

**CITY OF HETTINGER,
NORTH DAKOTA**

ZONING ORDINANCE

2023

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ZONING ORDINANCE FOR THE CITY OF HETTINGER

ARTICLE I

INTRODUCTION

1.1 Title

This ordinance shall be entitled "The Zoning Ordinance for the City of Hettinger, North Dakota."

1.2 Purpose and Intent

The purpose of this ordinance is to promote the health, safety, and welfare of the people of the City of Hettinger; to promote the sound and desirable use of land; and to guide the development with efficient provision of public improvements.

1.3 Authority

This ordinance is adopted under the authority granted by Chapters 40-47, 40-48 and 40-50 of the North Dakota Century Code (NDCC).

1.4 Severability

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

1.5 Repeal

All other regulations or parts of regulations of the City of Hettinger inconsistent or in conflict with this ordinance to the extent of inconsistency or conflict are hereby repealed.

1.6 Effective Date

This ordinance shall be effective after a public hearing and adoption by the City of Hettinger.

1.7 Interpretation

These regulations shall be held to be the minimum requirements. Whenever these requirements are at variance with other requirements, rules, regulations, deed restrictions, or covenants, the most restrictive shall govern, unless otherwise specifically stated.

ARTICLE II

RULES AND DEFINITIONS

2.1 Compliance

No structure, land and building shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a building permit, and the same shall be in compliance with this ordinance.

2.2 Word Use

In the construction of this ordinance, the following words, rules, and definitions shall be observed and applied except when the context clearly indicates otherwise.

1. Words used in the present tense shall include the future.
2. Words used in a singular number shall include the plural number and the plural the singular.
3. Shall is a mandatory word and not discretionary.
4. May is a permissive word.
5. The word "lot" shall also mean "parcel", "piece", and "plat".
6. The word "building" includes all structures and "structure" includes buildings.

2.3 Definitions

1. **Access:** The place or way by which pedestrians and vehicles have safe and suitable entrance and exit to a property.
2. **Accessory Structure:** A structure which is incidental to and customarily associated with a specific principle use or building on the same lot. No accessory building shall be built or placed upon any lot until construction of the principal building has begun.
3. **Accessory Use:** A use which is incidental to and customarily associated... with a specific principle use on the same site. Accessory buildings are subject to all site development regulations of its zoning district, except as provided below:

- (a) **Side Yards:** An accessory building may be located a minimum of 6 feet from the side lot line of the property.
 - (b) **Front Yards:** No accessory building may be located between the front building line of the principal building and the front property line.
 - (c) **Rear Yard:** The minimum rear yard setback for accessory buildings shall be 6 feet. The minimum rear yard setback shall be increased to 20 feet if the accessory building requires perpendicular vehicular access from the alley. Double frontage lots shall require front yard setbacks along both Street frontages. Easements may be incorporated into these required setbacks. No accessory building shall be located within any easement or right-of-way along the rear property line.
- 4. **Adult Bookstore:** An enclosed building having as a substantial or significant distinguished or characterized by their emphasis on matter depicting or describing sexual activities or anatomic areas, such as genitals, breasts or buttocks.
 - 5. **Adult Cinema:** 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 in return for the payment of consideration, irrespective of the number of persons who may be able to view the presentation at one time.
 - 6. **Adult Entertainment Center:** An adult bookstore, adult cinema, adult entertainment facility, or any combination thereof.
 - 7. **Adult Entertainment Facility:** An enclosed building wherein an admission is charged for entrance, or food or non-alcoholic 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.
 - 8. **Affected Area:** An area having a radius of 1 mile from proposed change.
 - 9. **Agricultural:** The process of producing food and fiber customary to the family farming operation, excluding commercial feedlots and the processing and manufacturing of farm-based products.

10. **Alley:** A public way which affords only secondary access to abutting property.
11. **Allowed Uses:** Those uses, buildings or structures which comply with the provision of specific zoning districts because of the similarities in nature and relationship to each other. Allowed uses are distinct from conditional uses in that they are authorized only if certain requirements of this ordinance are met after a public hearing and approval by the City Council.
12. **Alteration:** As applied to a building or structure, is a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height or depth, or the moving from one location or position to another.
13. **Alternative Energy Production Devices:** The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, installations which generate energy by harnessing the natural heat of the earth or of geological features, or water powered mills or generating facilities.
14. **Amendment:** Any change, revision or modification of the text of the ordinance or the Zoning District Map.
15. **Animal Hospital or Kennel:** A building or premises set up for treatment and boarding of domestic animals including veterinary facilities.
16. **Apartment:** A room or suite of rooms located on a one or two family structure or a multiple dwelling which include a bath and kitchen accommodations intended for use as an independent residence by a single-family or individual.
17. **Apartment Building:** A multiple-family dwelling designated to accommodate three or more apartments.
18. **Area Of Special Flood Hazard:** The land in the floodplain within a community subject to a 1% (one percent) or greater chance of flooding in any given year.
19. **Base Flood:** The flood having a 1% (one percent) chance of being equaled or exceeded in any given year.
20. **Basement:** A story, partly underground with more than one-half of its height below grade.
21. **Bed and Breakfast Inn:** An establishment which provides overnight lodging to the public for compensation; caters to the traveling public; is

located in the proprietor's residence; and serves only a limited breakfast to registered guests.

22. **Block:** A segment of the city bounded by rights-of-way, intersecting streets and/or railroads.
23. **Board of Adjustment:** The body appointed by the City Council to hear appeals on the enforcement of the provisions of this ordinance and to grant variance.
24. **Buildable Area:** The portion of a lot remaining after required yards have been provided.
25. **Building:** Any structure designed or intended for shelter or protection of persons or property.
26. **Building Area:** That portion of the zoning lot that can be occupied by the principal use, excluding the front, rear and the side yards.
27. **Building Height:** The vertical distance from the grade to the highest point of the roof.
28. **Building Line:** A line establishing the minimum distance which structures may be placed from the lot lines or street right-of-way. For the purposes of this ordinance, the building line is the same as the setback line.
29. **Building Official:** The designee of the City Council, responsible for the enforcement of the International Building Code.
30. **Certificate Of Occupancy:** A certificate stating compliance with this ordinance.
31. **City:** The City of Hettinger together with those parcels outside of its corporate city limits but within its extraterritorial zoning jurisdiction.
32. **Club:** A private club or lodge which is a nonprofit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.
33. **Commercial Building:** Any structure which is not used for residential, medical, religious, or instructional purposes and which is constructed in compliance with the adopted building code.
34. **Commercial District:** The areas designated by the City Council of Hettinger on the District Zoning Map which provides for the grouping of retail merchandising and service activities.

35. **Community Garage:** A group of private garages located jointly on any lot or premises of two or more adjacent premises having no shop or service in connection therewith, providing the storage space includes at least two hundred and fifty (250) square feet for each vehicle.
36. **Comprehensive Plan:** A statement in documented text setting forth explicit goals, objectives, policies, and standards of the jurisdiction to guide public and private development within its control.
37. **Outdoor Storage Areas:** All outdoor storage can be placed on any lot within the permitted lots indicated within the definition of Convenient Storage. All outdoor storage will be permitted on a secured property that will not require a hard surface, dust free parking. All outdoor storage areas must be properly marked within the boundaries of the designated lot. The additional requirements apply to outdoor storage areas:
- a. All outdoor storage shall not include the storage of hazardous materials.
 - b. The lot or lots must be properly maintained free of tall weeds at all times.
 - c. Any disturbance of the finished grade must be properly graded back to its original finish which includes seeding grass if required.
 - d. No piece of equipment shall be placed on a lot for a period of more than 365 days. All equipment must be properly maintained in working condition.
 - e. No body repair or dismantling of any automobiles or any other equipment will be permitted while being stored within this designated lot or lots.
38. **Conditional Use:** Use of a special nature not automatically permitted in a zoning district and which requires review and approval by the City Council after a public hearing. It is a use which would not be appropriate in a particular zoning district, but, which if controlled as to the number, location, or relation to the surrounding uses and the area, would be consistent with the purpose and the intent of these zoning regulations. A conditional use is permitted in a district specifically permitting it, subject to the approval of the City Council and only when the City Council finds that such use meets all of the requirements applicable to it as specified in the city codes including these regulations.
39. **Condominium:** A real estate ownership arrangement that combines fee simple title to a specific unit and joint ownership in common elements

shared with other unit owners. Types of units may include dwelling units, parking spaces, office spaces, or commercial spaces.

40. **Court:** An approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:
 - (a) Serves 12 or fewer housing units or platted lots.
 - (b) Does not function as a local street because of its alignment, design or location.
 - (c) Is completely internal to a development.
 - (d) Does not exceed 600 feet in length.

41. **Courtyard:** An open, unoccupied space, bounded on two or more sides by the walls of a building.

42. **Conforming Building or Structure:** A building or structure which complies with all requirements of this ordinance and other regulations adopted by the city.

43. **Convenient Storage:** A structure that must be enclosed on all four sides and can be heated or unheated. Convenient storage facilities will be permitted in the A, C and I Zoning Districts. Conditional use permits will be required in DC, MH and R Zoning Districts. The additional requirements apply to convenient storage facilities:
 - a. The minimum size of a convenient storage facility lot shall be 20,000 sq.ft.
 - b. Activities within the enclosed facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
 - c. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet and shall start at the street and extend a minimum of 50 feet beyond the front property line.
 - d. All storage must be within the enclosed structure or structures and shall not include the storage of hazardous materials.
 - e. Facilities must maintain a landscaped buffer yard of 35 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines. When located adjacent to a residential district, a buffer yard must be maintained according to Section 6.1.

44. **Day Care Services (Family):** This use type includes all classifications of day care facilities, including but not limited to facilities license by the State of North Dakota, providing care for not more than nine (9) individuals. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.
45. **Day Care Services (Group):** This use type includes all classifications of day care facilities, including facilities license by the State of North Dakota, providing care for ten (10) or more individuals. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.
46. **Development:** Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings , structures, or accessory structures, the construction of additions or alterations to buildings or structures, ditching, dredging, paving, excavation or drilling operations.
47. **Development Plan:** A document including maps and data for physical development of an area as provided by this ordinance.
48. **District Zoning:** A section or sections of the City of Hettinger for which regulations governing the use of building and premises, the building heights, the size of yards, lot area, lot width, and the use thereof are uniform.
49. **Duplex Residential:** The use of a legally-described lot for two dwelling units, each occupied by one family within a single building, excluding mobile home units.
50. **Dwelling:** Any building or portion thereof, used exclusively for human and other temporary occupancy habitation including single family and multiple family units but not including hotels or motels, or vehicles designed for camping, such as vacation vehicles.
51. **Dwelling, Manufactured Home:** A structure transportable in one or more sections which has a minimum of eleven hundred and twenty (1,120) square feet and is built on a permanent metal chassis and designed to be used as a dwelling with or without a permanent foundation and additions when connected to the required utilities and includes the plumbing, heating, and air conditioning and electrical systems contained therein.
52. **Dwelling, Multiple Family:** A single building, or portion thereof, containing two (2) or more dwelling units.

53. **Dwelling, Single Family:** A building containing one (1) dwelling unit only.
54. **Dwelling Unit:** One or more rooms in a building designed for occupancy by one family for living purposes and having its own permanently installed cooking and sanitary facilities.
55. **Easement:** The right granted by deed or contract entitling its holder to specific use and enjoyment of a part or all of a parcel of land which is owned by another person, firm, corporation or unit of government.
56. **Emergency Residential Services:** A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.
57. **Encroachment:** Any fill, building, structure or use including accessory uses projecting into the adjacent yard areas or public and private properties.
58. **Establishment:** A place of business for processing, production, assembly, sales, or service of goods and materials.
59. **Extraterritorial Jurisdiction:** The area outside of the corporate limits of the City of Hettinger over which the city claims authority for zoning purposes as established by the North Dakota Century Code.
60. **Family:** One or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit. The following persons shall be considered related for the purpose of this title:
 - (a) Persons related by blood, marriage or adoption;
 - (b) Persons residing with a family for the purpose of adoption;
 - (c) Not more than eight persons under 19 years of age, residing in a foster house licensed and or approved by the State of North Dakota.
 - (d) Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of North Dakota.
 - (e) Person(s) living with a family at the direction of a court.

61. **Flood or Flooding:** A general and temporary condition of a partial or complete inundation of normally dry-land areas from the overflow of rivers or streams and/or the unusual and rapid accumulation or runoff of waters from any source.
62. **Flood Insurance Map (FIRM):** The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
63. **Flood Insurance Study:** The official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.
64. **Garage, Private:** An accessory building designed or used for the storage personal vehicles shall be limited to a maximum of one thousand, two hundred (1,200) sq.ft. of floor area. Lots that contain one or more acres are allowed a two hundred and fifty (250) square-foot increase in floor area for each additional half (.5) acre of land area above 1 acre, but in no case shall the total exceed 30% lot coverage for accessory buildings. Sidewall height on accessory buildings shall not exceed 12'-0".
 - a). Light-frame constructed accessory use buildings using light-transmitting plastic exterior wall panels or wall sheathing, formed by a system of repetitive wood or cold formed steel framing members are not permitted within any of the R-1, R-2, R-3 & MH Zoning Districts within the City of Hettinger.
 - b). Metal conex storage compartments shall be a temporary permitted use within zoning districts R1, R2, R-3 & MH and approved by the planning and zoning board with final approval from city Council.
65. **Garage, Public:** Any building or premises used for equipment , repairing, hiring, selling, or storing motor-driven vehicles, not including show rooms for the display of the cars.
66. **Grade:** The surface of the ground, court, lawn, yard or sidewalks adjoining a building; the established grade is the grade of the street, curb lines fixed by the City of Hettinger; the natural grade is the undisturbed natural surface of the ground, court, lawn, or yard after filling or grading to desired elevation or elevations around a building or structure; but where the finished grade is below the level of the adjoining street, the established grade shall be deemed the finished grade.
67. **Gravel Pit:** Any mining and extraction of earth minerals for commercial or private sale.

68. **Group Residential:** The use of a site for a residence by more than three non-related persons, not defined as a family, on a weekly or longer bases.
69. **Guidance Services:** A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.
70. **Highway:** Any public right-of-way designated as a state highway or a county road or highway.
71. **Height:** The vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the average height between eaves and the ridge of a gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.
72. **Home Based Business/Home Occupation:** An accessory occupational use conducted entirely within a dwelling unit by a member of the family residing in the premises, which is clearly incidental to the residential use of the dwelling or residential structure and does not change the residential character of its site.
73. **Household Cleaning and Maintenance Products:** drugs, cards, stationary, notions, books, tobacco products, cosmetics, and specialty items; apparel jewelry, fabrics and like items; cameras, photographs services, household electric equipment, records, sporting equipment, kitchen utensils, home furnishings and appliances, art supplies and framing, arts and antiques, paint and wallpaper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation). General Retail Services include:
1. Limited Retail Services: Establishments providing retail services, occupying facilities of 5,000 sq.ft. or less for any single establishment or 10,000 sq.ft. or less for a multi-tenant facility. Typical establishments provide for specialty retailing and retailing oriented to Hettinger and a local market.
 2. General Retail Services: Establishments providing retail services, occupying facilities of more than 5,000 sq.ft. for any single establishment or more than 10,000 sq.ft. for a multi-tenant facility. Typical establishments provide for general purpose retailing oriented to Hettinger and its immediate vicinity.

74. **Hotel or Motel:** A building with lodging accommodations, either with or without meals, which are provided for compensation.
75. **Improvements:** Street grading and surfacing with or without curbs, gutter, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets and landscaping, including trees as may be required by the city.
76. **Industrial District:** The areas designated by the City Council of Hettinger on the District Zoning Map which provide for the grouping of manufacturing, assembly, and heavy commercial activities.
77. **Industrial Waste:** All waste resulting from an industrial, manufacturing, or commercial activity that is managed as a separate waste stream and as defined by NDCC 23-29-03.
78. **Inert Waste:** Non-putrescent solid waste which will not generally contaminate water or form a contaminated leachate. Inert waste does not serve as food for vectors. Inert waste includes, but is not limited to construction and demolition material, such as metal, wood, brick, masonry, and concrete, asphalt concrete, tires and tree branches.
79. **Junk or Salvage Yard:** Land or buildings where waste, discarded or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled or handled including but not limited to scrap metal, rags, paper, hides, rubber products, glass products, lumber products and products resulting from the wrecking of automobiles or other vehicles.
80. **Kenel:** Any premises where dogs, cats, and other household pets are boarded, bred, and maintained for compensation.
81. **Land Use Administrator (Code Administrator):** The officer appointed by the City Council of Hettinger to administer the zoning affairs of the City of Hettinger.
82. **Lodging:** lodging services involving the provision of room and/or board, but not meeting the classification criteria are of bed and breakfasts. Typical uses include hotels, apartment hotels, and motels.
83. **Lot:** A parcel of property with a separate and distinct number or other identifying designation which has been created, assigned and recorded in the Office of the County Recorder's Office, as provided for by the North Dakota Century Code. Each individual lot is subject to the provisions of a particular base Zoning District, and shall have a minimum frontage of 50 feet, except as provided in an approved Plan Unit Development and/or Creative Subdivision.

(a) **Corner Lot:** a lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the internal angle of intersection is no greater than 135 degrees.

(b) **Double Frontage Lot:** A lot, other than a corner lot, having frontage on two streets, private ways or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this ordinance. (Also known as a Through Lot).

(c) **Interior Lot:** A lot other than a corner lot.

(d) **Common Development Lot:** When two or more contiguous lots are developed as part as a single development, these lots may be considered a single lot for purposes of this ordinance.

84. **Lot Area:** The total area within the boundary lines of the lot or parcel of land excluding public right-of-way.
85. **Lot, Corner:** A lot abutting on two or more streets other than an alley at their intersection.
86. **Lot Depth:** The mean horizontal distance between the front and rear lot lines.
87. **Lot Line:** A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement.
- (1) **Front Lot Line:** The lot line separating a lot and public or private street right-of-way or easement.
- (a) For an interior lot, the lot line separating the lot from the right of way or easement.
- (b) For a corner lot, ordinarily the shortest of the lot lines abutting a public or private street or easement. The owner and Building Official may agree to designate any lot line abutting a public street or otherwise noted on a final plat as the front lot line.
- (c) For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Building Official at

the time of application or the original building permit for the lot, or as may be noted on the final plat.

- (2) **Rear Lot Line:** The lot line which is opposite and most distinct from the front line.
 - (3) **Side Lot Line:** Any lot line that is neither a front or rear lot line. A side Lot line separating a lot from a street, private way or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
 - (4) **Rear Lot Lines or Corner Lots:** On corner lots, the Building Official may designate the rear lot line, provided that such lot line does not define a street yard.
88. **Lot of Record:** A lot which is part of a subdivision, the map of which has been recorded in the office of the County Recorder of Adams County, or a parcel of land, the deed to which was recorded in the office of the County Recorder prior to the adoption of these regulations
89. **Lot Width:** The horizontal distance between the side lot lines at the minimum required front yard setback. Lot width is measured by determining the length of a line drawn parallel to the front lot line set back at the required minimum front yard setback.
90. **Master Plan:** The Comprehensive Plan, or any portion thereof, made and adopted by the City Planning and Zoning Commission in accordance with the laws of the state of North Dakota and regulations of the City of Hettinger indicating the general or specific locations recommended for streets, parks, public buildings, zoning districts and all other public improvements to include local policies and standards.
91. **Manufactured Home:** A factory built structure, which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame, any wheels or axles; bears a label certifying that it was built in compliance with the National Manufactured Home Construction And Safety Standards promulgated by the US Department of Housing and Urban Development; and which complies with the following architectural and aesthetic standards:
- (a) The home shall have at least 1,120 sq.ft. of floor area;
 - (b) The home shall have an exterior width of at least 20 feet;

- (c) The roof shall be pitched with a minimum pitch of 3:1;
 - (d) The exterior siding material shall be hardboard lap, vinyl lap, steel lap or shall have the same appearance equivalent to the surrounding neighborhood;
 - (e) The home shall have a non-reflective roof material which is or simulates asphalt or wood shingles, tile or rock;
 - (f) Permanent utility connections shall be installed in accordance with local regulations;
 - (g) All pre-manufactured homes must produce a manufacturing data plate indicating that the unit was manufactured within 10 years from the current calendar date and year being permitted within the City of Hettinger.
92. **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.
93. **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.
94. **MEDICAL MARIJUANA DISTRIBUTION CENTER:** An entity or facility 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 or related products to a Medical Marijuana Qualifying Patient or Medical Marijuana Registered Designated Caregiver as dictated by state law.
95. **MEDICAL MARIJUANA MANUFACTURING CENTER:** An entity or facility 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 or related products to a North Dakota registered Medical Marijuana Distribution Center.
96. **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.

97. **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.
98. **Mobile Home (Manufactured Home) District:** The area designated by the City Council of Hettinger on the District Zoning Map for development of mobile home (Manufactured Home) residential dwelling units. All pre-manufactured homes must produce a manufacturing data plate indicating that the unit was manufactured within 10 years from the current calendar date and year being permitted within the City of Hettinger.
99. **Mobile Home Park:** A tract of land designed and developed to accommodate mobile homes (manufactured homes), each occupying a portion of the site of a purchased, leased 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. Subdivisions may include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but did not include mobile home sales lots on which on occupied manufactured homes are part for the purpose of display, inspection, sale, or storage.
100. **Modular Home:** A factory-built dwelling unit, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site and which does not have permanently attached to its body or frame any wheel or axel and bears a label certifying that it was built in compliance with the latest standards adopted by the state electrical, state plumbing, state and local building codes.
101. **Multi-Family Residential:** The use of a site for three or more dwelling units within one building.
102. **NDCC:** North Dakota Century Code.
103. **Nonconforming Structure:** A building, structure, or improvement which does not comply with the regulations for its Zoning District set forth by this zoning ordinance but which complied with the applicable regulations at the time of construction.

104. **Nonconforming Lot:** A lot which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.
105. **Nonconforming Structure:** A structure which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of zoning ordinance. No action can be taken which would increase the nonconforming characteristics of such structure.
106. **Nonconforming Use:** A land use which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the nonconforming characteristics of the land use.
107. **Nuisance:** An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive.
108. **Outdoor Storage Areas:** All outdoor storage can be placed on any lot within the permitted lots indicated within the definition of Convenient Storage. All outdoor storage will be permitted on a secured property that will not require a hard surface, dust free parking. All outdoor storage areas must be properly marked within the boundaries of the designated lot. The additional requirements apply to outdoor storage areas:
- a. All outdoor storage shall not include the storage of hazardous materials.
 - b. The lot or lots must be properly maintained and free of tall weeds at all times.
 - c. Any disturbance of the finished grade must be properly graded back to its original finish which includes seeding grass if required.
 - d. No piece of equipment shall be placed on a lot for a period of more than 365 consecutive days. All equipment must be properly maintained in working condition.
 - e. No body repair or dismantling of any automobiles or any other equipment will be permitted while being stored within this designated lot or lots.

109. **Parking Space:** An area on a lot and/or within a building, intended for the use of temporary parking of a vehicle. This term is used interchangeably with "parking stall". Each parking space must have a means of access to a public street by way of a driveway, access easement, or other connection. Tandem parking stalls in single-family detached, single-family attached, and townhome residential uses shall be considered to have a means of access to a public street. Off street parking requirements must follow the primary and secondary parking guidelines indicated in Section 7.1 through 7.2.
110. **Paved:** Permanently surfaced with poured concrete, concrete pavers, or asphalt.
111. **Permanent Foundation:** A continuous wood, concrete or masonry foundation which extends below ground level frost line and is set on footings. The footings may be concrete or gravel depending on soil conditions. All permanent foundations must comply with the current requirements of the building code. A post and pier foundation system is not a permanent foundation within an R-1, R-2 or R-3 zoning district.
112. **Permitted Use:** A land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Ordinance.
113. **Personal improvement Services:** Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a non-professional nature. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.
114. **Personal Services:** Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and Barber shops; seamstress, tailor, or shoe repair shops; photography studios; or dry-cleaning stations serving individuals and households, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction..
115. **Person:** Any natural individual, firm, corporation, association, partnership, social or fraternal organization, trust, estate or legal entity.
116. **Planned Unit Development:** A development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.
117. **Plat:** A map of a subdivision.

118. **Porch, Unenclosed:** A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty-six (36) inches above its floor other than wire screening and a roof with supporting structure.
119. **Portable Storage Containers:** An enclosed metal container that contains an average width of 8'-0". The length of a metal storage container can vary from 10'-0" to 40'-0". These metal containers are referred to as conex storage containers. These conex storage containers will be classified as a temporary use within zoning districts R1, R2, R3 & MH and approved by the planning and zoning board with final approval from the City Council.

Exception: Conex storage compartment containers are permitted within the C & I zoning districts.

120. **Preliminary Plat:** The preliminary plan of a subdivision and any accompanying material prepared in accordance with the requirements of this ordinance.
121. **Prohibited Use:** Any use or structure which is not allowed in a particular district. Any use not identified explicitly in this ordinance shall be considered prohibited and shall not be allowed until incorporated through the amendment procedure.
122. **Public Utility:** Any business which furnishes the general public telephone, telegraph, electricity, natural gas, propane, or water service, and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the State.
123. **Public Way:** Any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, railroads, electric transmission lines, telephone and telecommunication lines, oil or gas pipelines, sanitary sewer, storm sewer, water mains, streets, roads or highways.
124. **Recreational Vehicle:** A vacation trailer on its own chassis or attached to the chassis of another vehicle or is self-propelled and is designed for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; motor-coach homes; converted buses and trucks; or used boats and boat trailers.
125. **Recreational Vehicle Park:** A lot which is operated on a fee or other basis as a place for the parking of occupied recreational vehicles, regulated by the zoning district.

126. **Regional Flood:** A flood baseline determined by the state and Federal Emergency Management Agency which is representative of large floods known to have occurred in Adams County, North Dakota.
127. **Residential District:** The areas designated by the City Council of the City of Hettinger on the District Zoning Map for development of residential dwelling units.
128. **Residential-Commercial Zone:** The use of levels other than the main level, basement level or ground level within C, and DC zoning districts.
129. **Right-of Way:** A strip of land designated or dedicated for public way, including streets, sidewalks, railroads, electric transmission lines, telephone and telecommunications lines, oil or gas pipelines, sanitary sewer, storm sewer, or water systems and brown water systems.
130. **Screening:** The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fencing, walls, hedges, berms, or other features as may be permitted by the landscaped provisions of this ordinance.
131. **Setback:** The distance, as required by the minimum setback(s) which establishes the component(s) of the building envelope.
132. **Sign:** Any emblem, name, identification, description or illustration which is used for outdoor advertising having a permanent location on the ground or attached to or painted on a building including bulletin boards, poster boards and billboards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.
133. **Site Plan:** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land; and any other information that may reasonably be requested by the City in order that an informed decision can be made on the associated request.
134. **Special Use Permit:** A use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Special permit uses are allowed in a zoning district only at the discretion of and with the explicit permission of the City Council, upon the recommendation of the Planning and Zoning Commission.
135. **Solid Waste:** Any garbage, refuse, sludge from a waste treatment plant, water treatment plant, or air pollution control facility and other discarded

waste material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities. The term does not include solid or dissolved materials in domestic sewage, or solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to Permit Section 402 of the Federal Water Pollution Control Act, as amended, or source, special nuclear or the by-product material as defined by the Atomic Energy Act of 1954, as amended.

136. **Street:** A public way for pedestrian and vehicular traffic.
- (a) **Major Street:** Street which gathers and distributes traffic from and to minor streets and adjacent lands.
 - (b) **Minor Street:** Street which is designed for low traffic volume and provides access to major streets.
137. **Street Yard:** The area of a lot or parcel which lies between any street property line and the fronting walls of any building or buildings on the parcel. The street yard follows all irregularities or indentations in the building, excluding minor irregularities such as porches or steps.
138. **Structural Alterations:** Any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.
139. **Structure:** Anything constructed or erected which requires permanent location on the ground excluding fences under six (6) feet in height.
140. **Subdivision:** The division of a lot, parcel of land, or tract, creating one or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or of building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights-of-way, whether public or private, for access to or from any such lot, tract or parcel, and the creation of new or enlarged parks, playgrounds, plaza, or open spaces.
141. **Substantial Improvements:** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the current value of the structure either: (1) before the improvement or repair is started, or (2) if the structure has been damaged and 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 value of the structure will be based on the most current market value issued by the city/county tax director, minus the lot.

142. **Temporary:** Temporary structures and uses shall be limited as to time of service, but shall not be permitted for more than 180 days, or as listed below.
- a. Recreational vehicles which include Campers, travel trailers, motor-coach homes, converted buses, and RV trucks that are occupied within the R, C, I, A and RC zoning districts shall be limited to no more than Fourteen Days (14) and shall not be connected to any public water or sewer system.
143. **Temporarily Permitted Use:** A conditionally permitted use which has a definite time period as one of its conditions.
144. **Townhouse:** A dwelling unit having a common wall abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.
145. **Townhouse Structure:** A building formed by at least three contiguous townhouses with common or abutting walls.
146. **Type 1 Animal Production:** The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial bases on a site which is also used for crop production or where grazing of natural vegetation is the major feed source; or the raising of animals for personal use. Type 1 animal production shall also include confined feeding and holding facilities consisting of no more than 5 feeder or fat cattle; no more than 5 beef cows; no more than 5 dairy cattle; no more than 5 swine, llamas, and ostriches or similar large birds; no more than 10 sheep; no more than 25 turkeys; and/or no more than 25 chickens, ducks or geese.
147. **Type II Animal Production:** The confined feeding and holding facilities consisting of between 6 and 100 feeder or fat cattle; between 6 and 100 beef cows; between 6 and 100 dairy cattle; between 6 and 100 swine, llamas, and ostriches or similar large birds; between 11 and 200 sheep; between 26 and 300 turkeys; and/or between 26 and 1,000 chickens, ducks, or geese within buildings, lots, pens, or other closed quarters which are not used for crop production or where grazing of natural vegetation is not the major feed source. Typical uses include small commercial feedlots.
148. **Type III Animal Production:** The confined feeding and holding facilities consisting of more than 100 feeder or fat cattle; more than 100 beef cows; more than 100 dairy cattle; more than 100 swine, llamas and ostriches or similar large birds; more than 200 sheep; more than 300 turkeys; and/or more than 1,000 to 10,000 chickens, ducks or geese within buildings, lots, pens, or other closed quarters which are not used for crop production or

where grazing of natural vegetation is not the major feed source. Typical uses include large commercial feedlots.

149. **Use:** The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.
150. **Variance:** A relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, and where the literal enforcement of the ordinance would result in unnecessary and undue hardship.
151. **Yard:** A required open space on the same lot with the principal building or structure.
152. **Yard, Corner Front Yard:** The space extending the full width of a lot, lying between the front lot line as described in Definition 87, line 1 (a) and the front setback line.
153. **Yard, Front:** A yard that extends across the full width of the lot, as the least distance between the front lot line and the front building line.
154. **Yard, Rear:** The least distance between the rear lot line and the rear of the principal building.
155. **Yard, Side:** The least distance between the sides of principal building and the side lot line.
156. **Yard, Street Side Yard:** On a corner lot, the space extending from the front yard to the rear yard, between the street side lot line.
157. **Wind Energy Conversion System:** 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).
158. **Zoning Administrator:** The designee of the City Council, responsible for the interpretation and administration of the City of Hettinger's Zoning Ordinance. Zoning Administrator and Building Official may be used interchangeably.
159. **Zoning Commission:** The body appointed by the City Council of Hettinger to conduct the zoning affairs of the city.
160. **Zoning District Map:** The map showing the zoning districts of the City of Hettinger officially adopted by the City Council of the City of Hettinger.

ARTICLE III

GENERAL PROVISIONS

3.1 Jurisdiction

These regulations shall apply in all incorporated parts of Hettinger and areas within the city's extraterritorial jurisdiction as authorized by NDCC, Section 40-47-01.1.

3.2 Compliance with Ordinances, Statutes, Regulations and Plans

Any person, firm or corporation developing land shall comply with the requirements of these regulations and:

1. The provisions of the North Dakota Century Code (NDCC).
2. The rules of the North Dakota State Health Department, North Dakota Highway Department and other North Dakota state agencies.
3. City of Hettinger Comprehensive Plan.

3.3 Amendments

The City Council may from time to time on its own motion or on petition or recommendations of the City Zoning Commission amend, supplement or repeal provisions of this ordinance after a public hearing.

1. Any person, firm or corporation which owns land is entitled to submit an application for amendment to the Zoning District Map.
2. Procedure for Amendments:
 - (a) Applications for amendments shall be filed with the City Auditor.
 - (b) The City Auditor shall present the application to the City Zoning Commission at its next regularly scheduled meeting.
3. Notice of Amendment Hearings:
 - (a) Upon receipt of an application for amendment, the City Auditor shall schedule a hearing on the application before the City Council.
 - (b) Upon scheduling the hearing, the City Auditor shall notify the applicant of the date, time, and place of the hearing.

- (c) Notice of the time and place of the hearing shall be published in the newspaper of general circulation once a week for two consecutive weeks prior to the hearing. Such notice shall contain the following items:
 - (1) The time and place of hearing.
 - (2) The description of the property involved and any zoning change, by street address of streets that have been platted or designated in the affected area.
 - (3) The description of the nature, scope, and purpose of the proposed regulation, restriction or boundary.
 - (4) A statement of the times in which it will be available at the office of the City Auditor to the public for inspection and copying.

4. Notification to Adjacent Property Owners:

A notice of hearing on an amendment to a zone boundary shall be prepared by the zoning administer and delivered to the applicant for signatures from the property owners within three hundred (300) feet of the property for which the zone boundary change has been requested. The notice of hearing shall be returned to the zoning administrator's office or by certified mail at least ten (10) days prior to the date of the hearing along with the appropriate application fees. Proof of the publication of the notice of hearing shall be filed with the City Zoning Administrator.

5. Public Hearing:

- (a) Following a public hearing conducted by the City Planning and Zoning Commission, said Commission shall submit its recommendations concerning the proposed amendment or development to the City Council.
- (b) Following the hearing and upon receipt of the recommendations, the City Council shall approve or disapprove the proposed amendment or development.

6. Protests to Amendments:

- (a) If a protest against an amendment is signed by the owners of twenty (20) percent or more:
 - (1) Of the area of the lots included in such proposed change; or

- (2) Of the area adjacent, extending one hundred and fifty (150) feet from the area to be changed, the amendments shall not become effective except by the favorable vote of three-fourth (3/4) of all the members of the City Council of Hettinger.

7. Recording of Amendment:

Upon adoption of an amendment by the City Council, a certified copy of the adopted amendment shall be filed with the City Auditor and the same shall be published in the official newspaper of the City. A certified copy of the amendment shall also be filed with the County Recorder for Adams County.

8. Appeals:

Any person aggrieved by the decision of the City Council may appeal to the Board of Adjustment as provided by Section 40-47-08, NDCC.

3.4 Land Suitability

No land shall be divided for a use which is held unsuitable by the city and the City Planning and Zoning Commission for the reason of flooding, potential flooding, soil limitations, inadequate drainage, incompatible surrounding land use or any other condition likely to be harmful to the health, safety or welfare of the city.

3.5 Non-Conforming Uses

The lawful use of a building or premises existing at the time of the adoption or amendment of this ordinance may be continued even though such use does not conform to the provisions of these regulations. The total structural alteration in such a non-conforming building, structure or use shall not, during its life, exceed fifty (50) percent of the market value determined by the city/county tax director of the property as of the date of the request for permit application; provided further, however, that such alteration shall not include any physical expansion or enlargement of such building, structure or use. If a non-conforming use is not continued for a period of six (6) months, the future use of the premises shall conform to this ordinance.

- (a) Continuation of Nonconforming Uses: A structure or the use of a structure or premises which was lawful at the passage or amendment of the ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions;

1. No such use or substantial improvement of that use shall be expended, changed, enlarged, or altered in any way which increases its nonconformity.
 2. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this ordinance. The utility department shall notify the building inspector in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.
 3. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- (b) Replacement of Residential Uses: if any residential nonconforming use of structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the assessed market value of the structure before the damage occurred within those areas identified as floodway (FW). This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- (c) Replacement of Non-Residential Uses: if any non-residential nonconforming use of structure is destroyed by any means, including flood, it should not be reconstructed if the cost is more than 50% of the assessed market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to codes or regulations for the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

3.6 Conditionally Permitted Uses

1. Conditional Uses. Where a use is classified as a conditional use under this ordinance and exists at the date of the adoption of this ordinance, it shall be considered an allowed use. Where a use is not allowed as a conditional use or allowed use, under this ordinance, and exists at the date of the adoption of this ordinance, it shall be considered a non-conforming use.
2. Application for a conditional use permit shall be submitted to the Code Administrator.

3. The City Planning and Zoning Commission shall hold a public hearing on the application. Notice of said hearing shall be published in the newspaper of general circulation at least one week prior to the hearing.
4. No application for a conditional use permit shall be granted unless the City Zoning Commission shall find all of the following conditions present:
 - (a) The conditional use shall not be detrimental to or endanger the public health, safety or general welfare.
 - (b) The conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area.
 - (c) The conditional use shall not impede the normal and orderly development of the surrounding property.
 - (d) Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided.
 - (e) Adequate measures will be taken to provide ingress and egress to the property without adverse effects on the neighboring properties and traffic congestion in the public street.
 - (f) The conditional use shall conform to all applicable regulations of the district within which it is located.
5. The City Planning and Zoning Commission may stipulate conditions and restrictions upon the establishment, location, construction and operation of the proposed use in order to promote and protect public health, safety and general welfare. In all cases in which conditional uses are granted, the City Planning and Zoning Commission shall require evidence of compliance with these provisions and with the conditions set forth.
6. The City Zoning Commission, finding that the conditions or restrictions set forth are not being complied with, may revoke the conditional use permit after a public hearing.
7. In any case where a conditional use permit has not been instituted within one year of the date of approval, the permit shall be null and void.
8. Any use for which a conditional use permit has been issued, upon its cessation or abandonment for a period of one year will be deemed to have been terminated and any future use of the building or premises shall be in conformity with these regulations.

3.7 Residential Development

No lot shall contain more than one principal single family residential building, and no dwelling unit shall be built on a lot which does not abut a dedicated public road. Accessory buildings shall be limited to a maximum of one thousand two hundred (1,200) sq.ft. off floor area for the first 1 acre or less. Accessory buildings may be increased by 250 sq.ft. for each additional half (.5) acre of land area above 1 acre, but in no case shall the total exceed 30% lot coverage for accessory buildings. Accessory buildings shall be limited to sidewalls of twelve (12) feet in height and be located at least six (6) feet from all lot lines. No accessory building shall be placed on any residential zoned lot unless the principal structure is present.

- a). Light-frame constructed accessory use buildings using light-transmitting plastic exterior wall panels or wall sheathing, formed by a system of repetitive wood or cold formed steel framing members are not permitted within any of the R1, R2, R3 & MH Zoning Districts within the City of Hettinger.
- b). Metal conex storage compartments shall be a temporary permitted use within zoning districts R-1, R-2, R-3 & MH and shall be approved by the Planning and Zoning Board with final approval from Hettinger City Council.
- c). Frontage and Side Lot Requirements Outside Fire Limits: No person, firm or corporation shall construct or move a building upon or cause a structure or building to be constructed or moved upon any lot within the City of Hettinger, North Dakota, outside of the fire zone of said city, unless said building is so constructed or located that the structure shall be setback not less than twenty-five (25) feet from the front property line and not less than six (6) feet from the side lot property line. Provided, however that if a building now exists upon a lot and the owner desires to make an additional or alteration there to and there would exist a practical difficulty or unnecessary hardship in the way of caring out the strict letter of this City Ordinance 8.0201, the City Council, upon application of the owner of said lot, may modify the provisions of the Ordinance so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- d.) Terraces, patios, uncovered decks, steps, and ornamental features may project 10 feet into a required yard. However all such projections must be setback at least 3 feet from an adjacent side lot line; or 10 feet from the property line bordering a street.

3.8 Dedication of Land for Streets

Whenever a parcel of land to be subdivided as a subdivision contains a street or public way, such street or alley shall be dedicated to the public at the location and details shown on the final plat. All non-section line roadways shall be the responsibility of the subdivision.

3.9 On-Site Sewer System

To protect the public health, to control water pollution, and to reduce nuisance and odor, all new development within the city shall be connected to an approved on-site sewage system. Construction and use of privies, outhouses, and cesspools is prohibited within the city.

3.10 Oil and Natural Gas Drilling

Oil and natural gas drilling shall be permitted in a (I): Industrial or (A): Agricultural District, providing the following requirements are met:

1. The regulations and statutes provided for in Title 38, North Dakota Century Code, shall be followed by any person desiring to drill a well and natural gas within the City of Hettinger or the one-mile extraterritorial jurisdiction.

2. An application must be filed with the City Building Official. The application shall consist of two drill site development plans. The first plan shall be a drill site development plan covering and including that phase of the Oilwell operation including drilling operations, and shall include the following information:

- a. Written legal description.
- b. Scale drawing of the property and appropriate dimensions.
- c. Scale, north arrow, date, and legend.
- d. Name, address, and telephone number of property owner and applicant.
- e. Location and size of existing easements, utilities and right-of-ways.
- f. Location and dimension of all vehicular entrances, exits and drives.
- g. General drainage system, hydrology study and storm water management plan.
- h. Size of site.
- i. Location of all physical facilities to include proposed wells, structures, portable toilets, and relationship to all buildings within a 660-foot radius.
- j. The site plan shall contain a statement describing all pollution prevention equipment to be utilized; it shall be the policy of the City of Hettinger to require blowout prevention devices on every drilling operation covered here under.
- k. Location of all mud pits.

The second plan shall cover the completed or production well phase and shall contain the following information:

- a. General location of tank batteries and size of tank battery site.
- b. Any oil, gas, or water lines to be utilized.
- c. Location of ingress and egress to be utilized by the applicant and to include all vehicular entrances, exits and drives.
- d. Type of screening devices, or construction to be utilized around the pumping site, which screening shall be required to be of such type so as to discourage access, entry, or climbing so as to endanger life and security; all screening shall be required to meet the minimum screening standards as specified below; the security at gates to any oil operation at all times during which the oil operation site is unattended.
 1. A buffer zone is required where any Heavy Industrial District abuts a Residential District. Buffer zones shall be determined by the planning and Zoning Commission and shall be a maximum of 50 feet in depth from the property line of a lot zoned Residential or from a street right of way which separates the Heavy Industrial District from a Residential District. The buffer zone shall be used for tree plantings, hedges, walls, fences or similar devices as required by the Planning and Zoning Commission and grass shall be planted and maintained in all buffer zones.
 2. Fences, Hedges, and Visibility at the Intersection of Streets. In Residential Districts no fence shall be more than 7 feet in height in any rear or side yard or 4 feet in height in any front Yard; provided further that on a corner lot nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2.5 feet and 10 feet above the centerline grades of the intersecting streets with the triangle formed by the adjacent sidelines of the two intersecting streets joining points at a distance of 30 feet on each side line from their point of intersection. In Commercial and Industrial Districts, no fence shall be more than nine (9) feet in height in any yard.
- e. Sign on wells. Every well associated with the exploration or mining of subsurface minerals shall be identified by a sign posted on the Derek or not more than 20 feet [6.10 meters] from the well. The sign shall be of durable construction and the lettering thereon shall be kept in a legible condition and shall be large enough to be legible under normal conditions at a distance of 50 feet [15.24 meters]. The wells on each lease or property shall be numbered in non-repetitive sequence, unless some other system of numbering was adopted by the owner prior to the adoption of this chapter. Each sign must show the well

name and number (which shall be different or distinctive for each well), the name of the operator, file number, and the location by quarter-quarter, section, township, and range.

3. An oil well or natural gas operation shall maintain roads within the premises covered by the permit and such roads shall be kept in reasonable dust-free condition.
4. No well or drilling operation shall be located, drilled, or operated within 1,320 feet of any Residential, Commercial or Recreational District. In any other Districts, no well or drilling operation shall be located, drilled or operated within 500 feet of the subject property boundary. Traffic to and from a well or drilling operation shall not be disruptive to any residential development.
5. Any drilling rig within 3,000 feet of a residence, business, or public building shall be enclosed on all sides. All storage tanks, wells, and equipment operated or maintained in connection with such a well shall be enclosed with a fence. All rigs shall be equipped with adequate fire extinguishing equipment.
6. Compliance with all Federal, State, and Local permitting, health, fire, safety, environmental, and regulatory provisions are mandated including but not limited to NDCC Chapter 38-05, Sections 38-08-05 and 38-08-23, NDCC Section 38-11.2-07, and NDAdmC 43-02-02, and all subsequent amendments.
7. Permits for the drilling of all oil and gas wells shall be required. Permits may be obtained from the City Building Official and will be valid for a period of one year. A fee schedule shall be established by the City Council and shall be posted in the office of the Building Official. Until all applicable fees have been paid in full, no action shall be taken on any application.

3.11 Medical Marijuana and Compassion Centers

- A. PURPOSE AND INTENT:** The 2017 North Dakota Legislature enacted Senate Bill 2344, relating to the implementation of the North Dakota Compassionate Care Act, N.D.C.C 19-24 for the regulation of medical marijuana dispensaries and the cultivations and propagation of medical marijuana in North Dakota.

All persons, entities or organizations wishing to establish a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) within the City and its extraterritorial jurisdiction must apply for and be granted a conditional use permit for said use.)

1. The use, cultivation, manufacturing, production, distribution, possession and transportation of marijuana remains illegal under federal law, and marijuana remains classified as a "controlled substance" by both North Dakota and federal law;
2. The City does not have the authority to, and nothing in this chapter is intended to, authorize, promote, condone or aid the production, distribution or possession of medical marijuana in violation of any applicable law;
3. The City intends to regulate the use, acquisition, cultivation, manufacturing, and distribution of usable medical marijuana in a manner that is consistent with the North Dakota Century Code. The regulations are intended to apply to all medical marijuana operations in the county by any medical marijuana business permitted under state law. Medical marijuana cultivation and production can have an impact on health, safety, and community resources , and this chapter is intended to permit state-licensed Medical Marijuana Manufacturing Center(s) or Distribution Center(s) where they will have a minimal negative impact ;
4. To the extent that Medical Marijuana Manufacturing Center(s) or Distribution Center(s)s are registered and authorized by the State of North Dakota to operate in the county, this commission desires to provide for their licensing and regulation to protect the public health, safety and general welfare of the citizens of the county;
5. This chapter is to be construed to protect the public over medical marijuana business interests. Operation of a medical marijuana business is a revocable privilege and not a right in the county. There is no property right for an individual or business to have medical marijuana in the county; and
6. Medical marijuana is a heavily regulated industry in the state and county, and the county has a zero tolerance policy for violations of this chapter.
7. The purpose of this chapter is to protect the public health, safety, and welfare of the residents and patients of the county by prescribing the manner in which medical marijuana businesses can be conducted in the county. Further, the purpose of this chapter is to:
 - a) Provide for a means of cultivating, manufacturing and distribution of usable marijuana to patients who qualify to obtain, possess, and use marijuana for medical purposes as prescribed by state law.

- b) Protect public health and safety through reasonable limitations on business operations as they relate to noise, air and water quality, neighborhood and patient safety, security for the business and its personnel, and other health and safety concerns.
 - c) Impose fees to cover the cost to the county of licensing medical marijuana businesses in an amount sufficient for the county to cover the costs of the licensing program.
 - d) Create regulations that address the particular needs of the facilities, patients and residents of the county and comply with laws that may be enacted by the state regarding medical marijuana.
- B. ANNUAL PERMIT FEE:** As authorized by the Ordinances of the City of Hettinger, the City Council is to establish an annual permit fee to offset costs associated with policing, site inspections, monitoring, storage of media, and/or regulating medical marijuana facilities involved in the cultivation, propagation, manufacturing, processing, refining, distribution, delivery, supply, sale or handling of Medical Marijuana .
- C. CONDITIONAL USE PERMIT REQUIREMENTS:** In addition to the requirements applicable to all Conditional Use Permit applications, an application for a Conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must include the following:
- 1. Proof of Insurance (see section 10.0705 for insurance requirements).
 - 2. List of all persons and entities with an ownership interest in the Manufacturing Center(s) or Distribution Center(s) including all shareholders that hold any share in stock in the Manufacturing Center(s) or Distribution Center(s).
 - 3. A security plan depicting the location and configuration of security cameras and surveillance equipment.
 - 4. A storm water management plan.
 - 5. A complete description of the products and services to be produced or sold by the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).
 - 6. A notarized statement acknowledging that the applicant understands applicable federal laws , any guidance or directives issued by the U.S.

Department of Justice, the laws of the State of North Dakota and the laws and regulations of the county applicable thereto concerning the operation of a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) . The written statement shall also acknowledge that any violation of any laws or regulations of the State of North Dakota or of the county, or any activity in violation of any guidance or directives issued by the U.S. Department of Justice, in such place of business, or in connection therewith, or the commencement of any legal proceeding relating to such Medical Marijuana Manufacturing Center(s) or Distribution Center(s) by federal authorities, may render the license subject to immediate suspension or revocation.

7. A notarized statement that the applicant will hold harmless, indemnify, and defend the county against all claims and litigation arising from the issuance of license and/or a conditional use permit including any claims and litigation arising from the Manufacturing Center(s) or Distribution Center(s), operation or ownership of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s).
8. A notarized acknowledgement that the applicant is seeking a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit and that the applicant understands and acknowledges that the burden of proving qualifications to receive such a Conditional Use Permit is at all times on the applicant; that the granting of a Conditional Use Permit for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) is at the discretion of the City; and that the applicant agrees to abide by the decision of the City.
9. The City Council may require additional plans, documents or other information prior to deeming the application complete.
10. A Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permit shall be reviewed annually by the City for renewal.
11. If the State of North Dakota or its electorate repeals the Compassionate Care Act or the act is otherwise declared void, all Medical Marijuana Manufacturing Center(s) or Distribution Center(s) Conditional Use Permits issued by the City will be deemed to have immediately expired.
12. Once a conditional use permit is obtained for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s), any change in operation

of the facility or in ownership shall require prior approval of the City Council.

13. Any building modifications or alterations must be approved by the City Council.

D. MEDICAL MARIJUANA INSURANCE AND BOND REQUIREMENTS:

- 1) The minimum amount of third-person insurance coverage for a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) shall be one million dollars (\$1,000,000 .00) per occurrence , two million dollars (\$2,000,000 .00) general aggregate for bodily injury and property damage arising out of licensed activities and one million dollars (\$1,000,000.00) products and completed operations aggregate , commercial automobile coverage in a minimum of one million dollars (\$1,000,000 .00) and excess liability in a minimum of three million dollars (\$3,000,000 .00).

Additional insured: The City of Hettinger shall be named as an additional insured on all general liability, umbrella, and excess insurance policies required under this section. All insurance policies required under this section shall be primary over any other valid and collectible insurance.

E MEDICAL MARIJUANA DESIGN STANDARDS:

- (a) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located in a separate, permanent, stand- alone structure and have a minimum eight (8) foot high commercial security perimeter fence encompassing the parcel boundary.
- (b) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located a minimum of one-half mile from a public or private preschool, kindergarten, elementary, secondary or high school, public park, public community center, dependent care facility, homeless shelter, youth center, or place of worship as provided in NDCC 19-24.1. The distance shall be measured from the property line of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s) to the property line of the protected use.
- (c) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must be located a minimum of 1000 feet from any residential district, or any residential dwelling or recreational district. The distance shall be measured from the property line of the Medical Marijuana Manufacturing

Center(s) or Distribution Center(s) to the property line or dwelling of the protected use.

- (d) No Medical Marijuana Dispensary shall have operating hours earlier than 8:00 AM or later than 7:00 PM.
- (e) The entire perimeter of a Medical Marijuana Manufacturing Center(s) or Distribution Center(s) structure must be well lit (minimum 1 candle foot) to prevent concealment in shadows around the structure for a minimum of 15 feet around each structure that is part of the Medical Marijuana Manufacturing Center(s) or Distribution Center(s). Further, everything within the fenced area shall have 24 hour surveillance cameras depicting the entire exterior of the Manufacturing Center(s) or Distribution Center(s) as well as cameras at the property entrance depicting vehicles and license plates of each vehicle entering the parking lot. Footage from both the exterior cameras and the property entrance cameras shall be stored for a minimum of seven (7) days of camera surveillance.
- (f) Each Medical Marijuana Distribution Center shall have at least 1 parking space per 250 sq. ft. of structure.
- (g) Each Medical Marijuana Cultivation and/or Manufacturing Facility shall have at least 1 parking space for every 1000 sq. ft. of plant cultivation area and 1 parking space for each 250 sq. ft. of all other areas of the structure.
- (h) With the exception of the specific Medical Marijuana Manufacturing Center(s) or Distribution Center(s) approved as part of a Conditional Use Permit, no other activity may occur within the facility or land parcel.
- (i) No outdoor storage on-site shall be permitted.
- (j) No drive-through, drive-up, or walk-up facilities shall be permitted.
- (k) Each Medical Marijuana Manufacturing Center(s) or Distribution Center(s) must ensure there is no emission of dust, fumes, vapors, or odors into the environment.
- (l) Windows must remain unobstructed, allowing visibility into the facility. Window tint, decals or window signage of any kind shall be strictly prohibited.

- (m) Each permittee shall obtain an inspection of the property from the county planning department or fire marshal prior to the annual renewal of the Conditional Use Permit.
- (n) All surveillance camera locations and surveillance recording equipment including specifications must be approved by the City Council.
- (o) Engineered plans are required for all structural, utility, lighting, water/sewer, mechanical, and other portions of the project. All applicable state standards and requirements shall apply in the design and operations of any Manufacturing Center(s) or Distribution Center(s).

F. SERVICEABILITY, EXCLUSIONS AND EXCEPTIONS:

The provisions of this chapter do not waive or modify any other provision of this ordinance with which Medical Marijuana Manufacturing Center(s) or Distribution Center(s) is required to comply. Nothing in this section is intended to authorize, legalize or permit the Manufacturing Center(s) or Distribution Center(s), operation or maintenance of any facility, building or use which violates any City ordinance, County ordinance, or statute of the State of North Dakota regarding public nuisances, Medical Marijuana, or any federal regulations or statutes relating to the use of controlled substances.

This chapter shall be null and void if any determination is made, after the adoption of the ordinance enacting this chapter, by any court of competent jurisdiction, that Ch. 19-24, N.D.C.C., is invalid, or shall be null and void to the extent any portion of such section is held invalid.

Should any section, subsection, clause or provision of this chapter for any reason be held to be invalid or factually unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter, and each and every section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases of this chapter be declared invalid or unconstitutional.

G. PUBLIC HEARINGS:

Upon receipt of the application, the Zoning Board shall review the permit application and at such time as the Zoning Board has determined the application is complete and sufficient shall schedule a public hearing on the application before the Zoning Board. Notice shall be provided at least fifteen (15) day prior to the hearing in the official newspaper of the City and mailing written notice to property owners within five hundred (500) feet of the proposed compassion care center perimeter.

If the Zoning Board finds that the applicant for the Compassion Center Conditional Use Permit has satisfied all applicable requirements, it shall recommend approval by the Board. The Board must approve, approve with conditions, or deny the application within sixty (60) days of the date of the submission of the application, or, when held, the date of the public hearing.

H. SITE DEVELOPMENT:

Prior to building permit approval, the applicant shall submit a copy of the compassion care registration certificate issued by the State of North Dakota Department of Health Division of Marijuana to the City Auditor.

The applicant shall be responsible for submitting bi-annual renewals of the State issued compassion care registration certificate to the City Auditor.

Repeal of Ordinances in Conflict. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed.

Severability. In the event any section of this Ordinance is held invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Chapter shall continue in full force and effect.

ARTICLE IV

ZONING DISTRICTS

4.1 District Map

Zoning Districts

For the purposes of this ordinance the City of Hettinger is divided into the following zoning districts:

- R - Residential District
- RR - Rural Residential
- MH - Mobile Home District
- C - Commercial District
- DC - Downtown Commercial
- I - Industrial District
- A - Agricultural District
- RC - Recreational District
- F - Floodplain Overlay District
- PUD - Planned Unit Development

4.2 Zoning Map

A copy of the Zoning District Map is on file in the office of the Code Administrator and shall be updated regularly to reflect any amendments to the zoning districts.

1. Where uncertainty exists with respect to the boundaries of the various districts hereby established and as shown on the Zoning District Map, the following rules shall apply:
 - (a) The district boundaries are the center lines of streets or alleys, unless otherwise shown.
 - (b) Where the district boundaries are not center lines of streets or alleys and where the land has been or may hereafter be divided into lots or blocks and lots, the district boundaries shall be construed to be lot lines.
 - (c) Where land has not been subdivided into lots or blocks and lots, the district boundary lines on the Zoning District Map shall be determined by the Board of Adjustment.

4.3 Residential District (R)

1. R-1: It is the intent of this district to provide for low density residential use.

(a) Permitted Uses:

- (1) Single-family dwellings.
- (2) Public parks, playgrounds and other public buildings and structures.
- (3) Accessory buildings provided accessory uses are not permitted without a residential use on the lot.
- (4) Public and parochial schools.
- (5) Churches and related facilities.
- (6) Public parks and playgrounds.
- (7) Public libraries, museums and community centers.
- (8) Agricultural.
- (9) Group Home
- (10) Daycare (Family)

(b) Conditionally Permitted Uses:

- (1) All manufactured homes on permanent type foundations on platted lots with a minimum square footage of eleven hundred and twenty (1,120) square feet and a minimum width of twenty (20) feet. Pre-manufactured and mobile homes are allowed provided that they are placed on a permanent foundation, permanent or properly anchored basement made of poured concrete, concrete block in mortar, or an approved treated wood foundation. Loose blocks shall not constitute a permanent foundation. Wheels and hitches must be removed. All pre-manufactured houses shall provide a date of origin indicating that the structure was built within 10 years from the manufacturers' data plate and the date submitted for permit approval. A permit must be obtained from the city prior to the placement of a manufactured home.

Notice of hearing must be given by the applicant with proof of service to all property owners within three hundred (300) feet of the boundary of the proposed use. Two-thirds of the affected owners must agree to the installation of a manufactured home in this district before a conditional use permit may be granted.

- (2) Daycare Group.
- (3) Water treatment facilities.
- (4) Home Occupations
- (5) Duplex
- (6) Bed and Breakfast

(c) Area Requirements:

- (1) Minimum width: 50 feet
- (2) Minimum area: 7,000 square feet
- (3) For single family units the principal building and all accessories shall not cover more than forty (40) percent of the lot.
- (4) The maximum impervious coverage on a single family residential lot cannot exceed fifty (50) percent of lot coverage.
- (5) Primary and Secondary Educational and Religious Assembly Facilities: Each facility shall have a minimum lot area of one 1 acre.

(d) Yard Requirements

- (1) Front yard: minimum depth of twenty-five (25) feet
- (2) Rear yard: minimum depth of twenty (20) feet from the rear property line.
- (3) Side yard: minimum width of six (6) feet.

- (4) Each side yard must have a minimum width of six (6) feet and twenty (20) feet from a garage entrance from an alley.
- (5) For lots in subdivision plots where a lot is located at the intersection of two (2) or more streets, the front yard shall have twenty-five (25) foot setback and the side yard of a corner lot shall have a minimum depth of fifteen (15) foot setback. If the overhead garage door entrance is located on the side yard street setback, a minimum depth of twenty (20) foot setback is required.

(e) Height requirements:

No building shall exceed thirty-five (35) feet or two (2) stories in height.

(f) Off-Street Parking:

For residential uses, two parking spaces for each dwelling unit.

For all other uses, one parking space for each four hundred (400) square feet of building space shall be provided.

Group residential, one parking space for each two residents.

All required off-street parking surfaces including driveways must consist of either concrete or asphalt. In an area of the city where the streets are gravel, gravel driveways are permitted. However, if the city paves such a street in the future, affected landowners would have two (2) years from the completion of the paved streets to pave their driveways with either concrete or asphalt.

(g) Fences and Retaining Walls: (Fences & Retaining Walls Apply to R-1, R-2 & MH Districts)

Walls and retaining walls up to forty-eight (48) inches in height shall be permitted so as not to interfere with traffic visibility. Barbed wire or sharp-point metal fences or electrically charged fences shall not be permitted. Retaining walls in excess of (48) inches in height shall provide an engineer's design, either through manufacturer supplier or structural engineer.

Chain link fences and other type fences which do not limit the visibility may be allowed up to a height of four (4) feet subject to front line setback (four feet on corner lots) requirements upon approval of the Code Administrator. Privacy slats or foliage of over thirty (30) inches in height are not permitted in the front twenty-five

(25) foot setback. Trees will be allowed twelve and one-half (12.5) feet from the public curb and must be trimmed up eight (8) feet above the public curb and public sidewalk. No trees, shrubs, or hedges can be planted on the boulevards. No fences can be constructed on the boulevards.

No fences of any height within any zoning district shall be allowed within twenty-five (25) feet of any block corner, beginning at the intersecting lines of the curbs or street pavement. Fences of no more than seven (7) feet in height shall be allowed on side yards and rear yards subject to the applicable setbacks. If the fence is decorative on one side only, the decorative side of the fence must face out away from the yard.

(h) Sidewalk Regulations:

Boulevard sidewalk construction shall not be less than five (5) feet in width and adjacent to the curb. All curb to be of roll type construction.

2. R-2: It is the intent of this district to provide for medium density residential use.

(a) Permitted Uses:

- (1) All uses permitted in R-1 district.
- (2) Multi-Family dwellings, townhouses, and condominiums up to four (4) units.
- (4) Group Residential.

(b) Conditionally Permitted Uses:

- (1) Same as R-1 above.
- (2) Golf Courses (Public)
- (3) Off Street Parking
- (4) Broadcasting Tower
- (5) Day Care (Group)
- (6) Community Garages

- (7) Multi-Family Dwellings, Townhouses, and Condominiums of five (5) or More Units.
- (8) Convenient Storage Facilities (See Definition)
- (9) Bed and Breakfast
- (10) Conex Portable Storage Containers

(c) Area and Density Requirements:

- 1. Minimum width: Fifty (50) feet.
- 2. Minimum area: Seven thousand (7,000) square feet.

(a) Duplexes, multiple-family, condominiums, and townhouses: for each unit up to four (4) units an additional three thousand (3,000) square feet per unit.

(Example: 1st unit = 7,000 sq. ft., units 2- 4 require 3,000 sq. ft. each, = 9,000 sq. ft., w/a total of 16,000 sq. ft.)

(b) One thousand (1,000) square feet for each unit over four (4).

(c) Structures together with accessory buildings shall not cover more than sixty (60) per cent of the buildable area of the lot.

(d) The maximum impervious coverage within an R-2 zoned lot shall not exceed sixty five (65) percent.

(e) All single family residential structures and accessory structures shall comply with the setback requirements listed within the R-1 setback requirements.

(f) The maximum height of any structure shall not exceed forty five (45) feet or three stories in height.

(d) Setback Requirements:

(a) Front Yard: Twenty-five (25) feet.

(b) Side Yard: Ten (10) feet. The ten (10) foot setback is for single story construction, one (1) additional foot for each four (4) feet of building height for any building over twenty-four (24) feet in height is required.

(c) For lots in subdivision plots where a lot is located at the intersection of two (2) or more streets, the front yard shall have twenty-five (25) foot setback and the side yard of a corner lot shall have a minimum depth of fifteen (15) foot setback. If the overhead garage door entrance is located on the side yard street setback, a minimum depth of twenty (20) foot setback is required.

(d) Rear Yard: Twenty (20) feet

2. R-3: It is the intent of this district to provide for the development of high density and mixed residential uses.

(a) Permitted Uses:

- (i) All uses allowed in R-1 and R-2.
- (ii) High-rise apartments.
- (iii) Water reservoirs.
- (iv) Retirement Residential
- (v) Day Care (Group)
- (vi) Emergency Residential : A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.
- (vii) Bed and Breakfast

(b) Conditionally Permitted Uses:

- (i) Home Occupations
- (ii) (Health Care

- (iii) Hospitals
- (iv) Golf Courses (Public)
- (v) Funeral Services
- (vi) Convenient Storage Facilities (See Definition)
- (vii) Medical Offices
- (viii) Financial Services
- (ix) General Offices
- (x) Broadcasting Tower
- (xi) Conex Portable Storage Containers
- (xii) All Conditional Uses listed in R-1 & R-2

(c) Area and Density Requirements: Any structure built in this district shall meet the following area and density requirements:

- (i) Thirteen thousand (13,000) for a single unit or duplex and Sixteen thousand (16,000) square feet for the first four (4) units.
- (ii) One thousand (1,000) square feet for each additional unit after four (4) units.
- (iii) Structures and accessory buildings shall not cover more than seventy (70) percent of the buildable area of the lot.
- (iv) The maximum impervious coverage within a R-3 lot shall not exceed seventy five (75) percent.
- (v) The maximum height of any structure shall not exceed sixty (60) feet or four stories in height.

(d) Setback Requirements:

- (i) Front Yard: The front yard setback shall be twenty-five (25) feet from the front property line.

- (ii) For lots in subdivision plots where a lot is located at the intersection of two (2) or more streets, the front yard shall have twenty-five (25) foot setback and the side yard of a corner lot shall have a minimum depth of fifteen (25) foot setback. If the overhead garage door entrance is located on the side yard street setback, a minimum depth of twenty (25) foot setback is required.
- (iii) Side Yard: ten (10) feet. The ten (10) foot setback is for single story construction, one (1) additional foot for each four (4) feet of building height for any building over twenty-four (24) feet in height is required.
- (v) Rear Yard: the rear yard shall contain a twenty (20) foot setback from the rear property line.

4.4 Mobile Home District (MH)

It is the intent of this district to provide an area for mobile homes (manufactured homes) and mobile home parks to be developed for long-term residential use subject to the following requirements.

1. MH-1

- (a) Permitted Uses:
 - (1) Mobile Homes.
 - (2) Accessory Uses.
 - (3) Manufactured Homes
- (b) Area Requirements:
 - (b.1) Minimum Lot Size:
 - (i) Width: fifty (50) feet
 - (ii) Area: seven thousand (7,000) square feet.
- (c) Setback Requirements:
 - (1) Front: twenty (20) feet.

- (2) Side: ten (10) feet.
- (3) Rear: twenty (20) feet.

2. MH-2 Mobile Home Parks in the MH District

It is the intent of this district to provide for an area for a mobile home park to be developed for long-term residential use subject to the following requirements.

- (1) Mobile Home (Manufactured Home) parks and prefabricated housing.
 - (a) Manufactured home parks shall contain a minimum of five (5) acres of land and contain a maximum of seven (7) mobile homes (manufactured homes) per gross acre.
 - (b) Each manufactured home shall be placed within a lot at least fifty (50) feet wide, one hundred (100) feet in depth and with a minimum area of five thousand (5,000) square feet.
 - (c) Each unit shall have a minimum front setback of twenty (20) feet, a minimum rear setback of twenty (20) feet and a minimum side setback of ten (10) feet. Permitted encroachments on setback space include outdoor terraces or patios without roofs or walls, and encroachments may project eight (8) feet into any setback space. No attached structure or unit shall be located closer than fifteen (15) feet to any other unit (manufactured home). All unattached accessory buildings on a mobile home lot shall maintain a six (6) foot separation between any manufactured home and an unattached accessory structure.
 - (d) Underground utility, including water, sewer, gas, electricity and telephone, shall be provided to each lot in the park by the developer.
 - (e) All lots and streets in the park shall be accessible at all times to emergency vehicles and streets shall be so designed as to permit a minimum number of ingress and egress points to control traffic movement from the park.
 - (f) Where the park is served by private streets, those streets shall conform to the design standards recommended by the city and streets and parking areas shall be surfaced with

concrete or asphalt. All internal streets shall contain electric street lighting.

- (g) Each manufactured home shall be placed upon a base which shall be surfaced in the same manner as herein required for streets, and which base shall also provide a satisfactory method of anchoring mobile home tie-downs. All new manufactured homes shall be anchored according to manufactured specifications and inspected by a certified inspector.
- (h) All units in the park shall be served with public sewer and a water supply approved by the North Dakota State Department of Health.
- (i) The entire manufactured home park shall be landscaped, excluding hard-surfaced areas.
- (j) Application for the establishment of a manufactured home park shall include a plot plan as to location and legal description and which plan shall set forth the foregoing requirements in detail.
- (k) There shall be two off-street parking spaces per unit.
- (l) There shall be a fifteen (15) foot landscaped buffer between any residential zoned property and ten (10) feet landscape buffer between any commercial zoned properties.
- (m) Each mobile home park shall have a minimum perimeter setback of thirty five (35) feet from all exterior lot or property lines. No space for a dwelling unit or any other structure shall be permitted within this required setback.
- (n) All pre-manufactured homes must indicate a manufacturing data plate indicating the unit was manufactured within 10 years from the month and year of the request for permit authorization approval.
- (o) Tornado Shelters: Underground tornado shelters shall be installed in the Mobile Home Park. Such shelter or shelters shall be built according to the recommendations of the Civil Defense authority and be large enough to meet the specific needs of the park and its residents.
- (p) Sidewalks: Each mobile home park shall provide a sidewalk system to connect each mobile home space to common

buildings or community facilities constructed for the use of its residents; and to the fronting public right-of-way. Sidewalk width shall be at least 5.0 feet.

4.5 Rural Residential District

This district provides for the rural residential use of land, accommodating very low and low density residential environments. The districts regulations assure that density is developed consistent with: land use policies of Hettinger, ND comprehensive plan regarding rural subdivisions; levels of infrastructure; and environmentally sensitive development practices. The district also accommodates developments that merge urban living with rural life.

(A) Permitted Uses:

1. Horticulture
2. Crop production
3. Single-Family Detached
4. Manufactured Housing
5. Accessory Structure
6. Day Care (Family)
7. Emergency Residential
8. Group Home
9. Park and Recreational
10. Primary Education
11. Safety Services
12. Amateur Radio Tower
13. Alternative Energy Production Devices
14. Barn or Stable

(B) Conditional Uses:

1. Type 1 Animal Production

2. Home Occupations
3. Cemetery
4. Clubs and lodges
5. Convalescent Services (Nursing Homes)
6. Convenient Storage
7. Day Care (Group)
8. Golf Courses (Public)
9. Group Care Facility
10. Health Care
11. Maintenance Facilities
12. Bed and Breakfast
13. Utilities
14. Kennels
15. Veterinary Services
16. Broadcasting Tower
17. Wind Energy Conservation System (WECS)

(C) Area Requirements:

1. Minimum Lot Size:
5 Acres
2. Maximum Height:
Thirty Five (35) Feet
3. Maximum Lot Coverage:
Twenty Five (25) %

4. Maximum Impervious Coverage:

Thirty Five (35) %

(D) Setback Requirements:

1. Front: Fifty (50) feet
2. Side: Twenty (20) Feet
3. Rear: Twenty Five (25) Feet

4.6 DC-Downtown Commercial District- This district is intended to provide appropriate development regulations for downtown Hettinger. Mixed uses are encouraged within the DC district. The grouping of uses is designed to strengthen the town centers role as a center for trade, service and civic life.

1. Permitted Uses

- (a) Retail service uses including auto rental/sales, business support services, business/trade school, cocktail lounge, indoor commercial recreation, outdoor commercial recreation, communication service, construction sale/service, consumer service, food sales, funeral service, limited retail services such as, department stores, apparel stores, furniture stores, or establishments providing the following product or services: household cleaning and maintenance products, limited retail services, general retail services, laundry services, liquor sales, personal improvement services, personal services, restaurants and trade services.
- (b) Bed and Breakfasts: Bed and Breakfasts permitted within the DC District must provide any sleeping facility only on levels above street level except that units specifically designed and reserved for occupancy by handicapped people may be located on the street level.
- (c) Multi-family
- (d) Downtown Residential
- (e) Accessory Structure

- (f) Clubs
- (g) Emergency Residential
- (h) Government Offices
- (i) Guidance Services
- (j) Public Libraries
- (k) Park and Recreation
- (l) Postal Facilities
- (m) Public Assembly
- (n) Religious Assembly
- (o) General Offices
- (p) Financial Services
- (q) Medical Offices
- (r) Commercial Recreation (Outdoor and Indoor)
- (s) Conex Portable Storage Containers

2. Conditional Uses

- (a) Warehousing (Open and Closed)
- (b) Wind Energy Conservation System (WECS)
- (c) Alternative Energy Production Devices
- (d) Construction Yards
- (e) Veterinary Services
- (f) Drive-In Restaurants
- (g) Kennel Services
- (h) Gaming Facility
- (i) Construction Sales/Service

- (j) Retirement Residential
- (k) Light, nonhazardous manufacturing facilities that requires minimum yard storage and contain low noise density.

3. Area and Density Requirements

Any structure built in this district shall meet the following area requirements.

- 1. Minimum lot area (square feet), None
- 2. Minimum lot width (feet), N/A
- 3. Site area per housing unit, (square feet), 500 sq.ft.

4. Setback Requirements

- 1. Front Yard: 0 feet
- 2. Street Yard: 0 feet
- 3. Interior Side Yard: 0 feet
- 4. Rear Yard: 0 feet
- 5. Maximum Building Height: No Limit
- 6. Maximum Building Coverage: 100%
- 7. Maximum Impervious Coverage: 100%
- 8. Retirement Residential: Density for Retirement Residential is 7,000 sq.ft. for the first 4 units and 1,000 sq.ft. for each additional unit thereafter.
- 9. DC District is not subject to any landscaped and screening provisions listed in Article VI.

4.7 Commercial District (C)

This district and these regulations provide for the grouping of retail merchandising and service activities into a central area.

1. Permitted Uses:

- (a) Retail service uses including grocery, pharmacies, hardware, clothing, bakeries, eating and drinking places, automobile service station, print shop, liquor sales, funeral services, cocktail lounge, commercial recreation (indoor), and repair shops.

- (b) Personal service uses including offices and clinics, barber and beauty shops, hotels and motels, financial institutions, bowling alleys and amusement centers, theaters, dry cleaners, laundries and tailor shops.
- (c) Educational, governmental, philanthropic, or charitable institution.
- (d) Sales and servicing of motor vehicles and farm implements.
- (e) Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.
- (f) Automobile dealerships.
- (g) Hotels and motels.
- (h) All activities requiring a business or professional license, and/or a state sales tax permit.
- (l) Custom Manufacturing with no outside storage.

2. Conditionally Permitted Uses:

- (a) Contractor's yard and operations.
- (b) Processing and packaging of materials.
- (c) Warehouses, wholesale dealerships and storage facilities.
- (d) Animal hospitals and veterinary clinics.
- (e) Light manufacturing facilities that requires minimal yard storage and contain low noise density.
- (f) Broadcasting tower
- (g) Outdoor Storage Facilities (See Definition)

3. Area and yard requirements:

Lot area and yard requirements for buildings used for residential purposes shall conform to the yard requirements of R-Residential District.

1. All commercial zoned structures built within this district shall be placed on a lot which meets the following area and density requirements:
 - (a) All permitted uses shall maintain a 7,000 square-foot lot size.
 - (b) All permitted uses shall not exceed 65% of the net buildable area.
 - (c) All structures and impervious areas cannot exceed 80% of the platted lot size.
 - (d) The front yard setback shall be twenty (25) feet from the front yard property line.
 - (e) The interior side yard setback shall have a zero (0) foot setback from the property line.
 - (f) The street side setback shall have a ten (10) foot setback from the property line.
 - (g) The rear yard setback shall be twenty (20) feet from the property line.
 - (h) Clubs: clubs located adjacent to a residential district or any residential use shall maintain a buffer yard of not less than 25 feet along the common boundary with such residential district or use.
 - (i) Day Care: Day care facilities are permitted by Special Use Permit in a Commercial Zoning District only if incidental to a permitted primary use.

4. **Off-street parking and loading facilities:**

- (a) Provide off-street parking for all employees and all rolling equipment at a ratio of one-to-one; for visitors and customers, at a ratio of one-to-employee.
- (b) For residential uses there shall be two (2) parking spaces per unit.
- (c) Adequate loading-unloading facilities shall be provided and shall be located on the same lot as the principal use.

- (d) Restaurants – one parking space for each three (3) person seating capacity.

5. **Sidewalk regulation:**

Boulevard sidewalk construction shall not be less than five (5) feet in width and adjacent to the curb. All curb to be of roll type construction. All lead-in sidewalks shall not be less than three (3) feet in width.

6. **Commercial Development Submission Requirements**

Any application for a development permit for construction or development within a commercial district must include construction documents prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed.

Exception: The Code Administrator or building official is authorized to waive the requirement that such documentation be prepared by a registered design professional if it is determined that the nature of the work applied for is such that a review of the construction documents is not necessary to obtain compliance with this ordinance.

4.8 Industrial District: (I)

It is the intent of these district regulations to provide for the best location of heavy commercial and industrial uses which would be incompatible with other uses.

1. **Permitted Uses:**

- (a) Commercial district uses.
- (b) Grain and feed elevator or mill.
- (c) Heavy equipment sales, service, or repair.
- (d) Lumber yard.
- (e) Vocational training schools.
- (f) Solid waste transfer stations.
- (g) Trucking or freight terminal.
- (h) Warehouses and storage facilities.

- (i) Agriculture.
- (j) Any industrial or manufacturing operation providing that: (a) dust, fumes, odors, smoke, vapor, noise, lights, and vibrations shall be confined within the industrial district, and (b) outdoor storage, equipment and refuse areas shall be concealed from view of abutting rights-of way.
- (k) Railroad facilities
- (l) Aviation
- (m) Truck terminal
- (n) Recycling processing
- (o) Broadcasting tower
- (p) Construction batch plant
- (q) Outdoor Storage Facilities (See Definition)
- (r) Type I Animal Production

2. Conditionally Permitted Uses:

- (a) Sewage treatment facilities.
- (b) Salvage and junk yards.
- (c) Fuel and explosive material storage tanks and terminals.
- (d) Adult entertainment centers.
- (e) Noxious waste disposal sites.
- (f) Temporary workforce housing subject to the provisions of Section 7.12 herein.
- (g) **Alternative Energy Production Devices:**
The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, installation which generate energy by

harnessing the natural heat of the earth or of geological features, or water powered mills or generating facilities.

- (h) Type II or Type III Animal Production

3. Performance Standards:

- (a) A buffer strip shall be installed according to Article VI, Section 5 1.a-f when an industrial use is abutting a Residential District.
- (b) The open storage of materials, other than waste products or salvage, may be permitted when located at least one hundred (100) feet from any Residential District and at least thirty (30) feet from any street right-of-way or other lot line. All material shall be handled so as to effectively control dust. All combustible material shall be stored in such a way as to permit free access to fire-fighting equipment.

4. Lot Area, Width, and Yard Requirements:

- (a) The minimum lot area for the industrial district shall be twelve 12,000 sq. ft.
- (b) The minimum lot width shall be one hundred (100) feet.
- (c) There shall be at least a twenty-five (25) feet setback from the lot line of the front public road or access.
- (d) The minimum rear building line, measured from the rear lot line, shall be twenty-five (25) feet.
- (e) The minimum side building line, measured from the side lot line, shall be twenty (20) feet.
- (f) The maximum building coverage cannot exceed 85% of the platted lot.
- (g) The maximum impervious coverage can be 100% of the platted lot.
- (h) The maximum height of a structure in feet within an industrial zoned lot is unlimited.

4.9 Agricultural District (A)

This district and these regulations are established to provide for agricultural uses of land without conflicting with other uses allowed in the city.

1. Permitted Uses:

General farming activities including crop production, grazing and raising of farm animals excluding commercial feedlots.

- (a) Structures and operation incidental to the operation of a farm.
- (b) Churches and related facilities.
- (c) Public parks, playgrounds, public buildings and structures.
- (d) Public, private and parochial schools.
- (e) Temporary structures incidental to construction work.
- (f) Utility lines and facilities for public service.
- (g) Home Occupations
- (h) Detached single family dwellings including manufactured housing that are used in connection with a farm operation.
- (i) Horticulture
The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.
- (j) Bed and Breakfast
- (k) Day Care (Family)
- (l) Emergency Residential
A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.
- (m) Alternative Energy Production Devices
The use of a site for the production of energy utilizing methods that materials. Typical uses include solar collector fields, installation with generate energy by harnessing the natural heat of the earth or of

geological features (wind towers), or water powered mills or generating facilities.

(n) Type I Animal Production

2. Conditionally Permitted Uses:

(a) Cemeteries.

(b) Animal hospitals and veterinary clinics.

(c) Grain elevator and commercial grain driers.

(d) Airports.

(e) Radio and television towers and accessory building.

(f) Sanitary landfill operation and sewage treatment facilities.

(g) Skeet, trap and rifle ranges

(h) Day Care (Group) (Add)

(i) Toxic Gaseous Storage:

(1) Toxic gaseous storage facilities of toxic gaseous, materials, tanks/or bulk facilities shall not be built within two (2) miles of any residential subdivision or within one mile (1) of any building for human occupancy.

(j) Tourist and trailer camps-- Recreational vehicle campgrounds:

(1) Campground shall contain a minimum of ninety thousand (90,000) square feet and a maximum of fifteen (15) campsites per gross acre.

(2) The site plan showing location of all facilities, drives and campsites shall be approved by the city.

(3) Water and sanitary facilities shall meet the requirements of the North Dakota State Health Department, evidence of which shall be presented to the city on or before the hearing

(k) Single family non-farm residence on one and one-half (1.5) acres or more.

- (l) Temporary workforce housing subject to the conditions of Section 6.12 herein.
- (m) Outdoor Storage Facilities (See Definition)
- (n) Type II or Type Animal Production

3. Area and Density Requirements:

- (1) The minimum lot area within an Agricultural District shall be 5 acres.
- (2) The minimum front yard setback shall be 50 feet from the front yard property line.
- (3) The minimum side yard setback shall be 50 feet from the property line.
- (4) The minimum rear yard setback shall be 50 feet from the property line.
- (5) The maximum building height for residential structures is 35 feet. All other permitted uses within an agricultural district shall not exceed 65 feet in height.

4.10 Recreation District (RC)

This district and these regulations are established to preserve areas for developed recreational activity and residency around rivers and other water courses where development is controlled in order to maintain the quality of the environment and to provide for general recreational activities.

1. Permitted Uses:

- (a) Agriculture.
- (b) Public parks including golf courses and outdoor recreation facilities.
- (c) Churches, schools and related facilities.
- (d) Raising of game animals, waterfowl and fish.
- (e) Communication and power transmission lines and other public utility lines.

- (f) Accessory buildings or structures to any permitted uses.

Note: All accessory structures that do not contain a principal structure shall be limited to a maximum of two thousand (2,000) sq. ft. of floor area for the first one acre or less. The total area of all accessory buildings may be increased by 250 sq. ft. for each additional half (.5) acre of land area above 1 acre, but in no case shall the total exceed 30% lot coverage. Accessory buildings shall include the following: barns, stables, storage buildings, and detached personal vehicle garages.

2. Conditionally Permitted Uses:

- (a) Recreational parks, tourist and trailer camps.

The applicant shall meet the following requirements to obtain a permit:

- (1) Campground shall contain a minimum of ninety thousand (90,000) square feet and a maximum of fifteen (15) campsites per gross acre.
 - (2) The site plan showing location of all facilities drives and campsites shall be approved by the City.
 - (3) Water and sanitary facilities shall meet the requirements of the North Dakota State Health Department, evidence of which shall be presented to the City on or before the hearing.
- (b) Single family dwelling units on one and one-half acres or more.
 - (c) Places of amusement (parks).
 - (d) Refreshment stands.
 - (e) Restaurants, including all types of eating and drinking establishments.
 - (f) Miniature golf course, go-cart track, or race track provided:
 - (1) The same shall not be constructed within five hundred (500) feet of a residential district boundary.
 - (2) Flood lights used to illuminate the premises are so directed and shielded as not to be an annoyance to any developed residential property, highways and streets.

(g) Motorized Sports

- (1) Adequate direct road access to the site is provided with such access designated to minimum traffic congestion; and
- (2) Sufficient off street parking areas are provided in accordance with the number of seating; and
- (3) The site is located at least one (1) mile from any residentially zoned area.

3. **Setback Requirements:**

- (a) A minimum of thirty (30) feet shall be maintained between all structures or recreation vehicle campsites and the natural shoreline of streams, rivers, lakes, reservoirs, or other water areas. No structures will be allowed in a Floodplain Zone.
- (b) Maximum height requirements: No building shall exceed thirty-five (35) feet or two (2) stories in height.

4.11 Floodplain Overlay District

1. **Purpose:** The purpose of this district is to minimize private and public losses due to flood conditions.
2. **Land to Which Ordinance Applies**

Applicability

The floodplain district consists of the lands which have been or may be covered by flood waters as delineated on maps of Hettinger, North Dakota prepared by the Federal Emergency Management Agency (FEMA) for administration of the National Flood Insurance Program or other maps and information provided by the State of North Dakota. The areas delineated as floodplain shall be an overlay for all zoning districts.

3. **Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas shall be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Hettinger, any officer or

employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

4. Permitted Uses

- (a) General building uses including general farming, pasture, and grazing and related uses provided that the buildings and structures for residential use are flood proofed above the one hundred (100)-year floodplain as established by FEMA.
- (b) Non-structural uses including ponding of run-off water and treated waste water.
- (c) Public utilities including railroads, roads and highways, channels, and pipelines.
- (d) Outdoor recreational uses including golf courses, bicycle trails, picnic areas, rodeo grounds, ball parks, and boat launching ramps.

5. Conditional Uses

Temporary buildings and structures not related to flood control and farming such as stands, fences, shelters, signs, and temporary parking.

6. Additional Permit Requirements

Before construction or development begins within any area of special flood hazard, a permit shall be obtained from the Code Administrator. The permit shall include:

- (a) Elevation in relation to mean sea level of the lowest floor (including basement) of all proposed structures;
- (b) Elevation in relation to mean sea level to which any structure will be flood proofed;
- (c) Certification by a registered professional engineer or architect that the flood proofing methods for any non-residential structure meet the flood proofing criteria; and
- (d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

7. General Standards

In all areas of special flood hazards the following standards are required:

(a) Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - over-the-top ties be provided at each of the corners of the mobile home, with two additional ties per at intermediate locations, with mobile homes less than fifty (50) feet long requiring one additional tie per side;
 - frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points, with mobile homes less than fifty (50) feet long requiring four additional ties per side;
 - all components of the anchoring system be capable of withstanding a force of four thousand eight hundred (4,800) pounds; and
 - any additions to the mobile homes be similarly anchored.

(b) Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and
- (3) On-site waste disposal systems shall be located to avoid impairment or contamination during flooding.

(d) Subdivision Proposals

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

(e) Encroachments

The cumulative effect of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.

8. Specific Standards

In all areas where base flood elevation data is available, the following provisions are required:

(a) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one (1) foot above base flood elevation.

(b) Non-residential Construction

New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement elevated one (1) foot above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (1) Be flood proofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Require structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (3) Be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official Code Administrator.

(c) Mobile Homes

- (1) Mobile homes shall be anchored in accordance with Section 4.9.7 (a).
- (2) For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or subdivision, require that:
 - (i) Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be one (1) foot above the base flood level;

- (ii) Adequate surface drainage and access for a hauler are provided; and,
- (iii) In the instance of elevation on pilings, that:
 - Lots are large enough to permit steps,
 - Piling foundations are placed in stable soil no more than ten (10) feet apart, and
 - Reinforcement is provided for pilings more than six (6) feet above the ground level.

(d) Crawlspace

Below-Grade Residential Crawlspace Construction

New construction and substantial improvement of any below-grade crawlspace shall:

- (1) Have the interior grade elevation that is below base flood elevation no lower than two (2) feet below the lowest adjacent grade;
- (2) Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four (4) feet at any point;
- (3) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
- (4) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
- (5) Be constructed with materials and utility equipment resistant to flood damage;
- (6) Be constructed using methods and practices that minimize flood damage;
- (7) Be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

- (8) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (ii) The bottom of all openings shall be no higher than one foot above grade;
 - (iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

9. Flood Proofing Measures

Permitted and conditional uses proposed for the Floodplain District that incorporate Flood proofing techniques must comply with Section 209 through 1406 of the 1972 Edition of "Flood Proofing Regulations" (FPR), as developed by the Office of the Chief of Engineers, U.S. Army, Washington, DC, a copy of which is here by incorporated herein and declared to be a part of this ordinance. Where definition of terms as set forth in Section 301 of FPR conflict in meaning with the definition of terms as set in this ordinance, the latter shall prevail. Appropriate conditions may be attached to the granting of a Conditional Use Permit, including, but not limited to, the following:

- (a) Anchorage to resist flotation and lateral movement.
- (b) Installation of watertight doors, bulkheads, or similar methods of construction.
- (c) Reinforcement of walls to resist water pressure.
- (d) The usage of paints, membranes, or mortar to reduce the seepage of water through walls.
- (e) The construction of water supply and waste treatment systems which will prevent the entrance of flood waters.
- (f) The addition of mass or weight to structures to reduce flotation.
- (g) The installation of pumps to lower water levels in structures.

- (h) The location of all electrical equipment, circuits, and installed appliances in a manner which will insure they are not subject to flooding and to provide protection from inundation by the regional flood.
- (i) The location of all structural storage facilities for chemicals, explosives, buoyant materials, flammable liquids or other toxic materials which could be hazardous to public health, safety, and welfare above the flood protection elevation or the provision of adequate flood proofing to prevent flotation of storage containers which could result in the escape of toxic materials into flood waters.

4.12 Planned Unit Development Overlay District

4.12.1 Intent

The Planned Unit Development (PUD) is a design and development technique which allows a developer the flexibility to create a residential and/or light commercial unit or complex which may not be required to adhere to standards set elsewhere in this ordinance, provided the overall development unit fits the general nature of the district and reflects creative and efficient use of structures and open space. When a PUD is developed and approved by the Planning and Zoning Board with final approval from the City Council, and the PUD will be recorded at the registers of deeds office, there can be no other changes within the PUD development.

4.12.2 Allowed Uses

1. All conditionally allowed uses in Residential Districts and allowed uses in Commercial Districts under the following provisions:
 - (a) Setbacks and buffer zones are designed to the Planning Commission satisfaction.
 - (b) Adequate and appropriate areas of the PUD are set aside for open space and parks.
 - (c) Interior streets, parking areas and utility service facilities are safe, adequate and efficient in design and are covered under a district maintenance program.
 - (d) The overall unit is compatible with the surrounding land uses in that district.
 - (e) Proposed phases of completion are defined.

ARTICLE V

SUBDIVISION REGULATIONS

5.1 Intent

1. To insure the orderly development of the city and its unincorporated planning area.
2. To provide for proper arrangement of streets in relation to other existing and planned streets.
3. To provide for adequate and convenient open spaces for traffic, utilities, firefighting, recreation, light and air.
4. To facilitate adequate provisions for access, placement of public non-profit and for profit utilities, schools, and public open spaces.
5. To avoid development of unsuitable areas because of soil, drainage and other physical limitations.
6. To facilitate subdivision of larger parcels into smaller parcels and lots.
7. To implement the Comprehensive Plan of the city.

5.2 Compliance with Chapter

All subdivisions made within the city or its extra-territorial jurisdiction shall be subject to and shall conform to the requirements of this chapter.

5.3 Minor Subdivision

Where a proposed subdivision does not entail the establishment of any required street or road easements nor does it require any utility easements nor does the subdivision require any grading or re-contouring of the land surface, and the subdivision does not exceed four (4) lots, then said subdivision may be defined as a minor subdivision and may follow the guidelines of the regulations developed for minor subdivisions. (See Section 5.6)

5.4 Sketch Plan

1. Submission
 - (a) Prior to the filing of an application for tentative approval of the preliminary plat, the sub divider (applicant) shall submit for review by the Planning and Zoning Commission sketch plans.
 - (b) Such sketch plans will be considered as submitted for informal discussion between the sub divider (applicant) and the Planning and Zoning Commission. Submission of a subdivision sketch plan shall not constitute formal filing of a plat.
 - (c) Prior to presentation of the sketch plan to the Planning and Zoning Commission, the sub divider (applicant) should contact the Code Administrator to ensure that the proposed subdivision conforms to the design standards of this chapter, the city comprehensive plan, street or utility master plans, and discuss any possible modifications necessary to ensure conformance.
2. Data Required for Sketch Plan
 - (a) Tract boundaries;
 - (b) North point;
 - (c) Description of nature and purpose of street(s) on and adjacent to the tract;
 - (d) Proposed general street layout;
 - (e) Significant topographical and physical features;
 - (f) Proposed general lot layout; and
 - (g) Existing and proposed land use.

5.5 Preliminary Plat

The preliminary plat shall be prepared by a registered land surveyor and shall be submitted to the Planning and Zoning Commission for review and recommendation to the City Council. The preliminary plat shall cover the entire contiguous area owned or controlled by the sub divider (applicant) if it is less than twenty (20) acres even though only a small portion of it is proposed for the development at the time. The sub divider (applicant) may be required to submit a

development plan if he/she owns or controls more than twenty (20) contiguous acres of land.

1. Preliminary Plat Content

The preliminary plat shall include the following requirements, data and information.

- (a) The preliminary plat drawn at a scale of not smaller than one inch representing one hundred feet (1" = 100').
- (b) Name and location of the subdivision.
- (c) Date, graphic scale and North point.
- (d) Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.
- (e) Total acreage within the subdivision.
- (f) Location, right-of-way width and names of any existing or proposed streets including type and width of surfacing or public ways, easement, railroad, utility right-of-way, parks and other public open spaces, permanent buildings or structure, corporate boundaries and section lines within or adjacent to the subdivision.
- (g) Location of existing property lines, buildings, drives, streams, watercourses, wooded areas and drainage ways.
- (h) Existing water mains, storm sewers, sanitary sewers, culverts, bridges and other utility structures within the tracts, indicating pipe size, grades and location as obtained from public records.
- (i) Existing zoning of the proposed subdivision and the zoning of the adjacent tracts of land.
- (j) Boundary line of adjacent tracts of land or lots showing owner's name.
- (k) Contour at vertical intervals of not more than two (2) feet.
- (l) Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.
- (m) Layout of the proposed streets, alleys, crosswalks and easements, showing widths and street names.

- (n) Layout, number and dimensions of all lots and blocks.
- (o) Parcels of land intended to be dedicated or reserved for public use or set aside for the use of property owners within the subdivision,
- (p) Building setback lines, showing dimensions,

2. Preliminary Plat Submission Requirements

- (a) The sub divider (applicant) shall apply to the Planning and Zoning Commission on appropriate forms provided by the Code Administrator at least ten (10) days prior to the regularly scheduled meeting.
- (b) The sub divider (applicant) shall submit two (2) prints of the preliminary plat to the Code Administrator at the time the application is made. The plat shall comply with the provisions of this ordinance.
- (c) The sub divider (applicant) may submit any instrument whereby he/she proposes to regulate land use in the subdivision for protecting the proposed development.
- (d) The sub divider (applicant) shall provide other data related to drainage, soil suitability, financing of improvement and other related information which the Planning and Zoning Commission requests.

3. Development Plan

Where a development plan is required for a tract of land, the following shall be included in the plan.

- (a) Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
- (b) General layout of proposed streets and location of blocks for designated uses.
- (c) Location of open spaces and facilities for public uses.
- (d) Existing drainage pattern based on the available topographic information from the U.S. Geological Survey maps and other similar information.
- (e) The development plan shall be drawn at a scale of one (1) inch representing four hundred (400) feet.

- (f) The Planning and Zoning Commission may require other information as a part of the development plan.

4. Review Process

- (a) The Planning and Zoning Commission shall review the preliminary plat and may request additional information before it takes action.
- (b) The conditional approval of a preliminary plat shall clearly state the nature and extent of the conditions which shall be met before a final plat is submitted for review and approval. Tentative approval of a preliminary plat by the Planning and Zoning Commission is not an acceptance of a subdivision plat, but is an expression of approval of a general plat as a guide to preparation of a subdivision for final plat review and approval.
- (c) The Planning and Zoning Commission may require the sub divider (applicant) to submit a revised preliminary plat before the sub divider (applicant) proceeds with the preparation of the final plat.
- (d) Approval of the preliminary plat shall be effective for a period of two (2) years within which a final plat shall be prepared. If the final plat is not submitted within this time period, the City Council may require the sub divider (applicant) to resubmit the preliminary plat for review and approval, unless the developer had provided a detailed timetable for the preparation of the final plat(s).

5.6 Data Omitted on Minor Subdivision Plats

The following may be omitted from any preliminary plat for a minor subdivision:

1. Location and approximate sizes of sidewalks, curbs, and gutters.
2. Topographic contours at a two foot interval or a maximum interval of five feet if the latter is acceptable to the reviewing authority.
3. Location and extent of problem soil types and results of all percolation tests, if requires.
4. Location, widths and functions of all alleys, pedestrian walkways, easements and other areas to be dedicated for public purposes.
5. Layout of public and private utility service lines and easements to include sewer and water, gas, electric, and telephone.

6. Stream and drainage structures, sedimentation basins, altered drainage profiles and culvert or bridge specifications.

5.7 Final Plat

The final plat shall cover the area which is realistically designated for transfer or sale of lots.

1. Final Plat Content

The final plat shall conform to all provisions of this ordinance and conditions set forth by the City Council.

- (a) Name of subdivision and date of tentative approval by the City Council.
- (b) Location by section, township and range, or other legal description.
- (c) Names of owners and surveyor or other professional person preparing the plat.
- (d) Plat map with scale of one inch representing one hundred (100) feet or less.
- (e) Date, graphic scale and North point.
- (f) Boundary line of subdivision based on an accurate traverse, showing distances and bearings.
- (g) Exact location, width and name of all streets within and adjoining the subdivision, and the exact location of all alleys and crosswalks.
- (h) True bearing and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat.
- (i) City, township, county or section lines accurately tied to the boundary lines of the subdivision by bearing and distance.
- (j) Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
- (j) All easements for rights-of-way provided for public services and public utilities.

- (k) All lot numbers and lot lines, with accurate dimensions in feet and hundredths.
- (l) Accurate location of all monuments, which shall be of material size in accordance with the standards of the city, the county, and the state.
- (m) Accurate outlines and legal descriptions of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for common use of all property owners.
- (n) Building setback lines, accurately shown with dimensions.
- (o) Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
- (p) Building or property covenants.
- (q) Certification by registered surveyor to the effect that the plat represents a survey made by him/her, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.
- (u) Notarized certification by the owners of the land of the adoption of the plat and the dedication of sewers, water distribution lines and other improvements and of streets and other public areas.

2. Final Plat Submission Requirements

The sub divider (applicant) shall apply on appropriate forms to the Planning and Zoning Commission for approval of the final plat, if he/she holds a valid approval of the preliminary plat.

- (a) The sub divider (applicant) shall submit the final plat to the Planning and Zoning Commission at least ten (10) days before the regularly scheduled meeting of the Planning and Zoning Commission.
- (b) The final plat shall comply with all provisions of this ordinance and conditions and requirements set forth as a part of review and approval of the preliminary plat. All filing

fees shall be paid to the county at the time of filing the final plat for approval.

- (c) The Planning and Zoning Commission may require the sub divider (applicant) to submit detailed drawings for grading of the lots, blocks, streets, detailed drawings for pavement, curb, gutter and sidewalk, drawings for installation of water, sanitary and storm sewer facilities.

3. Review Process

- (a) If the Planning and Zoning Commission, after a public hearing, finds the final plat in conformance with the stipulations as presented in the preliminary plat, it shall make a recommendation for action to the City Council.
- (b) The sub divider (applicant) shall prepare an estimate of the cost of providing the required improvements based on the city design standards for street, curb, gutter, sidewalk, sanitary sewer, storm sewer and water lines.
- (c) After receiving recommendations from the Planning and Zoning Commission, the City Council shall review the recommendations and the final plat and approve or disapprove the proposed subdivision.
- (d) Within thirty (30) days after the final plat approval is granted, the final plat of record shall be filed with the County Recorder for Adams County.

5.8 Amendment of Any Project Development Plan

Upon final approval of a subdivision involving the creation of new streets, the widening, decreasing or vacation of existing streets or alleys, or the creation, enlargement or decrease of other lands devoted to public use, the City Council and/or Planning and Zoning Commission shall approve such change in streets, alleys or public lands as an amendment to any project development plan, as it finds appropriate.

5.9 Filing of Subdivision Plat

The sub divider (applicant), upon approval of the final plat, shall file the plat with the County Recorder of Adams County. Sale of any lot prior to filing of the final plat is in violation of this ordinance.

5.10 Design Standards – Conformance

The sub divider (applicant) shall prepare the preliminary and final plat in conformance with the standard set forth herein.

5.11 Street Design

1. The arrangement, character, classification, extent, width, grade, and location of all streets shall be designed in relation to existing and planned streets, topographic conditions, existing natural features, public convenience and safety and the proposed uses of land served by such streets and to the most advantageous development of adjoining uses.
2. Where it is not shown on the Development Plan, the arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing streets in surrounding areas or conform to a plan approved by the Planning and Zoning Commission to meet a particular situation.
3. Where a subdivision abuts or contains an existing or proposed major street or highway, the Planning and Zoning Commission may require service streets, reverse frontage lots with screen planting in a reservation strip along the rear property line, deep lots with rear service alleys abutting the primary street or highway, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.
4. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning and Zoning Commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.
5. Reserve strips in private ownership controlling access to streets are prohibited.
6. Street with centerline offsets of less than one hundred fifty (150) feet shall be avoided.
7. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on major streets.
8. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than four hundred

(400) feet for local and collector streets, and of such greater radii as the Planning and Zoning Commission shall determine for special cases.

9. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than seventy-five (75) degrees, and no more than two streets shall intersect at one point.
 - Dead-end streets shall not be permitted without a suitable turn-around with a diameter of not less than one hundred forty (140) feet. Appropriate arrangements shall be made for those parts of temporary turnarounds outside of street rights-of-way to revert to the abutting property owners at such times as streets shall be extended.
 - No street names shall be used which will duplicate or be confused with the names of existing streets in the city.
10. Curb radii on all block corners shall be ten (10) feet and a five (5) foot radius shall be used at intersections of streets and alleys.
11. Street rights-of-way shall be not less than the following table:

Street Type	Minimum Right-of-Way Width (lot line to lot line)	Minimum Roadway Width	Maximum Gradient	Minimum Gradient
Arterial Streets	80 feet	48 feet	4%	0.7%
Collector and Industrial Use Streets	60 feet	40 feet	6%	0.7%
Local Streets	60 feet	34 feet	10%	0.5%

- (a) Alleys, residential district, twenty (20) feet.
- (b) Sidewalks, five (5) feet.
- (c) Bike paths (per DOT standards).
- (d) Cul-de-sacs, if approved, one hundred (100) feet in diameter and not more than five hundred (500) feet from cul-de-sac to dedicated public street (Add).

12. Half-streets are prohibited except where essential to the reasonable development of the subdivision and in conformity with the other requirements of this ordinance and where the Planning and Zoning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever an existing half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
13. General considerations for intersection design are that:
 - (a) Intersections of more than two (2) streets at a point shall not be permitted.
 - (b) Alleys shall be discouraged in residential districts but may be provided in commercial and industrial districts.
14. Dead-end streets without a suitable turnaround are prohibited.
15. Minimum Street Standards: All city streets within the corporate city limits of Hettinger, North Dakota shall follow the street design standards provided by the most current ND DOT (North Dakota Department of Transportation). Civil engineering will also include the minimum requirements for the type of soil conditions and or traffic loads.
16. Any gravel roads approved by the Hettinger City Council will require a forty (40') foot wide road surface with a minimum of eight (8") inches of aggregate surfacing.

5.12 Block Design

The length, width, and shape of blocks shall be suited to the planned use of land, zoning requirements, needs for convenient access, control of safety of street traffic, and the topographic conditions.

1. Residential block length shall not exceed nine hundred (900) feet. The length of blocks is considered to be the distance from one street centerline to opposite street centerline and is measured through adjacent back lot lines or through the center of the block.
2. Pedestrian crosswalks not less than ten (10) feet wide may be required in blocks longer than six hundred (600) feet where the crosswalks are deemed by the Planning and Zoning Commission to be essential to provide circulation, or access to schools, playgrounds or other community facilities, handicap access (curb cuts) required.

3. The width of blocks shall generally be sufficient to allow two (2) tiers of lots and shall be at least two hundred and fifty (250) feet wide.
4. Blocks intended for commercial and industrial use shall be specifically designated for such purposes with adequate space set aside for off-street parking and delivery facilities. The Planning and Zoning Commission may require service drives or frontage roads along major streets for commerce and industry.

5.13 Lot Design

1. The shape, size and orientation of the lots shall be appropriate for the location of the subdivision.
2. For non-residential lots, the provisions of the appropriate zoning district shall apply.
3. Residential lots abutting major streets shall have extra depth of at least twenty (20) feet to allow for proper setbacks.
 - (a) All lots shall front a public street.
 - (b) Side lot lines shall be substantially at right angles.
4. Residential corner lots shall have an extra width of ten (10) feet to permit adequate building setbacks from the side streets.
5. Double frontage lots shall be avoided except where essential to provide separation of development from arterial streets.
6. Depth and width of lots reserved or laid out for commercial or industrial uses shall be adequate to provide for off-street parking and service facilities required by the type of use a development and the provisions of the appropriate zoning district.
7. The lot area for residential development shall be not less than seven thousand (7,000) square feet and the lot width shall be not less than fifty (50) feet.

5.14 Street Names

1. The Planning and Zoning Commission may disapprove of the name of any street shown on the plat which does not conform to existing naming patterns, has already been used elsewhere in the area, or because of a

similarity that may cause confusion or because of a conflict with the 911 emergency system.

2. Where a street maintains the same general direction, except for curvilinear changes for a short distance, the same name shall continue for the entire length of the street.

5.15 Utility Easements

1. Easements across lots or along rear or side lot lines shall be provided for utilities where necessary and shall be a minimum of eight (8) feet wide on each side of the lot line and shall be designated as "utility easement".
2. All lots shall be served by underground electric, cable television, natural gas, propane and telephone lines unless waived by the Planning and Zoning Commission due to topographic conditions or excessive costs.
3. All utility lines for electric power, cable television and telephone services carried overhead shall be placed in utility easement.
4. Utility lines installed in the utility easement shall not be closer than one foot to the property line or three (3) feet to any survey monument.

5.16 Grading and Drainage

1. When required, the sub divider (applicant) shall provide a detailed grading and drainage plan showing the grades of streets and drainage improvements.
2. The drainage shall not discharge into any sanitary sewer facility.
3. The drainage facilities shall be located in street right-of-way or in drainage easements.
4. All developers should submit a management plan for storm water.
5. The grading and drainage system shall be approved by the Planning and Zoning Commission.
6. Grading established in any subdivision shall not be changed without approval of the Planning and Zoning Commission.

5.17 Drainage Way Easement

Where a subdivision is traversed by a water course or drainage way, an adequate grading of such easement shall be set by the Planning and Zoning Commission to accommodate the anticipated discharge from the property being subdivided and also the anticipated run-off from the adjoining properties.

5.18 Street Lights

Street lights and their location shall be in accordance with the minimum standards to be established by the Planning and Zoning Commission. All new subdivisions established within the corporate city limits will be required to provide a street light plan to the planning and zoning commission for approval. Once approved by the planning and zoning commission, the developer will be responsible for the installation of the streetlights within the subdivision.

5.19 Required Improvements

Before installation of improvements in any subdivision, the Planning and Zoning Commission shall make a determination for improvements required, based on a schedule of improvements including the standards and class of construction.

1. Completion Assurance

To cover the cost of improvements, as determined by the Planning and Zoning Commission, the sub divider (applicant) may be required to post a bond or submit a letter of credit from an acceptable financial institution in an amount sufficient to construct such improvements and submit a plan of financial responsibility of unpaid improvement assessments.

2. Survey Monuments

The sub divider (applicant) shall install survey monuments in all lot and block corners in the subdivision in accordance with the requirements of the State of North Dakota.

3. Public Water

(a) Where appropriate, water mains shall be installed so as to provide individual service to each lot within the subdivision.

(b) Water mains shall extend to the boundary of the subdivision, except where in the opinion of the Planning and Zoning Commission it is deemed impractical.

- (c) A rural water supply shall comply with the requirements of the State of North Dakota.

5.20 Sanitary Sewer

1. All subdivisions shall be provided with sanitary sewers to each lot. On an individual case review, an on-site sewage system may be allowed.
2. Private septic systems may be approved by the county sanitarian on lots of a minimum of one (1) acre.
3. All subdivisions shall be provided with public sanitary sewers to each lot. On an individual case review, an on-site sewage system may be allowed.
4. Private septic systems may be approved by the county sanitarian on lots of a minimum of one (1) acre.
5. All subdivisions shall be provided with public sanitary sewers to each lot. On an individual case review, and on-site sewage system may be allowed.
6. Private septic systems may be approved by the county sanitarian on lots of a minimum of one (1) acre.
7. The public sanitary sewer shall be extended into each individual lot of the subdivision, except where in the opinion of the Planning and Zoning Commission it is deemed impractical.
8. All sanitary systems shall be reviewed and approved by county sanitarian or Health District.

5.21 Storm Sewer

The storm sewer drainage facilities shall be installed in accordance with the plans and specifications approved by the Planning and Zoning Commission.

5.22 Grading and Surfacing

The full width of all rights-of-way shall be graded in accordance with the Hettinger City street standards.

5.23 Curbs, Gutters and Sidewalks

Concrete curb and gutters, where appropriate, may be installed in all subdivisions in accordance with the City standards. Where the City requires

construction of a sidewalk, it shall be in accordance with the design standards established by the Planning and Zoning Commission.

5.24 Installation of Improvements

Construction of all improvements is contingent on approval by the Planning and Zoning Commission. The sub divider (applicant) shall be responsible for furnishing the necessary data required for such approval.

1. Duly completed and executed surety bond in an amount sufficient to complete the work with surety satisfaction to the City.
2. Other arrangements satisfactory to the City to complete the work.

5.25 Dedication of and for Streets

Whenever a parcel of land is to be divided as a subdivision or as a land division, all streets and public ways shall be dedicated to the public upon approval of the plat of subdivision.

ARTICLE VI

LANDSCAPING AND SCREENING STANDARDS

6.1 Landscaping and Screening Regulations:

The landscaping and screening regulations provide additional guidance on the development of sites within Hettinger by addressing landscaping and screening requirements. They are designed to improve the appearance of the community; buffer potentially incompatible land use from one another; and conserve the value of properties within the City of Hettinger.

- (1) Landscaping shall be required adjacent to each street property line and within street yards as established within these landscaping and screening regulations.
- (2) All plant material installed in landscaped areas or buffer yards shall be consistent with the official list of plant materials provided through the office of the Code Administrator. All plant material shall conform in size, species and spacing with this section of the code.
- (3) Landscaping Materials and Installation Standards
 - a) Official List of Plant Materials: All plant material installed in landscaped areas or buffer-yards shall be consistent with the Official List of Plant Materials provided through the office of the Code Administrator. All plant material shall conform in size, species and spacing with this section of the Code.

Table 1

Required Landscaped Depth

Zoning District	Depth of Landscaping Adjacent to Street Property Line
Agricultural	35 feet
R-1	15 feet
R-2	15 feet

R-3	15 feet
MH-Mobile Home	15 feet
Commercial	10 feet
Industrial	Section 6.1(5)1 a-f

(4) Buffer Yard Provisions:

These provisions apply to the regulations contained in Section 4.6,3.(a) herein and when use is established in a more intensive zoning district which is adjacent to a less intensive zoning district. The owner, developer, or operator of the use shall install and maintain a landscaped buffer yard on his/her lot or site as set forth in this section.

Each required buffer yard must be landscaped and free of paved areas, access ways, storage, or other disturbances.

(5) Screening Standards:

1. Screening is required between adjacent residential and industrial zoning districts when one or more of the following conditions is directly visible from the residential district.
 - (a) The rear elevation of buildings.
 - (b) Outdoor storage areas or storage tanks, unless otherwise screened.
 - (c) Loading docks, refuse collection points, and other service areas.
 - (d) Major machinery or areas housing a manufacturing process.
 - (e) Major on-site traffic circulation areas or truck and/or trailer parking.
 - (f) Sources of glare, noise, or other environmental effects.
2. Opaque Barrier: A six (6) foot opaque barrier shall be provided which visually screens the conditions listed in Section 6.1(5) from less intensive uses as follows:

- (a) A solid wood and/or masonry fence or wall at least six (6) feet in height.
- (b) A landscaping screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six (6) feet within three (3) years of planting.
- (c) A landscaped earth berm with a maximum slope of three to one (3 to 1) rising no less than six (6) feet above the existing grade of the lot line separating zoning districts.
- (d) Any combination of these methods that achieve a cumulative height of six (6) feet.

3. Location of Screening Wall: A screening wall or fence shall be installed no closer to the less intensive zoning district than one-half the width of the required buffer yard.

4. Screening: Effect on Drainage

Screening shall not adversely affect surface water or snow drainages.

(6) Tree Planting:

In any landscaped area required by the Minimum Depth Requirements or the Buffer Yard Requirements, one tree of an approved species with a minimum caliper size of one and one half (1 1/2") inches shall be planted and maintained for each five hundred (500) square feet of required landscaped area. Existing trees approved for preservation shall be counted towards satisfaction of this requirement.

(7) General Provisions:

- (a) Time of application: The provisions contained herein shall be applied for each individual lot or site when an application for a building permit on such lot is made.
- (b) Maintenance of Required Landscaping Upon Installation of Required Landscaped Materials: Each owner shall take appropriate actions to ensure their continued health and maintenance. Required landscaping that does not remain healthy shall be replaced consistent with the provisions of this article.

- (c) **Obstruction of View:** Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway, approach, Street, alley or public sidewalk.
- (d) **Earth Berm Locations:** All earth berm locations shall be reviewed by the city Council to determine how the berms shall relate to drainage, snow, and public utilities.
- (e) **Exceptions:** A development may continue with the buffer yard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise require compliance with buffer yard or screening provisions.

ARTICLE VII
SPECIAL PROVISIONS

7.1 Parking

(a) Off Street Parking Design Standards:

1. An off-street automobile parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.
2. Off-street parking areas: All primary commercial off street parking areas, residential parking stalls and all loading berths shall be concrete, or asphalt surfaces; and (b) graded to dispose of surface water run-off but not be diverted to adjoining properties. All secondary parking areas and storage of commercial and industrial equipment can consist of road gravel, crushed concrete, crushed asphalt, concrete or asphalt surfaces.
3. Paved off street parking shall be provided for any new building constructed; for new uses or conversions of existing buildings; or for enlargements of existing structures greater than fifty percent (50%) for the new use or building expansion. This provision shall include a cumulative fifty (50%) increase in total building footprint or required parking stalls from and after January 1, 2016.
4. Each off street parking facility shall provide the number of parking spaces set forth in ANSI A-117 Standards designed and designated for use by people with disabilities. Design criteria and dimensions are set forth in the Off-Street Parking Design Standards and the requirements of the Americans with Disabilities Act. Parking facilities for single-family, duplex, two-family, and manufactured home residential uses are exempt from this requirement.
5. Van Accessible Stalls: one in every accessible spaces, but not less than one stall on each premises, shall be served by an access l'll with a minimum width of 96 inches and shall be designed as "Van accessible".
6. All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse, debris, and later; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.

7. Lighting: any lighting used to illuminate any off-street parking area shall be arranged to direct light away from adjoining properties in any residential district.
8. Entrances and Exits: adequate access to each parking facility shall be provided by means of clearly defined and limited driveways or access points. Such driveways shall be designed to direct non-residential traffic away from residential districts.
 - a. In the downtown commercial district entrances from public to off street parking facilities, shall be located at least 60 feet from the intersections of the curb lines of the intersecting streets.
 - b. In all other districts, the entrances from public streets to off street parking facilities shall be located at least 60 feet from the intersections of the curb lines of the intersecting streets.
9. Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden or hazardous areas.

Landscaped and Screening Requirements:

- 1.1 Each unenclosed parking facility shall provide a minimum landscaped buffer of 10 feet along any street property line.
- 1.2 Each parking facility that abuts a residential district shall provide a 10 foot landscaped buffer along its common property line with the residential district.
- 1.3 Any parking facility which abuts property in a residential district shall provide a fence, wall, landscaped screen, or earth berm not less than four (4) feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the site line of headlights into a residential property may satisfy this requirement, subject to the determination of the building official.
- 1.4 Each unenclosed parking facility of over 4500 sq.ft. within a street yard shall provide interior landscaped area equal to no less than five (5%) of the total paved area of the parking facility. Parking facilities within the I District shall be exempt from this requirement.

7.2 Special Requirements

- a. No building shall be erected or enlarged without meeting the following off street parking requirements:
 1. Business, professional or public office building, studio, bank, medical or dental clinic: three (3) parking spaces plus one additional space for each three hundred (300) square feet of floor space over one thousand (1,000) square feet.
 2. Private club or lodge: one (1) space per four (4) person capacity in largest assembly space.
 3. Restaurant, eating and drinking establishment: one parking space for each three (3) person seating capacity.
 4. For industrial uses there shall be one off-street parking space for every one (1) employee, and one (1) space per 300 sq.ft of office or administration floor space.
 5. Hospitals, one parking space per two (2) beds.
 6. Public or Religious Assembly, one (1) space per four (4) person capacity in largest assembly space.
 7. Secondary Education, one (1) space per employee of max. shift + one (1) space for each three (3) individuals in 11th and 12th grade.
 8. Colleges and Universities, one (1) space for every four (4) students based on average enrollment.

- b. Special Provisions for Personal Vehicles, Recreational Vehicles and Boats:

Parking of personal vehicles on a single lots in a residential district is subject to specific conditions. Personal vehicles include: passenger cars; vans; pickup trucks; camper shells, toppers, and other similar apparatuses intended for attachment to a personal vehicle; trailers under 20 feet in length, and boats. Trucks, tractor cab units, trailers, recreational vehicles, and vehicles over 10 tons gross empty weight shall be defined as heavy commercial vehicles. Where permitted, parking and storage of recreational vehicles and boats is subject to the following conditions.

1. Parking is permitted within any enclosed structure when such structure conforms to the regulations of its zoning district.
2. Parking of personal vehicles is permitted on a paved driveway (outside) of an enclosed structure) within the front yard setback, but shall in no case encroach upon the public right-of-way.
3. Parking of personal vehicles within an interior side yard must be located on a hard surface.
4. Parking of personal vehicles may occur in the rear yard setback provided that such parking conforms to the provisions of the zoning ordinance and meets the following conditions:
 - a. The parking space is provided on a paved, graveled, scoria, concrete, or rock surface.
5. Heavy commercial vehicles, including tractor cab units weighing more than 10 tons gross empty weight, shall not be parked on any lot within the R1, R2, R3, and MH residential zoning districts. Recreational vehicles shall not be parked on any lot within the R1, R2, R3, and MH residential zoning districts, except as provided below.
 - a. Recreational vehicles and boats must be maintained in a clean, well-kept state.
 - b. Recreational vehicles and boats may not be permanently connected to utility lines.
 - c. Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle.

c. Storage and Parking of Unlicensed or Other Vehicles:

The storage or keeping of motor vehicles not having a properly issued current motor vehicle registration and current motor vehicle license plate properly displayed, or in good operable condition, is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Hettinger; provided that conformance with the following shall not constitute a violation of this section:

1. The storage of not more than two unlicensed and/or unregistered motor vehicle in a fully-enclosed garage or a fenced or screened

area hidden from view of a public street or adjacent residential property.

2. The storage of operable off-highway farm or industrial vehicles on tracks zoned AG Agricultural or I Industrial uses, and used in agricultural or industrial activity conducted on the premises.
3. The storage of not more than one personal vehicle in good operable condition and shielded from view of the general public.
4. The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Hettinger, except in enclosed buildings or garages, within a permissive zoning district, or where otherwise permitted by this ordinance.
5. Parking, storage or keeping, other than in a fully enclosed garage of any non-operable motor vehicle is prohibited on any residential zoned lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Hettinger; provided, however, that automobiles that are non-operable by reasons of repair work being done there on may be parked on the residential lot of the owner of said automobile within the Hettinger Zoning jurisdiction under the following conditions:
 - (a) The automobile is owned by the occupier of the premises and registered to him/her at that address.
 - (b) The period of said repair work does not exceed 10 days in duration.
 - (c) Repair work is at all times conducted on a paved driveway.
 - (d) No more than one automobile in need of repair is situated on the premises at the same time.

d. Removal of vehicles:

Before the City removes a vehicle suspected of being in violation of this section, by reason of it being in operable, the City shall give the owner of the premises upon which the offending vehicle is situated a seventy-two

hour warning notice. Notice shall be given by tagging the motor vehicle and by regular mail, postage prepaid to the occupier of the premises on which the motor vehicle is situated. Any motor vehicle not removed from the premises within such seventy-two hour period shall be presumed to be inoperable and may thereafter be removed by the City. If he/she chooses, the owner may demonstrate operability of the vehicle by making special arrangements with the Adams County Sheriff's Department to demonstrate operability of the vehicle within said seventy-two hour notice. If operability of the vehicle is satisfactory demonstrated, the automobile may not be removed.

7.3 Collection of Solid Waste

No person may collect or transport waste materials for a fee without obtaining a permit from the City of Hettinger. Storage of solid waste materials shall be confined to buildings and structures designed specifically for such purpose and shall be secured by appropriate fences and gates. The openings to the buildings and structures, including but not limited to conveyors, doors, ramps, and other points of access for use by transport or moving vehicles when not in use shall be closed to minimize the impact from odor and concentration of insects and rodents. All collection facilities must be in an approved zoned area.

7.4 Recycling Facilities

Recycling facility by definition is the place where any material including yard waste, oil, glass, metal, plastic, paper, or cardboard is processed for an end use. Because of the nature of the recycling facilities as permanent structures, zoning approval and permits are required. The following are required to obtain a permit:

1. The facility does not abut residential and public uses.
2. The facility will be screened from the public right-of-way.
3. The facility shall not be placed in the floodplain.
4. The site shall be free of litter and other undesirable materials. Containers shall be clearly marked to identify the type of material that may be deposited.
5. There shall be pest control plan for review and approval.

7.5 Public Nuisances

The maintenance of public nuisances shall be subject to the provisions of the city ordinances.

7.6 Noise

Sustained noise in excess of that allowed by city ordinance is prohibited.

7.7 Home Occupations, Standards for Approval

1. Home occupation:
 - (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 (2) full-time or four (4) 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 locate.

7.8 Adult Entertainment Centers

- 1, An adult entertainment center shall not be located within one mile of any religious institution, cemetery, school, park, or recreation area. They shall be located in an Industrial Zoning District.
2. An adult entertainment center shall not be located within one thousand two hundred fifty (1,250) feet of any establishment that dispenses alcohol on-premises.
3. An adult entertainment center shall not be located within one thousand two hundred fifty (1,250) feet of any other adult entertainment center.
3. An adult entertainment center must prohibit entrance by persons less than eighteen (18) years of age.

4. 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 book store, adult entertainment facility, adult cinema, or combination thereof.
5. No material depicting specified sexual activities or specifies anatomical areas shall be visible from the exterior of an adult entertainment center.
6. 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.

7.9 Exceptions to Maximum Height Requirements:

1. The following shall be exempt from maximum height requirements in all district regulations:
 - a. Antennas, belfries, chimneys, cupolas, flag poles, ventilators, water tanks, or other appurtenances usually required to be placed above roof level and not intended for human occupancy.

7.10 General Exception to Lot Size Requirements:

If a property ownership, consisting of the entire contiguous land holdings held in a single ownership at the time of passage of this ordinance, has an area of dimension which does not meet the lot size requirements of the district in which the property is located, the holdings maybe occupied by a use permitted in the district subject to the other requirements of the district, provided that if there is an area deficiency, residential use shall be limited to a single family dwelling or to the number of dwelling units consistent with the intensity requirement of the district. The record of ownership as recorded in the office of the County Recorder at the time of the passage of this ordinance shall be the basis for application of this exception unless the owner submits proof that a different ownership existed at the time the provisions of this ordinance becomes applicable to the land concerned.

7.11 Uses by Temporary Permit:

1. The following uses require a temporary permit from the Code Administrator:
 - (a) Bazaars, carnivals, or fairs.

- (b) Musical events.
 - (c) Racing events.
 - (d) Rodeos.
 - (e) Public gatherings for a single-purpose event.
 - (f) Temporary building or yard for construction materials and/or equipment incidental and necessary for current construction in the immediate surrounding area.
 - (g) Temporary office incidental and necessary for the construction, sale, or rental of the property in the immediate surrounding area.
2. Permits shall be valid for such period of time as determined by the City Council and shall be renewable at the discretion of the City Council.

7.12 Crew Camp Housing (Temporary Workforce Housing)

7.12.1 Definitions: As used in this ordinance:

- (a) "Crew Housing facilities" means one or more lodging units or skid units, ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis, which are not real property, as defined in NDCC §57-02-04 and are not mobile homes as defined in NDCC §57-55-01.
- (b) "Crew housing permit" means a right granted by the Hettinger City Council to locate crew housing facilities on property within the jurisdiction of the city under this ordinance and to enjoy attendant services and facilities provided by the city.
- (c) "Skid unit" means a structure or group of structures, either single or multi-sectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis.

7.12.2 Crew Housing Conditional Use Permit:

A Temporary Crew Housing Permit authorizes a conditional use, the issuance of which is subject to the procedures contained in this zoning ordinance. It is allowable as a conditional use in Agricultural and Industrial Districts. The application shall be submitted to the Hettinger City Planning and Zoning Commission.

7.12.3 Applicant Background Information:

The Applicant for a Temporary Crew Housing Permit shall provide the following information or documents:

- (a) Consent to background investigation of the owner of the temporary crew housing facility.
- (b) Consent to background investigation of the owner of the real estate upon which the temporary crew housing facility will be located.
- (c) A list of vendors expected to provide services at or to the temporary crew housing facility.
- (d) Applicant's history of residency, employment and business ownership for five (5) years prior to the date of application. If the applicant is a partnership, the required information and consents shall be furnished for all of the partners. If the applicant is a corporation or limited liability company, information shall be provided as to the applicant's status as a subsidiary, if any, of any other corporation or limited liability company, the purposes for which the applicant was organized, and the names and addresses of all officers, directors, managing agents and the names and addresses of all stockholders or interest holders owning more than five percent (5%) of the capital stock of such corporation.
- (e) Whether the applicant has ever engaged in the business of owning or operating a temporary crew housing facility or similar operation before, and if so, the dates and locations of such ownership or operation.
- (f) Whether during the five (5) years immediately preceding the date of the application, the applicant, or any of the applicant's officers, directors, managing agents or partners have been convicted of a violation of the laws of the United States of America or of any state or municipality; and if so, the dates, location and courts in which such convictions were obtained.
- (g) Whether the applicant has any agreement, understanding or intention to have any agreement or understanding with any person or entity to obtain for another person or entity or to transfer to

another person or entity the license obtained or to use the license for any other purpose other than the specific use described in the application, and if so, the names and addresses of such persons and the conditions of such agreements.

7.12.4 Application Procedure:

An application for a Temporary Crew Housing Permit shall be signed by the applicant or authorized representative and shall include the following information:

- (a) The legal description of the property upon which the temporary crew housing will be located.
- (b) A description of the units together with a numbering system that clearly identifies the occupied quarters for purposes of emergency responses.
- (c) A description of how the proposed units are set and/or anchored.
- (d) A statement that roads to be constructed within the facility meet county specifications.
- (e) The name, address and contact information of the applicant.
- (f) The name, address and contact information of the onsite manager.
- (g) A copy of any lease for real estate or personal property involved.
- (h) Plot plans drawn to scale showing housing units, additional structures, setbacks, utilities, drainage, ingress and egress, parking plans, screens, buffers and fencing. Plot plans shall be provided to the Adams County 911 emergency coordinator on a current basis.
- (i) An occupancy list to be maintained and provided to the Adams County 911 emergency coordinator on a current basis.
- (j) Unit spacing adequate to accommodate emergency services.
- (k) A list of house rules and regulations.
- (l) On-site security plan, including plans for controlled access to the facility and a minimum six-foot (6') high chain link fence encompassing the facility.

- (m) Fire and emergency evacuation plan.
- (n) Copy of the permit, or approval, issued by the North Dakota State Health Department, Southwest Water Authority and Southwest District Health Unit including fresh water, refuse disposal plan and septic or sewer discharge plan.
- (o) Pay an annual Planning and Zoning fee in the amount to be determined by the City Council.
- (p) A copy of plans for closing the temporary crew housing and cleaning up and reclaiming the real property.
- (q) Submit a surety bond to ensure the proper clean-up and reclamation in an amount to be determined by the City Council.
- (r) At a minimum, off-street parking shall be provided on a one-to-one ratio, one parking space per bed and one parking space per employee.
- (s) Any additional information deemed necessary by the Zoning Administrator, the Planning and Zoning Commission or the City Council.

7.12.5 Restrictions on Grant of Permit:

The Hettinger City Council or the Hettinger Planning and Zoning Commission may at its discretion deny an application for a Temporary Crew Housing Permit if the applicant is of questionable character or for any other cause which would, in the opinion of the City Council or the Planning and Zoning Commission, render the applicant or the premises to be licensed, improper or unfit for a temporary crew housing facility, or which would, in the judgment of the City Council or the Planning and Zoning Commission, make the granting of the permit contrary to the best interests of the city or its citizens.

7.12.6 Prohibited Housing Types:

Recreational vehicles, campers and mobile homes are prohibited as units in a Temporary Crew Housing facility.

7.12.7 Prohibited Activities:

No alcoholic beverages, firearms, illegal substances or animals are allowed on the premises of a temporary crew housing facility. No parking

shall be allowed between the units. The site shall be maintained free of garbage and junk.

7.12.8 Revocation of Permit:

The City Council may review the status of any permit issued pursuant to this ordinance and take appropriate action to suspend or revoke the same, as provided herein.

A. Suspension or Revocation for Cause.

Any permit issued pursuant to this ordinance may be revoked or suspended for cause by the City Council, which cause may include, among other ground, the following:

- (1) The applicant being adjudged bankrupt.
- (2) Applicant's falsifying of any statement or statements in the application process described herein.
- (3) Applicant's conviction, or the conviction of an applicant's officers, directors or agents, of any felony crime under the laws of the United States of America or any state or municipality.
- (4) The applicant's violation of any health or sanitary regulations of the City of Hettinger or the State of North Dakota.
- (5) The applicant's conduct of business in a disorderly manner or in a manner deemed to be dangerous or detrimental to the public welfare, safety or morals.
- (6) The applicant's, or any agent or employee of the applicant, violation of any term or condition of the permit or any provision of this ordinance.

B. Notice - Public Hearing

Sanctions or penalties under this ordinance may not be invoked without a public hearing if requested by the applicant. The City Auditor shall give written notification to the applicant that a penalty is being sought under this ordinance. The applicant may notify the City Auditor's office within ten (10) days of such written notification and request a hearing on the proposed penalty. Failure to request the hearing within ten (10) days of the date of such written notification will be deemed to be acceptance of the penalty without hearing. If a hearing is requested on the suspension or revocation

of a permit, a hearing shall be scheduled by the City Council with a notice specifying the time and place of hearing mailed to the applicant. The hearing shall be recorded electronically.

If, after such hearing, the majority of the City Council agrees that sufficient cause exists for the penalty sanctions, the Council shall enter an order in accordance with the provisions of this ordinance. The Council shall issue written findings, conclusion and order which will be mailed to the applicant.

C. No refunds on Revocation or Suspension

When any permit is revoked or suspended for any reason, no portion of the permit fee shall be returned to the applicant.

7.12.9 Expansion of Temporary Crew Housing:

In the event an application is to expand an existing Temporary Crew Housing Facility Permit, the expansion shall be treated as a new application, and all conditions, terms and fees shall apply to the new application without consideration for the existing temporary crew housing facility.

7.12.10 Renewal of Conditional Use Permit:

Any Temporary Crew Housing Permit granted in accordance with this ordinance shall expire one year from the date of issuance. The permit may be extended by the Planning and Zoning Commission upon written application of the owner of the property or authorized representative provided that the extension is for the same use as specified in the original permit and that the applicant is in compliance with the terms and conditions specified in the original permit.

7.12.11 Conditions – Reporting Requirements:

The City Council or the Planning and Zoning Commission may attach any necessary and prudent conditions or reporting requirements to the grant of the conditional use permit.

ARTICLE VIII

ADMINISTRATION AND ENFORCEMENT

The administration and enforcement of this ordinance is hereby vested in the City Council, City Planning and Zoning Commission, the Board of Adjustment, and the Code Administrator.

8.1 City Council

1. Duties:
 - (a) The City Council shall review and take action on all amendments to these regulations after a public hearing held by the City Planning and Zoning Commission.
 - (b) The City Council shall investigate all violations from the provisions of these regulations and take action.
 - (c) The City Council shall approve conditional use permits.
 - (d) The City Council shall hold all hearings as required herein and as required by statute.
 - (e) Hear appeals from the decisions of the Planning and Zoning Commission and/or Code Administrator.

8.2 Hettinger Planning and Zoning Commission

1. Membership:
 - (a) The Commission shall consist of up to seven (7) members appointed by the City Council in accordance with Chapter 40-47 of the NDCC.
2. Duties:
 - (a) The Commission shall hold public hearings on all applications for amending this ordinance.
 - (b) The Commission shall hold public hearings and report and make recommendations to the City Council on all zoning variances, amendments, and land subdivisions for approval, denial or modification of applications.
 - (c) Commission may investigate violations and report to the City Council for appropriate action.

- (d) Act in the capacity of the Board of Adjustment subject to the provisions of Section 8.3.

8.3 Board of Adjustment

1. Establishment. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided in this section. The Board shall consist of the members of the Planning and Zoning Commission.
2. Duties:
 - (a) Hear appeals of any person, firm, or organization aggrieved by the decision of or ruling of the Code Administrator.
 - (1) The Board shall fix a reasonable time for the hearing of an appeal and shall decide the appeal within thirty (30) days of the date of a public hearing.
 - (2) Notice of the scheduled hearing must be published in the official newspaper at least one week prior to the hearing date. The notice of hearing shall include: 1) the time and place of hearing; 2) description of the property by street address for platted lands and clearly identifiable location for unplatted lands; 3) the proposed use and requested zoning district change; and 4) time and place for public inspection of the documents before the hearing.
 - (b) Hear requests for variances from the strict application of this ordinance.
3. Requirements For Granting A Variance:
 - (a) Strict application of the ordinance will produce an undue hardship.
 - (b) The hardship is unique to the property affected and not generally shared by other properties within the same zoning district.
 - (c) The purpose of the variance is based upon a demonstrable and exceptional hardship and not for convenience or economic gain.
 - (d) The granting of the variance will not cause substantial detriment to the public welfare nor substantially impair the intent and purpose of this ordinance.

4. Conditions For Granting A Variance:
 - (a) Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permitted under the terms of this ordinance.
 - (b) No non-conforming use of neighboring lands, structures, or buildings in the same district or other districts shall be considered grounds for the issuance of a variance.
 - (c) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions or safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 8.9.

5. Data Submission Requirements. Applications for variances shall be submitted with the following data:
 - (a) Legal description of the property.
 - (b) A map showing the existing land uses and zoning district classification of the area.
 - (c) The reason for the variance request.
 - (d) The type of variance requested and an explanation of whether the hardship is unique to the applicant's property.
 - (e) Any other information that the City Planning and Zoning Commission deems necessary.
 - (f) A fee, the amount of which shall be determined by the City Council, plus additional costs incurred by the City in processing the applications, may be charged to offset administrative costs.

6. Appeal from Board of Adjustment Determination
 - (a) A decision of the Board of Adjustment may be appealed to the City Council. The appeal must be filed with the City Auditor within fifteen (15) days of the notice of the decision of the Board of Adjustment. The City Council shall set a time and place for hearing the appeal within thirty (30) days of receipt of an appeal giving due notice of the hearing to the parties involved.

- (b) A decision of the City Council on an appeal from a decision of the Board of Adjustment may be appealed to the District Court in the manner provided in Section 28-34-01, NDCC.

8.4 Code Administrator

1. Appointment

- (a) The Code Administrator shall be appointed by the City Council.

2. Duties:

- (a) Receive and file all applications for plats of subdivisions, amendments to this ordinance, maintaining the Zoning District Map, and development of permits.
- (b) Make inspections and maintain records.
- (c) Issues Development Permits.
- (d) Report all complaints to the City Planning and Zoning Commission.
- (e) Report all zoning violations to the City Planning and Zoning Commission and the City Council for appropriate action.
- (f) Prepare and publish notices and notify adjoining property owners.
- (g) Notify, in writing, the property owner or uses upon finding a violation of this ordinance and cite the nature of the violation clearly, require compliance and provide a report of the findings to the City Council.
- (h) Receive, file, and forward to the City Planning and Zoning Commission all applications for preliminary and final plats and the supporting documents.

3. Information to be Obtained and Maintained

The Code Administrator shall maintain for public inspection all records pertaining to the provisions of this ordinance.

8.5 Building Inspector

- 1. The Building Inspector shall be appointed by the City Council.
- 2. Duties

- (a) Make inspections and maintain records.
- (b) Issues Certificates of Compliance
- (c) In the area of special flood hazard:
 - (i) Permit Review
 - Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
 - Review all development permits to determine if the proposed development adversely affects the flood-carrying capacity of the area of special flood hazard. For purposes of this ordinance, "adversely affect" means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point.
 - (ii) Use of Other Base Flood Data

When base flood elevation data has not been provided, the Code Administrator shall obtain, review and reasonably utilize any base flood elevation data available from a Federal, State or other source.
- (d) Prepare and publish notices and notify adjoining property owners.
- (e) Notify, in writing, the property owner or uses upon finding a violation of this ordinance and cite the nature of the violation clearly, require compliance and provide a report of the findings to the City Council.
- (f) Maintain for public inspection all records pertaining to the provisions of this ordinance for not more than a period of seven (7) years.

8.6 Building Permit

- 1) It shall be unlawful for any person to commence any development without obtaining a development permit, except buildings and activities directly used in connection with farming operations.

2) Any permit issued pursuant to these provisions shall expire one year from the date of issuance.

3) Fees: The City Auditor shall charge and collect a fee as follows;

The City Auditor shall charge and collect a fee according to the resolution of fees and schedules established by the City. The applicant for a conditional use permit and amendment to the zoning ordinance, or building permit, shall be liable for and pay to the City Auditor sufficient sums of money to pay for and cover costs incurred by the City for the processing of such application, including, but not limited to: publication costs, attorney's fees, mileage, copy expense, etc. No permit shall be issued until such costs have been paid by the applicant, unless the City Council has otherwise provided by resolution for a particular case.

8.7 Development Permit

1. It shall be unlawful for any person to commence any development without obtaining a development permit, except buildings and activities directly used in connection with farming operations.

2. Any permit issued pursuant to these provisions shall expire one year from the date of issuance.

3. Fees: The Code Administrator shall charge and collect a fee as follows;

The City Auditor shall charge and collect a fee according to the resolution of fees and schedules established by the city. The applicant for a conditional use permit and amendment to the zoning ordinance, or building permit, shall be liable for and pay to the City Auditor sufficient sums of money to pay for and cover costs incurred by the City for the processing of such application, including, but not limited to: publication costs, attorney's fees, mileage, copy expense, etc. No permit shall be issued until such costs have been paid by the applicant, unless the City Council has otherwise provided by resolution for a particular case.

8.8 Certificate of Occupancy

No building or structure shall be occupied until a Certificate of Occupancy shall have been issued by the Land Use Administrator for determining the conformity with the specifications for which the development permit has been issued.

8.9 Violations and Penalties

1. Violation of this ordinance is an offense punishable by law as provided by Chapters 40-47 and 40-48 of the NDCC. All complaints for violation shall be filed with the Code Administrator who shall investigate such violation and report to the City Planning and Zoning Commission and the City Council.

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or if any building, structure, or land is used in violation of these ordinances, the proper city authorities or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceeding:

- (a) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
 - (b) To restrain, correct, or abate such violations;
 - (c) To prevent the occupancy of the building, structure, or land; or
 - (d) To prevent any illegal act to conduct business or use in or about such premises.
2. Any person, firm, Corporation or limited liability company violating any of the provisions of this chapter and the same shall be proven by a preponderance of the evidence, shall be punished by a fine of at least One Hundred Dollars (\$100.00) but not more than five hundred dollars (\$500.00) for each and every day such violation of this ordinance shall continue. Each and every day shall constitute and be considered a separate offense. This section does not prohibit the city from pursuing any other remedies available under North Dakota Law to address violations of this chapter.

8.10 Building Relocation Permit

No person shall move any house, building, or other structure of 200 sq.ft. or more within, in, or out of the corporate limits of the City of Hettinger or its one (1) mile Extraterritorial Jurisdiction, without first obtaining a moving permit and paying the sums as set forth in the annual city fee schedule therefore, all taxes and special assessments, and the posting of a bond as hereinafter provided.

8.10.1 Application for Relocation Permit

- (a) **Moving Permit:** A City building relocation permit is required to move a building. Application for a building relocation permit must be obtained from the City before any action is taken to move the structure. Application must be made on a form provided by the City which includes a description of the building to be moved, the location in the City onto which it is to be moved, the name of the mover, proof of liability insurance and other requirements of the form and the applicable fee. A hearing before the Board of Adjustment shall be required before a building relocation permit is granted to a building owner. All persons within 300 feet of the subject property to which a building is proposed to be moved will be notified of a proposed building relocation and the date of the hearing before the City's Planning and Zoning Board. Any decision of the Planning and Zoning Board may be appealed to the City Commission by the applicant or a petition signed by at least two-thirds of the property owners within 300 feet of the proposed location. Before a building relocation permit is issued, all affected utilities must sign a petition verifying that they are aware of the proposed move and have worked out arrangements with mover.
- (b) **City Inspection:** Prior to the hearing before the Planning and Zoning Board and before a building is moved into or within the City's jurisdiction the building must first be inspected by a City building inspector to determine compliance with building related codes. The building inspector may also require building improvements including, but not limited to: painting of exterior; new windows and/or doors; re-shingling; new roof; site work to control drainage; setbacks; and such other improvements as determined by the building inspector.
- (c) **Code and Order Compliance:** The building must meet all applicable codes and other orders of the building inspector before it is occupied in the new location. All mandated work must be completed within one year of placement of the building on the foundation in the new location. If the owner of the house fails to complete the work proposed and required within the one-year time frame, that person will be subject to a fine of \$100 with each day after the expiration of the one year time frame being considered a separate violation. A building permit and other permits and fees must be obtained and paid before the building is moved. The building must be moved by a licensed mover.
- (d) **Limitations:** No permit shall be issued to relocate any building, or structure which is considered by a City building inspector in such a condition as to be dangerous or unsafe or if to be used for human habitation, considered unfit for human habitation, or which is dilapidated or defective or in such a state of deterioration that its relocation to the proposed site would create a safety hazard.

- (e) Costs: The cost of all fees and charges related to this section shall be declared and maintained in the City Fee Schedule.

8.10.2 Application for moving permit

The holder of a license shall not move any house, building or other structure without first obtaining a moving permit therefor for each house, building or other structure to be moved. Prior to obtaining such a moving permit, the owner of the structure to be moved or the license holder described herein shall provide the building inspector, the following:

- (a) The streets over which said house or building is proposed to be moved, a certificate from the director of inspections showing that he has previously inspected the said house or building and that the requirements for construction, alteration and repairs necessary to place said building or house in conformity with the building code and other ordinances of the city.

- (b) Mover shall also agree that he will notify the building inspector, forty-eight hours in advance of actual removal of a house, building or structure.

- (c) The permit fee for moving a building shall be twenty-five dollars.

- (d) Lot Clean Up: the structure owner shall have thirty (30) business days after the structure has been removed from the lot or premises to fill in any holes or basements, to clean said lot and premises and to remove all debris, wiring and material from said property. Open basements or holes shall be fenced until filled, and property brought into compliance with applicable city ordinances. Any remaining foundation system including the foundation floor must be removed prior to the hole being filled with dirt. If the property is not cleaned and restored as required herein within said time, the cash bond shall be forfeited to the City of Hettinger and the City of Hettinger may, but shall not be required, to enter upon the premises and clean said lot and fill any basements or open holes upon the lot. In the event the bond has posted herein is inadequate to cover the costs of cleaning and restoring the lot, including the backfilling of the basement, the structure owner shall nevertheless remain liable for any costs or expenses incurred in the cleaning and filling of said lot.

8.10.3 Bonding Requirements:

The applicant for a moving permit shall post a cash bond in the amount of \$2,000.00 at the time of applying for a moving permit for the moving of a house, building or other structure. The cash bond shall be returned to the person posting the same following an inspection by the building inspector and or Council

member of the premises from which the house, building or other structure was moved and the building inspector and or council member notifying the city auditor that the premises from which the structure was removed has been cleaned and restored as otherwise provided in this ordinance. Bond may be waived for the moving of a building or structure within the same lot or parcel of land.

8.11 Building Code

The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area and maintenance of buildings or structures in the City of Hettinger shall conform to the provisions of the rules and regulations of the State adopted building code(s) and any future updates and amendments to that code, the latest version of the International Property Maintenance Code adopted by the City Of Hettinger and any amendments there-of, copies of which are on file with the City Auditor and are hereby made part of this chapter by reference with the exception of any sections hereinafter set forth affecting local conditions in the City of Hettinger, which are amended, for use and application in the City of Hettinger, North Dakota.

Adopted this 1 day of August, 2023.

City of Hettinger

By: James Lindquist
Mayor

By: KRISTA FAHLER
City Auditor



MOVING PERMIT APPLICATION

Contact Information:

Applicant's Name: _____

Address: _____

Phone Number; _____ Email Address: _____

Contractor Name: _____

Address: _____ License#: _____

Phone Number: _____ E-mail Address: _____

Description of Building: Used Structure _____ New Structure _____

Front Width: _____ Depth: _____ Height: _____ Stories: _____

Start Date: _____ Finish Moving: _____

Route to be taken in moving building:

Present Location:

Address: _____ Lot: _____ Block: _____ Addition: _____

Past Owner: _____

Future Location: _____

Address: _____ Lot: _____ Block: _____ Addition: _____

Present Owner: _____

Utility Companies Notified: Yes ___ No ___ Receipt for Taxes and/or Assessments
Filed : Yes ___ No _____

This application is Approved _____ Denied _____

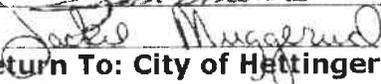
Building Inspector _____ Date _____

Document No. 135244

STATE OF NORTH DAKOTA ADAMS COUNTY

I hereby certify that the within instrument was filed for record in the office for record on 8/3/2023 at 9:25 AM and was dully recorded as Document No. 135244
Fee: \$356.00 ZONING ORDINANCE

 County Recorder

By  Deputy

Return To: City of Hettinger

Hettinger, ND 58639



