HIGHLAND TOWNSHIP ZONING ORDINANCE

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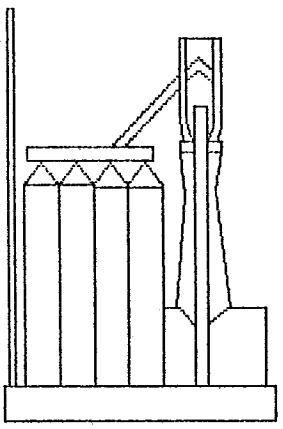

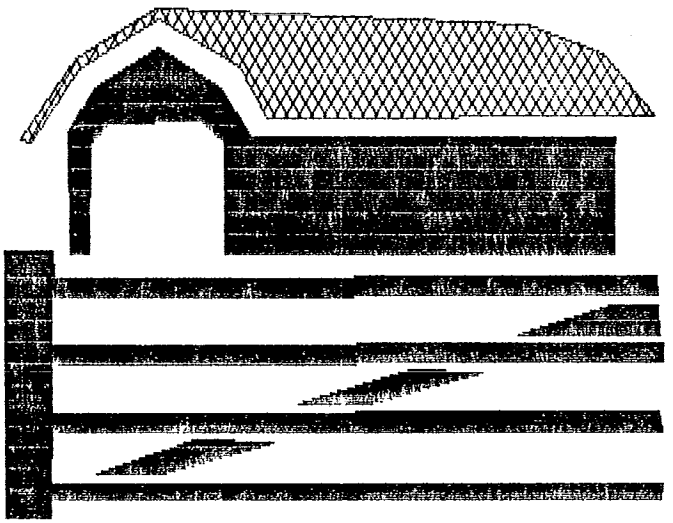

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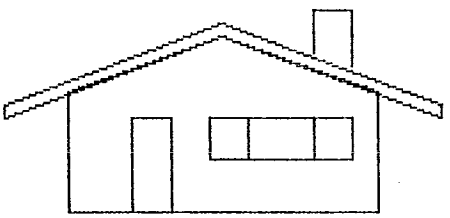

A

RESOLUTION

WHEREAS, the Highland Township Board of Supervisors in conjunction with the Highland Township Zoning Commission, composed of members from the affected areas, have investigated and determined the necessity of amending the "Highland Township Zoning Ordinance"; and

WHEREAS, after investigation and consultation with the Cass County Planning Department, the Highland Township Zoning Commission has prepared an amended "Highland Township Zoning Ordinance" to be submitted herewith to the Highland Township Board of Supervisors and filed in the office of the Highland Township Clerk and the Cass County Planning Department; and

WHEREAS, after filing of the proposed amended "Highland Township Zoning Ordinance", the Highland Township Zoning Commission held a public hearing thereon at which the proposed amendments were submitted for discussion, and parties in interest and citizens had an opportunity to be heard. Notice of the time, place, and purpose of the hearing was published fifteen days prior to the hearing in the official newspaper of the County. Said notice described the nature, scope, and purpose of the proposed rules and regulations, and stated the times at which it would be available to the public for inspection and copying at the office of the Cass County Planning Department; and

WHEREAS, the Highland Township Zoning Commission has approved this draft of the amended "Highland Township Zoning Ordinance" and recommends it be adopted by the Highland Township Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Highland Township Board of Supervisors hereby adopts the amended "Highland Township Zoning Ordiance".

Approved and adopted this 11th day of April , 1991.

Robert Lemna
Chairman

ATTEST:

Michael F. Spukerman
Clerk

Article I

Introduction

I. Authority: This ordinance is adopted under the authority granted in Chapter 58-03 of the North Dakota Century Code.

II. Purpose: The purpose of this ordinance is to: 1. Implement the Highland Township Comprehensive Plan
2. Promote public health, safety, & general welfare
3. Preserve prime agricultural land and property values
4. Facilitate provision of adequate public facilities
5. Control population density & distribution
6. Secure safety from fire, flood, panic, & other dangers
7. Prevent overcrowding of land.
8. Lessen governmental expenditures
9. Conserve & develop natural resources
10. Regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings and structures; and land for trade, industry, residence, or other purposes.

III. Severability: If any provision or section of this ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

IV. Repeal: All other ordinances or parts of ordinance of Highland Township in conflict with this ordinance are hereby repealed.

V. Title: This ordinance shall be known as "Zoning Ordinance of Highland Township".

VI. Effective Date: This ordinance shall become effective after a public hearing adoption by the Highland Township Board of Supervisors.

Article II

General Provisions

I. Jurisdiction: The jurisdiction of this ordinance shall include all unincorporated areas of Highland Township.

II. Compliance: Except as hereinafter provided, no building, structure, or land shall be erected, repaired, or used except in conformance with this ordinance.

III. Agriculture Exempted: Nothing in this ordinance shall be applied for the purpose of preventing or prohibiting the use of land or buildings for agriculture or any of the normal incidents of agriculture.

IV. Interpretation: In the interpretation and application of this ordinance the provisions of this ordinance shall be held to be the minimum requirements. Where this ordinance imposes a greater restriction than existing law, the provisions of this ordinance shall govern.

V. Non-Conforming Uses:

1. Lawful, non-conforming uses of land or buildings existing at the date of adoption of this ordinance may continue provided no structural alterations except for normal maintenance are made and such non-conforming uses shall not be extended to occupy a greater area of land than occupied at the time of adoption.

2. No building or structure destroyed where a non-conforming use has been discontinued for a period of 1 year or has changed to a permitted use shall again be devoted to a non-conforming use.

3. A non-conforming structure destroyed or damaged less than 50 percent of its fair market value may be reconstructed within 1 year of such casualty. If damaged more than 50 percent of its fair market value, such building shall be reconstructed in conformance to this ordinance.

4. The provisions of this section shall not be applicable to conditional uses or any use made non-conforming by a change in district regulations.

VI. Amendments: In accordance with Section 58-03-13 of the North Dakota Century Code, the Board of Township Supervisors may from time to time amend the provisions of this ordinance. Such amendment shall not become effective until after a public hearing at which parties of interest and citizens shall have the opportunity to be heard. At least 15 days notice of the time and place shall be published in the official newspaper of the county. The description of any land within any zoning district, together with any restriction therein, or any amendment to the zoning ordinance, shall be filed with the Board of Township Supervisors.

VII. Definitions: For the purpose of this ordinance, the following definitions have been adopted:

A. Rules:

1. Words used in the present shall include the future, the singular number shall include the plural.
2. The word "person" includes a firm, partnership, association, corporation, or individual.
3. The word "shall" is mandatory.

B. List of Definitions:

1. Agriculture: The use of land for agricultural purposes, including the necessary building or structures for farm or farm labor use. Agriculture shall include farming, dairying, pasturage, horticulture, animal and poultry husbandry, and accessory uses and buildings for packing, treating, or storing produce, providing accessory uses are secondary to normal agriculture activities.

2. Accessory Use or Accessory Structure: A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as a garage or tool shed.

3. Building: Any structure used for shelter or enclosure of persons, animals, or chattels.

4. Conditional Use: A use conditionally permitted in order to reduce any adverse effects on surrounding property.

5. Dwelling: A building or portion thereof occupied exclusively for residential purposes, but not including mobile recreational vehicles.

6. Dwelling, Farm: A single family dwelling or mobile home located on a farm which is occupied by the farm's owner or person employed thereon.

7. Dwelling, Non-Farm: One and two-family dwellings located on a farm or otherwise of which the occupant does not derive at least 50 percent of his income from agricultural activities.

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

9. Farm: Any aggregate area operated by one person, family, partnership, corporation, or joint venture for agriculture or farming purposes.

10. Feedlot: The use of land or buildings for the exclusive purpose of concentrated feeding or fattening of

livestock for marketing. The application of feedlot regulations shall be limited to non-farm related enterprises.

11. Home Occupations: Any occupation carried on solely by the occupants of a residence provided: that no more than one room of a dwelling be used for such purposes; no use shall require internal or external alteration or construction; that anything not produced on the premises is sold; and no display of goods or services is visible from the road.

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

13. Lot: a parcel of land sufficient to provide the yard requirements of the ordinance.

14. Mobile Home: A mobile home is a dwelling unit designed for transportation after construction. A recreational travel trailer is not to be considered a mobile home.

15. Non-Conforming Use: Any structure, land, or building existing at time of adoption or amendment of this ordinance which does not conform to the provisions of the ordinance.

16. Setback: The open space extending the full width of a lot between a building and the centerline of a public road.

17. Structural Alteration: Any change in the supporting members or any substantial change in the roof or exterior walls of a building.

18. Variance: The grant of relief from the requirements of the ordinance where it can be shown that due to unusual conditions of the property, strict application of the ordinance would result in undue hardship.

Article III

District Regulations

1. Establishment of District Regulations: For the purpose of this ordinance, the entire area of Highland Township is zoned agricultural.

A. Zoning Map - The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning District Map" which accompanies and is hereby made a part of the ordinance.

1. Location of District Boundaries

a) Where the district boundary lines on the Zoning District Map are indicated to follow highway, road, or railroad rights of way, such boundary lines shall be construed to be the centerline of said rights of way unless clearly shown to the contrary.

b) Where any uncertainty exists as to the exact location on the Zoning District boundary line, the Township Board of Supervisors, with a recommendation from the Zoning Commission, shall determine the location of such boundary lines.

II. Agricultural District:

A. Purpose: To establish and preserve areas of agriculture and low intensity development which does not significantly change the existing character of the area.

B. Permitted Uses: Agriculture and agricultural buildings, including farm dwellings, non-farm dwellings, cemeteries, churches, existing railroad rights of way, home occupations, accessory uses to the permitted uses.

C. Conditional Uses: All other lawful use of land may be permitted on conditions as set by the Township Board of Supervisors.

D. Dimensional Standards:

1. Setbacks: 150 feet from township and county roads
   250 feet from state highways
2. Minimum Lot Size: Two Acres (87,120 sq. ft.)
3. Minimum Lot Width: 100 feet
4. Minimum Side Yard: 25 feet
5. Maximum Building Height: 35 Feet
6. Windbreaks: As specified by the Township Board of Supervisors

Article IV

Certificate Required

I. Certificate of Zoning Compliance: No building or other structure shall be erected, moved, added to or structurally altered without a certificate issued by the Zoning Administrator. No certificate shall be issued except in conformity with the provisions of this Ordinance except after written order from the Township Board of Supervisors.

J. Permitted Use:

A. Applications: All applications for certificates shall be accompanied by site plans. The site plans shall be drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; existing or proposed parking; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Ordinance.

B. Expiration: If the work described in any certificate has not begun within twelve (12) calendar months from the date of issuance thereof, or such work described ceases for a period of twelve (12) calendar months, or if work described in the certificate is not completed within twenty four (24) months said certificate shall expire. Time limitations cited above shall also apply to accessory buildings. The Zoning Administrator may grant a reasonable extension subject to the demonstration of a hardship condition. If canceled by the Zoning Administrator, a written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled certificate shall not proceed unless and until a new certificate has been obtained.

C. Construction and Use to be as Provided in Applications, Plans, and Certificate: Certificates issued on the basis of plans and applications approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved plans and

applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be a violation of this Ordinance.

D. Septic Permit Condition to Certificate: When, for any use, a private sewer system will be used, a septic permit from the Environmental Health Office of the Community Health Dept. of the City of Fargo will be required before any certificate is issued.

2. Conditional Use:

A. Applications: All applications for conditional use certificates shall be accompanied by site plans. The site plans shall be drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; existing or proposed parking; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Ordinance.

B. Conditions May Be Imposed: If the Township Board grants the conditional use, the Board may impose such conditions, including time limits, as may be deemed necessary for or appropriate to serve the purposes of the Comprehensive Plan, the Zoning Ordinance and to protect the public health, safety and welfare.

C. Criteria for Approval: No conditional use shall be granted unless the Township Board finds the following:

1. The use will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to service the area.

2. The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned or used land.

3. The structure and site shall have an appearance that will not have any adverse effect upon adjacent residential properties.

4. The use in the opinion of the Township Board is reasonably related to the existing and projected land use of the Township.

5. The use is consistent with the purposes of the Zoning Ordinance and the purposes of the zoning district in which the applicant intends to locate the proposed use.

6. The use is not in conflict with the Comprehensive Plan of the Township.

D. Public Hearing: When considering an application for a conditional use, the Zoning Commission shall hold a public hearing. At least fifteen (15) days prior to the date of hearing, notice of the purpose, time and place of such hearing shall be published in the official newspaper of Cass County.

E. Order a Certificate be Issued: If the Township Board of Supervisors approve the conditional use application, the Board shall order the Zoning Administrator to issue a certificate of zoning compliance.

F. Expiration: Where applicable, unless otherwise specified by the Board at the time it is authorized, a conditional use shall expire if the applicant fails to utilize such conditional use within one (1) year from the date of its authorization.

No application for a conditional use of a particular piece of property shall be accepted more than once in any twelve (12) month period.

G. Construction and Use to be as Provided in Applications, Plans, and Certificate: Certificates issued on the basis of plans and applications approved by the Township Board of Supervisors authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be a violation of this Ordinance.

H. Septic Permit Condition to Certificate: When, for any use, a private sewer system will be used, a septic permit from the Environmental Health Office of the Community Health Dept. of the City of Fargo will be required before any certificate is issued.

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

A. Application: All applications for Variances shall be accompanied by site plans. The site plans shall be drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Zoning Administrator, including existing or proposed building or alteration; existing or proposed uses of the building and land; existing or proposed parking; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this Ordinance.

B. Conditions May Be Imposed: If the Township Board grants the variance, the Board may impose such conditions, including time limits, as may be deemed necessary for or appropriate to serve the purposes of the Comprehensive Plan, the Zoning Ordinance and to protect the public health, safety and welfare.

C. Criteria for Approval: No variance shall be granted unless the Township Board finds the following:

1. That there are exceptional or extraordinary circumstances applying to the property in question or to the intended use of the property that do not apply generally to other properties or class or use in the same zoning district.

2. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.

3. That the authorization of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the ordinance or the public interest.

4. The owner cannot otherwise obtain a reasonable return on this property.

5. The hardship is not self-created.

6. The variance request is the minimum necessary to permit a reasonable use of the land.

D. Public Hearing: When considering an application for a variance, the Zoning Commission shall hold a public hearing. At least fifteen (15) days prior to the date of hearing, notice of the purpose, time and place of such hearing shall be published in the official newspaper of Cass County.

E. Order a Certificate be Issued: If the Township Board of Supervisors approve the variance application, the Board shall order the Zoning Administrator to issue a certificate of zoning compliance.

F. Expiration: Where applicable, unless otherwise specified by the Board at the time it is authorized, a variance shall expire if the applicant fails to utilize such variance within one (1) year from the date of its authorization.

No application for a variance of a particular piece of property shall be accepted more than once in any twelve (12) month period.

G. Construction and Use to be as Provided in Applications, Plans, and Certificate: Certificates issued on the basis of plans and applications approved by the Township Board of Supervisors authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be a violation of this Ordinance.

H. Septic Permit Condition to Certificate: When, for any use, a private sewer system will be used, a septic permit from the Environmental Health Office of the Community Health Dept. of the City of Fargo will be required before any certificate is issued.

Article V

Administration and Enforcement

I. Zoning Administrator: A person shall be appointed by the Township Board of Supervisors to administrate and enforce this ordinance. The person appointed shall be known as the "Zoning Administrator". He may be provided with the assistance of such other persons as the Township Board of Supervisors may direct.

Duties of the Zoning Administrator shall include:

1. Issuance of all certificates,

2. Conduct inspections,
3. Maintain records of the ordinance and applications,
4. Transmit to the Zoning Commission all applications for appeals, variances, conditional use certificates, and all applications for amendments.

II. Zoning Commission: A Zoning Commission shall be appointed with the membership composed of the three Township Supervisors.

The duties of the Zoning Commission shall be:

1. Recommend the establishment of plans, rules, regulations, and procedures for the purpose of administrating this ordinance.

2. Assist the Zoning Administrator in conducting inspection of land uses and administrating this ordinance.

3. Hear and forward recommendations on appeals where it is adjudged by the applicant that an error in judgement has been made by the Zoning Administrator.
   A. Procedure:
      i. Any person aggrieved by any order of determination of the Zoning Administrator may within 60 days of such action petition the Zoning Commission for a hearing. Such appeal shall be in writing and shall specify in detail the grounds for the appeal. The appeal shall be filed with the Zoning Administrator.
      ii. Within 30 days of filing, the Zoning Commission shall fix a date for a hearing.
      iii. Notice in writing shall be given to the petitioner at least 5 days prior to the hearing.
      iv. Within 15 days after the hearing, the Zoning Commission shall take action and shall mail by registered mail a copy of its order to the petitioner.
      v. If the petitioner is aggrieved by the determination of the Zoning Commission, the petitioner may petition the Township Board of Supervisors for a hearing.
      vi. The procedure followed by the Zoning Commission shall be followed by the Township Board of Supervisors in hearing the appeal petition.
      vii. If the petitioner is aggrieved by the determination of the Township Board of Supervisors, the petitioner may make an appeal to the Cass County District Court. This appeal must be taken in accordance with the procedure provided in Section 28-34-01 of the North Dakota Century Code.

4. Conduct public hearings and forward recommendations to the Township Board of Supervisors on applications for

conditional uses, variances, and amendments of this ordinance

5. Review and study from time to time the provisions of this ordinance.

III. Township Board of Supervisors: The Township Board of Supervisors shall have final authority in all matters of this ordinance.

IV. Violations: If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure, or land is used, in violation of this ordinance, the Zoning Administrator, Zoning Commissioners, or Township Supervisors, or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceeding as outlined in Section 58-03-14 of the North Dakota Century Code.

V. Fees: For the purpose of administrating this ordinance, fees may be instituted by the Board of Township Supervisors.