

WELLS COUNTY
NORTH DAKOTA

2008

ZONING ORDINANCE
(WCZO)

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1 ARTICLE I INTRODUCTION

1.1 Title

This ordinance, its regulations, and the County Zoning Map shall be known and cited as the Wells County Zoning Ordinance (WCZO).

1.2 Purpose and Intent

1.2.1 To protect public health, safety, morals, comfort, convenience, prosperity and general welfare of Wells County, ND.

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

1.2.3 The purpose of this ordinance is to promote the health, safety and welfare of the people of Wells County. It is intended that the establishment of this ordinance will promote orderly and non-conflicting uses of land and property, protect property rights, ensure the provisions of adequate public services and promote conservation of land, water and other natural resources.

1.2.4 To promote orderly development of the County's resources including, but not limited to, land, wind, and water resources, and to prevent conflict among land uses and structures.

1.3 Authority

This Wells County Zoning Ordinance is developed and enacted under authority granted to Wells County in Chapter 11-33 of the North Dakota Century Code (NDCC).

1.4 Jurisdiction

1.4.1 General

This ordinance shall affect all unincorporated territory over which the Board of County Commissioners have jurisdiction in Wells County, ND. This ordinance shall *not* affect any property, real or personal, which is located within the authority of any township having lawfully enacted regulations as provided in NDCC §58-03-11 through §58-03-15, *except* where such township supervisors relinquish to the County their powers or any portion thereof, to enact zoning regulations. Copies of said Releases will be filed with the County Auditor and County Tax Director.

1.5 Interpretation

These regulations shall be held to be minimum requirements adopted for promotion of purposes cited in WCZO §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 portion 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 Board of County Commissioners as provided by the North Dakota Century Code.

1.8 Non-restriction of farming

No regulation or restriction contained in this ordinance shall be construed to prohibit or prevent the use of land or buildings for farming or any of the normal incidents of farming.

1.9 Disclaimer

This ordinance shall not create liability on the part of Wells County, any officer or employee thereof, or the Federal Insurance Administration for any damage that results from reliance on this ordinance or any administrative decision lawfully made there under.

2 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 plural 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

The definitions of specific terms used in this ordinance are:

- 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 of occupants of the principal building or principal use.
- 2.2.2 “Agriculture” means the process of producing 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 land based food and fiber producing facilities.
- 2.2.3 “Agriculture (farming, ranching)” means the art or science of cultivating the soil and activities incidental thereto; cultivating land for production of agricultural crops or livestock; raising, feeding, or producing livestock, poultry, milk, or fruit. The term shall include incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished off the public right-of-way. The term does not include producing timber or forest products, nor does the term include a contract whereby a processor or distributor of farm products or supplies, provides grain, harvesting grain, or other farm services. Also see NDCC §11-33-02.
- 2.2.4 “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, hangars and other related facilities and open spaces other than landing strips used for family purposes.
- 2.2.5 “Animal feeding operation” means a place where livestock have been, are or will be confined, concentrated and fed for 45 or more days in any 12 month period; and pasture, crops or other vegetation not normally managed or sustained for grazing during the normal growing season where animal waste or *manure* accumulates. This term does not include an *animal wintering operation*. Two or more feeding operations under common ownership shall be considered a single animal operation if they use a common system for manure handling.
- 2.2.6 “Animal feeding operation structure” means lagoon, formed manure storage, wash water storage structure, earthen manure storage basin, or any animal confinement building.

- 2.2.7 “Animal hospital or kennel” means a building or premises set up for treatment and boarding of domestic animals including veterinary facilities.
- 2.2.8 “Animal wintering operation” means the confinement of cattle or sheep used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. The term includes the weaned offspring of cattle and sheep, but it does not include breeding operations of more than 1,000 animal units or weaned offspring which are kept longer than 150 days and are not retained for breeding purposes.
- 2.2.9 “Applicant” means an individual, corporation, group of individuals, partnership, joint venture owners, or any other business entity having charge or control of one or more animal feeding operations.
- 2.2.10 “Aquifer” means a geologic formation, group of formations, or part of a formation capable of storing and yielding ground water to wells and springs.
- 2.2.11 “Building” means any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property.
- 2.2.12 “Building area” means that portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and side yards.
- 2.2.13 “Building height” means vertical distance from the grade to the highest point of the roof.
- 2.2.14 “Building line” means a line establishing the minimum distance that structures may be placed from the lot lines or highway right-of-ways. For the purposes of these regulations the building line is the same as the setback line.
- 2.2.15 “Building, principal” means a building, the principal use of which is single family and multi-family dwellings, offices, shops, stores and other uses.
- 2.2.16 “Certificate of site compatibility” means a certificate of site compatibility within the meaning of NDCC §49-22 or successor statute.
- 2.2.17 “Channel” means a natural or man-made water course for conducting the flowing water.
- 2.2.18 “Closure” means taking actions to close and reclaim a feedlot. Closure actions may include, but are not limited to, cleaning of buildings, disposal of manure and demolition and/or removal of all manure storage structures.

- 2.2.19 “Club or lodge” means a private club or lodge which is a nonprofit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.
- 2.2.20 “Commission” means the County Zoning Commission.
- 2.2.21 “Conditional use” means use of a special nature not automatically permitted in a zoning district and which requires review and approval of the Zoning Commission after public hearing.
- 2.2.22 “Conforming building or structure” means a building or structure which complies with all requirements of these regulations and other regulations adopted by the County.
- 2.2.23 “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 alternations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavation and drilling operations.
- 2.2.24 “Development plan” means a document including maps and data for physical development of an area as provided by these regulations.
- 2.2.25 “District” means a section or sections of the County for which regulations governing the use of buildings and premises, building heights, size of yards, lot areas and lot width are uniform.
- 2.2.26 “Due process” involves notice and an opportunity for a hearing. The notice must adequately describe the potential action that might affect the person(s) being notified and must provide the person(s) a reasonable time to respond. If the person(s) request(s) a hearing, the hearing must be fair and allow the person(s) to present relevant evidence and arguments.
- 2.2.27 “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.
- 2.2.28 “Dwelling, multiple family” means a single building or portion thereof, containing two or more dwelling units.
- 2.2.29 “Dwelling, single family” means a building containing one dwelling unit only.

- 2.2.30 “Earthen manure storage basin” means an earthen cavity, either covered or uncovered, which on a regular basis, receives waste discharges from an animal feeding operation and from which accumulated wastes from the basin are removed at least once a year.
- 2.2.31 “Encroachment” means any fill, building, structure or use, including accessories used, projecting into another area of public or private property.
- 2.2.32 “Established residence” means any residence established by a personal presence, in a fixed and permanent dwelling with intent to remain there.
- 2.2.33 “Establishment” means a place of business for processing, production, assembly, sales and service of goods and materials.
- 2.2.34 “Existing” means an animal unit handling facility in place on the date this ordinance is effective.
- 2.2.35 “FAA” means the Federal Aviation Administration.
- 2.2.36 “Farm” means a tract of land of not less than five acres which is devoted to agricultural activities.
- 2.2.37 “Farming” - see Agriculture (farming, ranching).
- 2.2.38 “Feedlot” means a parcel of land which contains a commercial operation for feeding or raising of 200 or more animals which is operated as a separate activity and not incidental to farming.
- 2.2.39 “Flood plain” means lowland and relatively flat areas adjoining inland and coastal waters that are inundated by a 100 year flood.
- 2.2.40 “Frontage” means the front part of a lot abutting a public right-of-way, road or highway.
- 2.2.41 “Grade” means the land elevation at the horizontal intersection of the ground and the building.
- 2.2.42 “Ground water” means water below the land surface in a geological unit in which soil pores are filled with water and the pressure of that water is equal to or greater than atmospheric pressure.

- 2.2.43 “Home occupation” means any occupation carried on in a dwelling unit by a member or members of a family which is conducted within the principal building and not in an accessory building; where no stock-in-trade is kept or commodities sold other than those produced on the premises; and where no more than 25% of the floor area of the dwelling is devoted to such home occupation.
- 2.2.44 “Hotel or motel” means buildings in which lodging accommodations, with or without meals, are provided for compensation.
- 2.2.45 “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.
- 2.2.46 “Kennel, animal” means any premises where dogs, cats and other household pets are boarded, bred and maintained for compensation.
- 2.2.47 “Lagoon” means an impoundment made by excavation or earth fill for biological treatment of animal or other agricultural wastes. Lagoons can be aerobic, anaerobic or facultative, depending on their loading and design.
- 2.2.48 “Livestock” means any animal raised for food, raw materials or pleasure, including but not limited to, beef and dairy cattle, bison, sheep, swine, poultry and horses. Livestock also includes fur animals raised for pelts.
- 2.2.49 “Lot” means a piece, parcel, lot or area of land of continuous assemblage established by survey, plat or deed.
- 2.2.50 “Lot lines” means the property lines binding the lot.
- 2.2.51 “Lot width” means the horizontal distance between the side lot lines of a lot measured at the front building setback line.
- 2.2.52 “Lot, zoning” means a single lot, parcel or tract of land within a zoning district that is developed or to be developed.
- 2.2.53 “Manure” means fecal material and urine from livestock, as well as animal-housing wash water, bedding material, rainwater or snow melt that comes in contact with fecal material or urine.
- 2.2.54 “Mobile home” means a manufactured trailer intended for family residential occupancy.
- 2.2.55 “Mobile home park” means a parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities exists.

- 2.2.56 “Nonconforming building” means any building which does not comply with any or all of these regulations.
- 2.2.57 “Nonconforming use” means any principal use of land or building which does not comply with any or all of these regulations.
- 2.2.58 “Nursing home or convalescent home” means a home for the aged or infirm which unrelated persons are accommodated for compensation.
- 2.2.59 “Occupied structures and facilities” mean any occupied dwelling, commercial building or publicly-used structure or facility.
- 2.2.60 “Operator” means an individual or group of individuals, a partnership, a corporation, a joint venture, or any other entity owning or controlling one or more animal feeding operations or animal wintering operations.
- 2.2.61 “Permitted uses” means those uses, buildings or structures which 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 of these provisions are met after a public hearing and approval by the Zoning Commission.
- 2.2.62 “Person” means any individual, firm, corporation, partnership or legal entity.
- 2.2.63 “Planned development” means a grouping of buildings and structures on a site of five 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 Tax Director upon approval by the County Commission.
- 2.2.64 “Pollution, air” means the presence in the outdoor atmosphere of one or more air contaminants in such quantities and duration as is or may be injurious to human health, welfare, property, animal or plant life or which unreasonably interferes with the enjoyment of life or property.
- 2.2.65 “Pollution, water” means manmade or man-induced alterations to the physical, chemical or biological integrity of any waters in the State.
- 2.2.66 “Public roadway or public way” means any dedicated and recorded right-of-ways including alleys, sidewalks, streets, roads or highways.
- 2.2.67 “Regional flood” means a flood determined by the State and Federal Emergency Management Agency which is representative of large floods known to have occurred in the County.

- 2.2.68 “Service station” means any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.
- 2.2.69 “Septic facility” means any structure or area designed to dispose of any waste water or sewage.
- 2.2.70 “Shall” means that the requirement is mandatory, rather than optional.
- 2.2.71 “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.
- 2.2.72 “Source-water protection area” means a boundary which defines the surface and subsurface area surrounding a water well or a well field, which supplies a public water system and through which contaminants are likely to move toward and reach such water well or field.
- 2.2.73 “Stream” means any running body of surface water that ordinarily flows within a channel. This includes both perennial and intermittent streams.
- 2.2.74 “Structural alteration” means any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankments.
- 2.2.75 “Structure” means anything constructed or erected, the use of which requires permanent location on the ground including advertising signs and billboards.
- 2.2.76 “Substantial improvement” means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damages occurred. For the purposes of this definition “substantial improvement” is considered to occur when the first alteration of any wall, ceiling or floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.
- 2.2.77 “Surface water” means water of the State located on the ground surface such as lakes, reservoirs, rivers and creeks.
- 2.2.78 “County” means Wells County.
- 2.2.79 “Utilities” means installations for conducting water, sewage, gas, electricity, television, storm water and similar facilities providing service to and used by the public.

- 2.2.80 “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.
- 2.2.81 “Waters of the State” means all waters within the jurisdiction of this State, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the State, except those private waters that do not combine or effect a junction with natural surface or underground waters just defined.
- 2.2.82 “Yard” means an open space on the zoning lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.
- 2.2.83 “Zoning Commission” shall mean a body consisting of no more than nine members, of whom two must be appointed from Fessenden City, two appointed from the board of county commissioners, and the remaining five appointed from each commission district, with membership appointed yearly by the Commissioners during their annual County Commission meeting.
NDCC §11-33-04

3 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. No person, firm or corporation shall erect, construct, make structural changes or move any structure without first obtaining a building permit, if needed. Applications for a building permit shall be made to the County Tax Director, who may issue said “permitted use” permits. Permits other than “permitted use” shall be brought to the Zoning Commission for action. No building permit shall be issued if the actions described in the application would constitute a violation of this ordinance. Building permits shall be deemed necessary for additional square footage added to **taxable** property only as listed in the Permit Fee Schedule.

If, for any reason, a “permitted use” building permit is initially denied by the County Tax Director, the applicant shall be informed within seven days of the date of application. The applicant may then request a hearing before the Zoning Commission to appeal for a reversal of such denial or may reapply after making all changes in the application deemed necessary by the County Tax Director. If, for any reason, a building permit is initially denied by the Zoning Commission, the applicant shall be informed within seven days of the date of application. The applicant may then reapply after making whatever changes in the application deemed necessary by the Zoning Commission or appeal to a court of law. Fees for building permits are listed under the Permit Fee Schedule.

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

3.1.2 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 County Commission may, from time to time, amend, supplement or repeal any part of these regulations after a public notice and hearing.

3.3 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 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.

3.4 Land Suitability

No land shall be used for a purpose which is held unsuitable for the reason of flooding, soil limitations, inadequate drainage, incompatibility with adjoining uses or any condition likely to be harmful to the health, safety or welfare of the people in the area. The County Zoning Commission may require information and data to determine the land suitability. The County may consult with County and State agencies to assist in its determination.

3.5 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.

3.6 Road and Highway Access

A permit for access to the County roads is required by the County Commission. In granting the access permit to the County roads, the County Commission 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 County Commission may place conditions when granting a road access permit. Farm driveways and field access points are exempt from these provisions.

3.7 Road and Highway Setbacks

All buildings ~~and structures~~ shall be placed at least 200 feet from County and State highway right-of-ways, ~~and~~ at least 200 feet from the County road right-of-ways, and at least 133 feet from the center of any township road 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 in accordance with the USDA-NRCS-North Dakota Field Office Technical Guide recommendations.

4 ARTICLE 4 ZONING BOUNDARIES AND MAP

4.1 Zoning District

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

- 4.1.1 A - Agricultural Zone
- 4.1.2 RR - Rural Residential Zone
- 4.1.3 RC - Residential Community Zone
- 4.1.4 C - Commercial Zone
- 4.1.5 I - Industrial Zone
- 4.1.6 R/O - Recreation/Open Space Zone

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 Tax Director. 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

Where 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 a zoning district boundary line coincides approximately but not exactly with the property line, the zoning boundary shall be construed to be the lot line at that location. All section lines, quarter section lines and quarter-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 descriptions 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 County Commission, 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 County Commission shall determine the location of such boundary lines.

5 ARTICLE 5 ZONING REGULATIONS

5.1 A – Agricultural Zone

5.1.1 Purpose

The purpose of this zone 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, fur farming, harvesting and selling crops and forest products.

5.1.2.2 Accessory buildings and structures.

5.1.2.3 Cemeteries.

5.1.2.4 Churches.

5.1.2.5 Grain elevators and accessory structures.

5.1.2.6 Home occupations.

5.1.2.7 Parks, playgrounds, and conservation/recreation areas.

5.1.2.8 Public and private schools.

5.1.2.9 Public buildings and facilities including County garages.

5.1.2.10 Single family non-farm residential units subject to the details in these regulations.

5.1.2.11 Stock piling of sand and gravel for road construction and maintenance.

5.1.2.12 Veterinary clinics, animal hospitals and domestic animal kennels more than 500 feet from any residence except the residence of the owner or operator.

5.1.3 Conditionally permitted uses

5.1.3.1 Livestock sales arenas, livestock feedlots and slaughterhouses as previously defined, provided that no livestock sales arena, feedlot or slaughterhouse shall be located within 2,640 feet of any natural surface water body that contains water on an average of more than two months of any given year.

5.1.3.2 Commercially operated air landing strip and accessory buildings.

5.1.3.3 Feedlots, subject to these regulations.

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 Sales and services of agricultural equipment and machinery.

5.1.3.8 Salvage and junk yards subject to provisions of WCZO §6.4.

5.1.3.9 Sanitary landfills subject to the provisions of WCZO §6.3.

5.1.3.10 Sewage lagoons and wastewater treatment facilities.

5.1.3.11 Golf courses.

5.1.3.12 Storage of farm related chemicals.

5.1.3.13 Mining of sand and gravel subject to provisions of WCZO §6.2.

5.1.3.14 Mobile homes.

5.1.3.15 Public and non-profit wildlife management areas.

5.1.3.16 Skeet, trap and rifle ranges if more than 1,000 feet from any residence.

5.1.4 Lot area and lot width

5.1.4.1 For non-farm residential uses the lot area shall not be less than five acres.

5.1.4.2 For non-residential uses the lot area shall not be less than five acres.

5.1.4.3 The lot width for any use in an agricultural district shall not be less than 250 feet.

5.1.5 Yard requirements

Minimum setback of non-farm structure shall be 200 feet from any public road right-of-way and 50 feet from any lot line of any lot of record.

5.2 RR – Rural Residential Zone

The intent and purpose of the RR Zone is to allow the development of moderate-density residential areas in a manner that does not interfere with normal farming and business activities and is not unduly destructive to the infrastructure or environment of Wells County.

5.2.1 Permitted uses

5.2.1.1 Agricultural.

5.2.1.2 One and two family residences.

5.2.1.3 Schools, churches and cemeteries.

5.2.1.4 Public parks, playgrounds and open spaces.

5.2.1.5 Community meeting halls.

5.2.2 Conditional uses

5.2.2.1 Medical care facilities and nursing homes.

5.2.2.2 Mobile home courts.

5.2.2.3 Animal hospitals or clinics.

5.2.2.4 Commercial dog kennels.

5.2.2.5 Government administrative, maintenance or research facilities.

5.2.2.6 Campgrounds.

5.2.2.7 Water treatment facilities, sewage lagoons and sediment ponds provided that written proof meet or exceed the approval criteria set forth by any and all North Dakota State agencies or officials or shall be required prior to approval of a conditional use permit for such use. Said written proof shall be signed by the acting agency director or official or his/her authorized representative.

5.2.3 RR Zone regulations

5.2.3.1 The minimum size of a RR Zone shall be 10 acres.

5.2.3.2 Minimum lot size shall be 20,000 square feet for lots served by public water or sewer and one acre for lots not served by public water or sewer.

5.2.3.3 Minimum setback of any structure shall be 100 feet from any right-of-way & 50 feet from any lot line.

5.2.3.4 Any structure exceeding 35 feet in height shall require a conditional use permit, with the exception of metal towers such as windmills and antennas.

5.2.3.5 The maximum intensity of buildings or other structures on any lot shall be 30% of the lot area.

5.2.3.6 Any two family residential structures shall include off-street parking space for at least two full size automobiles.

5.2.3.7 Points of ingress and egress from any public road shall be limited to one per ¼ mile in or from any RR Zone properties. A frontage road shall be constructed as necessary to allow access to public roads via the allowable points of ingress and egress.

5.2.3.8 Minimum setback of any non-farm vegetation exceeding 48 inches in height which is left standing after November 1st of any year shall be 100 feet from any public right-of-way.

5.3 RC – Residential Community Zone

The intent and purpose of the RC Zone is to preserve the integrity and character of rural residential areas and incorporated or unincorporated cities and small towns in Wells County.

5.3.1 Permitted uses

5.3.1.1 Agriculture.

5.3.1.2 Single-family residences.

5.3.1.3 Multi-family residences containing four units or less.

5.3.1.4 Public parks, playgrounds and open spaces.

5.3.2 Conditional uses

5.3.2.1 Campgrounds.

5.3.2.2 Keeping of livestock on lots of 30,000 square feet or more.

5.3.2.3 Water treatment facilities, sewage lagoons and sediment ponds provided that written proof meet or exceed the approval criteria set forth by any and all North Dakota State agencies or officials or shall be required prior to approval of a conditional use permit for such use. Said written proof shall be signed by the acting agency director or official or his/her authorized representative.

5.3.3 RC Zone regulations

5.3.3.1 The minimum size of an RC Zone shall be 40 acres.

5.3.3.2 Minimum lot size shall be 5,000 square feet for lots served by public water or sewer and 20,000 square feet for lots not served by public water or sewer.

- 5.3.3.3 Minimum setback of any structure shall be 25 feet from any public right-of-way and 10 feet from any lot line.
- 5.3.3.4 Any structure exceeding 35 feet in height shall require a conditional use permit with the exception of metal towers such as windmills and antennas.
- 5.3.3.5 The maximum intensity of buildings or other structures on any lot shall be 40% of the lot area.
- 5.3.3.6 Any two or more family residential structures shall include off-street parking space for at least one full-size automobile per housing unit.

5.4 C – Commercial Zone:

The intent and purpose of the C Zone is to provide areas in the County in which commercial sales and service establishments may be situated such that they compliment the surrounding land uses, economy and social structure.

5.4.1 Permitted uses

- 5.4.1.1 Agriculture, including any permitted use in an A Zone, as listed in WCZO §5.1.
- 5.4.1.2 Retail business.
- 5.4.1.3 Auction houses or stores, excluding livestock sales.
- 5.4.1.4 Automobile, motorized vehicle, boat, motor home and implement sales, including repair and storage facilities.
- 5.4.1.5 Business, professional and government offices.
- 5.4.1.6 Repair shops, upholstery shops, auto body shops and equipment retail shops.
- 5.4.1.7 Hotels, motels and seasonal campgrounds less than one acre in size.
- 5.4.1.8 Lodges, clubs, fraternal and community meeting halls.
- 5.4.1.9 Warehousing, not to include any outside storage.
- 5.4.1.10 Fabrication and manufacturing enterprises occupying not more than 100,000 square feet of floor space.
- 5.4.1.11 Commercial eating and drinking establishments.

5.4.1.12 Race tracks, drive-in theaters, movie houses, gun clubs, carnivals, circuses and other similar entertainment enterprises.

5.4.1.13 Animal hospitals or clinics.

5.4.1.14 Governmental research or maintenance facilities.

5.4.1.15 Communication towers, lines, equipment, maintenance facilities and offices.

5.4.2 Conditional uses

5.4.2.1 Residential dwellings of not more than four housing units.

5.4.2.2 Commercial dog kennels.

5.4.2.3 Medical care facilities and nursing homes.

5.4.2.4 Water treatment facilities, sewage lagoons and sediment ponds provided that written proof meet or exceed the approval criteria set forth by any and all ND State agencies or officials or shall be required prior to approval of a conditional use permit for such use. Said written proof shall be signed by the acting agency director or official or his/her authorized representative.

5.4.3 C Zone regulations

5.4.3.1 Minimum lot size shall be 20,000 square feet for lots served by public water and sewer and one acre for lots not served by public water and sewer.

5.4.3.2 Minimum setback of any structure shall be 100 feet from any public road right-of-way and ten feet from any lot line.

5.4.3.3 Any structure exceeding 35 feet in height shall require a conditional use permit, with the exception of metal towers such as windmills and antennas.

5.4.3.4 Off-street parking shall be provided at the minimum rate of two spaces per management employee on the premises.

5.4.3.5 All loading docks, truck bays, etc., shall be located in such a manner that no public right-of-way is wholly or partially blocked during normal cargo loading or unloading procedures.

- 5.4.3.6 Minimum setback of any non-farm vegetation exceeding 48 inches in height which is left standing after November 1st of any year shall be 33 feet from any public road right-of-way.

5.5 I – Industrial Zone

The intent and purpose of the I Zone is to allocate specific locations for large-scale manufacturing, processing and/or related enterprises where such enterprises may utilize natural and manmade resources to their benefit while imposing minimal adverse effects on surrounding uses.

5.5.1 Permitted uses

- 5.5.1.1 Agriculture.
- 5.5.1.2 Processing of food, fiber, agricultural products, petroleum and mineral resources.
- 5.5.1.3 Manufacturing and fabrication enterprises.
- 5.5.1.4 Railroad yards, including maintenance, storage, repair facilities, and offices.
- 5.5.1.5 Communication towers, lines, equipment, maintenance facilities, and offices.
- 5.5.1.6 Water treatment facilities, sewage lagoons and sediment ponds provided that written proof meet or exceed the approval criteria set forth by any and all North Dakota State agencies or officials or shall be required prior to approval of a conditional use permit for such use. Said written proof shall be signed by the acting agency director or official or his/her authorized representative.
- 5.5.1.7 Rock, sand or gravel excavation, crushing and handling.
- 5.5.1.8 Truck and freight terminals, warehousing and bulk terminals involving dry, liquid and gaseous substances.
- 5.5.1.9 Concrete and concrete product plants.

5.5.2 Conditional uses

- 5.5.2.1 Single-family residential dwellings.
- 5.5.2.2 Temporary work camps provided that such camps shall provide occupancy only for those persons directly involved in the construction of

industrial facilities during such construction. No such camp shall be in existence for more than 18 months.

- 5.5.2.3 Electrical generation facilities with greater than five megawatt rate output.
- 5.5.2.4 Livestock slaughter and meat processing operations, provided that written proof shall be provided to the Wells County Planning and Zoning Commission that they meet or exceed State Health Department standards.
- 5.5.2.5 Wrecking, junk and salvage yards.

5.5.3 I Zone regulations

- 5.5.3.1 All enterprises in the I Zone shall comply with all regulatory and legislative requirements set forth by any and all Federal, State and local government agencies and offices. Written verification of such compliance shall be submitted to the Wells County Planning and Zoning Commission prior to commencement of operations in the I zone.
- 5.5.3.2 Minimum lot size shall be 25,000 square feet.
- 5.5.3.3 Minimum setback shall be 50 feet from any lot line and 100 feet from any public road right-of-way.
- 5.5.3.4 Minimum setback of any non-farm vegetation exceeding 48 inches in height which is left standing after November 1st of any year shall be 100 feet from any public road right-of-way.

5.6 R/O – Recreation/Open Space Zone

The intent and purpose of the R/O Zone is to encourage the conservation of public and private lands to be used for outdoor recreation and to preserve natural features and wildlife habitat.

5.6.1 Permitted uses

- 5.6.1.1 Agriculture.
- 5.6.1.2 Harvesting of natural crops.
- 5.6.1.3 Raising of game animals, fowl and fish.
- 5.6.1.4 Public parks, recreation areas, playgrounds, picnic areas and natural preserves.

5.6.1.5 Flood water management structures.

5.6.1.6 Historical structures and monuments.

5.6.1.7 Structures and facilities used directly for the administration and/or management of lands in the R/O Zone.

5.6.2 Conditional uses

5.6.2.1 Residential dwellings, either seasonal or permanent.

5.6.2.2 Commercial retail businesses related to recreation, such as marinas, bait shops and souvenir shops.

5.6.2.3 Private docks, ramps and boat houses.

5.6.2.4 Campgrounds.

5.6.3 Building height

5.6.3.1 The building height for residential buildings shall not exceed two and one half stories or 35 feet except for farm buildings and structures.

5.6.3.2 The building heights for manufacturing of agricultural products and for construction and maintenance of livestock/ag waste systems shall be determined by the County Commission.

5.6.3.3 The building height, excepting the radio and TV towers and church steeples for all other uses shall not exceed 35 feet.

6 ARTICLE 6 SPECIAL PROVISIONS

6.1 Additional Use Provisions, Restrictions and Requirements

No use, whether permitted or conditional, shall be permitted if the use is deemed, by the County Commission, to be dangerous, obnoxious or offensive to persons residing in the vicinity thereof, or impair the use, enjoyment or value of any property.

6.2 Mining of Sand, Gravel and Excavation

6.2.1 Purpose

The purpose of these provisions is to provide for mining and extraction of sand and gravel for commercial uses, and to protect and preserve agricultural land by guiding such operations, and to minimize the traffic, noise, dust, fume and

vibration impact on the adjoining uses and the road network.

6.2.2 Site approval requirements

All sand and gravel excavation sites shall require approval of the County excepting those related to farming and County road maintenance.

6.2.3 Data submission requirements

All sand and gravel excavation sites shall provide the County with the following data:

6.2.3.1 A site plan for operation and reclamation of the mined land including maps showing location of the land to be mined, location of roads and points of access to the site, maps showing the existing and proposed contours after the land is mined and a time table for operation of the site.

6.2.3.2 A guarantee that the reclamation of the site be completed within one year of the closure of the operation of the site.

6.2.3.3 Proof of compatibility with the existing land form including the vegetation, surface and ground water resources.

6.2.4 Proximity to existing uses

The operation of sand and gravel sites shall be more than 500 feet from any residential uses and more than 300 feet from non-residential uses.

6.2.5 Permit requirements

Any person who operates a sand and gravel operation shall obtain a permit from the County before resuming any mining or excavation of the sand and gravel sites.

6.3 Sanitary Landfills and Solid Waste Sites

6.3.1 Compliance with North Dakota State Laws and Rules

Any person who operates sanitary landfills or solid waste sites shall comply with all North Dakota State laws and administrative rules set forth by the State agencies.

6.3.2 Compliance with County ordinances and procedures

Where a County solid waste ordinance exists, any person who operates a sanitary landfill or solid waste site shall comply with the County ordinance, rules and procedures.

6.3.3 County ordinance and procedures

The County hereby adopts the solid waste provisions as provided for under statute and the rules of the ND State Department of Health and Consolidated Laboratories.

6.3.4 Purpose

The purpose of these provisions is to protect public health, ground and surface water, conflict with present land uses and preservation and protection of natural resources in the County.

6.3.5 Site approval requirements

All solid waste sites require the approval of the County Zoning Commission.

6.3.6 Locational standards

6.3.6.1 No landfill incinerator shall be located within 1,000 feet of residential use and 500 feet of commercial buildings and structures.

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

6.3.6.3 No landfill operation shall be located nearer than 200 feet of all road and highway right-of-ways.

6.3.7 Data submission requirements

All sanitary landfills and solid waste sites shall provide the County with the following data:

6.3.7.1 Maps of the area showing existing features such as roads, highways, vegetation cover, water courses, drainage ways, soils, topography, depth of water tables, wet lands, sloughs, existing uses, buildings, structures and the existing utility lines.

6.3.7.2 A plan for operation of the site including a descriptive text explaining consistency or inconsistency with the natural or man made environment.

6.3.7.3 Records of data and information submitted to the State of North Dakota appropriate agencies and the County as a part of application for State and County permits.

6.3.7.4 The Zoning Commission may require additional information as it deems necessary.

6.3.8 Statement of findings

Upon the public notification and a public hearing, the Zoning Commission shall determine whether the proposed site meets the requirements of these regulations. The Zoning Commission may place conditions for approval of the site.

6.4 Junk or Salvage Yards

6.4.1 Purpose

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

6.4.2 Site approval requirements

All sites for salvage and junk yards require approval by the County Zoning Commission.

6.4.3 Locational standards

6.4.3.1 No salvage or junk yard shall be located within 500 feet of a residential district and 200 feet of commercial buildings and structures.

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

6.4.3.3 No salvage or junk yard shall be located nearer than 200 feet of all road and highway right-of-ways.

6.4.3.4 All salvage yards and operations shall be screened from the public view unless the salvage material is placed 500 feet away from any highway right-of-ways and screened by natural vegetation, building and land form.

6.5 Public and Non-Profit Wildlife Management Areas

6.5.1 Purpose

These provisions are designed to address the need for public wildlife management areas and at the same time preserve and protect the interest of the County for its tax lease and investment in construction and maintenance of public roads.

6.5.2 General requirements

6.5.2.1 All publicly owned and non-profit wildlife management areas established after adoption of these regulations require a conditional use permit subject to the provisions of WCZO §8.2.

- 6.5.2.2 If the area is leased for this purpose, the public agency is required to provide a road maintenance agreement specifying the duties and responsibilities of the owner/lessee for access to through roads as well as providing the duties and responsibilities of the owner/lessee for the control of noxious weeds in the wildlife management area.
- 6.5.2.3 If the land is purchased by a public agency for such a purpose, the public agency shall arrange for compensating the County for the loss of the property tax.
- 6.5.2.4 When a County road provides access to the wildlife management area, a road maintenance agreement specifying the duties and responsibilities of the public agency shall be a part of the conditional use permit.

6.6 Animal Feeding Operations

6.6.1 Purpose

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

6.6.2 Equivalent animal numbers

An animal unit equivalent is a unitless number developed from the nutrient and volume characteristics of *manure* for a specific *livestock* type. The term “animal units” is used to normalize the number of animals (e.g., head) for each specific *livestock* type which produce comparable bulk quantities of *manure*. The “animal unit” equivalents for types of *livestock* and the numbers of *livestock* for facility size thresholds of 300 animal units (a.u.), and so forth, are listed in the following table:

		Equivalent numbers of livestock (hd) for four sizes (a.u.) of animal feeding operations			
Livestock Type	Animal Unit Equivalent	300 a.u.	1,000 a.u.	2,000 a.u.	5,000 a.u.
1 mature dairy cow, whether milking or dry	1.33	225	750	1,500	3,750
1 dairy cow, heifer or bull, other than above	1.0	300	1,000	2,000	5,000
1 weaned beef animal, whether a calf, heifer, steer or bull	0.75	400	1,333	2,667	6,667
1 cow-calf pair	1.0	300	1,000	2,000	5,000
1 swine weighing 55 pounds or more	0.4	750	2,500	5,000	12,500
1 swine weighing less than 55 pounds	0.1	3,000	10,000	20,000	50,000
1 horse	2.0	150	500	1,000	2,500
1 sheep or lamb	0.1	3,000	10,000	20,000	50,000
1 turkey	0.0182	16,500	55,000	110,000	275,000
1 chicken, other than a laying hen	0.008	37,500	125,000	250,000	625,000
1 laying hen	0.012	25,000	83,333	166,667	416,667
1 duck	0.033	9,091	30,303	60,606	151,515

For any livestock not listed above, 1.0 animal unit equals one thousand pounds [453.59 kilograms] whether single or combined animal weight.

6.6.3 Environmental protection

The *operator* of a new facility for animal feeding is expected to locate, construct, operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. The *operator* of an existing facility is expected to operate and maintain the facility so as to minimize, reduce or abate effects of pollution on environmental resources and on public safety and health. Each *operator* shall comply with applicable State laws and rules, including the laws, rules and permits administered by the North Dakota Department of Health.

6.6.4 Enforcement

In the event of a violation of this ordinance or a judgment on a civil action by the North Dakota Department of Health, the local unit of government, after due process, can order cessation of a facility for animal feeding within a reasonable period of time and until such time as the *operator* corrects or abates the cause(s) of the violation. If the cause(s) of the violation are not remedied within a reasonable period of time as set by the local unit of government, the permit may be revoked.

6.6.5 Severability

If any paragraph, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance.

6.6.6 Water resource setbacks

The *operator* of a new *animal feeding operation* that has more than 1,000 animal units shall not locate or establish that operation as follows:

- 6.6.6.1 Within a delineated water source protection area for a public water system. The source water protection areas for water supply wells include the entire wellhead protection area. For the *surface-water* intakes of public water systems, source water protection areas include all or portions of the surface water that supplies the water for the public water system, including all or portions of the surface-water's shoreline.
- 6.6.6.2 Within 1,200 feet (365.6 meters) of a private ground water well which is not owned by the *operator* or within 1,500 feet (457.1 meters) of a public ground water well which does not have a delineated source water protection area.
- 6.6.6.3 Within 1,000 feet (304.7 meters) of surface water which is not included in a source water protection area.

6.6.7 Odor setbacks

The *operator* of a new facility for an *animal feeding operation* shall not locate that operation within the extra territorial zoning jurisdiction of an incorporated city. An owner of property shall locate and establish a residence, business, church, school, public park or zone for residential use so as to provide a separation distance from any *existing animal feeding operation*. The separation distances, or setbacks, are listed in the following table. An owner of property who is an *operator* may locate the owner's residence or business within the setbacks.

Setback Distances for <i>Animal Feeding Operations</i>		
Animal Units	Hog Operations	Other Animal Operations
Less than 300	none	none
300 - 1000	0.50 mi (0.805 km)	0.50 mi (0.805 km)
1001 or more	0.75 mi (1.207 km)	0.50 mi (0.805 km)
2001 or more	1.00 mi (1.609 km)	0.75 mi (1.207 km)
5001 or more	1.50 mi (2.414 km)	1.00 mi (1.609 km)

The *operator* of a new *animal feeding operation* shall locate the site of that operation from existing residences, businesses, churches, schools, public parks and areas of property that are zoned residential so as to exceed the corresponding listed setback from these places.

If notified in writing by an *operator* of a planned future expansion of an *animal feeding operation*, the local unit of government may implement the corresponding odor setback for a temporary time period not to exceed two years, after which time the setback will remain in effect only if the expansion was completed.

The County may increase or decrease a setback distance for a new *animal feeding operation* after consideration of the proposed operation's plans, if it determines that a greater or lesser setback distance is necessary or acceptable, respectively, based upon site conditions or demonstrable safety, health, environmental or public welfare concerns.

6.6.8 Conditional uses

6.6.8.1 Permit procedure and applicability

The operator of a new livestock facility or an existing livestock facility, which meets the definition of an animal feeding operation and which is a conditional (or special) use of land as listed below, shall apply for and obtain a conditional (or special) use permit.

6.6.8.1.1 A new *animal feeding operation* that would be capable of handling, or that expands to handle, more than 1,000 animal units is a conditional (or special) use of land.

6.6.8.1.2 An *existing animal feeding operation* that expands to handle more than 1,000 animal units is a conditional (or special) use of land. Whenever the capacity of an animal feeding operation is expanded to handle more than 2,000 or 5,000 animal units, the operator shall apply for a new conditional (or special) use permit.

6.6.8.2 Procedure

The local unit of government may practice any or all of the provisions in the following subparagraphs in harmony with the permitting process of its general zoning regulations.

6.6.8.2.1 Application for a conditional use (or special use) permit shall be submitted to the local unit of government for tentative approval. The local unit of government shall notify the Department of Health that it has received such application.

6.6.8.2.2 The local unit of government shall notify by certified mail all property owners having property within the corresponding odor setback distance of a proposed new animal feeding operation. This notification must occur within 21 days of receiving the application. The approval process utilized by the local unit of government may include at least one advertised public hearing.

6.6.8.2.3 Following tentative approval or denial of the application by the local unit of government, the applicant shall be notified by letter of the decision, including conditions imposed, if any.

- 6.6.8.2.4 The applicant shall then forward its application for a conditional (or special) use permit, together with the tentative approval by the local government, to the North Dakota Department of Health.
- 6.6.8.2.5 Following a review by the Department of Health of the operator's application for a State permit, the Department of Health will notify the local unit of government of its decision.
- 6.6.8.2.6 The conditional (or special) use permit will become final following the granting of a permit by the Department of Health.
- 6.6.8.2.7 A conditional (or special) use permit granted to the operator of a new animal feeding operation shall be put into use within 24 months, or the permit shall lapse and the operator shall re-apply.

6.6.8.3 Application requirements

The application for a conditional use (or special use) permit to operate a facility for an animal feeding operation shall include a plat prepared by a registered land surveyor, a civil engineer or other person having comparable experience or qualifications. The local unit of government may require any or all of the following elements, or require additional elements, in its site plan review process when needed to determine the nature and scope of the animal feeding operation:

- 6.6.8.3.1 Proposed number of animal units.
- 6.6.8.3.2 Total acreage of the site of the facility.
- 6.6.8.3.3 Existing and proposed roads and access ways within and adjacent to the site of the facility.
- 6.6.8.3.4 Surrounding land uses and ownership, if the operation will have the capacity to handle more than 1,000 animal units.
- 6.6.8.3.5 A copy of the permit application submitted by the applicant to the Department of Health.

6.6.9 Ownership change

An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the local unit of government of the sale or the transfer of the ownership of that operation.

6.6.10 Operating change

An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the local unit of government of intent to include an alternate livestock type. The notice shall be given at least 120 days prior to the anticipated date of the change.

6.7 Geophysical Exploration Requirements

Geophysical Exploration Requirements shall be governed by the NDCC.

6.8 Septic Facility

Septic Facilities shall be governed by the NDCC.

7 ARTICLE 7 ADMINISTRATION AND ENFORCEMENT

7.1 Organization

Administration of this ordinance is hereby vested in two offices of Wells County, that being the County Tax Director and the Zoning Commission.

7.2 The County Tax Director

The County Tax Director is a duly appointed County official authorized by the County Commission and is responsible to assist and make recommendations to the Zoning Commission on any matter related to the planning and development of the County pursuant to NDCC §11-33-16.

7.2.1 Duties and responsibilities

The County Tax Director shall be specifically responsible for the administrative responsibilities of the Zoning Commission.

7.2.1.1 Issue “permitted uses” permits and maintain records thereof.

7.2.1.2 Issue, upon approval by the Zoning Commission, all zoning certificates and maintain records thereof.

7.2.1.3 Issue all building and repair permits.

7.2.1.4 Maintain zoning related records and zoning district maps including records of all amendments, conditional uses and variances.

7.2.1.5 Receive, file and forward to the Zoning Commission all applications for zoning amendments and conditional uses.

7.2.1.6 Serve as secretary for the Zoning Commission.

7.3 The Zoning Commission

The Zoning Commission is hereby vested with authority and jurisdiction to administer the County Zoning Ordinance.

7.3.1 Membership

The Zoning Commission consists of no more than nine members, of whom two must be appointed from Fessenden City, two appointed from the board of county commissioners, and the remaining five appointed from each commission district, with membership appointed yearly by the Commissioners during their annual County Commission meeting. NDCC §11-33-04.

7.3.2 Duties and Responsibilities

7.3.2.1 The Zoning Commission shall be specifically responsible for the interpretation and enforcement of this ordinance.

7.3.2.2 Notify, in writing, the property owner or user upon finding a violation of this ordinance and cite the nature of the 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 days, the Zoning Commission shall make a report of the findings to the County State's Attorney.

7.3.2.3 Maintain zoning related records and zoning district maps including records of all amendments, conditional uses and variances.

7.3.2.4 To hear and act on applications for amendments to the zoning districts.

7.3.2.5 To hear and act on all applications for conditional uses in the manner prescribed in this ordinance.

7.3.2.6 To study, examine and make changes to these regulations for the future development of Wells County.

7.3.3 The Zoning Commission shall elect its own officers and may establish rules and procedures for all cases before it.

7.3.3.1 Notice of hearings

The Zoning Commission shall fix a reasonable date for hearing of applications for zoning district amendments, conditional use permits and other matters before it, give public notice thereof in the official newspaper of the County at least one week prior to the hearing. The notice shall state the purpose of the hearing and that the applications and supporting documents for zoning district amendments and conditional use permits are available for public inspection in the office of the Tax Director during normal working hours.

7.3.3.2 Meetings

Meetings of the Zoning Commission shall be held at the call of its 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.

7.3.3.3 Interpretation of regulations

All questions of interpretation of this ordinance shall be first presented to the Tax Director, who shall forward the question to the Zoning Commission.

7.3.3.4 Building permit application

Any person or persons intending to construct or reconstruct or relocate a building or structure or make alteration shall, before proceeding with the work, obtain a permit from the Tax Director. All mobile homes and manufactured homes are required to comply with the manufactured housing and building code and are required to obtain a permit from the Tax Director for placement and relocation thereof.

7.3.3.5 Each application for a building permit shall be accompanied by a legal description and a map showing the actual dimension of the lot to be built upon, the size, shape and location of the building for observing the yard requirements of this ordinance.

7.3.3.6 The application shall specify the type of the building, structure, material of which it is composed, the part or portion of the lot to be occupied by the principal building and accessory buildings and the probable building cost, together with such additional plans and specifications as may be required by the County Tax Director.

7.3.3.7 The edition of the Uniform Building code as published by the International Conference of Building Officials and adopted by the County Commission, together with any amendments made hereafter are incorporated and made a part of this ordinance. In the event there is a conflict between the Uniform Building Code and these regulations, this ordinance shall supersede.

7.3.4 The Tax Director shall issue a building permit if the proposed taxable building or taxable structure conforms to zoning and building provisions of this ordinance.

7.3.4.1 Building permit fees

The County Tax Director shall charge and collect a fee according to the resolution of fees and schedules established by Wells County.

7.3.4.2 Conditional use permit

The County Tax Director shall issue a conditional use permit upon approval of the application by the Zoning Commission in which all conditions shall be stipulated subject to the provisions of WCZO §8.2 of this ordinance.

7.3.4.3 Variances

The County Tax Director shall issue the appropriate permit upon approval by the Zoning Commission. The terms of the variance shall be stipulated subject to the provisions of WCZO §8.3 of this ordinance.

7.4 Violations and Penalties

Violations of this ordinance may be reported to the Tax Director. Complaints referring to such violations shall be filed in written form and shall state fully the causes and basis thereof. The Tax Director shall record said complaint, notify the Zoning Commission and make an inspection of the affected site.

7.4.1 **Remedies** for violations shall be in accordance with NDCC §11-33-17 and §11-33-21 as follows:

11-33-17. Violation of zoning regulations and restrictions - Remedies. 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 chapter, the proper County authorities or any affected citizen or property owner, in addition to other remedies may institute any appropriate action or proceedings.

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.
2. To restrain, correct or abate such violations.
3. To prevent the occupancy of the building, structure or land, and

4. To prevent any illegal act, conduct, business or use in or about such premises.

11-33-21. General penalties for violation of zoning regulations and restrictions. A violation of any provision of this chapter or the regulations and restrictions made hereunder shall constitute the maintenance of a public nuisance and shall be a Class B misdemeanor.

- 7.4.2 Each day that a violation of this ordinance exists may be considered as a separate offense.

8 ARTICLE 8 PROCEDURE 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 one week prior to the hearing in the official newspaper of the County. The notice of hearing shall include the time and place of hearing; the description of the property by street address for platted lands and a clearly identifiable location for unplatted lands; the proposed use and requested zoning district change; and the time and place for public inspection of the documents in the County offices before the hearing.

8.1.2 Public hearing

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 approve, deny or modify the petition. The Zoning Commission may require additional information before it completes its findings and recommendations.

8.1.3 Data submission requirements

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

- 8.1.3.1 A legal description of the area proposed to be rezoned and the names and addresses of all owners of property lying within such area.
- 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 the existing buildings and uses and the requested changes.

8.1.3.4 A fee shall be paid in accordance with the schedule established by Wells County.

8.1.4 Deliberation and decision

Following the hearing, the Zoning Commission, upon due deliberation, shall make a decision on the proposed amendment within 30 days after the hearing. In making its finding, the Zoning Commission shall ascertain that the proposal is consistent with this ordinance and other regulations of the County.

8.2 Conditional Use Permits

8.2.1 Purpose

The development of this ordinance is based on providing conformity, compatibility and harmonious uses of all lands in each respective district or zone. In recognizing the unique characteristics of certain uses, which cannot be properly classified as permitted uses, such unique uses, nevertheless, may be desirable in a particular district provided that due consideration is given to location, development, operation of such uses and impact on neighboring premises.

8.2.2 Public hearing notice

The Zoning Commission shall hold a public hearing, a notice of which shall be published at least one week prior to the hearing in the official newspaper of the County. The notice of hearing shall include the time and place of hearing; the description of the property by street address for platted lands and a clearly identifiable location for unplatted lands; the proposed use and requested zoning district change; and the time and place for public inspection of the documents in the County offices before the hearing.

8.2.3 Public hearing

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 approve, deny or modify the petition. The Zoning Commission may require additional information before it completes its findings and recommendations.

8.2.4 Data submission requirements

Petitions for conditional uses shall be submitted with the following information:

8.2.4.1 A legal description of the area proposed to be used and the names and addresses of all owners of property lying within such area.

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

8.2.4.3 A site plan showing the existing buildings and uses and the requested changes.

8.2.4.4 A fee shall be paid in accordance with the schedule established by Wells County.

8.2.5 Deliberation and decision

Following the hearing, the Zoning Commission, upon due deliberation, shall make a decision on the proposed amendment within 30 days after the hearing. In making its finding, the Zoning Commission shall ascertain that the proposal is consistent with this ordinance and other regulations of the County.

8.2.6 Standards

No application for conditional use shall be recommended for approval 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 of the community.

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 congestion in the public streets.

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 deemed necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards and requirements specified in WCZO §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 therein 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 become null and void within 12 months of the date of the Zoning Commission action unless the use is commenced, construction is underway or the current owner possesses a valid building permit.

8.3 Variances

Variance from the terms of this ordinance shall 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 last one week prior to the hearing in the official newspaper of the County. The notice of hearing shall include the time and place of hearing; the description of the property by street address for platted lands and clearly identifiable locations for the unplatted lands; the proposed use and requested zoning district change; and the time and place for public inspection of the documents in the County Offices before the hearing.

8.3.2 Public hearing

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 will approve, deny or modify the proposal. The Zoning Commission may require additional information before it completes its findings and decision.

8.3.3 Data submission requirements

Petitions for variances or special use permits shall be submitted with the following information:

8.3.3.1 A legal description of the area proposed to be rezoned and the names and addresses of all owners of property lying within such area.

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

8.3.3.3 A site plan showing the existing buildings and uses and the requested changes.

8.3.3.4 A fee shall be paid in accordance with the schedule established by Wells County.

8.3.4 Deliberation and decision

In making it's finding, the Zoning Commission shall ascertain that the request for variance is consistent with the County land use plan and meets all requirements of this ordinance and other regulations of the County.

8.3.5 Standards

No application for variances or special use permits 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 this ordinance 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 this ordinance to other premises.

8.3.6 Justification

- 8.3.6.1 That the reasons set forth in the application justify granting the variance.
- 8.3.6.2 That the variance is the minimum variance, which would make possible a reasonable use of the premises.
- 8.3.6.3 That the granting of the variance will be in harmony with the general purpose of this ordinance and will not be injurious to the surrounding premises, neighborhood or the County and will not be contrary to the land use plan and the purposes of this ordinance.
- 8.3.6.4 That there is practical difficulty or unnecessary hardship in the 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 the yard or setback required by this ordinance.

- 8.3.7.1 To reduce not by more than 20% of 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% of the requirements.
- 8.3.7.3 To permit the use of the lot of record if it is smaller than the minimum size required by this ordinance.
- 8.3.7.4 To permit roof alterations to provide additional windows, headroom or area for occupancy of a third level.
- 8.3.7.5 To permit conversion of an existing building to a permitted residential use provided that it shall not conflict with the above standards cited in WCZO §8.3.5 or 8.3.6.

8.4 Action of the Zoning Commission

8.4.1 Initiation of amendment

Amendments may be proposed by the Zoning Commission or any person, firm, corporation or organization which has a freehold interest or contractual interest in a building, structure, lot or parcel of land.

8.4.2 Application for amendment

Applications for amendments shall be filed with the Tax Director who shall forward all such applications to the Zoning Commission.

8.4.3 Notice of public hearing

Notice of hearing shall include time, place and purpose of such hearing and shall be published at least one week before the hearing in the official newspaper of the County.

8.4.4 Public hearing

At the public hearing before the Zoning Commission, any person may express opposition or support for the amendment at such hearing.

8.4.5 Denial of application

An application for an amendment to the zoning district map or conditional use permit which has been denied by the Zoning Commission shall not be made for a period of one year from the date of such denial, unless the new application is substantially different from the denied application.

9 PERMIT FEE SCHEDULE

Application for building permit for additional square footage added to taxable property only:

Value of additional square footage:

\$5,001 - \$20,000

over \$20,000

Fee

\$20

\$25 + \$1 for each additional
\$1,000 in valuation

Application for conditional use permit

~~\$50~~ .10% of the cost of the project
with a minimum \$500 fee and a
maximum \$2000 fee

Application for zoning amendment

\$50

Application for variance

\$50

Map Insert

11 RESOLUTION

The following Resolution was introduced by Commissioner Mark Schmitz and seconded by Commissioner Ray Schmitz for adoption:

WHEREAS, the Wells County Planning Commission consisting of Mike Flick, Mary Hager, Connie Kunz, Richard Leintz, Lester Lien, Daniel Mack, Jon Polries, Faye Schimelfenig and James Sitar, guided by Foster County State's Attorney, Paul Murphy and Wells County State's Attorney, Kathleen Trosen has drafted a Wells County Zoning Ordinance dated 2008; and

WHEREAS, said ordinance is designed to protect the public health, safety, morals, comfort, convenience, prosperity and general welfare of Wells County, ND; to secure safety from fire, panic, noxious fumes, and other dangers; and to promote the health, safety and welfare of the people of Wells County. It is intended that the establishment of this ordinance will promote orderly and non-conflicting uses of land and property, protect property rights, ensure the provisions of adequate public services and promote conservation of land, water and other natural resources; and

WHEREAS, the Wells County Planning Commission has approved this amended County Zoning Ordinance and recommends its adoption by the County Commission; and

WHEREAS, the Board of County Commissioners hereby amends said ordinance as attached hereto.

NOW, THEREFORE, BE IT RESOLVED, that the County Commission of Wells County hereby adopts the Wells County Zoning Ordinance dated 2008, this 3rd day of June, 2008.

On vote being taken, those voting 'aye': Mark Schmitz; Ray Schmitz; Randi Suckut and Richard Leintz, Chairman; those voting 'naye': None. Absent: Mary B. Hager. The Chairman then declared the Resolution adopted.

/s/ Janell Rudel
County Auditor

6-3-08
Date

/s/ Richard Leintz
Chairman

6-3-08
Date

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF WELLS)

On this 3rd day of June, 2008, personally appeared before me, a notary public within the aforesaid County and State, Richard Leintz and Janell Rudel, to me personally known to be the Chairman of the Board of County Commissioners and the Auditor, respectfully, of Wells County, and acknowledged to me that they executed the within instrument for and on behalf of Wells County.

S E A L

RENAE HEINTZ

Notary Public

State of North Dakota

My Commission Expires May 8, 2010

/s/ Renae Heintz

Renae Heintz, Notary Public

Wells County, North Dakota

STATE OF NORTH DAKOTA)
) ss.
 COUNTY OF WELLS)

I, Janell Rudel, County Auditor in and for the County of Wells, State of North Dakota, acting as Secretary of the Wells County Planning Commission, do hereby certify that the above-entitled document is a true and correct original of the Wells County Zoning Ordinance which was adopted by Wells County, North Dakota, June 3, 2008.

Witness my hand and official seal of Wells County, North Dakota, this 3rd day of June, 2008.

WELLS COUNTY
S E A L
 STATE OF NORTH DAKOTA

/s/ Janell Rudel
 Janell Rudel, Wells County Auditor

RECORDER
S E A L
 WELLS COUNTY, N. DAK.

Document #195117
 RECORDER'S OFFICE, WELLS COUNTY, ND 6/3/2008 8:45 AM
 I certify that this instrument was filed for record this date
 CARRIE K. KRAUSE, County Recorder
 By /s/ Carrie K. Krause