

## **CHAPTER ONE - INTRODUCTION**

### **I. TITLE**

The written text of this document entitled "Mercer County Zoning Ordinance" adopted on June 3, 1975, the District Zoning Map and those certified copies of resolutions adopted by the Board of County Commissioners, which have been or are at any time subsequent thereto, filed with the Mercer County Register of Deeds and which contain descriptions or changes of zoning district classifications and the lands subject thereto, shall constitute and be known as the Mercer County Zoning Ordinance and may also be referred to as the or this Ordinance.

### **II. PURPOSE AND INTENT**

The zoning regulations and districts, as herein set forth, have been made in accordance with the 1986 Comprehensive Plan for Mercer County.

It is the intent of Mercer County that the regulations of this Ordinance, along with the Zoning District Map, have been established for the purpose of promoting the sound and desirable use of land.

### **III. AUTHORITY**

The authority for this Ordinance is found in Chapter 11-33 of the North Dakota Century Code, as amended.

### **IV. INTERPRETATION**

The provisions of this Ordinance shall be held to be minimum requirements.

### **V. SEVERABILITY**

If any part or provision of this Ordinance or the application thereof, to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its effect to the part, provision, section or application expressly involved in the controversy and shall not affect or impair the integrity or validity of the remainder of the Ordinance or its application to other persons, property or circumstances.

The County Commissioners of Mercer County, North Dakota, hereby declare that they would have enacted the remainder of this Ordinance, even without the affected part, provision, section or application.

## **VI. REPEAL**

All regulations or parts of the county regulations, existing ordinances or resolutions in conflict with this Ordinance and its provisions are hereby repealed. Exception - plats and permits issued prior to adoption of this Ordinance which relate to District 1 Ordinances adopted previously by the Board of County Commissioners shall remain valid. (Lake Sakakawea area)

## **VII. DEFINITIONS**

### A. General Terms --

Words used in the present tense include the future; the singular number includes the plural and the plural includes the singular. The word PERSON includes a firm, association, partnership, trust, company or corporation as well an individual. The word SHALL is mandatory; the word MAY is permissive.

### B. Specific Terms --

ACCESSORY USE OR STRUCTURE - A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

AGRICULTURAL USE - Use of land from which at least 50% of net income is derived through the grazing and feeding of livestock, the raising of hay, grain, feed, fish, produce, or any combination thereof.

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

AIRPORT, MUNICIPAL and/or PUBLIC - Any area of land or water which is used, or intended for use, for the landing and taking off of aircraft and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights of way, including approaches and clear zones, together with all airport buildings and facilities located thereon, which is governed by any county, city, town, park district, or public body of this state.

AIRPORT, PRIVATE - Any airport that is not a Municipal Airport.

AIRPORT, REGIONAL - Means Mercer County Regional Airport which is governed by a regional airport authority created pursuant to the provisions of NDCC Section 2-06-03.

AMENDMENT - Any change, revision or modification of the text of this Ordinance or the District Zoning Map.

ANIMAL FEEDING OPERATIONS and Concentrated Animal Feedlots - 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; 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. Note: Mercer County has adopted the State Model Ordinance for Animal Feeding Operations as the County Zoning Ordinance for Concentrated Animal Feedlots and Animal Feeding Operations. A copy of the State Model Ordinance for Animal Feeding Operations is found at the end of Chapter Three (3).

ANIMAL WINTERING OPERATION - Means the confinement of cattle or sheep used or kept for breeding purposes in a feedlot or sheltered area at anytime 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. This 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.

ANIMAL HOSPITAL OR CLINIC - An establishment where animals are admitted principally for examination, treatment, board and care. Said facility must be administered by a Doctor of Veterinary Medicine.

ANTIQUUE MOTOR VEHICLE - Shall include any motor vehicle/tractor/machinery which is at least 40 years old.

AREA OF SPECIAL FLOOD HAZARD - Means the land in the floodplain subject to a one percent or greater chance of flooding in any given year.

BOARD OF ADJUSTMENT - The body authorized by the Board of County Commissioners to hear appeals on the enforcement of the provisions of this Ordinance and to grant variances.

BUFFER STRIP, WATER - For the purpose of maintaining the natural scenery and water quality of waters covered under Section 404 of the Clean Water Act, a strip consisting of undisturbed natural vegetation for at least the first 200 feet inland from the top of the high bank.

BUILDABLE AREA - The portion of a lot remaining after required building setbacks have been provided.

BUILDING - Any structure built for the support, shelter, occupancy or protection of persons, animals, fowl, cattle or property.

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 ridge of a gable, hip or gambrel roof.

BUILDING SITE - The land area, consisting of one or more lots or parcels of land under common ownership or control, to be considered as the unit of land occupied by a main building or building and accessory buildings or by a principal use and uses accessory thereto, together with all the yards, parking spaces and related area.

BUSINESS SIGN - The outdoor display of any lettered, figured or pictorial matter or device for the purpose of designating the name of the owner or occupant of a business or service facility on the premises, or of identifying or promoting the said business or service activity.

CAR ENTHUSIAST - The owner of one or more specialized vehicles, who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof, for his own use, in order to restore, preserve, and maintain a special interest vehicle.

CAR COLLECTOR - The owner of one or more specialized vehicles, who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof, for his own use, in order to restore, preserve, and maintain a special interest vehicle, or antique vehicle.

CAR - PARTS CAR/DONNER CAR - A motor vehicle/tractor/any machinery, generally in non-operating condition, which is owned by a car enthusiast or collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.

CENTERLINE - The centerline of a street shall mean the right-of-way centerline of any County, State and Federal Highway, County Road, section line public access or local street, as established by the State Highway Department, County Engineer or County Commission.

CERTIFICATE OF APPROVAL OF A CONDITIONAL USE - A certificate issued by the Board of County Commissioners, upon its approval of a conditional use stating those conditions which must be met in order for zoning authorization and approval of such use to continue in a district, and specifying which of such conditions must be met prior to the issuance of a Certificate of Zoning Compliance for such conditional use.

CERTIFICATE OF ZONING COMPLIANCE - A certificate stating compliance with zoning district regulations, any conditions applying to a conditional use as stated in this ordinance, or any conditions which a Certificate of Approval of a Conditional Use states must be met prior to the issuance of a Certificate of

Zoning Compliance.

CLEAR SIGHT TRIANGLE - An area of unobstructed vision at a highway, street or road intersection defined by lines of sight between points at a given distance from the intersecting right-of-way lines.

COAL EXCAVATION AND MINING - The removal of soil materials lying above natural deposits of coal and the removal of same natural deposits thereby exposed.

COAL HAUL ROAD - A non-public road used for transporting coal.

COAL MINING FACILITIES - Structures, including offices, warehouses, garages, tipples, repair shops, dragline construction areas, fuel farms, fuel stations, switching structures or coal handling facilities, used or to be used to facilitate coal excavation and mining.

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

COMMERCIAL SAND, GRAVEL, AND SCORIA OPERATIONS - The lease, sale or rental of land for the purpose of opening a sand, gravel and/or scoria pit and the processing of the material of said pit for sale or resale. The provisions of this Ordinance regarding commercial sand, gravel, and/or scoria operations do not apply to a farmer's incidental use of his private operations or to an operation by a political subdivision.

CONDITIONAL USE - Any use to which the Planning Commission shall set specific conditions, or to which conditions shall apply as stated in this Ordinance, or to which specific conditions shall be attached by the Board of County Commissioners.

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

CONSTRUCTION - Any physical disturbance or movement of any soil, sand, gravel, rock, coal or other mineral or any erection or alteration of any building or structure or component thereof.

CONVENIENCE STORE - A facility offering for sale such items as groceries, dry goods, bait, sporting goods and gasoline dispensing.

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

DATA CENTER - A building, complex of buildings, or dedicated space within a building that houses a computer system, servers, appliances, and other associated components used for the remote storage, processing, or transmission of digital data. Such facilities may also include air handlers, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations. This definition may also include digital asset mining. Associated infrastructure, such as electrical substations, regardless of ownership, may be subject to separate review and permitting.

DIGITAL ASSET MINING - Involves the use of computer hardware and software specifically designed or used for the purpose of validating data and securing a blockchain network.

DISTRICT or ZONING DISTRICT - The areas or zones within Mercer County for which the regulations governing the use of land and the use, density, bulk, height and location of structures and buildings are uniform.

DWELLING, CONVENTIONAL - Single family or multi-family structure that is constructed on site to all State Construction Codes including Building, Mechanical, Plumbing, and Electrical.

DWELLING, MANUFACTURED - A factory-built structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein and which bears a label certifying that it was built in compliance with the Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280) which became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development (HUD).

DWELLING, MOBILE HOME - A transportable, factory-built home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280), which became effective June 15, 1976. A mobile or portable structure constructed to be towed on its own chassis, connected to utilities and used for year-round living. It can consist of one or more units that can be telescoped when towed or two or more units separately towable but designed to be joined into one integral unit.

DWELLING, MODULAR - A factory-built structure, delivered to the site in sections and assembled. There is no permanent chassis (frame), and it is built to State Building, Mechanical, and Electrical Codes for site constructed dwellings, not the HUD

Manufactured Dwelling Code.

DWELLING, MULTIPLE - A building containing two (2) or more dwelling units.

DWELLING, SINGLE FAMILY - A building containing only one dwelling unit designed to be located on a permanent foundation and, if site built, constructed in accordance with the provisions of the applicable county and state codes governing construction; or, if manufactured off site, constructed in accordance with either applicable codes governing construction or the HUD manufactured home construction and safety standards (24 CFR 3280). All single-family dwellings shall be considered and taxed as real property, as provided by law. Each single-family dwelling shall have a minimum overall front width of twenty-four (24) feet, minimum overall depth of twenty-four (24) feet, a minimum above ground living area square footage of one thousand (1,000) square feet, and a minimum ceiling height of seven (7) feet, six (6) inches. Each structure shall be designed for perimeter wall support.

DWELLING UNIT - A room or suite of rooms designed for or used as a residence and constituting a separate and independent housekeeping unit.

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

EROSION, CRITICAL - Critical erosion is that erosion which is threatening and is likely to continue to threaten life, wildlife, fish and wildlife habitat, infrastructure, water quality, or cultural or other resources that are not readily available elsewhere or easily replaced.

FAMILY - One or more persons occupying the premises as a single house-keeping unit.

FARM - A tract or tracts of land devoted to agricultural activities that are not a nonfarm parcel.

FARMER - An individual who normally devotes the major portion of time to activities of producing unmanufactured products of the soil, poultry, livestock, fish, or dairy products. The farmer and spouse, if married, must have received more than fifty percent of their combined annual net income from farming activities in any one year of the three preceding calendar years, whether one or both are farmers. The term "farmer" also includes an individual who is a retired farmer.

- a. An individual is not classified as a farmer if the farmer and spouse had non-farm income exceeding \$40,000 each year for the three preceding calendar years. This provision does not apply to a retired farmer.
- b. "Net income from farming activities" includes income from producing products of the soil, hatching and growing fish, or

raising farm animals. It is the taxable farm income for income tax purposes (including CRP payments), minus income from custom work, plus taxable capital gains from the sale of agricultural products, plus interest expense incurred in the farming operations. Interest expense includes such items as mortgages on the farmland, buildings, equipment, etc.

- c. An individual (and spouse) must have at least one year's history of farm income and activity to establish whether that individual is a farmer.
- d. Individuals who qualify as a farmer under N.D.C.C. § 57-02-08 shall also be defined as a farmer under county ordinance.

FEEDLOT - See ANIMAL FEEDLOT.

FLOOR AREA - The gross area of a building including all floors above ground level but not including the basement.

FRONTAGE OR SERVICE ROAD - See MARGINAL ACCESS STREET.

FRONTAGES - See LOT, FRONTAGE.

HAZARDOUS WASTE, DISPOSAL or STORAGE - A process of incineration, chemical treatment, landfill disposal or storage of any waste or combination of wastes which pose a present or future potential hazard to human health or living organisms because such wastes are Non-degradable or persistent in nature or because they can be biologically magnified lethal, or may otherwise cause or tend to cause detrimental cumulative effects.

HABITABLE FLOOR - Means any floor useable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used for storage purposes is not a "habitable floor".

HOME OCCUPATION - Any occupation or profession carried on by members of a family residing on the premises, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

INDUSTRIALIZED HOUSING - A detached residential dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on a flatbed or other trailer, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities and the like.

JUNK - Means old or scrap paper, copper, brass, rope, rags, batteries, trash, rubber, debris, or waste or junked, dismantled, or wrecked automobiles, or parts thereof or iron, steel, and other old or scrap ferrous or nonferrous material.

JUNK AND/OR SALVAGE YARD - The establishment, place of business, or location that is maintained, used, or operated for storing, keeping, salvaging, repairing, buying, or selling, wrecked, scrapped, abandoned, ruined, or dismantled motor vehicles, motor vehicle parts, trailers, machinery, or junk of all types.

KENNEL - Any lot or premises on which five (5) or more dogs over four (4) months old are kept for boarding, breeding, training or marketing.

LAND USE ADMINISTRATOR - The officer appointed by the County Commission to administer the zoning affairs of Mercer County.

LIVESTOCK/FARM ANIMALS - Means any animal, poultry, or fish 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.

LIVESTOCK AUCTION RING - An enclosure or structure designed or used for holding livestock for purpose of sale, or transfer by auction, consignment or other means.

LIVING UNIT - A residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking and sanitation.

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

LOT, COVERAGE - The total area of buildings expressed as a percentage of the total lot, plot or tract.

LOT, DEPTH OF - The mean horizontal distance between the front and rear lot lines.

LOT, FRONTAGE - The front of a lot shall be construed to be the portion nearest the street. 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.

LOT OF RECORD - A lot which is part of a subdivision, the map of which has been recorded in the office of the County Auditor and Register of Deeds of Mercer County, or a parcel of land, the deed of which was recorded in the office of the Register of Deeds prior to the adoption of this Ordinance.

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.

MARIJUANA - any species in the genus Cannabis, including but not limited to Cannabis sativa, Cannabis indica, and Cannabis ruderalis. Means all parts of the plant of the genus cannabis; the seeds of the plant, the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, the seeds of the plant, or the resin extracted from any part of the plant.

MARINA - Lakeshore facility providing boat rental and boat launching, groceries, dry goods, bait, sporting goods and gasoline dispensing.

MEDICAL MARIJUANA - Means a product intended for human consumption or use which contains cannabinoid concentrate containing, derived from, or containing a derivative of Marijuana in any form, including but not limited to plants, seeds, and resins or any Medical Marijuana Product.

MEDICAL MARIJUANA DISPENSARY CENTER - an entity registered with the North Dakota Department of Health to engage in the acquiring, possession, storage, delivery, transfer, transport, sale, supply, or dispensing of Medical Marijuana to a Medical Marijuana Qualifying Patient or Medical Marijuana Registered Designated Caregiver as dictated by state law.

MEDICAL MARIJUANA MANUFACTURING CENTER - an entity registered with the North Dakota Department of Health for the cultivation, growing, cloning, manufacturing, acquiring, possession, storage, delivery, transfer, transport, sale, supply of Medical Marijuana to a North Dakota registered Medical Marijuana Dispensary Center.

MEDICAL MARIJUANA REGISTERED DESIGNATED CAREGIVER - an individual who is registered with the North Dakota Department of Health who agrees to manage the well-being of a Medical Marijuana Qualifying Patient with respect to the Medical Marijuana Qualifying Patient's medical use of Marijuana.

MEDICAL MARIJUANA QUALIFYING PATIENT - a person who has been diagnosed with a debilitating medical condition by a physician licensed to practice medicine in the State of North Dakota and who has in that person's possession a current, valid photo identification issued by the State of North Dakota or the United States of America and a current, valid document issued by the North Dakota Department of Health to that person and authorizing that person to possess and use Medical Marijuana.

MINERAL EXPLORATION OPERATIONS - Any operation involved in the search, exploration, or prospecting of any substance or mineral which involves the penetration of the land surface by digging, drilling or excavating.

MOBILE HOME - See DWELLING, MOBILE HOME.

MOBILE HOME PARK - A tract of land designed and developed to accommodate mobile homes, each occupying a portion of the site on a purchase, lease or rental basis, and each provided with the necessary utilities and other amenities so that the total development serves as a suitable environment for long-term residential occupancy.

MOTOR VEHICLE - Any vehicle requiring a motor vehicle license from the State Motor Vehicle Department, or defined as such in Title 39 of the North Dakota Century Code.

NONCONFORMING USE - Any building, structure or use of a building, structure, or tract of land, lawfully occupied or existing, at the time of passage of regulations or amendments with which it does not conform became effective.

NONFARMER - Any person who does not qualify as a farmer under the provisions of this Ordinance.

NONFARM PARCEL - A tract of land on which is located, or proposed to be located, a nonfarm residence. This parcel or tract must be a minimum of two (2) acres in size.

NONFARM RESIDENCE - A single family dwelling or mobile home anchored on permanent foundation which is to be situated within an agricultural zoning district, and whose initial occupant may or is to be a nonfarmer, or a person who will not utilize this occupancy as incident to producing farm related income totaling at least 50 percent of his total annual net income.

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.

PARKING SPACE - An area for the purpose of storing one parked automobile. For the purpose of this Ordinance, one parking space shall have a minimum width of 9 feet and a minimum length of 20 feet.

PERMIT TO CONSTRUCT A SEWAGE DISPOSAL SYSTEM - A permit, issued by the County Sanitarian, or in his absence, by a person designated by the District Health Office, to construct, alter or extend any private sewage disposal system in Mercer County.

PERMITTED USE - Any use which complies with the requirements of a zoning district.

PLANNED UNIT DEVELOPMENT (PUD) - An area of land, controlled by a land owner, to be developed as a single entity for a number of

dwelling units, and commercial and industrial uses, if any, the plan for which does not correspond in lot size, bulk or type of dwelling or commercial or industrial use, density, lot coverage and required open space to the regulations established in any one or more districts created, under the provisions of this Ordinance.

PLANNING COMMISSION - The Mercer County Planning and Zoning Commission.

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

PRELIMINARY PLAT - A preliminary or tentative map of a subdivision indicating a proposed development prepared in accordance with state and county regulations. A preliminary map is prepared after the pre-application is acceptable to the Planning Commission.

FINAL PLAT - A plat of a subdivision essentially conforming to an approved Preliminary Plat and prepared in accordance with state and county regulations. A final plat shall be prepared and signed by a Registered Surveyor or Engineer.

RECORDED PLAT - A Final Plat bearing all certificates of approval, containing all requirements of state and county regulations, formally approved by the Mercer County Board of Commissioners and duly recorded in the office of the Mercer County Registrar of Deeds.

PLOT - A parcel of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or metes and bounds.

PUBLIC UTILITY - Any business which furnishes the general public telephone service, telegraph service, electricity, natural gas or water, and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the State.

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

RECREATION VEHICLE - A vacation trailer or other vehicular or portable unit which is of body width 10 feet or less, and which is either self-propelled or towed or is carried by a motor vehicle, and which is designed for human occupancy.

RECREATION VEHICLE PARK - Two or more recreation vehicles located on a single tract of land, or on contiguous tracts of land under the same ownership, where one or more of the same recreation vehicles is not owned by the owner of said tract or tracts of land and where one or more of said recreation vehicles is occupied at any time by a person who is not the owner of said tract or tracts

of land or who is not related to the owner of said owner of said tract or tracts of land by blood, marriage or adoption.

RECREATION VEHICLE SALES - Any building or plot of land used or designed to be used for the storage and retail sale of recreation vehicles, campers, trailers, motorized or nonmotorized boats, watercraft, cycles, snowmobiles and of accessories for such items.

RESIDENTIAL DISTRICT - The area designated by the Board of County Commissioners on the Zoning District Map for development of residential dwelling units.

RESORT - Lakeshore establishment operated to provide recreation to vacationers. Such establishment may include a hotel or motel limited to ten (10) rental units. A marina, convenience store, restaurant or any combination of these facilities may be operated in conjunction with a resort.

RIFLE RANGE - See SHOOTING RANGE.

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

SALVAGE YARD - See JUNK AND/OR SALVAGE YARD.

SEPTIC SYSTEM - The piping, septic tank, drain field and related items, used in the collection and/or disposal of sewage or human excreta. This includes all similar contrivances used in the collection and disposal of sewage whether enumerated herein or not.

SETBACK, BUILDING - The line within a property defining the required minimum distances between any structure or use and right-of-ways, centerlines, section lines or other designated lines or points.

SETBACK, WATER - Means the area from the buffer strip along waters covered by Section 404 of the Clean Water Act to any portion of a building or structure. If the setback area is included in subdivisions, it must be designated as public open space.

SIGHT LINE - See CLEAR SIGHT TRIANGLE.

SIGN, BUSINESS - The outdoor display of any lettered, figured, or pictorial matter or device, for the purpose of designating the name of the owner or occupant of a business or service facility on the premises, or of identifying or promoting the said business or service activity.

SIGN, OUTDOOR ADVERTISING - Any outdoor advertising sign having a permanent location on the ground, or attached to or painted on a building, which is located or placed near a highway or road, for

the purpose of being seen by passing motorists.

SINGLE-FAMILY DWELLING - A building used for residential purposes by not more than one (1) family and containing not more than one (1) dwelling unit.

SHOOTING RANGE - A range, whether covered or not, that is used for practicing with firearms, archery equipment or air guns.

SOLID WASTE - Garbage, refuse, residue, sludge, putrescible waste and other discarded solid materials resulting from industrial, commercial, and agricultural operations as well as from residences. Hazardous waste is not included under this definition.

SOLID WASTE LANDFILL - A lot, tract, parcel of land or site, or part thereof, whereby disposal operations employ engineered methods of spreading the solid wastes in layers, compacting the solid wastes to a lesser volume, and applying and compacting cover material.

SOLID WASTE RECYCLING CENTER - A lot, tract or parcel of land or part thereof, and the necessary buildings and structures used primarily for the collecting, storing, packaging, recycling or processing of nonputrescible solid waste materials, and for the storage and utilization of the equipment and machinery required for such operations.

SPECIAL INTEREST VEHICLE - A motor vehicle, whether licensed or unlicensed, which is used for competition or exhibition by a car enthusiast, or collector, and is either operative, or being diligently worked on by the car enthusiast or collector for the purpose of making the vehicle operative. This may also mean a vehicle/tractor/machinery which has not been altered or modified from the manufacturer's specifications, and because of its historical interest, is being preserved by hobbyists.

STREET/HIGHWAY - A way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land place or however designated.

ARTERIAL - Those which are used primarily for fast or heavy traffic.

COLLECTOR - Those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

MARGINAL ACCESS - Minor streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.

MINOR - Those which are used primarily for access to the abutting property.

STREET/HIGHWAY, PUBLIC - A street or highway dedicated or open to public use.

STRUCTURE - Anything constructed or erected.

SUBDIVIDER - A person, firm, corporation, partnership, association, syndicate, trust, or other legal entity that files application and initiates proceedings for the subdivision of land in accordance with state and county regulations.

SUBDIVISION - The division of land, whether by deed, metes and bounds description, devise, intestacy, lease, map, plat or other recorded instrument, creating more than one lot, tract or parcel of land, for the purpose of immediate or future offer, sale, lease, contract or development for non-agricultural uses. Such division(s) may occur simultaneously or at different times. The division may be made by either the original or subsequent owners of the original lot, tract or parcel of land.

SUBSTANTIAL IMPROVEMENT - Means any repair, reconstruction or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the building or structure either: (1) before the improvement or repair is started, or (2) if the building or structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural alteration affects the external dimensions of the building or structure. The term does not however, include either: (1) any project for improvement of a building or 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 building or structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

SURFACE WATER - Means waters of the state located on the ground surface such as lakes, reservoirs, rivers, streams, creeks, wetlands and other water areas.

TEMPORARY USE PERMITS - Permits issued by the Board of County Commissioners for certain uses before operation of the uses are allowed in the County. The uses must comply with the provisions of Chapter Four, Section IV, of this Ordinance.

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

TRAILER - See DWELLING, MOBILE HOME.

TRANSFER STATION - Means a facility used to transfer solid waste from one transportation vehicle to another for transportation to a disposal site or processing operation.

TRANSMISSION FACILITY - Means any of the following:

- A. An electrical transmission line and associated facilities with a design in excess of one hundred fifteen (115) kilovolts.
- B. A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons or liquid hydrocarbon products. The provision of this subdivision shall not apply to an oil or gas pipeline gathering system. For the purpose of this definition, a gathering system shall include the pipelines and associated facilities used to collect oil from the lease site to the first pipeline storage site where pressure is increased for further transport, or pipelines and associated facilities used to collect gas from the well to the gas processing facility.
- C. A liquid transmission line and associated facilities designed for or capable of transporting water from or to an energy conversion facility, said energy conversion facility being the same as that defined by subdivision 5 of NDCC Section 49-22-03, as amended July 1, 1979.

TRANSMISSION LINE - Overhead electrical line(s).

TRAVEL TRAILER - See RECREATION VEHICLE.

TWO-FAMILY DWELLING (DUPLEX) - A building used for residential occupancy by two families living independently of each other in separate dwelling units.

USE - The specific purpose for which land or a building is used.

VARIANCE - A relaxation of the requirements of the Zoning Ordinance which will not be contrary to public interest, and when a literal enforcement of the Ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area and size of structure or size of yards and open space. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

VEHICLE - See MOTOR VEHICLE.

WATERBODY - Means a river, creek, stream, lake, wetland, or other water area.

WATERS COVERED UNDER SECTION 404 OF THE CLEAN WATER ACT - Means navigable waters and adjacent wetlands and tributaries to navigable waters.

WATERS OF THE STATE - Means all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, watercourses, waterways, and all other bodies of 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 a junction with natural surface or underground waters just defined.

WILDCAT OIL WELL - A site utilized for temporary exploratory drilling for oil or gas including equipment and structures necessary therefore and on-site temporary housing facilities for workers employed exclusively at such site.

WIND ENERGY FACILITY - Shall mean one or more wind turbines rated at a combined 500 kilowatts nameplate capacity or larger.

YARD - A space on the same lot with the principal building or other structures, open, unoccupied and unobstructed by buildings or structures from the ground upward.

YARD, FRONT - A yard extending across the full width of the lot from side lot lines, the depth of which is the least distance between the front lot line and the front building line.

YARD, REAR - A yard extending across the full width of the lot from side lot lines, the depth of which is the least distance between the rear lot line and the rear of buildings or structures.

YARD, SIDE - A yard extending from the rear line of the required front yard to the rear lot line, the depth of which is the least distance from buildings or structures and the nearest side lot line.

ZONING DISTRICT MAP OR DISTRICT ZONING MAP - The map, labeled "Official Zoning Map--Mercer County, North Dakota", and dated June 3, 1975, showing the initial division and classification of Mercer County into zoning districts as made and adopted by the Board of County Commissioners on June 3, 1975, in conjunction with said Board's adoption on same date of the original written text of this Ordinance.