- a. Uses are allowed in the AG district in accordance with Table 1.

2. Dimensional Standards

- a. Development within the AG district is subject to the dimensional standards of Table 2.

3. Accessory Uses

- a. Telecommunications Support Structures for the purpose of elevating non-commercial antennas and day care uses.

4. Additional Uses

- a. Animal units may not exceed two (2) units per acre provided:
 - i. The entire area to be used as an animal enclosure must be fenced to prevent escape and subsequent damage to adjacent property;
 - ii. Structures intended for housing animal units shall be two hundred (200) feet or greater from any lot line;
 - iii. All manure and other animal wastes be removed and disposed of properly on a regular basis; and
 - iv. The number of animal units permitted shall be based on the size of the portion of the parcel to be used as an animal enclosure and shall not be less than forty thousand (40,000) square feet.
- b. Wind generation structures are allowed subject to the following standards:
 - i. The minimum lot size shall be ten (10) acres;
 - ii. Wind generation structures shall have a maximum height of ninety (90) feet as measured from ground level, at the base of the structure, to the highest vertical extension. Taller structures are allowed with an approved conditional use permit;
 - iii. Wind generation structures shall have a minimum setback from all property lines of two times the height of the structure; and
 - iv. One wind generation structure is allowed for every ten (10) acres of land.

B. SR, Single-Dwelling Residential District

The Single-Dwelling Residential District is intended to preserve land for housing and to provide housing opportunities for individual households. The regulations are intended to create, maintain, and promote single-dwelling neighborhoods. The single-dwelling districts allow some other types of uses but not to the extent of sacrificing the overall image and character of single-dwelling neighborhoods.

1. Allowed Uses
 - a. Uses are allowed in the SR district in accordance with Table 1.
2. Dimensional Standards
 - a. Development within the SR district is subject to the dimensional standards of Table 2.
3. Accessory Uses
 - a. Telecommunications Support Structures for the purpose of elevating non-commercial antennas and day care uses.

C. MR, Multi-Dwelling Residential District

The Multi-Dwelling Residential District is intended to accommodate household living in detached houses, attached houses, duplexes, and small multi-dwelling structures. Development within the district will be characterized by one- and two-story buildings with relatively low building coverage. The district is generally appropriate for sites with access to collector and higher classification streets.

1. Allowed Uses
 - a. Uses are allowed in the MR district in accordance with Table 1.
2. Dimensional Standards
 - a. Development within the MR district is subject to the dimensional standards of Table 2.
3. Accessory Uses
 - a. Telecommunications Support Structures for the purpose of elevating non-commercial antennas.

D. MHP, Mobile Home Park District

The Mobile Home Park District is intended to accommodate mobile home park developments.

1. Allowed Uses
 - a. Uses are allowed in the MHP district in accordance with Table 1.
2. Dimensional Standards

- a. Development within the MHP district is subject to the dimensional standards of Table 2 in addition to the following:
 - i. A mobile home park must have a minimum of fifty (50) spaces;
 - ii. Each mobile home space shall abut and have access to a street or other access having a minimum width of twenty-six (26) feet;
 - iii. The mobile home park shall be connected to a municipal sewer and water supply;
 - iv. All drainage structures must be designed and installed in accordance with the Cass County Subdivision Ordinance; and
 - v. The mobile home park shall utilize underground utility service facilities. No overhead facilities are allowed.

E. NC, Neighborhood Commercial District

The Neighborhood Commercial District is intended to accommodate small retail sales and service uses on small sites in or near residential neighborhoods. Uses are restricted in size to promote a local orientation and to limit adverse impacts on nearby residential areas. Development is intended to be compatible with the scale of nearby residential areas.

1. Allowed Uses

- a. Uses are allowed in the NC district in accordance with Table 1.

2. Dimensional Standards

- a. Development within the NC district is subject to the dimensional standards of Table 2 in addition to the following:
 - i. No outdoor storage or display of goods or merchandise is allowed within the NC district; and
 - ii. Buildings in an NC district shall have a finished appearance and architectural treatment consistent with the style of the surrounding residential development and buildings. Furthermore, all buildings shall be compatible with the scale of nearby residential areas.

3. Accessory Uses

- a. Telecommunications Support Structures for the purpose of elevating non-commercial antennas.

F. GC, General Commercial District

The General Commercial District is intended to accommodate commercial uses. It allows a full range of retail, service, office, and commercial uses.

1. Allowed Uses

1. Uses are allowed in the GC district in accordance with Table 1.

2. Dimensional Standards

- a. Development within the GC district is subject to the dimensional standards of Table 2.

G. LI, Limited Industrial District

The Limited Industrial District is intended primarily to accommodate manufacturing, wholesale, warehousing, and distribution related uses.

1. Allowed Uses

- a. Uses are allowed in the LI district in accordance with Table 1.

2. Dimensional Standards

- a. Development within the LI district is subject to the dimensional standards of Table 2.

SECTION NINE

Use Regulations

A. Use Categories

All of the use categories listed in Table 1 are explained in the category definitions.

B. Permitted Uses

A “P” indicates that a use category is allowed in the respective zoning district. These permitted uses are subject to all other applicable regulations of this Zoning Ordinance.

C. Conditional Uses

A “C” indicates that a use category is allowed only if reviewed and approved as a conditional use in accordance with the review procedures and all other applicable regulations of this Zoning Ordinance.

D. Uses Not Allowed

A “-“ indicates that a use type is not allowed in the respective zoning district, unless it is otherwise expressly allowed by other regulations of this Zoning Ordinance.

E. New or Unlisted Uses

If an application is submitted for a use type that is not listed in the use table, the Zoning Administrator shall be authorized to make a similar use interpretation based on the use descriptions. If the Zoning Administrator determines that the proposed use does not fit any of the use category descriptions, no interpretation shall be made. In the event that a similar use interpretation cannot be made, the Zoning Administrator shall be authorized to allow the proposed use type as a conditional use.

Table 1 Allowed Uses

Use Categories	Zoning Districts						
	AG	SR	MR	MHP	NC	GC	LI
Residential							
Group Living	C	C	P	C	C	C	C
Manufactured Homes	C	C	C	P	C	C	-
Mobile Home Park	-	-	-	P	-	-	-
Multi-Dwellings	-	-	P	P	P	C	-
Single-Dwellings	P	P	P	P	P	C	-
Institutional							
Colleges	C	C	C	C	C	P	P
Community Services	C	C	C	C	P	P	P
Day Care Facilities	C	C	C	C	P	P	P
Health Care Facilities	C	C	C	C	-	P	P
Parks and Open Areas	P	P	P	P	P	P	P
Pet Boarding Facilities	C	C	C	C	C	P	P
Religious Institutions	-	P	P	P	P	P	P
Safety Services	P	P	P	P	P	P	P
Schools	C	C	C	C	C	C	C
Utilities	P	P	P	P	P	P	P
Commercial							
Offices	-	-	-	-	P	P	P
Off-Premise Advertising Signs	-	-	-	-	-	P	P
Outdoor Recreation and Entertainment	-	-	-	-	-		
Retail Sales and Service	-	-	-	-	-	P	P
Self-Service Storage	-	-	-	-	-	P	P
Vehicle Repair Shops	-	-	-	-	-	P	P
Industrial							
Manufacturing and Production	-	-	-	-	-	C	P
Warehouse and Freight Movement	-	-	-	-	-	P	P
Other							
Aviation and Surface Passenger Terminals	C	C	C	-	C	C	P
Entertainment, Major Event	-	-	-	-	-	-	-
Mining	C	-	-	-	-	-	C
Telecommunications Facilities	C	C	C	C	C	P	P
Animal Feeding Operations	C	C	C	C	C	C	C
Solar Farms	C	C	C	C	C	C	C
Slaughtering Facilities	C	C	C	C	C	C	C

Table 2 Dimensional Standards

	Zoning Districts						
	AG	SR	MR	MHP	NC	GC	LI
Minimum Lot Size							
Area [square feet or acres]	10 Ac	1 Ac	5,000	8 Ac	87,120 max		
Lot Width [feet]	200	120	100	40	100	100	100
Lot Size [feet]				4,800			
Lot Depth [feet]	120	120	120	120	120		220
Minimum Setbacks [feet from lot line]							
Front	50	100	100	20	Based on adjacent lot	20	20
Rear	50	50	20	20	25	15	20
Interior Side	25	25	25	20	10	10	10
Street Side	25	25	12.5	20	Based on adjacent lot	20	20
Accessory Structures	5	5	5	5	5	5	5
Highway Right-of-Way	75	75	75	75	75	75	75
Front Yard from Arterial Road [feet from centerline]	175	175	175		175	175	175
Front Yard from Collector Road [feet from centerline]	125	125	125		125	125	125
Front Yard from Local Road [feet from centerline]	75	75	75		75	75	75
Maximum Height [feet]							
Structures	35	35	35				
Accessory Structures	35	15	15				
Maximum Building Coverage [percent]							
Primary Structure	NA	25	35	35	25	85	85
Accessory Structures	NA	150	130		<= building coverage		
Distance Between Access Points							
From Local Road	100	100	100	100	100	100	100
From Collector Road	200	200	200	200	200	200	200
From Arterial Road and Intersections	300	300	300	300	300	300	300

F. Category Definitions

Use categories classify land uses and activities into use categories based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The use categories provide a systematic basis for assigning present and future land uses into appropriate zoning districts.

1. Group Living

- a. Group living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of a household. The size of the group may be larger than the average size of a household. Tenancy is arranged on a monthly or longer basis. Generally, group living structures have a common eating area for residents. The residents may receive care, training, or treatment, as long as the care givers also reside at the site.
- b. Examples include: dormitories; fraternities and sororities; monasteries and convents; nursing and convalescent homes; some group homes for the physically disabled, mentally retarded, or emotionally disturbed; some residential programs for drug and alcohol treatment; and alternative or post incarceration facilities.
- c. Accessory uses may include: recreational facilities and parking of vehicles for occupants and staff.

2. Manufactured Homes

- a. A dwelling unit constructed in accordance with Federal Manufactured Housing Construction and Safety Standards [HUD code] in effect after June 15, 1976.
- b. Manufactured homes must meet the following criteria:
 - i. Be constructed on a permanent foundation that complies with the International Building Code and the City's Building Code;
 - ii. Have a minimum lot width of twenty-four (24) feet and a minimum lot depth of twenty (20) feet;
 - iii. Have a predominantly double-pitched roof with a minimum vertical rise of two and two-tenth (2.2) inches for every twelve (12) inches of horizontal run and a minimum eave projection and roof overhang of ten (10) inches on at least two (2) sides. Gutters shall be counted in calculating roof overhang;
 - iv. Use siding and roofing materials customarily used on site-built homes;
 - v. Have a minimum gross floor area of nine hundred sixty (960) square feet; and
 - vi. Have a minimum ceiling height of seven (7) feet.

3. Mobile Home Park

- a. A parcel of land under single ownership that has been planned and improved for the placement of mobile homes.
- b. Only one (1) dwelling unit allowed per lot.

4. Multi-Dwellings

- a. A structure that contains two (2) or more dwelling units that share common walls or floor/ceilings with one or more units. The land underneath the structure is not divided into separate lots.
- b. Examples include: apartments; condominiums; duplexes; triplexes; fourplexes; and other multi-dwelling structures; retirement center apartments; manufactured housing; and other structures with self-contained dwelling units.
- c. Accessory uses may include: day cares; recreational activities; raising of pets; hobbies; and parking of the occupants' vehicles.

5. Single-Dwellings

- a. A single structure designed for occupancy by a household.
- b. Accessory uses include: day cares; recreational activities; raising of pets; hobbies and parking of the occupants' vehicles. Home occupations and the keeping of one or more horses shall be acceptable accessory uses that are subject to additional regulations,

6. Colleges

- a. This category includes colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. Colleges tend to be in campus-like settings or on multiple blocks.
- b. Examples include: universities; liberal arts colleges; community colleges; nursing and medical schools not accessory to health care facilities; and seminaries.
- c. Accessory uses may include: offices; housing for students; food service; laboratories; health and sports facilities; theaters; meeting areas; parking; maintenance facilities; and commercial support.

7. Community Service

- a. Community services are uses of a public, nonprofit, or charitable nature providing a local service to people of the community. Generally, they provide the service on-site or have employees at the site on a regular basis. The service is ongoing, not just for special events. The use may provide special counseling, education, or training of a public, nonprofit, or charitable nature.
- b. Examples include: libraries; museums; senior centers; community centers; publicly owned swimming pools; youth club facilities; hospices; social service

facilities; temporary shelters; vocational training for persons with physical or mental disabilities; crematoriums; and mausoleums.

- c. Accessory uses may include: offices; meeting areas; food preparation areas; parking, health and therapy areas; and athletic facilities.

8. Day Care Facilities

- a. Day care uses provide care, protection, and supervision for children or adults on a regular basis away from their primary residence for less than twenty-four (24) hours per day.
- b. Examples include: preschools; child care centers; nursery schools; latch key programs; and adult day care programs.
- c. Accessory uses may include: offices; recreational areas; and parking.

9. Health Care Facilities

- a. Health care facilities include uses providing medical or surgical care to patients and offering overnight care.
- b. Examples include: medical centers; and hospitals.
- c. Accessory uses may include: out-patient clinics; offices; laboratories; teaching facilities; meeting areas; cafeterias; parking; maintenance facilities; and housing facilities for staff or trainees.

10. Parks and Open Spaces

- a. Parks and open spaces are uses of land focusing on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. Lands tend to have few structures.
- b. Examples include: parks; golf courses; cemeteries; public squares; plazas; recreational trails; botanical gardens; nature preserves; and land used for grazing that is not part of a farm or ranch.
- c. Accessory uses may include: club houses; maintenance facilities; concessions; caretaker's quarters; and parking.

11. Pet Boarding Facilities

- a. Any premises, except when accessory to an agricultural use, where domestic animals, such as dogs and cats and boarded, trained, bred, treated, or groomed.
- b. The proposed facility may not be within three hundred (300) feet of any residentially zoned property, measured from the pet enclosure to the property line of the residentially zoned property.

12. Religious Institutions

- a. A building where persons assemble for religious purposes.

- b. Examples include: churches; chapels; cathedrals; temples; rectories; or convents.
- c. The following regulations shall apply to religious institutions (more than five hundred (500) seating capacity) in SR zoning districts:
 - i. At least thirty-five (35) percent of the site area shall be maintained as landscaped open space.
- d. Accessory uses may include: Sunday school facilities; preschools; day cares; parking; caretaker's housing; and group living facilities such as convents.

13. Safety Services

- a. Safety services are uses that provide public safety and emergency response services. They often need to be located in or near the area where the service is provided. Employees are regularly present on-site.
- b. Examples include: fire stations; police stations; emergency medical; and ambulance stations.
- c. Accessory uses may include: offices and parking.

14. Schools

- a. Any building or group of buildings which meets state requirements for public or private elementary, primary, or secondary education.
- b. A waiver of one or more of the following regulations may be granted upon review and approval in accordance with conditional use review procedures in SR and MR districts:
 - i. The maximum size shall not exceed eight hundred (800) students;
 - ii. The base site area for a school shall be ten (10) acres, plus one (1) acre per one hundred (100) students; and
 - iii. At least thirty-five (35) percent of the site area shall be maintained as landscaped open space.
- c. Accessory uses may include: play areas; cafeterias; recreational and sport facilities; auditoriums; and before- or after-school day care.

15. Utilities

- a. Basic utilities are infrastructure services that need to be located in or near the area where the service is provided. Basic utility uses generally do not regularly have employees at the site. Services may be public or privately provided.
- b. Examples include: water and sewage pump stations; electrical substations; water towers and reservoirs; stormwater retention and detention facilities; telephone

exchanges; recycling collection centers; radio and television broadcast facilities that are public safety facilities; and park-and-ride facilities for mass transit.

- c. Accessory uses may include: parking and control; monitoring; or data or transmission equipment.

16. Offices

- a. Office uses are characterized by activities conducted in an office setting and generally focuses on business, government, professional, medical, or financial services.
- b. Examples include: professional services such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; data processing; sales offices; government offices and public utility offices; TV and radio studios; medical and dental clinics and medical and dental labs; and blood-collection facilities.
- c. Accessory uses may include: cafeterias; health facilities; parking; or other amenities primarily for the use of employees in the firm or building.

17. Off-Premise Advertising Signs

- a. Any sign that directs attention to a business, profession, product, service, activity, or entertainment not conducted, sold, or offered on the premises upon which the sign is located.
- b. No off-premise advertising signs shall be allowed within three hundred (300) feet of any residential zoning district or any lot containing a religious institution, park or recreation area, or school unless a conditional use permit is reviewed and approved in accordance with the provisions herein.
- c. In GC and LI zoning districts, no off-premise sign shall be allowed within three hundred (300) feet of any other off-premise advertising sign, measured along the street to which the off-premise advertising signs are oriented.
- d. The maximum off-premise advertising sign panel size shall be fourteen (14) feet x forty-eight (48) feet for GC and LI zoning districts.

18. Outdoor Recreation and Entertainment

- a. Outdoor recreation and entertainment uses are large, generally commercial uses that provide continuous recreation or entertainment-oriented activities. They primarily take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting.
- b. Examples include: amusement parks; theme parks; golf driving ranges; miniature golf facilities; and zoos.
- c. Accessory uses may include: concessions; restaurants; parking; caretaker's quarters; and maintenance facilities.

19. Retail Sales and Service

- a. Retail sales and service firms are involved in the sale, lease, or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
- b. Examples include uses from the four following groups:
 - i. Sales-Oriented
 1. Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationary and videos; food sales and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
 - ii. Personal Service-Oriented
 1. Branch banks; emergency medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; business, martial arts, and other trade schools; dance or music classes; taxidermists; mortuaries; veterinarians; and animal grooming.
 - iii. Entertainment-Oriented
 1. Restaurants, cafes, delicatessens, bars and taverns; indoor continuous entertainment activities such as bowling alleys, ice rinks, and game arcades; pool halls; dance halls; indoor firing ranges; theaters, health clubs, gyms, membership clubs and lodges; hotels, motels, recreational vehicle parks and other temporary lodging with an average length of stay of less than thirty (30) days.
 2. Accessory uses may include: offices; storage of goods; manufacture or repackaging of goods for on-site sale and parking.
 - iv. Repair-Oriented
 1. Repair of televisions, bicycles, clocks, watches, shoes, guns, appliances, and office equipment; photo or laundry drop-off; tailor; locksmith; and upholsterer.

20. Self-Service Storage

- a. Self-service storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.

- b. Examples include facilities that provide individual storage areas for rent. These uses are also called mini-warehouses.
- c. All walls visible from the street shall be finished with architectural materials such as brick, glass, stone, ceramic, stucco, precast panels, exterior insulation finish systems [e.g. dryvit], or curtain walls. The following material shall not be used on walls that are visible from the street: metal panels; non-residential-grade metal siding; non-residential grade wood-based materials; non-residential grade composition materials, such as plastic or asphalt; concrete blocks or cinder blocks. Concrete block may be used only if it is burnished, standing flute, or sculptured.
- d. Accessory uses may include: living quarters for a resident manager or security and leasing offices. Use of the storage areas for sales, service, and repair operations, or manufacturing is not considered accessory to the self-service storage use. The rental of trucks or equipment is also not considered accessory to a self-service storage use.

21. Vehicle Repair

- a. Vehicle Repair firms service passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles, boats, and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed.
- b. Examples include: vehicle repair; transmission or muffler shop; auto body shop; alignment shop; auto upholstery shop; auto detailing; and tire sales and mounting.
- c. The maximum site area shall not exceed fifteen thousand (15,000) square feet and the maximum building size shall not exceed seven thousand five hundred (7,500) square feet.
- d. Accessory uses may include: offices; sales of parts; and vehicle storage.

22. Manufacturing and Production

- a. Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site.
- b. Examples include: processing of food and related products; catering establishments; slaughter houses and meat packing; weaving or production of textiles or apparel; lumber mills, pulp, and paper mills and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; printing, publishing and lithography; movie production facilities; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments,

vehicles, appliances, precision items, and other electrical items; production of artwork and toys; sign making; and production of prefabricated structures, including mobile homes.

- c. Accessory uses may include: offices; cafeterias; parking; employee recreational facilities; warehouses; storage yards; repair facilities; truck fleets; and caretaker's quarters.

23. Warehouse and Freight Movement

- a. Warehouse and Freight Movement firms are involved in the storage, or movement of goods for themselves or other firms. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present.
- b. Examples include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck or air freight terminals; bus barns; parcel services; major post offices; and grain terminals.
- c. Accessory uses may include: offices; truck fleet parking; and maintenance areas.

24. Aviation and Surface Passenger Terminals

- a. Aviation and Surface Passenger Terminals include facilities for the landing and takeoff of flying vehicles, including loading and unloading areas; and passenger terminals for aircraft, regional bus service, and regional rail service. Aviation facilities may be improved or unimproved.
- b. Examples include: airports; bus passenger terminals for regional bus service, railroad passenger stations for regional rail service, and helicopter landing facilities.
- c. Accessory uses may include: freight handling areas; concessions; offices; parking; and maintenance and fueling facilities.

25. Entertainment, Major Event

- a. Major Entertainment Event uses are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature.
- b. Examples include: stadiums; sports arenas; coliseums; auditoriums; exhibition and meeting areas; and fairgrounds.
- c. Accessory uses may include: restaurants; bars; concessions; parking; and maintenance facilities.

26. Mining

- a. Mining includes mining or extraction of mineral or aggregate resources from the ground for off-site use.

- b. Examples include: quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil, gas, or geothermal drilling.
- c. Accessory uses may include: storage; sorting; stockpiling; or transfer off-site of the mined material.

27. Telecommunications Facilities

- a. Telecommunications facilities include all devices, equipment, machinery, structures, or supporting elements necessary to produce nonionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operate as a discrete unit to produce a signal or message. Facilities may be self-supporting, guyed, mounted on poles, other structures, light posts, power poles, or buildings. Facilities shall also include intertie and interconnection translators, connections from over-the-air to cable, fiber optic, or other landline transmission system.
- b. Examples include: broadcast towers; attached telecommunications facilities; telecommunications support towers; point-to-point microwave towers; and amateur radio facilities that are owned and operated by a federally-licensed amateur radio station operator.
- c. All telecommunications facilities shall comply with the standards of this Zoning Ordinance, all applicable standards of the Federal Telecommunications Act of 1996, and all applicable requirements of the Federal Aviation Administration.
- d. Freestanding non-commercial support structures in MHP, NC, GC, or LI zoning districts shall be considered Telecommunications Support Structures (TSS) and shall meet the requirements of this section.
- e. TSSs of no more than one hundred twenty-five (125) feet in height are permitted in GC and LI districts subject to use-specific standards.
- f. TSSs of more than one hundred twenty-five (125) feet in height are conditional uses in GC and LI zoning districts and are therefore subject to the conditional use review process.
- g. TSSs of no more than the maximum building height for the applicable zoning district are permitted by right in AG, SR, and MR zoning districts subject to use-specific standards.
- h. Accessory uses may include transmitter facility buildings.

SECTION TEN

General Development Standards

A. Parking Requirements

The off-street parking standards of this section apply to any new building constructed and to any new use established.

Table 3 lists the minimum off-street parking requirements for each use category defined in this Zoning Ordinance. These requirements apply unless alternatives are reviewed and approved in accordance with the procedures of this section. For some uses, the requirements contain a reference to other off-street parking requirements and can be found in Table 4.

When compliance with parking requirements are made a condition of a permitted use or a conditional use, the following minimum off-street parking standards shall be maintained for buildings and uses as hereinafter specified:

1. All required off-street parking spaces must be located on the same lot as the principal use;
2. Within the SR zoning district, a maximum of one off-street parking space shall be permitted on a front yard residential driveway. Front yard residential driveways shall not exceed twenty-four (24) feet in width or the width of the driveway approach, whichever is greater, provided that in no event shall any such driveway allow less than eight (8) feet of non-paved surface to exist alongside one or both sides of such driveway. All other off-street parking spaces must be located in a covered garage or in side or rear yards;
3. All off-street parking spaces in front or side yard areas shall have an all-weather surface. Rear yard parking spaces may be surfaced with gravel;
4. Required off-street parking areas are to be used solely for the parking of licensed, motor vehicles in operating condition. Required spaces may not be used for the display of goods for sale or lease or for long-term storage of vehicles, boats, motor homes, campers, mobile homes, or building materials; and
5. Off-street parking for persons with disabilities must be provided in accordance with the International Building Code.

Table 3 Off-Street Parking Requirements

Use Categories		Minimum Number of Spaces Required
Residential		
Group Living		1 per 100 square feet of sleeping area
Manufactured Homes		2 per dwelling unit
Mobile Home Park		2 per dwelling unit
Multi-Dwellings		1.25 per efficiency dwelling unit
		2 per 1-bedroom and larger units + 0.25 guest spaces per unit for structures containing 7 or more units and + 0.33 guest spaces per unit for structures containing 6 or fewer units
Single-Dwellings		2 per dwelling unit
Institutional		
Colleges		Upon review
Community Services		See Table 4 or upon review
Day Care Facilities		1 per 500 square feet
Health Care Facilities		1.5 per patient bed + 1 per 300 square feet of administrative office and + 1 per 200 square feet of outpatient clinic space
Parks and Open Areas		Upon review
Pet Boarding Facilities		NA
Religious Institutions		0.4 per seat
Safety Services		1 per employee or upon review
Schools	Elementary and Middle/Junior High	1 per teacher/employee + 10 visitor spaces or upon review
	Senior High	1 per teacher/employee + 1 per 5 students or upon review
Utilities		None
Commercial		
Offices	Medical	1 per 200 square feet
	All Other Office	1 per 300 square feet
Off-Premise Advertising Signs		NA
Outdoor Recreation and Entertainment		See Table 4
Retail Sales and Service	Bank or Financial Service	1 per 250 square feet + additional spaces as needed
	Health Club	1 per 200 square feet
	Hotel, Motel, or Other Temporary Lodging	1 per guest room + required spaces for associated uses
	Restaurant, Bars, Taverns, and Lounges	1 per 75 square feet
	Fast-Food Restaurant	1 per 75 square feet of customer service and dining area or 1 per 150 square feet of gross floor area, whichever is greater + additional spaces as needed
	Theater	1 per 4 seats
	Outdoor Seating Areas: Taverns, Bars, Restaurants, and Lounges	1 per 150 square feet of outdoor seating area
	Vehicle and Equipment Sales	See Table 4
	All Other Retail Sales and Service Uses not Specifically Listed	1 per 250 square feet

Use Categories	Minimum Number of Spaces Required
Self-Service Storage	1 + 1 per 2,500 square feet of storage space
Vehicle Repair	5 per service bay
Industrial	
Manufacturing and Production	See Table 4
Warehouse and Freight Movement	See Table 4
Other	
Aviation and Surface Passenger Terminals	NA
Entertainment, Major Event	NA
Mining	Upon review
Telecommunications Facilities	See Table 4 or upon review

Table 4 Additional Off-Street Parking Requirements

Use Categories	Minimum Number of Spaces Required
Office or Administrative Area	1 per 300 square feet
Indoor Sales, Service, or Display Area	1 per 500 square feet
Outdoor Sales, Service, or Display Area	1 per 750 square feet
Indoor Storage, Warehousing, Equipment Service, or Manufacturing Area	1 per 2,500 square feet

B. Corner Visibility

Notwithstanding any other provision of this Zoning Ordinance, neither buildings, permanent or portable signs, parking spaces, fences, landscaping, nor any other object may be erected, placed, planted, or allowed to grow in such a manner as to impede vision between a height of two (2) feet and eight (8) feet above curb grade within the required corner visibility area of a street intersection or driveway intersection with a street.

C. Fences, Walls, and Hedges

1. In the AG zoning district accessory structures shall not exceed the maximum height limit of the district, unless expressly authorized by this Zoning Ordinance.
2. In SR and MR zoning districts accessory structures shall not exceed fifteen (15) feet in height.
3. Within the NC zoning district restrictions on the height of fences, walls, and hedges shall be as follows:
 - a. In any front yard no fence, wall, or hedge shall exceed three (3) feet in height, however, fences that are at least seventy-five (75) percent light-permeable may exceed three (3) feet, but may not exceed four (4) feet in height;
 - b. In any street side yard or interior side yard from the front property line extending the length of the front yard setback distance or to the front of any existing house or other principal building, whichever length is greater, no fence, wall, or hedge shall exceed three (3) feet in height, however, fences that are at least seventy-five (75) percent light-permeable may exceed three (3) feet, but may not exceed four (4) feet in height;

- c. In any street side yard or interior side yard from the point identified in subparagraph [b.] hereof to the rear property boundary or in any rear yard no fence, wall, or hedge shall exceed six and five-tenths (6.5) feet in height; and
 - d. In any rear yard, any fence, wall, or hedge located at least three feet from the property line may exceed six and five-tenths (6.5) feet, but may not exceed eight and five-tenths (8.5) feet.
4. Within GC and LI zoning districts restrictions on the height of fences, walls, and hedges shall be as follows:
- a. No fence, wall, or hedge shall exceed eight and five-tenths (8.5) feet in height;
 - b. In the event the property is adjacent to residentially zoned property, no fence, wall, or hedge may exceed six and five-tenths (6.5) feet in height along, or within three (3) feet of the property line abutting residentially zoned property; and
 - c. The regulations shall apply unless demonstrated to the Zoning Administrator that the fence, wall, or hedge provides an unobstructed view so as not to create a safety hazard.

D. Home Occupations

- 1. The occupation shall be limited to the dwelling and the area of the occupation shall not exceed twenty-five (25) percent of the main floor area, not including basement or garage floor space.
- 2. Structural changes shall not be made in the dwelling, unless a building permit is obtained.
- 3. Employees shall be limited to immediate family members. Employees are limited to two (2) full-time or four part-time employees besides owners without a conditional use permit.
- 4. No sign may be permitted larger than four (4) square feet.
- 5. Evidence of the occupation shall not be visible from the road.
- 6. The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.

E. Irregular Setbacks

Where a uniform setback does not exist, the required setback shall be no less than the average of the setback of the two (2) adjacent principal buildings, or if there is only one (1) adjacent principal building, the setback of the main building shall govern, but in no case shall a setback greater than seventy-five (75) feet be required.

F. Setbacks

Every part of a required setback must be open and unobstructed from the ground to the sky except as set out in this subsection:

1. Trees, shrubbery, or other landscape features may be located within any required setback;
2. Fences and walls may be located within any required setback, subject to the above mentioned criteria;
3. Driveways and sidewalks may be located within any required setback;
4. Utility lines, wires, and associated structures, such as power poles, may be located within any required setback;
5. Signs, where permitted, may be located within any required setback;
6. Uncovered porches, uncovered steps to building entrances, uncovered patio decks, and uncovered balconies may extend up to ten (10) feet into any required front, rear, or street side setback and up to three (3) feet into any required interior side setback;
7. Openwork fire balconies and fire escapes may extend up to three and one-half (3½) feet into any required setback;
8. Sills, belt courses, cornices, buttresses, eaves, and other architectural features may extend up to three (3) feet into any required setback;
9. Off-street parking and loading areas, subject to the provisions of this Zoning Ordinance, may be located within any required setback;
10. Chimneys and flues may extend up to two (2) feet into any required setback;
11. Accessory structures may be located within rear setbacks in accordance with this Zoning Ordinance;
12. Solar panels and other apparatus needed for the operation of active and passive solar energy systems and all other forms of renewable passive energy, including but not limited to, overhangs, movable insulating walls and roofs, detached solar collectors, reflectors, and piping may project into a required rear setback by up to ten (10) feet and into a side setback by up to three (3) feet. In all cases, however, they must be located at least three (3) feet from all lot lines; and
13. Satellite dish antennas may be placed in required rear setbacks and on roofs.

G. Signs in SR and MR Zoning Districts

The purposes of regulating signs in the Township is to provide for a visually pleasant environment and minimize potentially unsafe conditions for all age groups, but yet offer many opportunities for public and private information and advertising.

No sign shall be located, erected, moved, reconstructed, extended, enlarged, or structurally altered without obtaining a permit from the Zoning Administrator.

Signs shall not be permitted within three hundred (300) feet of any road crossing which is measured from the point of intersection of the road center line.

The following signs shall be permitted in residential districts provided they are illuminated only by the reflector method and so erected that the light source is not visible from outside the premises.

1. Signs traditionally associated with permitted uses.
2. Signs not exceeding two (2) square feet in area and bearing only property numbers, post office box numbers, and names of occupants of premises.
3. Signs as permitted for home occupations.
4. Flags and insignias of any government or governmental agency except when displayed in connection with a commercial promotion.
5. An advertising sign in connection with a lawfully maintained non-conforming use or conditional use.
6. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
7. A sign advertising only the sale, rental, or lease of the building or premises.
8. Temporary signs connected with political elections.

H. Signs in AG, NC, GC, and LI Zoning Districts

1. A building permit must be obtained prior to installation of any commercial signs.
2. All commercial signs erected or placed in Empire Township located adjacent to the State of North Dakota's highway or interstate right-of-ways shall be located on property zoned NC, GC or LI, and shall obtain approval from the North Dakota State Highway Department prior to permit consideration from Empire Township.
3. The foundation base and posts of all signs must be on private property.
4. No part of any sign or projection may protrude over the public right-of-way within six (6) feet of the actual or proposed shoulder or curb line. Signs, marquees, awnings, and similar projections may project over the right-of-way a maximum of six (6) feet provided no part is within six (6) feet of the shoulder or curb line and that it is over eight (8) feet above the sidewalk or the average grade at property line when no sidewalk is in place. If the street is widened, the sign shall be moved back at the owner's expense to maintain the six (6) foot distance of the shoulder or curb regulation.
5. All sources of artificial light other than street lights shall be fixed, directed, or designed so as not to measurably increase the amount of light to any abutting residential lot.
6. No sign can be of a height so that if it falls it will project over half way across a street right-of-way.
7. For home occupation use it is permissible to have one sign, not to exceed two (2) square feet, non-illuminated, and mounted flat against the wall of the principal building.

I. Essential Services

1. Permitted Essential Services

- a. Essential services extending from the system to serve en route parcel(s) of land abutting a public right-of-way or easement are not subject to yard or setback regulations or zoning certificates, other than the approval of the owner.

2. Essential Services Buildings and Structures

- a. Buildings and structures to house essential service facilities shall be allowed as a conditional use as permitted by district regulations. It shall be a variance to permit a lot area less than the minimum required for the district in which such building structure is located. In consideration of an application for a conditional use, the zoning commission shall find:
 - i. That the landscape treatment is in keeping with the neighborhood and provides screening where appropriate;
 - ii. That the installation is secure from the public and does not create a potential public hazard;
 - iii. That the building is of an architectural style in keeping with the neighborhood;
 - iv. That access and parking is adequately provided; and
 - v. That the proposed maintenance program of the building, structure, and grounds is in keeping with the neighborhood.

3. Essential Service Transmission Services

- a. The applicant for such a conditional use shall conform to the following procedures and standards:
 - i. No filing or application shall be necessary under this section to maintain, reconstruct or relocate existing lines or facilities where the general line and conformation thereof remains essentially the same unless said construction is within the traveled roadway. In such case, a conditional use permit shall be obtained from the Zoning Administrator. Emergency work otherwise requiring filing or application shall be accomplished provided such filing or application is made as soon thereafter as possible.
 - ii. Essential services shall be located and constructed at such places and in such manner that they will not segment land of any one farm, and will not interfere with the conduct of agriculture by limiting or interfering with the access to fields or the effectiveness and efficiency of the farmer and farm equipment including crop spraying aircraft.
 - iii. All new utility lines and pipelines require a permit.
 - iv. All new utility lines and pipelines are considered conditional uses and shall conform to the requirements of these regulations.

- v. Excavation for tunneling of any pipelines under roads, farm drains, group drains, and local drains shall be done by the company owning or leasing said pipelines and the cost of said excavation and damages will be borne by the said company.
- vi. All utilities shall notify the Board of Township Supervisors within thirty (30) days of abandoning a tower site or utilities.

J. Limitation of Principal and Accessory Buildings

No more than one (1) principal building shall be located on a lot in the SR or MR zoning districts.

K. Public Nuisances and Noise

The maintenance of public nuisances, including but not limited to noxious weeds, smoke, gases, radio interference, blighted structures or buildings, substantial noise in excess of 75 dB during the day and 65 dB at night, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall be subject to the provisions of the Township

L. Recreational Vehicles and Travel Trailers

The use of recreational vehicles, travel trailers, and other trailers used for temporary occupancy shall be limited to two hundred forty days (240) per year within the township.

M. Landscaping

Farmstead windbreaks set back shall be two hundred (200) feet away from the center of the road or at the discretion of the Board of Township Supervisors. No persons, firms, or corporations shall plant any tree, shrub, or other vegetation except lawn grass on any road right-of-way, or within confines of the ditch back slope.

N. Sanitary Landfills and Solid Waste Sites

1. Any person who operates sanitary landfills or solid waste sites shall comply with all North Dakota state laws and administrative rules set forth by the state agencies, the County ordinances, rules, and procedures.
2. All solid waste sites require approval by the Board of Township Supervisors.
3. No landfill shall be located within one (1) mile of residential uses.
4. No landfill shall be located in areas, which due to high water table, flooding, or soil conditions may affect the quality of surface and ground water.
5. No landfill shall be located nearer than two hundred (200) feet of all road and highway rights-of-way.

SECTION ELEVEN

Definitions

For the purposes of this Zoning Ordinance, the following terms shall have the meanings ascribed to them. Shall is mandatory. May is a permissive word.

Accessory Building: A subordinate building the use of which is customarily incidental to the main building or the main use of the premises such as garages, sheds, etc.

Accessory Use: Accessory uses are allowed by-right in conjunction with a principal use unless otherwise stated in the regulations. Also, unless otherwise stated, accessory uses are subject to the same regulations as the principal use. Common accessory uses are listed as examples in the use category descriptions.

A use or structure that is clearly incidental to and customarily found in connection with a principal structure or use; is subordinate in area, extent, and purpose to the principal building or use; contributes to the comfort, convenience, or necessity of occupants of the principal use; and is located on the same lot and in the same zoning district as the principal use.

No use that is accessory to a principal nonconforming use may continue after the principal use ceases or terminates.

Agricultural Service Establishment: Any service establishment primarily engaged in performing animal husbandry or horticultural services, including businesses performing agricultural milling and processing, harvesting or agricultural land preparation, farm equipment sales and service, veterinary services, boarding or training of horses, and agricultural produce stands.

Airport: Any area designated for the landing and take-off of aircraft and any appurtenant areas which are used or intended for use for airport buildings and structures including runways, taxiways, aircraft storage, and tie down areas, hangars, and other related facilities and open spaces other than landing strips used for family purposes.

Animal Feeding Operation (AFO): Means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

- A. Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five days or more in any twelve-month period; and
- B. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Animal Unit: The unit of measure used to determine the appropriate density of livestock and poultry which shall be kept subject to the restrictions imposed by this Zoning Ordinance. For the purposes of this Zoning Ordinance, animal units are determined as follows:

One mature dairy cow [whether milking or dry]	1.33 animal units
One dairy cow, heifer, or bull, other than the above	1.00 animal units
One weaned beef animal, whether a calf, heifer, steer, or bull	0.75 animal units
One cow-calf pair	1.00 animal units
One swine weighing greater than or equal to 55 pounds	0.40 animal units

One swine weighing less than 55 pounds	0.10 animal units
One horse	2.00 animal units
One sheep or lamb	0.10 animal units
One turkey	0.02 animal units
One chicken, other than a laying hen	0.01 animal units
One laying hen	0.01 animal units
One duck	0.03 animal units

For animals not listed above, the number of animal units equals 1.00 animal unit per 1,000 pounds whether single or combined animal weight.

Animal Wintering Operation: A parcel of land where animals are sheltered incidental to farming at any time between October 15 and May 15 of cash production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. This term includes weaned offspring of cattle and sheep, but it does not include (1) breeding operations of more than 1,000 animal units or (2) weaned offspring which are kept longer than 120 days and that are not retained for breeding purposes. For purposes of numbers, two or more animal wintering operations under common ownership are considered to be a single animal wintering operation if they adjoin each other or if they use a common area or system for manure handling or disposal.

Board or Board of Township Supervisors: The body authorized to manage and control the affairs of the township; establish one or more zoning districts; establish appropriate regulations and restrictions; hear appeals on the enforcement of this Zoning Ordinance and its provisions; and grant variances. For the purposes of this Zoning Ordinance, it is the Board of Township Supervisors for EMPIRE Township, North Dakota.

Building: A structure having a roof supported by columns or walls.

Building Height: The vertical distance between the average finished grade at the base of the building and: 1) the highest point of the coping of a flat roof; 2) the highest point of a mansard roof; or 3) the average height level between the eaves and ridge line of a gable, hip, or gambrel roof.



Building Coverage: The area of a lot covered by buildings [principal and accessory] or roofed areas, as measured along the outside wall at ground level, and including all projections, other than open porches, fire escapes, canopies, and the first 3 feet of a roof overhang.

Decision-Making Body: A person or group authorized in this Zoning Ordinance to conduct land use reviews and take action on the matter under review.

Certificate of Compliance: A certificate stating compliance has been made with the regulations of the zoning district which is issued after completion of construction.

Commercial Agriculture: The use of land for primarily agricultural purposes including farming, dairying, pasturage, horticulture, floriculture, animal and poultry husbandry, and the necessary accessory buildings and accessory uses for packing, treating, or storing produce; provided

agricultural revenues shall be the principal source of income from any operations. Where there is any uncertainty regarding the definition, a parcel shall be considered agricultural if it is considered agricultural by the Cass County Director of Tax Equalization.

Comprehensive Plan: Unless otherwise stated, it is the general plan for land use, housing, transportation, and community facilities prepared, adopted, and maintained by the Township Board of Supervisors for Empire Township, Cass County, North Dakota.

Concentrated Animal Feeding Operation: Means an animal feeding operation that is defined as a large concentrated animal feeding operation, as a medium concentrated animal feeding operation, or is a small or other type of animal feeding operation designated as a concentrated animal feeding operation in accordance with section 33-16-03.1-04 of the North Dakota Administrative Code. For purposes of determining animal numbers, two or more feeding operations under common ownership are considered to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes. All concentrated animal feeding operations are required to obtain a North Dakota pollutant discharge elimination system permit pursuant to chapter 33-16-01 of the North Dakota Administrative Code. For the purpose of these regulations, Animal Feeding Operations and Concentrated Animal Feeding Operations are divided into small, medium and large Animal Feeding Operations and Concentrated Animal Feeding Operations as set forth in N.D.A.C. § 33-16-03.1-03.

Conditional Use: An exception from permitted uses within certain zoning districts provided such exceptions are stated in the Zoning Ordinance and will not be detrimental to the district and will substantially serve the public welfare.

Conforming Use: A building or structure which complies with all requirements of the Zoning Ordinance and other regulations adopted by the Township.

Density: The number of dwelling units for each acre of land. Density may also be expressed as the amount of land area per dwelling unit.

Dwelling Unit: A building or portion of it designed and used for residential occupancy by a single household and that includes exclusive sleeping, cooking, eating, and sanitation facilities. Buildings with more than one set of cooking facilities are considered to be multi-dwelling structures unless the additional cooking facilities are clearly accessory, such as an outdoor grill.

Essential Services: The erection, construction, alteration, or maintenance by public utilities or by governmental departments or commissions of such underground or overhead gas, electrical, steam, or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, street lights, traffic signals, hydrants, and other similar equipment, and accessories in connection therewith, but not including buildings, as are reasonably necessary for the furnishing of adequate service by such public utilities or governmental departments or commissions or as are required for protection of the public health, safety, or general welfare.

Farm: Real property principally used for agricultural activities such as the production of cash crops, livestock or poultry farming, comprising at least 40 contiguous acres and which may contain other contiguous or non-contiguous acreage, all of which is owned or rented, and operated by a single family, family corporation, individual, corporation, or partnership.

Farming or Ranching: Cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include the production of timber or forest products, the provision of grain harvesting, or other farm services by a processor or distributor of farm products or supplies in accordance with the terms of a contract.

Farm Building: Any building or accessory structure other than a farm or non-farm dwelling which is used in farming operations.

Feedlot: Is a parcel of land which contains an animal feeding operation or a confined animal feeding operation as defined by this ordinance.

Flood Plain: An area near a river or a stream which floods when the water level reaches flood stage.

Garage: A building detached or attached to a main building and generally providing for the storage of automobiles.

Home Occupation: A gainful occupation conducted by members of the family within the residence or accessory buildings provided that no goods or services are sold other than those produced on the premises.

Hotel or Motel: Any commercial building containing nine or more guest rooms intended or designed to be used, or which are used, rented, or hired out to be occupied, or which are occupied for sleeping purposes by guests.

House, Attached: A dwelling unit that shares one or more common or abutting walls with one or more dwelling units. An attached house does not share common floor/ceilings with other dwelling units. An attached house is also called a townhouse.

House, Detached: A dwelling unit located on its own lot that is not attached to any other dwelling unit, including a residential-design manufactured housing unit.

Household: Any one of the following: 1) one or more persons related by blood, marriage, adoption, or legal guardianship, including foster children, living together in a dwelling unit; 2) a group of not more than 3 persons not related by blood, marriage, adoption, or legal guardianship living together in a dwelling unit; 3) two unrelated persons and their children living together in a dwelling unit; or 4) any group of people living together that meets the definition of "protected class," as that term is defined in the North Dakota law.

Junk Yard: Any land or building used for the commercial storage, sale, or dismantling of obsolete vehicles, junk, and other machinery.

Limited Disturbance Zone Setback: Beginning at the outer edge of the Minimal Disturbance Zone Setback and extending 100 feet.

Livestock: Includes beef cattle, dairy cattle, sheep, swine, poultry, horses, bison, elk, fur animals raised for their pelts, and any other animals that are raised, fed, or produced as a part of farming or ranching activities.

Lot: The entire parcel of land occupied or intended to be occupied by a principal building and its accessory buildings, or by a group such as a dwelling group or automobile court and accessory buildings, including the yards, setbacks, and open spaces required by this Zoning Ordinance

and other applicable law. When a lot is used together with 1 or more contiguous lots for a single use or unified development, all of the lots so used, including any lots used for off-street parking, shall be considered a single lot.

Lot Area: Refers to the horizontal land area within lot lines. No building permit or development approval may be issued for a lot that does not meet the minimum lot area requirements of this Zoning Ordinance.

Lot Coverage: The total surface area of a lot which is covered by any type of structure.

Lot Depth: The average distance between the front and rear lot lines.

Lot Width: The average distance between the side lot lines measured parallel to the front lot line.

Minimal Disturbance Zone Setback: A setback of 350 feet from the Red and Wild Rice rivers. All other watercourse setbacks may be based on the 350 foot setback or be equal to the vertical difference between the top of the river bank and the river bottom (plus any additional flood plain elevation requirements) multiplied by 8.

Mobile Home: A transportable, factory-built structure that was manufactured prior to enactment of or otherwise does not comply with the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sec. 5401) and that is designed to be used as a single dwelling unit.

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

Nursing Home or Convalescent Home: A health care institution licensed to serve aged or infirm persons who require nursing care and related assistance. Types of nursing care provided in a nursing home include giving medications, applying dressings and bandages, and providing bedside care and other physician prescribed treatments which require the technical knowledge, skill, and judgment possessed by professional nurses.

Open Space: an outdoor, unenclosed area, located on the ground or on a roof, balcony, deck, porch, or terrace designed and accessible for outdoor living, recreation, pedestrian access, or landscaping, but not including roads, parking areas, driveways, or other areas intended for vehicular travel.

Parking Space: A space adequate for parking an automobile with room for opening doors on both sides, together with unimpeded access to a public street or alley and maneuvering room.

Principal Building: A building occupied by the principal use of the lot on which it is situated.

Principal Structure or Use: One which determines the predominant use as contrasted to accessory use or building.

Poultry Lot: A confined area or structure used intensively for raising, feeding, breeding, or holding chickens, turkeys, and other poultry for eventual sale or for the production of eggs.

Review Body: A person or group authorized in this Zoning Ordinance to conduct land use reviews and offer recommendations but not to take final action on the matter under review.

Salvage Yard: A place where waste, discarded, or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, or handled; including auto wrecking yards, house wrecking yards, and used material yards; but not including uses occurring entirely within an enclosed building.

Service Station [Gas Station]: A place where gasoline, kerosene, or any other motor fuel, lubricating oil, or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing and oiling and the sale of automobile accessories on the premises. It also includes minor repairs, replacement of parts, and motor services for vehicles.

Setback: The distance that is required to be maintained in an unobstructed state between a structure and the lot line of the lot on which the structure is located.

Setback, Front: A setback that is to extend across the full width of a lot, the required depth of which is measured as the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Setback, Interior Side: A setback that is to extend from the front lot line to the rear lot line along the side of a lot that is adjacent to another lot, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

Setback, Rear: A setback that is to extend across the full width of a lot, the required depth of which is measured as the minimum horizontal distance between the rear lot line and a line parallel thereto on the lot.

Setback, Street Side: A setback that is to extend from the front lot line to the rear lot line along the street side of a corner lot, the required depth of which is measured as the minimum horizontal distance between the street side lot line and a line parallel thereto on the lot.

Street: A public or private way used or intended to be used for passage or travel by motor vehicles. Streets are further classified according to their design and the function they perform. The hierarchy of streets is as follows:

Local Street: A street intended to provide direct access to abutting property and access to higher classification streets.

Local Collector Street: A street that connects traffic from local streets and higher classification streets and that may provide direct access to abutting property.

Collector Street: A street that connects traffic from lower classification streets and higher classification streets and that does not provide direct access to abutting property.

Minor Arterial Street: A street with signals at major intersections and stop signs at side streets and that collects and distributes traffic to and from collector streets.

Principal Arterial Street: A street with access control, channelized intersections, restricted parking, and that collects and distributes traffic to and from minor arterial streets.

The Empire Township Board of Supervisors may specifically classify any public road within Empire Township, but in the absence of such specific designation, the following classifications shall exist: 1) any road, highway, or street designated as part of either the state highway system

or the county road system shall be deemed to be “Arterial Roads”; and 2) all congressional section lines [and all public roads in existence pursuant to N.D.C.C. § 24-07] not designated as “Arterial Roads” shall be deemed to be “Collector Roads”.

Structure: Anything constructed or erected having location on or under the ground or attached to something having location on or under the ground.

Subdivision: The division of a tract or parcel of land into lots for the purpose of, whether immediate or future, sale or of development.

Utility Services: Services purchased by the occupant from a utility company under the jurisdiction of the public service commission, a rural electric cooperative, or a political subdivision of the state. Utilities include, but are not limited to, electric power, electrical transmission lines, wind conversion systems, commercial wind generators, dams, electrical and telephone towers and substations, natural gas pipelines, petroleum pipelines, water and sewer lines, telephone lines, and other above ground or underground communication and energy transfer lines and pipelines.

Yard: The actual unobstructed open space that exists or that is proposed between a structure and the lot lines of the lot on which the structure is located.

Variance: A modification of the literal provisions of the Zoning Ordinance to provide relief for a property owner when an undue hardship or some peculiar difficulty is imposed by this Zoning Ordinance. Variance is limited to height, bulk, density, and yard requirements which are peculiar to a property and are not the result of the action of the property owner, where a literal enforcement of the Zoning Ordinance would result in unnecessary and undue hardship.

SECTION TWELVE

Adoption

WHEREAS, the Empire Township Planning Commission has approved this Zoning Ordinance, and recommends it be adopted by the Board of Township Supervisors.

THEREFORE, be it resolved, that the Empire Board of Township Supervisors hereby adopts the Empire Township Zoning Ordinance.

Chairman, Empire Township

Date

Clerk, Empire Township

Date