

## The Morton County Planning & Zoning Commission

### Agenda for October 23, 2024

Planning and Zoning meeting beginning at 5:30pm, located in the Morton County Commission room in the County Courthouse, 210 2<sup>nd</sup> Ave. NW, Mandan, ND. This meeting will also be available via the Go To Meeting platform via <https://www.gotomeet.me/MortonCounty/morton-county-planning--zoning-meeting> or dial +1 (646) 749-3122 and use access code: 242-435-693.

Call to Order

Pledge of Allegiance

Roll Call

Approval of Agenda

Approval of Minutes from the September 25, 2024 meeting

1. **Public Hearing:** request from Paul Roeder for a special use permit for a scoria mining operation on 238.5 acres in the W $\frac{1}{2}$  Section 3, Township 140N, Range 90W, Morton County.
2. **Public Hearing:** request from Spence Koenig for a special use permit for a commercial sign with digital display on approximately 3 acres, Limited Industrial District, in the SE $\frac{1}{4}$  Section 33, Township 137N, Range 81W, Morton County.
3. **Discussion:** 2025 meeting schedule
4. **Public Hearing:** land use code updates regarding flood hazard area requirements, accessory dwellings, septic systems, mobile home park acreage minimum, non-conformities, duration of special use permits, long-form subdivision process, administrative variance process, and definitions.

ISSUES MAY BE ADDED OR DELETED BY MEETING DAY

Summary of County Commission official actions since last Planning & Zoning Commission meeting.

Name	Action	Type	Location
ATC Cell Tower	Approve	Special Use Permit	SE $\frac{1}{4}$ Section 22, Township 136N, Range 80W
Miller Subdivision	Approve	Subdivision & Zoning Map Amendment	SE $\frac{1}{4}$ Section 24, Township 135N, Range 84W
Leier Subdivision	Approve	Subdivision & Zoning Map Amendment	NE $\frac{1}{4}$ Section 34, Township 140N, Range 82W

THE MORTON COUNTY PLANNING AND ZONING COMMISSION MINUTES  
SEPTEMBER 25, 2024 MEETING MINUTES

Chairman Kist called the Morton County Planning and Zoning Commission meeting to order at 5:30 P.M. September 25, 2024, in the Morton County Commission Room, 210 2<sup>nd</sup> Ave NW, Mandan, North Dakota. Commissioners present were Zachmeier, Buckley, Ell Jr, Tomac, Rohr, Carter and Wald. Also present were County Planner Natalie Pierce and Auditor Deputy Eckroth. Absent Braun.

Rohr moved and Tomac seconded to approve the agenda. All voting aye, motion carried.

Ell Jr. moved and Rohr seconded to approve the minutes from August 28, 2024. All voting aye, motion carried.

**Chairman Kist opened the Public Hearing** – request from American Tower Corp and the estate of Eugene Howarth for a special use permit for a telecommunication tower on 200 acres in the SE ¼ Section 22, Township 136N, Range 80W, Morton County.

Buckley moved and Rohr seconded to recommend to approval of a special use permit for a telecommunications tower in the SE ¼ of Section 22, Township 136N, Range 80W, as the existing tower meets the specific use standards required by Section 5-190 of the Morton County Land Use Code, also a permanent address will be granted to this site. All voting aye, motion carried.

**Chairman Kist opened the Public Hearing** – request from John, Joyce, Kevin & Kristi Miller for the final plat of a short-form subdivision known as Miller Subdivision and a zoning map amendment from Agricultural to Residential on approximately 4 acres in the SE ¼ of Section 24, Township 135N, Range 84W, Morton County.

Ell Jr. moved and Tomac seconded to recommend approval of the final plat of the short-form subdivision known as Miller Subdivision and a zoning map amendment from Agricultural to Residential as the subdivision conforms to the regulations established in Article 7 of the Morton County Land Use Code and conforms to the land use priorities established in the 2045 Comprehensive Plan. All voting aye, motion carried

**Chairman Kist opened the Public Hearing** – request from Anton & Cathy Leier for the final plat of a short-form subdivision known as Leier Subdivision and a zoning map amendment from Agricultural to Residential on approximately 3.74 acres in the NE¼ of Section 34, Township 140N, Range 82W, Morton County

Rohr moved and Ell Jr. seconded to recommend approval of the final plat of the short-form subdivision known as Leier Subdivision and a zoning map amendment from Agricultural to Residential as the subdivision conforms to the regulations established in Article 7 of the Morton County Land Use Code and conforms to the land use priorities established in the 2045 Comprehensive Plan. All voting aye, motion carried.

Planner Pierce presented a collection of proposed land use code amendments. Planner Pierce summarized the changes in each section of the code. Significant discussion, and questions for Planner Pierce from P&Z Commissioners.

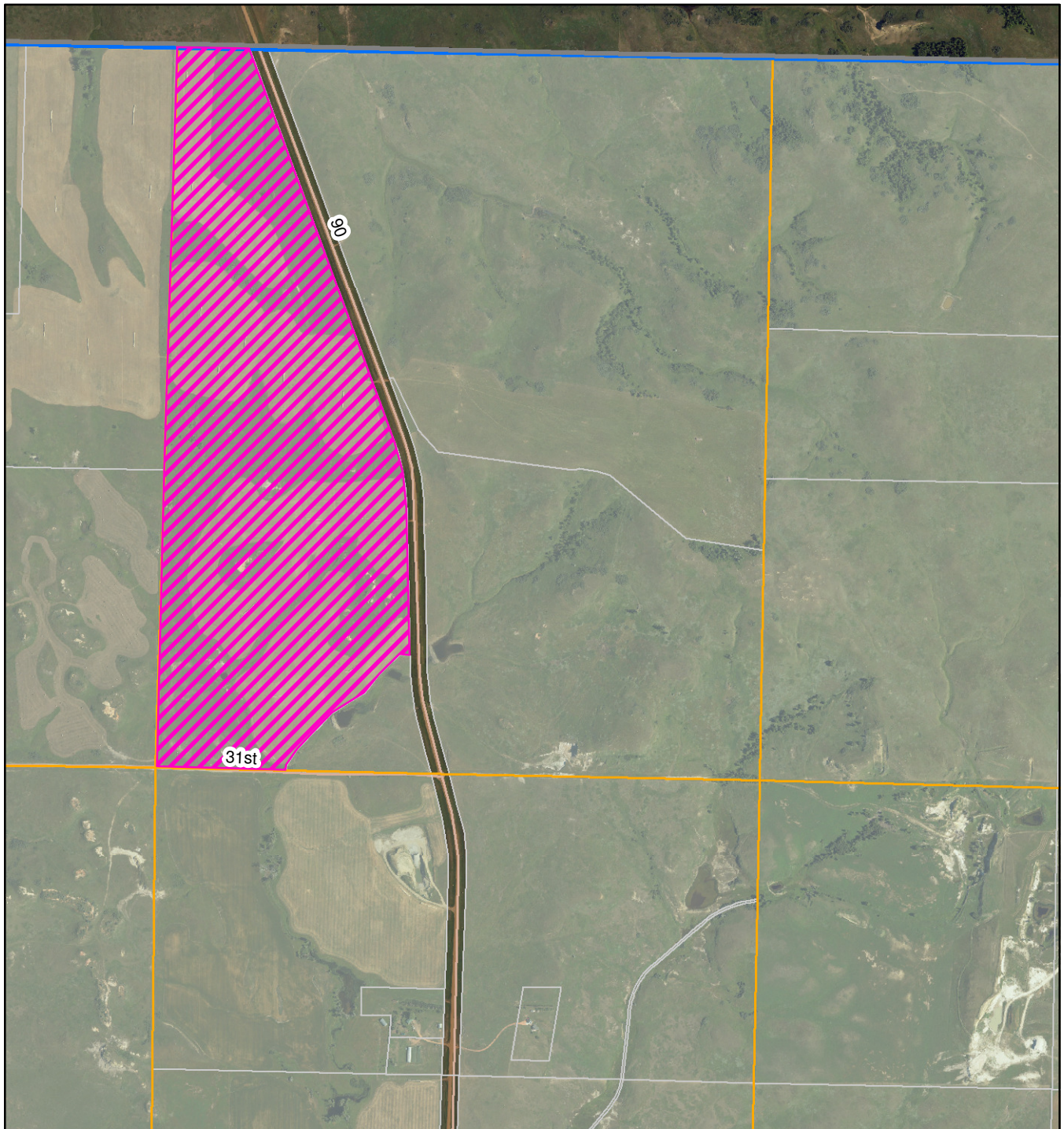
**Chairman Kist opened the Public Hearing** – land use code updates regarding flood hazard area requirements, accessory dwellings, septic systems, mobile home park acreage minimum, duration of special use permits, long-form subdivision process, and administrative variance process.

Members of the Public - Keith and Deb Larson stated they would prefer accessory structures be allowed before a residential structure, on residential lots.

Ell Jr. moved and Buckley seconded to adjourn meeting at 7:41pm. All voting aye, motion carried.

# Roeder Scoria Extraction SUP Zoning Map


Morton County Planning and Zoning Department  
Created: 10/4/2024














 Project Area

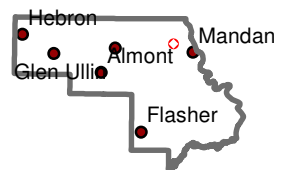


0 600 1,200 2,400 Feet



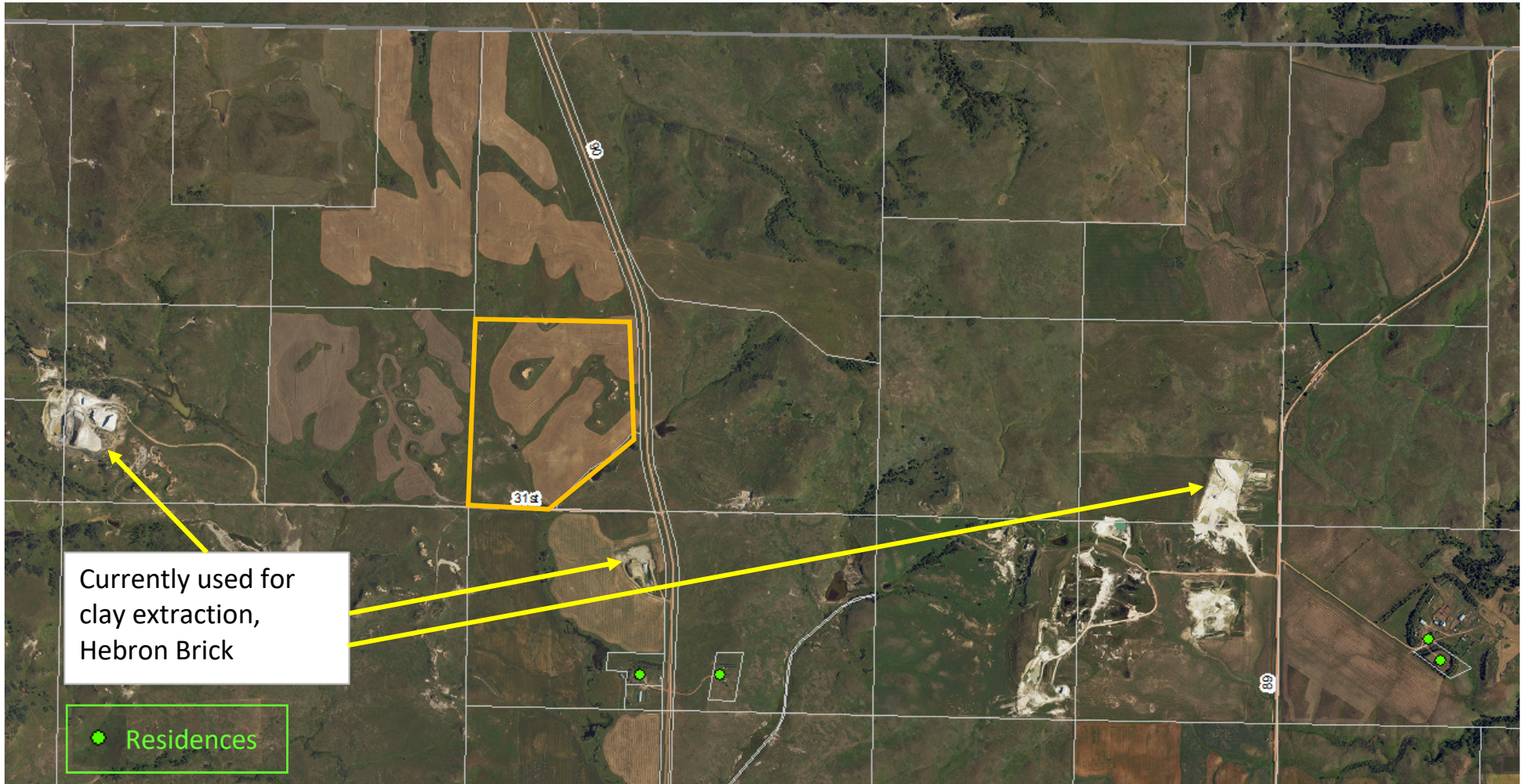
## Zoning

- |  |  |   |
|--|--|---|
|  Agricultural            |  Industrial         |  Residential Multifamily |
|  Estate                  |  Limited Industrial |  Residential             |
|  Public Institutional    |  Commercial         |   |
|  Parks & Recreation      |  Rural Commercial   |   |
|  Conservation/Open Space |  |   |



Proposed boundaries of site not exact.  
For planning purposes only.

# Area Map Proposed Roeder Scoria Pit



Currently used for  
clay extraction,  
Hebron Brick

● Residences

# STAFF REPORT | MORTON COUNTY DEPARTMENT OF PLANNING AND ZONING

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<b>ITEM 1</b>	<b>Roeder Scoria Mining SUP</b>	<b>Location:</b> W½ Section 3, Township 140N, Range 90W
	<b>Public Hearing:</b> October 23, 2024 Planning and Zoning Commission Regular Meeting	<b>Acreage:</b> 238.5 acres
	<b>Application Type:</b> Special Use Permit	<b># of Lots:</b> 1
	<b>Applicant:</b> Paul Roeder	<b>Existing Zoning:</b> Agricultural (A)
	<b>Application Fee:</b> \$300 (9/23/24)	<b>Proposed Zoning:</b> Agricultural (A)
	<b>Citizen Outreach:</b> 8 letters sent (10/4/24) Notice of Public Hearing advertised.	<b>Future Land Use Category:</b> Agricultural (A)
	<b>Proposal:</b> Permit scoria extraction on the subject property	
	<b>Recommendation from Staff:</b> Approve the special use permit	

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## OVERVIEW

The subject property is located to the west of County Road 90, on the Oliver County border. The applicant would like to gain permission to extract scoria from his property for various small projects.

## FINDINGS

Aggregate extraction is allowable by special use permit in the Agricultural zoning district. The subject property and all surrounding lands are zoned Agricultural and prioritized for Agricultural use in the 2045 Comprehensive Plan.

The two nearest residences are approximately ½-mile distant from the property. The next-closest residences are 1 mile and 2 miles distant. The Hebron Brick Company currently extracts clay approximately ¾ mile to the west of the subject property along 31<sup>st</sup> Street, on the land directly to the south of the subject property, and on lands approximately 1 mile east of the subject property.

## **PROJECT DESCRIPTION/APPLICANT STATEMENT**

The applicant stated that he has not tested the scoria reserves or taken samples. He is not aware of the volume of scoria present on the property. There are no commercial outlets identified for the scoria currently. He plans to use his own equipment to extract the scoria – a payloader and an excavator. He plans to either deliver the scoria for local use on private drives or allow local customers to pick up their own loads from the property.

## **CIRCULATION**

The applicant plans to mine scoria on the southerly half of the subject property. He would be using the existing approach onto 31<sup>st</sup> Street to haul the gravel out. This road is already used by Hebron Brick for extracting clay. Staff was not able to reach Hebron Brick Company regarding their current operations. However the applicant stated that about 5 trucks haul clay out of the existing pits all day for about 2 weeks each autumn.

## **RECOMMENDATION**

Approve the special use permit with conditions. The P&Z Commission may want to discuss a maximum number of truck trips per year or a similar cap on size and scope of the operation.

### *Suggested motion*

I move to recommend approval of a special use permit to allow scoria extraction from the W<sup>1/2</sup> Section 3, Township 140N, Range 90W, on the west side of County Road 90, with the following conditions, as the subject property is in a remote location and similar activities are taking place nearby:

- 1) Hours of operation shall be limited to 6am to 9pm.
- 2) Applicant shall control dust as directed by the County Engineer.
- 3) If customers are allowed to pick up scoria on the property, applicant shall designate an area for stockpiles and pick up, distanced and separated from mining areas.
- 4) At the end of operations, applicant shall reclaim the property such that there are no steep drop-offs or open pits.

## **ATTACHMENTS**

1. Zoning map
2. Area map

# Koenig Commercial Sign SUP Zoning Map

Morton County Planning and Zoning Department  
Created: 10/4/2024



 Subject Property

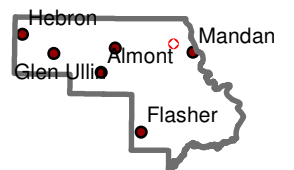


0 300 600 1,200 Feet

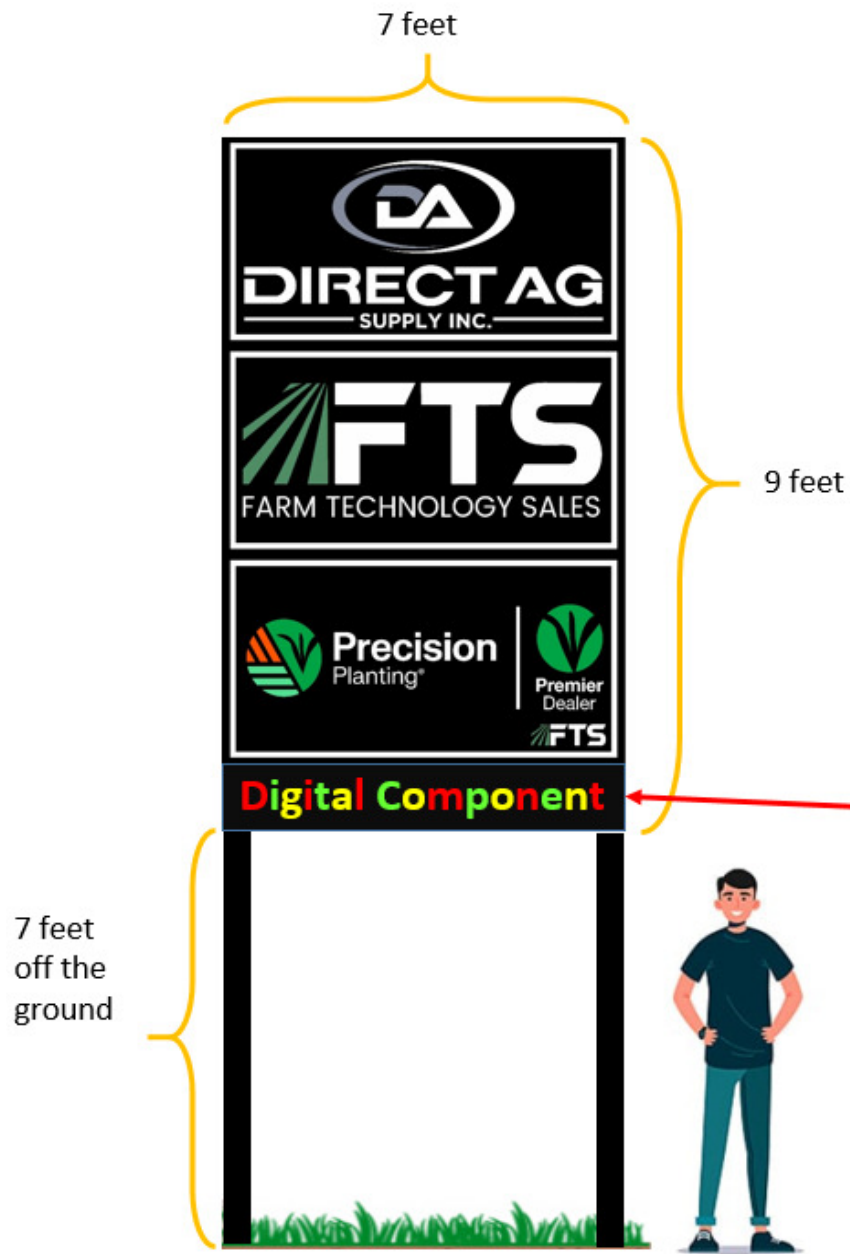
## Zoning

 Agricultural

 Limited Industrial



Proposed boundaries of site not exact.  
For planning purposes only.



Digital sign example



LED Sign: Size 85" x 20" MADE-USA<sup>®</sup>  
Programmable Messages & Images  
Multicolor · Still · Changing · Scrolling  
With Wireless Remote Keyboard · Top Quality

# STAFF REPORT | MORTON COUNTY DEPARTMENT OF PLANNING AND ZONING

## ITEM 2 Koenig Commercial Sign SUP

**Location:** SE¼ Section 33,  
Township 137N, Range  
81W

**Public Hearing:** October 23, 2024 Planning and  
Zoning Commission Regular Meeting

**Acreage:** 3 acres

**Application Type:** Special Use Permit

**# of Lots:** 1

**Applicants:** Spence Koenig and Jay Wardner

**Existing Zoning:** Agricultural (A)

**Application Fee:** \$300 (10/4/24)

**Proposed Zoning:** Agricultural (A)

**Citizen Outreach:** 12 letters sent (10/4/24)  
Notice of Public Hearing advertised.

**Future Land Use  
Category:** Agricultural (A)

**Proposal:** Erect a post and panel type commercial sign with digital display component

**Recommendation from  
Staff:** Approve the special use permit

## OVERVIEW

The subject property is located at the northwest corner of Highway 6 and 54<sup>th</sup> Street about one mile north of Saint Anthony. The applicants would like to erect a commercial sign advertising each of the businesses in a Limited Industrial subdivision. The applicant approached staff because the sign is proposed to be located adjacent to ND DOT right of way. The DOT requires local zoning approval for a sign of the proposed size in the proposed location.



**FIGURE 1 FACING NORTH ALONG HIGHWAY 6 FROM SE CORNER OF SUBJECT PROPERTY. PROPOSED LOCATION OF NEW SIGN IS APPROXIMATELY WHERE THE EXISTING, SMALLER SIGN IS SHOWN.**

## FINDINGS

The subject property is one of four lots within a subdivision in the Limited Industrial Zoning District. The Northern Lights Dairy is located directly to the west of that subdivision. There is a fertilizer distribution business, RV Park, and a residence on the east side of Highway 6. All other surrounding lands are Agricultural.

The Morton County Land Use Code defines off-premise commercial signs as a distinct land use. "Sign, outdoor advertising" is allowable by right in the Commercial and Industrial zoning districts. Beyond that, the code does not provide further detail about specific use standards for any type of sign. And there is no defined, category of sign that is specifically allowable in the Limited Industrial district.

There are many signs on lands under Morton County zoning authority. Generally, the County has allowed these signs to be erected with little to no oversight. However, the proposed sign is distinct for a number of reasons: 1) it is in a highly visible location on a state highway, 2) it is designed to be taller than a person standing underneath it, 3) it has a digital component.

Staff directed the applicant to submit the sign for a review so that the County can a) evaluate the compatibility of the sign with surrounding land uses and b) establish a precedent that any signs, with a digital component and tall enough for a person to walk underneath, be reviewed at least until such time as the County establishes detailed zoning standards for signs.



**FIGURE 2 FACING WEST AT 54<sup>TH</sup> STREET**

## PROJECT DESCRIPTION

Applicant would like to install a commercial sign advertising the businesses present across the four lots included in the existing limited industrial subdivision. Sign would be a post and panel type. Sign frame would be 16 feet tall by 7 feet wide, made of steel and anchored in the ground with concrete. The digital component would be located on the bottom of the sign panels. The sign panels would begin about 7 feet off the ground. See attached sign diagram.

## RECOMMENDATION

Approve the special use permit with conditions.

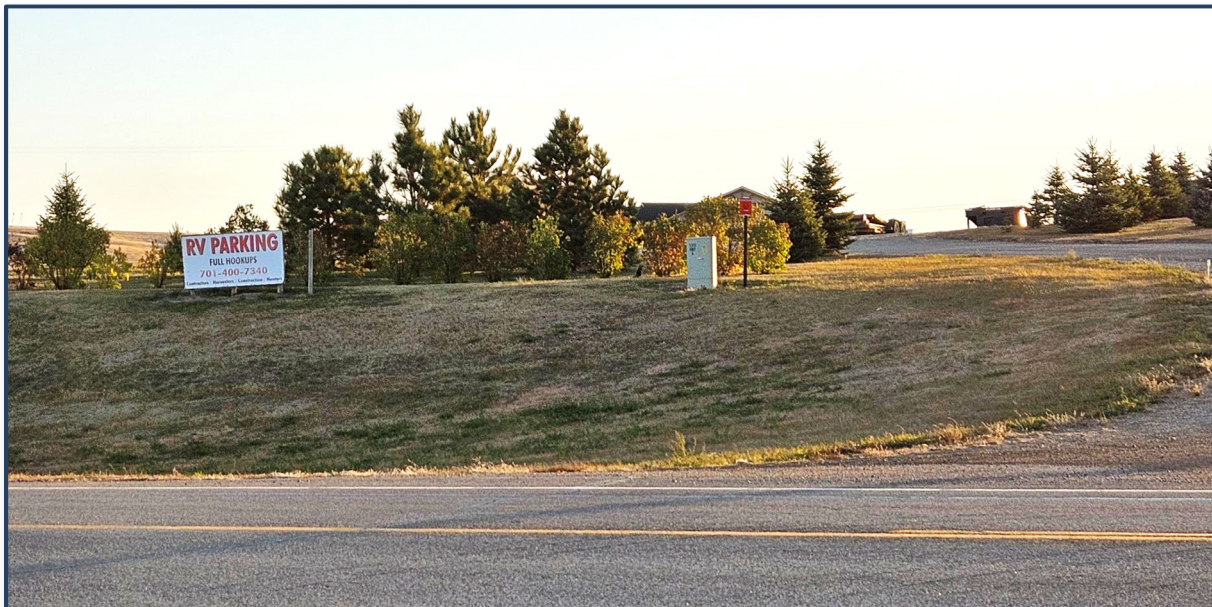
### *Suggested motion*

I move to recommend approval of a special use permit to allow a permanent commercial sign, not to exceed 125% of the dimensions submitted in the application, with the following conditions:

- 1) Applicant must consult with an engineer to draw up stamped plans for the sign, to ensure sign is adequately constructed and anchored.
- 2) Applicant must obtain a building permit for the sign.

## ATTACHMENTS

1. Zoning map
2. Sign diagram



**FIGURE 3 EXISTING SIGN (EXAMPLE) LOCATED DIRECTLY ACROSS HIGHWAY 6/EAST OF THE SUBJECT PROPERTY**

**Draft**

**Morton County 2025 Planning & Zoning Commission Meeting Schedule**

4<sup>th</sup> Wednesday of the month  
Except Nov/Dec for holidays

Jan 22

Feb 26

Mar 26

April 23

May 28

June 25

July 23

Aug 27

Sept 24

Oct 22

Nov 19

Dec 17

- (2) To discourage any use, which because of its character, size or location, would interfere with existing agricultural uses, create a nuisance for existing rural residents, create a negative environmental impact, or increase public costs.
- (b) **Permitted Uses:** Uses are permitted in the Agricultural (A) District in accordance with the Use Table in Section 2-200 of this code, together with any accessory uses, buildings, and structures incidental and directly related to the uses allowed as permitted and special in this article.
- (c) **Dimensional Standards:** Uses within the Agricultural (A) District are subject to the Dimensional Table in Section 2-210 of this code.

#### Section 2-040 Estate (E) District Regulations

In any Estate (E) District the following regulations shall apply:

- (a) **General Description:** An Estate (E) District is established to provide a zoning classification that allows for the transfer of ownership of an agricultural tract that does not meet the acreage minimum to be included in the Agricultural (A) District, until such time as the parcel is combined with other lots to meet the minimum acreage for the Agricultural (A) District or the parcel is rezoned to another use; and only such uses and forms compatible with this purpose.
- (b) **Permitted Uses:** Uses are permitted in the Estate (E) District in accordance with the Use Table in Section 2-200 of this code, together with any accessory uses, buildings, and structures incidental and directly related to the uses allowed as permitted and special in this article.
- (c) **Dimensional Standards:** Uses within the Estate (E) District are subject to the Dimensional Table in Section 2-210 of this code.

#### Section 2-050 Residential (R) District Regulations

In any Residential (R) District the following regulations shall apply:

- (a) **General Description:** A Residential (R) District is established to provide areas of predominantly residential character, and only such uses and forms compatible with this purpose.
- (b) **Permitted Uses:** Uses are permitted in the Residential (R) District in accordance with the Use Table in Section 2-200 of this code, together with any accessory uses, buildings, and structures incidental and directly related to the uses allowed as permitted and special in this article.
- (c) **Dimensional Standards:** Uses within the Residential (R) District are subject to the Dimensional Table in Section 2-210 of this code.

- (d) **Number of Residential Structures:** a maximum of one primary residential structure and a maximum of one accessory dwelling unit are allowed per lot, if the lot meets the standards in Section 5-010.

#### Section 2-060 Residential Multifamily (RM) District Regulations

In any Residential Multifamily (RM) District the following regulations shall apply:

- (a) **General Description:** A Residential Multifamily (RM) District is established to provide areas of predominantly residential character, including a greater variety of housing types and densities, and only such uses and forms compatible with this purpose.
- (b) **Permitted Uses:** Uses are permitted in the Residential Multifamily (RM) District in accordance with the Use Table in Section 2-200 of this code, together with any accessory uses, buildings, and structures incidental and directly related to the uses allowed as permitted and special in this article.
- (c) **Dimensional Standards:** Uses within the Residential Multifamily (RM) District are subject to the Dimensional Table in Section 2-210 of this code.

#### Section 2-070 Commercial (C) District Regulations

In any Commercial (C) District the following regulations shall apply:

- (a) **General Description:** A Commercial (C) District is established to provide areas for local and regional commercial uses, to further economic development of Morton County and facilitate commerce and services. Uses in this district may generate heavy traffic volumes and create other impacts that may not be compatible with residential or agricultural use.
- (b) **Permitted Uses:** Uses are permitted in the Commercial (C) District in accordance with the Use Table in Section 2-200 of this code, together with any accessory uses, buildings, and structures incidental and directly related to the uses allowed as permitted and special in this article.
- (c) **Dimensional Standards:** Uses within the Commercial (C) District are subject to the Dimensional Table Section 2-210 of this code.

#### Section 2-080 Rural Commercial (CR) District Regulations

In any Rural Commercial (CR) District the following regulations shall apply:

- (a) **General Description:** A Rural Commercial (CR) District is intended to provide areas for commercial uses that are related to a rural setting and which serve, and have a limited impact on, the surrounding rural community.

**(b) Interpretation of Use Types**

The Zoning Administrator is authorized to classify specific land uses, either proposed or existing, into a use type in the Section 2-200 Use Table based on:

- (1) The definition of that use type in Article 12 | Definitions.
- (2) Any standards for that use in Article 5 | Specific Use Standards.
- (3) Any previous interpretations of a similar nature made in Morton County.

**(c) Rules for Interpretation:** When a specific land use cannot be readily classified into a use type or appears to fit into multiple use types, the Zoning Administrator is authorized to determine the most similar, and thus most appropriate, use type. The interpretation shall be made in writing, and forwarded to the party proposing the use. The interpretation shall be based on the following rules:

- (1) The actual or projected characteristics of the specific use in relationship to the stated characteristics of the various use types.
- (2) The amount of site area, floor space and equipment required for the use.
- (3) The frequency and type of sales activity generated by the use.
- (4) The nature of the customer interaction generated by the use (e.g. on site, remote access, daily or infrequent.)
- (5) The number of employees required for the use.
- (6) The hours of operation.
- (7) The building, site arrangement and access requirements for the use.
- (8) The types of vehicles or equipment used in association with the use.
- (9) The number of vehicle trips generated by the use per day of the week over the course of a week, month or year.
- (10) The means by which the use advertises itself.
- (11) Whether the use is likely to be located independent of other uses on the site or established in a shared use environment.
- (12) Type and intensity of impacts the proposed use may have on surrounding properties and/or the community at-large.

**Section 2-210 Dimensional Table**

The following table lists all dimensional standards for lots or tracts and buildings as they apply within each zoning district of Morton County. Dimensional standards shall be interpreted according to the following rules:

**Section 2-200 | Use Table**

**Zoning Districts**

<b>Use Type</b> (with reference to applicable standards)	<b>A</b>	<b>E</b>		<b>R</b>	<b>RM</b>		<b>C</b>	<b>CR</b>	<b>I</b>	<b>IL</b>	<b>PI</b>	<b>PR</b>	<b>O</b>
<b>Agricultural Uses</b>													
Farming or Ranching	P	P		P	P		P	P	P	P	P	P	P
Animal Feeding Operation, major - Section 5-060	S/C	-		-	-		-	-	-	-	-	-	-
Animal Feeding Operation, minor - Section 5-060	P/C	P/C		-	-		-	-	-	-	-	-	-
Grain Elevator	S	-		-	-		-	-	-	-	-	-	-
Winery or Distillery or Brewery - Section 5-030	P/C	P/C		-	-		-	S/C	-	-	-	-	-
Agricultural Recreational Use - Section 5-030	P/C	P/C		-	-		-	S/C	-	-	-	-	-
Greenhouse, commercial	P	P		-	-		P	P	-P	-	-	-	-
<b>Residential Uses</b>													
Dwelling, single family	P	-		P	P		-	P <sup>1</sup>	-	-	-	-	-
Dwelling, multifamily	-	-		-	P		-	-	-	-	-	-	-
Accessory <b>Apartment Dwelling Unit</b>	P/C	-		<b>P/R</b>	-		-	-	P/C	-	-	-	-
Manufactured Home Park - Section 5-140	S/C	-		S/C	S/C		-	-	-	-	-	-	-
Group Home	P	-		P	P		-	-	-	-	-	-	-
Live-Work Unit	-	-		-	-		-	P	-	-	-	-	-
Bed and Breakfast	-	-		-	-		-	<b>S P</b>	-	-	-	-	-
Temporary Crew Housing - Section 5-170	S/C	-		-	-		S/C	-	S/C	-	-	-	-
<b>Commercial Uses</b>													
Animal Boarding Kennel	S	S		-	-		P	P	-	P	-	-	-
Bank	-	-		-	-		P	P	-	-	-	-	-
<b>Campground</b>	<b>P/R</b>	<b>P/R</b>		<b>!</b>	<b>!</b>		<b>P/R</b>	<b>P/R</b>	<b>!</b>	<b>!</b>	<b>P/R</b>	<b>P/R</b>	<b>!</b>
Compassion Center (dispensary) - Section 5-250	-	-		-	-		S/C	-	S/C	-	-	-	-
Fueling Station - Section 5-090	-	-		-	-		P	P/C	P	-	-	-	-
Livestock Sales Pavilion	S	-		-	-		-	-	P	-	-	-	-

<sup>1</sup> An existing residence, on a lot that is subsequently rezoned to the CR District, is allowed. New construction of a single family home on a lot within the CR District is not allowed.

**Section 2-200 | Use Table**

**Zoning Districts**

Use Type (with reference to applicable standards)	A	E		R	RM		C	CR	I	IL	PI	PR	O
Hotel	-	-		-	-		P	-	-	S	-	-	-
Office	-	-		-	-		P	P	-	P	P	-	-
Parking Lot or Parking Garage <sup>2</sup>	-	-		-	-		P	-	-	-	-	-	-
Retail, automotive	-	-		-	-		P	-	P	-	-	-	-
Retail, farm implements	-	-		-	-		P	-	P	P	-	-	-
Retail, general	-	-		-	-		P	P	-	-	-	-	-
Retail, grocery	-	-		-	-		P	P	-	-	-	-	-
Services, personal	-	-		-	-		P	P	-	-	-	-	-
Services, automotive repair	-	-		-	-		P	-	P	P	-	-	-
Services, general repair	-	-		-	-		P	P	P	P	-	-	-
Sign, outdoor advertising	-	-		-	-		P	-	P	-	-	-	-
Undertaking Establishment - Section 5-070	S/C	-		-	-		-	-	P	P	-	-	-

**Arts, Entertainment and Recreational Uses**

Adult Entertainment Center - Section 5-020	-	-		-	-		-	-	S/C	-	-	-	-
Amusement Parks / Commercial Recreation	S	-		-	-		P/R	-	-	-	-	S	-
Arts and Crafts Gallery	-	-		-	-		P	P	-	-	-	-	-
Bar or Tavern	-	-		-	-		S	-	-	-	-	-	-
Bowling Alley	-	-		-	-		P	-	-	-	-	-	-
Drive-in Theater - Section 5-080	S/C	-		-	-		S/C	-	S/C	-	-	-	-
Event Center - Section 5-230	-	-		-	-		P/C	S/C	-	-	-	-	-
Golf Driving Range - Section 5-100	S/C	-		-	-		S/C	-	-	-	-	S/C	-
Hunting Cabin	S	■		■	■		■	■	■	■	■	■	■
Neighborhood Park or Playground	P	P		P	P		P	P	-	-	P	P	P/R
Marina/Boating Facility	-	-		-	-		P	P	-	-	-	P	-
Miniature Golf Course - Section 5-100	S/C	-		-	-		S/C	-	-	-	-	-	-
Pool or Ice Rink, public	-	-		-	-		P	-	-	-	-	P	-

<sup>2</sup> Only applies to parking facilities that are a principal use. Parking is permitted as an accessory use according to Section 4-010 Automobile Parking.

**Section 2-200 | Use Table**

**Zoning Districts**

<b>Use Type</b> (with reference to applicable standards)	<b>A</b>	<b>E</b>		<b>R</b>	<b>RM</b>		<b>C</b>	<b>CR</b>	<b>I</b>	<b>IL</b>	<b>PI</b>	<b>PR</b>	<b>O</b>
Race Track	S	-		-	-		-	-	-	-	-	-	-
Restaurant	-	-		-	-		P	P	-	S	P/R <sup>3</sup>	P/R <sup>3</sup>	-
Riding Stable / Riding Arena <sup>4</sup> - Section 5-240	P/R	P/R		-	-		-	P/R	-	-	-	P/R	-
Recreational Vehicle Camp - Section 5-150	S/C	-		-	-		S/C	-	S/C	-	-	S/C	-
Rodeo Arena (commercial) <sup>5</sup>	S	-		-	-		P	-	-	-	-	-	-
Sports Arena	-	-		-	-		P	-	-	S	-	-	-
Shooting Range	S	-		-	-		-	-	P	-	-	S	-
Theater	-	-		-	-		P	P	-	-	-	-	-
Trailhead Facility	P	P		P	P		P	P	P	P	P	P	P/R

**Institutional Uses**

Cemetery - Section 5-070	S/C	-		-	-		-	-	-	-	S/C	-	-
Church	S	-		P	P		P	P	-	-	P	-	-
Community Center	P	-		-	-		P	P	-	S	P	P	-
Day Care	-	-		-	-		P	P	-	-	P	-	-
Health Care Facility	-	-		-	-		P	-	-	-	P	-	-
Nursing Home or Assisted Living Facility	-	-		-	-		P	P	-	-	P	-	-
School, college or university	-	-		-	-		P	-	-	-	P	-	-
School, elementary or secondary	P	-		P	P		P	-	-	-	P	-	-
School, technical or trade	-	-		-	-		P	-	P	P	P	-	-
Police, Fire, or EMS Station	P	-		-	-		P	-	P	P	P	-	-
Veterinary Clinic	S	S		-	-		P	P	-	P	-	-	-

**Industrial Uses**

Asphalt, Concrete Batch, or Aggregate Plant	S	-		-	-		-	-	P	-	-	-	-
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<sup>3</sup> Permitted as an accessory use, conditioned on Zoning Administrator review and approval.

<sup>4</sup> A riding stable for private use in the Residential District is an accessory "Animal Husbandry" use. Any stable or riding arena located in a district other than the Residential District must submit a site plan to the Zoning Administrator for review.

<sup>5</sup> For commercial use. Rodeo arenas for private use only may be permitted by right in the Agricultural (A) District.

**Section 2-200 | Use Table**

**Zoning Districts**

<b>Use Type</b> (with reference to applicable standards)	<b>A</b>	<b>E</b>		<b>R</b>	<b>RM</b>		<b>C</b>	<b>CR</b>	<b>I</b>	<b>IL</b>	<b>PI</b>	<b>PR</b>	<b>O</b>
Compassion Center (growing/processing) - Section 5-250	S/C	-		-	-		-	-	S/C	-	-	-	-
Contractor Storage Yard	S	-		-	-		-	-	P	S	-	-	-
Energy Conversion Facility – Section 5-085	-	-		-	-		-	-	S/C	-	-	-	-
Fertilizer Facility	S	S		-	-		-	-	P	-	-	-	-
Aggregate Extraction and Processing - Section 5-110	S/C	S/C		-	-		-	-	P/C	-	-	-	-
Salvage Yard - Section 5-130	-	-		-	-		-	-	S/C	-	-	-	-
Laboratory, research	-	-		-	-		-	-	P	P	-	-	-
Manufacturing, major	-	-		-	-		-	-	P	-	-	-	-
Manufacturing, minor	-	-		-	-		-	-	P	P	-	-	-
Oil and Gas Well	P	P		P	P		P	P	P	P	P	P	P
Outdoor Storage – Section 5-200	S/C	S/C		-	-		-	-	P	P	-	-	-
Slaughterhouse (major)	S/C	-		-	-		-	-	S/C	-	-	-	-
Slaughterhouse (minor)	P/R	!		!	!		!	!	P/R	!	!	!	!
Warehouse, Storage, and Wholesale Distribution	S	S		-	-		-	-	P	P	-	-	-
Solid Waste Facility - Section 5-160	S/C	-		-	-		-	-	S/C	-	-	-	-
Sewage Treatment Plant	S	-		-	-		-	-	P	-	-	-	-
Storage, fuel	-	-		-	-		-	-	P	-	-	-	-
Telecommunications Facility - Section 5-190	S/C	S/C		-	-		-	-	P	P	-	-	-
Vehicle Storage, Long-term – Section 5-210	S/C	S/C		-	-		-	-	P	P	-	-	-
Utility, public facility	P	P		-	-		-	-	P	P	-	-	-
Wind Energy Facility - Section 5-180	S/C	S/C		-	-		-	-	-	-	-	-	-

**Transportation-Related Uses**

Airport - Section 5-040	S	-		-	-		-	-	-	-	-	-	-
Railyard	-	-		-	-		-	-	P	-	-	-	-
Railroad Track	P	-		-	-		P	-	P	-	-	-	-
Transloading Facility	S	-		-	-		-	-	P	-	-	-	-

**Section 2-200 | Use Table**

**Zoning Districts**

<b>Use Type</b> (with reference to applicable standards)	<b>A</b>	<b>E</b>		<b>R</b>	<b>RM</b>		<b>C</b>	<b>CR</b>	<b>I</b>	<b>IL</b>	<b>PI</b>	<b>PR</b>	<b>O</b>
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**Additional Accessory Uses**

Accessory Dwelling Unit - Section 5-010	P/C	I		I	I		I	I	I	P/C	I	I	I
Animal Husbandry - Section 5-050	P	-		P/C	P/C		-	-	-	-	-	-	-
At-Home Business - Section 5-120(c)	S	-		-	-		-	P/R	-	-	-	-	-
Home Occupation, Major - Section 5-120(b)	P/C	-		S/C	S/C		-	P/R	-	-	-	-	-
Home Occupation, Minor - Section 5-120(a)	P/C	-		P/C	P/C		-	P	-	-	-	-	-
Home Occupation, 2 <sup>nd</sup> on lot or tract <sup>6</sup>	S/C	-		S/C	S/C		-	P	-	-	-	-	-

**Temporary Uses**

Concert or fair (21 days)	T	T		-	-		T	-	T	-	T	-	-
Construction staging area (180 days)	T	T		T	T		T	T	T	T	-	-	-
Contractors office (180 days)	T	T		T	T		T	T	T	T	-	-	-
Housing for construction project (180 days)	T	-		I	-		T	T	T	T	-	-	-
Public or religious meeting (60 days)	T	T		-	-		T	-	T	-	T	-	-
Sales stand for produce, Christmas trees, or fireworks (60 days) <sup>7</sup>	T	T		-	-		T	T	T	-	-	-	-
Any other temporary use (180 days)	S	S		S	S		S	S	S	S	S	S	S

<sup>6</sup> A second Home Occupation may be either Minor or Major, but may not be an At-Home Business.

<sup>7</sup> Rummage sales, yard sales, and garages sales do not require any permit, subject to Section 5-120(a)(6).

- (6) **Warning and Disclaimer of Liability:** The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This section does not imply that land outside the special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of Morton County, any officer or employee thereof or the Federal Emergency Management Agency, for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.
- (e) **Establishment of Floodplain Development Permit:** A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard **area** established in Section 3-010(d)(2). Application for a floodplain development permit shall be made on forms furnished by the Zoning Administrator and may include, but not be limited to:
- (1) Plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials, drainage facilities; and the location of the foregoing.
  - (2) Certification by a registered professional engineer or architect that the flood-proofing methods for any non-residential structure meet the flood-proofing criteria in Section 3-010(h)(2).
  - (3) Elevation in relation to mean sea level to which any structure is flood-proofed.
  - (4) Estimated market value of structure **before and/or** after completion, and estimated project costs, of labor and materials, for proposed development.
  - (5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
  - (6) Any additional information requested by the Zoning Administrator that is necessary to ensure compliance with the provisions of this section.
- (f) **Floodplain Permitting Procedures.** The floodplain development permit shall be issued in two phases. The permit is provisionally issued after the Zoning Administrator determines the property and proposed project are eligible to receive a permit, based on all the applicable provisions within the Morton County Land Use Code. The Zoning Administrator will issue a final permit approval and close out the permit only after all the provisions of Section 3-010 are satisfied.
- (1) **If structure to be constructed on fill:** after the floodplain development permit is provisionally issued, and prior to the foundation inspection, the applicant shall be required to submit to the Zoning Administrator an exhibit, stamped and signed by a licensed surveyor or engineer, validating that the fill has been adequately compacted and that the top of the fill is elevated to the height required in Section 3-010(h)(2).

(g) **Designation and Duties for Floodplain Management:** The Zoning Administrator is hereby appointed to administer and implement this section by granting or disapproving floodplain development permit applications in accordance with its provisions. The Zoning Administrator shall consult with the Building Inspector and a representative from the applicable Water Resource District, as needed, before granting a floodplain development permit. Duties of the Zoning Administrator include, but are not limited to:

- (1) **Permit Review:** The Zoning Administrator shall:
  - A) Review all floodplain development permits to determine that the permit requirements of this section have been satisfied.
  - B) Review all floodplain development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
  - C) Review all floodplain development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 3-010(h)(3) are met.
- (2) **Use of Other Base Flood Data:** When base flood elevation data has not been provided in accordance with Section 3-010(d)(2), "Basis For Establishing The Areas Special Flood Hazard," the Zoning Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available, known as best available data, from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements or other development in the floodplain are administered in accordance with Section 3-010(h)(2) "Specific Standards."

A) Within areas of Morton County where no base flood elevation data has been established on the adopted Flood Insurance Rate Maps (such as Approximate A zones) and where base level engineering (BLE) water surface elevation data is available through the North Dakota Risk Assessment Mapping System (NDRAM), the Zoning Administrator may confidently apply the (BLE) water surface elevation data as the best available data. If, in the estimation of the Zoning Administrator, the situation warrants further analysis, in order to ensure all development in Morton County remains reasonably safe from flooding, the Zoning Administrator may require the applicant to have an engineer or hydrologist, licensed in the state of North Dakota, establish a BFE for the proposed project area.

B) When the Zoning Administrator has identified BLE data as the best available data, and has applied BLE water surface elevation data in place of BFE for purposes of administering Section 3-010(g)(2) "Specific Standards," the floodplain development permit applicant shall be required to furnish an engineering or hydrologic analysis, stamped by an engineer currently licensed in North Dakota, as part of the floodplain development permitting process. The analysis must demonstrate a no-rise

**effect or must quantify the displacement of floodwater storage capacity which will result from the proposed development.**

- (3) **Information to be Obtained and Maintained:** After a floodplain development permit has been granted and construction has been completed, the Zoning Administrator shall:
- A) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures, and whether or not the structure contains a basement. This shall be provided in the form of an elevation certificate, completed by a licensed engineer, architect, or surveyor.
  - B) For all new or substantially improved flood-proofed structures, obtain and record the actual elevation (in relation to mean sea level) to which the structure has been flood-proofed and maintain the flood-proofing certifications required in Section 3-010(h)(2).
  - C) Maintain for public inspection all records pertaining to the provisions of this section
  - D) In areas where no BFE has been established, keep track of cumulative flood water storage displacement that results from development.**
- (4) **Alteration of Watercourses:** After finding that a watercourse is proposed for alteration, the Zoning Administrator shall:
- A) Notify nearby communities, the water resource district, and the North Dakota State Engineer, as necessary prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
  - B) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - C) Notify the appropriate water resource district prior to removal or placement of fill within two hundred (200) feet of the bank of a body of water during normal flow or stage.
- (5) **Interpretation of Flood Insurance Rate Map (FIRM) Boundaries:** The Zoning Administrator shall make interpretation where needed as to the exact location of the boundaries of the special flood hazards areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 3-010(i).
- (6) **Notification of State:** The Zoning administrator shall notify the State Engineer of any application for a floodplain development permit within a floodway and

supply all technical documentation available and relevant to the application, pursuant of NDCC Section 61-16.2-14.

(h) **Provisions for Flood Hazard Reduction**

(1) **General Standards:** In all special flood hazard areas, the following standards are required:

A) **Anchoring**

- a) All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure.

B) **Construction Materials and Methods**

- a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- c) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- d) For all new construction and substantial improvements within the special flood hazard area that include construction of or improvements to an on-site septic system, such construction or improvements must include a backflow valve.

C) **Utilities**

- a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- c) On-site waste disposal system shall be located to avoid impairment to them or contamination from them during flooding.

D) **Subdivision Proposals**

- a) All subdivision proposals shall be consistent with the need to minimize flood damage.

- b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- d) Base flood elevation data shall be provided for subdivision proposals and other proposed development in the special flood hazard areas which contain at least fifty (50) lots or five (5) acres.

**E) Substantial Damage**

- a) When a structure, located within the special flood hazard area, sustains damage, whether from a flood or any other origin, and the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred, the entire structure must be brought into full compliance with the standards of this Section 3-010. The Zoning Administrator shall have the authority to determine whether the 50% threshold is exceeded or not, via any method of assessment or calculation the Zoning Administrator deems to be appropriate, given the unique circumstances surrounding the substantial damage event, and conforming to best practices suggested by FEMA.

**F) Substantial Improvement**

- a) No additions, modifications or upgrades may be made to any structure, located within the special flood hazard area, if the total value of the addition/modification/upgrade exceeds 25% of the market value of the structure. The market value of the structure is determined before the upgrades are made and should be determined by a licensed appraiser. The value of the addition/modification/upgrade is calculated to include demolition, debris removal, contractor overhead and profit, site preparation, labor, materials and sales tax. In-kind labor and materials must be assigned a market value and included in the calculation of the total value of the addition/modification/upgrade.

- (2) **Specific Standards:** In all areas of special flood hazards where base flood elevation data have been provided as set forth in Section 3-010(d)(2) "Basis for Establishing the Areas of Special Flood Hazard" or Section 3-010(g)(2) "Use of Other Base Flood Data", the following provisions are required:

- A) **Residential Construction:** New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least two (2) feet ~~one (1) foot~~ above the base flood elevation. On fill, lowest floor elevation is measured at the bottom of the framing member which supports the floor of the lowest living space. Measurement of basement elevation is situationally dependent. The

**Floodplain Administrator shall determine the basement elevation, consulting the most current FEMA technical bulletins.**

- B) **Nonresidential Construction:** Construction or substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to at least **two (2) feet one (1) foot** above the base flood elevation, or together with attendant utility and sanitary facilities shall:
- a) Be flood-proofed to at least two (2) feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage water.
  - b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
  - c) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the zoning administrator as set forth in Section 3-010(g)(3)B).
- C) **Manufactured Homes:** ~~Manufactured homes shall be anchored in accordance with Section 3-010(h)(1)A).~~ All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that **the bottom of the I-beam lowest floor of under** the manufactured home is elevated to at least **two (2) feet one (1) foot** above the base flood elevation, and is securely anchored to **permanent piers on an adequately anchored foundation system.**
- a) All manufactured homes shall be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or ties-to-ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- (3) **Floodways:** Located within the special flood hazard areas established in Section 3-010(d)(2) are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- A) Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
  - B) If Section 3-010(h)(3)A) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 3-010(h) "Provisions for Flood Hazards Reduction."

- (3) The total number of approaches to any county road shall be no more than the following, based on the design speed of the county road:
  - A) Roads up to 35 MPH: Ten (10) approaches per mile per side
  - B) Roads between 35 to 45 MPH: Seven (7) approaches per mile per side
  - C) Roads above 45 MPH: Five (5) per mile per side.
- (4) Service road approaches to county roads shall be a minimum of 1,000 feet from any existing or proposed approach or intersection with another road.
- (5) Approach spacing is measured from the end of one approach radius to the beginning of the next approach or intersection radius.
- (6) Approaches shall be constructed in such a manner that water runoff from the approach does not flow on the road, which causes icing problems in the winter.
- (7) Approaches to county roads shall meet all roadway design guidelines for approaches set by the Morton County Highway Department, which includes roadway grades, drainage, widths, turning radii, and other engineering standards.

#### Section 4-040 **Sanitary Sewer Systems**

- (a) **In-ground Septic Requirement:** all structures that contain plumbing facilities must discharge into a community septic system, an in-ground septic system, or a mound septic system, permitted by the local health district and compliant with current health district standards. Store-and-pump tank-only systems are not allowed, except upon the recommendation of local health district staff as being the best, or only, alternative for the subject property.

## Article 5 | SPECIFIC USE STANDARDS

Development and use standards in this article apply only to individual, specific uses as identified in the Section 2-200 Use Table. Because of the unique characteristics of each use in this article, additional provisions are required to further the purposes of the Morton County Land Use Code.

### Section 5-010 Accessory Dwelling Unit

- (a) **Permitted Districts:** An accessory dwelling unit (ADU) may be permitted in an Agricultural (A) District and the Residential (R) District, upon review and approval of the Zoning Administrator and in a Limited Industrial (IL) District with a special use permit, subject to the additional standards to be applied within each district.
- (b) **Standards for Agricultural District:** An ~~accessory dwelling unit~~ ADU in an Agricultural (A) District shall meet the following standards:
- (1) ~~On a lot or tract containing 35 acres or more, no more than one (1) accessory dwelling unit ADU is allowed per lot or tract.~~
  - (2) ~~On a lot or tract containing seventy (70) acres or more, no more than (3) ADUs are allowed.~~
  - (3) ~~The lot or tract containing the primary home and an accessory dwelling unit is a minimum of seventy (70) acres.~~
  - (4) The exterior of ~~each the accessory dwelling unit~~ ADU must be numbered conspicuously with the address number.
  - (5) The land owner shall install a permanent sign or placard that displays the address number of the ~~accessory dwelling unit~~ ADU at the nearest public right of way, or alternate location, to the satisfaction of the County Emergency Manager.
- (c) **Standards for Residential District:** An ADU in a Residential (R) District shall meet the following standards:
- (1) ~~The lot, upon which the ADU is to be constructed, was created via either the short-form or long-form subdivision process, and conforms to the standards in Section 2-210 Dimensional Table at the time the ADU site plan is submitted.~~
  - (2) ~~The lot, upon which the ADU is to be constructed, does not lie within the Special Flood Hazard Area (SFHA), Harmon Lake Dam Breach Inundation Zone, or any other area identified within any plan, policy document, or resolution, adopted by Morton County, as posing a hazard or limiting the potential for residential development, with the following exception: if the only portion of the subject property that lies within the special flood hazard area is also the portion of the property that lies within the building setback from the Missouri River, as defined in Section 3-030(c), then an ADU is not automatically prohibited.~~

- (3) No more than one (1) accessory dwelling unit is allowed per lot or tract.
- (4) **Attached ADU:** an ADU is allowed to be contained within, or integrated into, a shop, garage, or the primary residential structure. Where the ADU is attached to the primary residential structure, the applicant may apply for a separate 911 address for the ADU, at the applicant's option.
- (5) **Detached ADU:** an ADU may be a detached, free-standing structure. A separate 911 address is required for any detached ADU.
- (6) When the ADU is assigned a 911 address, the exterior of the ADU must be numbered conspicuously with the address number, and a permanent sign or placard that conspicuously displays the address number of the ADU must be installed at the property approach, or alternate location to the satisfaction of the County Emergency Manager.
- (7) Building setbacks for ADUs shall be the same as the setbacks for a primary residence.
- (8) **Process:** any property owner wishing to construct an ADU shall submit a request to the Zoning Administrator in writing.
  - A) If necessary to adequately evaluate the suitability of the lot to accommodate an ADU, the Zoning Administrator shall direct the requestor to provide a site plan, drawn to scale, of the lot upon which the ADU is to be constructed. The site plan must include any elements deemed necessary by the Zoning Administrator, such as the lot boundary, existing structures, existing and proposed septic system(s), existing and proposed utility lines, all hard surfacing (such as driveways and patios), property access, footprint of the proposed ADU.
  - B) The Zoning Administrator shall request a written determination from the local health district as to the suitability of the existing and/or proposed septic system to accommodate the ADU.
  - C) The Zoning Administrator shall provide a written statement of approval or denial to the requestor. A statement of denial shall also include the basis for the denial.
  - D) The Zoning Administrator may deny a request for an ADU in the Residential District for any reason related to lack of availability of utilities, inadequacy of septic system capacity on the property, inadequate space for building setbacks, or other concerns related to community health, safety and welfare.
  - E) No building permit shall be issued for an ADU without the prior approval of the Zoning Administrator.
  - F) Any party aggrieved by a determination of the Zoning Administrator, related to this section, may appeal the determination at the next regularly scheduled meeting of the Planning & Zoning Commission or

County Commission.

- (d) **Standards for Limited Industrial District:** An accessory dwelling unit ADU in a Limited Industrial (IL) District shall meet the following standards:
- (1) No more than one (1) accessory dwelling unit ADU is allowed per lot or tract.
  - (2) The accessory dwelling unit ADU shall be used exclusively by a watchman, custodian, caretaker, or proprietor and his/her nuclear family whose employment of business is directly related to the principal use.
  - (3) Such dwelling shall be no greater than 900 square feet.
  - (4) Such dwelling shall be within or attached to a principle building, and shall not be a detached single-family dwelling.

- (b) **Standards:** A salvage yard shall meet the following standards:
- (1) All operations shall be conducted wholly within an enclosed building or within an area enclosed on all sides with a solid wall, compact evergreen or equivalent hedge or uniformly painted fence not less than six (6) feet in height.
  - (2) There shall be no burning of wrecked automobiles or other products except within a furnace or incinerator approved by the Board of County Commissioners.

#### Section 5-140 **Manufactured Home Park**

- (a) **Permitted Districts:** A manufactured home park may be permitted in an Agricultural (A) District with a special use permit or in a Residential (R) District or Residential Multifamily (RM) District with a special use permit, subject to additional standards in this section.
- (b) **Subdivision Process Required:** Substantial compliance with the long form subdivision standards established by Article 7 | Subdivision of Land and the procedures established by Section 10-030(d)(4)A) of this code shall be required with respect to any application for a special use permit for a manufactured home park.
- (1) A plat of all manufactured home parks shall contain the necessary dedication of public streets, alleys, easements, parks and open spaces and shall be approved as in the case of other subdivisions and filed in the Office of the Morton County Recorder.
  - (2) If standards from this section conflict with standards in Article 2 | Zoning Districts or Article 7 | Subdivision of Land, the standards from this section prevail.
  - (3) The fee established for long form subdivisions in this code shall be paid, based on the number of proposed lots in the park, but the fee established for special use permits in this code is not required.
- (c) **Standards:** A manufactured home park shall meet the following standards:
- (1) **Ownership:** The area proposed shall be in common ownership, or if owned by several parties the application for the special use permit shall be filed jointly by all the owners of the properties included in the plan.
  - (2) **Minimum Area:** The plan for a manufactured home park shall cover an area of not less than ~~forty (40)~~ **twenty (20)** acres.
  - (3) **Density:** The overall density of residential development shall not exceed five (5) families per acre.
  - (4) **Public Space:** No less than ten (10) percent of the gross area of the project shall be devoted to parks and playgrounds, and such parks and playgrounds shall be dedicated to the public use.
  - (5) **Commercial Uses:** Not more than five (5) percent of the gross area of the project shall be set aside for commercial development. Only commercial enterprises determined by the Planning and Zoning Commission or Board of

- (1) Description of the business need that will be fulfilled through the development of a FWDU/F.
- (2) Farm Worker Dwelling Facility Plan. A written narrative that includes descriptions of:
  - A) The general operation of the FWDU/F
  - B) Planned duration of use
  - C) Type of housing unit(s) to be provided
  - D) Potable water supply source(s) to be used
  - E) Method of sewage disposal
  - F) Method of waste disposal
- (3) A scaled site plan showing:
  - A) Overall dimensions of the site
  - B) Required setbacks
  - C) Location of housing units and numbering of each unit
  - D) Parking areas
  - E) Fences
  - F) Location of existing roads and access ways within and adjacent to the site
  - G) Location of wells, sewage treatment system(s), and waste management areas
- (4) Diagrams of the internal floorplan of each dwelling unit
- (5) Any other information required by the Zoning Administrator, Planning and Zoning Commission and/or the Board of County Commissioners in order to make an informed decision on the request.
- (6) The Zoning Administrator may attach any conditions or reporting requirements to the special use permit that are deemed necessary and prudent.

**(d) Duration of Special Use Permit**

- (1) Any special use permit granted under the provisions of this section shall be valid for ~~no longer than~~ two years unless the Board of County Commissioners expressly permits an alternate duration. Applicants who wish to keep a FWDU/F open on an on-going basis must submit a renewal application bi-annually.
- (2) Any landowner who has obtained a special use permit under the provisions of this section and has installed FWDUs on his/her land shall be compelled to remove the

**Section 5-260 Accessory Apartment**

- (a) **Permitted Districts:** an accessory apartment is permitted by right in the Agricultural (A) and Residential (R) Districts, only upon review and approval by the Zoning Administrator.
- (b) **General Standards:** an accessory apartment use shall abide by the following standards:
- (1) Only allowed on lots of record that meet the dimensional standards found in Table 2-210 and on tracts in the Agricultural District that meet the 35-acre minimum area standard.
  - (2) Accessory apartments are not permitted to be used as a primary residence nor as a rental housing unit and will not be granted a unique 911 address, separate from the primary residence.
  - (3) Facilities generally associated with living quarters are allowed, such as a full bathroom, full kitchen, living room and a maximum of one bedroom.
  - (4) Only allowed upon a finding from Custer District Health that the existing or proposed septic system is adequate to accommodate the accessory apartment.
  - (5) The accessory apartment must be accessible to emergency response vehicles, including fire trucks. If there is inadequate access to the accessory apartment, the accessory apartment shall not be permitted.
  - (6) A maximum of one accessory apartment is allowed per lot or tract.
  - (7) The accessory apartment may not be a free-standing structure, but must be structurally integrated into an accessory structure such as a garage or shop.
- (c) **Process:** requests for an accessory apartment shall be made to the Zoning Administrator in writing. Requests shall be accompanied by the following elements:
- (1) Detailed site plan including lot boundary, existing structures, existing or proposed location for utilities, property access, and any other elements deemed necessary by the Zoning Administrator.
  - (2) Drawings, to scale, that illustrate the layout, size and configuration of the accessory apartment in the context of the larger structure.
  - (3) Written determination from Custer District Health as to the suitability of the existing or proposed septic system to accommodate the accessory apartment use.
- (d) **Criteria for approval:**
- (1) All the standards of 5-260(b) have been met.
  - (2) The application forwards the goals of the Comprehensive Plan.

**Section 5-270 Slaughterhouse**

- (a) **Definition:** A slaughterhouse is any facility where animals, raised off-site, are slaughtered or processed for commercial purposes. A minor slaughterhouse facility is a structure, or set of structures and holding areas, the combined total area of which is 10,000 square feet or less. A major slaughterhouse facility is a structure, or set of structures, the combined total area of which is greater than 10,000 square feet.
- (b) **Permitted Districts:** A minor slaughterhouse facility may be permitted in the Agricultural (A) and Industrial (I) Districts by right, subject to the additional standards of this section. A major slaughterhouse facility may be permitted in the Agricultural (A) and Industrial (I) Districts by special use permit, subject to the additional standards in this section.
- (c) **Standards for major slaughterhouse facility:**
- (1) All unloading areas, holding areas, and structures used in the operation of a major slaughterhouse facility, shall be set back a minimum of one-thousand (1,000) feet from any occupied residence or residential district.
  - (2) All unloading areas, holding areas, and structures used in the operation of a major slaughterhouse facility shall be situated no less than 60 feet from any property boundary.
- (d) **Standards for minor slaughterhouse facility:**
- (1) All unloading areas, holding areas, and structures used in the operation of a minor slaughterhouse facility shall be located a minimum of four hundred (400) feet from any occupied residence or residential district, unless the setback is waived in writing by the occupant.
  - (2) All unloading areas, holding areas and structures used in the operation of a minor slaughterhouse facility shall be set back from each property boundary a minimum of 30 feet or the setback established for the underlying zoning district, whichever is greater.

**Section 5-280 Campground (Primitive)**

- (a) **Permitted Districts:** a primitive campground is permitted in the Agricultural (A), Estate (E), Commercial (C), Rural Commercial (CR), Public Institutional (PI) and Parks and Recreation Districts by-right with administrative review and subject to the additional standards of this section. Campgrounds that allow recreational vehicles, or provide electrical and/or plumbing facilities on a campsite-by-campsite basis, are classified as a Recreational Vehicle Camp use and subject to the standards of that section.
- (b) **Standards:** an primitive campground shall abide by the following standards:
- (1) Any party wishing to develop a primitive campsite must submit a site plan to the Zoning Administrator for review. The zoning administrator shall review the

campground site plan to confirm the layout of the campsite is well-organized, in the interest of public safety, and conforms to the below standards.

- (2) Minimum lot size is 3 acres.
- (3) The minimum unit area of each campsite shall be 2,000 square feet, clearly defined on the ground by stakes, posts or other markers. Each campsite must be assigned a unique number and that number posted conspicuously at the entrance to the campsite with a permanent sign.
- (4) The campground shall have an organized system of internal roads to serve each campsite and common facilities. Internal roads shall have a stabilized base, a minimum of 4" of gravel and be maintained in passable condition with unobstructed access to a public road. Internal one-way roads shall be at least 12 feet wide. Internal two-way roads shall be at least 20 feet wide.
- (5) All provisions for water supply, laundry, sewage, and fire protection to be provided in any primitive campground shall have been approved by the appropriate county department or agent, local public health district, state health department, or other state agency.

## Article 6 | NON-CONFORMITY

This article defines the legal standing and procedures that apply to uses of land or buildings and platted lots that do not conform to the provisions of the Morton County Land Use Code, as amended. Non-conforming uses are declared by this Article to be incompatible with permitted uses in the affected districts. It is the intent of this Code that all non-conforming uses will eventually be brought into conformity.

### Section 6-010 Application

- (a) **Purpose:** to facilitate orderly development, protect public expenditures, to support the expansion of uses and structures in locations served by adequate right of way corridors; protect land owners from making investments in property that may have inadequate legal access or may not have access to utilities; to ensure that uses and structures do not become established in locations where they are incompatible with surrounding land uses; to ensure development takes place in a manner that supports adequate provisions for sanitary sewer and other health and environmental requirements;
- (b) **Continued Validity of Use:** Any lawful use of the land or buildings existing at the date of passage of this code, or an amendment thereto, and located in a district in which it would not be permitted as a new use under the provisions of this code, as amended, is hereby declared to be a non-conforming use, and not in violation of this code at the date of adoption of such regulation.
- (c) **Continued Validity of Lot:** Notwithstanding requirements of Section 2-210 Dimensional Table or Section 3-050 Dam Break Inundation Zone Overlay District, any lawful use or structure may continue to be constructed and used on a lot having less than the prescribed minimum area, width, or depth requirements, or being located within a dam break inundation zone, except where development is restricted according to Section 6-040(a), and provided that said lot was a Lot of Record as of August 10, 2017. Any new use on a non-conforming lot must comply with all other regulations of this code, including building setbacks.
- (d) **Continued Validity of Permit or Variance:** Any valid permit or variance lawfully granted prior to the effective date of this code, or an applicable amendment thereto, and located in a district in which the use for which the permit is granted would not be allowed under the provisions of this code, as amended, is hereby declared to continue in validity, unless otherwise effected by the terms and conditions of the permit or variance.

### Section 6-020 Provisions for Non-Conforming Uses

Section 6-010 notwithstanding, a non-conforming use shall be subject to, and the owner shall comply with the following regulations:

- (a) **Extension:** The non-conforming use of a building may be extended throughout any part of a building clearly designed for such use but not so used at the date of the adoption of the regulation. No non-conforming use may be extended to occupy land outside the building nor any additional building not used for such non-conforming use at the date of adoption of this regulation. The non-conforming use of land shall not be extended to any additional land not so used at the date of the adoption of this regulation.
- (b) **Additions, Repair, Alteration:** No building used for a non-conforming use shall be enlarged, extended, reconstructed or structurally altered unless the use is changed to one which complies with the provisions of this regulation. Provided, however, repairs and maintenance work may be carried out each year in an amount not to exceed twenty-five (25) percent of assessed value of the building for that year, but such repairs and maintenance work shall not increase the cubical content of the building nor the floor area devoted to the non-conforming use, nor shall it increase the number of dwelling units provided in a building. Nothing in this regulation shall be deemed to prevent the strengthening nor repair of a building which may be necessary to restore the building to a safe condition or to improve the sanitary conditions of the building, provided that such strengthening and repair may not be used to restore a building to the provisions of Section 6-020(c).
- (c) **Destruction:** If any building in which there is a non-conforming use is damaged by fire, flood, explosion, wind, war or other catastrophe, in an amount equal to or greater than fifty (50) percent of its assessed valuation, it shall not be again used or reconstructed to be used for any use except one complying with the provisions of this code for the district in which it is located. **By extension, any structure so destroyed is prohibited from being reconstructed on a non-conforming lot, unless a variance is granted or unless the lot is brought into full conformity with the provisions of this code.**
- (d) **Moving Building:** Any building in which there is a non-conforming use shall not be moved unless it is moved to a district in which the use for which the building was designed is permitted by this code, or it is moved outside of the jurisdiction of this code. If any building in which there is a non-conforming use is moved any distance whatsoever, the building shall thereafter be used only in compliance with the provisions of this code for the district in which it is located.
- (e) **Change:** A non-conforming use may be continued in accordance with the provisions of this section, but it shall not be changed to any other use except one which would be permitted as a new use in the district in which the building is located.

#### Section 6-030 Continuation and Discontinuation

- (a) **Continuance:** Any legal non-conforming use may be continued. The Certificate of Occupancy issued by the Building Inspector for a non-conforming use shall state that the use may be continued indefinitely.

- (b) **Discontinuance from Attrition:** If, for any reason, a non-conforming use of land or a building ceases for a continuous period of more than two (2) years, the land shall thereafter not be used except in compliance with the provisions of this code for the district in which the land or building is located.

#### Section 6-040 Provisions for Non-Conforming Lots

- (a) **Purpose:** to ensure there is adequate space on any given lot for on-site septic treatment and a future replacement septic system. Even if a proposed structure does not contain plumbing facilities, the placement of the structure on the lot may compromise the capacity of the lot to accommodate a replacement septic system, after the existing system reaches the end of its useful life.
- (b) **General Restriction:** any Lot of Record (see definition in Article 12 - ) intended for development of structures containing plumbing fixtures must have sufficient lot area, width and depth, as required in Section 2-210, to provide for an individual sewage treatment system with drain field, or must connect to a public sewer system. Any Lot of Record intended for development of structures containing plumbing fixtures which does not have sufficient lot area, width and depth, as required in Section 2-210, to provide for an individual sewage treatment system with drain field, or does not have the capacity to connect to a public sewer system will not be allowed to develop structures containing plumbing fixtures unless the lot is legally combined with an adjacent lot or lots to meet the dimensional standards of Section 2-210 or unless a variance is granted. Construction of any permanent structure is prohibited on a non-conforming lot, unless a variance is granted or until the lot is brought into full conformity with the standards of this code.
- (1) The Administrative Variance process is available for a subset of non-conforming residential lots, according to Section 10-060(E)(1)(D). All other variance requests must follow the standard Variance process outlined in Section 10-060.
- (2) Any lot of less than 35 acres becomes entitled to obtain a building permit only after passing through a subdivision process (Sections 10-020 and 10-030), being assigned an appropriate zoning district, receiving an approval from the Board of County Commissioners, and the plat being duly recorded.
- (c) **Merger of Non-Conforming Lots:** Where two (2) or more contiguous lots or parcels under single ownership are of record on August 10, 2017, and if one or more of the lots or parcels do not meet the requirements of this Code established for lot width, depth, and area, the lots or parcels involved must be merged with adjacent lots or parcels under the same ownership such that the merging of lots or parcels will equal one (1) or more parcels of land each meeting the full lot width, depth and area requirements of Section 2-210 of this Code. No portion of said merged parcel or merged parcels may be used or sold in a manner which diminishes compliance with lot width, depth, and area requirements established in Section 2-210, nor may any division of any merged parcel be made which creates a lot with a width, depth, or area that is smaller than the required minimums established in Section 2-210.

## Article 7 | SUBDIVISION OF LAND

Subdivision standards and procedures in this article and Article 10 | Administration govern the division of all land in areas of Morton County subject to the Morton County Land Use Code.

### Section 7-010 Purpose

In addition to the purposes stated in Section 1-030, this article is intended:

- (a) To provide for the proper arrangement of streets in relation to other existing and planned streets.
- (b) To provide for adequate and convenient open spaces for recreation, light and air.
- (c) To provide for traffic, utilities, and access of fire-fighting and emergency services apparatus.

### Section 7-020 General Provisions

- (a) **Ownership:** All subdivision of land within the jurisdiction of this code must be authorized by all legal landowners of the property to be subdivided.
- (b) **Plat to be Authoritative:** Pursuant of NDCC Section 11-33.2-12, no subdivision shall take effect or improvements be constructed except in accordance with a plat that is approved and signed by the Board of County Commissioners and recorded with the Morton County Recorder.
- (c) **Validity for Recordation:** No plat for subdivision of any land within the jurisdiction of this code may be recorded with the Morton County Recorder nor shall it have any legal validity unless approved under the provisions of this code.
- (d) **Building Permits and Sale of Land:** A lot within a subdivision proposed for approval under the provisions of this code shall not be considered eligible for the issuance of a building permit or transfer of title until the subdivision has been recorded with the Morton County Recorder.

### Section 7-030 Determination of Process

All subdivision of land within unincorporated areas of Morton County subject to the County's zoning jurisdiction shall follow one of three processes, as determined by the criteria in this section.

#### (a) Exempt Division of Land

- (1) **Criteria for Qualification:** The following types of divisions all qualify as exempt divisions of land and are subject to the provisions of this section, and shall not be

considered subdivisions as defined by NDCC Section 11-33.2-01 and Article 12 | Definitions of this Code unless the Board of County Commissioners determines that the intent of the division is to avoid the provisions of this article.

- A) **Large-Lot Division of Land:** Any division of land qualifies as exempt if it meets all of the following criteria:
- a) The land is entirely within an Agricultural (A) District.
  - b) Each lot being created, whether newly divided or created by a merging of lots, is thirty-five (35) acres in area or greater.
  - c) No new street, whether public or private, will be dedicated or constructed to provide access to more than one lot or tract.
  - d) Each lot has access to a public right-of-way through one of the following: by abutting a county roadway, by acquiring a private easement to a county-maintained roadway, or by constructing a section line roadway on a section line which meets county standards for section line roads.
  - e) A minimum of sixty (60) foot wide right-of-way easement or dedicated right-of-way exists or is obtained adjacent to each side of all section lines.
- B) **Lot Modification:** Any division of land qualifies as exempt if it meets all of the following criteria:
- a) ~~There will be no net increase in the number of lots or tracts as a result of the lot modification or a series of lot modifications.~~
  - b) ~~All lots proposed for modification are within the same zoning district.~~
  - c) ~~After modification(s), all lots will conform to minimum lot dimension requirements in Section 2-210. However, existing non-conforming lots may be modified subject to no increase in the degree of non-conformity.~~
  - d) ~~No plat or any element of a plat will be vacated, pursuant of NDCC Section 40-50.1-16.~~
  - e) ~~Boundaries are adjusted or eliminated on any existing platted subdivision<sup>14</sup> or tract recorded with the Morton County Recorder, resulting in either a combination of lots or adjustments to the boundary between lots.~~

<sup>14</sup> ~~The erection of any permanent structure is prohibited on auditor's lots of less than 35 acres, and prohibited on lots of less than 35 acres that are established via by a plat of irregular description, except when such a lot is created through an exempt division of land.~~

- C) **Existing Homestead:** Any division of land qualifies as exempt if it meets all of the following criteria:
- a) A division of land of any size is created to form an outlot containing an existing single-family residential dwelling.
  - b) The tract of land from which the lot is divided is thirty-five (35) acres in area or greater.
  - c) With the exception of minimum lot size requirements, the new outlot meets all other qualifications of Section 7-030(a)(1)(A) Large-Lot Division of Land and other provisions of this code.
  - d) No division of land has been previously exempted from subdivision requirements as an existing homestead within this quarter section.
- D) **Public Use:** Any division of land qualifies as exempt if is made for the purpose of creating or expanding a public right of way, open space either publically owned or legally-restricted for conservation purposes, or a public utility facility or line. Any plat shall indicate the public use nature of the division, and a subsequent change in the use of the land to a residential, commercial, or industrial use is subject to all subdivision requirements of this Code.
- E) **Court-Ordered Division:** Any division of land qualifies as exempt if it is ordered by a court of record in North Dakota or affected by testamentary or intestate provisions of an estate. Before a court orders any division of land, the court shall notify the Morton County Zoning Administrator of the pending division and allow the county to present written comments on the division.
- F) **Mineral Interest:** Any division of land qualifies as exempt if it creates an interest in oil, gas, minerals, or water that will be severed from the surface ownership of real property.
- G) **Agricultural Lease:** Any division of land qualifies as exempt if land is only created by lease or rental for farming and ranching purposes.
- H) **Correction of Error:** Any division of land qualifies as exempt if made to correct surveying errors in prior plats pursuant to NDCC Chapter 40-50.1-14.
- (2) **Procedures:** An exempt division of land is exempt from the remainder of this article and all subdivision procedures of Article 10 | Administration, but the following procedures shall be followed:
- A) The applicant may consult informally with the Zoning Administrator to determine eligibility of a proposed division of land.
  - B) The applicant shall submit a completed Uniform Development Application and an instrument used to effect the division that includes:

- a) The legal description of a lot to be created, only if it can be described as an aliquot part of a section; or
  - b) Legal descriptions reflecting an adjustment to a boundary between lots or tracts only if the adjustment can be described with one numeric measurement for each property; or
  - c) A plat and legal descriptions signed by a certified land surveyor for any lot or lots to be created or modified. The plat must show that all vertices of the lot are marked with a survey monument, either existing or to be set.
- C) The Zoning Administrator, or a designee, shall review the submitted materials for compliance with the criteria of this section-and other provisions of this code.
  - D) The County Engineer, or a designee, shall review technical specifications of plats and sign all approved plats and return to the applicant for recording with the Morton County Recorder.
- (3) **Naming Exempt Divisions of Land:** All new divisions of land approved through these exempt division of land procedures shall be named "Outlot," followed by a letter of the alphabet. The first outlot in a quarter-section shall be known as "Outlot A," with each additional outlot in that quarter section appended with the subsequent letter of the alphabet.

(b) **Long Form Subdivision**

- (1) **Criteria for Qualification:** Subdivision of land shall follow the long form subdivision procedures whenever it does not qualify as an exempt division of land and one of the following criteria is met:
- A) The subdivision would result in ~~two (2)~~ **three (3)** or more platted lots, ~~in addition to an existing lot or tract being subdivided.~~
  - B) A new road would be dedicated or created, other than a private drive for a single individual.
  - C) A new approach not located on a section line or quarter line would be required to a road, and the new approach would cause more than one (1) approach within a half mile to be used for other than agricultural purposes.
  - D) The land proposed to be subdivided, or a portion thereof, has been previously subdivided within two (2) years of the date the application is submitted, and the proposed subdivision would create an additional lot or lot(s).
  - E) The Board of County Commissioners determines that the long form subdivision process is necessary to promote orderly development.

- F) The land proposed for subdivision is within, or proposed to be within, the Commercial (C) District, ~~Rural Commercial (CR) District, or~~ Industrial (I) District, ~~or Limited Industrial (IL) District.~~
- a) Cases where lot mergers or lot line adjustments are proposed on lands that lie within the zoning districts listed in 7-030(b)(1)(F) at the time the subdivision application is made, and where the subdivision will result in no net increase in the number of lots, are allowed to use the short-form subdivision process.
- (2) **Procedures:** Subdivisions that qualify as long form subdivisions shall follow the application and review process in Section 10-020 of this code. All standards of this article shall be met.
- (c) **Short Form Subdivision**
- (1) **Criteria for Qualification:** Subdivision of land shall follow the short form subdivision process whenever it does not qualify as either an exempt division of land or a long form subdivision. Generally, subdivisions with one or two platted lot(s) of less than thirty-five (35) acres will qualify as a short form subdivision.
- (2) **Procedures:** Subdivisions that qualify as short form subdivisions shall follow the application and review process in Section 10-020(e)(4)A) of this code.

#### Section 7-040 Specifications for Subdivision Plats

- (a) **Preliminary Plats:** At a minimum, preliminary plats shall contain the following information:
- (1) Proposal name of subdivision, using addendum of “subdivision” rather than “addition.”
  - (2) Location of subdivision by section, township and range to nearest quarter section, or by other legal description.
  - (3) Label clearly marked as “preliminary plat.”
  - (4) Name and address of licensed land surveyor.
  - (5) Name(s) and address(es) of property owner(s). All property owners shall be included.
  - (6) Scale of subdivision plat, which shall be one (1) inch equals one hundred (100) feet or less.
  - (7) Date of field survey and date of plat preparation (if different).
  - (8) North point indication.
  - (9) Boundary lines of proposed subdivision indicated by a solid heavy line.
  - (10) Total acreage within the subdivision and each individual lot.

## Article 9 | BUILDING CODE

The North Dakota State Building Code, in its most current version, is adopted by the Board of County Commissioners and enforced in Morton County. This article contains the adoption of and any amendments to this statewide code.

### Section 9-010 Adoption of Code

The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area and maintenance of buildings or structures in Morton County shall meet with the provisions of the rules and regulations of the North Dakota State Building Code, which includes the International Building Code, and any future updates and amendments to that code, one copy of which is on file with the County Building Inspector and is hereby made part of this article by reference, and Morton County hereby adopts the North Dakota State Building Code.

### Section 9-020 Scope

Morton County exercises building code jurisdiction over all unincorporated areas of Morton County with the exception of extraterritorial areas of cities, as defined in Section 2-010(d).

### Section 9-030 Amendments

The North Dakota State Building Code is not amended for application within Morton County in any way by this article.

### Section 9-040 Agricultural Exemption

Pursuant of NDCC Section 54-21.03-04, no building permit shall be required for any building or structure located on a farm and used for farming or ranching purposes, as defined by this code. For the purposes of this section, no farm shall be less than 150 acres of contiguous agricultural land under common ownership or operation. However, a building permit and occupancy permit shall be required for any building used for human habitation or by the public, regardless of the acreage of the farm.

### Section 9-050 Fees

A fee for each building or occupancy permit shall be paid as required, in accordance with the schedule established by the Board of County Commissioners.

### Section 9-060 **Manufactured Residential Structure Minimum Standards**

**No mobile or modular home manufactured prior to January 1, 1980 shall be allowed to be placed on any lot or tract in Morton County.**

- (5) Any improvements, as authorized under Section 7-100, may be applied as a condition to mitigate impacts of the proposed subdivision and further the purposes of this code.
- (6) Any variances may be granted as a condition of the subdivision, following the conditions for the approval of variances in Section 10-060.

**(b) Consultation and Application**

- (1) Before preparing the preliminary plat of a long form subdivision, a prospective applicant should consult informally with the Zoning Administrator and such other advisory personnel as the Zoning Administrator may direct concerning the relation of the property to existing conditions, future plans, community facilities, utilities and services.
- (2) A prospective applicant should also consult with potentially interested parties and with the ultimate users of the development, such as mortgage insurance and lending institutions, with a view to reaching a clear understanding of the part of market demand that should be served, suitability of the location of the proposed subdivision, and the most advantageous general plan for arrangement of streets, lots, and other features of the proposed development.
- (3) A prospective applicant should consult with the rural water system, regarding water availability to serve the proposed subdivision.
- (4) A prospective applicant should consult with health district staff, regarding suitability of soils for in-ground septic systems.
- (5) The applicant shall submit a completed Uniform Development Application to the Zoning Administrator at least twenty-one (21) days prior to the meeting of the County Planning and Zoning Commission at which the plat is to be considered. The application shall be submitted with:
  - A) The required fee, set in Section 10-100.
  - B) A digital copy of the preliminary plat in portable document format (pdf), and the number of physical copies, if any, requested by the Zoning Administrator. The preliminary plat shall meet all technical specifications in Section 7-040(a).
  - C) Evidence that the applicant has submitted an official request/application for a hydraulic study to be completed by the applicable rural water system, to determine water system availability to serve the subdivision, if recommended by water system staff.
  - D) Soil analysis to demonstrate suitability of soils for septic systems, if recommended by health district staff.
  - E) Any other attachments required under the long form subdivision section of the application.

regularly scheduled meeting, unless the applicant and zoning administrator agree to defer to a later meeting, and make one of the following decisions:

- A) Approve the special use permit.
  - B) Approve the special use permit with any terms and conditions deemed necessary to protect the surrounding areas or Morton County in general.
  - C) Refer the special use permit back to the Planning and Zoning Commission for the purpose of hearing additional testimony and gathering additional information. The Board of County Commissioners shall only exercise this option if there is found to be substantial additional information relating to the special use permit, which was not presented to the Planning and Zoning Commission.
  - D) Disapprove the special use permit, stating the reason for the disapproval.
- (10) The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners. If the request is not approved, the decision of the Board of County Commissioners shall also be communicated in writing to the applicant.
- (11) If the special use permit is approved, the special use permit shall be filed at the office of the Zoning Administrator, and a copy shall be sent by mail to the applicant.

**(d) Duration of Validity**

- (1) A special use permit granted under this article must be put into use within twenty-four (24) months, unless an alternate interval of time is explicitly designated by the Board of Morton County Commissioners as being appropriate for the requested use, or it shall lapse and the applicant must re-apply. Extensions of two (2) months may be granted by the Zoning Administrator for good cause shown in writing.
- (2) When a special use has been established and is discontinued for any reason for a period of two (2) years or longer, the special use permitted shall be considered abandoned and no longer in effect.
- (3) Once a special use permit has been put into use and remains in use, the permit shall not automatically expire, unless the Board of County Commissioners has included a time period of validity as a condition of the permit.

**(e) Renewal of Special Use Permit**

- (1) In such cases when a special use permit is conditioned with a specific time period, and that time period has lapsed, the permittee must request a renewal of the permit.
- (2) The Planning and Zoning Commission, during their next regularly scheduled meeting, shall determine whether the conditions of the special use permit and all

- A) Approve the variance.
  - B) Approve the variance with any terms and conditions deemed necessary to protect the surrounding areas or Morton County in general.
  - C) Refer the request for variance back to the Planning and Zoning Commission for the purpose of hearing additional testimony and gathering additional information. The Board of County Commissioners shall only exercise this option if there is found to be substantial additional information relating to the request for variance, which was not presented to the Planning and Zoning Commission.
  - D) Disapprove the variance, stating the reason for the disapproval.
- (9) The decision and all supporting statements shall be recorded in the official records of the Board of County Commissioners.
  - (10) If the request is not approved, the decision of the Board of County Commissioners shall also be communicated in writing to the applicant.
  - (11) If the variance is approved, the variance shall be filed at the office of the Zoning Administrator, and a copy shall be sent by mail to the applicant.
- (c) **Conditions Attached to Variance:** In granting a variance, whether by modification or waiver, the Board of County Commissioners may require such conditions that will, in their judgment, achieve the purpose of this code and protect the public welfare.
  - (d) **Duration of Validity:** Approval for a variance from the regulation shall be effective for a maximum period of twelve (12) months, unless upon application by the applicant with the twelve (12) month period, the Board of County Commissioners grants an extension. If construction has not begun within the time limit the approval for the variance shall be null and void.
- (e) **Administrative Variances**
    - (1) If upon submission of an application for a building permit, the Zoning Administrator determines that a variance would be required for strict compliance with this code, the Zoning Administrator is empowered to make a determination of no public need for a hearing on the variance in accordance with the approval criteria of Section 10-060(a) and the following guidelines:
      - A) Situations where documented county authority can be found for current improvements on a lot or tract of land, and proposed improvements are consistent with the existing improvements.
      - B) Residential development within the unincorporated town sites of Morton County where the lot has a minimum of 20,000 square feet and is already platted and it is proven that no objection exists.
      - C) Residential development on a property that cannot feasibly be developed without infringing on an Animal Feeding Operation Overlay

District of Section 3-040, when no objection exists from the owner of the operation.

D) In cases where a property owner wishes to obtain a building permit for a structure on a lot in the Residential Zoning District that is non-conforming, and where the following characteristics are true of the lot:

- a) lot is part of a formal subdivision that was approved by the Board of County Commissioners
- b) lot is non-conforming due to the total lot area falling below the required minimum and is conforming in every other respect
- c) public health district staff have determined adequate space is available on the lot to accommodate a conforming septic system and a future replacement septic system
- d) lot abuts, and has adequate legal access to, a public right of way that is actively maintained by the County
- e) there is adequate space on the lot for the proposed structure to abide by all applicable building setbacks
- f) neither the configuration of the lot itself, nor construction of the proposed structure, would violate the terms of any known active restrictive covenants

- (2) If the Zoning Administrator determines that a hearing would not be in the public interest in accordance with the above guidelines, s/he is empowered to issue the variance, and impose any reasonable requirements s/he may feel necessary before granting a variance.
- (3) This shall be known as an administrative variance, and a fee set in Section 10-100 is required.
- (4) All administrative variances shall be reviewed by the Planning and Zoning Commission at their next regularly scheduled meetings and their comments noted. If the Planning and Zoning Commission disagrees with the administrative variance a solution shall be worked out which will not cause a hardship to the person who had received an administrative variance.

## Section 10-070 Land Use Code Amendments

### (a) Authority

- (1) The Board of County Commissioners may from time to time, amend this code by supplementing, changing, modifying, or repealing any of the regulations, restrictions, or other provisions thereof.
- (2) A proposed amendment may be initiated by said Board upon its own motion, or upon receipt of a request therefore from the Planning and Zoning Commission or

**Non-Access Line:** A line on a subdivision plat that follows a segment of a lot line adjoining a public right-of-way. The non-access line prohibits ingress and egress between that lot and the public right-of-way across this segment of the lot line.

**Non Precision Instrument Runway:** An airport runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

**Non-Conforming Use:** Any building or land use that was land-lawfully occupied by a use established at the time of passage of this code or amendments thereto, which does not conform after the passage of this code or an amendment thereto.

**Non-Conforming Lot:** Any lot, parcel, or tract of land that was lawfully established, defined or divided at the time of passage of this code or amendments thereto, which does not meet the requirements of this code or an amendment thereto.

**Nursery, plants:** Any land used to raise trees, shrubs, flowers, and other plants for sale or for transplanting, either through retail or wholesale.

**Nursing Home:** A use providing bed care and inpatient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease.

**Obstruction:** Any structure, growth, or other objects, including a mobile object, which exceeds a limiting height set forth in the Airport Overlay District or causes an increase in flood volume or velocity.

**Office:** A room, suite of rooms, or building in which a person transacts the affairs of a business, profession, service, industry, or government.

**Official Monument:** Any survey monument listed in the Morton County GIS database of survey monuments, or any monument officially recognized by any public agency within North Dakota. The County Engineer may, upon inspection, determine any monument to qualify as an official monument.

**Oil and Gas Well:** A site used for drilling and production of oil and gas.

**Operator:** An individual or group of individuals, a partnership, a corporation, a joint venture, or any other entity owning or controlling one or more operation or business.

**Ordinary High Water Mark:** The elevation of the Missouri River at a flow rate of 33,900 cubic feet per second. In areas where there are multiple channels, the ordinary high water mark is the landward extent of the floodway, as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Map for Morton County.

**Outdoor light fixture:** Outdoor artificial illuminating devices, lamps, and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include but are not limited to search, spot, or flood lights for buildings and structures, recreational areas, parking lot lighting, landscape lighting, billboards and other signage, and street lighting.

**Outlet:** Any outlet including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

**Outlot:** A lot created through the exempt division of land procedures of Section 7-030(a).

**Parent Tract:** Parcel, lot, or tract from which a smaller lot or lots have been subdivided.

**Parking Lot:** An off-street, ground level area improved for the temporary storage of motor vehicles.

**Parking Structure:** A structure or portion thereof comprised of one or more levels or floors used exclusively for the parking or storage of motor vehicles. A parking structure may be totally below grade (as in an underground parking garage) or either partially or totally above grade with those levels being either open or enclosed.

**Permittee:** Any person who applies for and receives a permit according to the provisions for this code, holds title to land for which a permit has been grant, or has been transferred a permit according to the provisions of this code.

**Person:** An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

**Planning and Zoning Commission:** The Planning and Zoning Commission of the Morton County, North Dakota as appointed by the Board of County Commissioners to maintain and implement the Morton County Comprehensive Plan and advise the Board of County Commissioners on matters of land use and development.

**Plat of Irregular Description:** A plat certified by a registered land surveyor that complies with the standards of NDCC Section 25-02-39.

**Precision Instrument Runway:** An airport runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

**Primary Surface:** In relation to airport runways, a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth