

ZONING ORDINANCE

**T152N R95W
HAWKEYE VALLEY
TOWNSHIP**

**MCKENZIE COUNTY
NORTH DAKOTA**

**ADOPTED 08/08/2011
AMENDED 04/10/2012**

ARTICLE I INTRODUCTION

1.1 Title

These regulations shall be known, and may be cited and referred to as the Hawkeye Valley Township, McKenzie County, North Dakota Zoning Regulations.

1.2 Purpose and Intent

1.2.1 To protect public health, safety, morals, comfort, convenience, prosperity and general welfare of Hawkeye Township, McKenzie County, North Dakota.

1.2.2 To secure safety from fire, panic, noxious fumes, and other dangers.

1.2.3 To preserve and protect farming operations, farm lands and natural resources of the township.

1.2.4 To promote orderly development of land and water resources and to prevent conflict among land uses and structures.

1.3 Authority

These regulations are adopted under the authority granted by Chapter 58-03 of the North Dakota Century Code.

1.4 Jurisdiction

1.4.1 General

These regulations shall apply to the use and enjoyment of all lands within Hawkeye Township, McKenzie County, North Dakota

1.4.2 Extraterritorial Areas

When an incorporated municipality has declared its intent in exercising its extraterritorial authority as provided by Chapter 40-47 of the North Dakota Century Code, these regulations shall not apply to the area delineated for that purpose.

1.5 Interpretation

These regulations shall be held to be minimum requirements adopted for promotion of purposes cited in Section 1.2. Whenever, the requirements of these regulations are at variance with the requirements of other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive shall govern unless otherwise specifically stated.

1.6 Severability

If any part, provision or part of these regulations is adjudged invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

1.7 Effective Date

These regulations shall be effective upon adoption by the Township Board as provided by the North Dakota Century Code.

1.8 Exceptions

These regulations shall not apply to the use of land and buildings for agriculture as defined herein.

ARTICLE 2 RULES AND DEFINITIONS

2.1 Rules

In construction of these regulations, the rules and definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise.

2.1.1 Words used in present tense shall include the future.

2.1.2 Words used in singular number shall include the plurals number, and the plural the singular.

2.1.3 Shall is a mandatory word and not discretionary.

2.1.4 May is a permissive word.

2.2 Definitions

2.2.1 **“Accessory Building and Uses”** means a subordinate building or portion of the main building the use of which is clearly incidental to and serves exclusively the principal building or principal use. The accessory building or use shall be located on the same zoning lot and it is established to contribute to the comfort, convenience or necessity or occupants for the principal building or principal use.

2.2.2 **“Agriculture”** means the process of production food and fiber including, but not limited to the land, facilities, structures and buildings for operation and maintenance thereof. It includes all types of general farming, crop and vegetable farming, dairying, livestock and poultry-raising, apiaries, fur farming, horticulture pasturing, tree farming and related lands based ford and fiber producing facilities.

2.2.3 **“Airport”** means any area designated for the landing and take off of aircraft and any appurtenant areas which are used or intended for use for airport buildings and structures including runways, taxi-ways, aircraft storage and tie down areas, hangers and other related facilities and open spaces other than landing strips used for family purposes.

2.2.4 **“Animal Hospital or Kennel”** means a building or premises set up for treatment and boarding of domestic animals including veterinary facilities.

2.2.5 **“Building”** means any structure designed or intended for shelter, housing, business, office and accommodation of persons, animals, chattels or property.

- 2.2.6 “Building Area”** means that portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and side yards.
- 2.2.7 “Building Height”** means vertical distance from the grade to the highest point of the roof.
- 2.2.8 “Building Line”** means a line establishing the minimum distance that structures may be placed from the lot lines or highway right-of-way. For the purpose of these regulations of the building line is the same as setback line.
- 2.2.9 “Building, Principal”** means a building, the principal use of which is single family and multi-family dwellings, and offices, shops, stores and other uses.
- 2.2.10 “Channel”** means a natural or man-made water course for conduction the flowing water.
- 2.2.11 “Club or Lounge”** means a private club or lodge which is a nonprofit association of person for the purpose of gatherings and entertaining members including consumption of food and beverages.
- 2.2.12 “Comprehensive Plan”** means a guide for management of the physical resources and development of the Township as adopted by the Board of Supervisors.
- 2.2.13 “Conditional Use”** means use of special nature not automatically permitted in a zoning district and which requires review and approval of the Zoning Commission after public hearing.
- 2.2.14 “Conforming Building or Structure”** means a building or structure, which complies with all requirements of these regulations and other regulations adopted by the Township.
- 2.2.15 “Development”** means any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures, the construction of additions or alterations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavation and drilling operations.
- 2.2.16 “Development Plan”** means a document including maps and data for physical development of an area as provided by these regulations.

- 2.2.17 “District”** means a section or sections of the Township for which regulations governing the use of building and premise, the building heights, size of yards, lot area, lot width and the use are uniform.
- 2.2.18 “Dwelling”** means any building or portion thereof, used exclusively for human habitation including single family and multiple family units but not including hotels or motels.
- 2.2.19 “Dwelling, Multiple Family”** means a single building or portion thereof, containing two (2) or more dwelling units.
- 2.2.20 “Dwelling, Single Family”** means a building containing one dwelling unit only.
- 2.2.21 “Encroachment”** means any fill, building, structure or use including accessory uses projecting into the required yard areas or public and private property.
- 2.2.22 “Establishment”** means a place of business for processing, production, assembly, sales, service of goods and materials.
- 2.2.23 “Feedlot”** means parcel of land which contains a commercial operation for feeding or raising of at least 1,000 cattle, 200 hog, 500 feathered fowl, poultry and 200 other animals which is operated as a separate activity and not incidental to farming or ranching.
- 2.2.24 “Flood Plain”** means an area, which may be covered by flood-water including but not limited to regional floods.
- 2.2.25 “Frontage”** means the front part of a lot abutting a public right-of-way, or road or highway.
- 2.2.26 “Grade”** means the land elevation at the horizontal intersection of the ground and the building.

2.2.27 “Home Occupation” means any occupation carried on in a dwelling unit by a member or members of the family and which meets these requirements:

1. That occupation is conducted within the principal building and not in an accessory building.
2. That no stock-in-trade is kept or commodities sold other than those produced on the premises.
3. That no more than twenty-five percent (25%) of the floor area of the dwelling is devoted to such home occupation.

2.2.28 “Hotel or Motel” means a building in which lodging accommodations, with or without meals, are provided for compensation.

2.2.29 “Junk or Salvage Yard” means an open area where waste or scrap material, including parts of used motor vehicles, appliances and farm implements are bought, sold, exchanged, stored, baled, parked, disassembled or handled.

2.2.30 “Juvenile Delinquent” means a person under the age of 21 who demonstrates antisocial behavior that is beyond parental control.

2.2.31 “Kennel, Animal” means any premises where dogs, cats and other household pets are boarded, bred, raised and maintained for compensation.

2.2.32 “Lot” means a piece, parcel, lot or area of land of continuous assemblage established by survey, plat or deed.

2.2.33 “Lot Lines” means the property lines bounding the lot.

2.2.34 “Lot Width” means the horizontal distance between the side lot lines of a lot measured at the front building setback line.

2.2.35 “Lot, Zoning” means a single lot, parcel, and tract of land within a zoning district developed or to be developed.

2.2.36 “Mobile Home” means a manufactured trailer intended for family residential occupancy.

2.2.37 “Mobile Home Park” means a parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities exist.

- 2.2.38 “Non-conforming Building”** means any building which codes do not comply with any or all of these regulations.
- 2.2.39 “Non-conforming Use”** means any principal use of land or building, which does not comply with any or all of these regulations.
- 2.2.40 “Nursing Home or Convalescent Home”** means a home for the aged or infirm, which unrelated persons are accommodated for compensation.
- 2.2.41 “Permitted Uses”** means those uses, buildings or structures that comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Permitted uses are distinct from conditional uses that are authorized only if certain requirements to these provisions are met after a public hearing and approval by the Zoning Commission.
- 2.2.42 “Person”** means any individual, firm, corporation, partnership or legal entity.
- 2.2.43 “Prohibited Uses”** means any activity in a given zoning district, which by its nature is not allowed or permitted.
- 2.2.44 “Planned Development”** means a grouping of buildings and structures on a site of five (5) or more acres in single ownership which is not limited by the yard or building height limitations but is based on a detailed development plan and recorded in the office of the County Register of Deeds upon approval by the Township Board of Supervisors.
- 2.2.45 “Public Roadway or Public Way”** means any dedicated and recorded right-of-way including alleys, sidewalks, streets, roads or highways.
- 2.2.46 “Service Station”** means any building or premises where automotive fields, automotive related services, lubricants, parts and supplies are made available to the motorist.
- 2.2.47 “Sign”** means any emblem, name, identification, description or illustration which is used for outdoor advertising having permanent location on the ground or attached to or painted on a building including bulletin boards, bill boards and poster boards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.
- 2.2.48 “Site Plan”** means a detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in these regulations.

- 2.2.49 “Structural Alterations”** means any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.
- 2.2.50 “Structure”** means anything constructed or erected, the use of which requires permanent location on the ground including advertising signs and billboards.
- 2.2.51 “Temporary Workforce Housing”** means a concentrated housing area.
- 2.2.52 “Variance”** means the relaxation of the terms of the zoning regulations in relationship to building height, size of the front, rear and side yards, where the literal enforcement of these regulations could create unreasonable hardship, but it is not contrary to the purposes of the Township Comprehensive Plan and these regulations.
- 2.2.53 “Yard”** means an open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.
- 2.2.54 “Zoning Commission”** means a body consisting of the five (5) Township supervisors and appointed members under the authority of Chapter 58-03-13 of the North Dakota Century Code to review the planning issues, prepare plans, review the zoning requests and plats of subdivision, zoning amendments, conditional uses and make recommendations to the Board of Supervisors.

ARTICLE 3 GENERAL PROVISIONS

3.1 Compliance

No building or land shall hereafter be used or occupied and no building shall be erected, moved or altered unless in conformity with these regulations.

3.1.1 Building Height, Lot Area and Yards

No building shall exceed the height, occupy larger part of lot area, and no lot shall be created smaller than the requirements of these regulations.

3.1.2 Substandard Lots

All existing lots at the date of adoption of these regulations shall be deemed buildable unless for the reasons of land suitability, flooding and other physical limitations contrary to the purpose of these regulations.

3.2 Amendments

The Township Board of Supervisors may, from time to time, amend, supplement or repeal any part of these regulations after a public notice and hearing.

3.3 Comprehensive Plan

These regulations are administered and enforced to implement the Comprehensive Plan of the Township, a document adopted by the Board of Supervisors as a policy guide for protection of the Township's natural resources and accommodating the type of development deemed appropriate including but not limited to the following objectives.

3.3.1 To conserve and enhance the taxable value of land and buildings in the Township.

3.3.2 To encourage the most appropriate use of land in the Township.

3.3.3 To protect the character and maintain the stability of farming activities and production.

3.3.4 To regulate and restrict the location and intensity of use of buildings and land not related to farming.

3.3.5 To separate and control unavoidable nuisance production uses to minimize the adverse impacts on the surrounding areas or uses.

3.3.6 To facilitate traffic movement and promote development of compatible uses.

3.4 Non-Conforming Uses

The lawful use of a building or premises existing at the date of adoption of these regulations may be continued. Where a non-conforming use is discontinued for a period of more than twelve consecutive calendar months any subsequent use or occupancy of such premises shall conform to these regulations. Whenever a building is destroyed or damaged by fire or other casualty to the extent of more than sixty percent (60%) of its market value it shall not be restored unless said building shall conform to the provisions of the district in which it is located. Non-conforming uses shall not be expanded to occupy a larger area of land than existed at the date of adoption of these regulations unless approved by the Zoning Commission after a public hearing.

3.5 Land Suitability

The land shall be used for a purpose which is held unsuitable for the reason of flooding, soil limitations, inadequate drainage, incompatibility with adjoining use or any condition likely to be harmful to the health, safety or the welfare of the people in the area. The Township Zoning Commission may require information and data to determine the land suitability. The Township may consult with county and state agencies to assist in its determination.

3.6 Conditionally Permitted Uses

Where a use is classified as a conditional use under these regulations and exists at the date of adoption of these regulations, it shall be considered a permitted use. Where a use is not allowed as a conditional use or permitted use, under these regulations, and exists at the date of adoption of these regulations, it shall be considered non-conforming and shall be subject to the non-conforming buildings and use provisions.

3.7 Road and Highway Access

A permit for access to the Township roads is required by the Board of Supervisors. In granting the access permit to the township roads, the Board of Supervisors may adopt rules and regulations as to the number of access points per mile, the width, construction and other features of the access to the adjoining properties. The Board of Supervisors may place conditions when gaining a road access permit. Farm driveways and field access points are exempt from these provisions.

3.8 Road and Highway Setback – Tree Plantings, Shelterbelts

All buildings and structures shall be placed at least 100 (one hundred) feet from township, county and state highway right-of-ways for the purpose of preventing hazardous accumulations of snow and to allow for future widening of public right-of-ways. Tree plantings and shelterbelts shall be planted 150' (one hundred fifty) feet from center of the road.

ARTICLE 4 ZONING DISTRICT BOUNDARIES AND MAP

4.1 Zoning Districts

In order to carry out the purposes and provisions of these regulations, the following zoning districts are hereby established.

4.1.1 RA – Agricultural

4.1.2 RC – Commercial District

4.2 Zoning District Map

4.2.1 Zoning Districts

The location and boundaries of the zoning districts are hereby established as shown on the “Zoning District Map” on file in the Office of the County Auditor as well as the Township Code Administrator. The zoning district maps, together with all information shown thereon and all amendments thereto, shall be an integral part of these regulations.

4.2.2 Public Roads and Highways as Boundary

When zoning district boundary lines are indicated as following roads and highways or extensions thereof, such boundary lines shall be construed to be the center line of said roads and highways or extension thereof unless clearly shown to the contrary.

4.2.3 Property Line as Boundary

Where zoning district boundary line coincides approximately, but not exactly with a property line, the zoning boundary shall be construed to be the lot line at that location. All section lines and quarter section lines may be construed as the property lines.

4.2.4 District Description for Unsubdivided Lands

For unsubdivided property, zoning district boundaries are determined by metes and bounds description or by a legal description as deemed necessary.

4.2.5 Vacated Areas

Where a public road or highway is vacated by the official action of the Board of Township Supervisors, the zoning district boundaries shall be extended to the center of the vacated public road or highway.

4.2.6 Zoning District Boundary Interpretation

Where any uncertainty exists as to the exact location of the zoning district boundary lines, the Board of Supervisors shall determine the locations of such boundary lines.

4.2.7 Zoning District Map

The official zoning district map shall bear a certificate with the signature of the Township chairman and certification of the township clerk and date of adoption of the zoning map as an integral part of these regulations.

4.2.8 Zoning Boundary Exclusions

Portions of section twelve (12), thirteen (13), twenty-four (24), twenty-five (25), thirty-six (36) otherwise known as the Fort Berthold Indian Reservation shall be excluded from these zoning ordinances.

ARTICLE 5 ZONING DISTRICT REGULATIONS

5.1 RA Agricultural District

5.1.1 Purpose

The purpose of this district is to provide for preservation and protection of agricultural lands and to discourage uses incompatible with agricultural operations or detrimental to agricultural lands utilization.

5.1.2 Permitted Uses

- 5.1.2.1** All types of farming and ranching operations including dairying, livestock and poultry raising, apiaries and fur farming.
- 5.1.2.2** Accessory buildings and structures necessary to the operation of farms or ranches.
- 5.1.2.3** Cemeteries.
- 5.1.2.4** Churches.
- 5.1.2.5** Golf Courses.
- 5.1.2.6** Grain Elevators and accessory structures.
- 5.1.2.7** Home occupations.
- 5.1.2.8** Parks and playgrounds.
- 5.1.2.9** Mobile homes.
- 5.1.2.10** Public and private schools.
- 5.1.2.11** Public buildings and facilities except detention facilities, correction facilities, jails, prisons and behavioral corrections listed as prohibited in 5.1.4.1, 5.1.4.2, and 5.1.4.3.
- 5.1.2.12** Tree farms, nurseries and commercial gardens.
- 5.1.2.13** Mining and stock piling of sand, gravel and scoria for road construction, maintenance and other uses. Reclamations are to adhere to state mining standards.
- 5.1.2.14** Construction and maintenance of drainage systems to manage the water run-off.

5.1.2.15 Utility lines and pipelines including substations for transformers, pumping stations and lift stations.

5.1.2.16 Water reservoirs.

5.1.2.17 Retail sale of agricultural seeds and farm supplies.

5.1.2.18 Domestic animal kennel not nearer than 2,640 (two thousand six hundred forty) feet from any residence except the residence of the owner or operator.

5.1.3 Conditionally Permitted Uses

5.1.3.1 Single-family non-farm residential.

5.1.3.2 Anhydrous ammonia plants.

5.1.3.3 Commercially operated air landing strip and accessory buildings.

5.1.3.4 Voltage transmission lines and accessory structures.

5.1.3.5 Manufacturing and processing of agricultural products produced in the area.

5.1.3.6 Radio, TV stations and towers.

5.1.3.7 Sale and services of agricultural equipment and machinery.

5.1.3.8 Salvage and junkyard subject to provisions of Section 6.3.

5.1.3.9 Sewage lagoons and wastewater treatment facilities.

5.1.3.10 Skeet, trap and rifle ranges if not nearer than 5,280 (five thousand two hundred eighty) feet from any residence.

5.1.3.11 Storage of farm related chemicals in a commercial operation.

5.1.3.12 Storage units for rent.

5.1.3.13 Veterinary clinics and animal hospitals not nearer than 500 (five hundred) feet from any residence except the residence of the owner or operator.

5.1.3.14 Wind farms and wind power generating towers.

5.1.3.15 Allowance of a combination of and a total of 3 (three) recreational vehicles or campers for a period of 6 (six) months that are used for housing provided the owner has adequate sewage and utilities and the premises are kept free of garbage.

5.1.4 Prohibited Uses

5.1.4.1 Detention facilities, correction facilities, jails, prisons and behavioral correction facilities which shall house adult inmates serving court ordered confinement for crimes committed outside of Hawkeye Township.

5.1.4.2 Detention facilities, correction facilities, jails, prisons and behavioral correction facilities which shall house juvenile inmates serving court ordered confinement for crimes committed outside Hawkeye Township.

5.1.4.3 Detention facilities, correction facilities, jails, prison and behavioral correction facilities, which shall house juvenile delinquents whose normal residence is outside Hawkeye Township.

5.1.4.4 Disposal of animal waste or manure from any facility containing more than 1,000 beef cattle, 200 hogs, or 500 feathered fowl.

5.1.4.5 Feedlots, commercial.

5.1.4.6 Landfills or lagoons which shall receive waste generated outside of Hawkeye Township.

5.1.4.7 Mental institutions.

5.1.4.8 Vocational training or rehabilitation facilities.

5.1.4.9 Any other land uses which are not listed in this article as a permitted use or as a conditional use shall be considered a prohibited use and shall not be allowed in this zoning district.

5.1.4.10 No hazardous or toxic waste facilities.

5.1.4.11 Large scale animal operations and confinements.

5.1.4.12 Concentrated temporary workforce housing.

5.1.5 Lot Area and Lot Width

- 5.1.5.1** For non-farm residential uses (single family) the lot area shall not be less than 1 (one) acre.
- 5.1.5.2** For non-residential uses the lot area shall not be less than 1 (one) acre.
- 5.1.5.3** The lot width for any use in agricultural district shall not be less than 250 (two hundred fifty) feet.

5.1.6 Yard Requirements

- 5.1.6.1** The minimum front yard, measured from the front lot line shall not be less than 75 (seventy five) feet for properties abutting township roads and 100 (one hundred) feet for properties fronting on other rights-of-ways.
- 5.1.6.2** The minimum rear yard, measured from the rear lot line shall not be less than 50 (fifty) feet.
- 5.1.6.3** The minimum side yard, measured from the side lot line shall not be less than 50 (fifty) feet.

5.1.7 Building Height

- 5.1.7.1** The building height for residential buildings shall not exceed two and one-half stories or 35 (thirty five) feet except for farm buildings.
- 5.1.7.2** The building height for manufacturing of agricultural products shall be determined by the Township Board of Supervisors.
- 5.1.7.3** The building height, except the radio and TV towers and church steeples, for all other uses shall not exceed 35 (thirty five) feet.

5.1.8 Parking Requirements

For non-farm uses the parking requirements shall be subject to the provisions of section 6.1 of these regulations.

5.1.9 Sign Requirements

Sign requirements shall be subject to the provisions of Section 6.2 of these regulations.

5.2 RC Rural Commercial District

5.2.1 Purpose

The RC rural commercial district is primarily established to accommodate those uses compatible with the agricultural uses, which are commercial in nature but yet necessary to the agricultural uses and related rural uses. These uses, however, shall not adversely affect the agricultural activities from the standpoint of noise, traffic safety, parking and odor nor be affected by the activities incidental to farming operation. All uses in rural commercial districts shall be served by approved public water and sewer and shall comply with all approved building codes and standards. All building inspection permits have to be approved by state, county and township standards and are the responsibility of the applicant and will be provided to the Code Administrator by the applicant.

5.2.2 Permitted Uses

5.2.2.1 All uses permitted in RA district.

5.2.2.2 Advertising signs and billboards.

~~**5.2.2.3** Amusement places including bowling alleys, athletic clubs, pool halls, theaters and similar indoor facilities.~~

~~**5.2.2.4** Antique shops, art galleries and museums.~~

~~**5.2.2.5** Automobile accessory stores and automobile dealerships.~~

~~**5.2.2.6** Boarding and rooming houses.~~

~~**5.2.2.7** Fraternal and philanthropic organizations.~~

~~**5.2.2.8** Funeral homes.~~

5.2.2.9 Hospitals and clinics.

~~**5.2.2.10** Hotels and motels.~~

~~5.2.2.11 Multiple family dwelling units.~~

5.2.2.12 Professional offices for businesses and services.

5.2.2.13 Radio and TV stations and recording studios but not the towers, dishes, and major accessories.

5.2.2.14 Restaurants including all types of eating and/or drinking establishments.

~~5.2.2.15 Retail stores of all types, including, but not limited to food, drug, clothing, parts, materials and the like, excepting department stores and variety stores.~~

~~5.2.2.16 Variety stores and department stores.~~

5.2.3 Conditional Uses

5.2.3.1 Drive-in establishments.

5.2.3.2 Contractor's yards and operation.

5.2.3.3 Garages for repair and service of motor vehicles.

5.2.3.4 Processing and packaging of materials with less than 10 (ten) employees.

5.2.3.5 Storage facilities for rent.

5.2.3.6 Storage and sale of chemicals, explosives and the like.

5.2.3.7 Truck stops.

5.2.3.8 Warehouses and wholesaling distributorship.

5.2.3.9 Tank farms.

5.2.3.10 Water wells including storage.

5.2.3.11 Amusement places including bowling alleys, athletic clubs, pool halls, theaters and similar indoor facilities.

5.2.3.12 Antique shops, art galleries and museums.

5.2.3.13 Automobile accessory stores and automobile dealerships.

- 5.2.3.14 Boarding and rooming houses.
- 5.2.3.15 Fraternal and philanthropic organizations.
- 5.2.3.16 Funeral Homes
- 5.2.3.17 Hotels and motels.
- 5.2.3.18 Multiple family dwelling units.
- 5.2.3.19 Retail stores of all types, including, but not limited to food, drug, clothing, parts, materials and the like, excepting department stores and variety stores.
- 5.2.3.20 Variety stores and department stores.

5.2.4 Prohibited Uses

- 5.2.4.1 All uses prohibited in RA District.

5.2.5 Lot area and Lot Width

- 5.2.5.1 The minimum lot for RC district shall be 1 (one) acre.
- 5.2.5.2 The minimum lot width for RC district shall be 100 (one hundred) feet.

5.2.6 Lot Coverage

The principal and accessory uses excluding parking shall not cover more than 50% (fifty percent) of the lot.

5.2.7 Yard Requirements

- 5.2.7.1 The minimum front building line, measured from the front lot line, shall be 75 (seventy-five) feet for all properties fronting township roads and 100 (one hundred) feet for all properties fronting on other highway right-of-way.
- 5.2.7.2 The minimum rear building line, measured from the rear lot line, shall be 50 (fifty) feet.

5.2.7.3 The minimum side building line, measured from the interior side of the lot shall be 10 (ten) feet. The minimum side building line for exterior lots measured from the other rights-of-way shall be 75 (seventy-five) feet from township roads and 100 (one hundred) feet from all other highway rights-of-way.

5.2.8 Building Height

The building height requirements in RC district shall not be more than 35 (thirty-five) feet excepting farm related buildings and communication towers.

5.2.9 Parking Requirements

5.2.9.1 The front yard and the rear yard spaces may be used for parking.

5.2.9.2 For parking in RC district the provisions of Section 6.1 shall apply.

5.2.10 Sign Requirements

For signs in RC district the provisions of Section 6.2 shall apply.

ARTICLE 6 SPECIAL PROVISIONS

6.1 Off-Street Parking

6.1.1 Purpose

The purpose of this section is to provide for the off-street parking regulations to:

- 6.1.1.1** An off-street automobile parking space shall be at least 9 (nine) feet wide and 20 (twenty) feet long, exclusive of access drives or ramps.
- 6.1.1.2** Minimize adverse effects of off-street parking and off-street loading facilities on the adjacent properties.
- 6.1.1.3** Lessen congestion and preventing the overtaking of public roads by regulating the location and capacity of off-street parking or off-street loading facilities.

6.1.2 General Requirements

- 6.1.2.1** An off-street automobile parking space shall be at least 9 (nine) feet wide and 20 (twenty) feet long, exclusive of access drives or ramps.
- 6.1.2.2** Each permitted use within the districts is required to provide off-street parking areas.
- 6.1.2.3** No building shall be erected or enlarged without meeting the following parking requirements.
 - (1) Business building: 3 (three) parking spaces plus one additional space for each 400 (four hundred) square feet of floor area over one 1,000 (one thousand) square feet.
 - (2) Hotels and motels: one parking space for each room plus one space for every 2 (two) employees.
 - (3) Private club or lodge: one parking space for each 200 (two hundred) square feet of service area.
 - (4) Restaurant, eating and drinking establishment: one parking space for each 100 (one hundred) square feet of floor area.

- (5) Trucks allowed on Truck Parking Operations will be 2 (two) trucks per acre under 5 (five) acres and 1 (one) truck per acre over 5 (five) acres.

6.2 Signs

6.2.1 Purpose

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

6.2.2 General Requirements

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

6.3 Junk or Salvage Yards

6.3.1 Purpose

The purpose of these requirements is to preserve and protect the visual safety and other environmental amenities of the rural areas while allowing the salvage of junk yards as business places.

6.3.2 Site Approval Requirements

All sites for salvage and junkyards require approval by the Township Zoning Commission.

6.3.3 Location Standards

6.3.3.1 No salvage or junkyard shall be located within 500 (five hundred) feet of a residential district and 200 (two hundred) feet of commercial buildings and structures.

6.3.3.2 No salvage or junkyard shall be located in areas, which due to high water table, flooding and soil conditions may affect the quality of surface and ground water.

6.3.3.3 No salvage or junkyard shall be located nearer than 100 (one hundred) feet of all road and highway rights-of-way.

- 6.3.3.4 All salvage yards and operations shall be screened from the public view unless the salvage material is placed 500 (five hundred) feet away from any highway right-of-way and screened by natural vegetation, building and landform.

ARTICLE 7 ADMINISTRATION AND ENFORCEMENT

7.1 Organization

To administer these regulations the following bodies are hereby vested with authority to act on behalf of the Township:

- (1) The Code Administrator
- (2) The Zoning Commission

7.2 The Code Administrator

The Code Administrator is a duly appointed township official authorized by the Board of Supervisors and is responsible to administer Zoning Regulations, to assist the Zoning Commission, and the Board of Supervisors on any matter related to planning for and development of the Township.

7.2.1 Duties

- 7.2.1.1 Issue all zoning certificates, permits and maintain records thereof.
- 7.2.1.2 Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
- 7.2.1.3 Receive, file and forward to the Zoning Commission all applications for zoning amendments, site approvals and conditional uses.
- 7.2.1.4 Contact the Township Clerk to prepare and publish notices. Code Administrator will notify adjoining property owners.
- 7.2.1.5 Notify, in writing, the property owner or user upon finding violation of these regulations and cite the nature of violation clearly and require compliance within a reasonable time. If the notification is not replied to or steps are not taken to correct the violations within 30 (thirty) days, the Code Administrator shall make a report of the findings to the Board of Supervisors.

7.2.1.6 Request all necessary state, county and township building codes and standards from applicant.

7.2.2 Interpretation of Regulations

All questions of interpretation of these regulations shall be presented to the Code Administrator and that such questions shall be presented to the Board of Supervisors only on appeal from the decision of the Code Administrator.

7.2.3 Conditional Use and Site Approval Permits

The Code Administrator shall issue a conditional use or site approval permit upon approval of the application by the Zoning Commission stipulating all conditions set forth.

7.2.4 Variances

The Code Administrator shall issue a permit on the decision of the Board of Supervisors. The terms of the variance or special use shall be stipulated on the permit.

7.3 The Zoning Commission

The Zoning Commission shall consist of the five township supervisors.

7.3.1 Duties

7.3.1.1 To hear and act on all applications on a case by case basis for amendments to zoning districts and take action for approval, denial or approval with modification.

7.3.1.2 To hear and act on all applications for conditional uses site approvals on a case by case basis in the manner prescribed in these regulations and take action for approval or denial.

7.3.1.3 To study, examine and take action on issues on a case by case basis which may adversely affect the natural resources and farming operations in the Township.

7.3.2 Notice of Hearings

The Zoning Commission shall fix a reasonable date for hearing of applications for zoning district amendments, conditional use permits, site approval applications and other matters before it. Give public notice thereof in the official newspaper of the county or the nearest regularly published newspaper at least 15 (fifteen) days prior to the hearing. The notices shall give time and place of hearing and shall state the purpose of the hearing and that the applications and supporting documents for zoning district amendments and conditional use permits shall be available for public inspection by the Code Administrator.

7.3.3 Meetings

Meetings of the Zoning Commission shall be held at the call of the Chairperson and at such other times as the Zoning Commission may determine. All meetings shall be open to the public and any person may testify for or against a petition.

7.4 Violations and Penalties

Any person who violates any provision of these regulations or fails to comply with any of its requirements including the conditions or modification of use, building or structure shall upon conviction thereof forfeit not more than ~~\$100~~ \$300 and in addition pay all expenses involved in the case. Each day such violation continues shall constitute a separate offense and after 30 (thirty) days of continuing violation a cease and desist order will be issued and legal proceedings will occur.

7.4.1 Commitment of Guilty Person for Non-Payment of Fines or Costs

The provisions of Section 40-11-12 of the North Dakota Century Code and all subsequent amendments shall be and are hereby incorporated by reference in this ordinance. Any person upon whom any fine or costs, or both, has been imposed for violation of a township ordinance may after hearing, be committed upon order of the court to jail or other place provided by the township for the incarceration of offenders until the fine or costs, or both are fully paid or discharged by labors provided in

Section 40-18-12. The court may not commit a person under this section when the sole reason for his nonpayment of fine or costs or both, is his indigence. An order of commitment under this section shall not be for a period in excess of thirty days. As used in this section, "fine" does not include a fee established pursuant to subsection 2 of Section 40-05-06.

7.4.2 – Cost of Prosecution

In every case of conviction of a violation of any ordinance, or any part thereof, the cost of prosecution may be assessed against the person convicted, as part of the punishment.

7.4.3 – Judgment on Conviction

In all trials for offenses under the ordinances of the Hawkeye Valley Township, if the defendant is found guilty, the District Judge shall render judgment accordingly. It shall be a part of the judgment that the defendant stand committed until such judgment is complied with, and, at the discretion of the district court, he may be required to work for the township at such labor as the defendant's strength and health will permit, not exceeding 8 hours in each working day. For that work, the defendant will be allowed for each day, exclusive of his board, \$10.00 on account of the fines and costs assessed against him.

**ARTICLE 8 PROCEDURES FOR AMENDMENTS, CONDITIONAL
USES AND VARIANCES**

8.1 Zoning District Amendments

8.1.1 Public Hearing Notice

The Zoning Commission shall hold a public hearing, a notice of which shall be published at least 15 (fifteen) days prior to the hearing in the official newspaper of the county. The notice of hearing shall include: (1) the time and place of hearing; (2) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (3) the proposed use and requested zoning district change; (4) time and place for public inspection of the documents before the hearing.

8.1.2 Public Hearings

The Zoning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, the Zoning Commission shall take action for approval, denial or modification of the petition. The Zoning Commission may require additional information before it completes its findings and takes action.

8.1.3 Data Submission Requirements

Petitions for zoning district change and conditional uses shall be submitted with the following information:

8.1.3.1 Legal description of the area proposed to be rezoned.

8.1.3.2 A map showing the existing land uses and zoning district classification of the area.

8.1.3.3 A site plan showing buildings and uses in the zoning district proposed to be changed and the requested zoning district classification.

8.1.3.4 A fee shall be paid in accordance with the schedule established by the Township Board of Supervisors. All permits are subject to bonding at the discretion of the Zoning Commission.

8.1.4 Deliberation and Decision

Following the hearing, the Zoning Commission, upon due deliberation, shall make a report of its findings and decides on the proposed amendment within 30 (thirty) days after the hearing. In making its finding, the Zoning Commission shall ascertain as to whether the proposal for zoning district amendment is consistent with the township Comprehensive Plan and meets all requirements of these regulations of the township.

8.2 Conditional Use permits

8.2.1 Purpose

The development of these regulations is based upon division of the township into districts, within which district the use of land and building bulk and locations of building and structures are mutually compatible and substantially harmonious.

However, there are certain uses which, because of their unique characteristics, cannot be properly classified as permitted uses in any particular district, without consideration, in each case, of impact of those uses upon neighboring premises. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses.

8.2.2 Public Hearing Notice

Shall be the same as provisions set forth for public hearing notice for zoning district amendment in Section 8.1.1

8.2.3 Public Hearings

Shall be the same as provision set forth for public hearing for zoning district amendment in Section 8.1.2.

8.2.4 Data Submission Requirements

Shall be the same as provisions set forth for data submission requirements for zoning district amendment in Section 8.1.3.

8.2.5 Deliberation and Decision

Shall be the same as the provisions set forth for deliberation and decision for zoning district amendment in Section 8.1.4.

8.2.6 Standards

No application for conditional use shall be approved unless the Zoning Commission finds that all of the following conditions are present.

- 8.2.6.1** That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- 8.2.6.2** That the uses, values and enjoyment of other property in the neighborhood for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
- 8.2.6.3** That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- 8.2.6.4** That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- 8.2.6.5** That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic impact on the area.
- 8.2.6.6** That the conditional use shall substantially conform to all applicable regulations of the district in which it is located.

8.2.7 Conditions and Guarantees

- 8.2.7.1** Prior to the decision on any conditional use, the Zoning Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as seemed necessary to promote the public health, safety and general welfare of the township and to secure compliance with the standards and requirements specified in Section 8.2.6. In all cases in which conditional uses are granted, the Zoning Commission shall require such evidence and guarantees as it may deem necessary as proof that the conditions stipulated in connection therewith are being and will be complied with.
- 8.2.7.2** No alteration of a conditional use shall be permitted unless approved by the Zoning Commission. Where the Zoning Commission has approved or conditionally approved an application for a conditional use, such approval shall be come null and void within 12 (twelve) months of the date of the Zoning Commission action unless the use is commenced or construction in underway.

8.2.7.3 Conditional use permits are subject for renewal and on a reapplication every 12 (twelve) months

8.3 Variances

Variance from the terms of these regulations may be granted provided that the applicant establishes proof of practical difficulty or undue hardship.

8.3.1 Public Hearing Notice

The Zoning Commission shall hold a public hearing, a notice of which shall be published at least 15 (fifteen) days prior to the hearing in the official newspaper of the county. The notice of hearing shall include: (1) the time and place of hearing; (2) description of the property by street address for platted lands and a clearly identifiable location for the unplatted lands; (3) the proposed use and requested zoning district change; (4) time and place for public inspection of the documents before the hearing.

8.3.2 Public Hearings

The Zoning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, the Zoning Commission may require additional information before it completes its findings and takes action.

8.3.3 Data Submission Requirements

Petitions for variances shall be submitted with the following information.

8.3.3.1 Legal description of the area proposed to be rezoned, the name and addresses of all owners of property lying within one mile of the site.

8.3.3.2 A map showing existing land uses and zoning district classification of the area.

8.3.3.3 A fee shall be paid in accordance with the schedule established by the Zoning Commission.

8.3.4 Deliberation and Decision

In making its finding, the Zoning Commission shall ascertain that the requests for variances is consistent with the Township Comprehensive Plan and meets all requirements of these regulations and other regulations of the Township.

8.3.5 Standards

No application for variance shall be approved unless the Zoning Commission finds that all of the following are present.

- 8.3.5.1** That special conditions and circumstances exist which are peculiar to the premises and which are not applicable to other premises in the same zoning district.
- 8.3.5.2** That literal interpretation of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
- 8.3.5.3** That the special conditions and circumstances have not resulted from actions of the applicant.
- 8.3.5.4** That granting the variance requested will not confer upon the applicant any special privileges that are denied by these regulations to other premises.

8.3.6 Justification

- 8.3.6.1** The variance is the minimum, which would make possible a reasonable use of the premises.
- 8.3.6.2** That granting of variance will be in harmony with the general purpose of these regulations and will not be injurious to the surrounding premises, neighborhood or the city and will not be contrary to the Comprehensive Plan the purposes of these regulations.
- 8.3.6.3** That there is practical, difficult, or unnecessary hardship in use of the premises if the strict application of the regulations were to be carried out.

8.3.7 Authorized Variances

A variance shall not be granted for any yard or setback less than they yard or setback as required by these regulations.

- 8.3.7.1** To reduce not by more than 20% (twenty percent) the applicable requirements for lot area and lot width.
- 8.3.7.2** To reduce the applicable off-street parking or loading facilities by no more than 50% (fifty percent) of the requirements.
- 8.3.7.3** To permit the use of lot of record if it is smaller than the minimum size required by these regulations.

RESOLUTION

Whereas, the Township Zoning Commission has approved this amended Township Zoning Ordinance, and recommends it adopted by the Township Board of Supervisors.

Now and therefore, be it resolved that the Township Board of Supervisors hereby adopts Hawkeye Township Zoning Ordinance.

***Original document Zoning Ordinance document holds signatures of Township Clerk and Chairman.

PERMIT FEE SCHEDULE

Application for Conditional Use Permit	\$300
Application for Zoning Amendment	\$300
Application for Variance	\$300
<u>Application for Renewal</u>	<u>\$100</u>

And in addition: The applicant for a conditional use permit and amendment to the zoning ordinance, or building permit, shall be liable for and pay to the Township Clerk sufficient sums of money to pay for and cover all of the costs incurred by the township for the processing of such application, including, but not limited to: publication cost; attorney's fees; mileage; copy expenses; etc. No permit shall be issued until all such costs as these described herein have been paid by the applicant, unless the Township Zoning Board has otherwise provided by resolution for a particular case.

