

602574

TOLGEN TOWNSHIP

ZONING

ORDINANCE

TOLGEN TOWNSHIP
ZONING ORDINANCE
JUNE 1981

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This Zoning Ordinance was prepared by the Tolgen
Township Board with technical assistance
from the
Souris Basin Planning Council

PREAMBLE

AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING
REGULATIONS FOR TOLGEN TOWNSHIP

The intent is to:

Promote the health, safety, moral and general welfare of the Township people and the orderly development of Township lands;

Preserve and maintain agricultural lands for farm use;

Encourage nonfarm growth to locate within existing communities or community-served districts;

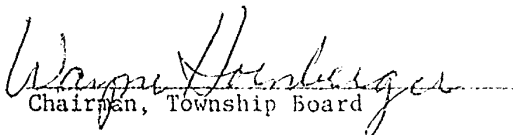
Promote a healthy and visually attractive environment;

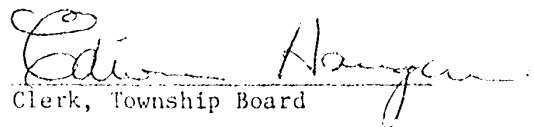
Promote the development of utility corridors which utilize the least productive agricultural land;

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

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

THIS ORDINANCE IS HEREBY ADOPTED EFFECTIVE THIS 26th DAY OF
AUGUST, 1981.


Chairman, Township Board


Clerk, Township Board

ARTICLE I

INTRODUCTION

- Sec. I - Title: This ordinance shall be known as "Zoning Ordinance of Tolgen Township."
- Sec. 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 Tolgen Township.
- Sec. III - Repeal: All other ordinances of Tolgen Township in conflict with this ordinance are hereby repealed.
- Sec. IV - 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.
- Sec. V - Authority: This ordinance is adopted under the authority granted in Chapter 58-03 of the North Dakota Century Code.
- Sec. VI - Effective Date: This ordinance shall become effective after a public hearing and adoption by the Tolgen Township Board of Supervisors.

ARTICLE II

DEFINITIONS OF TERMS USED IN THIS ORDINANCE

- Sec. I - 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.
- Sec. II - Definitions: For the purpose of this ordinance, the following list of definitions is adopted:
1. Accessory Use or Accessory Structure. A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as a garage or tool shed.

2. Agriculture: The use of land for agricultural purposes, including the necessary buildings or structures for farm or farm labor use. Agriculture shall include farming, dairying, pasturage, horticulture, animal and poultry husbandry, and accessory uses and buildings for packing, treating or storing produce; providing accessory uses are secondary to normal agricultural activities.
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 - Nonfarm: 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. H: Hectare
12. Home Occupation: Any occupation (1) which is carried on solely by members of the family residing on the premise, (2) is clearly secondary to the use of the dwelling for residential purposes, and (3) does not create excess noise, traffic or other disturbances.
13. Junk Yard: Any land or building used for the storage, sale or dismantling of obsolete vehicles, junk and other machinery.
14. Lot: A parcel of land sufficient to provide the yard requirements of the regulations.

15. M: Meter
16. 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, potash, sand, gravel and/or rock, or other subsurface minerals as defined in North Dakota Century Code 38-12.
17. 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 Century Code 38-12.
18. 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.
19. 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.
20. 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.
21. Shelterbelt: Barrier of trees and shrubs that is used to protect crops, farmsteads and non-farm dwellings from wind and storms.
22. Structure: Anything constructed or erected the use of which requires permanent location on the ground or attachment to something having permanent location on the ground, but not including fences.
23. Structural Alteration: Any change in the supporting members or any substantial change in the roof or exterior walls of a building.
24. Township: The Township of Tolgen, Ward County, North Dakota.
25. Utilities: Including but not limited to electric power transmission lines, natural gas pipelines, petroleum products pipelines, rural water lines, and telephone lines.
26. Variance: The grant of relief from the requirements of the ordinance where it can be shown that due to unusual conditions of the property, strict application of the regulations would result in undue hardship.
27. Zoning Administrator: Person or persons designated by the Board of Township Supervisors to administer the zoning ordinance.

28. Zoning Board: Shall consist of the same membership as that of the Township Supervisors.

ARTICLE III

GENERAL PROVISIONS

- Sec. I - Jurisdiction: The jurisdiction of this ordinance shall include all unincorporated areas of Tolgen Township.
- Sec. II - Compliance: Except as hereinafter provided, no building, structure or land shall be erected, repaired or used except in conformance with these regulations.
- Sec. 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.
- Sec. 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.
- Sec. 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 one (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 one (1) year of such casualty. If damaged more than 50 percent of its fair market value, such building shall be reconstructed in conformance to these 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.
- Sec. VI - Amendments: In accordance with Chapter 58-03, Section 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 restrictions therein, or any amendment to the zoning ordinance, shall be filed with the Board of Township Supervisors.

ARTICLE IV

DISTRICT REGULATIONS

Sec. 1 - Establishment of District Regulations: For the purpose of these regulations, the entire area of Tolgen Township is zoned agricultural. (A-1)

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 these 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-ways, 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.

Sec. 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 explorations, 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 uses.

D. Dimensional Standards:

1. Setbacks:

- A. 150 Feet (46M) from all section lines and the centerlines of township and county roads.
- B. 250 Feet (76M) from the centerline of all state highways.

ARTICLE V

SPECIAL PROVISIONS

Sec. 1 - 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 Board.
- B. No conditional use permit shall be issued unless satisfactory provisions for the following has been made:
 - 1. Underground utilities shall be placed a minimum depth of four feet as not to constitute a hazard to normal farming or general township maintenance.
 - a. Above ground utilities shall be placed in a manner which will not place undue hardship on normal farming operations.
 - b. Shall conform with section lines, highway, "state and federal" and railroad right-of-ways.
 - 2. The activities will not result in undue damage or injury to roads, bridges, right-of-ways in the township and to all township public and private property.
 - 3. Excavation costs for purposes of construction or maintenance of a utility shall be borne by contractor or owner of said utility.

Sec. 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 Board.
- B. No conditional use permit shall be issued unless satisfactory provision for the following has been made:

1. The activities will not result in undue 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.
 - a. Reclamation of project shall be completed within one year.
3. Evidence of compliance with all county, state and federal regulations.
4. 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.

Sec. 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 and sanitary systems.

Sec. IV - Shelterbelts: No shelterbelts or major tree planting shall be established closer than seven rods (115.5 ft) for planting on the windward side (generally north and west) and six rods (99 ft.) for planting on the south and west. This is to be measured from all section lines and the centerlines of all township and county roads.

Sec. 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 or 65H).

B. Dimensional Standards:

1. Setbacks:

a. One hundred fifty (150) feet (46M) from all section lines and the centerlines of all township and county roads.

b. Two hundred fifty (250) feet (76M) from the centerlines of all state highways.

2. Lot size - not less than three (3) acres (1.2H).

3. Lot Width - two hundred (200) feet (61M)

4. Side Yard - twenty-five (25) feet (8M).

5. Height - thirty-five (35) feet (11M).

ARTICLE VI

ADMINISTRATION AND ENFORCEMENT

- Sec. 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.
 - E. Collect any fees instituted by the Board of Township Supervisors in the administration of this ordinance.
- Sec. II - Township Zoning Board: Membership for the Board shall consist of the Board of Township Supervisors. 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.
- Sec. III - Appeals: Any person aggrieved by the provisions of these regulations or by any order of determination by the Zoning Administrator may within sixty (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 appeal.
- A. Procedure:
 1. Appeals shall be filed with the Zoning Administrator.
 2. Within thirty (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 five (5) days prior to the hearing.

4. Within fifteen (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.

Sec. IV - Variations: As used in this ordinance, a variance is authorized only for height, area, size of structures or yards.

No variance shall be authorized unless the Township Zoning Board finds beyond a reasonable doubt that all the following conditions exist:

- A. That there are exceptional or extraordinary 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 interest.
- 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.

Sec. V - Conditional Uses: No permit pertaining to the conditional use of land or buildings shall be issued unless:

- A. An 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 compliance with rules governing conditional uses and that, where applicable, satisfactory provisions for the following has been made:
 1. Entrance and exit to property with reference to public safety, traffic flow and convenience. (No private roads shall be built or maintained by the Township.)
 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.

Sec. VI - Permits: No structure or land used for residential, commercial or industrial purposes, including accessory uses, shall be built or altered 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.

Sec. VII - Violation 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.

Sec. VIII - Fees: For the purposes of administering this ordinance, fees may be instituted by the Board of Township Supervisors.

A. Fees for construction, reconstruction or alteration shall be based on estimated total cost of each project as follows:

<u>Valuation of Project</u>	<u>Fee</u>
\$0.00 - \$50,000	\$20
Each additional \$1,000 exceeding \$50,000	\$1

B. No permits as required by these regulations shall be issued until the fee or fees prescribed herein shall be paid, unless the Township Zoning Board has otherwise provided by resolution for a particular case.

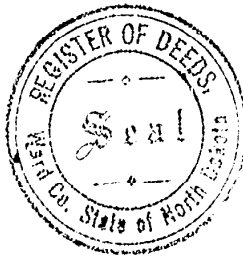
STATE OF NORTH DAKOTA }
COUNTY OF WARD

REGISTER OF DEEDS

I hereby certify that the within instrument was filed in this office for record on the 9 day of Sept (A.D. 1988) at 9:05 o'clock AM and was duly recorded as Document 602574 of Ward

Glenn Register
Register of Deeds

Deputy



Edwin Hanger
R.R. 1, Box 64
Berthold, N.D.

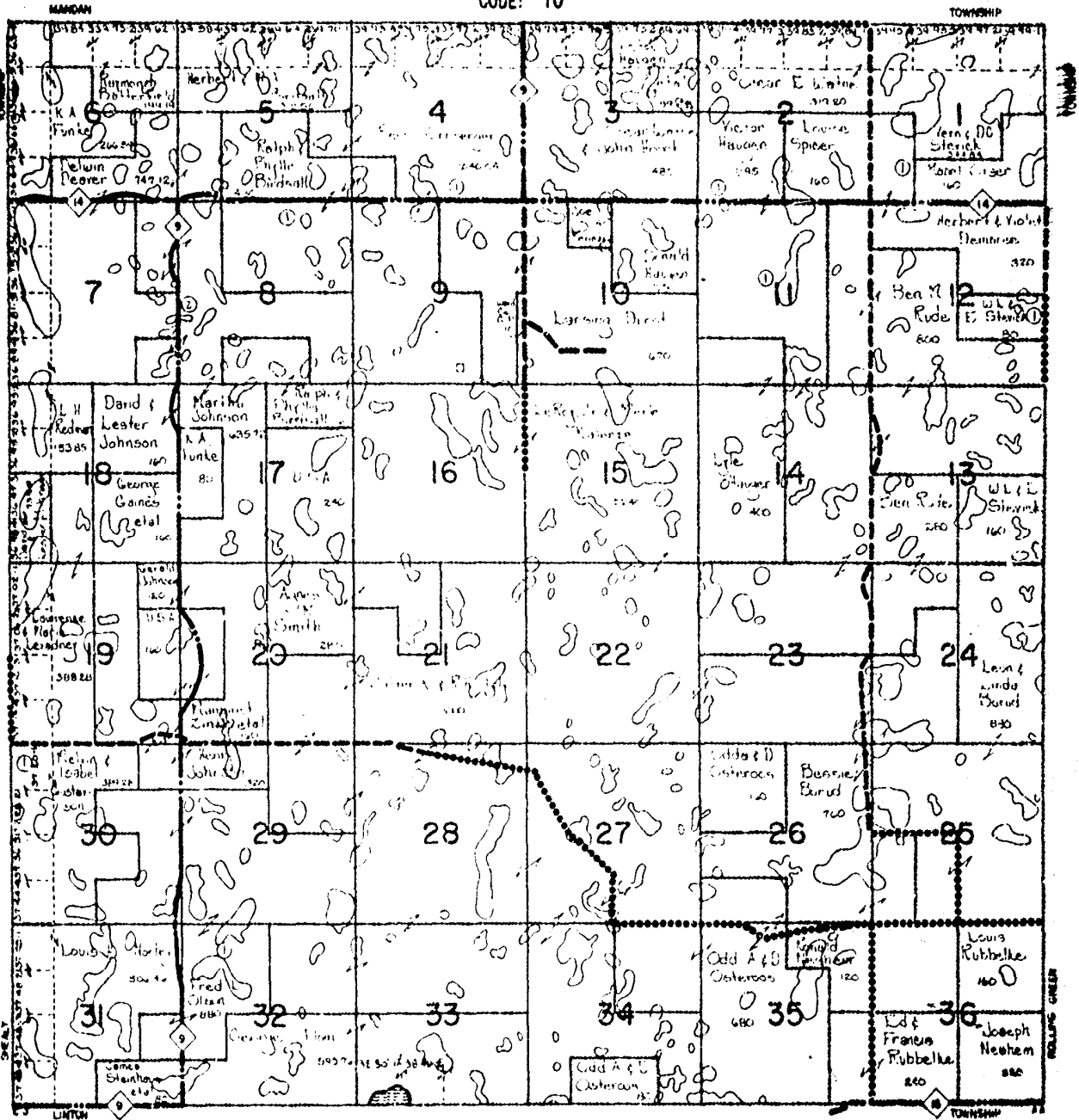
3600
GA

Official Zoning Map

TOWNSHIP: 154 N.

RANGE: 86 W.

CODE: TO



Tolgen Township

For the purpose of this Zoning Ordinance, the entire area of Tolgen Township is zoned (A-1) Agricultural.

Wayne Herberger
Chairman Twsp. Board

Edwin Hagen
Clerk Twsp. Board

