

SECTION 1

Introduction

- 1.1 Title: This ordinance shall be known as the "Zoning Ordinance of Rich Township".
- 1.2 Purpose: The purpose of this ordinance is to provide for the orderly development of Rich Township in Cass County, North Dakota. The purpose of this ordinance is to:
1. Implement the Rich Township Comprehensive Plan
 2. Promote public health, safety, and general welfare
 3. Preserve prime agricultural land and property values
 4. Facilitate provision of adequate public facilities
 5. Control population density and distribution
 6. Secure safety from fire, flood, panic, and other dangers
 7. Prevent overcrowding of land
 8. Lessen governmental expenditures
 9. Conserve and 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.
- 1.3 Authority: This ordinance is adopted under the authority granted in Chapter 58-03 of the North Dakota Century Code.
- 1.4 Repeal: All other ordinances or parts of ordinances of Rich Township in conflict with this ordinance are hereby repealed.
- 1.5 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.
- 1.6 Effective Date: This ordinance shall become effective after adoption by the Rich Township Board of Supervisors, Cass County, North Dakota.

SECTION 2

Definition of Terms Used in This Ordinance

- 2.1 General Definitions: Words used in the present tense shall include the future; the singular number shall include the plural.
The word "person" includes a firm, partnership, association, corporation, or individual.
The word "shall" is mandatory.

- 2.2 List of Definitions:

Accessory Use or Accessory Structure: A use or structure which a) clearly serves and is incidental and subordinate to the main use of a lot, such as a garage or tool shed; and b) is located on the same lot as the main use.

Agriculture: The use of land for raising crops, grazing and feeding farm animals, including the necessary buildings and structures for farm or farm labor use. It does not include the use of land or buildings for the exclusive purpose of concentrated feeding or fattening of livestock for market, such as commercial feedlots or total confinement systems.

Alley: A minor roadway providing secondary access to the back or side of one or more lots.

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

Building Line: A line, parallel to the roadway centerline that passes through the point of the principal building which is nearest the front or rear lot line.

Conditional Use: A use which may be allowed in a district only if the regulations for that district specifically permit it subject to the approval of the Board of Supervisors and only when the Board finds that such use meets all of the requirements applicable to it as specified in the ordinance. The Board may choose not to approve the conditional use, but the reasons must be given in writing.

Development: All structures upon and other modifications to the natural landscape above and below ground on a particular lot or site.

Dwelling: A building or portion of a building occupied exclusively for residential purposes. This includes manufactured and pre-built homes, but does not include recreational vehicles.

Dwelling Unit: A group of rooms which include permanent and exclusive kitchen and bathroom facilities, that is designed and used as living quarters and located in a building. This does not include vehicles designed for camping or other temporary occupancy such as recreational trailers or vehicles. It does not include commercial living facilities, such as motels or boarding houses, or dwellings typically considered group quarters, such as fraternity buildings or dormitories.

Home Occupation: Any occupation which (1) is carried on solely by members of the household residing on the premises; (2) is clearly secondary to the use of the dwelling for residential purposes; and (3) does not create excess noise, traffic or other disturbances.

Household: One or more individuals living together in a single dwelling unit.

Junk Yard: Any land or building used for the storage, sale, or dismantling of junk including scrap metals or other scrap materials or goods, or used for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery, or parts thereof.

Lot: A parcel of land capable of having a building and accessory uses and still meet the *yard requirements* dimensional standards and front on a street.

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

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

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

Manufactured Home: A dwelling unit designed for transportation after construction and not necessarily on a permanent foundation. A recreational trailer is not to be considered a manufactured home.

Multi-Family: Any building or structure designed for occupancy by two or more households.

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

Parking Space: A separately accessible space, nine (9) feet by twenty (20) feet, for parking a vehicle. All references to vehicle parking in this ordinance shall mean parking off publicly dedicated rights-of-way.

Public Buildings: Buildings which provide for public uses such as schools, medical facilities, post offices, etc

Recreational Trailer or Vehicle: A vehicle or a trailing or vehicle-mounted enclosure designed primarily for living accommodations, including camping, at temporary or transient locations instead of permanent location at one site.

Roadway: Right-of-way or easement dedicated for public vehicular travel, whether called a street, road, highway, alley or any other name, whether constructed or unimproved.

Structure: Anything built, constructed, or erected which requires permanent location on the ground. This does not include fences.

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

Variance: The relaxing of the requirements of this ordinance where it can be shown that due to unusual conditions of the property involving unique circumstances, strict application of the regulations would result in undue hardship. The variance will not be contrary to the public interest and will not be applicable to any use not already allowed by the district.

SECTION 3

General Provisions

- 3.1 Jurisdiction: The provisions of this ordinance shall apply to all structures and land within the Township boundaries which is not within a city's properly established extra-territorial zoning boundary. The jurisdiction of this ordinance shall include all unincorporated areas of Rich Township.
- 3.2 Compliance: No land shall be used and no building or structure shall be erected, altered or repaired except in conformance with these regulations.
- 3.3 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.

3.4 Interpretation: In interpreting and applying this ordinance, the provisions 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.

3.5 Non-conforming Uses:

A. Non-conforming uses of land or buildings legally existing at the date of adoption of this ordinance may continue provided there are no structural alterations and the non-conforming use shall not be extended to occupy a greater area of land or buildings.

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

C. A non-conforming structure destroyed or damaged less than 50 percent of its fair market value may be reconstructed within one year of such casualty. If damaged 50 percent or more of its fair market value, the non-conforming structure must be reconstructed in accordance with these regulations.

D. Any junkyard or auto wrecking business existing as a non-conforming use at the time of the adoption of this ordinance shall, within one year after it has become a non-conforming use, remove from the lot all vehicles, or parts thereof, which are not holding current registration with the North Dakota Department of Transportation, except one vehicle, or parts of one vehicle, not holding current registration may remain.

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

3.6 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.

3.7 Septic Permit Condition to Certificate: When, for any use, a private sewer system will be used, a septic permit from the Environmental Services Office of the Fargo Cass Public Health Department will be required before any zoning certificate will be issued.

3.8 Lot of Record: Any parcel of land on which a dwelling unit legally exists at the time of adoption of this ordinance shall constitute a legal lot. Should a dwelling unit existing on a legal lot be removed or destroyed, the lot may be rebuilt upon. Setback and side yard requirements should be adhered to where possible.

SECTION 4

District Regulations

- 4.1 Classes of Districts: For the purpose of this ordinance, all parts and sections of Rich Township shall be classified as a single Agricultural District.
- 4.2 Official Zoning Map: The boundaries of this agricultural district or any additional districts which may be created in the future are and shall be established as shown on the map entitled the "Official Zoning Map of Rich Township." This map is made part of this ordinance, and it shall be on file with the Township clerk.
- A. The zoning district boundary lines are intended to follow section lines and corporate limit lines as they exist at the time of the adoption of this ordinance.
- B. Where any uncertainty may exist as to the exact boundary line of a district, the Board of Supervisors shall make the final judgement.
- 4.3 A - Agricultural District:
- A. Purpose: To establish and preserve areas of agriculture and low intensity development which do not significantly change the existing character of the area.
- B. Permitted Uses: Agriculture and agricultural-related 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: Publicly owned sewage facilities, transmission lines, and junk yards provided they are conducted within an area enclosed on all sides with a solid fence or wall not less than 8 feet in height. Park and outdoor recreational facilities and related buildings for outdoor recreation.
- D. Dimensional Standards:
1. Setbacks: 150 feet measured from the centerline of any public roadway for any new structure or windbreaks.
 2. Road Approaches: Slopes shall be 4:1.
- E. Residential Development Standards:
1. Application: The residential standards listed below apply only to non-farm residential parcels and structures.
 2. No lot shall contain more than one principal residential building.
 3. No dwelling unit shall be built on a lot which does not abut or front on a dedicated public road.
 4. Minimum lot area shall not be less than 5 acres. Minimum lot width shall be not less than 200 feet.

SECTION V

Administration and Enforcement

5.1 The administration and enforcement of this ordinance is hereby vested in the Administrative Official and the Board of Supervisors of Rich Township.

A. Administrative Official:

1. Authority and Duties:

- a. Issue all zoning certificates;
- b. Conduct inspections of buildings for compliance with zoning ordinances and other applicable codes or ordinances;
- c. Maintain records of the regulations and zoning certificates, variances, and conditional uses;
- d. Report the following to the Board of Supervisors:
 - 1) All complaints stemming from this zoning ordinance;
 - 2) Zoning violations;
- e. Investigate violations and complaints of violations and report them to the Board of Supervisors for appropriate action.

B. Zoning Commission:

1. Authority and Duties:

- a. Hear and advise the Board of Supervisors regarding conditional use permits;
 - 1) Procedure for application and review of a conditional use permit shall be as follows:
 - a) An application for a conditional use permit shall be submitted to the Administrative Official;
 - b) The Administrative Official shall report the application to the Zoning Commission;
 - c) Every application for a conditional use permit shall include a plot plan showing:
 1. Legal description of the land to be used;
 2. Location of all structures and all existing and proposed improvements including curb-cut access, off-street parking, and other such facilities for proposed and adjacent lots.
 3. Building setbacks from all property lines;
 4. Location and type of planting, screening or walls;
 5. A timing schedule indicating the start and completion dates of the development;
 6. Names and addresses of adjacent property owners;
 7. Any additional information that the Board of Supervisors or Zoning Commission deems necessary.
 - d) Within fifteen days of the filing of the application for a conditional use permit, the Zoning Commission shall notify in writing all property owners with adjoining parcels to the proposed conditional use parcel. **A public hearing may be requested by the Zoning Commission, notified property owners, the applicant, or other interested property owners, within thirty days of the filing of the application.**

e) If a hearing is requested, the **Zoning Commission shall set a date for a public hearing** to be held within sixty days of the filing date of the application.

f) The Administrative Official shall prepare a written statement for the Zoning Commission specifying the manner in which the proposed conditional use complies or does not comply with the following provisions governing conditional uses:

1. The conditional use shall not be detrimental to or endanger public health, safety, or general welfare.
2. The conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.
3. The conditional use shall not impede the normal and orderly development of the surrounding property in the area.
4. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided.
5. Adequate measures shall be taken to provide entrance to and exit from the property without adverse effects on neighboring properties and traffic congestion in public streets.
6. The conditional use shall conform to all applicable regulations of the district in which it is located.

2) Upon review of the Administrative Official's report, and hearing of all public comments regarding the application, the Zoning Commission shall make a recommendation to the Board of Supervisors regarding the application. The recommendation may include such other conditions as the Zoning Commission determines are necessary to protect the public health, safety, and welfare.

b. Hear and advise the Board of Supervisors regarding variances from the terms of this ordinance that shall not be contrary to the public interest. The procedure for hearing and reviewing variances shall be:

1) An application for a variance shall be submitted to the Administrative Official.

2) The Administrative Official shall report the application to the Zoning Commission.

3) Every application for a variance shall include the following:

- a) Legal description of the property;
- b) The reason for the variance request including a description of the property that prevents its reasonable use under the terms of this ordinance;
- c) The type of variance requested along with the desired specifications of same;
- d) An explanation of whether the hardship is unique to the applicant's property or of a general nature characteristic of other properties;
- e) Names and addresses of all property owners with parcels adjoining the property in question;

- f) Any other information that the Zoning Commission deems necessary.
- 4) The Zoning Commission shall base its findings on evidence present in the application and the following conditions before it may recommend approval of a request for a variance.
 - a) The particular surroundings or the topographic condition of the property would result in undue hardship;
 - b) The variance request is not based on a desire for economic or other gains;
 - c) The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property;
 - d) The variance shall not be detrimental to the public welfare or injurious to other properties in the area;
 - e) The variance shall not be contrary to the interest and purpose of this ordinance or the **Township's Comprehensive Plan**.
- 5) Within thirty days of the filing of the application for a variance, the Zoning Commission shall make a recommendation to the Board of Supervisors in writing citing the reasons for approval or disapproval.

c. Publish notice of all hearings once a week for two successive weeks prior to the date established for the hearing in the official newspaper of the Township.

d. Recommend to the Board of Supervisors boundaries of zoning districts and appropriate regulations to be enforced within these districts, or amendments or revisions of the same.

e. Recommend to the Board of Supervisors such other plans, policies, ordinances, and procedures as it deems appropriate in order to promote or secure the development or re-development of the Township in accordance with the comprehensive plan.

C. Board of Supervisors:

1. Authority and Duties:

a. Issue conditional use permits;

1) Procedure for review and issuance of a conditional use permit shall be as follows:

a) Upon application for a conditional use permit submitted to the Administrative Official, and subsequent review and recommendation by the Zoning Commission, the Administrative Official shall report the Zoning Commission recommendation to the Board of Supervisors;

b) Within **thirty** days of the report of the Zoning Commission, the Board of Supervisors shall approve or disapprove the proposed conditional use permit.

c) The Board of Supervisors may approve said conditional use permit if satisfied that the proposed conditional use complies with the following provisions governing conditional uses:

1. The conditional use shall not be detrimental to or endanger public health, safety, or general welfare.

2. The conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.

3. The conditional use shall not impede the normal and orderly development of the surrounding property in the area.

4. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided.

5. Adequate measures shall be taken to provide entrance to and exit from the property without adverse effects on neighboring properties and traffic congestion in public streets.

6. The conditional use shall conform to all applicable regulations of the district in which it is located.

7. It meets all applicable governmental laws and regulations.

b. Hear and decide variances from the terms of this ordinance that shall not be contrary to the public interest. The procedure for hearing and deciding variances shall be:

1) Within fifteen days of the receipt of the Zoning Commission recommendation regarding a request for variance, the Board of Supervisors shall make a decision on the variance request.

2) The Board shall base its findings or decisions on evidence present in the application and the following conditions before it may approve a request for a variance.

a) The particular surroundings or the topographic condition of the property would result in undue hardship;

b) The variance request is not based on a desire for economic or other gains;

c) The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property;

d) The variance shall not be detrimental to the public welfare or injurious to other properties in the area;

e) The variance shall not be contrary to the interest and purpose of this ordinance.

4) Within thirty days of the Zoning Commission report, the Board of Supervisors shall notify the applicant in writing citing the reasons for approval or disapproval.

c. Hear appeals of any person, firm or organization aggrieved by a decision or ruling of the Zoning Administrator in the manner prescribed by law.

1) Procedure for Appeals:

a) An aggrieved person shall file a petition for a hearing to the Board of Supervisors within thirty days of a decision by the Administrative Official;

b) At the same time, the appeal shall be presented in writing to the Board of Supervisors and shall specify the grounds for appeal;

c) The hearing shall be held within a reasonable time after the filing of the petition;

- d) The filing of an appeal shall stay the decision or order from which appeal is sought until a decision has been made by the Board of Supervisors, unless the administrative officer certifies that such a stay would cause imminent peril to life or property.
- d) Within fifteen days after the hearing, the Board of Supervisors shall take action and send its decision, by registered mail, to the aggrieved person.
- 2) Notice of hearing shall be provided to all parties at least fifteen days in advance of the hearing.
- 3) A concurring vote by 4/5 of the Board of Supervisors shall be necessary to reverse any decision or order of the administrative officer.
- d. Any decision of the Board of Supervisors on an appeal is subject to review in the manner prescribed by NDCC 40-47-11.

5.2 Zoning Certificate:

A. No land shall be built upon and no structure or building shall be structurally altered or moved until a zoning certificate has been obtained from the Administrative Official.

B. Any zoning certificate issued must be in conformance with this ordinance.

C. No zoning certificate is required for maintenance of any building or structure which does not structurally alter the building.

D. If no construction takes place within a year from the issuance of a zoning certificate, the certificate shall expire.

E. The zoning certificate process is outlined below:

1. All applicants who wish to build or alter any structures as defined in this ordinance must apply to the Administrative Official for a zoning certificate.

2. If the applicant's plans meet district regulations as prescribed in this ordinance, the Administrative Official shall collect the fees and issue the zoning certificate.

3. If the Administrative Official finds that the applicant's plans do not comply with district regulations, the applicant may seek a variance or conditional use approval, or appeal the Administrative Official's decision in accordance with the procedures discussed in this text.

5.4 Amendments to the Ordinance: The Board of Supervisors may from time to time on its own motion or on Zoning Commission recommendation amend, supplement, or repeal provisions of this ordinance.

A. Procedures for Amendments:

1. Applications or recommendations for amendments shall be filed with the Administrative Official.

2. The Administrative Official shall notify the Board of Supervisors of the proposed amendment. If the recommendation for zoning ordinance amendment

is not initiated by the Zoning Commission, it shall be referred to the Zoning Commission

3. If the zoning map is proposed to be changed, the Board of Supervisors shall notify, by mail, all property owners fronting on or within one half mile of the property in question at least 15 days prior to the public hearing.

4. The application shall be presented to the public at an official public hearing conducted by the Board of Supervisors. Notice of the hearing shall be published in the official Township newspaper once a week for two successive weeks prior to the date established for hearing. A notice may also be placed in a conspicuous location in a post office or other community building.

5. Following the hearing, the Board of Supervisors shall approve or disapprove the proposed amendment.

B. Protests to Amendments:

1. If a protest against an amendment is signed by the owners of 20 percent or more:

- a. Of the area of the lots included in such proposed change or
- b. Of the area adjacent, extending **one half mile** (excluding streets) from the property to be changed, the amendment shall not become effective except by a favorable vote of at least three-fourths (3/4) of the members of the Board of Supervisors. Otherwise, amendments shall be approved only by at least a two-thirds (2/3) majority of the members of the Board of Supervisors.

5.5 Schedule of Fees and Charges:

A. A fee shall be paid to the Board of Supervisors by the applicant upon filing an application for any amendment to the zoning ordinance or zoning map or for any other activity which requires a public hearing. The Board of Supervisors may set fees for these purposes.

B. Board of Supervisors may institute a schedule of fees for issuing building permits. The fee shall be paid by the applicant to the Administrative Official prior to receiving the permit.

5.6 Penalties: Anyone who violates the provisions of this ordinance or fails to comply with any of its requirements, upon conviction, shall be punished by a fine of not more than \$500.00 or by imprisonment in the county jail for not more than 30 days.

5.7 Enactment: In order that the land within the Rich Township, North Dakota, be properly zoned in accordance with the policies and purposes of this ordinance, the Rich Township Zoning Ordinance is hereby adopted this 13TH day of APRIL, 1998.

Chairman
Rich Township Board of Supervisors

Attest William J. Thompson
Clerk
Rich Township