

**Passport Township
Zoning Ordinance
Adopted September 30th, 2011**

Filed-95

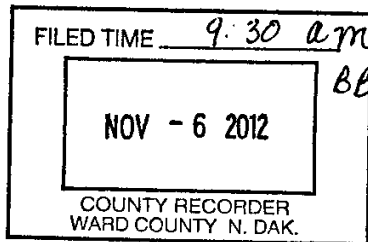
Preface

This Comprehensive Plan was prepared by the Passport Township Zoning Commission based on a plan developed for Rolling Green Township by the Souris Basin Planning Council.

The Plan was developed in response to concern for the use all agricultural land in the township and will be used as the basis for the Township Zoning Ordinance in accordance with section 58-03-12 of the North Dakota Century Code.

Passport Township Zoning Commission:

Danae Inman - Supervisor
Jack Hansen - Supervisor
Blake Inman - Zoning Administrator
Todd Christman - Representative
Todd Finke - Representative



ARTICLE I

- I. Authority: This ordinance is adopted under the authority granted in Chapter 58-03 of the North Dakota Code.
- II. Purpose: The purpose of this ordinance is to preserve the agricultural use of the land, promote the health, safety, morals, general welfare, and orderly development of Passport Township.
- III. Severability: If any provision or section of this ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.
- IV. Repeal: All other ordinances of Passport Township in conflict with this ordinance are hereby repealed.
- V. Title: This ordinance shall be known as "Zoning Ordinance of Passport Township".
- VI. Effective Date: This ordinance shall become effective after a public hearing and adoption by the Passport Township Board of Supervisors.

ARTICLE II

Definitions of Terms Used In This Ordinance

- I. Definitions: For the purpose of this ordinance, the following definitions have been adopted:
 - A. Rules:
 1. Words used in the present shall include the future; the singular number shall include the plural.
 2. The word 'person' includes a firm, partnership, association, corporation or individual.
 3. The word 'shall' is mandatory.
 - B. List of Definitions:
 1. Agriculture: The use of land for agricultural purposes, including the necessary buildings or structures for farm or farm labor use. Agriculture shall include horticulture, animal and poultry husbandry, and accessory uses and buildings for packing, treating or storing produce, providing accessory uses is secondary to normal agricultural activities.
 2. Accessory Use or Accessory Structure: A use or structure incidental and subordinate to the main use of property and located on the same lot as the main use, such as a garage or tool shed.
 3. Building: Any structure used for shelter or enclosure of persons, animals, or chattels.
 4. Conditional Use: A use conditionally permitted in order to reduce any adverse effects on surrounding property.
 5. Dwelling: A building or portion thereof occupied exclusively for residential purposes, but not including mobile recreational vehicles.
 6. Dwelling, Farm: A single family dwelling or mobile home located on a farm which is occupied by the farm's owner or person employed thereon.

7. Dwelling, Non-Farm: A single family dwelling or mobile home located on a farm or otherwise of which the occupant does not derive at least 50 percent of his income from agricultural activities.
8. Family: A group of one or more persons occupying a single premise and living as a single housekeeping unit.
9. Farm: Any aggregate area operated by one person, family, partnership, corporation or joint venture for agriculture or farming purposes.
10. Feedlot: The use of land or buildings for the exclusive purpose of concentrated feeding or fattening of livestock for marketing and which less than 50 percent of the feed is raised by the occupant.
11. Home Occupation: Any occupation (1) which is carried on solely by members of the family residing on the premise, (2) are clearly secondary to the use of the dwelling for residential purposes, (3) and do not create excess noise, traffic, or other disturbances.
12. Junk Yard: Any land or building used for the storage, sale or dismantling of obsolete vehicles, junk and other machinery.
13. Lot: A parcel of land sufficient to provide the yard requirements of the regulations.
14. Mineral Exploration: Use of any technique which when applied to the surface of the land will aid in the discovery or evaluation of coal, oil, gas, potash, sand, gravel and/or rock or other subsurface minerals as defined in North Dakota Century Code 38-12.
15. Mineral Production: Any activity when applied to the surface of land will produce coal, oil, gas, potash, sand, gravel and/or rock or other subsurface minerals as defined in North Dakota 38-12.
16. Mobile Home: A mobile home is a dwelling unit, designed for transport after construction. A recreational travel trailer is not to be considered a mobile home.
17. Non-Conforming Use: Any structure, land or building existing at time of adoption or amendment of this ordinance which does not conform to the provisions of the regulations.
18. Setback: The open space extending the full width of a lot between a building and a public right-of-way line, easement, or front property line.
19. Structural Alteration: Any change in the supporting members or any substantial change in the roof or exterior walls of a Building.
20. Utilities: Including but not limited to electric power, transmission lines, natural gas, pipe lines, petroleum products pipelines, rural water lines and telephone lines. (See Amendment 3 – A, March 2009)
21. Variance: The grant of relief from the requirements of the ordinance where it can be shown that due to unusual conditions or the property strict application of the regulations would result in undue hardship.

ARTICLE III
General Provisions

- I. Jurisdiction: The jurisdiction of this ordinance shall include all unincorporated areas of Passport Township.
- II. Compliance: Except as hereinafter provided, no building, structure, or land shall be erected, repaired or used except in conformance with these regulations.
- III. Agriculture Exempted: Nothing in this ordinance shall be applied for the purpose of preventing or restricting the use of land or buildings for agriculture or any of the normal incidents of agriculture.
- IV. Interpretation: In the interpretation and application of this ordinance, the provisions of this ordinance shall be held to the minimum requirements. Where this ordinance imposes a greater restriction than existing law, the provisions of this ordinance, shall govern.
- V. Non-Conforming Uses:
 - A. Lawful, non-conforming uses of land or buildings existing at the date of adoption of these regulations may continue, provided no structural alterations except for normal maintenance are made and such non-conforming uses shall be extended to occupy a greater area of land than occupied at the time of adoption.
 - B. No building or structure where a non-conforming use has been discontinued for a period of 1 year or has changed to a permitted use shall again be devoted to a non-conforming use.
 - C. A non-conforming structure destroyed or damaged less than 50 percent of its fair market value may be reconstructed within 1 year of such casualty. If damaged more than 50 percent of its fair market value, such building shall be reconstructed in conformance to those regulations.
 - D. The provisions of this section shall not be applicable to conditional uses or any use made non-conforming by a change in district regulations.
- VI. Amendments: In accordance with Chapter 58-03, Section 58-13 of the North Dakota Century Code, the Board of Township Supervisors may from time to time amend the provisions of this ordinance. Such amendment shall not become effective until after a public hearing at which parties of interest and citizens shall have the opportunity to be heard. At least 15 days notice of the time and place shall be published in the official newspaper of the county. The description of any land within any zoning district together with any restriction therein, or any amendment to the zoning ordinance, shall be filed with the Board of Township Supervisors.

ARTICLE IV
District Regulations

- I. Establishment of District Regulations: For the purpose of these regulations, the entire area of Passport Township is zoned agricultural.
 - A. Zoning Map - The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Official Zoning Map", which accompanies, and is hereby made a part of the regulations.

B. Location of District Boundaries:

1. Where the district boundary lines on the Zoning District Map are indicated to follow highway, road, or railroad right-of-way, such boundary lines shall be construed to be the centerline of said right-of-way unless clearly shown to the contrary.
2. Where any uncertainty exists as to the exact location on the zoning district boundary line, the zoning board shall determine the location of such boundary lines.

II. Agricultural District:

- A. Purpose: To establish and preserve areas of agriculture and low intensity development which do not significantly change the existing character of the area.
- B. Permitted Uses: Agriculture and agricultural buildings, including farm dwellings, cemeteries, churches, home occupations, accessory uses to the permitted uses.
- C. Conditional Uses: The following conditional uses and their accessory uses are permitted subject to the stipulation of the zoning board. Non-farm dwellings, schools, sanitary disposal facilities including landfills, mineral exploration, mineral production, feedlots, junk yards, radio or TV towers, utility lines and substations in accordance with the appropriate provisions of this ordinance, parks or other open land recreational use.
- D. Dimensional Standards:
 1. Setbacks:
 - a. 150 feet from all section lines and township and county roads.
 - b. 250 feet from the centerline of all state highways.
 - c. 1 mile from existing occupied dwelling on all new feedlots.
 - d. 33 feet of any section line to include fence lines, rocks, approaches, or any other obstructions without approval of the zoning board.
 - e. Temporary electric fence line must be removed before snow removal or freeze-up conditions.

ARTICLE V
Special Provisions

I. Utilities:

- A. All new utilities shall be considered as a conditional use and as such shall conform to all requirements put on them by the Township Zoning Commission.
- B. No conditional use permit shall be issued unless satisfactory provisions for the following has been made.
 1. Underground utilities shall be placed deep enough as not to constitute a hazard to normal farming or general township maintenance.
 2. Above ground utilities shall be placed in a manner which will not place undo hardship on normal farming operations.

3. The activities will not result in undo damage or injury to roads, bridges, right-of-ways in the township and to all township public and private property.
4. Excavation costs for purposes of construction or maintenance of a utility shall be borne by contractor or owner of said utility.
5. (See Amendment 3 – B, March 2009)

II. Mineral Exploration and Mineral Production:

- A. All mineral exploration and mineral production activities shall be considered as a conditional use, and as such shall conform to all requirements put on them by the Township Zoning Commission.
- B. No conditional use permit shall be issued unless satisfactory provision for the following has been made.
 1. The activities will not result in undo damage or injury to roads, bridges, right-of-ways in the township and all township public and private property.
 2. Evidence of a reclamation agreement with the surface owner.
 3. Evidence of compliance with all County, State and Federal regulations.
 4. A road maintenance contract has been negotiated with the township stating responsibilities for maintaining all roads that are subject to damage in construction or maintenance of said activity.
 5. Evidence that the activity is in compliance with distance requirements in relation to adjacent residents, property owners and water sources as set by the Township Supervisors.
 6. Evidence of compliance with existing township regulations for mowing and road maintenance.

III. Sanitary Regulations: All residential, business or industrial structures shall conform to the North Dakota health regulations as it refers to wells, irrigation and septic systems.

IV. Shelter Belts: No shelter belts or major tree plantings shall be established closer than:

- A. 200 feet from all section lines and the centerlines of all township and county roads.
- B. 250 feet from the centerline of all state highways.

V. Residential Development: The following regulations shall be applied to the construction of non-farm dwelling units:

- A. Density:
There shall be no more than one (1) non-farm dwelling per quarter section (160 acres) without a development plan for roads and lot sizes.
- B. Dimensional Standards:
 1. Setbacks:
 - a. 200 feet from all section lines and all township and county roads
 - b. 250 feet from the centerlines of all state highways
 2. Lot Size - 2 Acres
 3. Lot Width - 200 Feet
 4. Side Yard - 25 Feet

ARTICLE VI
Administration and Enforcement

- I. Zoning Administrator: The Zoning Administrator shall be appointed by the zoning Board. Duties of the Zoning Administrator shall include:
- A. Issuance of all permits
 - B. Conduct inspections of buildings.
 - C. Maintain records of the regulations and permits.
 - D. Transmit to the zoning board all applications for appeals, variances, or conditional use permits and all applications for amendments to the board of township supervisors.
- II. Township Zoning Board: Membership for the board shall consist of the board of township supervisors plus two (2) representatives from the incorporated communities within the township. Duties of the board shall include:
- A. Establishment of rules, regulations and procedures for the purpose of administering the zoning ordinance.
 - B. Assist the zoning administrator in conducting inspections of buildings and administering the zoning ordinance.
 - C. Hear and decide appeals where it is adjudged by the applicant that an error in judgment has been made by the zoning administrator.
 - D. Review and study from time to time the provisions of the regulations.
 - E. The zoning board shall serve as an advisor to the township board. The township board shall have final review of all zoning board decisions.
- III. Appeals: Any person aggrieved by the provisions of these regulations or by any order of determination of the zoning administrator may within 60 days of such action, petition for a hearing to the township zoning board. Such appeal shall be in writing and shall specify in detail the grounds for the appeal.
- A. Procedure:
- 1. Appeals shall be filed with the zoning administrator.
 - 2. Within 30 days of filing, the township zoning board shall fix a date for a hearing,
 - 3. Notice in writing shall be given to the petitioner at least 5 days prior to the hearing.
 - 4. Within 15 days after the hearing, the township zoning board supervisors shall take action and shall mail by registered mail a copy of its order to the petitioner.
- IV. Variances: As used in this ordinance, a variance is authorized only for height, area, or size of structures or yards.
- No variance shall be authorized unless the township zoning board finds beyond a reasonable doubt that all of the following conditions exist:
- A. That there are exceptional or extra ordinary circumstances applying to the property in question or to the intended use of the property that do not apply generally to other properties or class or use in the same zoning district.

- B. That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity.
 - C. That the authorization of such variance will not be of substantial detriment to adjacent property and will not materially impair the purpose of the regulations or the public.
 - D. The owner cannot otherwise obtain a reasonable return on this property.
 - E. The hardship is not self-created.
 - F. The variance request is the minimum necessary to permit a reasonable use of the land.
- V. Conditional Uses: No permit pertaining to the conditional use of land or buildings shall be issued unless:
- A. Application for a conditional use permit has been submitted to the township zoning board for review.
 - B. The board has held a public hearing.
 - C. The board has made written findings certifying with rules governing conditional uses and that, where applicable, satisfactory provision for the following has been made:
 - 1. Entrance and exit to property with reference to public safety, traffic flow, and convenience.
 - 2. Parking and loading requirements of the specific use.
 - 3. General compatibility with the surrounding property with due consideration for noise, odor, or other adverse effects.
 - 4. Required open space and yards.
 - 5. Any other applicable circumstances that may need further attention.
- VI. Permits: No structure or land used for residential, commercial, or industrial purposes including accessory uses, shall be built, altered or moved until a permit has been obtained from the zoning administrator. No permit shall be required for maintenance or repairs of any building which does not alter the plan of the structure.
- VII. Violations of Regulations: Remedies for violation of these regulations may be instituted by the board of township supervisors in accordance with Section 58-03-14 of the North Dakota Century Code.
- VIII. Fees: For the purpose of administering this ordinance, fees may be instated by the board of township supervisors.

Amendments

Amendment 1:

- A: Two 'Members at Large' shall be appointed by the Township Board to the Zoning Commission for a 2 year term.
- B: Salary for Zoning Supervisors shall be the same as Township supervisors.

Amendment 2: The Zoning Commission shall hold a meeting annually, for purposes of updating the Zoning Plan. This meeting will be the same day as the Township Annual meeting.

Amendment 3: (March 2009)

- A. Under Article II, Definitions of Terms Used In This Ordinance, B. List of Definitions –
20. Utilities: Shall read: Including but not limited to electric power, transmission lines, natural gas, pipe lines, petroleum products pipelines, rural water lines, telephone lines, wind towers, and communication lines.
- B. Under Article V Special Provisions, add:
5. Within one year of non-production, utilities shall reclaim site to its original pre-utility condition.

PREAMBLE

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING
REGULATIONS FOR PASSPORT TOWNSHIP

The intent of which is to:

Promote the health, safety morals, and general welfare of the township people
and the orderly development of township lands;

Preserve and maintain agricultural lands for farm use;

Encourage non-farm growth to locate within existing communities or community-
service districts;

Promote a healthy and visually attractive environment;

Promote the development of utility corridors which utilize the least productive
agricultural land;

Regulate development in the flood plain areas so as to reduce flood damages and
protect stream flows;

Discourage development which exceeds the carrying capacity of the land, air, or
water resources;

Discourage any development which places an excessive financial burden on the
township or county government.

THIS ORDINANCE IS HEREBY ADOPTED EFFECTIVE THIS
30th DAY OF September 2011


Chairman, Township Board


Clerk, Township Board