

INTERNAL

Case #

PU-25-284

**BICKER
TOWNSHIP**

**ZONING
ORDINANCE**

INTERNAL

BICKER TOWNSHIP
ZONING ORDINANCE

JANUARY – 1982

AMENDED: OCTOBER 2022

TABLE OF CONTENTS

	Page
PREAMBLE	4
ARTICLE I INTRODUCTION.....	5
Sec. I - Title	5
Sec. II - Purpose.....	5
Sec. III - Repeal	5
Sec. IV - Severability.....	5
Sec. V - Authority.....	5
Sec. VI - Effective Date.....	5
ARTICLE II GENERAL PROVISIONS.....	5
Sec. I - Jurisdiction	5
Sec. II - Compliance	5
Sec. III - Agriculture Exempted.....	5
Sec. IV - Interpretation	5
Sec. V - Nonconforming Uses.....	5
Sec. VI - Utilities	6
Sec. VII - Mineral Exploration and Mineral Production	6
Sec. VIII - Sanitary Regulations.....	7
<i>Sec IX Wind Energy Facilities</i>	
ARTICLE III DISTRICT REGULATIONS	9
Sec. I - Classes of Districts.....	9
Sec. II - Location of District Boundaries.....	9
Sec. III - Official Zoning Map.....	9
Sec. IV - Ag - Agricultural District	9
ARTICLE IV ADMINISTRATION AND ENFORCEMENT	10
Sec. I - Zoning Administrator.....	10
Sec. II - Township Zoning Board	11
Sec. III - Appeals	11
Sec. IV - Building Permit	12
Sec. V - Amendments.....	12
Sec. VI - Conditional Use.....	13
ARTICLE V DEFINITIONS OF TERMS USED IN THIS ORDINANCE	13
Sec. I - Rules.....	13
Sec. II - Definitions.....	13

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PREAMBLE

**AN ORDINANCE ESTABLISHING COMPREHENSIVE ZONING
REGULATIONS FOR BICKER TOWNSHIP**

The intent is to:

Promote the health, safety, moral and general welfare of the county residents and the orderly development of lands within the township;

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 floodplain areas so as to reduce flood damages and. protect stream flows;

Discourage development which places an excessive financial burden on township government.

THIS ORDINANCE IS HEREBY ADOPTED EFFECTIVE THIS _____ DAY OF _____, 1982.

Chairman, Bicker Township Board

Clerk, Bicker Township

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ARTICLE I

INTRODUCTION

Title: This ordinance shall be known as the “Zoning Ordinance of Bicker Township.”

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 Bicker Township.

Repeal: All other ordinances of Bicker Township in conflict with this ordinance are hereby repealed.

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.

Authority: This ordinance is adopted under the authority granted in Chapter 58-03 of the North Dakota Century Code.

Effective Date: This ordinance shall become effective after a public hearing and adoption by the Bicker Township Board.

ARTICLE II

GENERAL PROVISIONS

Jurisdiction: The jurisdiction of this ordinance shall include all unincorporated areas within Bicker Township.

Compliance: Except as hereinafter provided, no building, structure or land shall be erected, repaired or used except in conformance with these regulations.

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.

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.

Nonconforming Uses:

- A. Lawful, nonconforming 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 nonconforming uses shall

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be extended to occupy a greater area of land than occupied at the time of adoption.

- B. No building or structure where a nonconforming use has been discontinued for a period of two (2) years or has changed to a permitted use shall again be devoted to a nonconforming use.
- C. A nonconforming 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 with these regulations.
- D. The provisions of this section shall not be applicable to conditional uses or any use made nonconforming by a change in district regulations.

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 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 (4) feet so as not to constitute a hazard to normal farming or general county/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 or to any township public or private property.
 - 3. Excavation costs for purposes of construction or maintenance of a utility shall be borne by the contractor or owner of said utility.

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

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1. The activities will not result in undue damage or injury to roads, bridges, right-of-ways in the township or to any township public or private property.
2. Evidence of a reclamation agreement with the surface owner.
 - a. Reclamation of project shall be completed within one (1) 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 Board.

Sanitary Regulations: All residential, commercial or industrial structures shall conform to the North Dakota health regulations as they refer to wells, irrigation, septic and sanitary systems.

Sec. IX - Wind Energy Facilities: A Wind Energy Facility, which includes associated electric transmission line(s) to facilitate interconnection, is a permitted use in the Agricultural District, subject to the following conditions:

- A. Obtaining a Certificate of Site Compatibility from the North Dakota Public Service Commission:
- B. Complying with the following turbine setback requirements:
 1. 1.1 times the height of the turbine from the nearest edge of an interstate or state highway right-of-way;
 2. 1.1 times the height of the turbine plus 75 feet from the centerline of a county or maintained township roadway;
 3. 1.1 times the height of the turbine from the nearest edge of a railroad right-of-way;
 4. 1.1 times the height of the turbine from the nearest edge of a 115 kV or greater overhead electric line right-of-way;
 5. 3 times the height of the turbine from a non-participating inhabited residence, unless the setback is waived in writing by the owner of the occupied residence; and
 6. 1.1 times the height of the turbine from a non-participating property line, unless the setback is waived in writing by the non-participating property owner.

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- C. Complying with the following sound requirement:
 - 1. sound levels within one hundred feet of an inhabited residence or a community building shall not exceed forty-five dBA, unless the requirement is waived in writing by the owner of the inhabited residence or community building.
- D. No turbines will be allowed in the White Earth Valley consisting of the following: NW¼ 2-158N-94W, E½ 2-158N-94W, 1-158N-94W, 12-158N-94W, NE¼ 11-158N-94W, NW¼ 13-158N-94W, E½ 13-158N-94W, E½ of 24-158N-94W, E½ of 25-158N-94W, E½E½ of 36-158N-94W. See Figure 1.

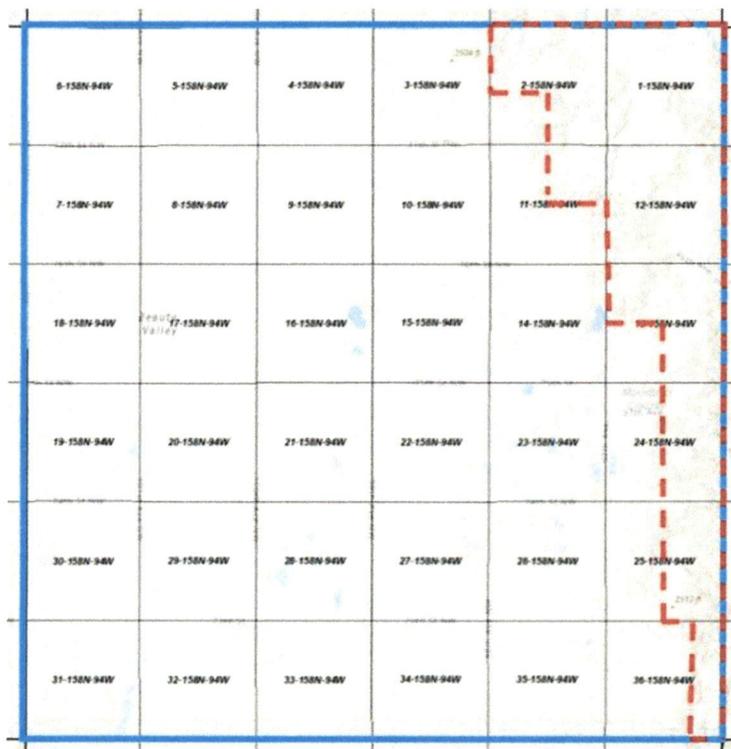


Figure 1: White Earth Valley No Turbine Zone

- E. An electric transmission line associated with a Wind Energy Facility shall be located at least 500 feet from an inhabited residence, unless the requirement is waived in writing by the owner of the inhabited residence.
- F. At least 30 days prior to beginning construction, the Wind Energy Facility proponent must provide the Board of Township Supervisors with a report from an independent third-party consultant demonstrating that the Wind Energy Facility complies with the above-referenced conditions. The report shall be provided at the Wind Energy Facility proponent's expense. For the

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purposes of this provision, beginning construction includes clearing of land, excavation, or other action affecting the environment of the site, but does not include activities incident to preliminary engineering or environmental studies.

ARTICLE III

DISTRICT REGULATIONS

Classes of Districts: For the purpose of these regulations, the entire area of Bicker Township is zoned agricultural.

Location of District Boundaries:

- A. Where the district boundary lines on the official zoning 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.
- B. Where any uncertainty exists as to the exact location of the zoning district boundary line, the Township Board shall determine the location of such boundary line.

Official Zoning Map: The boundaries of these districts are established as shown on the map entitled the “Official Zoning Map of Bicker Township.” This map and any attached map sections are made part of this ordinance.

Ag - 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:
 - 1. Agriculture and agriculture-related buildings and farm dwellings (provided that such uses are maintained in connection with a farming operation where fifty (50) percent or more of the operator’s income is derived from farming); park and outdoor recreational facilities and related buildings for outdoor recreation; churches and facilities related to religious activities; public and parochial schools; and Wind Energy Facilities subject to Art. II. Sec. IX

C. Conditional Uses:

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1. Sanitary disposal facilities including landfills; mineral extraction--including sand and gravel operations (in accordance with Article II, Section VII); mobile home parks, feedlots, junk yards, radio or TV towers, utility lines, and substations (in accordance with Article II, Section VI).
 2. Junk yards and automobile salvage operations provided all operations are conducted within an area enclosed on all sides with a solid fence or wall not less than 8 feet (2.4m) in height.
- D. Shelterbelts: No shelterbelts or major tree planting shall be established closer than seven rods (115 ft.) for planting on the windward side (generally north and west) and six rods (99 feet) for planting on the south and east. This is to be measured from all section lines and the centerlines of all township and county roads.
- E. Residential Development: The following regulations shall be applied to the construction of nonfarm dwelling units:
1. Density: There shall be no more than one (1) nonfarm dwelling per quarter section (160 acres).
 2. Lot Size: Not less than three (3) acres. (Note: The terms of density and lot size shall exclude the immediate family of the surface owner.)
- F. 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 and federal highways.
- G. Special Provisions: The keeping of livestock (provided such uses are maintained and operated when less than fifty (50) percent of the operator's income is derived from farming operations) shall not exceed two (2) head of livestock for the first acre (.4Ha) of land and one (1) head of livestock for each acre (.4Ha) thereafter.

ARTICLE IV

ADMINISTRATION AND ENFORCEMENT

Zoning Administrator: The Zoning Administrator may be appointed by the Zoning Board. Duties of the Zoning Administrator shall include:

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- A. Issuance of all permits
- B. Inspection of buildings
- C. Maintenance of the records for the regulations and permits
- D. Transmission to the Zoning Board of all applications for appeals, variances or conditional use permits; and all applications for amendments to the Board of Township Supervisors.
- E. Collection of any fees instituted by the Board of Township Supervisors in the administration of this ordinance.

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. Assisting the Zoning Administrator in conducting inspections of buildings and administering the zoning ordinance.
- C. Hearing and deciding appeals where it is adjudged by the applicant that an error in judgment has been made by the Zoning Administrator.
- D. Reviewing and studying from time to time the provisions of the regulations.
- E. The Zoning Board shall serve as an advisor to the Township Board decisions. The Township Board shall have final review of all Zoning Board decisions.

Appeals: Any person aggrieved by the provisions of these regulations or by any order of determination of 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 of Supervisors shall take action and shall mail by registered mail a copy of its order to the petitioner.

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Building Permit:

- A. No land within the jurisdiction of this ordinance shall be built upon and no structure or building shall be structurally altered or moved until a permit has been obtained from the Township Board.
- B. Any building permit issued must be in accordance with this ordinance.
- C. No permit is required for maintenance of any building or structure which does not structurally alter the building.
- D. If no construction takes place in a year from the issuance of a building permit, the permit shall expire.
- E. The building permit process is outlined below:
 - 1. All applicants who wish to build or alter any structure as defined in this ordinance must apply to the Township Board for a permit.
 - 2. If the applicant's plans meet district regulations as prescribed in this ordinance, the Township Board or designated Zoning Administrator collects the fees and issues the building permit.
 - 3. If the applicant's plans do not comply with district regulations, the amendment, variance, conditional use or the appeals procedures shall be implemented.

Amendments:

- A. Should the need arise for an amendment to the zoning ordinance or zoning district map, the applicant submits the proposed zoning change to the Township Board (the Township Board itself may wish to change the ordinance text or map).
- B. The Township Board will publish a notice for a public hearing in the official county newspaper once a week for two (2) successive weeks prior to the set time for said hearing. A notice shall also be posted in a conspicuous place of a public building, such as the post office, as well as on the property in question.
- C. If the zoning map is proposed to be changed, the applicant must notify by registered mail adjoining property owners at least fifteen (15) days prior to the public hearing. Adjacent property owners are all property owners fronting or within 150 feet (46m) of the property in question.
- D. At the hearing, the applicant presents his proposal for amending the zoning ordinance or zoning map. Also, at the hearing the public may comment and the adjacent property owners may state their opinions for the record. The Township Board then approves or disapproves the amendment.

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- E. If there is a protest to the amendment by more than twenty (20) percent of the adjacent property owners, a two-thirds vote of approval is required by the Township Board prior to passing the amendment.

Conditional Use:

- A. The applicant for a conditional use permit applies to the Township Board for a conditional use permit.
- B. The Township Board holds a public hearing.
- C. The Township Board has made written findings certifying compliance with rules governing conditional uses and, that, where applicable, satisfactory provisions for the following have 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.

ARTICLE V

DEFINITIONS OF TERMS USED IN THIS ORDINANCE

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.

Definitions: For this purpose of this ordinance, the following list of definitions is adopted:

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.

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.

Building: Any structure used for shelter or enclosure of persons, animals or chattels.

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Conditional Use: A use conditionally permitted in order to reduce any adverse effects on surrounding property.

Dwelling: A building or portion thereof occupied exclusively for purposes of residing, but not including mobile recreational vehicles.

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.

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.

Family: A group of one or more persons occupying a single premise and living as a single housekeeping unit. (Immediate family shall be limited to the sons and daughters of the head of the household.)

Farm: Any aggregate area operated by one person, family, partnership, corporation, or joint venture for agriculture or farming purposes.

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.

Ha: Hectare

Junk Yard: Any land or building used for the storage, sale or dismantling of obsolete vehicles, junk and other machinery.

Km: Kilometer

Livestock: Domestic animals or types customarily raised or kept on farms for profit or other purposes.

Lot: A parcel of land sufficient to provide the yard requirements of the regulations.

M: Meter

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.

Mineral Production: Any activity when applied to the surface of land which will produce coal, oil, gas, potash, sand, gravel and/or rock, or other subsurface minerals as defined in North Dakota Century Code 38-12.

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Mobile Home Park: Any park, court, camp, parcel, or tract of ground upon which mobile home sites are leased or used, whether for compensation or not, including all accessory uses.

Nonconforming 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.

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.

Shelterbelt: Barrier of trees and shrubs that is used to protect crops, farmsteads and nonfarm dwellings from wind and storms.

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.

Structural Alteration: Any change in the supporting members or any substantial change in the roof or exterior walls of a building.

Township Board: Shall mean the board of supervisors of Bicker Township, or any person designated by the board to have the authority to enforce the provisions of this ordinance.

Utilities: For the purposes of this ordinance, the definition of utilities shall be limited to electrical transmission lines (excluding electric transmission lines associated with a Wind Energy Facility), oil pipelines and natural gas pipelines. This definition shall exclude electrical distribution lines as a utility.

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.

Wind Energy Facility: A facility generating electricity from conversion of wind to energy and consisting of one or more wind turbines under common ownership or operating control, and includes substation(s), permanent meteorological tower(s), overhead and underground collection and communication systems, operations and maintenance facility, associated interconnection facilities (including transmission line(s)), and other associated facilities.

Yard: A space on the same lot with the principle building or structure; open, unoccupied and unobstructed by buildings or structures from the ground upward.

Front - A yard that extends across the full width of the lot. The depth is measured as the least distance between the front lot line and the front building line.

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Rear - A yard that extends across the full width of the lot. The depth is measured as the least distance between the rear lot line and the rear building line.

Side - The yard between the front and rear yards. The depth is measured as the least distance from the side lot line and the side of the principle building.

Zoning Administrator: Person or persons designated by the Township Board to administer the zoning ordinance.

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OFFICIAL ZONING MAP

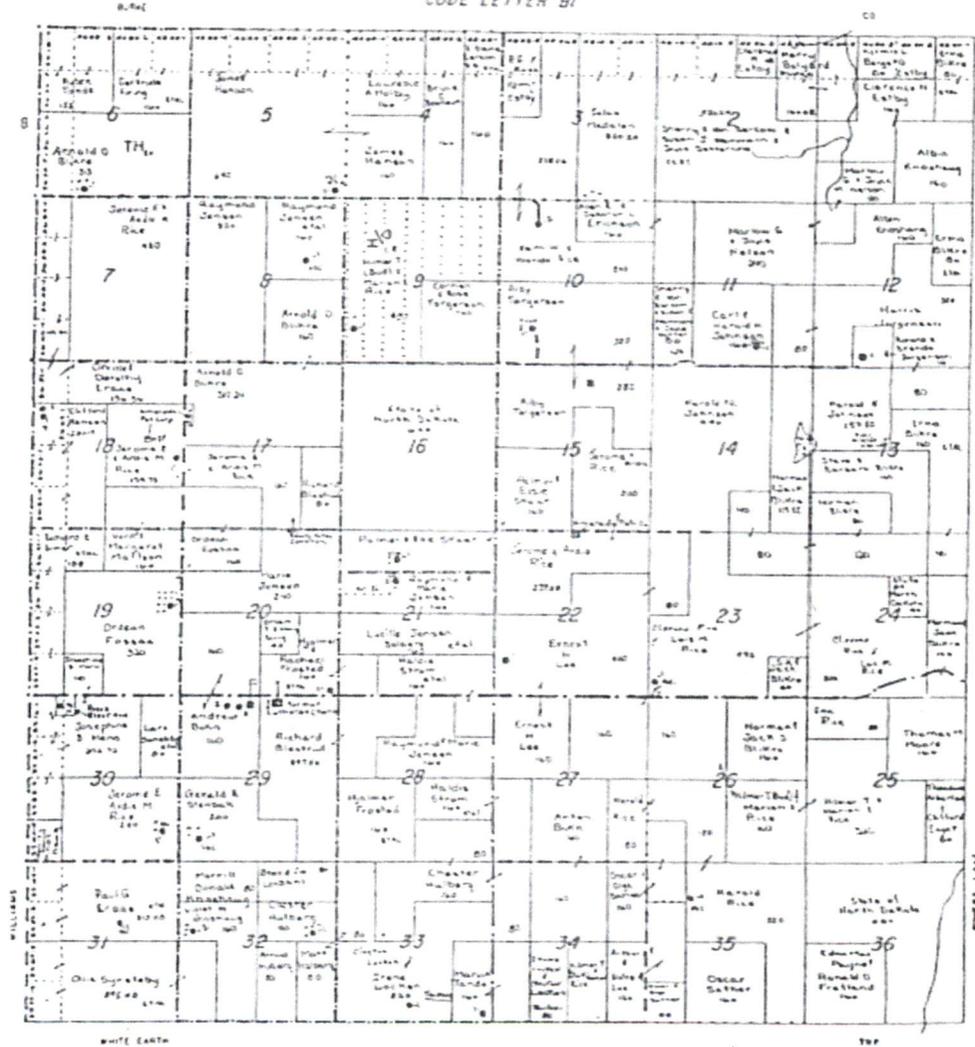
Chairman Twsp. Board

Clerk Twsp. Board

BICKER

TOWNSHIP 158 N. RANGE 94 W.

CODE LETTER B1



For the purpose of this Zoning Ordinance, the entire area of Bicker Township is zoned (Ag) Agricultural.

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Bicker Township

Permanent Approach Permit

PERMIT SPECIFICATIONS

1. The total cost of all construction and maintenance of the work specified shall be borne by the Applicant, its grantees, successors, and assigns: except the Township will maintain the shoulder of the roadway.
2. It is understood by the Applicant that the Township does not assume any responsibility for the removal or clearance of snow, ice or sleet, or the opening of windrows of such material, upon any portion of the drive, even though snow, ice or sleet is deposited or windrowed on said drive by its authorized representative engaged in normal winter maintenance operations.
3. No drive shall be considered as completed until checked and approved by the Township and the County Road and Bridge Department. Surfacing may be omitted on field entrances if so specified in the application.
4. A drive, as referred to in this permit, shall be the traveled area between the highway roadway surface and the adjacent right of way line. Said drive shall be used only for the purpose of providing entrance to an exit from the applicant's property.
5. No drive, or improvement constructed on the highway right of way shall be altered or relocated without permission of the Township.
6. The applicant agrees to perform all work in accordance with this permit, and to indemnify and hold harmless the Township, its officers and employees from all liability, judgments, costs, expenses, and claims growing out of damages, or alleged damages, of any nature whatsoever, to any person or property arising out of performance or nonperformance of said work, or the existence of said drives.
7. It is understood by the applicant that the location, construction and maintenance of drives are under the supervision of the Township at all the times, and that in granting this permit the Township waives none of its powers or right to direct the removal, relocation, and / or proper maintenance in the future of any drives within the right of way of the Township.
8. The granting of this permit does not vest the applicant with the exclusive use of the drive. Township retains the right to diminish and expand the use of the drive as required in the interest of the safety of highway traffic.
9. Applicant agrees that any permit issued and any entrance built or work done shall be in accordance with plans attached to and made a part hereof, and Permit Specifications printed on this sheet. If the applicant fails to construct the drive to the specified dimensions, including the proper culvert length and in slopes, the Township will either cancel this permit and remove the drive or make the necessary correction and the applicant will reimburse the Township for such work. Applicant understands the Township has the right to temporarily suspend the permit if placement of this approach will endanger public health, safety or welfare of the general public. The Township will not be responsible for any cost incurred by applicant / operator due to such a type of suspension.
10. Wetland: The applicant shall certify that no wetlands will be impacted by the installation of the driveway. If wetlands are impacted, the applicant shall coordinate with the US Army Corps of Engineers (USACE), North Dakota Regulatory Office to determine if a permit is required or mitigation is needed. Certification of avoidance, a wetland delineation, or a permit (if required) from the USACE shall be attached to the application. **Township policy allows driveway accesses of 5 per mile per side, including section line access points. The resulting driveway spacing is approximately ¼ mile or 1,320 feet. Applicant will place a 4 foot lath in the back slope at the center line of requested approach location. Upon review a determination of suitability will be made and the applicant will be notified by mail or electronically (Email).**

Attach Maps and Construction Plans

All Approaches must be staked

Applicant/Authorized Agent

Date