

## **CHAPTER FIVE - ADMINISTRATION AND ENFORCEMENT**

### **I. MERCER COUNTY PLANNING COMMISSION**

#### A. Authority

The Mercer County Planning Commission was created by the Mercer County Board of County Commissioners in accordance with the provisions of Chapter 11-33 of the North Dakota Century Code.

#### B. Powers and Duties

1. Establish and administer rules and procedures for conducting the zoning affairs of Mercer County.
2. Approve or deny applications and permits, unless the Board of County Commissioners has retained such power.
3. Conduct hearings on applicable applications and set conditions for certain uses.
4. Establish requirements and procedures necessary for submission of applications.
5. Conduct hearings on zoning amendments.
6. Publication of notice of zoning hearings and posting of the notice of zoning amendments on the affected site.
7. Establish bonding, fee schedules and accounting, thereof, subject to the approval of the Board of County Commissioners.

### **II. BOARD OF ADJUSTMENT**

A. Authority - The Board of County Commissioners shall act as the Board of Adjustment.

#### B. Duties

1. The Board shall hear appeals from any person, party, firm or organization aggrieved by the actions or decisions of the Planning Commission.
2. The Board may authorize a variance from the terms of this Ordinance when the literal enforcement of the provisions of this Ordinance would result in undue hardship and said variance will not be contrary to the public interest or welfare.
3. Application for a variance shall include:
  - a. The special conditions and circumstances that is uncharacteristic to the land or structure and not applicable to other land or structures in the same district.
  - b. The special conditions and circumstances that are a result of the actions of the applicant.
  - c. The literal interpretation of the portions of the

Ordinance that would deprive the applicant of rights commonly enjoyed by other properties in the district.

- d. Information that the granting of the variance will not confer any special privilege on the applicant that is denied by the Ordinance to others in the same district.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in the district.

### **III. LAND USE ADMINISTRATOR**

#### A. Authority

The Board of County Commissioners shall appoint a Land Use Administrator to enforce all provisions of the Mercer County Zoning Ordinance and to carry out other directives and duties as assigned by the Board and the Planning Commission.

#### B. Powers and Duties of the Land Use Administrator

1. Attend all hearings and meetings and be responsible for minutes.
2. Maintain updated copies of the Ordinances and District Zoning Map.
3. Keep copies of all records.
4. Publish legal notices on zoning matters scheduled for public hearing by the Planning Commission.
5. Make inspection of land and/or structures to determine compliance with the provisions of this Ordinance.
6. Enforce the provisions of this Ordinance, and to request and receive the assistance of such other county officials as is deemed appropriate for such purposes.

### **IV. VIOLATIONS AND PENALTIES**

#### A. Complaints Regarding Violations

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof, and shall be filed with the Land Use Administrator. The Administrator shall record the complaint, notify the Planning Commission and make an inspection of the affected site.

#### B. Enforcement Against Violations

1. Violations. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or if any building, structure, or land is used contrary to the provisions of the Mercer County Zoning Ordinance, or any ordinance, regulation or resolution adopted pursuant thereto, the same shall constitute a violation of such Ordinance and be subject to the Enforcement Procedures and Penalties of this Section.
2. Enforcement Procedures. The Land Use Administrator is hereby designated as the enforcement official of the County, who shall have authority to enforce this Ordinance against violations thereof, through any of the following procedures, or other lawful action(s):
  - a. Serve written notice, either by personal service or by certified mail - "return receipt requested", requiring the cessation, removal or correction of any use or other activities in violation of this Ordinance, within such reasonable period of time as the Land Use Administrator shall specify, which notice shall be so served upon the owner and the occupant of such building or premises, at the last known address.
  - b. Request that the State's Attorney, or other authorized legal representative, maintain an action for injunction, or other appropriate civil or criminal action or proceeding, for one or more of the following purposes:
    - 1) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.
    - 2) To restrain, correct or abate such violation(s).
    - 3) To prevent the occupancy of the building, structure or land.
    - 4) To prevent any illegal acts, conduct, business or use in or about such premises.
    - 5) To recover damages for the existence of the violation.
  - c. Request that the State's Attorney institute criminal proceedings in enforcement of this Ordinance against any such violation; and
  - d. Request that the Mercer County Sheriff, or his authorized agent or representative, assist in the enforcement of this Ordinance.

Enforcement of the provisions of this Ordinance, through the Land Use Administrator, may be instituted by the proper county

authorities or by request of any affected citizen or property owner when such request is deemed appropriate.

3. Penalties. A violation of any provision of this Ordinance shall constitute the maintenance of a public nuisance and shall be punishable as a class "B" misdemeanor, by reason of the provisions of Section 11-33-21 of the North Dakota Century Code.

Upon conviction of a violation, the penalties imposed by the Court may include a fine in an amount not exceeding \$500, or imprisonment for a period not exceeding thirty (30) days, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate violation, and shall be punishable as such.