

DIVIDE COUNTY
ZONING ORDINANCE

Effective Date : January 27, 1996
Revised: November 18, 1997
Revised: January 23, 2001

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
Definitions	3
Section 1. General Provisions	7
1.1 Title	7
1.2 Authority	7
1.3 Purpose, Intent & Jurisdiction	7
1.4 Interpretation	8
1.5 Repeal	8
1.6 Effective Date and Compliance	8
1.7 Conditional Uses	9
1.8 Special Conditional Uses	9
1.9 Floating Zones	9
1.10 Permits	9
1.11 Amendments	9
1.12 Application Forms	9
Section 2. Administration and Enforcement	10
2.1 Administrative Entities	10
2.2 Grievances	11
2.3 Right to Appeal	11
2.4 Violations	11
2.5 Remedies and Enforcement	11
Section 3. Special Provisions	12
3.1 Objectives	12
3.2 Special Conditional Use Permit Required	12
3.3 Signs	13
3.4 Temporary Permits	13
Section 4. Districts	13
4.1 General	13
4.2 Zoning Map	13
4.3 Districts	14
Section 5. Building Standards and District Regulations	17
5.1 Scope	17
5.2 Standards	17
Section 6. Conditional Uses	18
6.1 Definition	18
6.2 Public Hearing Required	18
6.3 Fees and Notice to Public	18
6.4 Procedure for Approval of a Conditional Use	19
6.5 Additional Information Required and Additional Conditions Attached	19
Section 7. Floating Zones	24
7.1 Definitions	24
7.2 Uses Designated as Floating Zones	24
7.3 Requirements	25
Section 8. Procedures to be Followed when a Public Hearing is Required	25
8.1 Public Hearing Required	25

DEFINITIONS

The following definitions are included as a means of explanation for terms used in the Zoning Ordinance of Divide County.

ACCESSORY BUILDINGS: A subordinate building , the use of which in customary incidental to that of principal building on the same lot.

AGRICULTURAL DISTRICT: All lands and areas used for: cultivating the soil, producing crops and/or raising livestock, and so designated by the Board of County Commissioners on the District Zoning Map.

AMENDMENT: Any change, revision, or modification of the text or this ordinance or the District Zoning Map.

ANIMAL FEEDING OPERATION: a place where: livestock of 1,000 animal units have been, are, or will be confined, concentrated and fed for 45 or more days in any 12 month period; pasture, crops, or other vegetation are not normally managed or sustained for grazing during the normal growing season; and animal waste or manure accumulates. This term does not include an *animal wintering operation*. Adjoining animal feeding operations under common ownership are considered to be one animal feeding operation, if they use common areas or systems for manure handling.

ANIMAL WINTERING OPERATION: 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 (1) breeding operations of more than 1,000 animal units or (2) weaned offspring, which are kept longer than 120 days and that are not retained for breeding purposes.

BUILDING HEIGHT: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof; and to the average height between the plate and the ridge of a gable, hip or gambrel roof.

BUILDING PERMIT: A permit issued by the County Auditor before construction, alteration, or use begins for all new or altered uses.

CERTIFICATION OF ZONING COMPLIANCE: A certificate stating that a use is permissible under the zoning district regulations.

COMMERCIAL DISTRICT: The area designated by the Board of County Commissioners on the District Zoning Map which provides for the grouping of retail merchandising, light industry and service activities.

COMMERCIAL SAND AND GRAVEL OPERATIONS: The use of land for the purpose of opening a sand and gravel pit for sale or resale, or the processing of the material of a sand or gravel pit for sale or resale.

CONDITIONAL USE: Any use to which the Planning and Zoning Commission shall attach specific conditions.

CONSERVATION DISTRICT: The area designated by the Board of County Commissioners as having a delicate resource base and providing for its protection from potentially damaging forces.

COUNTY HIGHWAYS AND ROADS: Any and all roads over which the Board of County Commissioners has authority and for which said Commissioners provide maintenance.

CULTURALLY SENSITIVE OVERLAY DISTRICT: The area designated by the Board of County Commissioners on the Zoning District Map as having a high probability of containing areas or properties eligible for listing on the National Register of Historic Places and providing for identification and/or protection of these resources from potentially damaging forces.

DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the county.

DISTRICT: The areas of Divide County for which the regulations governing the use of land and the use, density, bulk, height, and location of structures and buildings are uniform.

EASEMENT: A vested or acquired right to use land, other than as a tenant, for a specific purpose; such right held by someone other than the owner who holds title to the land.

FARM: A single tract of land or contiguous tracts of agricultural land containing a minimum of 10 acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, WITH NOT LESS THAN FIFTY (50) PERCENT OF HIS ANNUAL INCOME.

FLOATING ZONE: A district with specific purposes which are established by this ordinance without actually being delineated on the District Zoning Map. When an opportunity arises to carry out the intended purposes of a particular tract of land, an amendment to the Zoning Ordinance will establish the actual boundaries of the district.

GEOGRAPHIC: The natural features, collectively of an area.

HEARING: A public meeting held before the Planning and Zoning Commission or Board of County Commissioners whenever the same is required by law.

INDUSTRIAL DISTRICT: The area designated by the Board of County Commissioners on the District Zoning Map which provides for the grouping of manufacturing, assembly, heavy commercial or excavation activities.

LAND USE ADMINISTRATOR: The officer appointed by the Board of County Commissioners, which shall be the Divide County Auditor, to administer the zoning affairs of Divide County.

LIVESTOCK: 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.

LOT: A tract of land of at least sufficient size to meet minimum zoning requirements for use, coverage, area and to provide such yards and other open space as are herein required.

LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street or road. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.

LOT WIDTH: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the rear of the required front yard.

MANURE: 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.

MOBILE HOME: A transportable, factory built home, designed to be used as a year-round residential dwelling and built to enactment of the Federal Manufactured Home Construction and Safety Standards Act of 1974 (23CFR 3280), which became effective June 15, 1976. A mobile or portable dwelling constructed to be towed on its own chassis, connected to utilities and not placed on a permanent foundation and used for year round living. It can consist of one or more units that can be telescoped when towed, or two (2) or more units separately towable but designed to be joined into one integral unit.

NON-CONFORMING USE: Any building or tract of land lawfully occupied by a use at the time of the passage of this Ordinance or amendments thereto, which does not conform with the provisions of this Ordinance or amendments thereto.

PARKING SPACE: An area for the purpose of storing one parked vehicle. For the purpose of this Ordinance, one parking space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet. In computing off street parking, additional space shall be required off street for access drives to parking areas.

PERMITTED USE: Any use which complies with the requirements of a Zoning District.

PLAT: Any map, plan, or chart of a tract of land or subdivision indicating the location and boundaries of individual lots or properties.

RECREATION DISTRICT: The areas designated by the Board of County Commissioners to the District Zoning Map which provide for general or specific recreational use.

RECREATION VEHICLE: A vacation trailer or other vehicular or portable unit which is either self-propelled or towed or is carried by a motor vehicle and which is intended for human occupancy and is designated for vacation or recreation purposes but not a year-round residential use.

RECREATION VEHICLE PARK: A tract of land, designed and utilized, and operated for a fee or other basis as a place for temporary parking of occupied recreation vehicles.

RIGHT OF WAY: The area, either public or private over which the right of passage exists. The right of way shall not be considered as land area when computing lot size.

SETBACK: The line within a property defining the required minimum distances between any structure or use and the adjacent right of way or property line of any lot.

SEWAGE TREATMENT: All private methods of collecting and disposing of domestic sewage including septic tanks, privies, chemical toilets, and any others.

SIGHT LINE: An area of unobstructed vision at a street or road intersection defined by lines of sight between points at a given distance from the intersecting street or road right of way lines.

SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the fair market value, as determined by the Divide County Director of Tax Equalization, of the structure either: (1) Before the improvement or repair is started, or (2) If the structure has been damaged or is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SURFACE WATER: Waters of the state located on the ground surface such as lakes, reservoirs, rivers and creeks.

TEMPORARY PERMITS: Permits issued by the Divide County Board of Commissioners for certain uses before operation of said uses are allowed in the County.

TOPOGRAPHY: The configuration of the surface of the land, including its relief in detail.

TRACT: A plot, piece, or parcel of land, other than a lot which is recorded in the Office of the Register of Deeds.

TRANSMISSION LINE: Overhead electrical lines of 46 KV or larger.

USE: The term referring to:

- a. Any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied; and ...
- b. Any occupation, business activity or operation carried on (or intended to be carried on) in a building or other structure or on land; ...
- c. A name of a building, or structure or tract of land which indicates the purpose for which it is arranged, designed, intended, maintained or occupied.

VARIANCE: A relaxation of the terms of the Zoning Ordinance in any specific case where a literal enforcement of any provisions or resolution would result in great practical difficulties, unnecessary hardship, or injustice.

WATERS OF THE STATE: All water within the jurisdiction of the State of North Dakota, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies or accumulations of water on or under the surface of the earth, 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.

WORK CAMP: A mobile home park designed and intended for the temporary residence of construction employees of a developer, contractor, or subcontractor intended for use during the construction period of the project.

ZONING DISTRICT MAP: The map showing the zoning districts of Divide County officially adopted by the Board of County Commissioners.

1. GENERAL PROVISIONS

1.1. Title

The ordinance, its regulations, and the District Zoning Map shall be known as the Divide County Zoning Ordinance.

1.2. Authority

The Divide County Zoning Ordinance has been enacted pursuant to the authority granted by the North Dakota State Legislature to promote the health, safety, morals, public convenience, general prosperity and public welfare of the citizens of Divide County. It has been made and adopted in accordance with the 1994 Divide County Comprehensive Plan.

1.3. Purpose, Intent, and Jurisdiction

The Divide County Zoning Ordinance was designed specifically to promote the sound and desirable location and use of buildings and other structures and the sound and desirable occupancy, use or condition of use of land and other natural resources found within the County.

It is intended that the restrictions and regulations found within the Divide County Zoning Ordinance shall govern all land and other property over which the Divide County Board of Commissioners is empowered by law to regulate.¹

The area within three miles adjacent to the municipality of Crosby shall be a zone of coordination for development between Divide County and the city. For the remaining municipalities in the County which have not enacted their own zoning ordinance, the zone of coordination shall be an area of two miles. The affected City Council shall be given special notice at least 10 days prior to a hearing on all and any action pending on amendments to the County Zoning Ordinance and on an application for a Conditional Use Permit within the zone of coordination. The notice shall state the time, place and purpose of the hearing during which the city can express its objections to the amendment.

The Board of Township Supervisors shall be given notice at least 10 days prior to a hearing on any action pending on amendments of the Zoning Ordinance or on application for a Conditional Use Permit if such amendment or approval will affect any land within that township. The notice shall state the time, place, and purpose of the hearing during which the township supervisors can express objections to the amendment or approval.

¹Cities within Divide County having adopted their own zoning ordinance are Crosby. No townships within Divide County have adopted a zoning ordinance.

1.4. Interpretation

The provisions of this Ordinance shall be minimum requirements.

1.5. Repeal

All regulations or parts of the regulations, existing ordinances, districts, district zoning maps, or resolutions in conflict with this Ordinance and its provisions are hereby repealed.

1.6. Effective Date and Compliance

From the 27 day of January, 1996, each structure and use within Divide County, not otherwise excepted, shall be in compliance with the provisions of this Ordinance.

1.6.1 Exceptions

1. Non-conforming Uses

Any structure or use which was lawful before this Ordinance was passed, but would be prohibited, regulated, or restricted under the terms of this Ordinance or under amendments to this Ordinance is a Non-Conforming Use.

The lawful existence or use of such non-conformities which are present at the time of the adoption or amendment of this Ordinance may be continued even though such use or existence does not conform with the provisions of this Ordinance. However, the intent of this Ordinance is that which such non-conformities may continue in their present state their survival will not be encouraged, nor shall they be enlarged upon, expanded, or extended.

If a non-conforming use ceases for a period of more than twenty four (24) months, any future use of that structure, land or other property shall be in conformity with the regulations of the district in which it is located.

If a non-conforming structure is damaged or has deteriorated and the cost of repairs exceeds fifty (50) percent of the fair market value, as determined by the Divide County Director of Tax Equalization, of the structure, the use of such structure shall be discontinued unless permanently changed to a conforming use.

(a). Certificate of Compliance Required:

A certificate of compliance is required for all non-conforming structures or uses. No non-conforming structure or use shall be maintained, renewed, or changed until a certificate of compliance has been issued. Owners and occupiers of non-conforming structures and uses have three (3) months from the date of the enactment or amendment of this Ordinance to apply for said certificate of compliance.

2. Variances

The Board of County Commissioners may adjust the application or enforcement of any provision or of a resolution in any specific case where a literal enforcement of such provision or resolution would result in great practical difficulties, unnecessary hardship, or injustice, in an effort to avoid such consequences; provided such action shall not be contrary to the public interest or the general purposes thereof.

3. Maximum Height Requirements

The following shall be exempt for maximum height requirements in all districts: Antennas, belfries, chimneys, cupolas, flag poles, ventilators, water tanks, windmills, wind generators, or other appurtenances usually required to be placed above roof tops and not intended for occupancy.

1.7. Conditional Uses

A conditional use is one which may be permissible within a designated district, but specific conditions must be met prior to and after approval on the conditional use. An application for approval of the conditional use must be submitted to the Planning and Zoning Commission and a public hearing held before any action is taken for approval of the conditional use.

1.8. Special Conditional Uses

A special conditional use is one which may be permissible within a designated district and to which specific conditions are attached. However, unlike conditional uses, a special conditional use may be approved by the Board of County Commissioners or their designee, without the necessity for a public hearing prior to the approval of the application for a special conditional use permit.

1.9. Floating Zones

Districts with specified purposes which initially are established for a parcel of land without actually being delineated on the District Zoning Map shall be designated as floating zones. When an opportunity arises to carry out the intended purposes on the particular tract of land, an amendment to the Zoning Ordinance and District Zoning Map will establish the actual boundaries of the district. The developer must embark upon and actually complete the project in a two-year period of time or the floating zone will disappear.

1.10. Permits

A permit shall be required before construction, alternation, or use begins for new, altered, conditional and special conditional uses. No permit is required for maintenance or repair of existing structures which are in conformity with this Ordinance unless such maintenance or repairs alters the strength or plan of such structure or its mechanical installations.

Building permits are specifically required by this Ordinance whenever any structure is moved onto, constructed, or altered on any property within the jurisdiction of Divide County. This section applies to trailer and mobile homes as well as more permanent structures.

Application for a building permit shall be made and approval before any movement or construction begins within the County. Once secured, the building permit shall be posted in a conspicuous place during and until the project is completed or otherwise ready for use.

No electrical hook-ups may be made in Divide County by any utility company unless the owner or occupier has posted such permit in accordance with the above provisions.

The Divide County Auditor and the Divide County States Attorney shall be responsible for the enforcement of this provision.

1.11. Amendments

Because no area is static and to allow for flexibility in response to circumstances and needs not foreseen at the time the enactment of this Ordinance, the Board of County Commissioners, on its own motion or by recommendation, may amend or repeal any provision of this Ordinance or allow conditionally permitted uses in districts where such use was not previously permissible after a public hearing held pursuant to N.D.C.C. 11-33-09.

1.12. Application Forms

All information and data to be submitted by the applicant as required by official Divide County Application Forms is hereby incorporated by reference into the Divide County Zoning Ordinance. Application forms are available from the Divide County Auditor.

2. ADMINISTRATION AND ENFORCEMENT

2.1. Administrative Entities

The Divide County Zoning Ordinance shall be administered and enforced by the Divide County Planning and Zoning Commission, the Divide County Auditor, the Divide County Board of Commissioners, and the Divide County States Attorney.

2.1.1 Divide County Planning and Zoning Commission

1. Authority

The Divide County Planning and Zoning Commission was created by the Divide County Board of Commissioners in accordance with the provisions of the North Dakota Century Code, Chapter 11-33.

2. Duties

- (a). Establish and administer rules and procedures for conducting the zoning affairs of Divide County.
- (b). Recommend approval or denial of applications and permits subject to final disposition by the Divide County Board of Commissioners.
- (c). Conduct hearings on conditional uses and set conditions for certain uses.
- (d). Establish requirements and procedures necessary for submission of applications.
- (e). Conduct hearings on zoning amendments.
- (f). Publicize and post notice of zoning hearings and amendments as required by law.
- (g). Establish fee schedules and accounting thereof. Said scheduling and accounting shall be subject to the approval of the Divide County Board of Commissioners.
- (h). Issue Certificates of Compliance.
- (i). Regularly attends meetings of the Planning and Zoning Commission. Repeated absences that are unexcused shall be grounds for dismissal from the Board.

2.1.2 Divide County Auditor

1. Authority

The County Auditor, by statute serves as Secretary to the Planning and Zoning Commission and shall serve as the Land Use Administrator being responsible to carry out the directives and duties as assigned by the Planning and Zoning Commission and the Divide County Board of Commissioners. Said Administrator shall be responsible to the Divide County Board of Commissioners.

2. Duties

- (a). Attend all meetings conducted by the Planning and Zoning Commission.
- (b). Maintain current copies of the Divide County Zoning Ordinance and the Zoning District Map and have the same available to the public.
- (c). Keep copies of all pertinent records.
- (d). Publicize and post notices of zoning hearings and amendments.
- (e). Make periodic inspections to determine compliance with the provisions of this Ordinance.
- (f). Issue Special Conditional Use permits as directed by the Board of County Commissioners.
- (g). Carry out any other duties assigned by the Planning and Zoning Commission or the Board of Commissioners.

2.1.3. Divide County Board of Commissioners

1. Authority

The Divide County Board of Commissioners acts as the Board of Adjustment.

2. Duties

(a). The Divide County Board of Commissioners shall hear appeals from any person, party or organization aggrieved by the actions or decisions of the Planning and Zoning Commission, provided that the proper procedure in making such appeal has been followed by the aggrieved party.

(b). Authorize the issuance of Special Conditional Use permits.

2.2. Grievances

Any person aggrieved by any provision or resolution thereto, may, within thirty (30) days after the first publication of such resolution or amendment, petition for a separate hearing thereon before the Board of County Commissioners.

The petition shall be in writing and shall specify in detail the grounds for the objections. The petition shall be filed with the County Auditor.

A hearing thereon shall be held by the Board of Commissioners no sooner than seven (7) days, nor later than thirty (30) days after the filing of the petition with the County Auditor, who shall notify the petitioner of the time and place of the hearing.

At this hearing the Board of County Commissioners shall consider the matter complained of and shall notify the petitioner, by registered or certified mail, what action, if any, it proposes to take thereon.

The Board of County Commissioners, at their next regular meeting, shall rescind or affirm such resolution or amendment.

The provisions of this section shall not operate to curtail or exclude the exercise of any other rights or powers of the Board of County Commissioners.

2.3. Right to Appeal

Any person, or persons, jointly or severally, aggrieved by a decision made by the Board of County Commissioners under Chapter 11-33 of the North Dakota Century Code may appeal to the District Court in the manner provided by law.

2.4. Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint with the County Auditor. Such complaint shall state fully the cause and the basis of the complaint. The County Auditor acting as the Land Use Administrator shall make a record of the complaint, inspect the site or structure complained thereof, and present the complaint along with his findings to the Planning and Zoning Commission.

2.5. Remedies and Enforcement

If it is determined that any building or structure is erected, constructed, re-constructed, altered, repaired, converted, or maintained; or if any building, structure or other property is used in violation of this Ordinance, the County Auditor shall notify the Divide County States Attorney of such violation. The Divide County States Attorney shall then institute appropriate action to:

1. Prevent such unlawful erection, construction, re-construction, alteration, repair, conversion, maintenance, or use;
2. Restrain, correct, or abate such violations.
3. Prevent the occupancy of the building, structure, or land;
4. Prevent the illegal act, conduct, business, or use in or about the premises;

5. And/or impose the penalties provided under Chapter 11-33 of the North Dakota Century Code.²

In addition if the provisions of this Ordinance are not complied with, or if any damage to the public results because of any permitted activity in Divide County, a revocation of such permit may result.

3. SPECIAL PROVISIONS

3.1. Objectives

Because certain activities, conditions, and uses may affect other districts and may be detrimental in certain areas unless proper safeguards are taken, the following regulations have been enacted to protect the welfare of the citizens of Divide County. These provisions shall apply to all districts unless stated otherwise within this Ordinance.

3.2. Special Conditional Use Permit Required

3.2.1. Sewage Disposal

Anyone proposing to install a private sewage treatment system, must secure prior approval from Upper Missouri District Health Unit, Williston, ND. Evidence of written approval of said system by the Health Unit shall be presented to the County Auditor prior to issuance of a building permit.

“The Regulations for Individual Sewage Treatment Systems for Homes and Other Establishments” developed by the Upper Missouri District Health Unit shall apply to any new or replacement individual sewage treatment system in Divide County.

3.2.2. Work Camps

1. Conditions which must be met prior to the issuance of a permit.
 - (a). Application for approval of the permit shall be on an approved form and submitted to the County Auditor.
 - (b). Written evidence of approval of the construction project by the Board of County Commissioners shall be submitted.
 - (c). A schedule for dismantling the work camp shall be submitted and approved prior to the installation of the work camp.
 - (d). The Board of County Commissioners, or their designee, may require a performance or compliance bond in regard to site clean-up upon completion of the site use.
2. Conditions which must be met after the issuance of a permit.
 - (a). The work camp shall be located on land owned or leased for that purpose.
 - (b). Mobile homes used in the work camp may be occupied only by persons affiliated with the particular project.
 - (c). The facilities, utilities and services provided by cities and towns of the area shall be provided.

²A violation of the regulations and restrictions made under the provisions of Chapter 11-33 of the North Dakota Century Code constitutes the maintenance of a public nuisance and shall be a Class B Misdemeanor. Upon conviction, a maximum penalty of thirty (30) days imprisonment, a fine of one thousand (\$1,00.00) dollars, or both, may be imposed.

- (d). Upon completion of the project, the developer or contractor shall be responsible for the removal of all mobile homes, and return the area to its pre-construction state.

3.3. Signs

Signs must be incidental to the use, or approved by the appropriate authorities, and shall conform to applicable state regulations.

3.4. Temporary Permits

3.4.1. When Required

Except for those temporary uses which require a Special Conditional Use Permit or are otherwise exempt, a temporary permit shall be obtained for all temporary uses in Divide County. Temporary permits will be issued at the discretion of the Divide County Board of Commissioners if it is satisfied that the issuance of a permit would be in the best interests of the citizens of the county.

The following are examples of uses for which a temporary permit is required. This list is not, however, exclusive.

1. Public gatherings for a single or multiple purpose events, such as bazaars, carnivals, fairs, musical events, races, revivals, rodeos, etc.
2. Temporary buildings and yards for construction materials and equipment.
3. Parking lots for public events.
4. Temporary office space.

3.4.2. Length of the Permit

Temporary permits will be valid for such period of time as set by the Board of County Commissioners. Fees and renewal will also be at the discretion of the Board.

4 DISTRICTS

4.1. General

For the purposes of these regulations all land under the jurisdiction of Divide County, not previously designated otherwise on the existing zoning map, is zoned as Agricultural. In order for an Agricultural District to be changed to another classification, an amendment to the zoning ordinance must be approved. Under approval of the amendment, the affected district shall be rezoned and the permitted and conditional uses allowable in the rezoned district shall be applicable.

4.2. Zoning Map

The location and boundaries of the various existing zoning districts which Divide County are hereby established as shown on the District Zoning Map, as prepared and approved by the Divide County Planning and Zoning Commission and the Divide County Board of Commissioners. The map shall be regularly updated by the Divide County Auditor to show any changes in zoning designations or uses resulting from amendments, as well as the location of non-conforming uses resulting from the granting of a variance and the location of approved conditional uses within various districts. A current map may be inspected at the office of the Divide County Auditor.

4.3. Districts

4.3.1 Divide County is hereby divided into the following districts:

1. Agricultural - A
2. Commercial - C
3. Industrial - I
4. Recreational - RC
5. Conservation - CN
6. Culturally Sensitive - CS

4.3.2 Uses, Permitted and Conditional

1. Agricultural - A

(a). Objectives

It is the purpose of this ordinance to encourage the use of land in this district for agricultural activities and to discourage any use which would be detrimental to carrying out the primary function of the land for agriculture.

(b). Permitted Uses

1. Agricultural operations and those buildings or structures incidental to agricultural operations;
2. Greenhouses and nurseries;
3. Churches and cemeteries;
4. Schools;
5. Governmental facilities;
6. Public and private conservation areas;
7. Recreational activities that do not disturb the land or agricultural operations.
8. Grain elevators and grain storage facilities

(c). Conditionally Permitted Uses

1. Agricultural chemical sales and/or warehousing for re-sale;
2. Agricultural equipment sales, service or repair facilities;
3. Airports and commercial air strips;
4. Anhydrous ammonia storage facilities;
5. Animal feeding operations
6. Animal hospitals and clinics;
7. Automobile repair and/or automobile body shops;
8. Bed and breakfast type lodging facilities;
9. Coal excavation and mining;
10. Commercial sand and gravel operations;
11. Electrical power transmission lines;
12. Fuel storage and fuel tank terminals;
13. Industrial, municipal and commercial pipelines;
14. Non-farm residences;
15. Radio, television and telephone microwave transmitting stations;
16. Railway trackage and spurs;
17. Recycling facilities, salvage and junk yards;
18. Sewage lagoons and sewage disposal plants.
19. Solid waste management facilities including transfer stations or inert landfills;
20. Water reservoirs, water storage tanks, pumping stations, and/or sewer lift stations.

(d). Standards

See Section V for building standards and Section VI for conditions that must be met before approval of a conditionally permitted use will be considered.

2. Commercial - C

(a). Objectives

It is the purpose of this Ordinance to provide for the grouping of retail merchandising, light industry, and service activities into a central area. The Board of Commissioners recognizes the importance of these activities to the various cities within Divide County and will give special notice to the governing boards in the cities whenever an amendment to the Zoning Ordinance is sought to establish a Commercial District.

(b). Permitted Uses

1. Agricultural operations and those buildings or structures incidental to agricultural operations.
2. Activities which require a business or professional license or state sales tax permit.
3. Grain elevators and grain storage facilities

(c). Conditionally Permitted Uses

1. Residential dwellings

(d). Standards

See Section V for building standards and Section VI for conditions which must be met before approval of a conditionally permitted use will be considered.

3. Industrial - I

(a). Objectives

It is the purpose of this Ordinance to encourage the use of land in this district for agricultural activities and to provide for the grouping of heavy commercial and industrial uses into a centralized area.

(b). Permitted Uses

1. Agricultural operations and those buildings or structures incidental to agricultural operations;
2. Grain elevators and grain storage facilities;
3. Agricultural equipment sales, service or repair facilities;
4. Lumber yards;
5. Trucking or freight terminals;
6. Warehouses;

(c). Conditionally Permitted Uses

1. Manufacturing and/or processing plants;
2. Solid waste management facilities including sanitary landfills;
3. Sewage lagoons, or sewage disposal plants;
4. Fertilizer plants;
5. Fuel storage tanks and terminals;
6. Petroleum products processing facilities, refineries and petro-chemical plants;
7. Coal gasification plants;
8. Electrical power generating plants;
9. Airports and commercial air strips;
10. Salvage and junk yards;
11. Electrical power transmission lines;
12. Industrial municipal and commercial pipelines;
13. Radio, television, and telephone microwave transmitting stations;
14. Water reservoirs, water storage tanks, water pumping stations, and/or sewage lift stations;
15. Railway trackage and spurs;

16. Coal excavation and mining;
17. Commercial sand and gravel operations;
18. Welding shops

(d). Standards

See Section V for building standards and Section VI for conditions which must be met before approval of a conditionally permitted use will be considered.

4. Recreational - RC

(a). Objectives

It is the purpose of this Ordinance to encourage the use of land in this district for agricultural activities and to provide areas for general recreational activities.

(b). Permitted Uses

1. Agricultural operations and those buildings or structures incidental to agricultural operations;
2. Recreational activities and those buildings and structures which are incidental thereto;
3. Single family permanent type seasonal dwellings;
4. Mobile homes on permanent type foundations on single lots;
5. Churches and incidental buildings;

(c). Conditionally Permitted Uses

1. Commercial and retail establishments including lodging accommodations operated in conjunction with recreational uses in the district and for the convenience of the patrons and residents thereof;
2. Water reservoirs, storage tanks and pumping stations;
3. Sewage lift stations or sewage holding tank facilities.

(d). Standards

See Section V for building standards and Section VI for conditions which must be met before approval of a conditionally permitted use will be considered.

5. Conservation - CN

(a). Objectives

It is the objective of this Ordinance to provide for the protection from potentially damaging forces, a valuable natural resource, whose characteristics are so delicate that the slightest infringement may alter the area in such a way that it may never be returned to normal.

(b). Permitted Uses

1. Whatever uses are permissible under the rules and regulations of the area's management group.

(c). Conditionally Permitted Uses

1. None

6. Culturally Sensitive - CS

(a). Objectives

It is the objective of this overlay district designation to provide for the identification and reporting of, and/or protection from potentially damaging forces, areas or properties that may be eligible for listing on the National Register of Historic Places.

(b). Permitted Uses

1. Agricultural operations and those buildings or structures incidental to agricultural operations.

- (c). Conditionally Permitted Uses
 - 1. Those listed in District A, C, I and R.
- (d). Standards

When development takes place within a Culturally Sensitive Overlay District and any area that contains cultural, archeological or paleontological resources or human remains are identified, work must stop immediately and contact made with the North Dakota Historical Society to check the state's inventory of sites eligible for listing on the National Register of Historic Places, and provide site information if the site is not already on the inventory. Private owners of property eligible for listing on the National Register of Historic Places are not required to preserve, maintain, rehabilitate or fix up the site. The purpose of this provision in the Ordinance is to provide an inventory of places of significant historic value to the County.

5 BUILDING STANDARDS AND DISTRICT REGULATIONS

5.1 Scope

These standards and regulations are applicable in all districts which have not been designated as floating zones or unless otherwise required under this Ordinance.

5.2 Standards

5.2.1 Minimum Lot Size

- 1. Lots served by private water supply and individual sewer system.
 - a. Minimum width - 100 feet.
 - b. Minimum area – One acre or (43,560 square feet)see section 3.2.1

5.2.2 Maximum Building Intensity

- 1. Non farm rural residential single family dwellings and accessory structures.
 - a. Not more than 50% of the lot.
- 2. Buildings other than non farm rural residential single family dwellings or buildings of three (3) or more stories and accessory structures.
 - a. Not more than 60% of the lot.

5.2.3 Maximum Height.

- 1. Principle structures other than non farm rural residential single family dwellings.
 - a. 50 feet.

5.2.4 Setback Requirements for all structures and accessory buildings .

- 1. Adjacent to primary (state or federal) highways.
 - a. 250 feet from the center of the road.
- 2. Adjacent to county highways.
 - a. 200 feet from the center of the road.
- 3. Adjacent to rural or township roads.
 - a. 165 feet from the center of the road.
- 4. Adjacent to any surface water (lakes, ponds, or streams).
 - a. 100 feet from the high water mark.
- 5. Between structure and side lot line.
 - a. 20 feet.

- 6. Between structure and rear lot line.
 - a. 30 feet.
- 5.2.5 Fences
 - 1. In all Districts
 - a. No fence shall be placed as so to obstruct the sight line.
- 5.2.6 Parking Facilities
 - 1. Commercial District
 - a. Adequate off-street parking for all employees and rolling equipment on a 1 to 1 ratio and for visitors and customers - 1 space per employee.
 - 2. Industrial District
 - a. Adequate off-street parking for all employees and rolling equipment on a 1 to 1 ratio and for visitors and customers - 1 space per management employee.
 - 3. All other Districts
 - a. Adequate off-street parking.
 - b. Parking is permissible on setbacks and yards.
- 5.2.7 Outdoor Storage of Materials
 - 1. Commercial & Industrial Districts
 - a. Prohibited on front yard and in sight lines.
 - 2. All Districts
 - a. Unsightly storage of old cars, junk, trash, etc., is prohibited.
- 5.2.8 Building Construction
 - 1. All Districts
 - a. Permanent type construction.
- 5.2.9 Buffer Strips
 - 1. Commercial & Industrial District
 - a. Planning and Zoning Commission may set requirements for buffer strips when the district is adjacent to a non-farm rural residential dwelling.

6 CONDITIONAL USES

6.1 Definition

A conditional use is one which may be permissible under this Ordinance within a designated district, but to which specific conditions are attached. However, mere compliance with the attached conditions will not guarantee approval of the conditional use. The Divide County Planning and Zoning Commission and the Divide County Board of Commissioners must be satisfied that the granting of a conditional use permit will promote the health, safety and well being of the citizens of Divide County.

6.2 Public Hearing Required

Application for approval of a conditional use, in addition to other pertinent information must be submitted to the Planning and Zoning Commission and a public hearing held before any action is taken for approval of the conditional use.

6.3 Fees and Notice to Public

Fees are payable in advance. Included within the fee will be the cost of publishing notice of the hearing. The County Auditor will be responsible for publishing the notice in the appropriate newspapers and will also be responsible for posting notice at the affected site.

6.4 Procedure for Approval of a Conditional Use

6.4.1 Application

Application for approval of a conditional use shall be submitted on an approved form available from and submitted to the County Auditor.

6.4.2 Additional Information Required

The Planning & Zoning Commission may request the following information to be submitted for applications of conditional use:

1. A description and map of the site prepared by a licensed land surveyor.
2. A boundary line survey of the site prepared by a licensed land surveyor.
3. Preliminary maps showing the location of structures to be developed or used at the site.
4. Topographic maps in five-foot (5') contours of the site.
5. Classification of soils at the site.
6. The location of existing utilities and proposed utility extensions.
7. Parking plans showing off-street parking areas, loading areas, and transfer stations.
8. A schedule showing anticipated starting and completion dates.
9. Written approval of respective highway authorities for new access roads and/or highway approaches.
10. Names and addresses of adjacent property owners.
11. Copies of all plans and specifications which have been submitted to governmental departments and agencies.
12. Written documentation of approved waste collection and/or disposal for waste generated at the site.

Additional information for particular conditional uses may also be required under this Ordinance.

6.5 Additional Information Required and Additional Conditions Attached to the following Conditional Uses:

6.5.1 Electrical Power Transmission Lines

1. The line shall follow quarter section lines unless otherwise approved by the landowner and the Board of County Commissioners.

6.5.2 Residential Occupancy in Commercial Districts

1. Occupancy must be limited to that of the owner, or his employee who is employed on the premises, and their immediate families.
2. Occupancy must be either in the same building as the place of employment, or in the immediate surrounding area.

6.5.3 Chemical Processing Plants, Coal Gasification Plants, Electrical Power Generating Plants, Refineries, and/or Petro-chemical Plants:

1. A preliminary public hearing shall be conducted in the county concerning site location, needs of the plant, size and location of construction crews, employees, roads, housing, community facilities, and county and/or community services.
2. The applicant shall provide 12 copies of an environmental impact statement for distribution to the appropriate agencies and departments.
3. Written evidence of approval by the ND State Department of Health on pollution controls shall be provided.
4. Written evidence of approval for a water permit from the ND State Water Commission shall be provided.

5. Applicants shall conform to all requirements regarding preservation, removal, or relocation of cultural, historical or archeological artifacts.

6.5.4 Animal Feeding Operation

1. 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 produces comparable bulk quantities of *manure*. The animal unit equivalents for types of *livestock* and the number of *livestock* for facility size thresholds of 1,000 animal units (a.u.), and so forth, are listed on the following table.

Livestock Type	Animal Unit Equivalent	Equivalent Numbers of Livestock (hd) For Three Sizes (a.u.) of Animal Feeding Operations		
		1,000 a.u.	2,000 a.u.	5,000 a.u.
1 horse	2.0	500 hd	1,000 hd	2,500 hd
1 dairy cow	1.33	750	1,500	3,750
1 mature beef	1.0	1,000	2,000	5,000
1 beef feeder –finishing	1.0	1,000	2,000	5,000
1 beef feeder – backgrounding	0.75	1,333	3,667	6,667
1 mature bison	1.0	1,000	2,000	5,000
1 bison feeder	1.0	1,000	2,000	5,000
1 swine (over 55 lbs.)	0.4	2,500	5,000	12,500
1 goose or duck	0.2	5,000	10,000	25,000
1 sheep	0.1	10,000	20,000	50,000
1 swine, nursery	0.1	10,000	20,000	50,000
1 turkey	0.0182	55,000	110,000	275,000
1 chicken	0.01	100,000	200,000	500,000

2. The operator of a new facility for animal feeding is expected to locate, construct, operate and maintain the facility as so 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 approved rules, including the laws and rules administered by the North Dakota Department of Health and with any permits granted by that department.
3. Setback requirements: the operator of any animal feeding operation that has more than 1,000 animal units shall not locate or establish that operation:
 - A. Within a delineated source water protection area for a public water system. The source water protection areas for water supply wells include the entire wellhead protection area.
 - B. Within 1,500 feet (457.1 meters) of a private ground water well which is not owned by the operator or of a public ground water well which does not have a delineated source water protection area.

- C. Odor setbacks: (1) the operator of an animal feeding operation shall not locate that operation within the extra territorial-zoning jurisdiction of an incorporated city. (2) 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.

Odor Setback Distances for Animal Feeding Operations		
Number of Animal Units	Hog Operations	Other Animal Operations
1,000 or more	0.75 mi (1.207 km)	0.50 mi (0.805 km)
2,001 or more	1.00 mi (1.609 km)	0.75 mi (1.207 km)
5,001 or more	1.50 mi (2.414 km)	1.00 mi (1.609 km)

- (3) The operator of an 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. (4) An operator of a planned future expansion of an animal feeding operation, is to notify the Board of County Commissioners in writing of said expansion and the Board of County Commissioners 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. (5) the Board of County Commissioners may, upon recommendation by the County Planning and Zoning Commission or Land Use Administrator, increase or decrease a setback distance for an animal feeding operation after consideration of the proposed operation's plans, if it is determined that a greater or lesser setback distance is necessary or acceptable, respectively, based upon site considerations or demonstrable safety, health, environmental or public welfare concerns.
- D. The operator of a new livestock facility or an existing livestock facility, which meets the definition of an animal feeding operation and which follows the size threshold listed below shall make application for a conditionally permitted use:
- (1) A new animal feeding operation that would be capable of handling, or that expands to handle, more than 1,000 animal units ;
 - (2) An existing animal feeding operation that expands to handle more than 1,000 animal units.
- E. Whenever the capacity of an animal feeding operation is expanded to handle more than 2,000 or 5,000 animal units, the operation shall make application for a new conditional use permit.
- F. Procedures to be followed in considering a conditionally permitted use for animal feeding operations.
1. An application for conditionally permitted use of an animal feeding operation shall be submitted for tentative approval. The Board of County Commissioners shall notify the Department of Health that it has received such application.

2. The Board of County Commissioners shall notify by certified mail all property owners having property within the corresponding odor setback distances of a proposed animal feeding operation. This notification must occur within 21 days of receiving the application.
 3. Following tentative approval or denial of the application by the Board of County Commissioners, the applicant shall be notified by letter of the decision, including conditions imposed, if any.
 4. The applicant shall then forward its application for a conditional permitted use, together with the tentative approval by the Board of County Commissioners, to the ND Department of Health.
 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 Board of County Commissioners of its decision.
 6. The Conditional Use Permit will be come final following the granting of a permit by the Department of Health.
 7. A Conditional Use Permit granted to the operator of an animal feeding operation shall be put into use within twenty four (24) months, or the permit shall lapse and the operator may re-apply.
- G. Special application requirements under this section: The application for a conditionally permitted use to operate a facility for an animal feeding operation shall include a scaled site plan. If the facility will handle more than 1,000 animal units, the scaled site plan shall be prepared by a registered land surveyor, a civil engineer or other person having comparable experience or qualifications. The Planning and Zoning Commission 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.
1. Proposed number of animal units.
 2. Total acreage of the site of the facility.
 3. Existing and proposed roads and access ways within and adjacent to the site of the facility.
 4. Surrounding land uses and ownership, if the operation will have a capacity to handle more than 1,000 animal units.
 5. A copy of the permit application submitted by the applicant to the Department of Health.
- H. Ownership change: An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the Board of County Commissioners of the sale, or transfer of the ownership of that operation.
- I. Operating Change: An operator of a facility that includes an animal feeding operation having a permit granted by this ordinance shall notify the Board of County Commissioners of intent to include an alternative livestock type. The notice shall be given at least 120 days prior to the anticipated sate of the change.

6.5.5 Airports

1. Written evidence of approval by the Federal Aeronautics Administration and the ND Aeronautics Commission shall be submitted to the Planning and Zoning Commission.

6.5.6 Coal Excavation and Mining

1. Public hearing required

Preliminary public hearings shall be conducted by local township board or boards concerning site location, needs of the operation and company employees regarding roads, housing,

community facilities, and county and community services. These hearings are separate from any Environmental Impact Statement Process.

2. Conditions to be met prior to the issuance of a Permit.

a. The following material shall be submitted to the Divide County Board of Commissioners or their designated representatives.

1. All non-confidential information concerning site operation, location, ownership patterns, site reclamation, and any other non-confidential information deemed necessary.

2. Written evidence of approval by the ND Public Service Commission for the operation of the mine or excavation.

3. A copy of the bond posted with the ND Industrial Commission are required by N.D.C.C. 38-14.1-13 (1) (a).

3. Conditions to be met after the Permit has been issued.

a. The permittee shall conform to all state and federal laws regarding the preservation, removal, or relocation of cultural, historical or archeological artifacts and to the reclamation of mined lands.

b. Access to the mining area by any designated representative of the Board of County Commissioners shall be permitted for the purposes of inspection to insure that injury to the public will not result because of any coal excavation or mining in Divide County.

6.5.7 Commercial Sand and Gravel Operations

1. Public hearing required.

a. A preliminary public hearing shall be conducted in the county concerning site location, needs of the operation and employees with regard to roads, housing, community facilities and county and community services.

2. Conditions to be met after a permit has been issued.

a. No excavation shall take place within thirty feet (30') of an adjacent property line unless a written agreement is made otherwise with the owner of that property. Evidence of that agreement shall be submitted to the Divide County Auditor, or his designated representative.

b. No excavation shall take place within one hundred twenty five feet (125') of an existing residence unless a written agreement is made otherwise with the owner of that residence. Evidence of that agreement shall be submitted to the Divide County Auditor or his designated representative.

c. Rock crushers shall be considered accessory to sand and gravel operations, provided that the material used and processed by said crusher is limited to that found on the site of the operation.

d. Any sand and gravel pit that has been vacated for 3 or more years will be deemed abandoned and the operator must re-apply for a permit before renewing the excavation operation.

e. Any additional information deemed necessary by the Planning and Zoning Commission shall be provided before the application for sand and gravel operations is approved.

6.5.8. Salvage and Junk Yards

1. Salvage and junk yards shall be screened by plantings and/or fences approved by the Planning and Zoning Commission.

2. Burning of salvaged material or junk is prohibited.

3. Any information deemed necessary shall be provided to the Planning and Zoning Commission before an application for a permit will be approved.

4. The above conditions are in addition to any applicable state law requirements.

6.5.9 Solid Waste Disposal Facilities

Solid waste disposal facilities as regulated by this section shall include all facilities for the incineration or disposal of solid waste residue which are required to be permitted under statute or rule by the ND State Department of Health and Consolidated Laboratories.

1. Sites shall be restricted to disposal of inert solid waste and municipal solid waste.
2. Waste which is classified as hazardous, is hazardous in nature, or exhibits hazardous waste characteristics shall not be permitted for disposal in the county.
3. Nuclear waste is not permitted.
4. A preliminary public hearing shall be conducted in the county concerning site location, needs of the facility, size and location of construction crews, employees, roads, housing, community facilities and county and community services.
5. A solid waste disposal facility may be allowed in the Agricultural District or any Industrial District as a conditional use, following the final public hearing and approval provided:
 - a. It is located at least one-half (1/2) miles from any and all residences, or unless written approval is obtained from the owner of any residence within this area.
 - b. It is located at least one-half (1/2) mile from any private well or stock dam, or unless written approval is obtained from the owner of that well or stock dam.
 - c. It is continuously licensed and approved by the ND State Department of Health as to location and operation.
 - d. There is no evidence that the facility will endanger the public health or the environment.
 - e. All excavations and actual disposal areas shall maintain a minimum setback of one hundred fifty feet (150') from all property lines.
 - f. The facility shall develop a comprehensive plan for controlling surface water drainage which is in compliance with the ND State Department of Health requirements; and such plan shall be filed with the Divide County Auditor.
 - g. Unauthorized entry to the site shall not be permitted. In addition, facility personnel must be on site during all times of active disposal.
 - h. A chain link fence of a minimum of six feet (6') high shall be installed along the boundaries of the active disposal area.
 - i. Operation of the facility shall not present any evidence of danger to surface and groundwater resources.

7 FLOATING ZONES

7.1 Definitions

Floating zones are districts with specified purposes which are established by this Ordinance without actually being delineated on the Zoning District Map. When an opportunity arises to carry out the intended purposes of a particular tract of land, an amendment to the Zoning Ordinance will establish the actual boundaries of the district. The developer must embark upon and actually complete the project or the floating zone will disappear.

7.2 The following Uses shall be designated as Floating Zones:

7.2.1 Recreational Vehicle Parks

7.3 Requirements

7.3.1 Recreational Vehicle Parks

1. Minimum campsite area shall be two thousand five hundred (2500) square feet.
2. One comfort station shall be provided for every thirty (30) campsites.
3. Refuse disposal receptacles shall be provided not closer than fifteen (15) feet, nor more than one hundred fifty (150) feet from every campsite. Said receptacles shall not be located within fifty (50') feet of a water supply, except in permeable soils where a greater distance will be required. Written evidence of solid waste collection and disposal in an approved site must be submitted.
4. An approved water supply shall be provided within three hundred (300) feet of every campsite. Written evidence of water quality testing and use as an approval public water supply by the ND State Laboratory, or a licensed private laboratory, shall be provided to the Planning and Zoning Commission.
5. One sanitary flushing station shall be provided for each one hundred (100) campsites.
6. Proposed parking regulations and site plans shall be submitted by the applicant for approval by the Planning and Zoning Commission.

8 PROCEDURES TO BE FOLLOWED WHEN A PUBLIC HEARING IS REQUIRED

8.1 Public Hearing Required:

North Dakota state law requires a public hearing whenever an application is made for any of the following:

1. Amendments to a Zoning Ordinance.
 2. Approval of a Conditional Use.
 3. Approval of a Variance.
- 8.1.1 Applications for the above.
1. Applications for the above listed actions shall be submitted on an approved form to the County Auditor.
- 8.1.2 Fees
1. All fees are payable in advance at the time the application is submitted. Included in such fees shall be the cost of publication of public notices of the hearing.
- 8.1.3 Scheduling
1. Upon receipt of the application, it shall be presented to the Divide County Planning and Zoning Commission or Board of County Commissioners, depending on which board is responsible for action, at the next regularly scheduled meeting. At such time the Commission shall set a date for the public hearing.
 2. The applicant shall be notified of the hearing date by the County Auditor.
- 8.1.4 Additional Information Required
1. Prior to the hearing date the applicant shall submit any additional information required under the Zoning Ordinance to the County Auditor, or their designated representative.
- 8.1.5 Public Notice
1. Notice of the public hearing shall be published once a week for two consecutive weeks in the official newspaper of the county, and in such other newspapers as the Planning and Zoning Commission shall deem necessary.
 2. The County Auditor shall be responsible for publication of such hearing and shall also post notice of the hearing at the affected site.

8.1.6 Recommendations for Action

1. Following the public hearing, the Planning and Zoning Commission shall submit its recommendations concerning the proposed action to the Board of County Commissioners for a final decision.

8.1.7 Amendments to the Zoning Ordinance

1. Upon approval and adoption of an application for an amendment of the Zoning Ordinance by the Board of County Commissioners, notice shall be published in the official newspaper of the County once a week for two consecutive weeks.
2. The County Auditor shall file proof of such publication in the office of the County Auditor and shall also file a certified copy of the resolution in the Office of the Register of Deeds.
3. If no petition for a separate hearing is filed pursuant to NDCC 11-33-10, the resolution or amendment shall take effect upon the expiration of the time for filing such petition.