HENRIETTA TOWNSHIP

ZONING REGULATION AMENDMENT

LAMOURE COUNTY
NORTH DAKOTA
2004

LARDC©

Table of Contents

Resolution to Adopt i

Definitions ii

Feedlots 1

Animals Prohibited 2

Mining of Sand, Gravel, Clay and General Excavation 2

Garden Sheds 3

Public Nuisances 3

Noise 4

Recreational Vehicles and Travel Trailers 4

Animal Units on Single Family
Non-farm Residential Recreational Districts 4

Trees and Tree Plantings 4

Fences 5

Home Occupations 5

Adult Entertainment Center 6

Utilities 7

Definitions

"Adult Bookstore" means an enclosed building having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals that are distinguished or characterized by their emphasis on matter depicting or describing sexual activities or anatomic areas, such as genitals, breasts, or buttocks.

"Adult Cinema" means an enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks, for observation by patrons therein return for the payment of consideration, irrespective of the number of patrons who may be able to view the presentation at one time.

"Adult Entertainment Facility" means an enclosed building wherein an admission is charged for entrance, or food or nonalcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting describing or relating to specified sexual activities or specified anatomical areas, such as genitals, breasts, or buttocks.

"Adult Entertainment Center" means an adult bookstore, adult cinema, adult entertainment facility or any combination thereof.

"Animal Feeding Operation" AFO 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; animal waste or manure accumulates. This term does not include an animal wintering operation.

"Animal Unit Equivalent" means 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.

"Agriculture" means the process of producing food and fiber customary to the family farming operation with a minimum of 40 acres in area, excluding commercial feedlots, processing and manufacturing of the farm-based products.

"Farming or Ranching" means cultivating land for production of agricultural crops or livestock, or raising, feeding, or producing livestock, poultry, milk, or fruit. The term does not include producing timber or forest products, nor does the term include a contract where by a processor or distributor of farm products or supplies provides grain, harvesting, or other farm services.

"A Feed Lot" is a parcel of land which contains an operation for feeding or raising animals.

"A Winter Feed Lot" means a parcel of land where animals are sheltered incidental to farming at any time between October 15 and May 15 of cash production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing.

"Commercial Gravel Pit" means any mining and extraction of earth materials for commercial or private sale.

"Private Gravel Pit" means for private use, incidental to farming, which is not for sale, the mining and extraction of earth materials.

"Home Occupation" means any occupation which: (a) carried on in a dwelling unit by members of the family; (b) is clearly secondary to the use of residential dwelling units and (c) does not create excessive noise, traffic or conflict with adjoining uses.

"Landfill" means especially selected, designed, and operated sites for disposal of solid waste in accordance with N.D.C.C. 23-29-03 and the provisions of this ordinance.

"Wind Energy Conversion Systems" Any device that is designed to convert wind power to another form of energy such as electricity, mechanical or heat (also referred to by such common names as wind charger, wind turbine, and wind mill).

LARDC©

1.0 Feed Lots

1.1 Purpose

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

1.2 General Requirement

(1) All feed lots as defined by this code are only permitted as conditional uses subject to the provisions of this code and the requirements of the North Dakota State Health Department. Wherever the provisions of this ordinance conflict with the requirement of ND State Health Department, the more restrictive requirements shall apply.

(2) All feed lots shall be designed and constructed with all reasonable preventative measures to avoid surface run-off including construction of sealed collection and retention ponds.

(3) Where appropriate, there shall be sufficient drainage to avoid pollution of the ground and surface water from the standing effluents.

(4) Feed lots shall not be placed in the floodplains.

(5) The applicant, as a part of site approval application, shall submit a plan for removal and disposal of the liquid and solid waste generated by the feed lot.

(6) 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 animal (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.

(7) An Animal feeding operation or AFO means a lot or facility (other than an aquatic animal production facility) where the following conditions are met: a) Animals (other than aquatic animals) have been, are, or will be stable or confined and fed or maintained for a total of 45 days or more in any 12-month period; and b) Crops, vegetation, forage growth, post-harvest residues are not sustained in the normal growing seasons over any portion of the lot or facility. All AFO shall apply to the setback distance as listed in the following table. In no event shall an AFO be located nearer than .50 miles from a residential platted development, Commercial Zoning district, or any city limits, park, cemetery, church, school or residence other than owner/operator's residence.

(8) The requirements are not applicable to winter feedlots as defined in the definitions.

Equivalent Numbers of the Livestock (hd)
for Four Sizes (a.u.) of Animal Feeding Operations

Livestock Type	Animal Unit Equivalent	300 a.u.	1,000 a.u.
1 horse	1.0	300 hd	1,000 hd
1 dairy cow	1.33	225	750
1 mature beef	1.0	300	1,000
1 beef feeder - finishing	1.0	300	1,000
1 beef feeder - backgrounding	0.75	400	1,333
1 mature bison	1.0	300	1,000
1 bison feeder	1.0	300	1,000
1 swine, >55 lbs.	0.4	750	2,500
1 goose or duck	0.2	1,500	5,000
1 sheep	0.1	3,000	10,000
1 turkey	0.2	1,500	5,000
1 chicken	0.1	3,000	10,000

SETBACK DISTANCES FOR ANIMAL FEEDING OPERATIONS

NUMBER OF ANIMAL UNITS	HOG OPERATIONS	OTHER OPERATIONS
Small AFO * 100 - 299	1 mi.	0.50 mi.
Medium AFO* 300 – 999	2 mi.	1 mi.
Large AFO* 1000 or more	2 mi.	2 mi.

*Animal Feeding Operation

2.0 Animals Prohibited

Dangerous and/or exotic animals such as but not limited to lions, tigers, cheetahs, bears, venomous reptiles, alligators, etc. are prohibited except for traveling fairs, circuses, and brief veterinary care unless a conditional use permit is obtained.

3.0 Mining of Sand, Gravel, Clay and General Ground Excavation

3.1 Purpose

The purpose of these provisions is to provide for mining and extraction of materials 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 city.

3.2 Site Approval Requirements

All excavation sites require approval by the Township. See definitions of "commercial gravel pit" and "private gravel pit". All new excavations are considered conditional uses and shall conform to provisions of the conditional use permit requirements of these regulations.

3.3 Data Submission Requirements

(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 point of access to the site, adjacent residences within one mile of site, maps showing the existing and proposed contours after the land is mined and a time table for operation of the site. There will be a minimum 1 to 3 slope. All top soil shall be replaced and planted to natural protected vegetation.

(2) Reclamation of the site shall be completed within one year of the resource being exhausted, abandoned or closure of the operation of the site.

(3) Proof of compatibility with the existing landform including the vegetation, surface and ground water resources.

(4) Bonding required as follows:

0 – 19 acres	no bond
20 – 39 acres	$50,000
40 + acres	$100,000

3.4 Proximity to Existing Uses

The operation of sand and gravel sites shall not be nearer than five hundred (500) feet from any residential uses.

3.5 Permit Requirements

Any person who operates a sand and gravel operation shall obtain a permit from the planning and zoning committee before starting any mining or excavation of the sand and gravel sites, and after review by the planning and zoning board and approval by the Township Board.

4.0 Garden Sheds

A garden shed shall be no larger than twelve (12) feet by twelve (12) feet and no greater than twelve (12) feet in height. Garden sheds shall be located no less than three (3) feet from the rear and side lot lines in rear corners of the property. There shall be no more than two (2) garden sheds on any zoning lot. Said structures shall have doors facing into the property.

5.0 Public Nuisances

The maintenance of public nuisances including, but not limited to noxious weeds, smoke, gases, radio interference, blighted structures or buildings, substantial noise in excess of 75 dB during the day and 65 dB at night, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall be subject to the provisions of the Township.

6.0 Noise

Sustained noise of over 75 dB during the day and 65 dB at night is not allowed.

7.0 Recreational Vehicles and Travel Trailers

The use of recreational vehicles, travel trailers and other trailers used for temporary occupancy shall be limited to two hundred forty (240) days per year within the township. Storage of residents' recreational vehicles is unlimited.

8.0 Animal Units on Single Family Non-Farm Residential and Recreational Districts

1. Animal Units not exceeding one (1) unit per acre density provide that:
   (a horse is considered one animal unit)

   a. the parcel in question comprises an area of at least 3 acres, there shall be minimum of one (1) acres for one animal unit, and an additional acre for every additional animal unit kept on the property. More animal units on acreage will require a conditional use permit.

   b. the residential use area shall be separated from the area to be used as an animal enclosure by a fence, and that the entire animal enclosure area shall be fenced to prevent escape and subsequent damage to adjacent property.

   c. no structure intended for housing animals or any manure pile shall be closer than 500 feet from any residential structures other than that of the owner.

   d. all manure and other animal wastes be removed and disposed of properly on at least an annual basis.

   e. the number of animal units permitted shall be based on the size of the portion of the parcel to be used as an animal enclosure, and that animal enclosure area shall not be less than 2 acres.

9.0 Trees and Tree Plantings:

1. No person or persons, corporations or otherwise, whether owners or tenants of any property along the streets or roadways of the Township shall permit any trees to project less than eight (8) feet over the sidewalks, streets, and roadways, and twelve (12) feet above streets and roadways.

2. It is the duty of all persons, whether owners or tenants to keep the trees along public streets and roadways adjoining such property trimmed in such manner that trees shall not interfere with travel on said streets, roadways, and sidewalks.

3. No persons, firms or corporations shall plant any tree, shrub, or other vegetable growth except lawn grass on any road right-of-way, or within confines of the ditch back slope.

4. For the purpose of insuring reasonable visibility at street or roadway intersections, trees shall be trimmed to at least twelve (12) feet above street or roadway surface and eight (8) feet over sidewalks.

5. Hedges may be planted two hundred (200) feet from the center of road if they do not exceed a height of twenty-four (24) inches.

6. Shelterbelts shall not be planted closer than two hundred (200) feet from center of road.

7. Farmstead windbreaks set back shall be two hundred (200) feet away from center of road. Variances for trees and fences issued through appropriate highway officials: Township Supervisors.

8. In unplatted areas, trees and shrubs may be planted no closer than two hundred (200) feet from center of road or at discretion of the Township Supervisors. Any changes from this guideline shall be assessed a permit fee to cover site inspections and other incurred costs.

10.0 Fences

1. No site-obscuring fence over forty-eight (48) inches in height shall be erected within the front yard of any lot used for residential purposes.

2. No fence shall exceed a height of six (6) feet without first obtaining a permit from the Zoning Administrator.

3. No permanent fence shall be erected on a road right-of-way of within the confines of the ditch back stop.

4. Electrical fences shall conform in all respects to the State of North Dakota regulations for electrical wiring, and shall be energized only with underwriters laboratories approved equipment.

11.0 Home Occupations, Standards for Approval – Shall be considered as a conditional use and shall conform to the provisions of the conditional use permit requirements of these regulations.

1. A Home Occupation in an unincorporated community:

a. The occupation shall be limited to the dwelling and the area of the occupation shall not exceed twenty-five (25) percent of the main floor area, but not including basement or garage floor space.

b. Structural changes shall not be made in the dwelling, unless a building permit is obtained.

c. Employees are limited to two full time or four part time besides owners without a special use permit.

d. No sign may be permitted larger than four (4) square feet.

e. Evidence of the occupation shall not be visible from the road.

f. The occupation shall not adversely affect the character of the uses permitted in the district in which it is located.

2. Rural Home Occupations:

Rural home occupations shall conform to the requirements for unincorporated community homes except:

a. Rural Home Occupations may be located in a separate non-residential or farm building provided any building principally used for the home occupation shall not exceed one thousand two hundred and eighty (1,280) square feet. Minimum lot size for a separate non-residential building shall be one (1) acre.

b. Employees are limited to two full time or four part time personnel.

c. Structural additions may be made to a dwelling provided the alterations shall not exceed twenty-five (25) percent of the main floor of the area of the dwelling, but not including basement or garage floor area. A building permit is required.

d. Location site shall be limited to single lot residential sites or farmstead sites.

12.0 Adult Entertainment Center - Shall be considered as a conditional use and shall conform to the provisions of the conditional use permit requirements of these regulations.

1. An adult entertainment center shall not be located within 1,250 feet of any religious institution, cemetery, school, park or recreation facility (bike paths excluded). They shall be located in an industrial zoning district.

2. An adult entertainment center shall not be located within 1,250 feet of any establishment that dispenses alcohol on-premises.

3. An adult entertainment center shall not be located within 1,250 feet of any other adult entertainment center.

4. An adult entertainment center must prohibit entrance by persons less than 18 years of age.

5. An adult entertainment center may not display any signs visible from the exterior of the adult entertainment center, except for signs identifying it as an adult entertainment center, as an adult bookstore, adult entertainment facility, adult cinema or combination thereof.

6. No material depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of an adult entertainment center.

7. The business premises of an adult entertainment center that are generally open to its patrons are open equally at the same time to members of any law enforcement agency who may wish to enter thereon provided the entry is in the course of the discharge of the law enforcement officer's duties.

13.0 Utilities

1. The term "utilities" includes, but is not limited to, electric power, electrical transmission lines, wind conversion systems, commercial wind generators, dams, electrical and telephone towers and substations, natural gas pipelines, the petroleum product pipelines, water and sewer lines, telephone lines and other above ground or underground communication and energy transfer lines and pipelines.

2. All new utility lines and pipelines require a permit.

3. All new utilities are considered conditional uses and shall conform to the provisions of the Conditional Use Permit requirements of these regulations.

4. All pipelines, natural gas, petroleum pipelines and other energy transfer lines shall be placed deep enough in the ground so as to not interfere with or become hazardous to normal farming operations.

5. Excavation for tunneling of any pipelines under roads, farm drains, group drains and local drains shall be done by the company owning or leasing said pipelines and the cost of said excavation and damages to be born by the said company.

6. All wind generators shall be set back one thousand (1,000) feet from residences other than that of the owner/operator.

7. All utilities shall notify the township supervisors within thirty days of abandoning a tower site or utilities. All utilities shall be removed within one year after abandonment.

8. All utilities, excluding wind generators, shall be set back the height of the tower plus twenty-five percent (25%).