



AGENDA
PLANNING & ZONING COMMISSION
JULY 27, 2026
COMMISSION ROOM
MANDAN CITY HALL
5:30 PM
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The City of Mandan is encouraging citizens to provide their comments for agenda items via email to info@cityofmandan.com. Please provide your comments before 3:30 p.m. on the day of the meeting. Include the agenda item number your comment references. Comments will be forwarded to the Commissioners and appropriate departments.

A. ROLL CALL

B. CONSIDER APPROVAL OF MINUTES

1. June 22, 2026 Minutes

C. PUBLIC HEARINGS

1. Consider revisions to the Mandan Land Use and Zoning Code

D. OTHER BUSINESS

E. ADJOURN

A. ROLL CALL

Chair Robinson called the meeting to order.

Commissioners Present: Horn, Huber, Lang, Mudder, Mayor Froelich, McLean, Hammond, Renner, Robinson. Absent: Intveld, Smith, Gardner.

Also Present: Building Official Jordan Singer, Dave Winosa in the absence of Rachel LaQua Interim Planner, Abe Ulmer (ILSE), Landon Niemiller (Swenson Hagen).

B. CONSIDER APPROVAL OF MINUTES

1. *May 27, 2026 Minutes. Commissioner Renner motioned to approve the May 27, 2026 minutes. Commissioner McLean seconded the motion. Upon vote, the motion passed unanimously.*

C. PUBLIC HEARINGS

1. *Consider a final plat for School District 8th Addition.*

Dave Winosa, Interim Planner, Interstate Engineering presented.

BACKGROUND/ALTERNATIVES:

Requested Final Plat Background

The preliminary plat was approved at the May 19, 2026 Mandan City Commission meeting and was contingent on the inclusion of a roundabout. This is the final plat for School District 8th Addition, currently Lots 1 to 5, Block 2, School District First Addition Replat, located in the NE1/4 of Section 28, T139N R81W, 5th PM, Morton County, ND, within city limits.

Preliminary Plat Details

Total Area: 27.84 acres to be platted into 4 blocks with a total of 8 lots.

Configuration

The applicant proposes to create 4 blocks, which will preserve the existing ASA and Brave Center. Block 1 contains 3 lots, block 2 contains 1 lot, block 3 contains 3 lots, and block 4 contains 1 lot.

Access

Access is provided by proposed 9th St NW and 9th Ave NW, dividing the plat into roughly four (4) quadrants. The east side of the plat, including lots 2 & 3, block 3, abut Sunset Dr, 6th Ave NW, 8th St NW, and 8th Ave NW. The proposed rights-of-way are approximately 66 feet in width for 9th Ave NW, and 60 feet for 8th St NW.

Zone Change

The zone change (Ordinance No. 1485) was previously approved by this commission and had final approval by the Mandan City Commission on June 2, 2026.

The zoning was changed from Agriculture and CA – Commercial Districts to the following:

R7 – Single-Family Residential for Lot 3, Block 1, and Lot 1, Block 4

R3.2 – Two-Family Residential for Lot 3, Block 3

CA – Commercial for Lot 2, Block 3

CC - Commercial for Lots 1 & 2, Block 1; Lot 1, Block 2; and Lot 1, Block 3

Adjacent Properties Zoning, Land Use and Future Land Use

Adjacent property to the north is Agriculture, to the west and south are zoned R7 - Single-Family Residential; to the east is CA - Commercial, R3.2 - Two Family Residential, and RM - Multi Family Residential.

The Future Land Use Plan designates the property as a Park on the north side of the property and Public/Semi-Public on the south portion.

Staff Comments

- Right of way has been carved out for a roundabout at the intersection of 9th Ave NW and 9th St NW.
- The requested zone changes for Lots 1 & 2, Block 1, Lot 1, Block 3, and Lot 1, Block 2 to CC – Commercial/Light Industrial Transition is to allow for uses in the public recreation use group, which allows for parks and other public recreation facilities.

Findings of Fact

Final Plat

1. All technical requirements for consideration of a preliminary plat have been met;
2. The proposed subdivision would likely not have substantial effects on the safety and circulation of public roadways in the vicinity, and therefore no traffic impact study is required;
3. The proposed plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision for projects identified in City masterplans;
4. The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the proposed subdivision at the time of development;
5. The proposed subdivision is not located in the Special Flood Hazard Area or an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development;
6. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
7. The proposed subdivision is consistent with the Comprehensive Plan and generally consistent with the Future Land Use Plan.
8. The proposed subdivision would not adversely affect the public health, safety and general welfare. The proposed subdivision is consistent with the Comprehensive Plan and generally consistent with the Future Land Use Plan.

Findings of Fact

Zone Change

1. Fulfills the goals, objectives, and policies of the future land use plan; and

2. Fulfills the goals, objectives, and policies of other plans as may be adopted by the city.

Public Outreach and Application Details

This item has been published in the Mandan News as required. An application and fee were received on May 26, 2026. Letters were sent to 161 adjacent property owners on June 4, 2026.

Recommendation

Staff recommended approval of the final plat for School District 8th Addition.

Chair Robinson inquired if there were any comments or questions.

Commissioner Mudder inquired if there is a timeline in place to have that road and the round-about completed? Building Official Singer replied that at this time there is no proposed timeline for the road rather the plan is to have the right of way in place. When future development does occur, that construction will be requested.

Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the final plat for School District 8th Addition.

Abe Ulmer, Independent Land Surveying Engineering (ILSE) came forward and stated that the Mandan School District has hired ILSE to do this plat. He reported they are platting the roads to lock in those routes, as there are no plans to build the road and round-about at this time. The School District's intent is for all the school property to be sold. At this point there is no proposed development. The school has been taken down and everything has been remediated and grass seed has been planted with the intent to clean it up for any future developer. He said he is working on the final plat on a couple easements with city staff and Public Works to verify what water lines are or are not existing. Some utilities to the old school building have been removed that had utility easements that are being considered to be vacated that utility companies have been involved with. For recommendations going forward, if city staff approve, this commission will most likely approve as well.

Chair Robinson inquired if there were any comments or questions.

Chair Robinson provided a second and final invitation to come forward to speak for or against the final plat for School District 8th Addition.

Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

Commission Action

Chair Robinson inquired if there were any comments or questions.

Commissioner McLean moved to recommend approval of the final plat for School District 8th Addition. Commissioner Mudder seconded the motion. Chair Robinson called for a roll call vote: Horn: Yes; Huber: Yes; Lang: Yes; Mudder: Yes; Mayor Froelich: Yes; McLean: Yes; Hammond: Yes; Renner: Yes;

Robinson: Yes. The motion passed.

2. Consider a final plat and a special use permit amendment for Lakewood Commercial Park 7th Addition. Dave Winosa, Interim Planner, Interstate Engineering presented.

BACKGROUND/ALTERNATIVES:

Requested Final Plat Background

This is the final plat for the Lakewood Commercial Park 7th Addition, located in Lots 1B & 4, Block 1, Lakewood Commercial, Lots 2 & 3, Block 1, Koch's Lakewood Villas and Lot 2, Block 1, Koch's Lakewood Villas 2nd Addition, all located in Section 6, T138N R80W, 5th PM, Morton County, ND, within city limits. The applicant proposes to combine Lot 1B, Block 1, Lakewood Commercial and Lot 1, Block 1, Koch's Lakewood Villas 2nd Addition and to replat the remaining lots. The applicant wishes to subdivide in order to develop vacant land and convey additional space to current landowners.

Final Plat Details

Total Area: 2.9 acres (124,449 square feet) to be platted into Lot 1 (84,430 square feet), Lot 2 (5,844 square feet), Lot 3 (8,226 square feet), Lot 4 (8,227 square feet), Lot 5 (8,223 square feet), and Lot 6 (12,501 square feet), all Block 1.

Configuration

Six lots, all within Block 1. Lot 1 occupies over 60% of the plat area and contains a large low-lying area occupying the east 1/3. A 15' utility easement runs along the backs of Lots 3, 4, 5, and 6.

Access

Access to lots 3, 4, 5, and 6 is via Nash Lane. Access to Lot 2 is via Shoal Loop SE. Lot 1 could be accessed from 40th Ave SE.

Adjacent Properties Zoning, Land Use and Future Land Use

This property and all surrounding properties are zoned CB - Commercial. The Future Land Use Plan designates this property as High Density Residential.

Staff Comments

- The final plat appears to protect access to existing and proposed lots.
- Lot 1 has a large retention pond area, making that portion of the lot unlikely to be developed.

Findings of Fact

Final Plat

- All technical requirements for consideration of a final plat have been met;
The proposed subdivision would likely not have substantial effects on the safety and circulation of public roadways in the vicinity, and therefore no traffic impact study is required;
- The proposed plat includes sufficient easements and rights-of-way to provide for orderly development and provision of municipal services beyond the boundaries of the subdivision for projects identified in City masterplans;

- The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by the proposed subdivision at the time of development;
- The proposed subdivision is not located in the Special Flood Hazard Area or an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development;
- The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
- The proposed subdivision is consistent with the Comprehensive Plan, the Future Land Use Plan, and other plans and studies, policies and accepted planning practice;
- The proposed subdivision would not adversely affect the public health, safety and general welfare.

Requested Special Use Permit Amendment Background

This is an amendment to an existing special use permit issued August 19, 2025. The amendment is needed to include a newly acquired and recently re-platted city lot. The original permit was for multi-use shops. This amendment would maintain the conditions set forth in the original permit.

Property

The application plans for ten (10) shop condos of approximately 1,800 square feet each and ten (10) shop condos of approximately 1,200 square feet each. There are sixty (60) parking spaces provided for the shop condos, or one (1) parking spot per 400 square feet.

Findings of Fact

Special Use Permit

~ Will the proposed use be designed, constructed, operated, and maintained so as to be compatible in appearance with the existing or intended character of the neighborhood?

The application states that the proposed development will be visually attractive and maintain and or enhance the appearance of the area.

~ Will the proposed use involves activities, processes, materials, equipment, or conditions of operation that will be incompatible with the neighborhood due to the production of traffic, noise, smoke, fumes, glare, or odors?

The application states that CCRs will be in place so as to not disrupt the neighborhood.

~ Will the hours of operation of the proposed use be different than the adjacent uses? Will the proposed use require exterior lighting of a type and intensity greater than the adjacent uses?

No.

~ Will the proposed use requires exterior lighting of a type and intensity greater than the adjacent uses? *No.*

~ Will the site of the proposed use have sufficient area to provide the parking required for the use? *Yes.*

Will the proposed use requires adjustments to the normal lot size, height, and setback requirements of the district? *No.*

Public Outreach and Application Details

This item has been published in the Mandan News as required. An application and fee were received on April 24, 2026. Letters to ninety-six adjacent property owners were sent on May 7, 2026.

RECOMMENDATION

Staff recommends approval of the final plat and amended Special Use Permit for Lakewood Commercial

Park 7th Addition, contingent on final documents for Condominium Declaration, Easements, Covenants, Restrictions and Bylaws.

Chair Robinson inquired if there were any comments or questions.

Commissioner Hammond inquired what the hours of operation will be? Building Official Singer replied that staff left some documents out because this currently is a working document, however he is still discussing issues with the applicants to assure everything is in order. He commented that he believes the hours will be “normal working hours”.

Commissioner Renner inquired if that piece of the city lot that was acquired does not have any impact on what was originally proposed for where the condos or shop condos were going to be setting? Rather, that did not change anything, correct? Building Official Singer replied there were a couple different versions. The section that shows the twenty (20) shops is the latest plan and the site plan associated with it would be the closest that ties to this. That piece they acquired from the city is split down the middle of the current one. That’s the reason for the amended special use permit because originally, they had their piece without the city property. Commissioner Mudder voiced concern about snow removal and that it not be placed on the street. Singer stated staff have met with the developers and discussed a specific area for that purpose and there is also a plan to address runoff situations. Commissioner Huber requested clarification involving the final plat in addition to the Special Use Permit and that it will convey a portion of that city lot to the adjacent landowners? Singer replied, yes, that is correct. There are pieces where the backyards are sliding that the owners have worked those problems out.

Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request for a final plat and a special use permit amendment for Lakewood Commercial Park 7th Addition.

Landon Niemiller (Swenson Hagen) came forward and commented on the plat being discussed which is a replat, that involve plats being moved around. That part of the plat that was a city lot before, basically bisects that entire area. That will be developed at some point to get fire trucks around there along with discussing the stormwater and drainage issues for melting snow and rain water.

Chair Robinson inquired if there were any comments or questions.

Chair Robinson provided a second and final invitation to come forward to speak for or against the request for a final plat and a special use permit amendment for Lakewood Commercial Park 7th Addition.

Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

Commission Action

Chair Robinson inquired if there were any comments or questions.

Commissioner McLean moved to recommend approval of the final plat and a special use permit amendment for Lakewood Commercial Park 7th Addition contingent on final documents for

condominium declarations, easements, covenants, restrictions and Bylaws. Commissioner Hammond seconded the motion. Chair Robinson called for a roll call vote: Horn: Yes; Huber: Yes; Lang: Yes; Mudder: Yes; Mayor Froelich: Yes; McLean: Yes; Hammond: Yes; Renner: Yes; Robinson: Yes. The motion passed.

D. OTHER BUSINESS

1. *Zoning Code Updates.* Building Official Jordan Singer stated that on Monday, July 27, 2026 at the regular Planning and Zoning Commission meeting, a public hearing will be held on the Zoning Code updates that have been under review for the last couple years. Prior to that meeting, the required notices will be published. Interstate Engineering staff have assisted Mandan city staff throughout the review with recommendations for revisions to the Zoning Code that originally started with Stantec. Some of the highlights include landscaping; park dedication, street design, road widths, right of way standards and many other areas of the code that required review and/or updating. There were zoning districts added such as the Rural Residential District and the Industrial District. One important change was the Downtown Fringe going to the R7 or the normal single-family district, the mixed use and the neighborhood mixed use. There was discussion about the administrative changes, the approval process and how that process works including terminology. The parking issues and driveways throughout the city were also reviewed and improved.

Building Official Singer reported that the information on the Zoning Code can be found online by going to the cityofmandan.com website in the Departments Section under “Zoning Rewrite Study”. The last three tabs at the bottom of the page are the zoning ordinances and supporting documents. He extended a thank you to Interstate Engineering for their assistance with the Zoning Rewrite Study project.

Building Official Singer noted that on Page 125 is the start of a proposed Ordinance that will be discussed at the Public Hearing on Monday, July 27, 2026 during the regularly scheduled Planning and Zoning Commission meeting. He invited anyone who has questions prior to that time to send an email to planning@cityofmandan.com.

Chair Robinson inquired if there were any comments or questions.

Commissioner Renner commented that he looks for a “redline version” of a document when revisions are being made. He requested Building Official Singer to include a PDF of that type of a document so when anyone reviews what is being proposed can see what has been changed. Singer replied that under the Zoning Rewrite Study, the fourth (4th) tab up from the bottom of the page, there is a tab titled “Summary of Major Proposed Changes”. Dave Winosa stated that there is a version of all the line-by-line track changes and he will look into how to include that PDF version to the on-line documents. Commissioner Mudder inquired if staff could prepare a summary of all the questions individuals ask about that could be disseminated to the Planning and Zoning Commission members? Singer replied that yes, city staff should be able to draft a summary. He said that the City Commission will also be reviewing the Zoning Rewrite Study.

Chair Robinson extended a thank you to those who came out for this portion of the meeting. The Public Hearing on this matter is scheduled for Monday, July 27, 2026 at the regular Planning and Zoning

Commission meeting.

E. ADJOURN

There being no further business to discuss or come before the Board, a motion was made by Commissioner McLean and seconded by Commissioner Hammon to adjourn the meeting. Upon vote, the motion passed unanimously.

The meeting adjourned at 6:04 p.m.



Planning & Zoning Commission

Agenda Documentation

MEETING DATE: July 27, 2026
PREPARATION DATE: July 22, 2026
SUBMITTING DEPARTMENT: Planning
DEPARTMENT DIRECTOR: Jim Neubauer
PRESENTER: Rachel LaQua, Interim Planner
SUBJECT: Consider revisions to the Mandan Land Use and Zoning Code

STATEMENT/PURPOSE:

Consider revisions to the Mandan Land Use and Zoning Code

BACKGROUND/ALTERNATIVES:

After the City's Planner resigned in spring 2025, the City contracted with Interstate Engineering to provide interim planning services following the end of Stantec's contract. Because the Land Use Code Update remained important, the City asked Interstate in fall 2025 to complete the final steps of the project.

In fall 2023, Stantec had completed a zoning code audit of Chapters 101 (Administration and Planning), 105 (District Regulations), 109 (Land Subdivision), and 115 (Right of Way). The rewrite now underway consolidates the effort into two chapters: 105 and 109.

No redlined version of the code has been made available, as the scope of the updates is substantial enough that a redline would not provide useful information. Supporting resources are instead posted on the Zoning Rewrite Study website, and major changes are summarized below. Data center regulations are not included in the ordinances before the Commission tonight; that section has been reserved for the August Planning and Zoning Commission meeting to allow for fuller public and commissioner review.

Audit Findings

The 2023 Stantec audit identified a number of issues that the rewrite is intended to address:

- Zoning districts are similar to one another, with several no longer in use but still appearing on the zoning map, and others present in the ordinance but not used on the map
- District descriptions and permitted uses no longer align, and language throughout is outdated

- Some uses lack administrative review, and the list of uses with special standards needs modernization
 - Creative and small-scale uses are not addressed
 - Setbacks, right-of-way widths, and design standards need updating to current best practices
 - Park dedication is currently limited to payment-in-lieu options
 - Landscaping standards lack clarity, and the administrative process is unclear overall

Public Involvement

A community survey of more than 500 code users was completed and is available on the project website. The top three issues identified by respondents were:

1. Updating permitted uses in Mandan to reflect more modern uses
2. Requiring more park dedication (land) with new subdivision development
3. Clarifying residential and commercial uses intended for areas surrounding the downtown Mandan business district

Six working group sessions were also held to evaluate specific code sections, provide education, and help determine direction for the rewrite.

Major Changes

Landscaping — Standards were updated to more closely mirror Bismarck's, at the request of local developers. The rewrite establishes street tree requirements for commercial and residential areas, clear buffer zone requirements using tables, updated perimeter and island planting requirements, and modernized landscaping expectations generally.

Park Dedication — The Park District may require land or payment in lieu, as allowed under North Dakota Century Code. The requirement applies to both commercial and residential properties, with a tiered approach based on development style and density.

Access Management — Access spacing and related allowances are updated to modern best practices, and the intent of different street classification types is clarified.

Right-of-Way Widths — Minimum arterial widths are widened, with arterials now classified as principal or minor. Two standards are created for local roads, and rural standards are added for the first time.

New Zoning Districts — Five new or revised districts are proposed:

- RR (Rural Residential) — supports rural development on well and septic within the ETJ; minimum lot size of 1.5 acres
- MX (Industrial) — very heavy industrial uses; the proposed zoning map limits this district to the refinery

- DF (Downtown Fringe) — rewritten as a more logical transition zone; eliminates drive-throughs, motor vehicle service, and retail group B; the proposed map reduces the district's footprint
- NMU (Neighborhood Mixed Use) — a form-based code concept supporting vertical and horizontal mixed-use redevelopment; not included on the proposed map
- CMU (Corridor Mixed Use) — suited to infill and reuse along auto-oriented corridors, supporting larger-scale commercial uses

Specific Use Types — Multi-use shops may now be approved administratively. Language and use types are modernized, and a use table clearly shows whether a use is permitted, conditionally permitted, or not permitted. The structure for determining use type is clarified, and additional housing types are added. As noted above, the data center section is reserved for later review.

Administrative Changes — The rewrite clarifies the review structure and administrative requirements in both the subdivision and zoning sections, codifies the administrative appeal process, and creates additional administrative processes to streamline development for citizens. Some conditional use permits move to administratively approved uses with added standards, and definitions, terms, and visual aids are updated throughout.

Parking and Driveways — Changes include removing the exterior parking requirement for dwellings; reducing parking requirements for senior or affordable multi-unit buildings to 0.65 spaces per unit; allowing adjacent on-street parking to count toward required residential minimums; reducing minimum retail parking from one space per 400 square feet to one per 500 square feet; basing medical clinic minimum parking on square footage rather than employee count; allowing the City Planner to approve parking reductions of up to 25% from minimum requirements; creating a “proof of parking” option allowing construction of 80% of required parking so long as the remaining area is preserved for future use; and establishing minimum and maximum driveway widths.

Goals of Recent Updates

Since spring 2026, the goal of Staff and the consultant team has been to build on work already completed while making strategic updates to a limited set of sections — landscaping, multi-use shops, and park dedication — along with formatting, final QA/QC, and identifying next steps.

Next steps:

Zoning Map Updates

Some comments and updates to the zoning map remain unresolved. Updating the map alongside the zoning code represents a significant undertaking, so the intention is to pass the zoning code first and then move to the zoning map update.

Applications

New application forms are needed to support the updated code. These have been created and will roll out alongside the new code.

Signs

The sign ordinance should be re-evaluated based on content-neutral regulations, as the current code allows for more flexibility and negotiation than is advisable. The proposed draft includes a Sign Master Plan.

ATTACHMENTS:

1. Draft 2026 Subdivision Ordinance
2. 2026 Draft Zoning Ordinance - DC Omitted

FISCAL IMPACT:

N/A

STAFF IMPACT:

Considerable staff time.

LEGAL REVIEW:

This has been reviewed as part of the agenda packet.

RECOMMENDATION:

Staff recommends that the Commission recommend to the City Commission approval of the draft Land Use Code Sections 105 and 109 in whole, as presented.

SUGGESTED MOTION:

I move to recommend to the City Commission approval of the draft Land Use Code Sections 105 and 109 in whole, as presented.

Chapter 109 LAND SUBDIVISION

ARTICLE 1. IN GENERAL

Sec. 109-1-1. Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

Alley	A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.
Arterial Street	A street designed to carry large volumes of traffic, to provide for efficient vehicular movement between large areas of the City. Arterial streets may be subclassified as either principal arterial or minor arterial.
Principal Arterial	A street that emphasizes mobility and employs very strict access control which serves major activity centers, intra-regional trips, and high traffic volumes.
Minor Arterial	A street that features less access control than a Principal Arterial, though still limited access Overall which serves smaller activity centers, connects to Principal Arterials, and carries moderate traffic volumes.
Avenue	A public way that extends in a general north and south direction.
Base Lines	The imaginary lines dividing the City into four quadrants and providing a point of origin for the grid system of naming streets and avenues, i.e., Main Street and Collins Avenue.
Bend	A southwest or northeast winding, irregular public way that does not lend itself to any other definition.
Block	A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines or waterways, or boundary lines of cities.
Block Face	One side of a platted block between two consecutive streets, excluding alleyways.
Capital Improvements Program	A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual local government operating expenses, for the purchase, construction, or replacement of the physical assets for the community, are included.
Central Sewer System	A private or public sewer system to serve a community or fringe area which includes collection and treatment facilities approved by the City and state health department.
Central Water System	A private or public water system to serve a community or fringe area which includes water treatment, storage and distribution facilities approved by the City and the state health department.

Circle	A public way that extends in a general north or south circular direction.
Collector Street	A road intended to move traffic from local roads to arterials. Collector streets are usually the principal entrance streets to residential development and the streets for circulation within the development.
Comprehensive Plan	The official long-range guide for the economic, physical and social development of the City in conformance with the requirements of North Dakota Century Code 40-48-08.
Corner Lot	A lot situated at the intersection of two or more streets, which streets have an angle of intersection of not more than 135 degrees.
Court	A short public way that terminates in an east or west cul-de-sac.
Cul-de-sac	A local street with only one outlet and having a circular turnaround and appropriate terminal for the safe and convenient reversal of traffic movement.
Designating Official	The City employee authorized by the board of Board of City Commissioners to perform the duties as prescribed in this article.
Drive	A public way that extends in a general southwest or northeast diagonal direction.
Easement	A legally defined portion of private property within which the owner has granted the use by another for a specified purpose.
Final Plat	The map, plat or record of a subdivision and any accompanying material, as described in this chapter.
Lane	A short public way that terminates in a north or south dead end.
Local Street	A road intended to provide access to other roads from individual properties and to provide right-of-way beneath it for public utilities.
Loop	A public way that extends in a general east or west circular direction.
Lot	A tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, for transfer of ownership or for building development.
Major Subdivision	All subdivisions or re-subdivisions not classified as minor subdivisions.
Master Land Use Plan	A land use plan setting forth land use goals and policies for orderly development, adopted by the Planning and Zoning Commission and board of Board of City Commissioners.
Master Street Plan	A street plan setting forth goals, policies and standards for orderly street development, adopted by the Planning and Zoning Commission and board of Board of City Commissioners.
Master Subdivision Plan	An area plan indicating the general street layout, land use density, existing public improvements, proposals to develop streets and utilities and other such data as required by this chapter, submitted to the Planning and Zoning Commission prior to, or simultaneously with, a preliminary plat.

Minor Subdivision	The division of a parcel of land, or the adjustment of property lines or easements within a parcel(s) of land that meets certain restrictions contained in section 109-2-2.
Nonaccess Reservation	A line controlling access to major streets or public rights-of-way designated on a final plat.
Official Map	The map used by the designating official in assigning numbers to streets and avenues which illustrates the grid system.
Owner	A person or any other legal entity having legal title to, or sufficient proprietary interest in, the land sought to be subdivided under this chapter.
Place	A short public way that terminates in a north or south cul-de-sac.
Planning and Zoning Commission	The local government's commission, established in accordance with law and appointed by the board of Board of City Commissioners.
Preliminary Plat	The preliminary drawings, described in this chapter, indicating the proposed manner or layout of the subdivision to be submitted to the Planning and Zoning Commission for approval.
Public Improvement	Any drainage structure, water line, sewer line, roadway, parkway, sidewalk, pedestrian-way, tree, berm, boulevard, lawn, public off-street parking area, lot improvement or other facility for which the City may ultimately assume the responsibility.
Public Way	A public thoroughfare which affords principal means of access to abutting property.
Registered Land Surveyor	A land surveyor properly licensed and registered in the state.
Re-Subdivision or Replat	A change in a map of an approved or recorded plat if the change affects any street layout on the map or area reserved thereon for public use or any lot line or if the change affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.
Right-of-Way	The area on, below, or above a public roadway, highway, street, cart way, bicycle lane and public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the City. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.
Road, Dead-End	A road or a portion of a street with only one vehicular traffic outlet.
Road, Right-of-Way Width	The distance between property lines, measured at right angles, to the centerline of the street.
Roads or Streets	Includes streets, highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels, bridges, public easements and rights-of-way and other ways.
Sale or Lease	Any immediate or future transfer of ownership, or any possessory interest in land, including contract of sale, lease, devise, intestate succession, or transfer of an interest in a subdivision or part, whether by

	metes and bounds, deed, contract, plat, map, lease, devise, intestate succession, or other written instrument.
Sketch Plan	A sketch prepared prior to the submission of the preliminary plat to enable the subdivider to save time and expense in reaching general agreement with the Planning and Zoning Commission as to the form of the plat and the objectives of this chapter.
Street and Subdivision Naming Plan	A plan identifying methodology, definitions and criteria for naming subdivisions and streets within the City's jurisdiction, adopted by both the Planning and Zoning Commission and the board.
Street Grade Plan	A plan depicting street grade elevations at various points with the public right-of-way, according to standards established by the City Engineer.
Subdivider	Any person or group of persons who, directly or indirectly, causes land to be subdivided.
Subdivision	Division of a tract or parcel of land into lots 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 such lots, and the creation of new or enlarged parks, playgrounds, plazas or open spaces.
Subdivision Grading Plan	A scale-accurate plan depicting lot grade elevations at various points throughout the subdivision, as required by standards established by the City Engineer.
Temporary Improvement	A construction project that has been conditionally accepted by the City while the performance bond is in force.
Trail	A southeast or northwest winding irregular public way that does not lend itself to any other definition.
Way	A short public way that terminates in an east or west dead end.

Sec. 109-1-2. Purpose

- 1) The purpose of this chapter includes:
 - a) To protect and provide for the public health, safety, and general welfare of the City and its extraterritorial jurisdiction;
 - b) To guide the orderly future growth and development of the City;
 - c) To encourage the orderly, beneficial development of all parts of the City and its extraterritorial jurisdiction;
 - d) To protect and conserve the value of land and improvements throughout the City;
 - e) To provide adequate space to accommodate the circulation of traffic throughout the City having particular regard to the avoidance of congestion in the streets and highways, pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines;

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- f) To establish reasonable standards of design and procedures for subdivisions and re-subdivisions to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land; and
 - g) To ensure orderly growth and extension of both public and private services, such as streets, water, sanitary sewer, storm sewer, gas, electrical and telephone services. The Planning and Zoning Commission shall encourage the coordinated platting of adjacent small land parcels within the developed portion of the City.
- 2) The following policies will be considered by the Planning and Zoning Commission in its decisions relating to subdivision of land.
- a) The subdivision of land and the subsequent development of the subdivided plat shall be considered as part of the planning process for the orderly, planned, efficient and economical development of the City and the extraterritorial jurisdictional area.
 - b) Land to be subdivided shall be of such character that it can be used safely for public or private building purposes without danger to health or peril from fire, flood or other menace. Land shall not be subdivided until it can be demonstrated that adequate provision can be made for proper facilities and public improvements.
 - c) The provisions of this chapter shall supplement and facilitate the enforcement of the provisions and standards contained in the building and housing codes, zoning ordinances, comprehensive plan, official zoning map, and capital improvements program of the City.
 - d) Consideration shall be given to the impact of property values, social and economic impacts on the City and the extraterritorial area.
 - e) Lands should not be subdivided if located in an area subject to flooding or that are topographically unsuitable for development.

Sec. 109-1-3. Requirements

- 1) This chapter shall apply to all subdivisions of land, located within the corporate limits of the City and within the extraterritorial jurisdiction of the City, as determined by state law and the City's ordinances. The division of land into parcels larger than 150 acres, not involving any new streets or easements for access or public utilities, shall be exempted from this chapter. Auditor plats (lots), government lots, outlots, or other such lots are not considered subdivisions for the purpose of building development.
- 2) No land shall be subdivided within the jurisdiction of the City until:
 - a) The subdivider or his agent has met with the City Planner and City Engineer to discuss their land development plans.
 - b) The subdivider has obtained approval of the final plat by the Planning and Zoning Commission and the board.
 - c) The final plat and related documents have been signed and recorded with the county recorder.
- 3) No building permit, excavating permit, grading permit or occupancy permit shall be issued for any parcel or plat of land which was created by subdivision after the effective date of, and not in conformity with the provisions of, this chapter. No excavation of land or construction of any private improvements shall take place or be commenced except in conformity with this chapter.
- 4) The Planning and Zoning Commission is authorized and instructed to review and approve or disapprove all proposed subdivisions of land within the City and its adjacent territory. The Planning and Zoning Commission is to be governed in its review of proposed subdivisions by the applicable state laws, City ordinances and the provisions of this chapter.

Sec. 109-1-4. Duty to enforce; prohibited acts; enforcement

- 1) It shall be the duty of the City Planner, City Engineer and Building Inspector to enforce this chapter and to bring to the attention of the City Attorney any violations or lack of compliance herewith.
- 2) No building permit, excavating permit, subdivision grading permit or occupancy permit shall be issued for any lot or parcel of land in a proposed subdivision before a plat of such subdivision has been approved by the Planning and Zoning Commission and the board and filed with the county recorder.
- 3) No building permit or occupancy permit shall be issued for the construction of any building or structure located on a lot or plat subdivided or sold in violation of the provisions of this chapter.
- 4) Appropriate actions and proceedings may be taken by law or in equity to:
 - a) Prevent any violation of these regulations;
 - b) Prevent unlawful construction;
 - c) Recover damages;
 - d) Restrain, correct or abate a violation; or
 - e) Prevent illegal occupancy of a building, structure or premises.

Sec. 109-1-5. Administrative rules and amendments

The Planning and Zoning Commission may adopt and amend rules and instructions for the administration of this chapter to expedite approval of subdivision. The provisions of this chapter may be amended by the Board of Board of City Commissioners, provided that public hearings on all proposed amendments shall be held by both the Planning and Zoning Commission and the board in the manner provided by law. The provisions of this chapter, and any amendments thereto, shall be published and shall be recorded with the county recorder, as provided by law.

Sec. 109-1-6. Violations

Any owner, or the agent of any owner, of land located within the territory of a subdivision who transfers, sells, agrees to sell or negotiates to sell any land by reference to, or exhibition of, a plat of a subdivision, or by any other use thereof, before such plat has been approved by the Planning and Zoning Commission and governing body and recorded as approved in the office of the county recorder, shall be guilty of an offense. The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalty. The City may enjoin such transfer, sale or agreement by an action for injunction.

Sec. 109-1-7. Variances

- 1) Generally.
 - a) The Planning and Zoning Commission and the board may find that extraordinary hardships or practical difficulties may result from strict compliance with this chapter, and the purpose of this chapter may be served to a greater extent by an alternative proposal. It may approve variances which vary, modify or waive the provisions of this chapter so that substantial justice may be done and the public interest secured, provided that such variance, modification or waiver shall not have the effect of nullifying the intent and purpose of this chapter or of the master plan. In no event shall any variance, modification or waiver be more than a minimum easing of this chapter, nor shall it be in conflict with existing zoning laws. The Planning and Zoning Commission and the board shall not approve variances unless the evidence presented in each specific case supports the following findings:
 - i) Strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider, as distinguished from a mere inconvenience, because of the particular physical surroundings, shape or topographical conditions of the specific property involved, or because of other conditions not caused by the action of the subdivider;

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- ii) The granting of the variance would not have the effect of reducing the traffic capacity of any major or secondary street;
 - iii) The granting of the variance would be beneficial to the public safety, health or welfare, and not injurious to other property located adjacent to the proposed modification;
 - iv) The conditions upon which the request for a variance is based are unique to the property for which the variance is sought, are not applicable generally to other property, and have not been created by the applicant; and
 - v) The variance is consistent with provisions of the zoning ordinance, comprehensive plan and proper development of the area.
- 2) Complete application received.
- a) A complete application shall be received no less than 30 days prior to the desired Planning and Zoning Commission meeting date.
- 3) Public hearing noticing requirements.
- a) Notice of the hearing must be published at least ten days before the time set for the hearing in the official newspaper of the City. Property owners within 300 feet of the boundary of the area of the proposed variance shall be notified by mail. The property owner notice requirement shall be considered to be met if reasonable effort is made to contact applicable property owners, even if some are inadvertently omitted from notification. The notice must contain the following items:
 - i) The time and place of the hearing.
 - ii) A description of the nature, scope, and purpose of the variance request.
 - iii) A statement of the times at which the application will be available to the public for inspection and copying at the office of the City Auditor or his/her designee.
- 4) Planning and Zoning public hearing required.
- a) The Planning and Zoning Commission shall hold a public hearing to review the application for a variance. The Planning and Zoning Commission may recommend approval, recommend approval with conditions, recommend denial, or table the public hearing to a future date. A recommendation shall include, or reference findings of fact related to, the application and forwarded to the Board of Board of City Commissioners. Conditions of approval shall be related and roughly proportional to mitigate negative externalities affecting nearby property owners and the general public and to fulfill the intent of the adopted plans of the City. A motion to table the application to a future date shall be limited to no longer than 60 days.
- 5) Board of City Commissioners public hearing required.
- a) The Board of City Commissioners shall hold a public hearing no sooner than is possible to follow the public hearing noticing requirements. The Board of Board of City Commissioners may approve, approve with conditions, deny, or table the public hearing to a future date. Conditions of approval shall be related and roughly proportional to mitigate negative externalities affecting nearby property owners and the general public and to fulfill the intent of the adopted plans of the city. A motion to table the application to a future date shall be limited to no longer than 60 days. A decision to deny the variance is final.

ARTICLE 2. PLATTING

Sec. 109-2-1. Preliminary procedures

Prior to submitting any application, the applicant shall meet informally with the City Planner and City Engineer concerning the relation of their property to existing conditions, future plans, community facilities, utilities and services. At this meeting, the applicant may present a proposed sketch plan depicting the general site layout of this property. The City Planner and City Engineer will determine if the proposed land division constitutes a major or minor subdivision.

Sec. 109-2-2. Minor subdivision procedures

Subdivisions that meet the criteria of this section may be approved administratively by the Planning Department.

- 1) Minor subdivision criteria.
 - a) Four acres or less
 - b) No new public rights-of-way
 - c) Creation of no more than two additional lots
 - d) May not leave a remainder of a parent parcel/property
- 2) Submittal requirements.
 - a) One digital copy (pdf or other form acceptable to City staff) of the proposed plat which includes all applicable items of a preliminary and final plat as per Section 109-2-6.
 - b) Completed application form.
 - c) Processing and review fees.
- 3) Review.
 - a) City staff will review the submittal and respond in writing to the applicant. The applicant will make any required corrections and resubmit as necessary.
 - b) City staff will coordinate their review with Morton County planning staff if the proposed minor subdivision is in an extraterritorial zone.
 - c) Once City staff is satisfied with the submittal, it will be placed on a Board of City Commissioners agenda, subject to noticing requirements. Following approval, the applicant will be notified to obtain signatures and submit the signed final plat.
 - d) Should City staff determine that there is an issue with the proposed plat that should be reviewed and acted on by the Planning and Zoning Commission, the request shall be submitted to the Planning and Zoning Commission before being forwarded to the Board of City Commissioners.
- 4) Recording.
 - a) City staff will notify the applicant when all required City signatures have been affixed to the plat.
 - b) The applicant shall pick up the plat from the City and record the plat along with any required documents with Morton County.
 - c) Once the plat and documents have been recorded at the county, the applicant shall deliver evidence of same to the City.
 - d) Should the applicant fail to record the plat within six months of City commission action, the action of the Board of City Commissioners is void and a new application will need to be filed.
- 5) No excavating, grading or building permits shall be issued until all fees are paid and the plat is recorded unless written approval is granted by the City to commence such activities prior to application and recordation.

Sec. 109-2-3. Major subdivision categories

There are two subcategories of major subdivision platting:

- 1) Master planned subdivisions; and
- 2) Non-master planned subdivisions.

Master Planned Subdivision: Any property for which the applicant owns adjacent property, and it is reasonable to believe the property will be developed in phases, is considered a master planned subdivision. The applicant shall be required to submit a master plan for the entire area of ownership.

Sec. 109-2-4. Procedures: Master planned subdivision, preliminary plat, and final plat

1) Master planned subdivision procedures.

- a) The applicant shall provide one electronic copy of the master plan and such other documents as required under section 109-2-6(a) to the City. The City Engineer and City Planner shall schedule a meeting with the applicant to discuss the master plan within 15 days of the submittal.
- b) City staff shall provide copies of the master plan to the Mandan Park District, Mandan School District, Morton County Planning, if in an extraterritorial zone, and all affected City departments, utility companies, and other interested parties requesting review.
- c) The Planning and Zoning Commission shall hold a public hearing to consider the master plan. The date of the hearing shall be a minimum of 30 days after such time as staff has determined that the master plan has adequately addressed their questions and concerns.

City staff shall send notice of the public hearing to all property owners within 500 feet of the boundary of the subject property. The notice sent shall state the name of the applicant, the proposed location of the subdivision, and the time, date, and location of the scheduled public hearing before the Planning and Zoning Commission. This notice requirement shall be met if reasonable effort is made to contact applicable property owners, even if some are inadvertently omitted from notification.

The Planning and Zoning Commission shall approve the master plan if it meets the requirements of this Chapter, as well as all zoning requirements. If the master plan is denied, the Planning and Zoning Commission shall provide reasons, in writing, to the applicant, for the denial. The applicant may, at their option, withdraw the application or submit a revised master plan that adequately addresses the reasons for denial.

2) Preliminary plat procedures.

- a) The applicant shall apply in writing for preliminary plat approval, at least 30 days prior to the meeting of the Planning and Zoning Commission at which the plat is to be considered, and shall pay the required fee as established by the board.
- b) The applicant shall provide one digital copy (via pdf or other form acceptable to City staff) of the proposed preliminary plat and such other documents as required under section 109-2-6.
- c) City planning staff shall schedule a public hearing to review the preliminary plat application.
- d) City staff shall notify all property owners within 500 feet of the boundary of the subject property by mail at least 14 days prior to the hearing. The notice shall state the name of the applicant, the proposed location of the subdivision, and the time, date, and location of the scheduled public hearing before the Planning and Zoning Commission. This notice requirement shall be met if reasonable effort is made to contact applicable property owners, even if some are inadvertently omitted from notification.
- e) A minimum of 14 days prior to the preliminary plat hearing before Planning and Zoning Commission, staff shall make public, via the City website, the subdivision application documents required under section 109-2-6.
- f) At the public hearing, the Planning and Zoning Commission shall approve or conditionally approve the preliminary plat if it meets the requirements of this Chapter, as well as all zoning requirements in Chapter

101. If the preliminary plat is approved, the plat shall be forwarded to the Board of City Commissioners for consideration in the form of a public hearing. If the preliminary plat is denied, the Planning and Zoning Commission shall provide reasons, in writing, to the applicant, for the denial. At the option of the applicant, the applicant may revise and resubmit the preliminary plat for re-consideration by the Planning and Zoning Commission or request that the preliminary plat be forwarded to the Board of City Commissioners for consideration.

- g) For any preliminary plat approved by the Planning and Zoning Commission or any preliminary plat requested by the applicant to be sent to the Board of City Commissioners subsequent to said plat being denied by the Planning and Zoning Commission, the Board of City Commissioners shall consider the preliminary plat. The Board of City Commissioners meeting shall take place no sooner than 21 days after the Planning and Zoning Commission hearing for the preliminary plat.
 - h) A minimum of 14 days prior to the preliminary plat meeting before Board of City Commissioners, staff shall make public, via the city website, the subdivision application documents required under  section 109-2-6.
 - i) Any preliminary plat approved by the Board of City Commissioners shall be effective for a maximum period of 24 months. If the final plat has not been submitted within the 24-month period, the application will have expired. Any preliminary plat that is submitted after the expiration will be considered a new application, subject to applicable application fees.
- 3) Final plat procedures.
- a) The applicant shall submit the final plat at least 30 days prior to the meeting of the Planning and Zoning Commission at which the plat is to be considered and shall pay the required fee as established by the board.
 - b) The applicant shall provide one electronic copy of the proposed final plat and such other documents as are required under section 109-2-6.
 - c) City staff shall publish notice in the official City newspaper for two consecutive weeks prior to the meeting of the Planning and Zoning Commission at which the final plat is considered.
 - d) At least 14 days before the Planning and Zoning Commission hearing, staff shall send notices by mail to all property owners within 500 feet of the boundary of the subject property. Said notice shall state the name of the applicant, the proposed location of the subdivision, and the time, date, and location of the scheduled public hearing before the Planning and Zoning Commission. This notice requirement shall be considered to be met if reasonable effort is made to contact applicable property owners, even if some are inadvertently omitted from notification.
 - e) A minimum of 14 days prior to the final plat hearing before Planning and Zoning Commission, staff shall make public, via the City website, the subdivision application documents required under  section 109-2-6.
 - f) At the public hearing, the Planning and Zoning Commission shall recommend approval, approval with conditions or denial of the final plat based on whether the final plat meets any conditions of the preliminary plat approval. The recommendation shall be forwarded to the Board of City Commissioners.
 - g) The Board of City Commissioners shall take action on the final plat at the next regularly scheduled Board of City Commissioners meeting. The Board of City Commissioners shall approve, approve with conditions, deny or return the final plat to the Planning and Zoning Commission for further consideration. Any further review of the final plat by the Planning and Zoning Commission shall take place in the form of a public hearing and shall be noticed according to the provisions of this section (2)(c) through (e). The Board of City Commissioners shall only refer the plat back to Planning and Zoning Commission if it finds there to be substantial additional information relating to the subdivision that was not presented to the Planning and Zoning Commission.
 - h) If the plat is approved by the Board of City Commissioners, a plat in recordable form shall be furnished to the county recorder within one year of the approval date. If the plat is not furnished to the county recorder within this timeframe, approval of the plat shall be considered void.

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- i) The applicant shall also provide the digital files for all lot lines, easement boundaries, roadway rights-of-way, and other geographic features recorded on the final plat to City staff in a requested format.

Sec. 109-2-5. Replats

- 1) The Planning and Zoning Commission shall recommend the re-platting of lands deemed to be unsatisfactorily subdivided and which are tax delinquent or are underdeveloped and which represent an obstacle to the orderly and efficient growth of the City.
- 2) For the purpose of defining a subdivision, auditor plats created under the N.D.C.C. § 57-02-39, government lots and outlots are not recognized as platted subdivisions for building purposes. Prior to issuance of a building permit, these lots must be platted in conformance with the provisions of this chapter.
- 3) Where lots in an existing subdivision are re-platted to create additional lots, the following requirements regarding provision of potable water and sanitary sewer service shall apply.
 - a) Where only a single potable water tap has been provided to the area where two lots are created, a second potable water tap shall be provided.
 - i) The tap shall be made by boring under any pavement that is less than five years old.
 - ii) If pavement that is less than five years old must be removed in order to install the new tap, a pavement patch measuring at least 25 feet wide by the full extent of the lane or lanes where pavement was removed must be made once the new tap has been installed.
 - iii) Standard width trenching and patching may be employed wherever the pavement is older than five years.
 - iv) A pavement patch shall be warranted for two years.
 - b) Where only a single sanitary sewer tap has been provided to the area where two lots are created and the applicant wishes to not install a second sanitary sewer tap, the existing tap shall be modified.
 - i) A Y and two-way cleanouts shall be installed on the existing sanitary sewer tap.
 - (1) The Y and two-way cleanouts may be located either in the public right-of-way or on private property.
 - (2) If the Y and two-way cleanouts are located on private property, a minimum three-foot square public sanitary sewer easement shall be recorded around the Y and two-way cleanouts.
 - ii) If the sewer tap does not line up with the new lot line, a private access and maintenance easement over one lot for the sewer tap for the other lot shall be recorded. The width of the easement shall be a minimum of twice as wide as the depth of the sewer tap.
 - iii) A joint maintenance agreement shall be recorded for any portion of the sanitary sewer tap located within a private access and maintenance easement or any shared portion of the sewer tap that is privately owned. The language contained in the joint maintenance agreement shall be reviewed and approved by the City prior to recording.
 - c) Where a new sanitary sewer tap will be installed, the requirements for installing a new potable water tap shall be followed.
 - d) The City Engineer may modify these requirements if necessary based on existing conditions for water and sewer, planned replat, and existing development.

Sec. 109-2-6. Plat specifications

- 1) Master subdivision plat.
 - a) A master subdivision plat, encompassing the subdivider's parcel and the abutting 300 feet, shall contain the following:
 - i) Proposed title and legal description.

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- ii) Vicinity map depicting one-mile radius of the proposed master plan area.
 - iii) Name and address of the property owner and surveyor.
 - iv) Numerical and graphical scale of one inch equals 200 feet or less, north arrow and date located all in the same vicinity on the map.
 - v) Legend showing all line and monument types
 - vi) Parcel, approximate acreage of each parcel, and boundary lines.
 - vii) Existing land use of parcels within 300 feet.
 - viii) Contours with a maximum contour interval of two feet.
 - ix) Proposed street configuration showing all existing street pavement and rights-of-way width.
 - x) Zoning classification of the proposed subdivision and its adjacent tracts.
 - xi) When available from public records, location, type and size of all existing water mains, storm sewers, sanitary sewers, culverts, bridges, and other public and private utility structures within the tract.
 - xii) General location of all existing public and private facilities, such as buildings, cemeteries, schools, parks, utility stations and vegetative cover.
 - xiii) The location of all river, stream, creek, lake, pond, wetland, steep slope or other sensitive natural or topographical features.
 - xiv) Illustration or statement of how the area will be serviced with major utilities, such as water, sanitary sewer, storm sewer, gas and electric.
 - xv) Evidence that the Mandan Park District and Mandan School District have been advised of the development concerning their land needs.
- 2) Preliminary plat.
- a) The preliminary plat shall contain the following:
 - i) Proposed name of subdivision in accordance with the City's subdivision naming policy.
 - ii) Legal description of property.
 - iii) Name, address and telephone number of the property owner and surveyor.
 - iv) Numerical and graphical scale of one inch equals 200 feet or less, north arrow and date located all in the same vicinity on the plat.
 - v) Boundary line of proposed subdivision indicated by solid heavy line and block and lot lines indicated by less heavy lines.
 - vi) Boundary lines of adjacent tracts, their owners and existing buildings within 100 feet of the proposed subdivision shown by dashed lines.
 - vii) Legend showing all line and monument types.
 - viii) Lot and blocks numbered in numerical order.
 - ix) Exact location of existing utilities and utility easements for water mains, fire hydrants, storm sewers, bridges, culverts, sanitary sewers, gas lines, telephone lines, electrical lines, cable television, utility substations; indicating pipe or line dimensions, sizes, grades when necessary, and type of material when available.
 - x) Proposed zoning of the subdivision.
 - xi) Approximate location of all proposed utility lines and rights-of-way.
 - xii) Location, area, and dimension of all existing and proposed land parcels to be dedicated for public use, other than streets.

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- xiii) When appropriate, names, locations, rights-of-way width, grades, and pavement widths of all existing transportation systems.
 - xiv) Proposed preliminary street grades, as required by the City Engineer, which should be submitted as a separate document after preliminary plat approval but before submission of the final plat.
 - xv) Identification and location of existing vegetative cover, historical, environmental and cultural features.
 - xvi) Contours with a maximum interval of two feet; and in areas less than three percent grade, spot elevations shall be provided according to standard mapping practices.
 - xvii) Proposed preliminary subdivision grade plan depicting cuts and fills as required by the City Engineer to be submitted after preliminary plat approval but before final plat submittal.
 - xviii) Location and dimension of existing building and encroachments.
 - xix) Proposed street names in accordance with the City's street naming policy.
 - xx) Location and elevation of lakes, rivers, creeks, indicating the approximate high and low water elevations and identification of area within the 100-year floodplain.
 - xxi) Vicinity map depicting one-mile radius of the parcel.
- b) If appropriate as determined by the City Planner or City Engineer, the subdivider shall provide additional preliminary plat information within the extraterritorial jurisdiction as follows:
- i) Soil report indicating suitability for septic tanks and building development.
 - ii) Capability of solid waste disposal.
 - iii) Plan to convert large residential lots, over 20,000 square feet, to average City size lots upon annexation.
 - iv) Statement of available water supply acceptable under state health department regulations.
 - v) Assurance that the subdivision utility systems, including water, sewer, storm sewer and streets can be integrated into the City's system upon annexation and meet all standards.
 - vi) Statement from the owner assuring maintenance of all constructed improvements.
 - vii) Statement from the appropriate police and fire departments concerning the availability of services.
 - viii) Stormwater scoping sheet, SWIP, and applicable agency permits.
- 3) Final plat. The final plat shall be submitted as one digital copy (pdf or other form acceptable to City staff.
- a) The final plat shall contain the following:
- i) Title block with the name of subdivision, including underlying lots if replat, section, township, range and political subdivision and notation if within the City's extraterritorial jurisdiction.
 - ii) Legal description of subdivision's external boundary by metes and bounds indicating section, township, range and political subdivision with point of beginning referenced to a recorded section or quarter section corner according to the North Dakota Recordation Act and corner number referenced as assigned by the county recorder; with all dimensions shown to the nearest hundredth of a foot.
 - iii) A scale of one inch equals 100 feet or less and shall be shown numerically and graphically.
 - iv) North arrow and date.
 - v) Boundary line of subdivision indicated by a solid line, block and lot lines in regressive solid lines, and abutting property lines within 100 feet shown as dotted lines labeling lots, blocks and subdivisions.
 - vi) Legend showing all line and monument types.

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- vii) Final plat shall designate all the streets, alleys and public grounds and all outlots or fractional lots within or adjoining the subdivision, together with the names, widths, courses, boundaries and dimensions of all lots, blocks, streets, alleys, and public grounds.
 - viii) All lots and blocks, however designated, shall be numbered in progressive numbers and their precise length and width shall be indicated. The streets, alleys or roads which divide or border the lots shall be shown on the final plat.
 - ix) The plat shall depict monuments to be placed in all lot and block corners and at each change of direction in the boundary line of the subdivision. There shall be shown on the plat all survey and mathematical information and data necessary to locate all monuments and to locate and retrace any and all interior and exterior boundary lines appearing thereon. The outside boundary lines of the plat shall be correctly designated on the plat and shall show bearings on all straight lines, or angles at all angle points, and central angle, radius and arc length for all curves. All distances shall be shown between all monuments as measured to the hundredth of a foot. All curved lines within the plat shall show central angles, radii and arc distances. If a curved line constitutes the line of more than one lot in any block of a plat, the central angle for that part of each lot on the curve shall be shown. Ditto marks shall not be used on the plat for any purposes.
 - x) In any instance where a river, stream, creek, lake or pond constitutes a boundary line of or within the plat, a survey line shall be shown with bearings or angles and distances between all angle points and their relation to a water line, and all distances measured on the survey line between lot lines shall be shown, and the survey line shall be shown as a dashed line.
 - xi) Table indicating exact area in square footage and percentage of land in lots, blocks, streets and public land.
 - xii) The outside boundary lines of the plat shall close by latitude and departure with an error not to exceed one foot in 10,000 feet.
 - xiii) All rivers, streams, creeks, lakes, ponds, swamps, and all public highways, streets and alleys laid out, opened or traveled, existing before the platting, shall be correctly located and plainly shown and designated on the plat.
 - xiv) All infrastructure features required for stormwater management, including those specified in the stormwater management plan or necessary for conveyance, such as easements, ponds, drainage ways, and other related components, must be included on final plats.
 - xv) All final drawings shall be of India ink and Leroy lettered on Mylar or linen or of an acceptable method to the secretary. The narrative and legal certificates shall be of an acceptable manuscript to the secretary.
 - xvi) The purpose of any easement shown on the plat must be clearly stated and defined and shall be confined to only those that deal with public utilities, and such drainage easements as deemed necessary for the orderly development of the land encompassed within the plat. Building setbacks shall be shown on the plat. All easements created or dedicated by such plat must be approved by the governing or jurisdictional body or its agent prior to recording the final plat. Easements for municipal infrastructure purposes may be required to be executed and recorded separately.
 - xvii) Private storm water ponds are required to be held in undivided interest by benefitting lots within the subdivision.
 - xviii) Any such plat which includes lands abutting upon any lake or stream shall show a contour line denoting the present shoreline, water elevation and the date of survey. If any portion of a plat lies within the intermediate regional floodplain (100-year floodplain) or a river or stream, as designated by the North Dakota Water Commission and Federal Emergency Management Agency, the mean sea level elevation of the intermediate regional flood (100-year flood) shall be denoted on the plat by numerical figures. Topographic contours at a one-foot contour interval referenced to mean sea level shall be shown for the portion of the plat lying within said floodplain. All elevations shall be

referenced to a durable benchmark described on the plat, together with its location and elevation to the nearest hundredth of a foot, which shall be given in mean sea level datum if such benchmark with known sea level datum is available within one-half of a mile or such longer distance as may be practicable.

- xix) Notarized certification by the owner of the land of the plat adoption. The instrument shall contain a full and accurate description of the land platted and set forth what part of land is dedicated, and also to whom, and for what purpose these parts are dedicated. The respective receiver shall provide a ratification of acceptance of the dedicated land. When subdivision lots are owned by more than one person the certificate shall indicate both the old and new legal description of each owner.
 - xx) Certification by a registered surveyor that the plat is a correct representation of the survey, that all distances, bearings and angles are correct and all monuments are placed as shown, and that the subdivision, block and lot lines are correctly designated on the plat.
 - xxi) Proper form for approval of the Planning and Zoning Commission, City Engineer and acceptance of the board.
 - xxii) Title opinion covering the real property within the subdivision shall be submitted.
- b) If appropriate as determined by the City Planner or City Engineer, the final plat application shall also be accompanied by the following information and/or certification:
- i) Specific studies by a professional engineer will be conducted and minimum storm drainage facilities designed to accommodate runoff according to standards established by the City Engineer and adopted by the City.
 - ii) Specific studies by a professional engineer or other appropriate agency in order to investigate issues such as, but not limited to environmental, historic, cultural or topographical conditions.
 - iii) A preliminary subdivision grade plan shall be furnished to the City Engineering office. This plan should indicate proposed lot grades plus or minus one foot, drainage easements and methods to control erosion during the development of the plat, as shown in section 109-3-1, and should be submitted after final plat approval by the board but before any building permits are issued.
 - iv) A copy of finalized protective covenants and party wall agreements as will be recorded with the county recorder.
 - v) Street grades, as required by the City Engineer, shall be submitted after the final plat is approved by the board but before signatures.

Sec. 109-2-7. Protective covenants and associations

Any proposed protective covenants and associations that are to run with the land shall be submitted with the final plat in a form proper for recording and shall be recorded in the office of the county recorder at the same time the final plat is recorded.

Sec. 109-2-8. Conditions

Regulation of the subdivision of land and the attachment of reasonable conditions to land subdivision is a valid exercise of police power delegated by the state to the City. The subdivider or owner has the duty to comply with any conditions laid down by the board for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the City and to the safety and general welfare of the future lot owners in the subdivision and of the community at large.

Sec. 109-2-9. Fees

The subdivider shall pay the City an application fee to be determined from time to time by resolution of the board of Board of City Commissioners.

ARTICLE 3. DESIGN STANDARDS, REQUIRED IMPROVEMENTS AND IMPROVEMENT GUARANTEES

Sec. 109-3-1. Guarantee of completion and maintenance of required improvements

- 1) Improvements. Public improvements, as required by the board, shall be made according to standard specifications or requirements established by the City Engineer and approved by the board.
- 2) Guarantee of completion; collateral in lieu of completion. Prior to construction of public improvements, the contractor shall post a corporate performance bond or certified check for the project amount with conditions substantially in accordance with the provisions of N.D.C.C. 40-22, acceptable to the City attorney and approved by the board. The performance bond shall extend through the contract period and one year after final acceptance of the work by the board. The developer is responsible to ensure all contract work is completed and the City Engineer shall determine if the quality of work is acceptable.
- 3) Failure to complete improvements. In cases where a bond or suitable collateral has been posted and required improvements have not been installed within the terms specified in the performance bond, the City may thereupon declare the bond to be in default and require that all improvements be installed regardless of the extent of the building development at the time the bond is declared to be in default.
- 4) Inspection of improvements. The subdivider shall provide for the inspection of required improvements during construction and ensure their satisfactory completion. The subdivider shall pay the City an inspection fee as established by the board. If the City Engineer finds, upon inspection, that any of the required improvements have not been constructed in accordance with this chapter, the subdivider shall be responsible for completing said improvements in the proper manner. Whenever costs of improvement are covered by suitable collateral or a bond, the applicant and the bonding company shall be severally and jointly liable for completing said improvements.

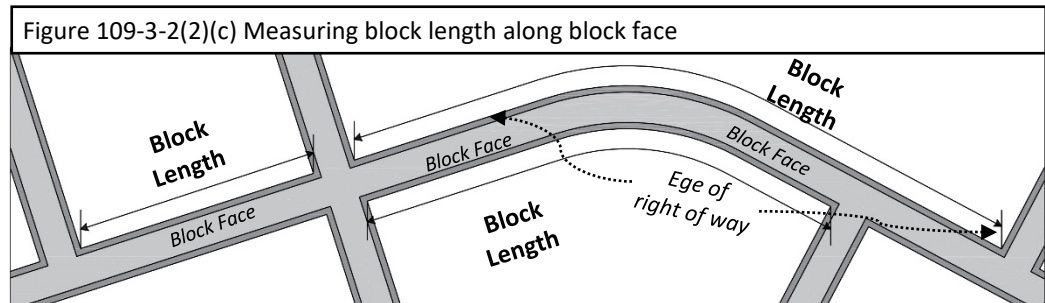
Sec. 109-3-2. Design standards and required improvements

The following standards shall be observed in preparing a subdivision within the City's jurisdiction.

- 1) General improvement.
 - a) Compliance with the City's comprehensive plan, zoning ordinance, and other applicable plans and policies is required of all subdivisions of land.
 - b) The applicant shall place permanent reference monuments in the subdivision as required.
 - i) The external boundaries of a subdivision, all block corners, end of all curves, all lot corners where there is a change in direction, shall be monumented by a durable ferromagnetic monument not less than 18 inches in length and not less than 0.5 inches in section dimension. Any monument or permanent evidence of the survey shall have inscribed thereon the registration number of the land surveyor making the survey.
 - ii) All monuments shall be set in such a manner that they will not be disturbed by frost or normal maintenance activity within the subdivision.
 - iii) No public or private improvements shall be placed on section or quarter corners unless reference corners are set from which the section or quarter corner can be relocated according to standard land surveying practices established by the North Dakota Survey and Corner Recordation Act and the North Dakota Society of Professional Land Surveyors.
- 2) Lots and Blocks
 - a) Lot Requirements
 - i) Lot dimensions shall comply with the minimum dimensional standards of the zoning ordinance and this section. Where lots are more than double the minimum required area for the zoning district, the Planning and Zoning Commission may require that such lots be arranged so as to allow further

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- subdivision and the opening of future streets where they would be necessary to serve such potential lots, all in compliance with the zoning ordinance and this chapter.
- ii) Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the front yard setback from both street exposures.
 - iii) Side lot lines shall be generally perpendicular to street lines, or radial to curving street lines, unless a variation from this rule will give a better street or lot plan.
 - iv) Frontage on improved roads. No subdivision shall be approved unless the area to be subdivided has frontage on and access from an existing public street.
 - v) Double frontage lots. Double frontage lots shall be avoided, except where necessary to provide separation of residential development from traffic, eliminate direct access to traffic arterials or to overcome specific disadvantages created by topography, drainageways and railroad lines.
 - vi) Lot drainage. Drainage shall be designed according to the preliminary subdivision grade plan, as approved by the City Engineer.
 - vii) Lot size criteria for on-site utilities
- b) Within the City's extraterritorial jurisdiction, and where the waterworks and wastewater facilities of the City or other state health department systems are not available to the subdivision, lot sizes shall be determined by the Board of City Commissioners based on recommendations by Western Plains Public Health Department. In evaluating acceptable lot sizes, recommendations shall be based upon the following, provided that the minimum zoning district lot size requirement is met:
- i) Terrain/geography
 - ii) Soil limitations for the construction of sanitary facilities, as defined by the Soil Survey of Morton County, completed by the Soil Conservation Service, United States Department of Agriculture and as follows:
- | Soil <u>and/or</u> Terrain Limitations | Minimum Width | Minimum Lot Size |
|--|---------------|------------------|
| Not Limited | 100 feet | 40,000 sq. ft. |
| Somewhat Limited | 150 feet | 65,000 sq. ft. |
| Very Limited | 200 feet | 85,000 sq. ft. |
- iii) Lot area may be adjusted in size when the soil at the building site can be proven to be other than that shown in the Soil Survey, Morton County, United States Department of Agriculture or where steep slopes constrain the placement of well and septic facilities. Proof of such different classification shall be furnished by a qualified soil scientist, who has taken soil samples on the site in question. The subdivider shall also submit a plan showing the conversion of large residential lots to normal residential lots, when City water and wastewater facilities may become available. Industrial and commercial lot sizes shall be recommended by Western Plains Public Health Department based upon the proposed land use of each lot. Awareness of the proposed land use is necessary to determine potential impact in the extraterritorial area where improved streets and City water and sewer are not available.
- c) Block Requirements
- i) Each block shall have sufficient width to provide two tiers of lots of appropriate depths. Exceptions to this shall be in blocks adjacent to major streets, railroad lines, waterways and unusual topography.
 - ii) The length, width and shapes of blocks shall be appropriate for the City and type of development contemplated.

- iii) Block length shall be measured along the block face between the closest edges of the right-of-way between two streets that intersect the street. Block length in residential areas shall be a minimum of 300 feet and shall not exceed 700 feet unless a specific topographic or traffic condition warrants. Block length in a residential subdivision shall not exceed one thousand five hundred (1,500) feet. Wherever practicable, blocks along arterials and collector streets shall not be less than 1,000 feet in length.



- iv) The Planning and Zoning Commission may require the reservation of an easement through the center of blocks more than 700 feet long to provide sidewalk or trail connections that are no greater than 400 feet apart and deemed essential to provide access to schools, playgrounds, shopping centers, transportation, or other community facilities. Easements for planned trails shall also be provided, regardless of block length. Blocks designed for industrial and commercial uses shall be of such length and width as may be determined suitable by the Planning and Zoning Commission for prospective use. The Planning and Zoning Commission shall also require that maintenance of these facilities is the responsibility of an HOA or adjoining property owner(s) unless other agreements have been made. If a homeowners association dissolves, or is not created with a subdivision, the adjoining property owner is then responsible for the maintenance.
- v) A nonaccess control line shall be required on lots abutting existing and planned major or secondary arterial streets, railroad rights-of-way, parking lots, and other parcels which the Planning and Zoning Commission deems need access protection.
- vi) Blocks and lots intended for business and industrial use should be specifically designated for such purpose with adequate space set aside for off-street parking and delivery facilities.

3) Streets and Sidewalks

- a) Design principles for streets. The arrangement, design, character, extent, width, grade and location of all streets shall generally:
 - i) Conform to current applicable transportation plans and studies. Other federal, state or City standards and shall be considered in relation to existing and planned streets, topographical conditions and to the proposed uses of land to be served thereby.
 - ii) Conform to plans for the neighborhood approved or adopted by the Planning and Zoning Commission to meet a particular situation where topographical or other conditions make continuance of, or conformance to, existing streets impractical.
 - iii) Provide for the continuation or appropriate projection of existing arterial and collector streets in surrounding areas.
 - iv) Be laid out so that the use of local streets by through-traffic is discouraged, however they may, where appropriate, provide for the continuation or appropriate projection of existing local streets in the surrounding areas or planned local streets.

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- v) Limit arterial and collector access and follow the Access Spacing and Allowance Standards of this section.
 - vi) All streets, excluding alleys, shall be assigned a functional classification designation.
- b) Access and Intersections
- i) All access points must conform to the spacing and design standards provided table 109-3-2(4)(b).
 - ii) All lots shall abut a public street or be approved by the Planning and Zoning Commission as part of a planned development with appropriate access provisions.
 - iii) Access to arterials and collectors, to a lesser extent, is discouraged. In the event that no other reasonable alternative is available, the Planning and Zoning Commission may require planning, design dedication, and the utilization of a consolidated access to be shared by two (2) or more properties.
 - iv) Nonaccess reservation controlling access to streets shall be permitted if approved by the Planning and Zoning Commission and under control of the City.
 - v) Street intersections with centerline offsets of less than 300 feet shall be discouraged.
 - vi) Intersecting streets shall be laid out as close to right angles as possible, and no such angle of the intersection shall be less than 70 degrees. Not more than two streets shall intersect at any one point.
 - vii) Intersections shall be designed with a flat grade wherever practical.
 - viii) Where any street intersection will involve earth banks, existing vegetation or manmade barriers inside any lot corner that may create a traffic hazard, these objects shall be removed to provide adequate sight distance as required by the City.

Table 109-3-2(4)(b) Access Spacing and Allowance Standards

	Street Classification Standards Roadway Setting	Principal Arterial		Minor Arterial		Collector	
		Spacing	Quantity / Mile	Spacing	Quantity / Mile	Spacing	Quantity /Mile
Primary ¹ Intersection	Rural	1 mile	2/mile	½ mile	3/mile	½ mile	3/mile
	Urban	½ mile	3/mile	¼ mile	5/mile	1/8 mile	9/mile
	Urban Core	300-660 ft	9-19/mile	300-660 ft	9-19/mile	300-660 ft	9-19/mile
Secondary ² Intersection	Rural	½ mile	3/mile	¼ mile	5/mile	¼ mile	5/mile
	Urban	¼ mile	5/mile	1/8 mile	9/mile	1/8 mile	9/mile
	Urban Core	150-300 ft	9-19/mile	150-300 ft	9-19/mile	75-300 ft	9-19/mile

1: A primary intersection refers to full-movement intersections that may be considered for signalization or a roundabout if the appropriate warrants have been met. The spacing of primary intersections is governed by the need to provide uniform spacing for effective signal coordination in urban or urbanizing areas and adequate spacing for left-turn lanes along unsignalized highways in both urban and rural contexts.

2: A secondary intersection includes unsignalized streets, alleys and commercial driveways. These may be accommodated between primary intersections if they do not create a high-risk conflict condition. Traffic control devices and applicable signage should be installed per the City of Mandan Traffic Control Standards or North Dakota Department of Transportation Standards for Uniform Traffic Control and/or Manual on Uniform Transportation Control Devices.

Rural: Rural roadways are those that provide access to low density residential and agricultural areas outside the City or were outside of the City when constructed. Rural roads typically utilize ditches for stormwater management, are not privately owned or controlled, and are open to the public for vehicular traffic. The state, City or county may have jurisdiction. The road may be paved or gravel and other than those roads designated as highways on the state system, are not designed to handle larger volumes of traffic or high speeds. New urban roads inside the City limits shall not be permitted.

Urban: Urban streets are those that are part of the urban network, inside the City limits, and are generally characterized by low to moderate posted speeds, frequent entrances, and moderate to heavy residential or commercial development. Curbed sections with closed drainage will generally be prevalent, although open drainage sections may be interspersed. Intersections, sidewalks, and on-street parking are often characteristic of Urban roadways.

Urban Core: Streets located within or adjacent to the DF – Downtown Fringe and DC – Downtown Zoning districts. These streets prioritize improvements that prioritize pedestrian movements and improve safety conditions, such as curb extensions, enhanced and prioritized pedestrian crossings, benches, and other improvements. These roads are designed for the efficient yet slower travel speed of travel for automobiles and may feature on-street parking and bike facilities. Sidewalks feature areas located near the street to support plant and trees growth in at-grade or above-ground raised planting beds.

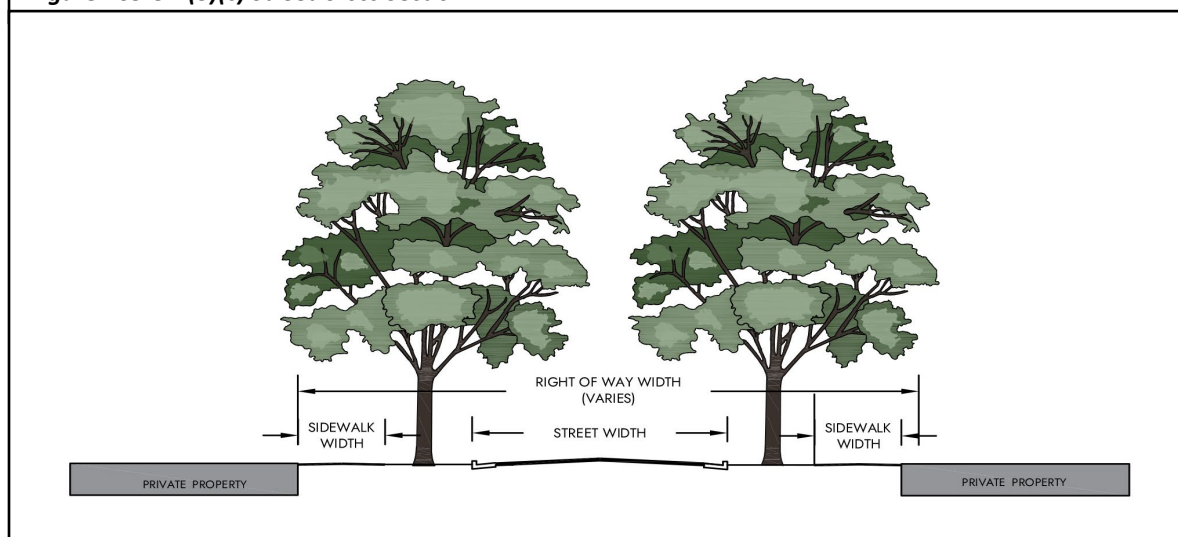
c) Street Design Standards

- i) Street and right-of-way widths shall be dedicated according to minimum standards as outlined in: Table 109-3-2.4.c. Street and Right-of-Way Width Standards.
- ii) The use of permanent culs-de-sac shall be limited to promote a well-connected street network that provides safe, direct and convenient access by vehicles, bicycles, and pedestrians and for effective fire protection and efficient provision of utilities. The Planning and Zoning Commission may permit the use of a cul-de-sac in instances where there is no reasonable opportunity to provide for future connections to adjoining streets, including natural barriers such as topography or water features, man-made barriers such as railroad tracks, or to discourage through traffic between incompatible land uses. If granted, the cul-de-sac shall not extend more than 500 feet in length for a permanent dead-end street. If a temporary street is created where a street is intended to connect to any future adjacent development, the maximum length of a temporary dead-end street shall not exceed 1,000 feet and shall be improved and dedicated within a temporary turn-around access easement, in accordance with construction standards and specifications.
- iii) No street grade shall be less than 0.3 percent. In cases where the street grades are between 0.3% and 1% additional design requirements may be required to provide for and ensure adequate stormwater drainage.
- iv) The platting of half-streets shall be prohibited except 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. Whenever there exists a half-street adjacent to a tract to be subdivided, the other half shall be platted within such tract.
- v) Dead-end alleys shall be prohibited.
- vi) If possible, street grade plans submitted with the plat shall be used for road improvement design as approved by the City Engineer.
- vii) All street names shall conform to the Morton County and City of Mandan Addressing and Street Naming Guide.
- viii) The City Engineer shall have the authority to designate future roadway classifications based on adopted plans and studies (where available) and whether or not the roadway is constructed or listed as such on the official NDDOT functional classification roadway map, and shall have the discretion to adjust requirements based on topography or other constraints presented by the existing built environment.

Table 109-3-2(4)(c) Street and Right-of-Way width standards

Classification	Right-of-Way Width (feet)	Paved Width Curb to Curb (feet) ¹
Arterials	150 feet Principal 120 feet Minor	63 feet Principal* 51 feet Minor* *Minimums width listed - Actual width should be determined by traffic study
Collectors	80 feet	28 feet - no parking 36 feet - parking on one side 48 feet - parking both sides
Local road	<u>Residential</u> 54 or 66 feet <u>Non-Residential</u> 80 feet	<u>Residential</u> 26 feet parking on one side 38 feet parking on both sides <u>Non-Residential</u> 40 to 48 feet
Cul-de-sac *	<u>City – Paved:</u> 120 feet diameter <u>Rural – Gravel Surface:</u> 160 feet diameter	60 to 80 foot diameter depending on context and paving material. N/A
Alley	20 feet	No required paving, or curb and gutters. Paved typically 20 feet.

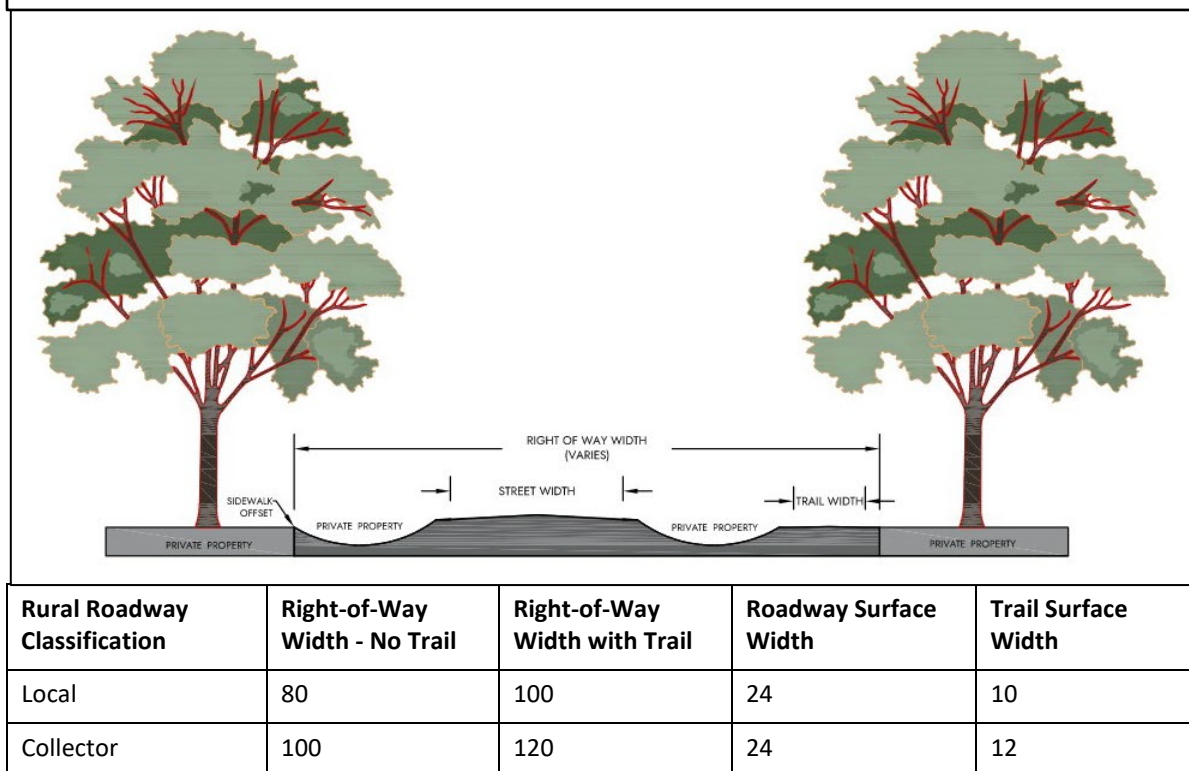
¹ Measured from back of curb to back of curb.

Figure 109-3-2(3)(c) Street Cross Section

d) Rural Residential Design Standards

- i) for local and collector roadways serving lots in subdivisions for rural residential development, the following requirements apply:
 - (1) Parking on either side of the street is prohibited.
 - (2) When trails are provided, they must be approved by the Mandan Park Board and should only be installed on side of the street. If connecting to already installed trails in adjacent development areas, the trail shall be installed in alignment to existing.
 - (3) Roadway Engineering Standards: Subdivision streets shall be designed in accordance with Morton County Roadway Design Standards and Specifications, as determined by the County Engineer, to encourage the smooth flow of traffic and safety for roadway users and the general public. Engineering companies shall provide the Morton County Highway Department with plan, profile, and cross-section sheets to demonstrate that the roadway meets said standards.
 - (4) Roadways shall be constructed as follows.
 - (a) Construction of dead-end roads.
 - (i) Permanent dead-end roads. Where a road does not extend to the boundary of the subdivision and its continuation is not required by the Planning and Zoning Commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the Planning and Zoning Commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic or utilities. A cul-de-sac shall be provided at the end of a permanent dead-end street in accordance with construction standards and specifications.

Figure 109-3-2(3)(d) Rural Street Cross Section



On-street vehicle parking

- b) All streets featuring on-street parking facilities in accordance with 109-3-2 shall be designed and constructed using a parallel parking configuration. Requests for either of the following alternative on-street vehicle parking configurations may be approved by the City Engineer, to provide an alternative off-street parking for developed properties in which there is no space on-site to accommodate a off-street parking area. In making a determination, the City Engineer shall also consider posted speed limits, traffic volume, character of the area, and the location of all elements installed within the right of way. The Engineer may also request, at the applicant's expense, a traffic impact study. The following on-street parking alternatives may be requested provided all additional criteria are met.
 - i) On-street angled parking, except along a Minor or Principal Arterial
 - ii) Boulevard Perpendicular Parking as a driveway that extends only from the street to the roadside edge of the sidewalk, except along a Minor or Principal Arterial, and provided that:
 - (1) A minimum 18' boulevard depth exists between the back of curb and the sidewalk boulevard parking area.
 - (2) The width permitting installation of these parking areas shall be treated as a driveway and subject to all requirements of Article 115-6 Driveways provided any lot is granted one (1) 9x18 vehicular parking space and up to two may be allowed, provided that the overall width does not exceed 20% of the lot width and there are no other driveways serving the property.
 - (3) No vehicle utilizing a boulevard perpendicular vehicle parking area may extend into the street or over the sidewalk.

5) Private Streets Standards

- i) Private streets are discouraged but under certain circumstances may be provided to access lots, subject to approval of the Planning and Zoning Commission and the following standards:
 - (1) A private street shall be located within a minimum 30-foot wide recorded access and utility easement. Additional width or additional easements may be necessary to satisfy all of the standards and requirements of this section, such as the requirement to provide sidewalks.
 - (2) The street shall be designed and constructed in accordance with the City Public Services Standards and Specifications, as amended, except that curb and gutter shall not be required when the street serves eight lots or less.
 - (3) Travel lanes shall be a minimum of 11 feet in width.
 - (4) The width of a private street shall be a minimum of 26 feet from the face of curb to the face of curb, or edges of pavement.
 - (5) Where a private street serves more than eight lots, a minimum of one parking space per dwelling unit shall be provided along the private street. These parking spaces shall be located within the street easement and meet either of the following standards:
 - (a) Two travel lanes and parking on one side of the street shall be provided and shall have a minimum pavement width of 30 feet from face of curb to face of curb, or edges of pavement; or
 - (b) Parking spaces may be provided in parking bays that meet parking standards.
 - (6) Minimum radius at street intersections shall be 20 feet, as measured along the back of curb.
 - (7) A turnaround shall be provided for culs-de-sac. Minimum radius for a circular turnaround at pavement edge shall be 30 feet where no on-street parking is provided, or 44 feet where parking is provided.
 - (8) Private streets and parking areas within the street easement shall meet City Illumination standards for new parking areas and new public streets.

- ii) All private streets shall be named and signed. All street names shall conform to the Morton County and City of Mandan Addressing and Street Naming Guide.
- iii) Signage must be subordinate in size and altered in appearance from City of Mandan street signs yet be large enough to be legible to vehicle driver. Private street names must also denote that the street is a Private Street.
 - (1) All private streets shall meet City and/or State standards as appropriate for traffic-control devices.
 - (2) A sidewalk system shall be provided which connects to the public walkway system when the private street serves more than eight lots. All private sidewalks shall be at least four feet in width.
 - (3) Street trees shall be provided as required by Section 101-13-3(E).
 - (i) An agreement, to be recorded with the plat against all lots in the development, shall indicate that the responsibility for maintenance, snow removal, and replacement of any of the private street elements is the responsibility of any business owners' or homeowners' association and that the City shall not be responsible.

6) Sidewalks and Pedestrian Walkways

- a) Pedestrian walkway easements. Pedestrian walkway easements with a right-of-way width of not less than ten feet in width shall be required where deemed essential to provide access to schools, playgrounds, trails, trailheads, shopping centers, transportation and other community facilities as shall be determined by the City. All pedestrian walkways shall be maintained in walkable and handicap-accessible condition, including snow removal, by the property owner.
- b) Sidewalks. Sidewalks shall be included within the dedicated non-pavement right-of-way of all roads and constructed in accordance with standards and specifications of this section.
 - i) Minimum sidewalk widths are required as follows:

	Minimum Sidewalk Width
Local / Residential	5 feet (N1)
Non-Residential Districts	6 feet
Downtown Core (N2)	10 feet
Downtown Fringe	6 feet
N1: Sidewalk widths shall match the width of adjacent sidewalks or be a minimum of 5 ft. in width, whichever is greater. N2: Downtown is defined as area within the Downtown Core or Downtown Fringe zoning districts.	

- ii) Sidewalks shall be constructed six (6) inches from the far outer edge of the right-of-way. Sidewalks shall be constructed a minimum of two (2) feet from the back of curb, allowing for a minimum two-foot boulevard. If there is insufficient right-of-way to accommodate that distance, the sidewalk width shall be increased by two (2) feet.

7) Soil erosion control. In all zoning districts, the following regulations shall apply

- a) Before any developer or other person changes or alters the contour of any land proposed to be subdivided, developed or changed in use by grading, excavating or the removal of natural topsoil, trees, or other vegetation thereon, the developer or other person shall submit to the City Engineer a plan to control erosion and sedimentation which can be expected to occur if appropriate precautions are not

taken to arrest such waste and soil depletion. No such grading, excavating or removal of trees and related vegetation shall be undertaken until a permit for such work shall have been issued by the City Engineer.

- b) The City Engineer shall review the erosion control plans as submitted, make suggestions and changes necessary to reasonably control soil erosion, and shall take the necessary steps to ensure compliance by the developer with the erosion control plans as finally approved. Erosion and sedimentation control shall be exercised throughout the time of excavation, land fill, and construction. No such work shall be given final approval until appropriate seeding, sodding, plantings, mulching or other appropriate erosion-control measures have been taken. Approval of plans by the City Engineer shall not make the City or its officers, employees or agents liable for any damages to any person or property that may arise out of such soil erosion-control measures.
- c) The City Engineer is granted authority to require the posting of a performance bond and a liability insurance policy by any person who desires to change the contour of the land. Such bond shall be in the amount as the City Engineer reasonably expects the cost would be to the City to enter upon the property for the purpose of completing the work or correcting improper work where such developer or other person has failed to satisfactorily control either erosion or sedimentation. The City Engineer shall also require the developer to secure personal injury and property damage liability insurance in such amounts as the City Engineer may deem sufficient to protect the City, its officers, employees and agents against any claim arising out of such work.
- d) The following soil-control measures shall be observed during development of property or when changing the contour of the land:
 - i. The smallest practical area of land will be exposed at any time during development.
 - ii. When land is exposed during development, the exposure will be kept to the shortest practical period of time.
 - iii. Erosion preventions measures will be installed and utilized until vegetation is established per the standard of the City Engineer.
 - iv. Where necessary, temporary vegetation, pre-seeding or mulching will be used to protect areas exposed during development.
 - v. Where necessary, sediment basins will be installed and maintained to remove sediment from runoff waters from land undergoing development or substantial change of grade.
 - vi. Provisions will be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.
 - vii. Permanent final vegetation and structural development will be installed as soon as practical in the development.
 - viii. The development plan will be adapted to the topography and soil so as to create the least erosion potential.
 - ix. Wherever feasible, trees, shrubs and natural vegetation will be retained and protected to control erosion.
- 9) Water and sewerage facilities.
 - a) Within the City limits, the developer shall show evidence of potable water to each subdivision lot, in accordance with specifications established by the state health department and in cases when City water supply is not available, wells should comply with well driller standards.
 - b) Within the City limits, the developer shall provide sanitary sewer facilities, in accordance with the standards and specifications established by the City and state health department.
 - c) Within the City's extraterritorial jurisdiction, the placement of all individual septic systems and wells shall be in accordance with the standards and specifications established by the City, state and local health departments, and well driller standards.

10) Storm drainage facilities.

- a) An adequate drainage system shall include all necessary open ditches, pipes, culverts, intersection drains, drop inlets and bridges, for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow and they shall be of sufficient length to permit full-width roadways and required slopes.
- b) Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within the road right-of-way, perpetual unobstructed easements at least 20 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Easements shall be indicated on the plat. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
- c) If recommended by the Planning and Zoning Commission and approved by the board, the subdivider shall obtain storm drainage easements from the affected property owners submitted separately or as part of the final plat.
- d) Area lying within a designated floodway shall be preserved and retained as a drainageway. Such land shall not be computed in determining the number of lots for average density.
- e) All subdivisions within the 100-year floodplain and public improvements therein shall be consistent with the City's floodplain ordinance.

11) Easements.

- a) All new utility facilities, including, but not limited to, gas, electric power, telephone and cable television, shall, whenever practical, be located underground throughout the subdivision. Whenever possible, all existing utilities shall be removed and placed underground.
- b) Easements free and clear of surface obstacles shall be provided for private and public utilities on side and rear lot lines. The easements may be centered or offset on property lines. If centered, the easement width shall be at least 14 feet and, if offset, shall be at least ten feet for electrical power, gas, telephone and cable television. Proper coordination shall be established between the subdivider and applicable utility company in locating existing and establishing new utility easements. Easements shall be indicated on the final plat.
- c) Easements for storm sewer, sanitary sewer and water mains shall be a minimum of 40 feet in width. Easement widths may be reduced with written permission of the City Public Works Director upon formal request. Easements shall be designed in accordance with Chapter 107 of this code and the City Engineering Departments Design Standards.
- d) Utility companies are encouraged to provide the City a copy of all easements negotiated separately from the plat which may affect the City.
- e) Temporary easements shall be provided at the end of dead-end streets that are meant to connect to future subdivisions and be constructed of a size and material adequate to support emergency response vehicles.
- f) Easements for municipal infrastructure or other purposes may be required to be executed and recorded separately from the platting process.

12) Parks.

- a) The purpose of this section is to ensure that new development contributes its proportionate share toward the acquisition and development of parks, trails, open space, and recreational facilities necessary to serve additional population and service demands generated by such development, consistent with the City's Comprehensive Plan and adopted park and trail plans. Notwithstanding any other provision of this Chapter, this section applies to residential and nonresidential development that increases dwelling units or gross floor area, whether or not a subdivision plat is required.

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- b) This section is adopted pursuant to the City's subdivision authority under North Dakota law.
 - c) This section applies within the corporate limits of the City and within its extraterritorial jurisdiction.
 - d) Applicability
 - i. This section applies to:
 - 1. All major and minor subdivisions creating new lots intended for residential development;
 - 2. Replats or condominium plats that increase the number of dwelling units;
 - 3. Multifamily, apartment, townhouse, and mixed-use developments creating dwelling units, whether or not new lots are created.
 - 4. All nonresidential subdivisions and development as provided herein.
 - 5. For redevelopment, expansion, or conversion projects, dedication shall be required for the net increase in dwelling units or gross floor area.
 - ii. Park dedication requirements shall be based upon the number of dwelling units created and/or the scale of development, and not solely upon the number of lots. No building permit shall be issued for any structure that increases dwelling units or gross floor area subject to this section unless the park dedication requirements of this section have been satisfied.
 - e) Residential Development:
 - i. All residential development shall dedicate land, pay a fee in lieu of land, or provide a combination thereof.
 - ii. The required dedication shall be:
 - 1. Five percent (5%) of the gross acreage of the development site where density is ten (10) dwelling units per acre or less; OR
 - 2. Seven percent (7%) of the gross acreage where density exceeds ten (10) dwelling units per acre; OR
 - 3. A fee per dwelling unit as established by resolution of the City Commission.
 - iii. The City Commission may update the per-dwelling-unit fee by resolution to reflect land acquisition and development costs.
 - iv. Where land dedication is impractical due to density, vertical construction, or site design constraints, the city may require payment of a fee in lieu of land
 - f) Rural Residential Areas:
 - i. Parks dedication requirements shall apply when lots intended to be RR Rural Residential are platted in accordance with Chapter 109. In areas identified as Rural Residential on the Future Land Use Plan, that are not anticipated to transition to urban, the majority of the park dedication should be for trail facilities however a small neighborhood park shall be provided. These trails should be in ideal locations to connect other trails (planned or existing), connect to proposed or existing parks and provide pedestrian circulation for the residents of the subdivision. They may be placed along the roadway in widened right of way or in public dedication easements within the lots.
 - g) Non-Residential Development:
 - i. All commercial, industrial, institutional, and nonresidential development shall pay a park development fee, or, if Parks Department is desirous based on master planning of a park

inside a new non-residential development, shall dedicate the indicated amount of land based on such master planning

- ii. The required dedication shall be:
 - 1. If land, five percent (5%) of the gross acreage of the development site;
 - 2. If fee in lieu:
 - a. The nonresidential park development fee shall be calculated based on gross floor area (square feet), unless the City Commission determines by resolution that lot area is a more appropriate basis for a specific land use category.
 - b. The nonresidential park development fee recognizes that commercial and industrial development generates employment-related demand for parks, trails, and recreational infrastructure.

h) Standard for Dedicated Land

- i. The City shall not accept land that:
 - 1. Consists solely of remnant parcels without recreational utility;
 - 2. Is primarily unusable due to wetlands, steep slopes, or floodplain unless such land provides documented recreational or trail value;
 - 3. Is offered solely to avoid payment of the required fee without advancing adopted park system goals. The City Commission shall make written findings supporting its determination to accept land, require fee in lieu, or approve a combination thereof.
- ii. Land offered for dedication shall:
 - 1. Be reasonably level and suitable for active or passive recreation;
 - 2. Have public street frontage or approved access;
 - 3. Be free of encumbrances;
 - 4. Not consist solely of stormwater detention facilities;
 - 5. Not consist solely of wetlands, steep slopes, or unbuildable floodplain.
 - 6. Floodplain or environmentally sensitive land may be accepted only if it provides functional recreational or trail value.
 - 7. Stormwater facilities may receive partial credit only if designed as dual-use park amenities approved by the City.
- iii. Dedicated park land shall generally consist of a minimum of one (1) contiguous acre unless accepted as a trail corridor, pocket park, or facility specifically identified in adopted plans.
- iv. Unbuildable lands (steep topography, flood plain, wetlands, etc.) are not acceptable for park dedication requirements while natural features, historic sites and similar community assets should be preserved.
- v. The park board shall review all lands proposed for dedication to ensure the areas are of appropriate size and configuration, are accessible, and are consistent with the goals and policies of the Parks Master Plan.

i) Fee in Lieu:

- i. When, in the judgment of the planning commission and/or parks board, a subdivision is of insufficient size to include an area for park and playground or the location is not

acceptable to the parks board, the owner or subdivider, the applicant may pay a fee in lieu of property dedication.

- ii. The fee shall be a sum equal to a per-dwelling-unit fee established by the City Commission.
 - iii. The fee shall be paid by the developer or subdivision applicant.
 - iv. Any money paid to the City shall be placed in a special fund to be used for the acquisition and improvement of land for parks, playgrounds, trails, and open space only.
- j) Transfer to Park Board:
- i. In no case shall the plat be signed or building permit issued for any lot within the subdivision until such transfer of land or payment in lieu of land has been completed.
- k) Any proposed plat of a planned unit development residential area, or any petition for rezoning from an existing classification to a planned unit development, shall be submitted to the park board, which shall have a reasonable opportunity to review the same and submit to the Planning and Zoning Commission their recommendations regarding such project. The Planning and Zoning Commission shall consider the recommendations of the park board and shall determine whether the owners or developers of the planned unit development shall privately provide and maintain the proposed parks, playgrounds, or recreational areas. The Planning and Zoning Commission may consider any other reasonable recommendations submitted by the park board.

ARTICLE 4. STREET NAMING AND VACATION

Sec. 109-4-1. Vacation of streets

The vacating of any street or alley within the City shall proceed as prescribed by state statute, and upon the vacating of any street or alley, the City administrator shall cause notice thereof to be given to the City Planner, City Engineer, City Assessor and the Public Works Director.

Sec. 109-4-2. Responsibility for street naming

The streets and avenues of the City shall be named by the building official in coordination with the county. All street names shall conform to the [Morton County 's Addressing and Street Naming Guide](#).

Sec. 109-4-3. Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Road means a public way that extends in a general southeast or northwest diagonal direction.

Street means a public way that extends in a general east and west direction.

Sec. 109-4-4. Quadrants established

For the purpose of establishing the City into zones, a suggestive quadrant shall be used in numbering streets and avenues, using Collins Avenue and any projections thereof as one base line and Main Street and any projections thereof as the other base line.

- 1) Main Street east of the centerline of Collins Avenue shall have east (E) added to its name, and that portion of Main Street lying west of the centerline of Collins Avenue shall have west (W) added to its name.
- 2) All streets and avenues lying east of Collins Avenue and north of Main Street shall have northeast (NE) added to their names.
- 3) All streets and avenues lying west of Collins Avenue and north of Main Street shall have northwest (NW) added to their names.
- 4) All streets and avenues lying east of the southerly projected centerline of Collins Avenue and south of Main Street shall have southeast (SE) added to their names.
- 5) All streets and avenues lying west of the southerly projected centerline of Collins Avenue and south of Main Street shall have southwest (SW) added to their names.

Sec. 109-4-5. Grid system established

For the purpose of providing a uniform system of numbering streets and avenues, a grid system is established.

- 1) The grid shall consist of a network of vertical lines running in a north-south direction, uniformly spaced to scale 330 feet apart, superimposed on a network of horizontal lines, running in an east-west direction, uniformly spaced to scale at 330 feet apart. Each vertical line on the grid will be deemed to be an avenue and each horizontal line on the grid will be deemed to be a street.
- 2) Each successive street or avenue, and the structures on any lots platted, based on the standard of 330 feet between any such street or avenue, and generally parallel to, and radiating outwardly from, Main Street and Collins Avenue as the base lines, shall be numbered according to the grid system as described in this section. For the purpose of numbering such streets and the numbering of the structures on any lot abutting thereto, there shall be deemed to be 16 streets per mile. Notwithstanding the fact that a platted block may exceed or be less than 330 feet, structures and streets or avenues shall be numbered consecutively, outwardly from the base lines, as if a street at such intervals of 330 feet did, in fact, exist.

Sec. 109-4-6. Enforcement

The designating official shall issue address numbers to each new structure requiring a means of identification at the time of issuing a building permit therefor. The designating official shall also be responsible for maintaining the official maps and shall make the final determination as to the proposed names and numbers of public ways in order to ensure conformance with the system described in this chapter.

Subpart B
LAND DEVELOPMENT AND PUBLIC SERVICES
Chapter 101 ZONING ORDINANCE
ARTICLE 1. IN GENERAL

Sec. 101-1-1. Legislative intent

It is the intent of the board to promote the health, safety and general welfare by guiding the development of the city by means of a comprehensive land use plan which is, in part, carried out by the provisions of this subpart. It is the intent of this subpart to provide regulations, standards and guides for the city's development, in accordance with a comprehensive plan, which will:

- 1) Lessen congestion in the streets;
- 2) Secure safety from fire, panic and other dangers;
- 3) Promote the health and general welfare;
- 4) Prevent the overcrowding of land;
- 5) Provide for adequate light and air;
- 6) Avoid undue concentration of population; and
- 7) Facilitate adequate provision for transportation, water, sewerage, schools, parks and other requirements.

State law reference(s)—Purposes of zoning ordinances, N.D.C.C. § 40-47-03.

Sec. 101-1-2. Application

The zoning ordinance and subdivision regulations of the City shall apply to all territory within the corporate boundary limits of the City and all territory within the extraterritorial area (ETA) boundaries as set and determined by ordinance of the City.

Sec. 101-1-3. General provisions

In interpreting and applying this subpart, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of the subpart. This subpart shall not be deemed to interfere with, abrogate, annul or otherwise affect in any manner whatsoever any easements, covenants or other agreements between parties so long as those agreements are not contrary to any laws or ordinances of the United States, the State, and the City; provided, however, that where this subpart imposes a greater restriction upon the use or development of buildings premises, or sites, than imposed or required by other ordinances, rules, regulations or permits, or by easements, covenants or agreements, the provisions of this subpart shall prevail. Except as provided in this subpart, the following general regulations shall apply:

- 1) *Permitted uses.*
 - a) No building or structure shall be erected, and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building or structure be used, designed or arranged for use for

any purpose or in any manner not included among the uses listed in this subpart as permitted in the district in which such building, structure or land is located.

2) *Zoning lot.*

- a) Every building hereafter erected shall be located on a zoning lot, and, except as provided in this subpart, there shall be no more than one principal building on one lot.

3) *Development Standards.*

- a) No building or structure shall be erected, and no existing building or structure shall be moved, altered, added to or enlarged, nor shall any land, building or structure be used, designed or arranged for use for any purpose or in any manner that is in conflict with the development standards in this subpart. Development standards include, but are not limited to: use, lot coverage, setbacks, height, specific use standards, parking, landscaping, signage, etc.

Sec. 101-1-4. Review Matrix

TABLE 101-1-4.A REVIEW MATRIX			
Permit/Application Type	Reviewing Authority (recommendation)	Decision-making Authority	Appellate Authority
Comprehensive Plan Amendments	Planning Department Planning and Zoning Commission	Planning and Zoning Commission	City Commission
Zoning Code and Zoning Map Amendments	Planning Department Planning and Zoning Commission	City Commission	District Court or Court of Competent Jurisdiction
Conditional Use Permits	Planning Department Planning and Zoning Commission	City Commission	District Court or Court of Competent Jurisdiction
Variances	Planning Department Board of Adjustment	City Commission	District Court or Court of Competent Jurisdiction
Interim Use Permit	Planning Department	Planning Department	1 st : Board of Adjustment 2 nd : District Court or Court of Competent Jurisdiction
Proposed streets and public parks, grounds or open space	Planning Department	Planning & Zoning Commission	
Administrative Approvals and Adjustments	Planning Department	Planning Director	1 st : Board of Adjustment 2 nd : District Court or Court of Competent Jurisdiction
Code Interpretation, including interpretation of use groups	Planning Department	Planning Director	1 st : Board of Adjustment 2 nd : District Court or Court of Competent Jurisdiction
Minor Permit Amendments	Planning Department	Planning Director	1 st : Board of Adjustment 2 nd : District Court or Court of Competent Jurisdiction

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TABLE 101-1-4.A REVIEW MATRIX			
Permit/Application Type	Reviewing Authority (recommendation)	Decision-making Authority	Appellate Authority
Enforcement Orders	Planning Department	Planning Director	1 st : City Commission 2 nd : District Court or Court of Competent Jurisdiction

ARTICLE 2. PLANNING AND ZONING COMMISSION¹

Sec. 101-2-1. Creation

Pursuant to the provisions of N.D.C.C. §§ 40-47-06 and 40-48-03, there was created a body known as the Planning and Zoning Commission, which has been and is actively serving the community. It is intended that this body will continue as the Planning and Zoning Commission, referred to as "the Commission," with the duties and functions recited in this article, pursuant to the powers authorized by state law.

(Code 1957, § 14-0101; Code 1994, § 21-01-01; Ord. No. 1183, 5-20-2014)

Sec. 101-2-2. Membership

The Commission shall be composed of up to ten members appointed by the president of the Board of City Commissioners and approved by the board. The president of the Board of City Commissioners shall appoint one member recommended by the Mandan Park District and one member recommended by the Mandan Public School District. The president of the Board of City Commissioners shall be ex-officio voting member of the commission but may not serve as president of the commission. Two members residing outside the corporate limits of Mandan within the extraterritorial jurisdiction of the city's zoning authority will be appointed by the Morton County Board of Commissioners, if available and willing to serve. The city engineer and city attorney are ex-officio non-voting members of the commission. Each member will execute the oath of office requisite to such appointment. The president of the Board of City Commissioners shall endeavor to select individuals that represent other boards, interest groups, professional associations and civic organizations, as well as unaffiliated city residents willing to serve, when recommending appointments. Once there are at least seven members of the commission, either current members or newly appointed, the president of the Board of City Commissioners may appoint a member of the board to serve as a voting member of the commission.

State law reference(s)—Planning commission membership, N.D.C.C. § 40-48-03.

Sec. 101-2-3. Term of office; unexcused absences cause for removal

1) *Term of office.*

- a) Members appointed by the City or the County who are not elected officials will hold office for five years or until a replacement is appointed with terms beginning on January 1.
- b) Members appointed by the city or county who are elected officials shall serve until their elected term expires.

2) *Ex-officio members.*

- a) Terms of the ex-officio members will correspond to their respective tenures of office.

3) *Unexcused absences.*

- a) Any member of the Commission who has three unexcused absences within a twelve-month period shall be deemed to have resigned. Unexcused absence shall be any absence not related to illness, out of town trips, or business-related scheduling conflicts. A replacement shall be appointed to serve the remainder of the term.

State law reference(s)—Terms of office, N.D.C.C. § 40-48-03.

¹State law reference(s)—Planning commission, N.D.C.C. § 40-48-1 et seq.

Sec. 101-2-4. Vacancies

Vacancies in the terms of members residing within the city limits will be filled by appointment of the mayor with approval of the board, and the member appointed to fill a vacancy will serve the balance of the unexpired term. Vacancies in the terms of the extraterritorial area representative members will be filled by the County for the balance of the unexpired term.

State law reference(s)—Similar provisions N.D.C.C. § 40-48-04.

Sec. 101-2-5. Officers; duties; election of officers

1) Officers.

- a) The officers of the Commission will be a president, vice-president and secretary, who will be elected for one-year terms by the members of the commission.

2) Duties. The duties of the officers of the Commission will be as follows:

- a) *President.* The president will preside over and conduct the meeting, prepare agendas, appoint acting officers in the absence of officers and ensure that all actions of the Commission are properly taken. The president may call special meetings, appoint committees from among Commission members and will verify in writing on the plat the approval by the Commission of subdivision plats.
- b) *Vice-president.* The vice-president, in the absence or in case of conflict of interest of the president, will exercise all powers and duties of the president.
- c) *Secretary.* The secretary will take the minutes, maintain correspondence, notify the public of all meetings and hearings as required by law, keep all records of the Commission and sign materials relating to the comprehensive plan attesting to action taken by the Commission. The secretary may verify in writing on the plat approval by the commission of any subdivision plat. The secretary may be a Commission member, a City employee or a contract employee of the Commission.

3) Election of officers.

- a) At the first meeting in August, the Commission will elect its officers for the coming year.

State law reference(s)—Planning commission officers, N.D.C.C. § 40-48-06.

Sec. 101-2-6. Meetings

1) Regular Meetings.

- a) All Commission meetings will be held monthly on a regular schedule approved by the City Commission unless a different time is approved in advance by the Commission for a specific meeting. If a scheduled meeting falls on a designated city holiday, the date and time for the monthly meeting will be determined by the Commission.

2) Special meetings.

- a) The president of the Commission may call special meetings at times and locations specified in a written notice transmitted to each Commission member no later than three days prior to the special meeting date.

3) Quorum.

- a) A quorum will consist of seven members. No action will be taken in the absence of a quorum.

4) Conduct of meetings.

- a) All meetings will be conducted in accordance with Robert's Rules of Order. However, if any rule is inconsistent with the provisions of this chapter or the N.D.C.C., this chapter or the N.D.C.C. shall prevail over Robert's Rules of Order.

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- 5) *Agenda.*
 - a) Items will be considered in the order they appear on the agenda, which, for regular meetings, will be delivered electronically to members and applicants no later than five days prior to the meeting and three days prior to special meetings. Printed versions of the agenda package will be provided on request. The president of the commission may adjust the order of the published agenda for good cause at any point during the meeting.
 - 6) *Records.*
 - a) Records of the Commission's resolutions, transactions, findings and determinations will be kept by the commission as part of its public record.
 - 7) *Notice.*
 - a) A notice of each Commission meeting and accompanying agenda shall be posted on the official bulletin board in City Hall and the full agenda package posted on the City web site at least three days before a regular meeting or at least 24 hours before a special meeting.
 - 8) *Notification list.*
 - a) Anyone wishing to receive an electronic version of the meeting notice, the agenda and/or the agenda package may make a request to the engineering and planning department to be included on the notification list.

State law reference(s)—Planning commission meetings, N.D.C.C. § 40-48-06.

Sec. 101-2-7. Compensation and reimbursement

Commission members will serve without compensation. When prior authorization is given by the commission and approved by the board, members may be reimbursed for meals and traveling expenses incident to attendance at meetings, conferences or hearings in accordance with the rates of reimbursement as provided by law.

Sec. 101-2-8. Powers and duties

- 1) *Hearing and reports.*
 - a) The commission shall make a preliminary report on all proposed zoning changes and hold public hearings thereon before submitting its final report to the board. The board shall not hold its public hearing or take action until it has received the final report of the commission.
- 2) *Extraterritorial authority.*
 - a) The commission shall have extended territorial authority to all unincorporated areas located within either two miles of the corporate limits of the City, in every direction as authorized by state law, or within alternate boundaries negotiated with Morton County, and shall enforce such regulations in the extraterritorial area in the manner authorized by state law or any agreement made between the City and the County.
- 3) *Comprehensive plan.*
 - a) The Commission shall have the power to make and adopt a comprehensive plan for the physical development of the city and of any land outside its boundaries which, in the Commission's judgment, bears a relation to the planning of the city. The Commission may amend, extend or add to the comprehensive plan.
- 4) *Surveys and studies.*
 - a) In the preparation of the comprehensive plan, the Commission shall make careful and extensive surveys and studies of the present conditions and future growth of the city with due regard to its relation to neighboring territory. The Commission shall consider studies and plans prepared by the Metropolitan Planning Organization, Mandan Park District, Mandan Public School District, Morton County, Morton

County Housing Authority or other groups involved in growth and economic development of the region when preparing the comprehensive plan.

5) *Review and either approve or disapprove.*

- a) The Commission shall review and approve or disapprove the location, character and extent of any proposed street, square, park, or other public way, ground or open space, or public building or structure proposed during platting.

6) *Recommendations.*

- a) The Commission shall recommend action to the City Commission on the following land use applications: rezoning requests, zoning text amendments, conditional use permits, and variances.

7) *Specific improvements.*

- a) The Commission shall from time to time recommend to the appropriate public officials' programs for specific improvements and for the financing thereof.

8) *Consult and advise.*

- a) The Commission shall consult and advise with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and with citizens relative to the carrying out of the comprehensive plan.

9) *Publish and distribute.*

- a) To promote public interest in and understanding of the comprehensive plan, the commission may publish and distribute copies of the plan or of any part or report and may employ such other means of publicity and education as it may determine.

10) *Gifts.*

- a) The Commission members may not accept and use gifts or donations for the exercise of the commission's functions. Any gifts or donations received shall be returned to the sender or forwarded to the city administrator for proper disposition as prescribed by this Code or state law.

11) *Examinations and surveys.*

- a) In the performance of their functions, employees may enter upon any land and make examinations and surveys thereof and place and maintain necessary monuments or marks thereon without causing damage to the property. Every person performing these tasks shall carry proper identification and a letter of introduction stating the purpose of the visit. A person performing such duties shall not enter a building or structure unless granted permission in writing by the owner or occupant of the building or structure.

12) *Other powers.*

- a) The Commission may exercise such other powers as may be necessary to enable it to fulfill its functions and carry out the provisions of state law and city ordinance.

13) *Length of approval or recommendation.*

- a) Planning and Zoning Commission approvals or recommendations are valid for six months. Should the applicant or the City Commission fail to act on the approval or recommendation within six months, the action of the Planning and Zoning Commission will lapse, and a new application must be submitted and all applicable fees paid.

ARTICLE 3. BOARD OF ADJUSTMENT

Sec. 101-3-1. Board of Adjustment

- 1) The Board of City Commissioners may create a Board of Adjustment as authorized by N.D.C.C. or may perform the functions itself.
- 2) The Board of Adjustment is an administrative board whose powers and duties are limited generally by state laws and particularly by the powers and duties set forth in this section. The Board of Adjustment shall not have the power to amend this chapter on zoning, nor to permit nor prohibit any actions which accomplish an amendment of this chapter on zoning, nor to permit any action nor fail to prohibit any action which would violate this chapter. However, it is the declared intent of this section that any actions taken by the Board of Adjustment, in full compliance with the provisions of this section, shall be deemed to be administrative actions and shall not be interpreted as unauthorized amendments to the chapter. In addition to the powers provided by law, the Board of Adjustment shall have the following powers and duties:
 - a) *Variances.*
 - i) Upon application for a variance from any requirement of the Zoning or Subdivision Ordinance, the Board of Adjustment may recommend that the Board of City Commissioners grant, grant with conditions, or deny a variance per the variance procedures described in Section 101-3-2.
 - b) *Appeals of code interpretation.*
 - i) The Board of Adjustment shall hear, upon request of an applicant, appeals of an administrative interpretation of the Zoning Ordinance or Subdivision Ordinance by City staff.
 - c) *Allocation of unlisted uses.*
 - i) The Planning Director will perform a code interpretation to determine which use group a proposed use fits in with most closely, using the criteria below. An applicant or property owner may appeal the decision of the Planning Director to the Board of Adjustment. The Board of Adjustment may add to any use group established by section 101-7-5, any other similar use which conforms to the conditions set forth in the special finding required and listed in this subsection:
 - (1) Such use is not listed in any other use group, nor is it listed individually as a permitted use.
 - (2) Such use is more appropriate in the use group to which it is added than in any other use group.
 - (3) Such use conforms to the basic characteristics of the use group to which it is added as set forth in the general description of the use group.
 - (4) Such use does not adversely affect the character of any of the districts in which the use group to which it is added is permitted.
 - (5) Such use is not likely to create any more traffic than the other uses listed in the use group to which it is added, nor does it create any more offensive noise, vibration, dust, heat, smoke, odor, glare, health or safety hazard or other objectionable influence than the minimum amount normally resulting from the other uses listed in the use group to which it is added.
 - (6) When any use has been added to any use group in accordance with the procedure set forth in this section, such use shall thereafter be deemed to be permitted in any district in which such use group is permitted, and to be prohibited from any district in which such use group is prohibited. Such use shall be added to the use group in the published text of this chapter at the first convenient opportunity, with a notation indicating that the addition was made in accordance with this section.
 - d) *Renewal of certificate of occupancy for nonconforming use.*

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- i) The Board of Adjustment shall have the power to renew a certificate of occupancy for nonconforming use in accordance with the provisions of section 101-7-2. In granting such renewal, the Board of Adjustment shall determine that the temporary continuation will not be injurious to the neighborhood, nor to the public welfare, and that there are unusual circumstances or conditions which would create an unnecessary hardship on the applicant for extension if such extension were refused. The Board of Adjustment may refuse to grant an extension to the certificate of occupancy for a nonconforming use if application for such extension is received by the Board of Adjustment less than 15 days prior to the expiration of the original certificate of occupancy.
 - e) *Renewal of automatically revoked building permit.*
 - i) Upon appeal by any person holding a building permit automatically revoked by the provisions of this Code, the Board of Adjustment shall hear and determine whether or not such revoked building permit will be renewed. The Board of Adjustment shall authorize such renewal only where it specifically finds:
 - (1) Construction of the building has, in fact, been started.
 - (2) Substantial expenditures have been made for such construction.
 - (3) The plans for the building and actual construction of the building are in full compliance with the zoning ordinances in effect at the date of issuance of the building permit and in full compliance with the building code and any other city ordinances.
 - f) *Airport zoning.*
 - i) The Board of Adjustment shall have all powers and duties granted to it by this chapter relating to airport zoning regulation.
 - g) *Recommendations to City Commission.*
 - i) The Board of Adjustment is authorized to recommend to the city Planning and Zoning Commission, for study or action, any changes or amendments to the text or district zoning maps that the board finds desirable. The Planning and Zoning Commission shall consider such recommendations and may prepare appropriate amendments for the consideration of the Board of City Commissioners to carry out said recommendation.
 - h) *Special permit for large-scale development.*
 - i) The Board of Adjustment shall hear and pass upon an application for a special permit for a large-scale development in accordance with the provisions of section 105-4-5.
 - i) *Miscellaneous powers and duties.*
 - i) The Board of Adjustment shall have such other powers and duties as may be authorized by this chapter, or any amendment thereto.
 - j) *Rules.*
 - i) The Board of Adjustment is authorized to establish such rules of procedure, not in conflict with any provisions of the laws of this state, this chapter, or any other ordinance of the city, as it may deem necessary to carry out the provisions of this chapter.

ARTICLE 4. ADMINISTRATION

Sec. 101-4-1. General Provisions.

- 1) *Purpose.*
 - a) The following section outlines the requirements and procedures for land use applications that fall within the purview of chapter 101. Specific application and procedural requirements for planned unit developments and cluster developments shall follow those provided within section 101-10-3 and section 101-10-5, respectively.
- 2) *Definitions.*
 - a) For the meanings of zoning terms or words not found in section 101-7-1 related to definitions, the City staff shall rely upon the latest APA Planners Dictionary, edited by Michael Davidson and Fay Dolnick, American Planning Association and Planning Advisory Service, and Merriam-Webster's Dictionary for interpretation purposes.
- 3) *Complete application.*
 - a) A complete application shall include the following:
 - i) Development application and all associated information as established by the engineering and planning department.
 - ii) Fee, as established by the Board of City Commissioners.
 - iii) Site plan.
 - iv) Letter of intent containing:
 - (1) A summary of the purpose for the application; and
 - (2) How negative externalities resulting from the change in land use will be addressed.
 - v) Additional submittals as required by the respective land use application that falls within the purview of this section.
 - vi) Additional plans, studies, or other information as may be required from time to time from the Planning and Zoning Commission or City staff.
- 4) *Period of review.*
 - a) The planning office shall review a submitted application within ten business days to determine whether an application is complete. If the application is determined to be a complete application, the planning office shall notify the applicant or applicant representative of the determination, and the application shall be considered accepted. If the application is determined to be incomplete, the planning office shall notify the applicant or applicant representative of the missing components necessary to consider the application complete.

Sec. 101-4-2. Zoning Map Amendment

Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the Board of City Commissioners may amend, supplement, or change the zoning boundaries or classification of property on the zoning map as set forth in this Section.

- 1) *Initiation of amendments.*
 - a) A proposed zoning map amendment may be initiated by the Board of City Commissioners upon its own motion, or upon receipt of a request therefor from the Planning and Zoning Commission, or upon receipt of an application therefor from any interested person or their agents.
- 2) *Submittals.*

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- a) A zoning ordinance map amendment application shall include the following submittals:
 - i) Map or written statement demonstrating conformity with the future land use map of the City of Mandan Land Use and Transportation Plan and/or any corresponding goals, objectives, policies, and other information contained therein. Evidence of conformity shall include:
 - (1) Where the requested zoning district(s) aligns with the future land use map designation(s); or
 - (2) Where two or more future land use map designations apply to an area that is part of the application for a zoning ordinance map amendment and only one future land use map designation aligns with the requested zoning district, the applicant shall outline how the application also aligns with the goals, objectives, policies, and other information contained within the City of Mandan Land Use and Transportation Plan; or
 - (3) If no future land use designations apply to the area that is part of the zoning ordinance map amendment, the applicant shall be required to successfully amend the future land use map as outlined in this section.
 - ii) In cases where an amendment to the Future Land Use Plan or a major subdivision are requested, an ESRI shapefile (.shp) of the zoning ordinance map amendment area projected in spatial reference Well-Known ID (WKID) 102721.
 - iii) Map of area, including the subject property and surrounding 300 feet. The map shall include:
 - (1) The current and proposed zoning of the subject property
 - (2) Neighboring property's current zoning, including
 - (3) Street names and base aerial imagery for reference.
 - (4) If the nearest road is greater than 300 feet from the subject property, the map shall be scaled back to incorporate the nearest street intersection for reference but is not required to include zoning information for properties outside the 300-foot surrounding area.
 - 3) *Complete application received.*
 - a) A complete application shall be received no less than 30 days prior to the desired Planning and Zoning Commission meeting date.
 - 4) *Public hearing noticing requirements.*
 - a) Notice of the hearings described in subsections (5), (6) and (7) must be published once a week for two successive weeks before the time set for the hearing in the official newspaper of the city.
 - b) Property owners within 300 feet of the boundary of the area of the proposed amendment shall be notified by mail. The property owner notice requirement shall be considered to be met if reasonable effort is made to contact applicable property owners, even if some are inadvertently omitted from notification.
 - c) The notice must contain the following items:
 - i) The time and place of the hearing.
 - ii) A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.
 - iii) A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary.
 - d) A statement of the times at which the application will be available to the public for inspection and copying at the office of the city auditor or his/her designee.
 - 5) *Planning and Zoning Commission public hearing required.*

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- a) The Planning and Zoning Commission shall hold a public hearing to review the application for a zoning ordinance map amendment.
 - b) If substantial changes to the zoning map amendment outside of what was previously noticed, the public hearing shall be repeated and follow the public hearing noticing requirements.
 - c) The Planning and Zoning Commission may recommend approval, recommend approval with conditions, recommend denial, or table the public hearing to a future date.
 - d) A recommendation shall include or reference findings of fact related to the application and be forwarded to the Board of City Commissioners.
 - e) A motion to table the application to a future date shall be limited to no longer than 60 days.
- 6) *City Commission public hearing required—First consideration.*
- a) The Board of City Commissioners shall hold a public hearing no sooner than is possible to follow the public hearing noticing requirements.
 - b) The public hearing shall be the first consideration of the zoning map amendment.
 - c) The Board of City Commissioners may approve, approve with conditions, deny, or table the public hearing to a future date.
 - d) A decision shall include or reference findings of fact related to the application. A motion to table the application to a future date shall be limited to no longer than 60 days.
 - e) A decision to deny the application is final and no second consideration is required.
 - f) If substantial changes to the zoning map amendment outside of what was previously noticed, the public hearing shall be repeated and follow the public hearing noticing requirements.
- 7) *City Commission public meeting required—Second consideration.*
- a) The Board of City Commissioners shall hold a public meeting no sooner than ten days following the first consideration of the zoning ordinance map amendment.
 - b) The zoning ordinance map amendment shall not substantially differ from that presented at the preceding public hearing.
 - c) The Board of City Commissioners may, at their discretion, hear public testimony related to the application.
 - d) The Board of City Commissioners may approve, approve with conditions, deny, or table the public hearing to a future date.
 - e) A decision shall include or reference findings of fact related to the application.
 - f) A motion to table the application to a future date shall be limited to no longer than 60 days.
 - g) A decision to deny the application is final.
- 8) *Petition.*
- a) If a petition against an amendment is signed by the owners of 20 percent or more:
 - i) Of the lots included in such proposed change; or
 - ii) Of the lots adjacent, extending 150 feet from the area to be changed,
 - iii) and is validated by the City Clerk, the amendment shall not become effective except by the favorable vote of four of the five members of the City Commission.
- 9) *Evaluative criteria.* In order to provide a favorable recommendation by the Planning and Zoning Commission or final decision by the Board of City Commissioners, the following must be considered:

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- a) How the proposed zoning district aligns with the City of Mandan Land Use and Transportation Plan and other plans as may be adopted by the Board of City Commissioners. Alignment includes:
 - i) Fulfilling the goals, objectives, and policies of the future land use plan;
 - ii) Fulfilling the goals, objectives, and policies of other plans as may be adopted by the city; and
 - iii) Fulfillment of the zoning-future land use crosswalk where one is adopted by the Planning and Zoning Commission.

Sec. 101-4-3. Zoning Text Amendment

1) *Zoning ordinance text amendment.*

- a) Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Board of City Commissioners may amend, supplement, or change the regulations in the zoning ordinance as set forth in this section.

2) *Initiation of amendments.*

- a) A proposed zoning text amendment may be initiated by the Board of City Commissioners, Planning and Zoning Commission, the planning office, or any interested person or their agent.

3) *Submittals.*

- a) A zoning text amendment application shall include the following submittals:
 - i) Summary of the goal(s) intended to be achieved by the amendment; and
 - ii) Word document with tracked changes enabled, showing all mark-up of the existing ordinance and proposed changes.

4) *Complete application received.*

- a) A complete application shall be received no less than 30 days prior to the desired Planning and Zoning Commission meeting date.

5) *Public hearing noticing requirements.*

- a) Notice of the hearing must be published once a week for two successive weeks before the time set for the hearing in the official newspaper of the city. The notice must contain the following items:
 - i) The time and place of the hearing.
 - ii) A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary.
 - iii) A statement of the times at which the application will be available to the public for inspection and copying at the office of the city auditor or his/her designee.

6) *Planning and zoning public hearing required.*

- a) The Planning and Zoning Commission shall hold a public hearing to review the application for a zoning ordinance text amendment.
 - i) The Planning and Zoning Commission may recommend approval, recommend approval subject to changes, recommend denial, or table the public hearing to a future date.
 - (1) A motion to table the application to a future date is limited to no longer than 60 days.

7) *City Commission public hearing required—First consideration.*

- a) The Board of City Commissioners shall hold a public hearing no sooner than is possible to follow the public hearing noticing requirements.
- b) The public hearing shall be the first consideration of the ordinance.

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- c) The Board of City Commissioners may approve, approve subject to changes, deny, or table the public hearing to a future date.
 - d) A motion to table the application to a future date shall be limited to no longer than 60 days.
 - e) A decision to deny the application is final and no second consideration is required.
 - f) If substantial changes to the ordinance are required, the public hearing shall be repeated and follow the public hearing noticing requirements.
- 8) *City Commission public meeting required—Second consideration.*
- a) The Board of City Commissioners shall hold a public meeting no sooner than ten days following the first consideration of the zoning ordinance text amendment.
 - b) The zoning ordinance text amendment shall not substantially differ from that presented at the preceding public hearing.
 - c) The Board of City Commissioners may, at their discretion, hear public testimony related to the application.
 - d) The Board of City Commissioners may approve, approve subject to changes, deny, or table the public hearing to a future date.
 - e) A motion to table the application to a future date shall be limited to no longer than 60 days.
 - f) A decision to deny the application is final.
- 9) *Evaluative criteria.*
- a) In order to provide a favorable recommendation by the Planning and Zoning Commission or final decision by the Board of City Commissioners, the following must be considered:
 - i) How the proposed zoning ordinance text amendment serves the public interest; and
 - ii) How the proposed zoning ordinance text amendment aligns with the goals, objectives, and policies outlined in the City of Mandan Land Use and Transportation Plan and other plans as may be adopted by the Board of City Commissioners.

Sec. 101-4-4. Conditional Use Permit

To carry out the purposes of this chapter, the Board of City Commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area or other reasons, be reviewed by the Planning and Zoning Commission prior to the Board voting on whether or not to approve the use at a specific site.

- 1) *Submittals.* A special or conditional use permit application shall include the following submittals:
- a) A complete application shall include the following:
 - i) Development application and all associated information as established by the engineering and planning department.
 - ii) Fee, as established by the Board of City Commissioners.
 - iii) Site plan.
 - iv) An answer with explanation for each of the following questions:
 - (1) Will the proposed use be designed, constructed, operated, and maintained so as to be compatible in appearance with the existing or intended character of the neighborhood?
 - (2) Will the proposed use involve activities, processes, materials, equipment, or conditions of operation that will be incompatible with the neighborhood due to the production of traffic, noise, smoke, fumes, glare, or odors?

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- (3) Will the hours of operation of the proposed use be different than the adjacent uses?
 - (4) Will the proposed use require exterior lighting of a type and intensity greater than the adjacent uses?
 - (5) Will the site of the proposed use have sufficient area to provide the parking required for the use?
 - (6) Will the proposed use require adjustments to the normal lot size, height, and setback requirements of the district?
- 2) *Complete application received.*
 - a) A complete application shall be received no less than 30 days prior to the desired Planning and Zoning Commission meeting date.
 - 3) *Public hearing noticing requirements.*
 - a) Notice of the hearing must be published at least ten days before the time set for the hearing in the official newspaper of the city.
 - b) Property owners within 500 feet of the boundary of the area of the proposed conditional use shall be notified by mail. The property owner notice requirement shall be considered to be met if reasonable effort is made to contact applicable property owners, even if some are inadvertently omitted from notification.
 - c) The notice must contain the following items:
 - i) The time and place of the hearing.
 - ii) A description of the nature, scope, and purpose of development requiring a special use permit.
 - iii) A statement of the times at which the application will be available to the public for inspection and copying at the office of the city auditor or his/her designee.
 - 4) *Planning and Zoning public hearing required.*
 - a) The Planning and Zoning Commission shall hold a public hearing to review the application for a special use permit.
 - b) The Planning and Zoning Commission may recommend approval, recommend approval with conditions, recommend denial or table the public hearing to a future date.
 - c) The recommendation shall include or reference findings of fact related to the application and shall be forwarded to the Board of City Commissioners.
 - d) Conditions of approval shall be related and roughly proportional to mitigate negative externalities affecting nearby property owners and the general public and to fulfill the intent of the adopted plans of the city.
 - e) A decision to table the application to a future date shall be limited to no longer than 60 days.
 - 5) *City commission ratification of approval required.*
 - a) If the Planning and Zoning Commission recommends to approve or approve with conditions and no appeal is filed as provided in this section, the action by the Board of City Commissioners may be by consent.
 - b) The Board of City Commissioners may approve, approve with conditions, deny, or table the item to a future date.
 - c) Conditions of approval shall be related and roughly proportional to mitigate negative externalities affecting nearby property owners and the general public and to fulfill the intent of the adopted plans of the city.
 - d) A motion to table the item to a future date shall be limited to no longer than 60 days.

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- e) A decision to deny is final.

6) *Evaluative criteria.*

- a) In order to provide a favorable recommendation by the Planning and Zoning Commission or final decision by the Board of City Commissioners, all of the following criteria must be met:
 - i) The proposed use is in harmony with the purpose and intent of this chapter;
 - ii) The proposed use is not in conflict with the adopted comprehensive plan of the city;
 - iii) The proposed use will not adversely affect the health, safety, and general welfare of the public and the workers and residents in the area;
 - iv) The proposed use will not be detrimental to the use or development of adjacent properties or of the surrounding neighborhood;
 - v) The proposed use meets all appropriate regulations for the district in which it will be located;
 - vi) The proposed use will not result in the destruction, loss or damage of a natural, scenic, or historic feature of importance to the community;
 - vii) The proposed use includes adequate screening or buffering to compensate for any departure that the proposed use has from existing adjacent uses; and
 - viii) The proposed use includes adequate provisions for those individuals who are mobility impaired.

7) *Permit expiration.*

- a) A conditional use permit is valid for one year.
- b) Should a building permit not be issued within one year of receiving special/conditional use approval from the city commission, the approval will lapse.
- c) An extension may be granted by the Board of City Commissioners upon receipt of a written request prior to the one-year expiration.

Sec. 101-4-5. Variance

1) *Zoning variance.*

- a) On appeal from an order, requirement, decision, or determination made by an administrative official, the Board of City Commissioners may vary or adjust the strict application of any of the requirements of this chapter in the case of an exceptionally irregular, narrow, shallow, or steep lot or other exceptional physical or topographical condition, by reason of which the strict application of the provisions of the chapter would result in unnecessary hardship that would deprive the owner of a reasonable use of the land or building involved, but in no other case.

2) *Submittals.*

- a) A zoning variance application shall include the following additional submittals:
 - i) Development application and all associated information as established by the engineering and planning department.
 - ii) Fee, as established by the Board of City Commissioners.
 - iii) Site plan.
 - iv) Detailed statement including the following:
 - (1) The circumstances or conditions applying to the land or buildings for which the variance is sought;
 - (2) How the applicant is deprived of a reasonable use of said land or building;

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- (3) How the grant of a variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
 - (4) The minimum variance that will accomplish the relief sought.
 - 3) *Complete application received.*
 - a) A complete application shall be received no less than 30 days prior to the desired Planning and Zoning Commission meeting date.
 - 4) *Public hearing noticing requirements.*
 - a) Notice of the hearing must be published at least ten days before the time set for the hearing in the official newspaper of the city.
 - b) Property owners within 300 feet of the boundary of the area of the proposed variance shall be notified by mail. The property owner notice requirement shall be considered to be met if reasonable effort is made to contact applicable property owners, even if some are inadvertently omitted from notification.
 - c) The notice must contain the following items:
 - i) The time and place of the hearing.
 - ii) A description of the nature, scope, and purpose of the variance request.
 - iii) A statement of the times at which the application will be available to the public for inspection and copying at the office of the city auditor or his/her designee.
 - 5) *Planning and Zoning public hearing required.*
 - a) The Planning and Zoning Commission shall hold a public hearing to review the application for a variance.
 - b) The Planning and Zoning Commission may recommend approval, recommend approval with conditions, recommend denial, or table the public hearing to a future date.
 - c) A recommendation shall include, or reference findings of fact related to, the application and shall be forwarded to the Board of City Commissioners.
 - d) Conditions of approval shall be related and roughly proportional to mitigate negative externalities affecting nearby property owners and the general public and to fulfill the intent of the adopted plans of the city.
 - e) A motion to table the application to a future date shall be limited to no longer than 60 days.
 - 6) *City Commission public hearing required.*
 - a) The Board of City Commissioners shall hold a public hearing no sooner than is possible to follow the public hearing noticing requirements.
 - b) The Board of City Commissioners may approve, approve with conditions, deny, or table the public hearing to a future date.
 - c) Conditions of approval shall be related and roughly proportional to mitigate negative externalities affecting nearby property owners and the general public and to fulfill the intent of the adopted plans of the city.
 - d) A motion to table the application to a future date shall be limited to no longer than 60 days.
 - e) A decision to deny the variance is final.
 - 7) *Evaluative criteria.*
 - a) No adjustment in the strict application of any provisions of this chapter shall be recommended by the Planning and Zoning Commission or granted by the Board of City Commissioners unless it finds that:

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- i) There are special circumstances or conditions, fully described in the findings of the board, applying to the land or buildings for which the variance is sought, which do not apply generally to land or buildings in the neighborhood, and have not resulted from any act of the applicant taken subsequent to the adoption of this chapter, whether in violation of the provisions of the chapter or not.
 - ii) For reasons fully set forth in the findings of the board, the circumstances or conditions so found are such that the strict application of the provisions of this chapter would create an extraordinary hardship for the applicant and the granting of the variance is necessary for the reasonable use of the land or building, and that the variance as granted by the board is the minimum variance that will accomplish the relief sought by the applicant; and the grant of the variance will be in harmony with the general purposes and intent of this chapter, and not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Sec. 101-4-6. Future Land Use Map/Plan Amendment

1) *Initiation of amendments.*

- a) A proposed future land use map/plan amendment may be initiated by the Board of City Commissioners upon its own motion, or upon receipt of a request therefore from the Planning and Zoning Commission, or upon receipt of a petition therefore from any interested person or their agents.
- b) The amendments are limited to the planned land uses for a subject property and do not include amendments to other components of the land use and transportation plan or other plans that have been adopted by the city.

2) *Submittals.*

- a) A future land use map amendment application shall include the following additional submittals:
 - i) Development application and all associated information as established by the engineering and planning department.
 - ii) Fee, as established by the Board of City Commissioners.
 - iii) Site plan.
 - iv) An explanation of how the application aligns with the goals, objectives, policies, and other information contained within the City of Mandan Land Use and Transportation Plan and other plans adopted by the city; and
 - v) How any amendment, if approved, would not further create potential for disharmonious adjacent land uses; and
 - vi) An ESRI shapefile (.shp) of the future land use map amendment area and projected in spatial reference well-known ID (WKID) 102721.

3) *Complete application received.*

- a) A complete application shall be received no less than 30 days prior to the desired Planning and Zoning Commission meeting date.

4) *Public hearing noticing requirements.*

- a) Notice of the hearing must be published once a week for two successive weeks before the time set for the hearing in the official newspaper of the city.
- b) Property owners within 500 feet of the boundary of the area of the proposed amendment shall be notified by mail. The property owner notice requirement shall be considered to be met if reasonable effort is made to contact applicable property owners, even if some are inadvertently omitted from notification.
- c) The notice must contain the following items:

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- i) The time and place of the hearing.
 - ii) A description of any property involved in any future land use map amendment, by street address if streets have been platted or designated in the area affected.
 - iii) A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary.
 - iv) A statement of the times at which the application will be available to the public for inspection and copying at the office of the city auditor or his/her designee.
- 5) *Planning and zoning public hearing required.*
- a) The Planning and Zoning Commission shall hold a public hearing to review the application for a future land use map amendment.
 - b) The Planning and Zoning Commission may approve, deny, or table the public hearing to a future date.
 - c) The adoption of the amendment shall be by a resolution of the commission carried by the affirmative votes of not less than two-thirds of the members thereof.
 - d) A decision shall include or reference findings of fact related to the application.
 - e) A motion to table the application to a future date shall be limited to no longer than 60 days.
 - f) A decision to deny the land use amendment or failure to approve the amendment by the affirmative of at least two-thirds of the members is final.
- 6) *City commission public hearing required.*
- a) The Board of City Commissioners shall hold a public hearing no sooner than is possible to follow the public hearing noticing requirements.
 - b) No change or addition to the master plan or any part of it as adopted by the planning commission shall be made by the governing body until the proposed change or addition shall have been referred to the planning commission for report thereon.
 - c) The failure of the planning commission to report within thirty days after the date of the request for the report by the governing body shall be deemed to be an approval by the commission of the additions or changes.
 - d) If the additions or changes are disapproved by the commission, a two-thirds vote of the entire governing body shall be necessary to pass any ordinance overruling such disapproval.
 - e) The Board of City Commissioners may approve, deny, or table the public hearing to a future date.
 - f) A motion to table the application to a future date shall be limited to no longer than 60 days.

g) A decision to deny the land use amendment is final.

7) *Evaluative criteria.*

a) In order to provide a favorable decision, the following must be considered:

- i) Does the proposed amendment align with the goals, objectives, policies, and other information contained within the City of Mandan Land Use and Transportation Plan and other plans adopted by the city; and
- ii) Will the amendment, if approved, further create potential for disharmonious adjacent land uses; and
- iii) Does the amendment contribute toward the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the municipality and its environs, which, in accordance with present and future needs, best will promote the amenities of life, health, safety, morals, order, convenience, prosperity, and general welfare as well as efficiency and economy in the process of development, including adequate provision for light and air, distribution of population, good civic design and arrangement, wise and efficient expenditure of public funds, the adequate provision of public utilities and other public requirements, the improvement and control of architecture, and the general embellishment of the area under its jurisdiction.

Sec. 101-4-7. Interim Use Permits

1) *Purpose.*

- a) An interim use permit allows a use for a limited period of time that reasonably utilizes the property in a manner not permitted in the applicable zoning district. An interim use permit is attributable to the applicant for such permit and is not attached to the land.

2) *Standards.*

- a) An interim use permit may be granted if the use at the proposed location meets the following review criteria:
 - i) The use is consistent with the general purposes and intent of the Comprehensive Plan.
 - ii) The use will not adversely affect the health, safety, or general welfare of the city.
 - iii) The use is compatible with present and future land uses in the surrounding area and reasonably related to the overall needs of the city.
 - iv) The use can be adequately supported by public urban services including the water supply, transportation system and capacity, police and fire protection, utilities, and sanitary waste disposal and stormwater disposal systems.

- v) The use will not create an excessive burden on existing parks, schools, and other public facilities which serve or are proposed to serve the area.
- vi) The use will be sufficiently compatible or separated by distance or screening from adjacent residentially zoned land.
- vii) The use is in harmony with the general purposes and intent of this chapter and the zoning district in which the applicant intends to locate the proposed use.
- viii) The use will not create an intrusion of excessive noise, glare, or general unsightliness.
- ix) The use will not impose, by agreement, additional costs on the public.
- x) The use will terminate upon a tangible date or event specified in the resolution approving said interim use permit.
- xi) If applicable, the proposed use is consistent with officially adopted city plans and overlays.

3) *Conditions.*

- a) In permitting an interim use permit, the City Commission may impose, in addition to the requirements set forth in this chapter, conditions considered necessary or appropriate to protect the public health, safety, and general welfare of the city and are deemed appropriate for permission of the use. Such conditions may include a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and interim structures upon the expiration of the interim use permit.

4) *Modification.*

- a) Any change which involves structural alteration, enlargement, or intensification of use or any similar change not specifically permitted by the issued permit shall require an amendment to the interim use permit. A request for an amendment shall be administered in the same manner and all procedures shall apply as if a new permit were being requested.

5) *Expiration.*

- a) An interim use permit shall expire on the date set forth in the approval of the permit. Extensions may be evaluated as a modification of the original permit.

Sec. 101-4-8. Appeals

1) *Request for reconsideration.*

- a) The applicant who originally initiated a land use application may file a one-time appeal with the planning department within 30 days of the final decision for land use applications contained in this chapter. The request shall be for reconsideration of a final decision by the Board of City Commissioners.

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- 2) *Complete application.*
 - a) The request for reconsideration shall include a complete summary of the reasons for the request, including any new evidence or information if applicable.
- 3) *Public hearing noticing requirements.*
 - a) Public and neighboring property owner noticing of the hearing must follow the public hearing noticing requirements of the respective land use application for the hearing body for which a final decision is rendered. The property owner notice requirement shall be considered to be met if reasonable effort is made to contact applicable property owners, even if some are inadvertently omitted from notification.
 - b) The notice must contain the following items:
 - i) The time and place of the hearing;
 - ii) A description of any property involved in the request, by street address if streets have been platted or designated in the area affected;
 - iii) A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary; and
 - iv) A statement of the times at which the application will be available to the public for inspection and copying at the office of the city auditor or his/her designee.
- 4) *Public hearing required.*
 - a) The Board of City Commissioners shall hold a public hearing no sooner than is possible to follow the public hearing noticing requirements of the respective land use application of the hearing body for which a final decision is rendered.
 - b) The Board of City Commissioners may approve, approve with conditions, deny, or table the public hearing to a future date.
 - c) Conditions of approval shall be related and roughly proportional to mitigate negative externalities affecting nearby property owners and the general public and to fulfill the intent of the adopted plans of the city.
 - d) A motion to table the application to a future date shall be limited to no longer than 60 days.
 - e) A decision rendered for the request for reconsideration is final, and any further appeals must be made to the district court.

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- 5) If a request for reconsideration results in reversing a denied zoning ordinance map or text amendment, the zoning ordinance map or text amendment will be considered an approval of the first consideration, and a second consideration is required subject to the procedures outlined in this section.

State law reference(s)—Board of Adjustment and appeals, N.D.C.C. § 40-47-07 et seq.; amendments to zoning ordinances, N.D.C.C. § 40-47-05.

Sec. 101-4-9. Fees

The Board of City Commissioners shall establish, by resolution, filing fees for certificates of occupancy, variances, special use permits, zoning map or text amendments, appeals to the Board of Adjustment or other actions or proceedings conducted under this chapter. Before accepting for filing any application for an activity for which a fee has been established, the building official or other designated city official shall charge and collect the required fees. No fee shall be required for any appeal filed by an agency of government. All fees established under this section are in addition to any fees for building permits, business licenses or any other fees or charges required under other city ordinances.

ARTICLE 5. BUILDING PERMITS

Sec. 101-5-1. Building permits and approval of plans.

The building official shall in no case grant any permit for the construction, moving or alteration of any building if the building, as proposed to be constructed, moved or altered, would be in violation of any of the provisions of this chapter. All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual shape and dimensions of the site to be built upon, the exact sizes and locations on the site of the buildings and accessory buildings then existing, and the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of such building or part of a building, the number of dwelling units the building is designed to accommodate, and such other information with regard to the site and neighboring lots as may be necessary to determine and provide for the enforcement of this chapter. One copy of such plans shall be returned to the owner when the plans shall have been approved by the building official.

Sec. 101-5-2. Certificate of occupancy.

It is unlawful to use or permit the use of any building or premises or part, hereafter created, erected, changed, converted, moved, altered or enlarged wholly, or partly in its use or structure, until a certificate of occupancy shall have been issued therefor by the building official. Such certificate shall show that such building or premises or part and the proposed use thereof are in conformity with the provisions of this chapter.

ARTICLE 6. MASTER PLANS²

Sec. 101-6-1. Established; maps incorporated.

All street, road, land use, zoning, sanitary sewer, potable water and drainage plans as might from time to time be adopted by the City pursuant to N.D.C.C. and filed with the recorder shall be in full force and effect from and after their final passage and adoption. All street and highway plans set forth on maps, together with all notations, information and data contained thereon, which have been adopted by the City, are part of any master plan and are incorporated in this article and made a part of this subpart.

Sec. 101-6-2. Territorial jurisdiction.

The territorial jurisdiction of the City for the subdivision of land and the application of any master plan shall be the entire area within the corporate and extraterritorial limits of the City and the adjacent territory beyond the corporate and extraterritorial limits which the board has determined bears a relation to the planning of the city and is designated on the master plan.

Sec. 101-6-3. Recording of amendments and supplements.

The city planner shall record, in the office of the recorder in the county, a full, true and correct copy, duly attested, of any master plan and all amendments thereto, including all amendments and supplements of maps of the street and highway plan, which may hereafter be duly adopted.

²State law reference(s)—Master plan, N.D.C.C. § 40-48-08 et seq.

ARTICLE 7. GENERAL PROVISIONS

Sec. 101-7-1. Definitions

The following words, terms and phrases, when used in this subpart, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a subordinate structure which is customarily incidental to that of a principal building on the same lot.

Accessory dwelling unit means a place for occupancy by one family that is subordinate to the primary dwelling unit on the lot.

Accessory use means a subordinate use which is customarily incidental to that of a primary use on the same lot.

Adult care facility means a business providing daily care lasting less than 24 hours for persons who are frail or physically, cognitively or functionally impaired that is located in a hospital, 24-hour care center or nursing home as an accessory use or is a standalone activity not affiliated with any other medical provider or service.

Adult establishment definitions. See section 101-11-29.

Agency adult foster care home means a facility licensed by the North Dakota Department of Human Services to provide staffed 24-hour foster care for up to four unrelated adults in a group residential setting.

Alley means a public or private right-of-way that provides access to the side or rear of a property.

Airport means any area of land or water designated, set aside, used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas designated, set aside, used, or intended for use, for airport buildings or other airport facilities, rights-of-way, or approach zones, together with all airport buildings and facilities located thereon.

Antenna means any structure designed for transmitting signals to a receiver or receiving station or for receiving television, radio, data, communication, or other signals from other antennas, satellites, or other services.

Animal hospital or clinic means a facility for the care and well-being of animals under the direct supervision of a licensed veterinarian; including, but not limited to, medical services, grooming, confinement or kenneling for medical purposes but excluding incinerating or cremating of animals or animal parts upon the premises.

Animal, feedlot means a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. Open lots used for feeding and rearing of poultry (poultry ranges) and barns, dairy farms, swine facilities, beef lots and barns, horse stalls, mink ranches and zoos, shall be considered to be animal feedlots. Pastures shall not be considered animal feedlot.

Animal husbandry means the use of land for dairying, animal raising, pasturage and sales (including transport to and from) and the necessary accessory uses; provided, however, that such accessory uses shall be secondary to that of normal animal husbandry activities.

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Animal shelter means a facility used to house or contain stray, rescued, homeless, abandoned, or unwanted animals and that is owned, operated, or maintained by a public body, an established humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of animals providing temporary kenneling and finding permanent adoptive homes for animals.

Auction house means a lot or building, area, or areas within a building used for the public sale of goods, motor vehicles, wares, merchandise, or equipment to the highest bidder. This definition excludes auctions for the purpose of the sale of livestock (See livestock market).

Auditor's lot means any tract of land platted or replatted not for building purposes in accordance with the provisions of N.D.C.C. § 57-02-39 or as may be otherwise authorized by law.

Auditor's plat. See *Auditor's lot*.

Auto wrecking. See *Junkyard*.

Bar means any premises where alcoholic and non-alcoholic beverages are sold at retail for consumption on the premises. Also referred to as a tavern or saloon.

Basement means that portion of a building below the first-floor joists, the floor of which is more than one-half clear ceiling height below the adjacent ground.

Base zoning means a standard zoning district classification which is combined with an overlay district for purposes of development regulation specificity. The base (underlying) district regulations shall apply unless expressly superseded by overlay district provisions.

Banquet hall means a meeting facility which may also include on-site kitchen/catering facilities. The banquet/reception hall's primary purpose is a location for activities such as weddings and other such gatherings by appointment. In some cases, a bed and breakfast and/or a restaurant may be associated with a reception hall.

Bed and breakfast facility means an owner-occupied single-family dwelling providing not more than seven temporary lodging units with a current license issued pursuant to the provisions of N.D.C.C. § 23-09.1 and providing one off-street vehicle parking space for each such lodging unit and two off-street parking spaces for the owner/operator with only one sign not exceeding four square feet in size.

Berm An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.

Billboard. See *Outdoor advertising sign*.

Block means a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines or waterways, or boundary lines of cities.

Brewer taproom means a facility that manufactures no more barrels of fermented malt beverage than outlined in N.D.C.C. § 5-01-21 per year for wholesale, sale directly to consumer, or consumption on the premises. A brewer taproom may be co-located within a restaurant or be a separate stand-alone facility.

Building means a structure having a roof supported by walls or columns for the shelter, support or enclosure of persons, animals or possessions.

Building, accessory. See *Accessory building*.

Building, addition means any construction that increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

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Building height means the vertical distance from the average of the highest and lowest point of that portion of the lot covered by the building to the highest point of the roof for flat roofs; to the deck line of mansard roofs and the mean height between eaves and ridge for gable, hip, and gambrel roofs., and roof-mounted equipment.

Building inspector means the building official or an authorized representative.

Build-to line means a line, parallel to the respective lot line, and internal to the lot, which defines the required maximum and minimum setback for the entire building front façade as specified in the district regulations.

Build-to-zone is the area between the build-to line for the minimum and maximum setbacks, and the space in which the front building wall must be constructed.

Building official means the person responsible for the management and administration of the building department, the issuance of permits for the construction of buildings and other structures and the inspection of buildings and other structures to confirm that they are being built in conformance with all siting and construction requirements specified by ordinances adopted by the city.

Building, principal. See *Principal building*.

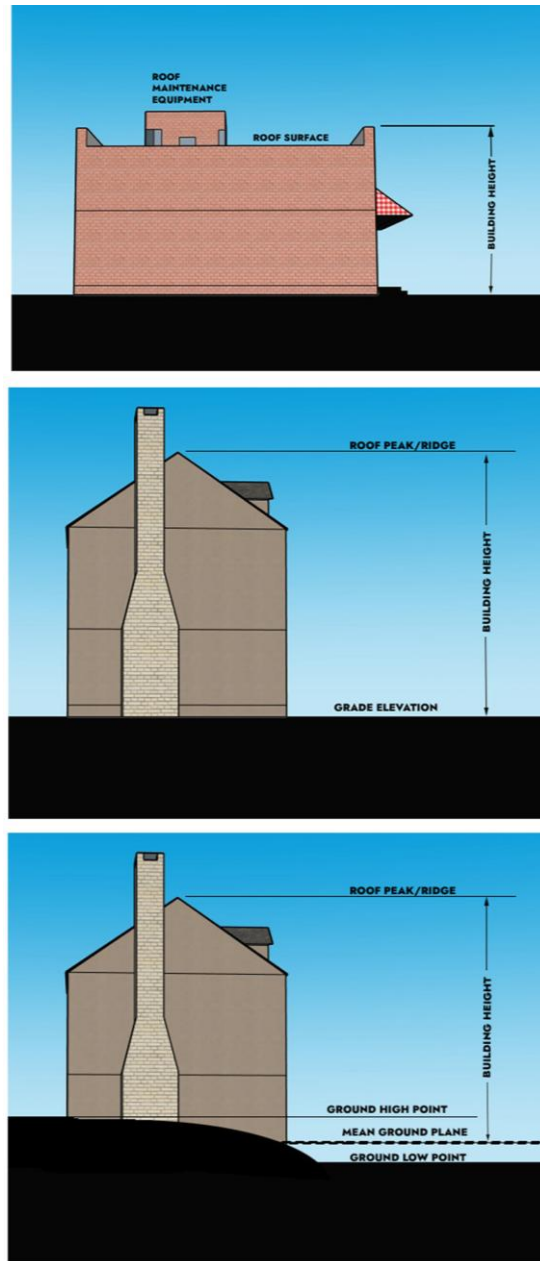
Capital improvements program means a proposed schedule of future projects for the purchase, construction or replacement of the physical assets of the community requiring the expenditure of public funds over and above recurring annual operating expenses.

Car wash means a site for washing, cleaning and drying of passenger vehicles, recreational vehicles and other light-duty equipment. May be a principal use or accessory to a gas station and/or convenience store.

Carport means a structure consisting of an accessible and usable covered parking space of not less than 10 by 20 feet (inside dimensions), and open, fully or partially, on one or more sides. Considered an accessory structure within this ordinance.

Campground means an area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind.

FIGURE 101-7-1.A: BUILDING HEIGHTS EXHIBIT



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Cemetery means land used or intended to be used for the burial of dead human or animal remains and dedicated for cemetery purposes including columbariums, crematoriums, mausoleums, and funeral establishments, when operated in conjunction with and within the boundary of such cemetery.

Central sewer system means a private or public liquid waste collection, conveyance and treatment facility serving a community or a portion of a community.

Central water system means a private or public facility for the collection, treatment, storage and distribution of potable water serving a community or a portion of a community.

Child care center Also referred to as day care center means a facility offering care and supervision for more than 12 children for less than 24 hours per day that is licensed by the North Dakota Department of Health and Human Services.

In-home childcare means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption.

Cluster developments means a development design technique that concentrates buildings on a portion of the site to allow the remaining land to be used for recreation, open space, or preservation of sensitive land areas.

Collector street. See Street, collector.

Community services means uses of a public, nonprofit or charitable nature generally providing a local service to people of the community.

Comprehensive plan means the official long range guide for the economic, physical and social development of the city in conformance with the requirements of N.D.C.C. § 40-48-08.

Conditional Use Permit means a permit which may be granted under the provisions of this title and which when granted authorizes a particular use to be made of a particular premises, subject to compliance with all the terms and conditions contained in the permit.

Condominium means a form of property ownership providing for individual ownership of space in a structure together with an individual interest in the land or other parts of the structure in common with other owners;

Condominium means a single unit in a multi-unit dwelling or structure, which is separately owned and which may be combined with an undivided interest in the common areas and facilities of the property.

Coniferous means a plant species with foliage that persists and remains green year-round. Commonly known as an evergreen.

Contractor's storage yard means an unenclosed portion of the lot or parcel upon which a construction contractor maintains its principal office or a permanent business office. Designation of the lot or parcel as a contractor's storage yard would allow this area to be used to store and maintain construction equipment and other materials customarily used in the trade carried on by the construction contractor. If permitted to be used in this manner, the entire lot or parcel would then be classified as a "contractor's storage yard" and will be required to conform to all applicable zoning district standards and other legislative regulations.

Convenience store means a facility that provides quick purchase retail and food items and may offer vehicle fueling, car wash and/or alcohol sales with the appropriate city and regulatory agency approvals.

Cooperative housing means a building containing multiple dwelling owned and maintained by the residents. The entire structure and real property is under common ownership as contrasted to a condominium dwelling where individual units are under separate individual occupant ownership.

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Corner lot means a lot at the junction of, and abutting on, two or more intersecting streets when the interior angle of intersection does not exceed 135 degrees and including any lot adjoining a curved street at a point where the street boundary described an arc subtended by an angle of 135 degrees or less.

Correctional facility means any city or county jail or detention center, regional corrections center, juvenile detention center, pre-release center, transition center, half-way house or other publicly or privately established compound or building for the detention, confinement, or rehabilitation of persons in accordance with law.

Crematorium means the establishment for final disposition of deceased remains, either human or pet, by thermal, mechanical, or other dissolution process that reduces remains to bone fragments.

Cul-de-sac means a local street with only one outlet and having a circular turnaround and appropriate terminal for the safe and convenient reversal of traffic movement.

Daycare. See Child care center, In-home childcare.

Dead-end street. See Street, dead-end.

Deciduous means a plant species with foliage that lose their leaves each fall.

Dog daycare means a facility for the daytime care and feeding of dogs.

Data center means any facility that primarily contains electronic equipment used to process, store, and transmit digital information. Uses that include data processing as ancillary to the principal use on the property shall not be considered a Data Center.

Domestic distillery means a facility that manufactures no more gallons of spirits than outlined in N.D.C.C. § 5-01-19 per year produced on-site and available for wholesale, for sale directly to consumers on-site or for consumption on the premises, or for sale to other domestic distilleries on-site. A domestic distillery may be co-located within a restaurant or be a separate stand-alone facility.

Drive-in or drive-through means a configuration of a business that allows people to access services of the business without leaving their vehicle.

Dwelling means a building or portion thereof arranged or designed to provide complete, independent living facilities for one or more persons and does not include: hotels, motels, bed and breakfasts, or short-term rentals providing transient accommodations.

Dwelling, attached means a dwelling unit that is attached to another dwelling unit by a wall, floor, or ceiling that separates living spaces. May include Cottage Dwellings, Attached Duplex Dwellings, Townhouses, Multi-Unit Buildings (apartments or condominiums), and similar variants.

Dwelling, cottage court means a series of small, detached dwelling units arranged around an area of shared common open space with other cottage dwellings that opens to the street and provides access to each dwelling unit. Each dwelling unit has at least one entrance facing the shared court and/or the street. Garages are typically detached, and parking areas are typically located in the rear of the parcel and accessed from an alley or shared driveway. . A Cottage Court may be configured with all dwelling units on one parcel or each dwelling unit on its own parcel.

Dwelling, detached means a residential building containing one dwelling unit, which is physically separate from any other residential building, and does not include a manufactured home. This includes what are typically referred to as single family homes.

Dwelling, duplex means a dwelling that is attached to one other dwelling separated by a party wall. The dwellings may be arranged in a side-by-side or vertical configuration and may be located on the same lot or separate lots.

Dwelling, Group. See *Group dwelling*.

Dwelling, manufactured home means a detached single-family dwelling designed for year-round, long-term human habitation and having complete living facilities; constructed and fabricated into a complete unit in a factory and capable of being transported to a location of use on its own chassis and wheels; identified by a model number and serial number by its manufacturer, meeting the manufacturer's association codes and designed primarily for placement on an impermanent foundation. Manufactured homes, meeting this definition are constructed on or after June 15, 1976.

Dwelling, mobile home means a detached dwelling designed for year-round long-term human habitation and having complete living facilities; constructed and fabricated into a complete unit in a factory and capable of being transported to a location of use on its own chassis and wheels; identified by a model number and serial number by its manufacturer. Mobile homes meeting this definition are constructed prior to June 15, 1976.

Dwelling, modular home means a dwelling unit which is fabricated in one or more modules at a location other than the home site by assembly-line type production techniques or by other construction methods unique to an off-site manufacturing process.

Dwelling, multi-unit means a building or portion thereof containing more than 2 dwelling units per building and located on a single lot. May include apartments or condominiums.

Dwelling, townhouse means a dwelling that is attached to other dwelling units in a side-by-side fashion. Attached Townhouse Dwellings may be located on separate lots or on a single lot.

Dwelling unit means a building or portion thereof providing complete housekeeping facilities for one family.

Easement means a legally defined portion of private property within which the owner has granted the use by another for a specified purpose.

Easement, Landscape means a recorded or recordable easement intended to protect a landscaped area or feature which may also stipulate maintenance, replacement plant material and granting access to landscape areas.

Housing, assisted living facility means a building or structure containing at least five dwelling units operated as one entity which is kept, used, maintained, advertised, or held out to the public as a place that provides or coordinates individualized support services to accommodate the individual's needs and abilities to maintain as much independence as possible.

Elderly housing, congregate care facility means a facility for long-term residence exclusively by persons 60 years of age or older, and which shall include, without limitation, common dining and social and recreational features, special safety and convenience features designed for the needs of the elderly, such as emergency call systems, grab bars and handrails, special door hardware, cabinets, appliances, passageways, and doorways designed to accommodate wheelchairs, and the provision of social services for residents which must include at least two of the following: meal services, transportation, housekeeping, linen, and organized social activities.

Elderly housing, lifecare or continuing care services means Nursing homes, rest homes, and convalescent houses which include individual dwelling units for the elderly as an integral part of the facility where the total floor area devoted to individual dwelling units does not exceed 70 percent of the total floor area of the entire facility.

Elderly housing, residential care facility means a facility consisting of independent and semi-independent dwelling units, each occupied by not more than two residents per dwelling unit, at least one of whom is 55 years of age or older; said facility shall have available on-site passive and active recreational facilities, supervised and

unsupervised activities, housekeeping assistance, and fulltime medical personnel to provide medical services, including but not limited to dietary and nutritional assistance and nursing care.

Emergency shelter means a facility providing room and board for a temporary period for victims of natural disaster, abuse, fire, crime, neglect, or economic hardship.

Electric Vehicle Charging levels means the standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. The terms 1, 2, and 3 (DC) are the most common charging levels, and include the following specifications:

- a) Level 1 is considered slow charging with 120v outlets.
- b) Level 2 is considered medium charging with 240v outlets, charging head and cord hard-wired to the circuit.
- c) Level 3 (DC) is considered fast or rapid charging. Voltage is greater than 240 volts.

Electric vehicle (EV) means a vehicle that operates, either partially or exclusively, on electrical energy from the electrical grid, or an off-grid source, that is stored on-board for motive purposes. "Electric vehicle" includes:

- a) Battery electric vehicle.
- b) Plug-in hybrid electric vehicle.

Electric vehicle charging stations (EVCS) means a public or private parking space that is served by battery charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

Electric vehicle infrastructure means conduit/wiring, structures, machinery, and equipment necessary and integral to support an electric vehicle, including battery charging stations and rapid charging stations.

Extraterritorial jurisdiction means the area outside the corporate boundaries of the city where the city is authorized by the N.D.C.C. to regulate development.

Evergreen Tree or Shrub. see Coniferous

Family means one or more persons, either related by blood, marriage, adoption or foster care of children, up to four unrelated individuals or a number of developmentally disabled individuals as specified in N.D.C.C. § 25-16-14 that occupy a dwelling unit and live as a single nonprofit housekeeping unit.

Fence means a physical or tangible barrier constructed of any allowable material erected for the purpose of providing a boundary or as a means of protection, or to prevent uncontrolled access, of humans or animals, or for decorative purposes, or to screen views of and/or prevent access to materials stored and operations conducted behind it.

Gas station means a building or lot having pumps and storage tanks where fuels, oils or accessories for motor vehicles are dispensed, sold or offered for sale at retail which may include incidental repair services so long as no storage or parking space is offered for rent.



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Final plat means a drawing with appropriate verbiage showing the division of land into lots, blocks, rights-of-way and easements that meets the requirements of this code for the subdivision of land and meets the requirements for recording with the county recorder.

Fireworks means any combustible or explosive composition, or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation. The term includes any blank cartridge, toy pistol, toy cannon, toy cane, or toy gun in which an explosive other than a toy paper cap is used; balloon that requires fire underneath to propel the balloon; firecracker, torpedo, skyrocket, Roman candle, daygo bomb, sparkler, or other item of like construction; item containing any explosive or flammable compound; or any tablet or other device containing any explosive substance. This section does not apply to any toy paper cap containing not more than twenty-five hundredths of a grain [16.20 milligrams] of explosive composition per cap.

Fireworks stand means the retail sales of fireworks. The following standards shall apply to all fireworks stands:

- a) Occurring outside corporate limits; and
- b) Being wholly contained within a trailer, tent, building or other structure, whether permanent or temporary; and
- c) Holding a fireworks sales permit as issued by the City of Mandan; and
- d) Holding a state retailer license; and
- e) Having a minimum of 1,600 sq. ft. area dedicated for customer parking. Additional parking may be required at the discretion of the city building official; and
- f) Having a minimum 500 ft. setback from all flammable and hazardous material storage areas and structures (e.g., gas stations).

Floodplain and related definitions. See section 101-10-4.

Floor area means the gross square footage of all floors of all buildings on a lot calculated from the exterior face of all outer walls or the centerline of a common wall between buildings.

Food truck/vendor means a temporary food service establishment that is vehicle and designed to be readily movable.

Funeral home or mortuary means a facility for the care and custody for the pre-disposition of deceased human remains, including the sale of services and merchandise for burial, cremation, and other related items, including offices, viewing rooms, chapels, and reception halls for serving the deceased and their families.

Freight Station. see *Transloading Facility*

Garage (private) means an accessory building or accessory portion of the principal building which is intended for and used for customary residential storage and hobbies and to store the private passenger vehicles, racing cars, recreational vehicles and equipment, and noncommercial trucks not exceeding twelve thousand (12,000) pounds' gross weight, of the family or families resident upon the premises.

Garage, parking means a building or portion of a building, except any herein defined as a "private garage" or as an automotive repair garage, used for the storage of motor vehicles or where any such vehicles are kept and in which any sale of gasoline, oil and accessories is only incidental to the principal use.

Garden center means an accessory use to a retail place of business where retail and wholesale products and produce are sold to the consumer. These centers, which may include a nursery and/or greenhouses, import most of the items sold, and may include plants, nursery products and stock, potting soil, hardware, power equipment and machinery, hoes, rakes, shovels, and other garden and farm variety tools and utensils.

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Greenhouse or nursery means a retail business whose principal activity is the growing and/or selling of plants in both in enclosed building and may also include outside areas for storage, growing, or display.

Gross residential density means the number of families residing on, or dwelling units developed on, land within a subdivision divided by the total area of the subdivision expressed in dwelling units per gross acre.

Ground Cover means living plants designed to grow low to the ground (generally one foot or less) and intended to stabilize soils and protect against erosion.

Group dwelling. See section 101-7-5(2).

Group Living means a category of housing that generally does not fit within the definition of a “family” because of the number of unrelated residents. Commonly recognized as an important component of the community that must be accommodated but can have external impacts related to their size and outside services provided. Examples include fraternity/sorority homes, sober living homes, group homes, or boarding homes.

Hazardous materials means any substance that because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes but is not limited to hazardous substances and hazardous wastes.

Hotel means a building in which lodging, with or without meals, is provided and offered to the public for compensation, and which is open to transient guests.

Impervious surface means the horizontal area covered by any material that substantially reduces or prevents the infiltration of stormwater on a lot. Impervious surfaces include but are not limited to roofs, driveways, streets, sidewalks, and parking lots paved with asphalt, concrete, paving bricks or blocks, compacted sand, compacted gravel, or packed clay.

Interior lot means a lot other than a corner lot.

Junkyard means the use of any portion of a property, whether inside or outside a structure, for the storage or keeping of metals, rags, paper, other scrap materials, used lumber, salvaged house-wrecking debris, structural steel and other materials and equipment or the dismantling or demolition of motor vehicles, other vehicles, machinery or parts thereof.

Kennel means an establishment where customary household pets are boarded for compensation or where customary pets are bred or raised for sale purposes within an indoor facility and may also include designated outdoor exercise areas.

Landscaping means any area that is devoted and maintained to the growing of shrubbery, lawns, trees, vines, hedges, bedding plants, and other plant material, along with screening materials mulch, decorative rock and other ground covers.

Landscaping, Street Tree(s) means any permitted tree installed along a public or private named street.

Landscaping, Perimeter Buffer means a landscape area around the perimeter of any lot or parcel, excluding public right -of-way and driveways or walkways, which is planted with deciduous and coniferous trees and shrubs that will upon maturity provide a year round screen and buffer between differing uses or zoning districts in order to reduce the negative impacts of higher intensity land uses on lesser intensity adjacent land uses using a combination of plantings, space and width, providing access to the facility.

Landscaping, Vehicle parking area screening means a landscaped area or areas defining the perimeter or exterior boundary of off-street parking or loading areas, including access lanes or similar paved area, but excluding

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driveways or walkways providing access to the facility (as applied to parking and loading facilities or to similar paved areas).

Landscaping, Interior Vehicle Parking Area means a planted area consisting of trees, shrubs and other plant material that are provided within off-street parking areas to provide shade, off-set the heat island effects of parking lot and drive aisle hard surfaces.

Landscape, Xeriscape means a set of garden design and landscape maintenance principles that promote good horticultural practices and efficient use of water with plant material that is native, drought-tolerant and/or of low water use in character.

Livestock means any animal customarily kept by humans for the purpose of providing food, clothing, or work, including but not limited to equine, bovine, ovine, caprine, porcine, and fowl, but excluding pets, bees, and chickens permitted at a household scale.

Livestock Market means a commercial establishment for holding livestock for purposes of sale or transfer by auction, consignment, or other means.

Local street. See *Street, local*.

Lot means a tract, plot or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for development.

Lot, auditor's. See *Auditor's lot*.

Lot, corner. See *Corner lot*.

Lot Coverage, Building means the entire area bounded by the perimeter of the ground or first floor of all buildings and covered structures. Building overhangs that extend more than two feet from the edge of the building shall be included from lot coverage calculations.

Lot Coverage, Impervious means the entire area of all impervious surfaces such as concrete, asphalt non-pervious brick, stone, concrete pavers off-street parking areas and hard-surfaced walkways, patios, recreation courts and other similar hardscape features on site and any areas consisting of gravel pack, excluding those areas for buildings as defined.

Lot depth means the average distance between the front and rear lot lines.

Lot, interior. See *Interior lot*.

Lot line, rear. See *Rear lot line*.

Lot width means the average width of a lot measured at right angles to its depth. For lots fronting on a cul de sac, or other irregularly-shaped lots, the lot width shall be measured at the required front setback line.

Lot, zoning. See *Zoning lot*.

Major street. See *Street, Arterial*.

Major subdivision means any subdivision or re-subdivision of land not classified as a minor subdivision.

Manufactured home. See *Dwelling, manufactured home*.

Manufactured home park means a plot or parcel of land, under single ownership, which has been improved for purposes of locating manufactured home dwellings.

Manufactured home site means a parcel of land within a manufactured home park designed and improved for the accommodation of not more than one manufactured home as a single-family residence.

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Manufactured home subdivision means a parcel of land, subdivided into lots, in which the majority of the lots may be individually owned and utilized as a site for placement of a single-family manufactured home and its facilities.

MARC means the Mandan Architectural Review Commission.

Marina means any facility for the mooring, berthing, storing, or securing of watercraft but not including community piers and other non-commercial boat docking and storage facilities. A marina may include boat sales, boat fuel sales, boat construction, boat repair, marine equipment sales, or promotional events, boat and jet ski rental, and other uses clearly incidental to watercraft activities.

Master plan. See *Comprehensive plan*.

Master subdivision plan means a document indicating the general street layout, land use density, existing public improvements, proposed public and private improvements, including parks, open space, drainage areas, streets, utilities and other such data that is submitted to the commission prior to or simultaneously with a preliminary plat.

Mayor means the president of the board, as defined in the N.D.C.C.

Medical marijuana dispensary means a specialty drugstore holding a state permit to dispense medical marijuana.

Metes and bounds means a series of lines around the perimeter of an area; metes means bearing and distances and bounds refers to monuments both physical and legal.

Microbrew pub means a facility that manufactures no more barrels of fermented malt beverage than outlined in N.D.C.C. § 5-01-14 per year for wholesale, for sale directly to consumer, or for consumption on the premises. A brewer taproom may be co-located within a restaurant or be a separate stand-alone facility.

Minor street. See *Street, Local*.

Minor subdivision means the division of a parcel of land, or the adjustment of property lines or easements within a parcel of land that meets certain restrictions in Chapter 109 of this code.

Mixed use means the development of a tract of land or building or structure with two or more different uses such as but not limited to residential, office, retail, public, or entertainment, in a compact urban form.

Mobile home. See Dwelling, mobile home and similar Dwelling, Manufactured Home and Dwelling, modular Home.

Mobile home park. see Manufactured home park.

Mobile home site. see Manufactured home site.

Mobile vendor means a transient business selling or delivering food or goods in the city. Includes food truck vendors.

Modular home. see Dwelling, modular home.

Motor vehicle body shop means any building or portion thereof used for the repair or straightening of a motor vehicle body or frame or painting of motor vehicles. Maintenance, service, and engine repair may be performed as an ancillary function of the body work.

Motor vehicle sales means a retail business primarily housed in a structure and characterized by a mixture of related uses upon a commercial site; however, the principal use of the site shall be the marketing of new or used automobiles, whether by sale, rent, lease, or other commercial or financial means. Secondary supporting uses may also exist upon the same site, such as maintenance, repair and service areas, parts storage areas, and financial service areas.

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Motor vehicle general repair and service means the business of repairing, detailing, overhauling, removing, adjusting, replacing, assembling, or disassembling parts of any motor vehicle.

Motor freight terminal means a building or area in which freight brought by motor truck is assembled and/or stored for routing in intrastate or interstate shipment by motor truck.

Multi-use shop means two or more attached units that are designed and constructed as a single structurally dependent building or designed and constructed to allow individual units to be structurally independent from each other sharing a common wall on one or more sides. These are sometimes referred to as "shop-condos". They are unique from a commercial strip mall in that they often include a large overhead garage door or Recreational Vehicle bay and rarely include the retail of products and visitation by the general public.

Museum means a building or occupancy serving as a repository for a collection of natural, scientific, or literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be used by members of the public for viewing, with or without an admission charge, and which may include as an accessory use the sale of goods to the public as gifts or for their own use.

Mulch means any material such as chipped wood, bark, straw, or other materials left loose and applied to the soil surface to reduce evaporation and mulch products sold bagged or loose for landscaping purposes.

Net residential density means the number of families residing on, or dwelling units developed on, land within a subdivision computed by counting the number of residential lots and dividing by the total acreage of only the lots expressed as dwelling units per net acre.

Nonaccess line means a line on a subdivision plat prohibiting direct vehicular access from the platted area to an adjoining street or public right-of-way.

Nonconforming use means an activity conducted in a building or structure, or on a tract of land, which was established legally but does not conform to the current use regulations of this chapter for the zoning district in which it is located.

Nonconforming structure means a structure, which was lawfully existing at the time of adoption, revision, or amendment of the zoning ordinance, that no longer conforms to the site area, coverage, setback, or other open space, height, or other regulations prescribing physical development standards for the district in which such structure is located.

Nonconforming structure or use, illegal means a structure or activity that did not legally exist prior to the adoption of this ordinance and does not conform with the current ordinance or use requirements for the district in which it is located.

Nuisance means anything, condition, or conduct that endangers health and safety, or unreasonably offends the senses, or obstructs the free use and comfortable enjoyment of property, or essentially interferes with the comfortable enjoyment of life.

Occupiable area means any enclosed space inside a building envelope and intended for human activities, including, but not limited to, all habitable spaces, toilets, closets, dwelling unit halls, storage and utility areas, laundry, office, work areas, dining, congregate, recreational, areas and areas for the display of merchandise for sale, but not including any building integrated parking areas, building maintenances, indoor trash/recycling collection areas storage, utility areas, and circulation corridors.

Open Space or yard means the area on a lot that is unoccupied by building, structures or part thereof, excluding those allowed projections into yard.

Official master plan means a document adopted by ordinance approved by the city commission that establishes the location and width of streets, ways, plazas, open spaces, and public easements, and the location of parks and

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playgrounds, and the establishment of public rights in lands shown thereon in conformance with the requirements of N.D.C.C. § 40-48-02.

Office means a room, suite of rooms, or building in which a person transacts the affairs of a business, profession, service, industry, or government. Includes medical and dental offices.

Office-bank Group. See section 101-7-5(7).

Open Space means those areas of a lot which, except as provided by this ordinance, are to remain unbuilt and which shall not be used for parking, storage, or display.

Owner means a person or other entity having legal title to, or sufficient proprietary interest in, the land sought to be subdivided under this subpart.

Outdoor sales, permanent means the display and sale of products and services outside of a building or structure, including vehicles, garden supplies, gas, motor oil, food and beverages, boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and similar materials or items.

Outdoor sales, temporary or seasonal means any business or use (primary or accessory) that is conducted primarily outside of a building or structure, which may include but not be limited to: retail sales of garden supplies and equipment; roadside stands for the sale of fruits and vegetables, plants, flowers, holiday yard decorations, patio furniture, outdoor grills, recreational equipment, personal mobility devices, fireworks; and other similar uses.

Overlay zoning district means an area where certain additional requirements are superimposed upon a base zoning district or underlying district and where the requirements of the base or underlying district may or may not be altered unless expressly superseded by overlay district provisions.

Parking area, off-street means a site or a portion of a site, devoted to the off-street parking of vehicles, including parking spaces, aisles, access drives, and landscaped areas, and providing vehicular access to a public street.

Parking garage or parking ramp means a structure for the parking of vehicles. **Parking, commercial lot** means a parcel of land or portion thereof used for the parking or storage of motor vehicles as a commercial enterprise for which any fee is charged independently of any other use of the premises.

Passenger terminal means a building or other structure designed for the gathering of individuals waiting for the arrival of a bus passenger train or airplane.

Perennial means any non-woody plant such as flowers, bulbs and grasses that live for more than two year which typically die back during hard frosts and re-emerges in spring, either from the ground or remnants of woody stems.

Pet means one of the following taxonomically identified animals:

- a) Mammalian Genus species;
 - a. Canis familiaris, the domestic dog, and
 - b. Fells catus, the domestic cat;
- b) Mammalian Families;
 - a. Leporidae, rabbits,
 - b. Muridae, gerbils, hamsters, mice and rats, and
 - c. Mustelidae, ferret;
- c) Avian Orders;
 - a. Psittaciformes, parrots, parakeets, lories, budgerigars, and cockatiels,

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- b. Passeriformes, canaries and finches, and
- c. Columbiformes, pigeons and doves;
- d) Reptilian Groups;
 - a. Squamata, lizards and snakes; and
 - b. Testudine, turtles.

Pet grooming means a facility for the cosmetic care and maintenance, with no overnight boarding, of pets.

Pet hospital or veterinary clinic means a facility devoted to the medical care and associated services for the limited number of animals defined as pets.

Plat, auditor's. See *Auditor's lot*.

Plat, final. See *Final plat*.

Plat, preliminary. See *Preliminary plat*.

Portable building means any structure that is either mounted on wheels or transportable on a flatbed trailer that is designed and constructed to provide for living or sleeping quarters for one or more persons or for the conduct of a business, profession, trade, or occupation.

Portable storage container means a standardized, reusable vessel that is or appears to be: (1) originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, or (2) designed for or capable of being mounted or moved on a rail car, or (3) designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

Portable cargo storage container yard facility means a facility where cargo containers are stored, transshipped manufactured, and/or recycled.

Preliminary plat means the concept drawing indicating the proposed manner or layout of the subdivision.

President of the board means the mayor, as used in this Code and defined in the N.D.C.C.

Principal building means a structure in which is conducted the primary activity of the lot on which it is situated.

Private garage means an accessory building or part of a principal building used for the storage of motor vehicles, trailers or miscellaneous tools, equipment and household goods as an accessory use.

Public improvement means any portion of a water system, drainage system, sanitary sewer system, roadway, parkway, sidewalk, multi-use path, tree, berm, boulevard, lawn, parking area, lot improvement or other facility for which the city or another public entity will ultimately assume ownership or responsibility for operation and maintenance.

Public thoroughfare means any public right-of-way or easement, including highway, avenue, boulevard, parkway, street, road, lane, walk, alley, viaduct, subway, tunnel and bridge, which affords access to abutting property.

Racetrack means a measured course where animals or machines are entered in competition against one another or against time, including tracks used only in the training of animals. A racetrack may include seating, concession areas, suites, and parking facilities.

Rear lot line means the lot line generally opposite to the front lot line.

Rear yard means an open area extending across the full width of the lot and lying between the rear lot line and the rear building setback line.

Recreation Equipment means courts, swimming pools, play structures, unoccupied boats and trailers, picnic tables, lawn chairs, barbecue stands, sandboxes, poles for nets, tree houses and playhouse and associated apparatus for any of these such as swing sets and slides.

Recreational vehicle means a vehicle which is:

- a) Built on a single chassis.
- b) 400 square feet or less when measured at the largest horizontal projections.
- c) Designed to be self-propelled or towable by a light duty truck.
- d) Designed for use as temporary living quarters for recreational camping, travel, or seasonal use, including, but not limited to, travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

Record lot means any land designated as a separate and distinct parcel on a legally recorded subdivision plat or in a legally recorded deed filed in the office of the county recorder.

Redevelopment or redeveloped portion means the demolition and replacement of any building or structure or an addition to an existing building or structure resulting in an increase of gross square footage of more than 25 percent. The redeveloped portion of an existing development shall be the portion of the existing development reasonably affected, in the opinion of the City Planner, by the redevelopment.

Refrigerated cold storage locker means a facility for the warehousing of perishable food.

Registered land surveyor means a person properly licensed and registered in the state to prepare drawings of property for recording.

Residential density—Gross. See *Gross residential density*.

Residential density—Net. See *Net residential density*.

Resubdivision means a change in the sealed and signed drawing of an approved and recorded subdivision plat, also known as a subdivision replat.

Religious institution means a building used for public worship by a congregation, which may include accessory residential, educational, recreational or other uses not normally associated with worship. Includes churches, chapels, cathedrals, temples, and similar designations.

Road. See *Street*.

Road right-of-way width means the distance between property lines, measured at right angles, to the centerline of the street.

Rooming house means a dwelling in which more than two rooms are let for hire or more than four persons are given lodging for compensation.

Safety services means uses that provide public safety and emergency response services, including fire stations, police stations and emergency medical and ambulance stations.

Schools means an institution for the teaching of students including, but not limited to, primary and secondary schools, colleges, professional schools, dance schools, business schools, trade schools, art schools, and similar facilities along with any school support facilities required to maintain efficient operation of a school or school system but which are not directly related to the academic program of study.

Screening means a method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms, or densely planted vegetation.

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Self-propelled mobile home means a self-propelled vehicle containing living facilities, including the terms "house car" and "motor home," which was designed for temporary dwelling, generally for travel and recreational use, and licensed by a state as a motor vehicle.

Setback means the required distance between a structure and the lot lines of the lot on which it is located.

Sale or lease means any immediate or future transfer of ownership or possessory interest in land, whether by metes and bounds, deed, contract, plat, map, devise, intestate succession, or other written instrument.

Self-propelled motor home means a vehicle, including recreational vehicles and buses, licensed by a state as a motor vehicle, containing living facilities designed for temporary dwelling.

Sight triangle means an area of unobstructed vision at the intersections of streets, alleys and driveways. The purpose of the sight triangle is to ensure visibility for operators of motor vehicles, bicycles and pedestrians on intersections of streets, driveways and alleys.

Site plan means a submitted, prepared, and approved plan, drawn to scale, showing uses and structure proposed for a parcel of land as required by the regulations. Includes lot lines, streets, building sites, reserved open space, buildings, landscape features both natural and manmade and, depending on requirements, the locations of proposed utility lines.

Sign means any device for visual communication which is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or governmental agency or of any civic, charitable, religious, patriotic or fraternal or similar organization. The definitions for various types of signs are in section 105-1-15.

Single-family dwelling means a freestanding building containing one dwelling unit.

Short term rental housing means the rental of a dwelling or group of dwellings for the provision of temporary accommodations for the general public. Stay duration may range from one night to 30 days. These may include, but are not limited to: entire dwellings, rooms within a dwelling, attached and detached accessory dwelling units, and bed and breakfast establishments.

Shrub means an acceptable and hardy species of a deciduous or evergreen shrub with a mature height of at least three (3) feet.

Solar energy collection means any solar collector or other solar device or any structural design of a building whose primary purpose is to collect, convert and store solar energy for useful purposes including heating and cooling of buildings, domestic water heating, electric power generation and other energy using processes.

Sketch plan means a rough design of a proposed development used when meeting with staff prior to the formal submission of a preliminary plat.

Skirting, Manufactured Home means a durable weather-resistant material used to enclose the space from the bottom of the manufactured home to grade that ensures stability, minimizes vibrations, susceptibility to wind damage, animal nesting, and condensation, and compensates for possible frost heave. Also known as *underpinning*.

Solar Access means unobstructed access to direct sunlight on a lot or building through the entire year, including access across adjacent parcel air rights, for the purpose of capturing direct sunlight to operate a solar energy system.

Solar Carport means a solar energy system of any size that is installed on a carport structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities.

Solar Collector means the panel or device in a solar energy system that collects solar radiant energy and transforms it into thermal, mechanical, chemical, or electrical energy. The collector does not include frames, supports, or mounting hardware.

Solar Energy System means a device, array of devices, or structural design feature, the purpose of which is to provide for generation or storage of electricity from sunlight, or the collection, storage and distribution of solar energy for space heating or cooling, daylight for interior lighting, or water heating.

Solar Energy System, Building-Integrated means a solar energy system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

Solar Energy System, Ground-Mounted means a solar energy system mounted on a rack or pole that rests or is attached to the ground excluding community-scale solar energy systems. Ground-mounted systems are accessory to the principal use.

Solar Energy System, Roof-Mounted means a solar energy system mounted on a rack that is fastened to or ballasted on a structure roof. Roof-mounted systems are accessory to the principal use.

Solar Energy System, Community-Scale means a commercial solar energy system that converts sunlight into electricity for the primary purpose of serving electric demands off-site from the facility, either retail or wholesale. Community-scale systems are principal uses and projects typically cover less than 20 acres.

Steep slope means those areas of land characterized by a change in elevation of 15 percent or more.

Storage building and warehouse means a facility for the storage of cars, boats, household items, furniture, and other nonperishable items in a warehouse-style building.

Storage unit means a locker or garage-style space that is rented for the storage of personal possessions that is typically contained in a structure having multiple units of varying size that may or may not be climate controlled.

Story means that portion of a building, excluding a basement, included between the surface of any floor and the surface of the floor next above it or if there is no floor above it, then the space between the floor and the ceiling next above it.

Street means a pathway for vehicles to travel from place to place and includes street, highway, avenue, boulevard, parkway, lane, alley, viaduct, subway, tunnel, bridge, public easement and right-of-way.

Street, arterial means a road intended to move large volumes of through traffic and provide access to collector and neighborhood streets and limited direct access to lots. Principle and There are two types of arterial streets.

Street, collector means a road intended to move traffic from local streets to arterials and provide circulation within a development.

Street, dead-end means a road or portion thereof with only one vehicular traffic outlet.

Street, local means a road intended to provide access to other streets from individual properties and to provide right-of-way above and beneath it for utilities.

Street, major. See *Street, arterial*.

Street, minor. See *Street, local*.

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Street grading plan means a scale-accurate drawing or set of drawings depicting street grade elevations at various points within the private and public rights-of-way, according to standards established by the city engineer's office.

Street naming plan means the criteria for naming streets within the city developed and administered by the county's emergency management department.

Structural alteration means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any structural change in the roof.

Structure means anything constructed or erected which requires location on the ground or is attached to something having a location on the ground, including, but not limited to, buildings, advertising signs, billboards, and poster panels, but not including fences or boundary or retaining walls.

Subdivider means any person or group of persons, including anyone acting as an authorized agent for a landowner, who, directly or indirectly, causes land to be subdivided.

Subdivision means the division of a tract or parcel of land into lots 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 such lots, and the creation of new or enlarged parks, playgrounds, plazas or open spaces.

Subdivision grading plan means a scale-accurate drawing or set of drawings depicting elevations at various points throughout the subdivision as required by standards established by the city engineer.

Subdivision, major. See *Major subdivision*.

Subdivision, minor. See *Minor subdivision*.

Telecommunication transmission tower means any pole, spire, structure or combination hereof, including supporting lines, cables, wires, braces and mast, designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers or monopole towers. A telecommunication tower may include, but not be limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and personal communication service towers.

Telecommunication transmission tower and antenna height means the height of a freestanding telecommunication transmission tower and antenna shall be measured as the distance from ground level to the highest point on the tower, including the antenna. The height of a rooftop communication antenna shall be measured as the distance from the point where the base of the tower and antenna is attached to the roof, to the highest point on the supporting structure, including the antenna.

Temporary use means a use intended for limited duration to be located in a zoning district not permitting such use on a permanent basis.

Transloading means a type of intermodal shipping, which is the process of using multiple modes of transportation to move goods.

Transloading facility means a shipping yard that transfers goods between different modes of transportation, such as trucks and trains and may include intermodal distribution facilities for truck or shipping transport.

Travel trailer means a vehicular portable structure having no foundation other than wheels or jacks, designed to be used as a temporary dwelling for travel and recreational activities, which is not more than eight feet in body width.

Travel trailer park means a plat or parcel of land, under single ownership, which has been improved for the purposes of locating travel trailers.

Travel trailer site means a parcel of land within a travel trailer park designed and improved for the accommodation of not more than one travel trailer.

Treatment facility means any use established under N.D.C.C. § 10-19.1 or 10-33 which:

- a) Is licensed under N.D.C.C. 23-16 or 23-17 that provides public or private emergency evaluation or treatment, outpatient care and inpatient care to persons suffering from a mental disorder or chemical dependency, operated by the department of human services or under contract with said department;
- b) Is licensed by the department of human services under N.D.C.C. § 25-03.2; or
- c) Provides care, custody, treatment, day activity, work activity, extended employment services and other treatment or services to developmentally disabled persons or persons suffering from any mental or physical disability.

Tree means a plant having at least one well-defined stem or trunk and normally attaining a mature height of at least fifteen (15) feet, with an average mature spread of 15 feet, and having a trunk that shall be kept clear of leaves and branches at least six feet above grade at maturity.

Tree, Large Coniferous means an acceptable and hardy species of coniferous tree that will reach a mature height of at least thirty (30) feet.

Tree, Large Deciduous or Shade means an acceptable and hardy species of broad leaf tree that lose their leaves each fall that generally will reach thirty (30) feet or taller at maturity which help to provide shade.

Tree, Ornamental means an acceptable and hardy species of broad leaf tree that lose their leaves each fall that generally will reach a mature height of ten (10) to thirty (30) feet at maturity which are known for their visual interest- flowers, berries, bark character and unique colors.

Tree, Small Coniferous Tree means an acceptable and hardy species of coniferous tree that will reach a mature height of at least ten (10) feet but no greater than thirty (30) feet.

Tree, Street means a tree that is currently located or proposed for planting along streets or highways. Such tree can be located on private property or on publicly held land. A street tree is strategically planted—usually in boulevard planting strips, medians, or along streets—to enhance the visual quality of a street, calm traffic, and provide shade.

Tree caliper means the diameter of a tree measured four feet above finished grade measured 6 inches above the root collar for trees.

Truck stop means an establishment designed for the fueling, servicing, repair, or parking of tractor trucks or similar heavy commercial vehicles including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers, or restaurant facilities primarily for the use of truck crew.

Unit, dependent means a mobile home, travel trailer or self-propelled mobile home without bath or shower and toilet facilities.

Unit, nondependent means a mobile home, travel trailer or self-propelled mobile home with bath, shower and toilet facilities.

Underpinning, Manufactured Home. See Skirting, Manufactured Home

Use means:

- a) Any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied;

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- b) Any occupation, business, activity or operation carried on, or intended to be carried on, in a building, other structure or on land; or
- c) A name of a building, other structure or tract of land which indicates the purpose for which it is arranged, designed, intended, maintained or occupied.

Use Group means two or more activities similar in physical characteristics, traffic generation, location, utility services or municipal service requirements.

Uses permitted means activities permitted by this subpart's regulations.

Veterinary clinic or animal hospital means any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to dogs, cats, or other comparable household pets and where animals may be boarded during the day and overnight as needed related to their care.

Winery means a facility that manufactures no more cases of wine than outlined in N.D.C.C. § 5-01-17 per year produced on-site and available for wholesale, for sale directly to consumers on-site, or for consumption on the premises. A winery may be co-located within a restaurant or be a separate stand-alone facility.

Wireless communications facility means any fixed tangible asset usable for the purpose of providing wireless transmission of voice, data, images or other signals or information including, but not limited to, telecommunications, cellular telephone service, personal communications service and paging service. A wireless communications facility includes antennas and accessory equipment. A wireless communications facility does not include an underlying wireless support structure.

Yard means an open space on a lot which lies between a building and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as may be specifically provided in this subpart.

Yard, front means an open space extending across the full width of a lot between the front lot line or the proposed front street line and nearest line of the building or any enclosed portion thereof. The depth of such yard is the shortest horizontal distance between the front lot line or proposed front street line and the nearest point of the building or any enclosed portion thereof.

Yard, rear means an open space extending across the full width of lot between the rear line of the lot and the nearest line of the building, porch, or projection thereof. The depth of such yard is the shortest horizontal distance between the rear lot line and the nearest point of the building.

Yard, side means an open space extending from the front yard line to the rear yard line between the side lot line and the nearest line of the building.

Zero setback dwelling unit means a structure or portion of a structure containing one dwelling unit that is built up to the lot line.

Zoning lot means a parcel of land meeting the minimum dimensions and other requirements for a lot as specified in each zoning district.

Sec. 101-7-2 Nonconforming uses.

- 1) *Regulations.* Any lawful use of land or building existing at the date of passage of the ordinance from which this chapter is derived, and located in a district in which it would not be permitted as a new use under the regulations of this chapter, is declared to be a nonconforming use, and not in violation of this chapter at the date of the adoption of the ordinance from which this chapter is derived; provided, however, a nonconforming use shall be subject to, and the owner shall comply with, the following regulations:

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- a) *Certificate of occupancy.* After the adoption of this chapter the owner of a nonconforming use shall be notified by the building inspector of the provisions of this chapter. Within 30 days after the receipt of said notice, the owner shall apply for and be issued a certificate of occupancy for the nonconforming use. The applications for such certificate shall designate the location, nature and extent of the nonconforming use and such other details as may be necessary for the issuance of the certificate of occupancy. If the owner of a nonconforming use fails to apply for a certificate of occupancy within 30 days after receipt of the foregoing notice, the use ceases to be nonconforming and is declared to be in violation of this chapter. The building inspector and city attorney shall take appropriate action to enjoin such violation. If the building inspector shall find upon reviewing the application for a certificate of occupancy that the existing use is illegal or in violation of other ordinances or laws, or if the building inspector finds that the building for which the certificate is requested has been constructed or altered for the existing use of any other use without full compliance with the building code or zoning ordinance in effect at the time of construction or alterations, the building inspector shall not issue the certificate of occupancy, but shall declare such use to be in violation of this chapter.
- b) *Extension of nonconforming use.* The nonconforming use of a building may be extended throughout any part of a building clearly designed for such use, but not so used at the date of the adoption of this chapter. No nonconforming use may be extended to occupy neither any land outside the building nor any additional building not used for such nonconforming use at the date of adoption of this chapter. The nonconforming use of land shall not be extended to any additional land not so used at the date of the adoption of this chapter.
- c) *Additions, repairs and alterations of nonconforming use.* No building used for a nonconforming use shall be enlarged, extended, reconstructed or structurally altered, unless the use is changed to one which complies with the provisions of this chapter; provided, however, repairs and maintenance work may be carried out each year in an amount to not exceed 25 percent of assessed value of the building for that year, but such repairs and maintenance work shall not increase the cubical content of the building nor the floor area devoted to the nonconforming use, nor shall it increase the number of dwelling units provided in a building. Nothing in this chapter shall be deemed to prevent the strengthening nor repair of a building which may be necessary to restore the building to a safe condition or to improve the sanitary condition of the building, provided that such strengthening and repair may not be used to restore a building contrary to the provisions of subsection (4) of this section. Nothing in this chapter shall prevent the issuance of a building permit to structurally alter a building, provided that the nonconforming use is reduced and such alteration does not increase the cubical content of such a building.
- d) *Destruction of nonconforming use.* If any building in which there is a nonconforming use is damaged by fire, flood, explosion, wind, war, or other catastrophe, in an amount equal to or greater than 50 percent of its assessed valuation, it shall not be again used nor reconstructed to be used for any use except one complying with the provisions of this chapter for the district in which it is located.

Notwithstanding the foregoing provisions of this paragraph, any principal nonconforming use or structure devoted in whole or in part to a residential use that is damaged or destroyed by any means, to the extent of more than 50 percent of its structural value prior to the damage, may be restored, repaired, or rebuilt in its entirety if all of the following conditions are met:

- i) The building or structure is located in a district that permits residential uses;
- ii) The building or structure will be reconstructed in conformance with existing ordinance requirements pertaining to floodplain development;
- iii) The building or structure will not occupy any portion of the lot that was not occupied by the destroyed structure;

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- iv) The building or structure will not have a greater floor area than the destroyed structure;
- v) The building or structure will not exceed the height or number of stories contained in the destroyed structure;
- vi) The number of off-street parking spaces located on the property will not be reduced from the number available before the damage; and
- vii) The building permit for the repair or restoration is obtained within six months of date of the damage and restoration begins within one year of the date of the damage.
 - (1) An extension may be requested through the engineering and planning department if necessary and will be granted in the department's discretion.
- e) *Moving nonconforming use building.* Any building in which there is a nonconforming use shall not be moved unless it is moved to a district in which the use for which the building was designed is permitted by this chapter, and the building complies with the requirements of the building code of the city for such type use. If any building in which there is a nonconforming use is moved any distance whatsoever, the building shall thereafter be used only in compliance with the provisions of this chapter for the district in which it is located.
- f) *Change of nonconforming use.* A nonconforming use may be continued in accordance with the provisions of this section but it shall not be changed to any other use except that one which would be permitted as a new use in the district in which the building is located.
- g) *Discontinuance of nonconforming use.*
 - i) If, for any reason, a nonconforming use of land ceases for a continuous period of more than 30 days, the land shall thereafter not be used except in compliance with the provisions of this chapter for the district in which the land is located.
 - ii) If, for any reason, a nonconforming use of a building ceases for a continuous period of more than six months, the building shall thereafter not be used except in compliance with the provisions of this chapter for the district in which the building is located.
- h) *Continuance of nonconforming use.* Any legal nonconforming use, except those listed in subsection (9) of this section, may be continued. The certificate of occupancy issued by the building inspector for a nonconforming use shall state that the use may be continued indefinitely or, for those uses listed in subsection (9) of this section, that the use must be discontinued. All periods of time shown in subsection (9) of this section shall begin 31 days after receipt by the owner of notice of the provisions of this chapter. Upon application to the Board of Adjustment, the board may, in certain cases, extend the date of the certificate of occupancy for one period of time not to exceed the limit indicated in subsection (9) of this section.
- i) *Period of continuance for nonconforming uses.* Certain nonconforming uses, indicated in the following table, shall be discontinued at the expiration of the periods of time shown, or at the expiration of one extension period, as provided in subsection (h) of this section:

Period of Nonconforming Use	Limit of Continuance	Extension
Loam stripping	30 days	10 days
Garbage, trash dump	30 days	10 days

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Livestock, feeding	90 days	90 days
Junk, auto wrecking yard	180 days	30 days
Sand, gravel extraction	1 year	60 days
Other open uses of land	1 year	60 days
Billboard	180 days	30 days

Sec. 101-7-3. Supplementary provisions.

The regulations specified in this chapter shall be subject to the following supplementary provisions.

1) Structures excluded from height limits.

- a) A building height limit set forth in this chapter shall not apply to belfries, chimneys, domes, flagpoles, flues, monuments, cupolas, telecommunication transmission towers, spires, tanks, water towers or similar structures, or to bulkheads, elevators, water tanks or similar roof structures and mechanical appurtenances. No such structure located on a roof shall have a total area greater than 25 percent of the roof area of the building; nor shall such structure be used for any residential purpose or any commercial or industrial purpose other than a use incidental to the main use of the building.

2) Projections into yards.

- a) Steps, stairways, terraces and un-roofed porches or decks may extend into any minimum front or rear yard up to six feet and into any minimum side yard up to four feet, provided, however, that the floor thereof is no higher than that of the entrance to the building.
- b) Chimneys may extend into any minimum yard up to two feet.
- c) Business signs may be located in the front yard setback. If located within a sight triangle they must meet the dimensional requirements specified in section 101-14-1-11(c)
- d) No such feature shall be located closer than three feet to a lot line.
- e) Eaves, window sills, and other projects may extend one foot into required side, front and rear yards.

3) Yards.

- a) *Corner or double frontage lot setbacks.* For any corner or double frontage lot, the front yard setback requirement for the zoning district shall apply to any yard that fronts on a public right-of-way. For purpose of determining side yard and rear yard setbacks, the primary front yard from which the other setbacks are established shall be that yard corresponding to the location of the front door. Whenever a private street or access is used, the front yard setback shall be measured from the back of the street curb or edge of pavement if no curb.
- b) *Existing yard depth standards.* When the majority of lots in a block has, prior to the enactment of this chapter, been lawfully occupied with buildings having a less than or greater front, rear, or side yard depth than required by these regulations, all building hereafter erected or altered shall have a yard depth within five feet of the average depth of all existing lot yards. This regulation shall be applicable for corner lots and double frontage lots in which the setbacks for front yards shall be calculated using same yards of the properties on the block face. When it is unclear where measurements shall be made the building official and zoning administrator shall determine all reference lot measurements and may if necessary include a

larger sample size of using lots on neighboring blocks provided they are on the same side of the street and within the same district.

4) Fences and walls.

- a) Fences and walls may be placed in any yard setback area provided that the height of fences and walls adjacent to a street, alley or driveway shall be lowered to three feet within a sight triangle as specified in section 101-7-3(11)).
- b) Fences located in the front yard of a residential property shall be no taller than four feet. Fences located in the side or rear yard of a residential property shall be no taller than six feet.
- c) Fences for non-residential properties shall be no taller than seven feet.

5) Mixed uses.

- a) Any building containing two or more dwelling units and space designed or used for commercial or industrial purposes shall comply with all requirements for multifamily dwellings in the district in which it is located; provided, also, that no such building designed or used for mixed residential and other uses shall be permitted in any district in which multifamily dwelling is not permitted.

6) Residential entranceway.

- a) In all residential districts, so-called entranceway structures, including, but not limited to, walls, columns, gates, and historic street markers marking entrances to single-family subdivisions or multiple housing projects, may be permitted and may be located in a required yard, provided that such entranceway structures shall comply with all codes of the city, and all state codes, and shall be approved by the zoning administrator.

7) Outdoor Sales and Storage. (Commercial equipment, bulk materials).

- a) No site shall allow outdoor storage of equipment or materials (including construction and landscaping materials, agricultural products, scrap materials, etc.) unless such storage areas are screened from view of adjacent public streets. If the property on which outdoor storage will occur is adjacent to a residentially zoned or used property, the outdoor storage must meet the setback requirements of the principal structure and be screened from view of the adjacent residential properties.
- b) Outdoor sales within Retail Group B requires the submittal of a site plan to be approved by the City.

8) Use of tents.

- a) Tents are not permitted, except for temporary use in a developed campground, manufactured home park, or in the back yard of a developed residential lot with a permanent residential structure.

9) Use of RV as residence.

- a) Other than in a developed campground or RV park, an RV or similar movable dwelling unit may not be used as a permanent dwelling unit on a lot. Temporary use for a limited time by a family member or visitor who does not pay rent is permitted. Temporary use while building a permanent structure on the property is regulated elsewhere in this Code.

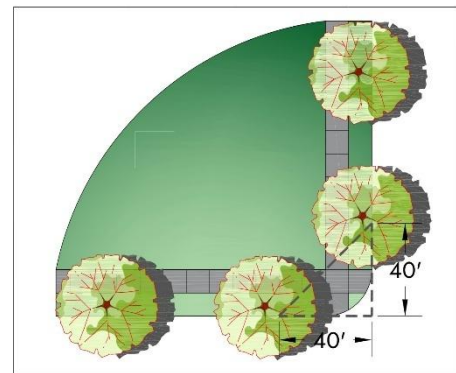
10) Lighting.

- a) Light Direction and Shielding:
 - i) All lighting used for off-street parking areas, signs, or structures must be designed and installed to prevent light from directly shining onto adjoining residential properties or public streets.
 - ii) Light sources must be shielded or hooded to minimize light spill onto adjacent properties.

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- b) Glare Control:
- i) Direct glare or sky-reflected glare from floodlights or high-temperature processes (e.g., combustion or welding) is prohibited from being directed onto adjoining properties.
 - ii) Bare light bulbs visible from adjacent properties or public rights-of-way are not permitted.
- c) Light Intensity Limit:
- i) Lighting that reaches residential properties may not exceed four foot-candles, as measured at the property boundary.
- d) Exemptions:
- i) This section does not apply to sports stadiums, athletic fields, or public recreational facilities.
- 11) **Sight triangle.** Nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of three feet (3') and ten feet (10') above street grade where it will interfere with motor vehicle, bicyclist or pedestrian visibility at a street intersection or intersection of a street and a driveway or alley to a public way.
- a) **Corner Lots:** 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 three feet (3') and ten feet (10') within forty feet (40') from the intersecting curb lines, or within twenty-five feet (25') from the intersecting property lines if there is no curb.
 - b) **Alleys and Driveways:** Wherever an alley or driveway intersects with a street, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of three feet (3') and eight feet (8') within forty feet (40') from the intersection of the street curb lines with the edge of the alley or driveway, excluding any driveway apron flairs or 15 feet from the intersection of the lot line with the alley driveway if there is no curb.
 - c) **Exception:** Corner lots in zoning districts in which the required front yard and/or side yard setbacks are zero (e.g., DC and DF) may be exempt from this requirement, based on roadway geometry and the presence of a traffic control device if approved by the city engineer.
 - i) No sight triangle is required for intersections that are traffic light controlled.
 - ii) For intersections that are only partially controlled with stop signs, the sight triangle is only applied to the side streets that have stop signs.
 - iii) The depth of the sight triangle is limited to the boulevard area of the public right-of-way.

FIGURE 101-7-3.A: SIGHT TRIANGLE EXHIBIT



- d) The City Engineer may require the submittal of a sight distance analysis to review whether a unique and specific sight distance triangle is warranted for any intersection that occurs with a arterial street. The sight distance analysis must evaluate the visibility particular intersection or roadway section to determine if the existing sight lines are adequate for safe traffic movement considering travel speeds, roadway and lane design or geometry, physical obstructions, traffic controls, and topography/grade.
- e) No new vegetation may be planted within a sight triangle for a street or alley unless it, in its mature state, can be maintained such that it meets the requirements of the applicable sight triangle.
- f) Existing vegetation located within a sight triangle for a street or alley shall be maintained such that it meets the requirements of the applicable sight triangle.
- g) Existing vegetation that cannot be maintained such that it meets the requirements of the applicable sight triangle need not be removed unless it creates an obvious danger to the ability of drivers and pedestrians to see past it on arterial or collector streets.
- h) The trunk of a required street trees may be planted so that a portion of its size at maturity extends into the site triangle up to 14 inches and provided all foliage is trimmed and maintained to meet these requirements. Throughout early growth years after a tree is planted foliage must be trimmed in accordance with this section so long as it does not impact the trees viability and strikes a balance between clear sight lines and tree health.
- i) Utility, Light and Traffic Control poles less than 14 inches in diameter shall be exempt from these requirements so long as no two are located in close proximity to create a larger visual barrier than 14 inches wide.

Sec. 101-7-4. Accessory uses.

In addition to permitted principal uses listed within each zoning district, it is the intent of this section to permit, in each district, those uses customarily incidental and accessory to any principal use permitted in the district. Such permitted accessory uses are specifically listed as follows, and any listed use is permitted on the same lot with the principal use to which it is incidental:

1) Accessory uses to Dwellings.

- a) Private garage used for the storage of non-commercial vehicles, commercial vehicles with a rated capacity less than 2.5 tons and personal property.
- b) Private greenhouse or vegetable, fruit or flower garden from which no products are sold or offered for sale.
- c) Children's playhouse and playground equipment.
- d) Shed or other accessory building for storage of equipment used in grounds or building maintenance or home occupation.
- e) Outdoor enclosures and structures for pets and chickens as defined in this Code.
- f) Private swimming pool and bath house.
- g) Statuary, trellises, barbecue stoves, fireplaces or similar features.

2) Accessory Uses to Commercial and Industrial Uses.

- a) Playground equipment.
- b) Sheds or accessory storage structures.
- c) Outdoor swimming pools.

- d) Outdoor fireplaces/fire pits.

3) Accessory Uses to Religious Institutions.

- a) Parish house, together with any use accessory to a dwelling as listed in subsection (1)a. of this section.
- b) School.
- c) Bulletin board not to exceed 20 square feet in area.
- d) Commercial kitchen and/or food distribution.

4) Accessory Uses to the Health Group.

- a) Accessory buildings containing residence accommodations for staff.
- b) Accessory buildings providing utility and maintenance services for the primary use.

5) Home occupations.

- a) Home occupations are permitted within a dwelling as a use that is clearly incidental and subordinate to the principal residential use, subject to the following requirements:
 - i) No employees are permitted other than the occupants of the dwelling.
 - ii) Storage of business inventory is permitted, but no stock in trade shall be displayed or sold upon the premises.
 - iii) No alteration of the principal building that changes the character thereof as a dwelling.
 - iv) No illuminated sign is used, and no sign other than one giving the name and occupation, and not more than one square foot in area, is displayed.
 - v) No more area than 25 percent of the area of the primary dwelling, whether located in the primary building or an accessory building, is devoted to the home occupation.
 - vi) A home occupation shall not require regular or frequent deliveries of goods or materials of such bulk or quantity, nor the parking of customer or client's vehicles in numbers or frequency, over and above the normal traffic associated with the dwelling as a residence.
 - vii) The home occupation shall not cause any noise, odors, effluent, smoke, dust, vibrations, electrical interference, bright or flashing light, or other objectionable conditions that would interfere with the quiet enjoyment of the residential neighborhood in which it is located.

6) Accessory dwelling unit.

- a) An accessory dwelling unit (ADU) is a dwelling unit containing facilities for housing one family that is completely separate from the primary dwelling unit. An ADU may be located either within the principal building or in or attached to an accessory building. An ADU has a separate entrance from the outside of the structure in which it is located. ADUs must meet the following standards:
 - i) The use must be a listed an accessory or conditional use within the district in which it is located.
 - ii) No more than one accessory dwelling unit may be permitted on a lot or parcel.
 - iii) The primary or accessory dwelling unit must be occupied by the owner of the parcel as a legal residence for more than six months of any given year. The owner may be a benefited person in a private trust.
 - iv) The floor area of an accessory dwelling unit may not exceed 40 percent of the habitable floor area of the principal dwelling and may not be greater than 800 square feet.

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- v) A new accessory dwelling unit may be added, in compliance with all building codes, as follows:
 - (1) Conversion of a portion of an existing primary or accessory structure into a separate accessory dwelling unit;
 - (2) Expansion of an existing structure that is in compliance with all setback, lot coverage and height requirements of the underlying zoning district;
 - (3) Construction of a new structure containing a detached dwelling unit and an accessory dwelling unit; or
 - (4) Construction of a new accessory structure containing a dwelling unit on a lot with an existing primary structure containing a dwelling unit.

7) Accessory structures.

- a) *Location.*
 - i) Accessory buildings in RM residential developments with three or more units, as well as in commercial, industrial, and agricultural districts, must meet the location requirements for principal buildings.
 - ii) In R3.2, R4, R7, RH and RMH residential districts, and for properties with two or fewer units in RM residential, accessory structures shall be located in the rear yard and shall be at least three feet from a rear or side lot line or less than five feet from an alley line.
 - iii) In the case of a corner lot, accessory structures, other than a detached garage, shall be located along the rear half of the adjoining residential lot's side lot line. A detached garage on a corner lot must be set back 25 feet from the side street property line or a distance equal to the setback of the principal building on the adjoining residential lot, whichever distance is greater.
 - iv) In the case of a double frontage lot, with public streets on the front and rear sides of the lot, an accessory building shall follow the required front yard setback standards of the district along the rear public street.
 - v) Accessory buildings containing a garage door that faces an alley must be set back at least ten feet from the alley in order to accommodate the turning radius of a vehicle. When the property has no existing parking spaces other than the area for the proposed accessory building or has more than one dwelling unit, the minimum setback for an accessory building containing a garage door facing the alley must be 25 feet in order to allow space for parking of a vehicle in front of the garage door.
- b) *Use.* Other than where zoning allows accessory dwelling units, or where an accessory dwelling unit is permitted on a commercial or industrial zoned property, no accessory building may be used for dwelling purposes.
- c) *Structures included.* Any structure, whether open or closed in, that is not part of a principal building. A garage having any part of its wall in common with a dwelling or being attached to a dwelling by a breezeway or roofed passageway up to six feet long shall be considered a part of a principal building.
- d) *Number.* For residential lots up to 10,000 square feet, two accessory buildings are allowed. For residential lots greater than 10,000 square feet up to 20,000 square feet, three accessory buildings are allowed. For residential lots exceeding 20,000 square feet, four accessory buildings are allowed.
- e) *Surface.* Except for storage sheds not exceeding 120 square feet, no accessory building shall have an outer surface of corrugated or sheet metal. Materials and/or siding that compliments the primary structure are required for accessory structures.

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- f) *Timing.* Construction of the principal structure must have commenced before construction of an accessory structure may proceed.
 - g) *Size.*
 - i) For RM-zoned properties with two or fewer units, R3.2, R4, R7, RH and RMH districts, the total square footage of all accessory buildings may not exceed ten percent of the lot area and the maximum size of any accessory building shall be no greater than 75 percent the size of the primary structure on the lot.
 - ii) For multifamily projects with three or more units zoned RM, and the CA, and CB and CC districts, the total square footage of all accessory buildings may not exceed 20 percent of the lot area.
 - iii) In the RR and A districts, the maximum size of an accessory structure is 3,200 square feet.
 - h) *Structure coverage.* The total area of all structures on the lot may not exceed the maximum structure coverage established for the zone in which the lot is located.
 - i) *Height.* The maximum height of an accessory building is 16 feet to the midspan of the roof system or 25 feet to the peak of the roof, whichever is less. The maximum wall height is ten feet.
 - i) In the RR and A districts, the maximum height of an accessory building is 25 feet to the midspan of the roof system or 25 to the peak of the roof, whichever is less. The maximum wall height is sixteen feet.
 - j) *Water and sewer.* Any accessory building that is connected to water and sewer must have a frost protected foundation.
- 8) **Pole structures.** Pole structures are not permitted in R7, R3.2, R4, RH, RM, RMH, RR, CA, CB, and CC, MA, MB, and MX districts.
- 9) **Portable storage containers.**
- a) General requirements. Container usage in all zoning districts as allowed in this section is subject to the following requirements.
 - i) Containers shall not occupy any required building setback area, easement, landscaped area or buffer yard.
 - ii) Containers shall not be placed within a sight triangle as defined in section 101-1-3.
 - iii) Containers shall be included in lot coverage computations.
 - iv) Containers shall be rodent-proof.
 - v) Containers shall be subject to the provisions of the Fire Code concerning fire department access and hydrant blockage.
 - vi) Containers may not be placed in the public right-of-way unless for construction purposes or as approved by the city engineer.
 - vii) Containers loaded on trailers are subject to Chapter 24, Article 7 of this Code as it relates to stopping, standing and parking.
 - b) Portable storage containers in industrial zoning districts
 - i) Portable storage containers are allowed in the MA and MB Industrial Zoning Districts.
 - ii) A container that is not temporary in nature may only be used in a manner that would result in the container being subject to taxation as real property and subject to all applicable provisions of the

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Building Code, Zoning Ordinance, Architectural Review and Drainage and Stormwater Management Ordinance.

- c) Portable storage containers in commercial zoning districts.
 - i) Portable storage containers are allowed in the CA, CB and CC Commercial Zoning Districts for the purpose of off-street storage of seasonal merchandise during the following time periods: November 1 through January 15, and April 1 through June 15.
- d) Portable storage containers in residential zoning districts.
 - i) Portable storage containers may be adaptively reused for residential accessory purposes provided that the exterior of the structure matches the principal structure.
 - ii) Portable storage containers may be adaptively reused as a residential building material.
- e) Portable storage containers—Other requirements in non-industrial zoning districts. Container usage in any non-industrial zoning district is allowed only as follows:
 - i) Residential moving. Containers may be used for a period not to exceed 30 days for the purpose of off-street loading or unloading furniture and other household goods associated with residential relocation. An extension, if needed, may be provided at the discretion of the Planning Department.
 - ii) Off-street loading and unloading. Semi trailers in the process of transferring goods and merchandise may occupy a site for up to 48 hours for loading and unloading purposes.
 - iii) Parking lot truckload sales, fund raising activities or similar promotional or charitable events which utilize containers are permitted for a period not to exceed 30 days within any 90-day period.

Sec. 101-7-5 Use Groups.

1) *Decision matrix.*

- a) In order to carry out the purposes of this chapter, certain uses having similar characteristics are classified together as use groups. In any district in which a use group is permitted, it is the intent of this chapter to permit any particular member of that use group to locate within that district. The uses listed are examples of uses that fit the category. Not every possible use is listed. Should an application for a use that, in the opinion of the city planner, is not listed within a use group, the city planner shall evaluate the proposed use applying the criteria and following the procedure listed below.
- b) *Criteria.*
 - i) The actual or projected characteristics of the specific use in relationship to the stated characteristics of the various use groups.
 - ii) The amount of site area, floor space and equipment required for the use.
 - iii) The frequency and type of sales activity generated by the use.
 - iv) The nature of the customer interaction generated by the use, i.e., on site, remote access, daily or infrequent.
 - v) The number of employees required per shift for the use.
 - vi) The hours of operation.
 - vii) The building site arrangement and access requirements for the use.
 - viii) The types of vehicles or equipment used in association with the use.

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- ix) The number of vehicle trips generated by the use per day of the week over the course of a week, month and year.
 - x) The means by which the use advertises itself.
 - xi) Whether the use is likely to be located independent of other uses on the site or established in a shared use environment.
 - c) *Procedure.* The decision of the planner may be appealed to the Commission, either by the applicant or an adjoining property owner, within 15 days of the decision. If the city planner determines that the proposed use does not fit within any use group or zoning district, a request shall be forwarded to the Commission for review and recommendation as to the disposition of the request for approval of the specific use.
- 2) **Group dwelling.** A group dwelling is a building used for residential purposes.
- a) Distinguishing characteristics of a group dwelling include:
 - i) The occupants are normally unrelated;
 - ii) Separated cooking facilities are not provided for individuals or groups of individuals;
 - iii) Persons residing in the building are domiciled more or less permanently, in contrast to the transient characteristic of occupants of hotels, treatment facilities or bed and breakfast facilities; and
 - iv) Correctional facilities are not included.
 - b) The following uses are examples of a group dwelling:
 - i) Boardinghouse or rooming house;
 - ii) Convent or monastery;
 - iii) Fraternity or sorority house; and
 - iv) Group home licensed by the department of human services.
- 3) **Retail Group A.** A use in Retail Group A is one in which the principal activity is the retail sale of fresh, freshly prepared or packaged food products, merchandise and associated services conducted primarily within an enclosed building.
- a) Distinguishing characteristics of uses in Retail Group A include:
 - i) Use is dependent to some extent on the proximity of other retail and service establishments;
 - ii) Merchandise is not of such nature as to require transport to the customer's premises in any vehicle larger than a pickup or small delivery truck; and
 - iii) No incidental manufacturing or processing is carried on in such a manner as to produce offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.
 - b) The following are examples of Retail Group A uses:
 - i) Antiques, collectibles or recycled items;
 - ii) Appliances and electronics rental and sales;
 - iii) Art, hobby or craft supplies;
 - iv) Camera sales and service, photo supplies or photographic studio;
 - v) Jewelry, clock and watch sales, cleaning and repair;

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- vi) Books and other printed materials, except those regulated under the Adult Use provisions of this chapter;
 - vii) Recorded video or music for rental or sale, except those regulated under the Adult Use provisions of this chapter;
 - viii) Musical instrument rental, sale and repair;
 - ix) Butcher shop, retail sales bakery, delicatessen, fast food, full service restaurant, coffee shop or other eat-in or take-out food preparation establishment;
 - x) Ice cream or candy store;
 - xi) Department store, variety store or specialty merchandise including sporting goods or exercise equipment;
 - xii) Drugstore or pharmacy;
 - xiii) Flowers, gifts or greeting cards;
 - xiv) Furniture and accessories including bedding, home furnishings and office equipment;
 - xv) Office supplies including copying or shipping services;
 - xvi) Groceries and household items;
 - xvii) Hardware, tools, equipment, supplies and accessories;
 - xviii) Auto parts, supplies, accessories and outdoor activity supplies with no servicing or repair of vehicles;
 - xix) Package liquor;
 - xx) Pets and pet supplies with associated grooming and dog daycare services;
 - xxi) Medical marijuana dispensary; and
 - xxii) Fireworks stand.
- 4) **Retail Group B.** A use in Retail Group B is one in which the principal activity is the sale of merchandise, vehicles or equipment.
- a) Retail Group B is differentiated from Retail Group A as follows:
 - i) Merchandise is generally larger;
 - ii) Land area required is generally larger;
 - iii) Merchandise is of such a nature as to require 50 percent or more of the space within the building for storage of the merchandise;
 - iv) Merchandise is of such a nature as to be stored or customarily displayed outside a fully enclosed structure; and
 - v) The success of the activity is not dependent upon the proximity of uses in Retail Group A or other uses in Retail Group B.
 - b) The following are examples of Retail Group B uses:
 - i) Auto, truck, motor cycle, off-road, boat, construction equipment and farm implement sales, service, leasing and rental;
 - ii) Lumber yard and related merchandise, tools and equipment sales, including incidental mill work;

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- iii) Feed, grain and farm supply sales;
 - iv) Trailer, RV and manufactured home sales and service; and
 - v) Greenhouse or nursery.
- 5) **Service Group A.** A use in Service Group A is one in which the principal activity is providing a service with accompanying sale of merchandise, parts or supplies.
- a) Distinguishing characteristics of uses in Service Group A include:
 - i) Dependent to some extent on the proximity of other retail and service establishments; and
 - ii) Operations are carried on in such a manner as to produce no offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.
 - b) The following are examples of Service Group A uses:
 - i) Barber or beauty shop;
 - ii) In shop repair of carry in items;
 - iii) Dressmaker, milliner or tailor;
 - iv) Dry cleaning, laundry or laundromat;
 - v) Furniture repair or upholstering;
 - vi) Animal hospital or clinic;
 - vii) Pet grooming and dog daycare;
 - viii) Shoe and other leather goods repair;
 - ix) Undertaking establishment, mortuary or funeral home; and
 - x) Child care center.
- 6) **Service Group B.** A use in Service Group B is one in which the principal activity is providing a service with accompanying sale of merchandise, parts or supplies.
- a) Service Group B uses are differentiated from Service Group A uses as follows:
 - i) Its success is not dependent upon the proximity of other retail or service uses;
 - ii) Repair or service operations are such as to produce some offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located; and
 - iii) The use may be conducted around the clock.
 - b) The following are examples of Service Group B uses:
 - i) Carwash, either automatic or self-service;
 - ii) Auto, truck or equipment repair;
 - iii) Kennel;
 - iv) Taxicab or bus company office with overnight vehicle parking;
 - v) Commercial garage or parking lot; and
 - vi) Mobile cleaning, repair and restoration services.
 - vii) Level 3 EV Charging

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- 7) **Office-Bank Group.** A use in the office-bank group is one in which the principal activity is the conduct of a commercial, governmental, financial, professional or management function.
- a) The use is generally conducted in a lobby and office type setting mostly during normal weekday business hours with customer traffic throughout the day.
 - b) The following are examples of Office-Bank Group uses:
 - i) Bank, credit union or financial services company;
 - ii) Governmental services;
 - iii) Professional offices;
 - iv) TV or radio station broadcast studio; and
 - v) Medical or dental clinic, or urgent care facility.
- 8) **Commercial recreation Group.** A use in the commercial recreation group is one in which the principal activity is the furnishing of recreation for a profit.
- a) Distinguishing characteristics of uses in the commercial recreation group include:
 - i) Alcoholic beverages may be offered for sale for consumption on the premises; and
 - ii) The activity is not operated by a governmental agency.
 - b) The following are examples of commercial recreation group uses:
 - i) Bowling alley;
 - ii) Campground
 - iii) Dance hall;
 - iv) Pool hall, video game room or billiard parlor;
 - v) Roller or ice-skating rink;
 - vi) Sports arena;
 - vii) Tavern, saloon, bar;
 - viii) Theater;
 - ix) Water park;
 - x) Fitness center;
 - xi) Racetrack; and
 - xii) Marina.
- 9) **Wholesale Group.** A use in the wholesale group is one in which the principal activity is the sale of merchandise to individuals and corporations for resale to the public.
- a) Distinguishing characteristics of uses in the wholesale group include:
 - i) The merchandise offered for sale is stored wholly within a completely enclosed building that may be fully climate controlled for the products being stored;
 - ii) No unusual fire or safety hazard is caused by the storage of the product or merchandise;
 - iii) No live animals are housed in the facility; and

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- iv) No junked, wrecked motor vehicles, secondhand equipment, other salvaged material or dead animals are stored or sold on the premises.
- b) The following are examples of wholesale group uses:
 - i) Newspaper or magazine distribution;
 - ii) Food, beverage, alcohol and grocery distribution
 - iii) Wholesale materials sales;
 - iv) Electrical equipment and parts;
 - v) Furniture, appliances and home furnishings;
 - vi) Paper or plastic products;
 - vii) Pumps, pipe and associated parts; and
 - viii) Vehicle parts and tires.
- 10) **Health-medical Group.** A use in the health-medical group is one in which the principal activity is related to the care and medical treatment of human beings.
 - a) Facilities include anything up to and including a full service hospital with all support functions including emergency medical transportation.
 - b) The following are examples of health group uses:
 - i) Hospital licensed under N.D.C.C. § 23-16;
 - ii) Nursing home licensed by the department of health under N.D.C.C. § 23-16;
 - iii) Assisted living facility registered with the department of human services; and
 - iv) Congregate care facility.
- 11) **Education Group.** A use in the education group is one in which the principal activity is the education of children or adults. Sports activities linked to an educational entity are included.
 - a) The activity can be directed at any age group and be operated by a public, private or religious group.
 - b) The following are examples of education group uses:
 - i) Pre-school;
 - ii) College or junior college; training facilities
 - iii) Grade school;
 - iv) High school or middle school;
 - v) Kindergarten;
 - vi) Private or parochial schools offering a curriculum substantially equivalent to that offered by public schools;
 - vii) Student or faculty dormitory;
 - viii) Stadium, gymnasium or field house;
 - ix) Utility or maintenance service building;
 - x) Administrative building; and
 - xi) Athletic field.

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- 12) **Public Recreation Group.** A use in the public recreation group is one in which the principal activity is public recreation and which is carried on by a governmental agency.
- a) The activity may be similar to a use in the commercial recreation group. Alcoholic beverages may be offered for sale for consumption on the premises.
 - b) The following are public recreation group uses:
 - i) Sports complex;
 - ii) Golf courses;
 - iii) Museum;
 - iv) Park;
 - v) Playground; and
 - vi) Swimming pool.
- 13) **General Farming Group.** A use in the general farming group is one which is customarily carried on in nonurban areas. It is the intent of this chapter to permit as an integral part of any particular use in the general farming group all customary accessory buildings for breeding and rearing poultry and livestock and for the storage of feed and farm crops.
- a) Uses in the general farming group include:
 - i) Dairy farming;
 - ii) Fur farming;
 - iii) Greenhouse or nursery;
 - iv) Animal husbandry;
 - v) Farrowing operation;
 - vi) Poultry hatchery;
 - vii) Animal feedlot;
 - viii) Riding stable;
 - ix) Farming – crops;
 - x) Beekeeping; and
 - xi) Livestock market.
- 14) **Industrial Group A.** A use in Industrial Group A is one involving manufacturing or the storage and sale of heavy building materials or equipment.
- a) Uses must conform to the following requirements:
 - i) There is no unusual fire, explosion or safety hazard;
 - ii) There is no production of noise at any boundary of this district in which such use is located in excess of the average intensity of street and traffic noise at that point;
 - iii) There is no emission of smoke in excess of any density described as No. 1 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 2 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any 30-minute period;

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- iv) There is no emission of dust, dirt, or toxic or offensive odors or gas; and
 - v) There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.
 - b) Uses in Industrial Group A may include but are not limited to:
 - i) Manufacture, compounding, processing, packaging, treatment, or assembly of materials and products, but excluding the use in any operation of a punch press over 20 tons rated capacity, a drop hammer, or an automatic screw machine;
 - ii) Experimental laboratories; and
 - iii) The following uses, when conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall, compact hedge or uniformly painted board fence, not less than six feet in height:
 - (1) Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the principal use, but excluding concrete mixing;
 - (2) Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors; and
 - (3) Public utility service yard or electrical receiving or transforming station.
- 15) **Industrial Group B.** A use in Industrial Group B is one involving manufacturing or the storage or sale of products and material and in which the operations create a greater degree of hazard or more annoyance than the operations of uses in Industrial Group A.
- a) Uses in Industrial Group B must conform to the following requirements:
 - i) The design and the operation of the building, and design and use of the premises, fully comply with all special requirements established by this article;
 - ii) There is no emission of smoke in excess of a density described as No. 2 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 3 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any 30-minute period;
 - iii) There is no emission of toxic gases or fumes; and
 - iv) There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.
 - b) Uses in Industrial Group B may include but are not limited to:
 - i) Any use listed in Industrial Group A and involving the use of punch press over 20 tons rated capacity, a drop hammer, or an automatic screw machine, provided that all other requirements for Industrial Group B uses are complied with;
 - ii) Any other use listed under Industrial Group A which cannot comply with the requirements of an Industrial Group A use, provided that all requirements for an Industrial Group B use are complied with; and
 - iii) Manufacture, compounding, processing, refining and treatment of the following material and products:
 - (1) Acetylene,
 - (2) Alcohol,

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- (3) Asphalt,
 - (4) Brick, tile or terracotta,
 - (5) Concrete products or mixing, or concrete or asphalt batch plants subject to the standards in section 101-11-5,
 - (6) Electric steam power plant,
 - (7) Lampblack,
 - (8) Oilcloth or linoleum,
 - (9) Paint, shellac, turpentine, lacquer or varnish,
 - (10) Paper or pulp,
 - (11) Petroleum products,
 - (12) Plastics,
 - (13) Industrial-scale manufacturing of beer, whiskey, or alcoholic beverages, other than uses called out in section 101-7-1,
 - (14) Stove or shoe polish, and
 - (15) Tar or tar products.
- iv) Junkyards, per the requirements of section 101-11-18.
- v) Any of the following uses, provided that it shall be located not closer than 500 feet from any zone in which it is prohibited:
- (1) Cement, lime, gypsum, or plaster of Paris manufacturing,
 - (2) Distillation of bones,
 - (3) Drop-forge industry, manufacturing of forging with power hammer,
 - (4) Fat rendering, except as an incidental use,
 - (5) Fertilizer manufacturing,
 - (6) Garbage, offal, or dead animal reduction,
 - (7) Gas manufacture,
 - (8) Petroleum refining,
 - (9) Smelting of tin, copper, zinc or iron ores,
 - (10) Soap manufacture,
 - (11) Stockyards or feeding pens,
 - (12) Slaughter and packing of animals and meat products, and
 - (13) Tannery or curing or storage of raw hides.
- vi) Bulk storage of petroleum and petroleum products.
- vii) Pipe yard or storage, sale or rental of oil and gas well-drilling equipment.
- viii) Feed and fuel yard.

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- 16) **Utility Service Group.** A use in the utility Service Group is a facility or structure necessary for the safe or efficient operation of a telecommunications, gas, water, electric, refuse, storm sewer or sanitary sewage system that serves more than an individual property or a subdivision. Facilities that provide service to individual properties or a subdivision are not part of the utility Service Group, are considered permitted uses and do not require any conditional use review by the Planning and Zoning Commission or the city commission.
- a) The distinguishing characteristics of utility Service Group uses are:
 - i) The utility which the structure or use serves is one available to the general public;
 - ii) The design and location of the premises and structure is in full compliance with all requirements of state and federal regulations governing the operation of the utility;
 - iii) The design and location of the premise and structure is reasonably necessary to provide service for a reasonable period of time with projected growth considered;
 - iv) Except for electrical distribution installations, when a side of the lot on which the use is located adjoins a lot in a residential district or adjoins a residentially developed lot in a multi-use district there shall be planted and maintained a landscaped strip no less than five feet in width on that side of the lot;
 - v) Proper fencing with lot entrances shall be erected at least six feet high and maintained around all installations and structures in which there is any safety hazard whatsoever for children, provided that all structures shall be so located that such safety fence shall be so placed as not to encroach on any front yard required in the district in which the use is located; and
 - vi) For the proper operation of the utility, it is necessary that the proposed use be located on, or within a short distance of, the site on which it is proposed to be located.
 - b) Uses in the utility group may include, but are not limited to:
 - i) Telecommunication transmission tower;
 - ii) Electric transformer station;
 - iii) Regional electric transmission line;
 - iv) Sewage pumping station;
 - v) Water pumping station;
 - vi) Water reservoir;
 - vii) Gas pressure regulator station;
 - viii) Solid waste recycling center;
 - ix) Stormwater detention facility;
 - x) Stormwater pumping station; and
 - xi) Wireless communications facility.
- 17) **Assembly Group.** A use in the assembly group is typically a gathering place for the general community or a specific group. Uses may include, but are not limited to:
- a) Religious institutions.
 - b) Accessory uses commonly associated with a religious institution, including: schools, serving of food, housing for clergy members or others associated with the religious group, and emergency shelter during natural disasters or community emergencies.

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- c) Distribution of food (either cooked, in a dining room setting, or food supplies for use at home).
- d) Occasional use of assembly group buildings by other groups for personal, social or community events.
- e) Community Center.
- f) Civic organization meeting hall or lodge.

ARTICLE 8. ZONING DISTRICTS ESTABLISHED; ZONING MAP³

Sec. 101-8-1. Division of city into districts.

For the purposes of these regulations, the city is divided into districts.

- 1) A Agricultural.
- 2) Residential districts.
 - a) RR Residential.
 - b) R7 Residential.
 - c) R4 Residential.
 - d) R3.2 Residential.
 - e) RM Residential.
 - f) RH Residential.
 - g) RMH Residential Mobile Home.
- 3) Commercial districts.
 - a) CA Neighborhood Commercial.
 - b) CB Commercial.
 - c) CC Commercial.
 - d) DC Downtown Core.
 - e) DF Downtown Fringe.
- 4) Industrial districts.
 - a) MA Light Industrial.
 - b) MB Industrial.
 - c) MX Industrial
- 5) Special purpose districts.
 - a) Planned unit development.
 - b) F Floodplain.
 - c) Gateway Overlay and Memorial Highway Overlay.
 - d) NMU Neighborhood Mixed Use
 - e) CMU Corridor Mixed Use
 - f) Levee Buffer and Overlay District.

³State law reference(s)—Zoning districts authorized, N.D.C.C. § 40-47-02.

Sec. 101-8-2. Boundaries of districts and zoning map.

The location and boundaries of districts established in the city are shown on the official zoning map of the city. The map entitled "Zoning Map of the City of Mandan, North Dakota" is on file in the office of the city planner or engineer. This map is made a part of this chapter. This map shall reflect the ordinances adopted prior to, and all ordinances adopted after, the effective date of this chapter relating to the boundaries of the zoning districts. The city planner or engineer is authorized and directed to make the necessary changes upon the official zoning map of the city in accordance with such ordinances as they are from time to time adopted.

Sec. 101-8-3. Interpretation of district boundaries.

Where uncertainties exist as to the boundaries of the various districts as shown on the zoning map accompanying and made a part of this chapter, the following rules shall apply:

- 1) District boundary lines are intended to follow street, alley or lot lines, or lines parallel or perpendicular thereto, unless such district boundary lines are fixed by dimensions as shown on the zoning map.
- 2) Where district boundaries are indicated as approximately following street or alley lines or proposed street or alley lines, such lines shall be construed to be such boundaries.
- 3) Where district boundaries are so indicated that they approximately follow lot lines and are not more than ten feet distant therefrom, such lot lines shall be such boundaries.
- 4) Where land within the city limits is not subdivided into lots and blocks, or where district boundary lines are not approximately street, alley or lot lines, the district boundary lines on the zoning map shall be determined by the scale shown on such map, and where uncertainty exists, the district boundary line shall be determined by the Board of Adjustment by written decision.
- 5) Any street, alley or railroad right-of-way, watercourse, channel or body of water included on the zoning map shall, unless otherwise indicated, be included within the zoning district of adjoining property on either side thereof. Where such street, alley, right-of-way, watercourse, channel or body of water serves as a boundary between two or more different zoning districts, a line midway in such street, alley, right-of-way, watercourse, channel or body of water and extending in the general direction of the land dimension thereof shall be considered the boundary between zones. If a dedicated street or alley shown on the zoning map is vacated by ordinance, the property formerly in said street or alley shall be included within the zone of adjoining property on either side of said vacated street or alley. In the event said street or alley was a zone boundary between two or more different zones, the new boundary shall be the former centerline of said vacated street or alley.
- 6) All land and/or territory not specifically included within a district or which is annexed to the city after the date of adoption of this chapter shall follow the zoning map amendment procedures as adopted by the city at the time of application if a zoning amendment is desired. Where uncertainty exists as to the existing zoning classification of the subject property to be annexed, the property shall be required to follow the zoning map amendment procedures as adopted by the city at the time of application to determine proper zoning.

ARTICLE 9. ZONING DISTRICT REGULATIONS

Sec. 101-9-1. A Agricultural District.

In any A Agricultural District, the following regulations shall apply:

- 1) *General description.* The A Agricultural District is established as a district in which the predominant use of land is for general agricultural uses. For the A Agricultural District, in promoting the general purposes of this chapter, the specific intent of this section is as follows:
 - a) To encourage the continued use of the land for agricultural uses.
 - b) To prohibit scattered commercial and industrial uses of the land and to prohibit any other use which would interfere with an integrated and efficient development of the land for more intensive urban uses as the city expands.
 - c) To discourage any use which, because of its character or size, would create unusual requirements and costs for public services, such as police and fire protection, water supply and sewage before such services could be expanded efficiently in the normal development of the city.
- 2) *Permitted Uses.*
 - a) On a record lot having an area of less than ten (10) acres, but not less than 1.5 acres, the following uses are permitted:
 - i) Dwelling, detached.
 - ii) Public recreation group.
 - iii) Fire station.
 - iv) General farming group.
 - v) Utility service group.
 - vi) Fireworks stand.
 - vii) Cemetery.
 - viii) In-home childcare.
 - ix) Animal shelter.
 - b) In addition to the permitted uses listed above, the following uses are permitted for lots having an area of ten (10) acres or more:
 - i) Airport.
 - ii) Golf course.
 - iii) Animal hospital or kennel.
 - iv) Commercial stables.
- 3) *Permitted Uses with Additional Standards.*
 - a) Public Safety and Emergency Response Facilities

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- 4) *Conditional Uses.* Conditional uses may be permitted, on a specific site only after review and approval by the Planning and Zoning Commission and ratification by the City Commission provided they meet the standards in Section 101-4-4 and any applicable standards listed in Article 11: Specific Use Standards.
- a) Assembly group.
 - b) Education group.
 - c) Oil and gas well.
 - d) Radio or television transmitting station.
 - e) Sand or gravel extraction.
 - f) Sewage treatment plant.
 - g) Animal hospital.
 - h) Public recreation group.
 - i) Winery, brewery, distillery.
 - j) You-pick farms.
- 5) *Accessory Uses.*
- a) Accessory structures.
 - b) Recreation equipment.
 - c) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted subject to Section 101-11-28.
 - d) Level 1 and Level 2 EV Charging.
- 6) Development Standards

A Agricultural District Standards	
Standards	Specifications
Minimum lot coverage	No more than 30% of the total area of the lot.
Minimum lot area	1.5 acres and 100 feet width no less than 100 feet measured along the front building line.
Minimum lot width	50 feet along a public street or private access easement configured in conformance with fire code emergency access standards
Minimum front yard setback	40 feet
Minimum side yard setback	20 feet
Minimum rear yard setback	20 feet
Maximum building height	No detached dwelling shall exceed 35 feet in height. No principal building for any other permitted use shall exceed 50 feet in height.

- a) *Building Housing Livestock or Poultry:* No building which houses livestock or poultry shall be less than 50 feet from any residential building on an adjacent lot, nor shall such building be less than 50 feet from the boundary of any lot in a residential or commercial district.

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- b) *Driveways*. Driveway width and setback standards are located in 115-5-4-(5) &(6).

Sec. 101-9-2. RR Rural Residential District.

Description and Intent. The RR Residential District is established to accommodate low-density, large-lot single-family dwellings, limited agricultural uses, and limited equine husbandry. The district supports rural residential development within the City’s extra-territorial jurisdiction, particularly in areas identified as Rural Residential in the Adopted Plans. Lot sizes within this district are designed to sustain on-site well and septic systems. Additionally, the RR District may serve as an interim use for rural residential purposes in areas designated for future city growth, aligning with long-term development plans.

- 1) *Permitted Uses*. The following uses are permitted:
 - a) Detached dwelling unit
 - b) Group dwelling for six or fewer individuals with developmental disabilities as defined in N.D.C.C. § 25-16-14. This use requires one additional on-site mobility impaired parking space.
 - c) Education group.
 - d) Public recreation group
- 2) *Permitted Uses with Additional Standards*. The following uses are permitted, provided they meet the additional standards listed in Article 11: Specific Use Standards.
 - a) Accessory dwelling unit
 - b) Utility service group
 - c) In-home childcare
- 3) *Conditional Uses*. Conditional uses may be permitted, on a specific site only after review and approval by the Planning and Zoning Commission and ratification by the City Commission provided they meet the standards in Section 101-4-4 and any applicable standards listed in Article 11: Specific Use Standards.
 - a) Child Care Center
 - b) Bed and Breakfast
 - c) Assembly Group
- 4) *Accessory Uses*. The following are allowed accessory uses provided they meet the additional standards listed in Section 101-7-4. Accessory uses.
 - a) Accessory Structures subject to Section 101-7-4
 - b) Recreation Equipment
 - c) Home Occupations
 - d) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted subject to Section 101-11-28.
 - e) Level 1 and Level 2 EV Charging
- 5) Development Standards

Rural Residential (RR) District Standards	
Standards	Specifications
Minimum lot coverage	No more than 40% of the area of the lot.
Minimum lot area	1.5 acres or 65,340 square feet

Minimum lot width	50 feet along a public street or private access easement configured in conformance with fire code emergency access standards.
Minimum front yard setback	40 feet
Minimum side yard setback	15 feet
Minimum rear yard setback	20 feet
Maximum building height	Principal building height shall be limited 35 feet. Accessory use structures and building shall be limited to 25 feet.

- 6) *Driveways.* Driveway width and setback standards are located in 115-5-4-(5) &(6).

Sec. 101-9-3. R7 Residential District.

- 1) *General description.* It is the intent of the R7 Residential District is to encourage development of lands within the city on lots primarily for detached dwelling units and related residential neighborhood uses. The R7 district falls within the low density residential land use category of the City of Mandan Future Land Use Plan.
- 2) *Permitted uses.* The following uses are permitted
 - a) Detached dwelling unit
 - b) Group dwelling for six or fewer individuals with developmental disabilities as defined in N.D.C.C. § 25-16-14. This use requires one additional on-site mobility impaired parking space.
 - c) Group Living
 - d) Agency adult foster care for four or fewer individuals as defined in N.D.A.C. § 75-03-21. This use requires one additional on-site mobility impaired parking space
 - e) Public recreation group
 - f) Education group
- 3) *Permitted Uses with Additional Standards.* The following uses are permitted, provided they meet the additional standards listed in Article 11: Specific Use Standards
 - a) Accessory dwelling unit
 - b) Utility service group
 - c) In-home childcare
- 4) *Conditional uses.* Conditional uses may be permitted, on a specific site only after review and approval by the Planning and Zoning Commission and ratification by the City Commission provided they meet the standards in Section 101-4-4 and any applicable standards listed in Article 11: Specific Use Standards.
 - a) Bed and breakfast
 - b) Assembly Group
- 5) *Accessory Uses.* The following are allowed accessory uses provided they meet the additional standards listed in Section 101-7-4 Accessory uses.
 - a) Accessory Structures subject to Sec 101-7-4
 - b) Recreation Equipment
 - c) Home Occupations

- d) Solar energy systems which are building-integrated, ground-mounted, or roof-mounted subject to Section 101-11-28.
- e) Level 1 and Level 2 EV Charging

6) *Development Standards*

R7 Residential District Standards	
Standards	Specifications
Minimum lot coverage	No more than 40% of the area of the lot. Maximum impervious surface coverage shall not exceed 20 percent of the square foot area of the lot.
Lot Density	3-8 dwelling units per acre
Minimum lot area	7,000 square feet
Minimum lot width	50 feet along a public street or private access easement configured in conformance with fire code emergency access standards.
Minimum front yard setback	20 feet
Minimum side yard setback	6 feet
Minimum rear yard setback	20 feet
Maximum building height	Permitted and Conditional Use building heights shall be limited to 35 feet. Accessory building heights shall be limited to 25 feet.

- i) Any portion of a structure containing a garage door facing a public street, alley or private access easement must be set back at least 25 feet from property line or access easement.
 - ii) Corner lots: For corner lots, the front yard setback requirement shall apply to all yards abutting a street per Sec. 101-7-3 (a).
- b) *Driveways.* Driveway width and setback standards are located in 115-5-4-(5) &(6).

Sec. 101-93-4. R4 Residential District.

- 1) *General description.* It is the intent of the R4 Residential District is to encourage development of lands within the jurisdiction of the city on reduced size lots primarily for detached dwelling units and related residential neighborhood uses. The R4 district falls within the low density residential land use category of the City of Mandan Future Land Use Plan.
- 2) *Permitted uses.* The following uses are permitted:
 - a) Detached dwelling unit
 - b) Cottage Court dwelling units
 - c) Group dwelling for six or fewer individuals with developmental disabilities as defined in N.D.C.C. § 25-16-14. This use requires one additional on-site mobility impaired parking space.
 - d) Group Living
 - e) Agency adult foster care for four or fewer individuals as defined in N.D.A.C. § 75-03-21. This use requires one additional on-site mobility impaired parking space.
 - f) Public recreation group
 - g) Education group

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- 3) *Permitted Uses with Additional Standards.* The following uses are permitted, provided they meet the additional standards listed in Article 11: Specific Use Standards.
- a) Accessory dwelling unit
 - b) Utility service group
 - c) In-home childcare
- 4) *Conditional uses.* Conditional uses may be permitted, on a specific site only after review and approval by the Planning and Zoning Commission and ratification by the City Commission provided they meet the standards in Section 101-4-4.
- a) Child Care Center
 - b) Assembly group
 - c) Bed and breakfast
- 5) *Accessory Uses.* The following are allowed accessory uses, provided they meet the additional standards listed in Section 101-7-4.
- a) Accessory Structures subject to Section 101-7-4
 - b) Recreation Equipment
 - c) Home Occupations
 - d) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted subject to Section 101-11-28
 - e) Level 1 and Level 2 EV Charging
- 6) Development Standards

R4 Residential District Standards	
Standards	Specifications
Minimum lot coverage	No more than 50% of the area of the lot. Maximum impervious surface coverage shall not exceed 20 percent of the square foot area of the lot.
Maximum Lot Density	8 units per acre
Minimum lot area	4,000 square feet
Minimum lot width	40 feet along a public street or private access easement configured in conformance with fire code emergency access standards.
Minimum front yard setback	10 feet;
Minimum side yard setback	6 feet
Minimum rear yard setback	20 feet
Maximum building height	Residential building height shall be limited to 40 feet. No building for any other permitted use shall exceed fifty (50) feet in height. Accessory buildings shall not exceed 25 feet.

- i) Any portion of a structure containing a garage door facing a public street, alley or private access easement must be set back at least 25 feet from property line or access easement.
- ii) Corner lots: For corner lots, the front yard setback requirement shall apply to all yards abutting a street per Sec. 101-7-3 (a).

Sec. 101-9-5. R3.2 Residential District.

- 1) *General description.* It is the intent of the R3.2 Residential District to encourage development of lands within the jurisdiction of the city on lots primarily for detached dwelling units and duplex dwellings and related residential neighborhood uses. The R3.2 district falls within the low density residential land use category of the City of Mandan Future Land Use Plan.
- 2) *Permitted uses.* The following uses are permitted
 - a) Detached Dwelling Unit
 - b) Dwelling, duplex
 - c) Group dwelling for six or fewer individuals with developmental disabilities as defined in N.D.C.C. § 25-16-14. This use requires one additional on-site mobility impaired parking space
 - d) Group Living
 - e) Agency adult foster care for four or fewer individuals as defined in N.D.A.C. § 75-03-21. This use requires one additional on-site mobility impaired parking space
 - f) Public recreation group
 - g) Education group
- 3) *Permitted Uses with Additional Standards.* The following uses are permitted, provided they meet the additional standards listed in Article 11: Specific Use Standards
 - a) Accessory dwelling unit, only in conjunction with a detached dwelling unit.
 - b) Utility service group
 - c) In-home childcare
- 4) *Conditional uses.* Conditional uses may be permitted, on a specific site only after review and approval by the Planning and Zoning Commission and ratification by the City Commission provided they meet the standards in Section 101-4-4.
 - a) Child Care Center
 - b) Assembly group
 - c) Bed and breakfast
- 5) *Accessory Uses.* The following are allowed accessory uses provided they meet the additional standards listed in Section 101-7-4. Accessory uses
 - a) Accessory Structures subject to Sec 101-7-4
 - b) Recreation Equipment
 - c) Home Occupations
 - d) Solar energy systems which are building-integrated, ground-mounted, or roof-mounted subject to Section 101-11-28
 - e) Level 1 EV Charging
- 6) Development Standards

R3.2 Residential District Standards	
Standards	Specifications

Minimum lot coverage	No more than 50% of the area of the lot. Maximum impervious surface coverage shall not exceed 20 percent of the square foot area of the lot.
Maximum Lot Density	4 to 10 units per acre
Minimum lot area	3,200 square feet
Minimum lot width	40 feet of width along a public street or private access easement configured in conformance with fire code emergency access standards. Lots containing half of a duplex dwelling in which each unit is located on a separate adjoining lot shall have a minimum of 20 feet.
Minimum front yard setback	20 feet
Minimum side yard setback	5 feet- For duplex dwellings where each unit is constructed on its own lot, no side yard is required for the common wall.
Minimum rear yard setback	20 feet
Maximum building height	Residential Building height shall not exceed 40 feet. No building for any other permitted use shall exceed 50 feet in height. Accessory buildings shall not exceed 25 feet.

- i) Rear yard: 20 feet
- ii) Any portion of a structure containing a garage door facing a public street, alley or private access easement must be set back at least 25 feet from property line or access easement.
- iii) Corner lots: For corner lots, the front yard setback requirement shall apply to all yards abutting a street per Sec. 101-7-3 (a).

Sec. 101-9-6. RM Residential District.

- 1) *General description.* It is the intent of the RM Residential District to encourage development of lands within the city on appropriately sized lots primarily for multi-unit dwellings and high densities with some limited commercial in mixed use developments.
- 2) *Prohibited uses.*
 - a) In addition to any use not listed as permitted, conditional or accessory for the RM Residential District, the following uses shall not be permitted except those permitted under Section 101-7-2 – Nonconforming uses:
 - i) New detached dwelling units (built after the date of adoption of this ordinance)
 - ii) New Duplex dwellings (built after the date of adoption of this ordinance)
- 3) *Permitted uses.* The following uses are permitted.
 - a) Existing detached dwelling units and duplex dwellings that were legally established prior to the date of adoption of this ordinance. These uses may be improved and expanded in accordance with the development standards of this ordinance.
 - b) Dwelling, multi-unit
 - c) Dwelling, townhouse
 - d) Group dwelling

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- e) Educational group
 - f) Public recreation group
- 4) *Permitted Uses with Additional Standards.* The following uses are permitted, provided they meet the additional standards listed in Article 11: Specific Use Standards.
- a) Mixed use development according to Section 101-10-7 Neighborhood Mixed Use (NMU) District, Section 3, Development Standards provided that a minimum of 85 percent of the total occupiable area of the building is developed for multi-unit dwellings and 15 percent of the total occupiable area is developed to allow for main floor commercial use.
 - b) Office-bank group
 - c) Bed and breakfast
 - d) Utility service group
- 5) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the Planning and Zoning Commission and ratification by the city commission.
- a) Child care center
 - b) Assembly group
- 6) *Accessory Uses.* The following are allowed accessory uses provided they meet the additional standards listed in Section 101-7-4.
- a) Accessory Structures subject to Sec 101-7-4
 - b) Recreation Equipment
 - c) Home Occupations
 - d) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted subject to Section 101-11-28
 - e) Level 1 and Level 2 EV Charging
- 7) *Development Standards.*
- a) *Setbacks.* Setbacks. The following setbacks shall apply for permitted and conditional uses of all properties in the district subject to supplementary provisions for yards as listed in Section 101-7-3.
 - i) *Front yard:* The minimum front yard setback shall be 15 feet except when the majority of lots in a block has, prior to the enactment of this chapter, been lawfully occupied with buildings having a lesser or greater front yard depth of five (5) feet or more than the required front yard setback. In these cases, the front yard setback shall be determined in according to Section 101-7-3 (3) b. *Existing yard depth standards* and provided that:
 - (1) Any portion of a structure containing a garage door facing a public street, alley or private access easement must be set back at least 25 feet from property line or access easement.
 - (2) Except for no more than two access bays for a multifamily residential or mixed-use building integrated parking structure, no overhead garage doors for vehicle entry of any garage associated with multi-tenant dwellings shall face toward a public street unless landscape screening of sufficient screening height at maturity is installed at the time of development.

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- (3) Overhead garage doors for single and two-unit residential uses may face towards public streets, alleys, and private access easements.
- ii) *Side Yard*: The minimum side yard setback shall be eight (8) feet except when the majority of lots in a block has, prior to the enactment of this chapter, been lawfully occupied with buildings having a lesser or greater side yard depth of three (3) feet or more than the required side yard setback. In these cases, the side yard setback shall be determined in according to Section 101-7-3 (3) b. *Existing yard depth standards*.
- iii) *Rear yard*: The minimum rear yard setback shall be ten (10) feet except when the majority of lots in a block has, prior to the enactment of this chapter, been lawfully occupied with buildings having a lesser or greater rear yard depth of 4 feet or more than the required side yard setback. In these cases, the side yard setback shall be determined in according to Section 101-7-3 (3) b. *Existing yard depth standards*.
- iv) *Corner lots*: For corner lots, the front yard setback requirement shall apply to all yards abutting a street per Sec. 101-7-3 (a).
- b) *Lot coverage*. The maximum building lot coverage shall not exceed 60 percent of the square foot area of the lot. Maximum impervious surfaces coverage shall not exceed 30 percent of the square foot area of the lot.
- c) *Density*. The maximum allowable development density, excluding any right of way, easements, or area dedicated to reserved park and open space, is 30.0 dwelling units per net acre.
- d) *Lot width*. Each lot shall have a minimum of 30 feet of width along a public street or private access easement configured in conformance with fire code emergency access standards.
- e) *Building height limits*. Principal building height shall be limited to 75 feet. Accessory buildings shall be limited to 35 feet in height. For each two-foot increment that a building exceeds 35 feet in height, there shall be added two feet to the minimum width of each side yard and one foot to the minimum depth of the rear yard required by this section.
- 8) *Exception*. Notwithstanding the limitations imposed by any other provision of this chapter, upon due application by the owner and the recommendation thereof by the Planning and Zoning Commission, the board may permit the subdivision of an existing lot and approve the replat thereof to show the lot lines along the centerline of a common wall, and the renumbering of the lot upon which townhouse or duplex dwelling units are being or have been constructed so as to permit separate ownership of a lot without side yards and having an area and width smaller than that required in the district, subject to the following:
- a) Each of the lots created by the subdivision shall contain an average of not less than 2,400 square feet of area.
- b) Each lot shall front on a dedicated street, or access shall be provided by platting a common driveway area and utility easements.
- c) Except for setbacks along the common property lines, all other setbacks and yard requirements shall be met.
- d) Each lot shall have separate water and sewer service lines into such lot or an appropriate written agreement between the adjoining property owners establishing the manner in which the cost of maintenance and repair of such lines will be shared.

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- e) The subdivision of the lot shall be accomplished by the platting thereof in accordance with subdivision regulations of the city ordinances, including required public hearings for the plat approval.

Sec. 101-9-7. RMH Residential District.

- 1) *General description.* It is the intent of the RMH Residential District is to encourage the development of lands within the jurisdiction of the city on lots primarily for detached manufactured dwelling homes or modular home dwellings and related residential neighborhood uses. The RMH district falls within the medium density residential land use category of the City of Mandan Future Land Use Plan.
- 2) *Permitted uses.* The following uses are permitted.
 - a) Manufactured dwellings.
 - b) Modular dwellings.
 - c) Group dwelling for six or fewer individuals with developmental disabilities as defined in N.D.C.C. § 25-16-14. This use requires one additional on-site mobility impaired parking space.
 - d) Public recreation group.
- 3) *Permitted Uses with Additional Standards.* The following uses are permitted, provided they meet the additional standards listed in Article 11: Specific Use Standards.
 - a) Accessory Dwelling Unit
 - b) Utility service group
 - c) In-home childcare
- 4) *Conditional uses.* Conditional uses may be permitted, on a specific site only after review and approval by the Planning and Zoning Commission and ratification by the City Commission provided they meet the standards in Section 101-4-4 and any applicable standards listed in Article 11: Specific Use Standards.
 - a) Child care center
 - b) Education group.
 - c) Activity center or recreation facility serving the subdivision.
 - d) Assembly group.
- 5) *Accessory Uses.* The following are allowed accessory uses provided they meet the additional standards listed in Section 101-7-4.
 - a) Accessory Structures subject to Sec 101-7-4
 - b) Recreation Equipment
 - c) Home Occupations
 - d) Solar energy systems which are building-integrated, ground-mounted, or roof -mounted subject to Section 101-11-28
 - e) Level 1 and Level 2 EV Charging

6) *Development Standards*

RMH District Standards	
Standards	Specifications

Minimum lot coverage	No more than 80% of the rear area of the lot. Maximum impervious surface coverage shall not exceed 20 percent of the square foot area of the lot.
Minimum lot area	3,000 square feet
Minimum lot width	30 feet along a public street or private access easement configured in conformance with fire code emergency access standards.
Minimum front yard setback	8 feet
Minimum side yard setback	5 feet
Minimum rear yard setback	20 feet
Maximum building height	Principal buildings shall not exceed 20 feet. Accessory buildings shall not exceed 15 feet.

- i) Any portion of a structure containing a garage door facing a public street, alley or private access easement must be set back at least 25 feet.
- ii) Corner lots: For corner lots, the front yard setback requirement shall apply to all yards abutting a street per Sec. 101-7-3 (a).
- b) *Skirting requirements.* Skirting may be used in lieu of a solid perimeter foundation. Skirting may be constructed of brick, stone, finished metal or other acceptable materials approved by the building inspector. The skirting shall be in place prior to issuance of a certificate of occupancy. The tongue and axle shall be removed if not covered by the skirting.

Sec. 101-9-8. RH Residential District.

- 1) *General description.* It is the intent of the RH Residential District to encourage development of lands within the city jurisdiction for the primary use of mobile home dwellings and manufactured home dwellings in manufactured home parks and related residential neighborhood uses. The RH district falls within the medium density residential land use category of the City of Mandan Future Land Use Plan.
- 2) *Permitted uses.* The following uses are permitted:
 - a) Mobile home dwellings
 - b) Manufactured home dwellings
 - c) Modular home dwellings
 - d) Public recreation group
- 3) *Permitted Uses with Additional Standards.* The following uses are permitted, provided they meet the additional standards listed in Article 11: Special Use Standards.
 - a) Utility service group
- 4) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the Planning and Zoning Commission and ratification by the City Commission:
 - a) Assembly group
- 5) *Accessory Uses.* The following are allowed accessory uses provided they meet the additional standards listed in Section 101-7-4.
 - a) Accessory Structures subject to Sec 101-7-4
 - b) Recreation Equipment
 - c) Home Occupations

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- d) Solar energy systems which are building-integrated, ground-mounted, or roof-mounted subject to Section 101-11-28
 - e) Level 1 and Level 2 EV Charging
- 6) *Licenses and/or permit requirements.*
- a) It is unlawful for any person to maintain, operate, alter or expand any mobile home or travel trailer park within the city's jurisdiction (one mile) without first obtaining a valid license and building permit from the designated officials of the city. Alteration or expansion of an existing mobile home or travel trailer park shall include any addition or reduction of a park site or rearrangement of other service buildings within the park.
 - b) All mobile home and park license fees shall be set by resolution of the board.
 - c) Application for a mobile home park license shall be filed with and issued by the state department of health and the city. An application for mobile home park approval shall be submitted to the city planner for reviews with the state health office and city departments as deemed necessary along with said fee, and shall include:
 - i) Name and address of the applicant and engineer or surveyor.
 - ii) Location map and legal description of the proposed or existing trailer or mobile home park.
 - iii) A complete site plan and specification of the proposed travel trailer or mobile home park or of the alteration or expansion of an existing park indicating:
 - iv) Total acreage and all dimensions of the tract of land.
 - v) Date of plan.
 - vi) Lot and block acreage.
 - vii) Scale and north arrow.
 - viii) Locations and dimensions of all existing and proposed streets, alleys and walkways, and location and size of all sidewalks.
 - ix) Locations and dimensions of all proposed mobile home sites.
 - x) Locations, plans and specifications of all proposed service buildings.
 - xi) Contours of the land at one-foot intervals for ground slopes between zero and two percent, two-foot contours between two and five percent, and four-foot contours for over five percent.
 - xii) Finished grade plan for all streets and developed areas as required by the city engineer.
 - xiii) Locations and dimensions of all utility easements.
 - xiv) Locations and sizes of water, sewer and storm sewers or open drainage lines.
 - xv) Locations of fire hydrants.
 - xvi) Locations of all recreational areas.
 - xvii) Locations of lighting stands.
 - xviii) All setback dimensions.
 - xix) Location and dimensions of mobile home park buffer.
 - xx) Such further information as may be required by the health officer to determine if the proposed mobile home park is in compliance with the applicable health regulations.

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- xxi) If the applicant desires to alter or expand an existing mobile home park, an additional site plan shall be submitted indicating the locations and dimensions of existing mobile home sites, streets, walkways and service buildings.
 - xxii) A reproducible Mylar and six blue line prints, 24 inches by 36 inches, shall be submitted to the planning and zoning office upon final approval by the board. Said site plan shall have the signatures of the owner, city engineer, Planning and Zoning Commission chairperson and board president.
 - xxiii) Within two weeks of moving into a mobile home, the owner will be required to have a certificate of occupancy. Before issuing the certificate of occupancy, the building inspector or designate shall inspect all utility connections, stabilizing devices, anchoring equipment and determine that the address has been properly installed. A fee for the certificate of occupancy, as set by the board, shall be required of the mobile homeowner.
 - xxiv) All mobile home parks shall be located in an approved subdivision according to the city's subdivision regulations.

7) *Design requirements for mobile home parks.*

- a) *Minimum size.*
 - i) Each parcel of land to be used for a mobile home park shall be a minimum of ten acres.
- b) *Minimum width.*
 - i) There shall be a minimum width of 150 feet along any abutting public right-of-way.
- c) *Building height.*
 - i) No structure erected in a mobile home park shall exceed 25 feet in height.
- d) *Streets.*
 - i) The use of private streets is acceptable for manufactured home parks provided the standards for the use of private street in Section 109-3-2-4 e shall be met for all subdivisions created and developed past the adoption of this article. Full replacement of any existing deteriorated private roadways shall comply with the private street standards and partial replacements may be required for partial replacements as determined by the City Engineer on a case-by-case basis depending on the overall extent and proximity of smaller non connected roadway surfaces and condition and age of any public or private infrastructure within.
- e) *Park dedication.*
 - i) Manufactured home parks shall be subject to park dedication requirements set forth in Chapter 109.

8) *Design requirements for mobile home site.*

- a) *Minimum size.*
 - i) Each mobile home site shall have a minimum of 4,000 square feet of area with a minimum average width of 40 feet and minimum average depth of 100 feet. Mobile home sites located on a cul-de-sac may reduce width at the street line to 35 feet, but lot area must contain 5,000 square feet.
- b) *Land coverage.*
 - i) Total structural coverage of a mobile home site shall not exceed 50 percent of the site area. In computing the ground coverage, 400 square feet shall be added to the area of the mobile home site for the two required off-street parking spaces and all accessory buildings. All nonattached storage sheds must be located in the backyard and not within five feet of the side or rear site line.

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- c) *Access.*
 - i) Each mobile home site shall abut on a street within the mobile home park, and access directly to the site shall only be from such an internal street.
 - d) *Setback requirements.*
 - i) No part of the mobile home or other structure upon a mobile home site shall be closer than five feet to a mobile home site boundary line. Mobile homes shall be set back from each other and accessory buildings by at least 15 feet on adjacent lots. There shall be a minimum of ten feet between an individual mobile home and any abutting pavement of a park street.
- 9) *Provisions of services in mobile home park.*
- a) *Service buildings.*
 - i) Service buildings may include management offices, laundry facilities, repair shops and storage areas, sanitary facilities and indoor recreation facilities and incidental commercial uses.
 - b) *Service building requirements.*
 - i) All service buildings shall comply with the city ordinances and state laws and regulations concerning buildings, electrical installations, plumbing and sanitation systems. They shall, at all times, be operated and maintained in a clean, sightly condition by the park management.
 - c) *Water supply.*
 - i) Each mobile home park shall be connected with the city's water supply system and designed, constructed and maintained in accordance with the city's ordinances and state laws and regulations. Each mobile home park shall be provided with at least one above-ground water service connection which shall be capped when a mobile home does not occupy the site.
 - d) *Sewage disposal.*
 - i) All mobile home parks shall be connected to the city central sewer system, and sewer lines shall be designed, constructed and maintained in accordance with the city's ordinances and state laws and regulations and shall be capped when not in use.
 - e) *Street lighting.*
 - i) All entrances, exits and streets in mobile home parks shall be well-lighted. Street lighting may be either overhead or low level, but must be reflected onto the street.
 - f) *Electricity and grounding.*
 - i) Each mobile home and mobile home site shall be provided with electricity and proper grounding in accordance with the city's ordinances. Each mobile home site shall be individually metered by the supplying electrical utility company.
 - g) *All service utility lines.*
 - i) All service utility lines for electrical, telephone, gas and television communication shall be placed underground and designed and constructed in accordance with the city's ordinances.
 - h) *Refuse handling.*
 - i) The storage, collection and disposal of refuse in the mobile home park shall be provided for in accordance with the applicable city ordinances and state laws and regulations.
 - i) *Fire protection.*

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- i) All mobile home parks shall be subject to the regulations stated in the fire protection codes adopted by the city and state. Mobile home parks shall be kept free of litter, rubbish and other flammable materials. Portable fire extinguishers, rated for class B and C, shall be kept in service buildings, readily accessible for use by all occupants and maintained in good operating condition.
 - j) *Street signs and mobile home site address and design.*
 - i) The owner of a mobile home park shall provide street name signs.
 - ii) The individual mobile home owner shall be responsible for displaying on the front of the mobile home the address in letters no smaller than two inches in height before occupancy.
 - iii) All street names shall conform to the city's street plan.
 - iv) All existing and new mobile home parks shall construct street signs, and all sign material shall conform to the city's street sign specifications.
 - k) *Register of occupants.*
 - i) A register of all mobile home occupants and owners of mobile homes in the park shall be maintained with the following information:
 - (1) The name and address of each mobile home occupant.
 - (2) The name and address of the owner of each mobile home, if different from the occupant.
 - (3) The dates of arrival and departure of each mobile home.
 - ii) An updated register of occupancy shall be provided to the city every three months with the data in subsection (8).1 of this section, as required by the county tax equalization department.

Sec. 101-9-9. CA Neighborhood Commercial District.

- 1) *General description.* The CA Neighborhood Commercial District is established as a district in which the principal use of land is for commercial and service uses to serve the surrounding residential district and in which traffic and parking congestion can be reduced to a minimum in order to preserve residential values and to promote the general welfare of the surrounding residential districts. For the CA Commercial District, in promoting the general purposes of this chapter, the specific intent of this section is:
 - a) To encourage the construction of, and continued use of, the land for neighborhood, commercial and service purposes.
 - b) To prohibit heavy commercial and industrial use of the land and to prohibit any other use that would substantially interfere with the development or continuation of the commercial structures in the district.
 - c) To discourage any use which, because of its character or size, would interfere with the use of the land in the district as a shopping and service center for the surrounding residential districts.
- 2) *Permitted uses:*
 - a) Multi-unit dwelling
 - b) Group dwelling
 - c) Retail Group A
 - d) Service group A

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- e) Office-bank group
 - f) Health-medical group
 - g) Bed and breakfast facility located in a detached dwelling.
- 3) *Permitted Uses with Additional Standards.*
- a) Child Care Center
 - b) Utility service group
 - c) Public Safety and Emergency Response Facilities
- 4) *Accessory Uses*
- a) Outdoor sales / Outdoor seasonal display of merchandise and goods
 - b) Portable Storage Containers
- 5) *Conditional uses:*
- a) Parking, commercial as a principal use
- 6) *Dwelling regulations.* Each multi-unit or group dwelling hereafter erected shall comply with all regulations governing such uses, including maximum density, in an RM Residential District as provided under section 101-9-6.
- 7) *Development Standards*

CA Neighborhood Commercial District Standards	
Standards	Specifications
Minimum lot coverage	No more than 70% of the total area of the lot.
Minimum lot area	4,000 square feet; provided, however, that a building having one or more party walls and a common roof with one or more similar buildings, but individually owned, may be on a lot of any size as long as all other provisions of this chapter, including all provisions for off-street parking and loading, are fully complied with on that lot.
Minimum lot width	50 feet
Minimum front yard setback	15 feet
Minimum side yard setback	10 Feet – For structures over one story in height, the side yard setback shall increase to 20 feet if the side yard is adjacent to an R3.2, R4, or R7 district.
Minimum rear yard setback	10 Feet – For structures over one story in height, the rear yard setback shall increase to 20 feet if the rear yard is adjacent to an R3.2, R4, or R7 district.
Maximum building height	30 feet

- i) Corner lots: For corner lots, the front yard setback requirement shall apply to all yards abutting a street per Sec. 101-7-3 (a).
- 8) *Design standards*
- a) Building materials. The following building materials are prohibited: steel and fiberglass.

- b) Screening. The following areas and/or items require screening: Refuse areas and/or containers and mechanical equipment.
- c) Pedestrian connection. A pedestrian connection between the sidewalk and front door of building is required.

Sec. 101-9-10. CB Commercial District.

- 1) *General description.* The CB Commercial District is established to accommodate the principal use of commercial and service uses for the city and its regional market area. For the CB Commercial District, in promoting the general purposes of this chapter, the specific intent of this section is:
 - a) To encourage the construction of, and the continued use of, the land for regional, commercial and service uses.
 - b) To provide for the orderly expansion of such uses within the CB Commercial District as designated on the zoning map.
 - c) To prohibit heavier commercial use of the land and to prohibit uses which would substantially interfere with the continuation of the uses presently in the district or with the orderly growth of the district to meet the needs of increased population in the regional market area.
 - d) To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this section.
 - e) To encourage the development of the district with such uses and in such a manner as to minimize traffic and parking congestion and in such manner as to provide for the safety and convenience of shoppers, visitors, and other pedestrians in the district.
 - f) To discourage any use which, because of its character or size, would create abnormal traffic congestion or fire or safety hazards in the district.
- 2) *Permitted uses:*
 - a) Multi-unit dwelling
 - b) Group dwelling
 - c) Hotel or Motel
 - d) Retail Group A
 - e) Service Group A
 - f) Gas station
 - g) Office-bank group
 - h) Retail Group B
 - i) Service Group B
 - j) Commercial recreation group
 - k) Wholesale group
 - l) Assembly group
 - m) Health-medical group

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- n) Education group
 - o) Public recreation group
 - p) Fire station
 - q) Railroad or bus passenger station
 - r) Bed and breakfast facility
 - s) Transloading Facility
- 3) *Permitted Uses with Additional Standards.*
- a) Child Care Center
 - b) Utility Service Group
 - c) Public Safety and Emergency Response Facilities
 - d) Winery
 - e) Microbrewery
 - f) Domestic Distillery
 - g) Multi-use shops (Sec. 101-11-23)
 - h) Brewer taprooms
- 4) *Accessory Uses*
- a) Outdoor sales / Outdoor seasonal display of merchandise and goods
 - b) Portable Storage Containers (Sec. 101-7-4 (9)).
- 5) *Dwelling regulation.* Each multifamily or group dwelling hereafter erected shall comply with all regulations governing such uses in an RM Residential District as provided under section 101-9-6.
- 6) Development Standards

CB Commercial District Standards	
Standards	Specifications
Minimum lot area	The minimum lot area is 2,000 square feet; provided, however, that such principal building and accessory buildings may be erected on a record lot having an area of less than 2,000 square feet, corresponding to a record lot shown on a plat or deed recorded prior to the adoption of this ordinance.
Minimum lot width	Each lot shall have a width of not less than 20 feet measured along the front line of said lot; provided, however, that said minimum width of 20 feet shall not be required on a record lot corresponding to a record lot shown on a plat or deed recorded prior to

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	the adoption of the ordinance from which this Section is derived.
Minimum front yard setback	Zero (0) Feet
Minimum side yard setback	Zero (0) Feet
Minimum rear yard setback	10 Feet, provided where the rear of a lot adjoins an alley, no rear yard shall be required for a principal non-residential building.
Maximum building height	85 feet

7) *Design standards*

- a) Building materials. The following building materials are prohibited: steel and fiberglass.
- b) Landscaping. (see Article 13: Landscaping)
- c) Screening. The following areas and/or items require screening: Refuse areas and/or containers and mechanical equipment.
- d) Pedestrian connection. A pedestrian connection between the sidewalk and front door of building is required.

8) *Special conditions for a specified lot.* By ordinance, the board authorized inclusion of Lot 12 of Lot A, Sunview Heights Addition, and that vacated portion of section line street known as Twenty-Seventh Street Northeast between Old Red Trail and Interstate 94 in the Southwest Quarter, Section Sixteen, Township One Hundred Thirty-Nine North, Range Eighty-One West of the Fifth Principal Meridian of the City of Mandan within a CB Commercial District subject to the following zoning conditions:

- a) Any structure built on Lot 12, Sunview Heights Addition, shall have a side yard setback of at least 100 feet between Lots 11 and 12.
- b) The owner of said Lot 12 shall erect and maintain a chain-link fence east of the buffer zone near the common boundary between Lots 11 and 12, Sunview Heights Addition.
- c) Trees shall be planted to the west of the chain-link fence as recommended by the city forester to act as a screen and buffer zone between Lots 11 and 12, Sunview Heights Addition.

Sec. 101-9-11. CC Commercial District.

1) *General description.* The CC Commercial District is established to accommodate the principal use of commercial and service uses for the city and its regional market area and is more restrictive than the CB district in that residential uses are not anticipated for this district.

2) *Uses permitted.* The following uses are permitted:

- a) Any use permitted in a CB Commercial District, except residential dwellings.

3) *Permitted Uses with Additional Standards*

- a) Drug or Alcohol Outpatient Treatment or Counseling Facility
- b) Multi-use shops (see Section 101-11-23)

4) Development Standards

5) CC Commercial District Standards	
Standards	Specifications

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Minimum lot size	10,000 square feet
Minimum lot width	50 feet
Minimum front yard setback	25 feet
Minimum side yard setback	Zero (0) feet, except on lots which abut on a public street in which event no building shall be less than 35 feet from any lot line
Minimum rear yard setback	10 feet
Maximum building height	85 feet

- i) *Corner lots.* For corner lots, the front yard setback requirement shall apply to all yards abutting a street per Sec. 101-7-3 (a).

6) *Design standards*

- a) Building materials. The following building materials are prohibited:
- i) steel and fiberglass.
- b) Landscaping. (See Article 13: Landscaping.)
- c) Screening. The following areas and/or items require screening:
- i) Refuse areas and/or containers and mechanical equipment.
- d) Pedestrian connection.
- i) A pedestrian connection between the sidewalk and front door of building is required.

Sec. 101-9-12. MA Industrial District.

- 1) *General description.* The MA Industrial District is established as a district in which the principal use of land is for heavy commercial establishments and non-nuisance industries. For the MA Industrial District, in promoting the general purposes of this chapter, the specific intent of this section is:
- a) To encourage the construction of, and the continued use of, the land for commercial and industrial buildings.
 - b) To prohibit use of the land for heavy nuisance industry and to prohibit any other use which would substantially interfere with the development or continuation of commercial and industrial establishments in the district.
- 2) *Permitted uses:*
- a) Retail Group A
 - b) Retail Group B
 - c) Service Group A
 - d) Service Group B
 - e) Gas station
 - f) Wholesale group
 - g) Fire station

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- h) Truck terminal
- i) Transloading Facility
- j) Railroad or bus passenger station
- k) Railroad freight station
- l) Utility Service Group
- m) Industrial Group A
- n) Radio or television transmitting station
- o) Crematorium
- p) Microbrew pubs
- q) Brewer taprooms
- r) Domestic distilleries
- s) Wineries
- t) Animal hospital

3) *Permitted Uses with Additional Standards*

- a) Public Safety and Emergency Response Facilities
- b) Drug or Alcohol Outpatient Treatment or Counseling Facility
- c) Multi-use shops (see Section 101-11-23)

4) *Development Standards*

MA Industrial District Standards	
Standards	Specifications
Minimum lot area	5,000 square feet.
Minimum lot width	Each lot shall have a width of not less than 50 feet measured along the front building line; provided, however, that on a record lot having a width of less than 50 feet at the front building line, and corresponding to a record lot shown on a plat or deed recorded prior to the adoption of the ordinance from which this Section is derived, the minimum lot width measured along the front building line may be reduced to not less than 25 feet.
Minimum front yard setback	Zero (0) Feet, except where the majority of lots in a block have been lawfully occupied with buildings having front yards in which case the regulations of Section 1056-1-2 shall apply.
Minimum side yard setback	Zero (0) feet, except where a lot adjoins a residential use/district, then a building on a lot in the MA

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	Industrial District shall observe the side yard requirements of the adjacent residential district.
Minimum rear yard setback	Zero (0) feet, except where a lot adjoins a residential use/district, then a building on a lot in the MA Industrial District shall observe the rear yard requirements of the adjacent residential district
Maximum building height	50 feet

5) *Design standards*

- a) Building materials. The following building materials are prohibited:
 - i) steel and fiberglass.
- b) Landscaping. (See Article 13: Landscaping.)
- c) Screening. The following areas and/or items require screening:
 - i) Refuse areas and/or containers and mechanical equipment.
- d) Pedestrian connection.
 - i) A pedestrian connection between the sidewalk and front door of building is required for retail and Service Group A commercial uses and the like.

Sec. 101-9-13. MB Industrial District.

- 1) *General description.* The MB Industrial District is established as a district in which the principal use of land is for heavy commercial and industrial establishments, which may have increased impacts on surrounding properties that require mitigation, and which are not properly associated with, nor compatible with, residential, institutional and neighborhood commercial and service establishments.
- 2) *Permitted uses.*
 - a) Gas station
 - b) Retail Group B
 - c) Service Group B
 - d) Wholesale group
 - e) Fire station
 - f) Truck terminal
 - g) Transloading Facility
 - h) Utility Service Group
 - i) Industrial Group A
 - j) Industrial Group B
 - k) Livestock market
 - l) Oil and gas well
 - m) Radio or television transmitting station

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- n) Sewage treatment plant
- o) Animal hospital
- p) Taxidermy
- q) Crematorium
- r) Temporary livestock handling.
- s) Medical marijuana growing facility.

3) *Permitted Uses with Additional Standards*

- a) Public Safety and Emergency Response Facilities
- b) Drug or Alcohol Outpatient Treatment or Counseling Facility
- c) Multi-use shops (see Section 101-11-23)

4) Development Standards

MB Industrial District Standards	
Standards	Specifications
Minimum lot area	10,000 square feet
Minimum lot width	The minimum lot width is 75 feet; provided, however, that on a record lot having a width of less than 75 feet at the front building line and, corresponding to a record lot shown on a plat or deed recorded prior to the adoption of the ordinance from which this Section is derived, the minimum lot width may be reduced to not less than 50 feet.
Minimum front yard setback	50 feet
Minimum side yard setback	• For lots 75 feet or wider: The combined width of both side yards must be at least 20% of the average width of the lot, with a maximum total of 50 feet. • For lots less than 75 feet wide: Each side yard must be at least 10% of the lot's width, with a minimum width of 5 feet. • For lots with two principal buildings side by side: There are no minimum side yard requirements between the two buildings.
Minimum rear yard setback	25 feet
Maximum building height	50 feet. No accessory building shall exceed 25 feet in height.

- a) *Additional principal buildings:* it is permissible to erect more than one principal building on a zoning lot, provided that all other requirements of this section and this chapter are complied with.

- i) Corner lots: For corner lots, the front yard setback requirement shall apply to all yards abutting a street per Sec. 101-7-3 (a).
- b) Landscaping (See Article 13: Landscaping.)

Sec. 101-9-14. MX Industrial District.

- 1) *General description.* The MX Industrial District is established as a district in which the principal use of land is for heavy industrial establishments, which have increased impacts on surrounding properties that require mitigation, and which provide essential community and regional needs. The intent of the MX Industrial District is:
 - a) To encourage the construction of, and the continued use of, land for heavy industrial purposes.
 - b) To prohibit any other use that would substantially interfere with the development, continuation or expansion of the industrial uses in the district.
 - c) To provide a city zoning district for land uses that may have existed outside of the city prior to the enactment of the city's extra-territorial jurisdiction was established.
- 2) *Permitted uses:*
 - a) Workforce Training Facilities.
 - b) Electric power generation via natural gas.
 - c) Fleet fueling facility.
 - d) Fire station.
 - e) Truck terminal.
 - f) Transloading Facility
 - g) Utility Service Group.
 - h) Industrial Group B.
 - i) Oil and gas well.
 - j) Radio or television transmitting station.
 - k) Sand and gravel extraction.
 - l) Sewage treatment plant.
- 3) *Permitted Uses with Additional Standards.*
 - a) Solar Energy Systems
 - b) Community Solar Arrays
 - c) Level 1, Level 2 and Level 3/Fast EV Charging stations
 - d) Public Safety and Emergency Response Facilities
 - e) Drug or Alcohol Outpatient Treatment or Counseling Facility
 - f) Multi-use shops (see Section 101-11-23)
- 4) *Conditional uses.*

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- a) Child care center, employer provided
- 5) Accessory Uses. The following are allowed accessory uses provided they meet the additional standards listed in Section 101-7-4.
 - a) Accessory Structures subject to Sec 101-7-4
 - b) Offices and Indoor Employee Areas associated with the onsite use
 - c) Outdoor storage vehicles, heavy equipment and materials associated with the principal use
 - d) Portable Storage Containers used for on-site storage purposes
- 6) Development Standards

MX Industrial District Standards	
Standards	Specifications
Minimum lot coverage	Maximum building lot coverage shall not exceed 30 percent of the square foot area of the lot. Maximum impervious surfaces coverage shall not exceed 50 percent of the square foot area of the lot.
Minimum lot area	The minimum lot area is 65,000 square feet; provided, it is permissible to erect more than one principal building on a zoning lot, provided that all other requirements of this Section and <i>this chapter are complied with.</i>
Minimum lot width	Each lot shall have a width of not less than 150 feet measured along any lot line adjacent to public right of way.
Minimum front yard setback	50 feet
Minimum side yard setback	15 feet
Minimum rear yard setback	25 feet
Maximum building height	Principal buildings shall not exceed 50 feet

- a) *Additional principal buildings:* The minimum lot area is 65,000 square feet; provided, it is permissible to erect more than one principal building on a zoning lot, provided that all other requirements of this section and this chapter are complied with.
- b) Landscaping. (See Article 13: Landscaping.)

ARTICLE 10. SPECIAL PURPOSE DISTRICTS

Sec. 101-10-2. Downtown districts.

1) *Districts established.* The following downtown zoning districts are hereby established:

- a) DC Downtown Core District; and
- b) DF Downtown Fringe District.

Sec. 101-10-2.1. DC Downtown Core District.

- 1) *General description.* The purpose of the DC Downtown Core District is to preserve and enhance the mixed-use, pedestrian-oriented nature of the city's downtown area. The district allows a wide range of mutually supportive uses to enhance Downtown Mandan's role as a commercial, cultural, governmental, health/medical, entertainment, education and residential center. The district standards also facilitate the creation of a strong and distinctive sense of place through the inclusion of open space and public plazas. The use of design standards will maintain the historical integrity, enhance the quality of design, and preserve the human-scale development of downtown.
- 2) *Applicability.* New buildings, additions and renovations to existing buildings within the Gateway Overlay District shall meet the requirements established in this section. The City reserves the right to reject projects that do not meet the intent of this section.
- 3) *Development Standards*

DC Downtown Core District Standards	
Standards	Specifications
Maximum lot coverage	100%
Minimum lot area	The minimum lot area is 2,500 square feet, unless a lot is recorded to have less than 2,500 square feet prior to adoption of the ordinance from which this Section is derived.
Minimum lot width	20 feet
Minimum front yard setback	There is no minimum front yard setback. If the development site is between two existing buildings, which are setback from the front property line, the front yard setback may not exceed the average setback of the adjoining buildings. In no case shall a setback greater than 15 feet be allowed, and this area must be landscaped and/or incorporate streetscape elements per the requirements of Article 13 Landscaping.
Minimum side yard setback	None, unless the side property line abuts a residential use, in which case the minimum side yard setback shall be 6 feet.

Minimum rear yard setback	10 Feet, provided that, where the rear of a lot adjoins an alley, no rear yard shall be required for a principal nonresidential building
Maximum building height	130 feet
Minimum building height	Two stories or 20 feet

- 4) *Design standards.* All development within the DC Downtown Core District is subject to the following design standards:
- a) *Intent.* The intent of the design standards is to create and maintain a high visual quality and appearance for the DC Downtown Core District. The regulations are also intended to stimulate and protect investment through the establishment of high standards with respect to materials, details and appearance.
 - b) *Review and approval.* Compliance with these design standards shall be carried out in conjunction with the city's site plan review procedures. An administrative decision by the Mandan Architectural Review Committee regarding the design standards may be appealed to the city commission and will be subject to the commission's standard public hearing procedures.
 - c) *Building materials.*
 - i) All walls visible from the street shall be primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or an equivalent or better. The use of plain surface concrete or block shall be prohibited (i.e., the surface must be dimensional). Nontransparent glass shall be prohibited from covering more than 40 percent of the exterior walls.
 - ii) All subsequent renovations, additions and related structures constructed after the construction of an original building shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.
 - iii) In order to maintain a sense of harmony within the area, the colors and materials used should generally be compatible with or complementary to those used for buildings on adjoining parcels.
 - d) *Transparency.*
 - i) For non-residential buildings, first floor facades visible from the street shall be composed of 60% windows or other transparent elements, between 2 and 8 feet above sidewalk grade. The maximum opacity of windows shall be 25%. Window areas covered by signage shall *not* be considered as transparent elements.
 - e) *Width.*
 - i) New buildings shall reflect the existing characteristic rhythm of facades along the street. New construction, including parking ramps that require two or more lots, should respect this pattern by designing the pattern of adjacent facade widths into the new facade.
 - f) *Horizontal rhythms.*
 - i) New development shall maintain the alignment of building windows, cornices and rooflines that dominate the block on which it will be constructed. Character and scale shall be compatible with surrounding structures through the use of materials, detailing and window placement. A clear visual division between the street level and upper floors shall also be maintained. Canopies and awnings, consistent with the architectural style of the building, are strongly encouraged to accentuate the street level relationship between the building and streetscape and to provide protection of pedestrians.
 - g) *Entrances.*

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- i) Main entrances to buildings shall face and be clearly visible from the street and define the entry point.
 - h) *Historic preservation.*
 - i) Rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation to the greatest degree practicable.
 - i) *Display windows.*
 - i) The original size and shape of display windows on existing buildings shall be preserved.
 - j) *Blank walls.*
 - i) The maximum length of a blank wall (zero transparency) shall be 20 feet.
 - k) *Mechanical equipment.*
 - i) Mechanical equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.
 - l) *Vacant buildings.*
 - i) Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited. Window coverings shall be aesthetically pleasing.
 - m) *Demolition and vacant lots.*
 - i) Any demolition shall be in accordance with the provisions of the building construction requirements of this Code.
 - ii) Any lots left vacant after demolition shall be treated to control fugitive dust.
 - iii) If the lot is to remain vacant for more than 180 days, said lot shall be landscaped. The lot shall be maintained and kept free of debris and litter.
 - n) *Exposed common walls.*
 - i) If common walls are exposed due to demolition of adjoining buildings, the walls shall be treated to ensure that the walls do not become a visual eyesore. The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels.
 - ii) Temporary alternative treatments must be approved by the City Planning and Building Inspections Department. Permanent alternative treatments include architectural treatment that is similar to the front facade of the building or stucco.
 - iii) The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans and shall be the financial responsibility of the owner of the property upon which the demolished building was located.
 - 5) *Off-street parking and loading.*
 - a) Off-street parking and loading shall not be required in the DC district.
 - 6) *Adaptive reuse.*
 - a) Adaptive reuse of existing residential structures is encouraged. Such structures may be converted to permitted or conditional uses in the downtown districts without changes to the exterior façade.
 - 7) *Signage.*

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- a) All signage in the DC Downtown Core District shall be installed and maintained in accordance with the city policy. Canopies used for signage and projecting / blade signs shall be consistent with the architectural style of the building.

Sec. 101-10-2.2. DF Downtown Fringe District.

- 1) *General description.* The purpose of the DF Downtown Fringe District is to provide a transitional area between the DC Downtown Core District and adjacent commercial and residential zoning districts. The character of the Downtown Fringe district is to be less intense and smaller scale than the Downtown Core.
- 2) *Applicability.* New buildings, additions and renovations to existing buildings within the Gateway Overlay District shall meet the requirements established in this section. The city reserves the right to reject projects that do not meet the intent of this section.
- 3) *Dimensional standards.* Each residential use hereafter erected shall comply with all regulations governing such uses in an RM Residential District as provided under section 101-9-6. Non-residential development within the DF Downtown Fringe District is subject to the following dimensional standards:

DF Downtown Fringe District Standards	
Standards	Specifications
Maximum lot coverage	The maximum lot coverage, combination of building and impervious surface coverage, is 100%, unless the property is immediately adjacent to a residential use, in which case the maximum lot coverage shall be 70%.
Minimum lot area	The minimum lot area is 2,500 square feet unless the lot is recorded to have less than 2,500 square feet prior to adoption of the ordinance from which this Section is derived.
Minimum lot width	25 feet
Minimum front yard setback	There is no minimum front yard setback, unless the property is immediately adjacent to a residential use, in which case the minimum front yard setback shall be 15 feet. In no case shall a setback greater than 25 feet be allowed, and this area must be landscaped and/or incorporate streetscape elements.
Minimum side yard setback	There is no minimum side yard setback, unless the property is immediately adjacent to a residential use, in which case the minimum side yard setback shall be 5 feet.
Minimum rear yard setback	There is no minimum rear yard setback, unless the property is immediately adjacent to a residential use, in which case the minimum rear yard setback shall be 10 feet.
Maximum building height	The maximum height is 75 feet unless the property is immediately adjacent to a residential use. In the case of an adjacent residential use, any third story, or stories over thirty-five feet above grade, shall be set back, using a height step back, to a distance a minimum of fifty feet from the property line of the adjacent residential use.

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(Supp. No. 6, Update 3)

Lot depth	None
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- 4) *Design standards.* All development within the DF Downtown Fringe District is subject to the following design standards:
- a) *Intent.* The intent of the design standards is to create and maintain a high visual quality and appearance for the DF Downtown Fringe District. The regulations are also intended to stimulate and protect investment through the establishment of high standards with respect to materials, details and appearance.
 - b) *Review and approval.* Compliance with these design standards shall be carried out in conjunction with the city's site plan review procedures. An administrative decision by the Mandan Architectural Review Committee regarding the design standards may be appealed to the city commission and will be subject to the commission's standard public hearing procedures.
 - c) *Building materials.*
 - i) For nonresidential and multifamily residential buildings containing more than eight units, all walls visible from the street shall be primarily faced with brick, stone, architectural or pre-cast concrete, EFIS, stucco, or an equivalent or better. The use of plain surface concrete or block shall be prohibited (i.e., the surface must be dimensional). Nontransparent glass shall be prohibited from covering more than 40 percent of the exterior walls.
 - ii) For residential buildings containing eight or fewer units, traditional residential building materials may be used.
 - iii) All subsequent additions and related structures, constructed after the construction of an original building, shall be constructed of materials comparable to those used in the original construction and shall be designed in a manner conforming to the original architectural design and general appearance.
 - d) *Height.*
 - i) The height of a new building should be within one-story/15 feet of any buildings on adjacent parcels. It is not the intent of this provision to regulate the height of a building that occupies one-quarter of a block or more as it is related to buildings on adjacent parcels.
 - e) *Alignment.*
 - i) The setbacks and alignment of a new building should be similar to any buildings on adjoining parcels.
 - f) *Entrances.*
 - i) Main entrances to buildings shall face and be clearly visible from the street.
 - g) *Historic preservation.*
 - i) Rehabilitation of existing historically significant buildings shall be in accordance with the Secretary of the Interior's Standards for Rehabilitation to the greatest degree practicable.
 - h) *Mechanical equipment.*
 - i) Mechanical equipment shall be screened from ground level views with parapet walls or enclosures similar in form, material and detail to the primary structure.
 - i) *Vacant buildings.*
 - i) Vacant and abandoned buildings shall be made to appear inhabited. Boarding up windows in vacant or abandoned buildings shall be prohibited. Window coverings shall be aesthetically pleasing.
 - j) *Demolition and vacant lots.*

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- i) Any demolition shall be in accordance with the provisions of this Code. Any lots left vacant after demolition shall be treated to ensure to control fugitive dust. If the lot is to remain vacant for more than 60 days, said lot shall be landscaped. The lot shall be maintained and kept free of debris and litter.
 - k) *Exposed common walls.*
 - i) If common walls are exposed due to demolition of adjoining buildings, the walls shall be treated to ensure that the walls do not become a visual eyesore.
 - ii) The treatment may be temporary or permanent depending on the potential for redevelopment of adjoining parcels.
 - iii) Temporary alternative treatments must be approved by the City Planning and Building Inspections Departments.
 - iv) Permanent alternative treatments include architectural treatment that is similar to the front facade of the building or stucco.
 - v) The wall treatment shall be in place within 90 days of the date of demolition, unless a longer period is authorized at the time of approval of the demolition plans, and shall be the financial responsibility of the owner of the property upon which the demolished building was located.
- 5) *Off-street parking and loading.* Off-street parking and loading shall not be required in the DF district.

Sec. 101-10-3. Planned unit developments.

- 1) *Intent.* It is the intent of this section to encourage flexibility in development of lands within the jurisdiction of the city in order to:
 - a) Promote its most appropriate use;
 - b) Improve the design, character and quality of new developments;
 - c) Introduce flexibility of site design and architecture for the conservation of land and open space through clustering of buildings and activities;
 - d) Preserve natural and scenic features of open space, beyond required park and open space dedication;
 - e) Facilitate the mixture of compatible uses, not otherwise allowed in traditional zoning districts; and
 - f) Preserve important cultural or historical resources.
- 2) *Applicability.* Lands in any agricultural, residential, commercial, industrial or mixed-use zoning district may be rezoned to PUD.
- 3) *Re-zone to planned unit development district (PUD) required.*
 - a) In order to take advantage of the flexibility provided by this section, an applicant shall be required to submit an application to create a PUD district. Each PUD district shall have a unique re-zone PUD district number that shall be recorded on the zoning map.
- 4) *Approval; denial.*
 - a) All planned units shall be considered by the Planning and Zoning Commission and the city commission in the same manner as a zoning change. The city commission may grant the proposed planned unit, in whole or in part, with or without modifications and conditions, or deny it.
- 5) *Public Benefit.*

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- a) The City may, but is not required to, grant rezoning to a PUD district, provided that the applicant successfully demonstrates one or more of the following public benefits:
 - i) Preservation of natural site features, topography, geological features, wetlands, lowlands, wooded areas, and the like.
 - ii) Creation of conservation easements due to steep slopes, wetlands, flood hazard, wooded areas and/or environmentally sensitive areas.
 - iii) Creation of park/public areas for active and passive park uses beyond required standards or other public facilities such as schools, public buildings, greenways, and the like and are consistent with the public dedication requirements for the proposed development.
 - iv) Installation of public improvements designed to serve areas beyond the project boundary.
 - v) Housing projects which provide affordable housing options.
 - vi) Provides river access or public recreational amenities.
 - 6) *Ordinance requirements.* The ordinance establishing the new PUD district shall:
 - a) Specify the PUD re-zone ordinance number.
 - b) All land development standards that shall apply to the PUD district.
 - c) Specify findings of fact and conclusions of law that substantiate the benefit of any and all deviations from existing city land development regulations.
 - d) Shall specify that all land development shall be in compliance with the adopted PUD re-zone ordinance.
 - 7) *Flexibility from ordinance requirements.*
 - a) The City may, but shall not be required to, provide flexibility in setbacks, density, lot size, building height, parking, or design and development standards to achieve the purpose and objectives of the PUD. Flexibility in use may be considered if the uses proposed generally align with the uses prescribed in the Future Land Use Plan within the Land Use and Transportation Plan:
 - 8) *Review criteria.* in addition to the rezoning criteria in Section 101-4-2, the proposed PUD must meet each of the following criteria:
 - a) The proposal conforms to the comprehensive plan of the city.
 - b) The character and nature of the proposal contains a planned and coordinated land use or mix of land uses which are compatible and harmonious with adjacent land areas. Any and all potential land use incompatibilities have been satisfactorily mitigated.
 - c) All existing and proposed streets and other transportation system improvements are designed to adequately accommodate the expected amount and type of traffic generated from the proposed PUD.
 - d) The PUD is in compliance with the following development standards:
 - i) *Land use intensity.* The maximum density of residential uses and the maximum intensity of nonresidential uses shall not exceed that recommended in the Comprehensive Plan.
 - ii) *Mixed uses.* A PUD may have a mix of land uses provided that the PUD is designed to maximize the compatibility of all adjacent land uses, both within and outside the PUD.
 - iii) *Mixed density.* A PUD may include a mixture of residential densities and housing types, provided that the overall density of the development complies with a. above.
 - iv) All standards for rezoning as included in Section 101-4-2

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- v) All park dedication requirements of Chapter 109, Section 109-3-2(9).
 - vi) *Site plan, written statement and architectural drawings.* The application must be accompanied by a site plan, a written statement and architectural drawings.
 - vii) *Site plan.*
 - (1) A complete site plan of the proposed PUD prepared at a scale of not less than one inch equals 100 feet shall be submitted in sufficient detail to evaluate the land planning, building design, and other features of the PUD. The site plan must contain, insofar as applicable, the following minimum information:
 - (a) The existing topographic character of the land;
 - (b) Existing and proposed land uses;
 - (c) The location of all existing and proposed buildings, structures and improvements;
 - (d) A phasing plan for the PUD, including all public improvements, such as improvements to or new streets, water system infrastructure, sewer system infrastructure, parks and recreational facilities;
 - (e) The maximum height of all buildings;
 - (f) The density and type of dwelling;
 - (g) The internal traffic and circulation systems, off-street parking areas, and major points of access to the public right-of-way;
 - (h) Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas and public roadway right-of-way;
 - (i) Proposed interior buffer areas between uses, as well as landscape buffers, including the width and landscaping specifications for all buffer areas abutting adjacent properties;
 - (j) Acreage of the PUD;
 - (k) Utility service plan showing existing utilities in place and all existing and proposed utility easements;
 - (l) Landscape plan, including the location, size, and type of all landscape buffer areas; and
 - (m) Surrounding land uses, zoning and ownership.
 - viii) *Written statement.* The written statement to be submitted with the application must contain the following information:
 - (1) A statement of the present ownership (attorney's title opinion or title commitment) and a legal description of all the land included in the PUD, including any abutting or adjacent land owned by the applicant or others.
 - (2) An explanation of the objectives to be achieved by the PUD, including the functional interaction of all proposed and adjacent existing land uses, and how potential land use incompatibilities will be successfully mitigated.
 - (3) The designation of all common areas and assurances of how the common areas will be adequately maintained.
 - ix) *Architectural renderings.* Architectural renderings of proposed buildings shall be submitted in sufficient detail to allow evaluation of building form, massing, and primary residential architectural features. The renderings shall be of the front and one side elevation of the proposed buildings.

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- 9) *Architectural review.* All applications will require submittal to, and approval of, the Mandan Architectural Review Committee.
- 10) *Changes; amendments.*
- a) Requested amendments or changes to an approved planned unit development shall be processed based on the nature, scope and magnitude of the requested change. Major changes to an approved PUD shall be processed as though it were a first or original PUD.
 - b) The following shall be considered major changes to an approved PUD:
 - i) A change in the land area of the PUD in excess of five percent of the approved land area.
 - ii) A change in the residential density or number of residential dwelling units in excess of ten percent of the approved number of residential dwelling units.
 - iii) A change in the aggregate square footage of nonresidential buildings in excess of ten percent of the approved aggregate square footage of nonresidential buildings.
 - iv) Any change to a condition of approval that appears in the ordinance conditionally approving the PUD.
 - v) Any change in the location, type or size of a building located within 100 feet of a property line that abuts an existing or planned residential use or residential zoning district.
 - vi) A significant departure from the approved alignment of a major through-street.
 - c) All other changes to an approved PUD shall be considered administrative and processed and acted upon by staff.

Sec. 101-10-4. Floodplain District

- 1) *Statutory authorization, findings of fact, purpose, and objectives.*
- a) *Statutory authorization.* This section is adopted pursuant to the provisions of N.D.C.C. § 40-47 and 61-16.2 to provide regulations designed to promote the public health, safety and general welfare of the citizens of the city. Therefore, the Board of City Commissioners of the City of Mandan does ordain as provided in this section.
 - b) *Findings of fact.*
 - i) The flood hazard areas of the city and its extraterritorial jurisdiction are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety, and general welfare.
 - ii) Flood losses can occur due to increases in flood heights and velocities caused by the cumulative effect of obstructions in the special flood hazard areas. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to flood losses.
 - c) *Statement of purpose.* It is the purpose of this section to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 - i) Protect human life and health;
 - ii) Minimize expenditure of public money for costly flood control projects;
 - iii) Minimize the need for rescue and relief efforts associated with flooding that are generally undertaken at the expense of the general public;

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- iv) Minimize prolonged business interruptions;
 - v) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges that are located in special flood hazard areas;
 - vi) Help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;
 - vii) Ensure that potential buyers are notified that property is in a special flood hazard area; and
 - viii) Ensure that those who occupy the special flood hazard areas assume responsibility for their actions.
- d) *Methods of reducing flood losses.* In order to accomplish its purposes, this section includes methods and provisions for:
- i) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which cause damaging increases in erosion, flood heights or flood velocities;
 - ii) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - iii) Controlling the alteration of natural floodplains, stream channels and natural protective barriers which help accommodate or channel flood waters;
 - iv) Controlling filling, grading, dredging and other development which may increase flood damage; and
 - v) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.
- 2) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:
- a) *Appeal* means a request for a review of the flood administrator's interpretation of any provision of this section or a request for a variance.
 - b) *Base flood or 100-year flood* means the flood having a one percent chance of being equaled or exceeded in any given year.
 - c) *Base flood elevation (BFE)* means the height of the base flood or 100-year flood, usually in feet above mean sea level.
 - d) *Basement* means any area of the building having its floor below ground level on all sides.
 - e) *Best available data (BAD)* means water elevation information from any source used to estimate or determine a base flood elevation (i.e., high water mark).
 - f) *Conveyance or hydraulic conveyance* means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.
 - g) *Development* means any man-made change to land, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within a special flood hazard area.
 - h) *Flood insurance rate map (FIRM)* means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A, AE, AO, AH, A1-A30 or A-99.
 - i) *Flood insurance study (FIS)* means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the flood insurance rate map, and the water surface elevation of the base flood.

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- j) *Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or from the unusual and rapid accumulation of runoff of surface waters from any source.
 - k) *Floodproofing (dry)* means protection provided a portion of a structure to a specific elevation in relation to the base flood elevation, together with attendant utilities and sanitary facilities, which is watertight with walls that are substantially impermeable to the passage of water.
 - l) *Floodway or regulatory floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
 - m) *Lowest floor* means the lowest floor of a structure, including the basement.
 - n) *New construction* means structures for which the start of construction commenced on or after the effective date of the ordinance from which this section is derived.
 - o) *Reasonably safe from flooding* means base flood waters will not inundate the land or damage structures and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
 - p) *Special flood hazard area (SFHA)* means an area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.
 - q) *Start of construction* means and includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; the installation of streets or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms; or the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
 - r) *Structure* means a walled and roofed building, including a manufactured home, and gas or liquid storage tanks that are primarily above ground.
 - s) *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
 - t) *Substantial improvement* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes 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 term does not include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
 - u) *Variance* means a grant of relief from the requirements of this section which permits construction in a manner that would otherwise be prohibited by this section.
- 3) *General provisions.*
- a) *Lands to which this section applies.* This section shall apply to all areas of special flood hazard within the jurisdiction of the city.

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- b) *Basis for establishing the special flood hazard areas.* The scientific and engineering report entitled "The Flood Insurance Study for the City of Mandan, North Dakota" and accompanying Flood Insurance Rate Maps with an effective date of October 16, 2015, prepared by the Federal Emergency Management Agency, that identifies the special flood hazard areas within the city is hereby adopted by reference and declared to be a part of this section. The scientific and engineering report entitled "The Flood Insurance Study for Morton County, North Dakota" and accompanying Flood Insurance Rate Maps with an effective date of October 16, 2015, prepared by the Federal Emergency Management Agency, that identifies the special flood hazard areas within the city's extraterritorial jurisdiction is hereby adopted by reference and declared to be a part of this section. The Flood Insurance Studies are on file at City Hall, 205 2nd Ave. NW, Mandan, North Dakota.
 - c) *Compliance.* No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this section and other applicable regulations.
 - d) *Greater restrictions.* This section is not intended to repeal, remedy or impair any existing easements, covenants or deed restrictions. However, where this section and another section, ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
 - e) *Interpretation.* In the interpretation and application of this section, all provisions shall be:
 - i) Considered as minimum requirements;
 - ii) Liberally construed in favor of the city; and
 - iii) Deemed neither to limit nor repeal any other powers granted under state statutes.
 - f) *Warning and disclaimer of liability.* The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This section does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This section shall not create liability on the part of the city, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

4) *Administration.*

- a) *Development permit required.* A development permit shall be obtained before any earth moving or structure construction begins within any special flood hazard area established in subsections (3)(b) or (4)(c)(ii) of this section. Application for a development permit shall be made on forms furnished by the city and may include, but not be limited to, plans drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials and drainage facilities; and the location of the foregoing. Plans should be submitted electronically whenever possible. Specifically, the following information is required:
 - i) Elevation, in relation to mean sea level, of the lowest floor of all structures;
 - ii) Elevation, in relation to mean sea level, to which any structure has been floodproofed;
 - iii) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in subsection (5)(b)(ii) of this section; and
 - iv) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

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- b) *Designation of the flood administrator.* The building official is appointed to administer and implement this section. The name and contact information for the flood administrator shall be posted on the city web site. The flood administrator shall be responsible for granting or denying development permit applications in accordance with the provisions of this section.
- c) *Duties and responsibilities of the flood administrator.* Duties of the flood administrator shall include, but not be limited to:
- i) *Application review.*
 - (1) Review all development applications to determine that the requirements of this section have been satisfied.
 - (2) Review all development applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.
 - (3) Review all development applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection (e)(3)(a) are met.
 - ii) *Use of other base flood data.* When base flood elevation data has not been provided in accordance with subsection (c)(2) of this section, the flood administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements or other development in the floodplain are administered in accordance with subsection (e)(2) of this section.
 - iii) *Information to be obtained and maintained.*
 - (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor of all new or substantially improved structures. Document whether or not the structure contains a basement.
 - (2) For all new or substantially improved floodproofed structures:
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed;
 - (b) Record the base flood elevation, in relation to mean sea level, of the site; and
 - (c) Maintain the floodproofing certifications required in subsection (d)(1)c of this section.
 - (3) Maintain for public inspection all records pertaining to the provisions of this section.
 - iv) *Alteration of watercourses.* The flood administrator shall:
 - (1) Notify nearby communities, water resource districts and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and
 - (3) Notify the appropriate water resource district prior to removal or placement of fill within 200 feet of the bank of a body of water during normal flow or stage.
 - v) *Interpretation of flood insurance rate map (FIRM) boundaries.* Make interpretation, where needed, as to the exact location of the boundaries of the special flood hazard areas. The flood administrator shall document in writing the procedure followed and the criteria applied in making the interpretation. The person contesting the location of the boundary shall be given 30 days to appeal the interpretation as provided in subsection (d)(4) of this section.

d) *Appeal and variance procedure.*

i) *Board of Adjustment.*

- (1) The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of this section.
- (2) The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the flood administrator in the enforcement or administration of this section.
- (3) Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decision to the district court as provided in N.D.C.C. § 40-47-11.
- (4) In passing upon such appeals, the Board of Adjustment shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Code; and:
 - (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location, where applicable;
 - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

ii) *Variances.*

- (1) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in subsection (d)(4)a.4 of this section have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (2) Upon consideration of the factors in subsection (4)(d)(i) of this section and the purposes of this section, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

iii) *Conditions for variances.*

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- (1) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
 - (2) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
 - (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (4) Variances shall only be issued upon:
 - (a) A showing of good and sufficient cause;
 - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in subsection (d)(4)a.4 of this section, or conflict with existing local laws or ordinances.
 - (5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- iv) *Documentation and notification.* The flood administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request
- 5) *Provisions for flood hazard reduction.*
- a) *General standards.* In all areas of special flood hazard, the following standards are required:
 - i) *Anchoring.*
 - (1) All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure.
 - (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - ii) *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 and substantial improvements shall be constructed using methods and practices that minimize flood damage.
 - (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - iii) *Utilities.*
 - (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

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- (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 to them or contamination from them during flooding.
 - iv) *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 all subdivision proposals.
 - b) *Specific standards.* In all areas of special flood hazard where base flood elevation data have been provided as set forth in subsections (3)(b) or (4)(c)(ii) of this section, the following provisions are required:
 - i) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least two feet above the base flood elevation.
 - ii) *Nonresidential construction.* Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities, shall:
 - (1) Be floodproofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - (3) Be certified in a stamped, signed and dated document by a registered professional engineer or architect that the standards of this subsection are satisfied.
 - iii) *Manufactured homes.*
 - (1) Manufactured homes shall be anchored in accordance with subsection (e)(1)a,2 of this section.
 - (2) All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system.
 - c) *Floodways.* Located within the special flood hazard areas established in subsection (c)(2) of this section are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
 - i) Prohibit encroachments, including fill, new construction, substantial improvements and other development, unless certification by a registered professional engineer or architect is provided demonstrating that encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.
 - ii) If subsection (5)(c)(i). of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsection (5) of this section.

6) *Violations; penalties.*

- a) Violation of the provisions of this section or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants of variances, shall constitute a Class B misdemeanor. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be punished as specified in section 1-9 of this code. In addition, the defendant may be required to pay costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- b) Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Sec. 101-10-5. Cluster developments.

It is the intent of this section to permit, in a cluster development, a more flexible placing of buildings on the land, the grouping of open space, and accessory facilities as garages or parking spaces, and flexibility in architectural design, including multifamily dwellings of the row house or garden-apartment type of construction. The owner of such proposed cluster development may apply for a special permit to vary from the requirements of this chapter in accordance with the following provisions:

1) *Size, location and ownership of area.*

- a) The area proposed shall be in one ownership, or, if in several ownerships, the application for the special permit shall be filed jointly by all of the owners of the properties included in the plan.
- b) The plan shall cover an area of not less than 20 acres.
- c) Not less than 90 percent of the area shall be in one or more residential or agricultural districts. Not more than ten percent of the area may be in a commercial district. No part of the area shall be in an industrial district.

2) *Data to accompany application.* Each application for a special permit for a cluster development shall be submitted with a preliminary overall development plan which shall include:

- a) Development application and all associated information as established by the engineering and planning department.
- b) Fee, as established by the Board of City Commissioners.
- c) Site plan.
- d) Topography, including contours at no greater vertical interval than two feet.
- e) Proposed street system.
- f) Proposed lot layout.
- g) Proposed reservation for parks, playgrounds, school sites, and other open spaces.
- h) Proposed location of commercial development and off-street parking space therefor.
- i) Types of dwellings and site locations therefor.
- j) Proposed locations of garages and parking spaces.
- k) Preliminary plans and elevations of dwellings and commercial buildings.
- l) Tables showing total number of acres in the proposed development and the percentage designated for each of the proposed dwelling types, commercial structures and other nonresidential uses, including off-street parking, streets, parks, playgrounds and schools.

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- m) Tabulations of the overall density for residential uses and other data that the Planning and Zoning Commission or Board of Adjustment may require.
- 3) *Specific requirements.* Any cluster development for which a special permit is granted shall meet the following requirements:
- a) The overall density of residential development shall not exceed the average density that would have been permitted if the area had been developed conventionally under the regulations covering the districts in which the property was located. For the purposes of calculating this density, and for no other purposes, the density permitted in any agricultural zone shall be considered to be 5.0 families per acre.
 - b) No less than ten percent of the gross area of the project shall be devoted to parks or playgrounds and such parks or playgrounds shall be dedicated to the public use; provided, further, that except with the written approval of the park district of the city no dedicated park or playground shall contain less than 2.0 acres.
 - c) All buildings, when completed, shall be served by public sewers and public water supply.
 - d) No single buildings shall contain more than eight dwelling units.
 - e) No building shall exceed 2.5 stories or 35 feet in height.
 - f) The minimum distance between two buildings which face each other shall be 2.5 times the average height of the two buildings.
 - g) The front of no residential building shall face the rear of another building.
 - h) Where the front of one building faces the side of another building, the minimum distance between the two buildings shall be 1.5 times the average height of the two buildings.
 - i) No two residential buildings shall, at any point, be less than 20 feet apart.
 - j) Whenever the project is adjacent to, or on the opposite side of, a street from a residential or agricultural district, then, for such portion of the development adjacent to, or across the street from, such residential or agricultural district, all yard and setback regulations pertaining to the adjacent or opposite district shall be applied to that portion of the cluster development.
 - k) The plan shall be approved by the Planning and Zoning Commission prior to the review of the application by the Board of Adjustment. The commission shall review the plan to determine its compliance with any portion of the master plan that shall have been adopted or any portion of any other plans adopted or under study by the commission, including, but not limited to, plans for parks, playgrounds, public utilities, streets and schools.
- 4) *Board of Adjustment review.* Upon receipt of the application for a special permit for a cluster development, together with the plan meeting the requirements of this section, the application shall be reviewed by the Board of Adjustment. The Board of Adjustment shall handle such application for a variance in the manner provided in this chapter for handling variances.

Sec. 101-10-6. Gateway Overlay District and Memorial Highway Overlay District.

- 1) *General description.*
- a) The Gateway Overlay District provides a higher standard of appearance for corridors that serve as the main entrances to the community.
 - i) The Gateway Overlay District includes properties partially or fully within 200 feet of the rights-of-way of the following corridors:
 - (1) I-94 and its ramps within Mandan's city limits and extraterritorial jurisdiction.

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- (2) Main Street west from 10th Avenue West to the western edge of the extraterritorial jurisdiction and from Mandan Avenue east to I-94;
 - (3) Highway 6 south from Main Street to the edge of the extraterritorial jurisdiction;
 - (4) Highway 1806 south from Main Street to the edge of the extraterritorial jurisdiction and north from Old Red Trail to the edge of the extraterritorial jurisdiction,
 - (5) Mandan Avenue and Old Red Trail from I-94 ramps to Collins Avenue/Highway 1806 north,
 - (6) Sunset Ave NW north from Old Red Trail to Highway 1806 or County 38th Street North and within the extraterritorial jurisdiction to the City of Mandan, Morton County, North Dakota.
- b) The Memorial Highway Overlay District provides a higher standard of appearance for heavily traveled and highly visible areas of the community.
- i) The Memorial Highway Overlay District includes properties partially or fully within 200 feet of the rights-of-way of the following corridors:
 - (a) Memorial Highway, McKenzie Drive, 40th Avenue SE from Memorial Highway to McKenzie Drive, and 46th Avenue SE from Memorial Highway to McKenzie Drive to the City of Mandan, Morton County, North Dakota.
- 2) *Applicability.* New buildings, additions and renovations to existing buildings within the Gateway Overlay District shall meet the requirements established in this section. The city reserves the right to reject projects that do not meet the intent of this section.
- 3) *Accessory uses.* Accessory uses are limited to those in the underlying zoning districts. Accessory uses shall meet the yard requirements set forth in subsection (5) of this section.
- 4) *Special uses.* Special uses included in the underlying districts are allowed as long as they meet the provisions outlined in Article 11: Specific Use Standards.
- 5) *Lot requirements and setbacks.* The following minimum requirements shall apply in the Gateway Overlay District. Where additional requirements, exceptions and modifications are set forth in this chapter for the underlying districts, the more restrictive shall apply.
- a) *Lot area.* Requirements specified in the underlying district shall apply.
 - b) *Lot width.* Requirements specified in the underlying district shall apply.
 - c) *Building setbacks for yards directly abutting Interstate 94.* For properties separated from the interstate by width roads, setbacks established in the underlying zones shall apply. Building setback for yards directly abutting Interstate 94 and its ramps are as follows:
 - i) *Commercial/industrial uses.* Commercial/industrial uses shall be 45 feet.
 - ii) *Residential uses.* Residential uses shall be 45 feet. Four buffer points shall be provided within the setback between residences and the interstate. Buffer points must be satisfied as indicated in subsection (l) of this section.
 - iii) *Exception.* Buildings initially constructed prior to January 1, 2006, are exempt. If necessary, residential properties will be allowed to rebuild within their existing setbacks.
- 6) *Site requirements.* Mult-unit residential, commercial and industrial properties abutting gateways or their frontage roads shall meet the following site standards:
- a) *Lighting.* Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high temperature processes, such as combustion or

welding, shall not be directed into any adjoining property. The source of light shall be hooded or controlled in some manner so as not to light adjacent property. Bare light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights, which casts light on residential property, shall not exceed four foot-candles (meter reading) as measured from said property. This subsection shall not apply to sports stadiums and athletic fields or to public recreational facilities.

- b) *Storage and display.* Storage and display shall be consistent with Section 101-13-3(3). In addition:
 - i) No required setback abutting a gateway shall be used for outdoor storage. Outdoor storage of materials and large equipment shall be screened from gateways by two buffer points, including at least one point of fencing and/or plantings.
 - c) *Signs.* Signs shall be consistent with city policy and subject to the approval of the Mandan Architectural Review Commission, with these additional standards:
 - i) Freestanding signs shall be clustered in an area landscaped with ornamental trees, shrubs and/or flowers.
- 7) *Building design and construction.* Multi-unit residential, commercial and industrial buildings in the Gateway Overlay District shall meet the following standards, unless specifically exempted:
- a) Buildings shall be attractive and constructed of materials that will maintain their appearance over the long term.
 - b) All exterior walls exposed to public view shall be of consistent quality and characteristics.
 - c) Main entrances shall be emphasized by distance recessed or projected, by accent materials, or change of grade. The entrances shall include pedestrian-scale lighting and other pedestrian amenities.
 - d) Exterior building walls greater than 60 feet in length shall be divided visually into sections or bays to break up the mass.
 - e) Architectural elements, approved by the Mandan Architectural Review Commission, shall be combined with landscaping to add interest to buildings, and especially to break up long expanses. Standards for architectural elements include:
 - i) Standards for minimum building materials and architectural elements are shown in the following subsections. These standards may be modified with approval from MARC if high quality materials or architectural elements are clustered on facades that face the public realm, and those facades exceed minimum requirements.
 - ii) For industrial buildings, the façade facing the gateway shall be comprised of at least 30 percent quality materials other than steel and fiberglass. For commercial and residential buildings, the façade facing the gateway shall be comprised of at least 50 percent quality materials other than steel and fiberglass.
 - iii) Exterior building walls shall incorporate no fewer than three architectural elements comparable to those listed in this subsection. Architectural elements contributing to this requirement shall have sufficient visual impact to be noticeable from the gateway and may include, but are not limited to:
 - (1) Accent materials.
 - (2) Public art.
 - (3) Architectural details, such as tile work and moldings integrated into the building facade.
 - (4) Windows.
 - (5) Recesses/projections.

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- (6) Roof overhang.
 - (7) Varied rooflines.
 - (8) Articulated cornice line.
 - (9) Canopies/awnings/porticos.
- f) Rooftop mechanical equipment shall be screened in a manner that is incorporated in the architectural form of the building.
 - g) Any building additions must compliment the design and materials used in the original structure.
- 8) *Overhead doors and loading docks for multifamily residential, commercial and industrial uses.* Overhead doors and loading docks for multifamily residential, commercial and industrial uses shall:
- a) Not face gateways, other arterial or collector streets;
 - b) Not be located in required front yards; and
 - c) Meet the requirements of Article 12: Parking, Loading and Drive-Throughs.
- 9) *Maximum building height; principal building.* Requirements specified in the underlying district shall apply.
- a) *Principal building.* Requirements specified in the underlying district shall apply.
 - b) *Accessory buildings.* Requirements specified in the underlying district shall apply.
- 10) *View from gateways and memorial highway areas.* Development plans for property adjacent to the overlay districts or their frontage roads shall include both building elevation and vista drawings. Context and compatibility with neighboring buildings shall be considered in the plan review.

Sec. 101-10-7. Neighborhood Mixed Use (NMU) District

- 1) *Purpose:* The purpose of the Neighborhood Mixed Use District (NMU) is to create use and form-based regulations that support high-quality, pedestrian-oriented, mixed-use redevelopment and development in areas that have been the subject of planning studies, master plans, or that have been identified for Neighborhood Mixed Use in the Comprehensive Plan. In the NMU, ground story uses are focused on meeting daily needs primarily for adjacent neighborhood residents, such as corner stores, personal services, and small restaurants. Upper stories may accommodate residential and/or office uses.
- 2) *Uses:*
 - a) *Permitted Uses:*
 - i) Dwelling, Cottage Court
 - ii) Dwelling, multi-unit
 - iii) Dwelling, townhouse
 - iv) Group Dwelling
 - v) Group Living
 - vi) Mixed-Use Development
 - vii) Retail Group A
 - viii) Service Group A
 - ix) Education Group
 - x) Office-bank Group

- xi) Utility Service Group
- xii) Fire Station
- xiii) In-home childcare
- xiv) Bed and Breakfast
- xv) Cemetery
- xvi) Public Safety and Emergency Response Facility
- xvii) Community Services

b) *Conditional Uses:*

- i) Child Care Center
- ii) Assembly Group
- iii) Microbrew Pub

c) *Accessory Uses:*

- i) Outdoor seating or eating areas
- ii) Public plazas, gathering spaces, or courtyards

d) *Prohibited Uses:*

- i) Industrial uses
- ii) Motor vehicle sales
- iii) Outdoor storage of merchandise, equipment, or supplies
- iv) New detached dwellings or duplex dwellings

3) *Development Standards*

Neighborhood Mixed Use (NMU) District Standards	
Standards	Specifications
Minimum lot coverage	The maximum building lot coverage shall not exceed 50 percent of the area of the lot. Maximum impervious surfaces coverage shall not exceed 20 percent of the square foot area of the lot.
Minimum Front and Corner - Side Setback	5 feet
Maximum Front and Corner - Side Setback	20 feet
Minimum Building Frontage placed within Front Setback	70%
Minimum Side yard Setback	5 Feet (10 Feet if abutting a residential district/use)
Minimum Rear	10 Feet (25 Feet if abutting a residential district/use)

- 4) *Parking placement:* All parking lots and off-street parking spaces shall be placed in the rear or side yard of the property.

5) *Pedestrian access:*

- a) A direct, continuous pedestrian pathway a minimum width of five feet is required connecting the public sidewalk to the main entrance(s) of each building on the site.
- b) Pedestrian pathways shall be provided through all parking areas larger than forty (40) spaces to create a safe and convenient connection to building entrances.
- c) Pathways shall be clearly delineated using techniques such as contrasting textured or colored material, segregation of the pathway from vehicle travel lanes, or raised pathway surfaces.

6) *Building design:*

- a) Window and door coverage: Transparent windows and doors must cover a minimum of 40% of the facade between two (2) and eight (8) feet above ground level.
- b) Front facade entrances: minimum of one entrance per every 60 feet of facade.
- c) Building finishes of any facade facing a street or parking lot shall consist of materials comparable in grade and quality to the following. A minimum of two (2) materials shall be used:
 - i) Brick
 - ii) Natural stone
 - iii) Integral colored split-face (rock-face) concrete block
 - iv) Cast-in-place concrete or pre-cast concrete panels
 - v) Wood, with finished surfaces for exterior use
 - vi) Glass curtain wall panels
 - vii) Stucco or EIFS
- d) All new building facades shall include a minimum of three (3) of the following elements:
 - i) Architectural detailing such as cornices, awnings, parapets or columns;
 - ii) Contrasting yet complementary material colors;
 - iii) A combination of horizontal or vertical design features;
 - iv) Irregular building shape;
 - v) Horizontal offsets of at least four (4) feet in depth;
 - vi) Vertical offsets in the roofline of at least four (4) feet; or
 - vii) Fenestration on the ground floor recessed horizontally at least one (1) foot into the facade.

Sec. 101-10-8. Corridor Mixed Use (CMU) District

- 1) *Purpose:* The purpose of the Corridor Mixed Use (CMU) District is to provide use and form-based regulations that allow a variety of land uses while ensuring accessibility by multiple modes of transportation and enhancing the appeal of corridors throughout the City. This district is particularly suited to infill development and redevelopment along more auto-oriented corridors than the NMU district. Commercial uses in the CMU district may be somewhat larger in scale and more flexible than the NMU district.
- 2) *Uses:*
 - a) *Permitted Uses:*
 - i) All uses permitted in the NMU district, and:

- ii) Animal shelter
- iii) Assembly Group
- iv) Brewer taprooms
- v) Child care center
- vi) Commercial Recreation Group
- vii) Domestic distilleries
- viii) Gas Station
- ix) Health-Medical Group
- x) Microbrew Pub
- xi) Mobile Vendor
- xii) Hotel/Motel
- xiii) Public Recreation Group
- xiv) Railroad or Bus Passenger Station
- xv) Retail Group B
- xvi) Service Group B
- xvii) Wineries

b) *Conditional Uses:*

- i) All conditional uses in the NMU district, and:
- ii) Drive-through facilities
- iii) Commercial Parking as a Principal Use

c) *Accessory Uses:*

- i) Outdoor seating or eating areas
- ii) Public plazas, gathering spaces, or courtyards

d) *Prohibited Uses:*

- i) Industrial uses
- ii) Motor vehicle sales
- iii) Outdoor storage of merchandise, equipment, or supplies
- iv) New detached dwellings or duplex dwellings

3) *Development Standards*

Corridor Mixed Use (CMU) District Standards	
Standards	Specifications
Minimum lot coverage	The maximum building lot coverage shall not exceed 30 percent of the area of the lot. Maximum impervious surfaces coverage shall not exceed 20 percent of the square foot area of the lot.
Minimum Front and Corner Side Setback	10 feet

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(Supp. No. 6, Update 3)

Maximum Front and Corner Side Setback	20 feet
Minimum Building Frontage placed within Front Setback	50%
Minimum Side Setback	5 Feet (10 Feet if abutting residential district)
Minimum Rear Setback	10 Feet (25 Feet if abutting a residential district)

- 4) *Parking placement:* All parking lots and off-street parking spaces shall be placed in the rear or side yard of the property.
- 5) *Shared parking:* Credit shall be given for shared parking arrangements, use of public parking facilities, and on-street parking where available. A maximum 25% reduction in minimum parking required may be granted by the Planning Director based on these criteria.
- 6) *Pedestrian access:*
 - a) A direct, continuous pedestrian pathway a minimum width of five feet is required connecting the public sidewalk to the main entrance(s) of each building on the site.
 - b) Pedestrian pathways shall be provided through all parking areas larger than forty (40) spaces to create a safe and convenient connection to building entrances.
 - c) Pathways shall be clearly delineated using techniques such as contrasting textured or colored material, segregation of the pathway from vehicle travel lanes, or raised pathway surfaces.
- 7) *Building design:*
 - a) Window and door coverage: Transparent windows and doors must cover a minimum of 40% of the facade between two (2) and eight (8) feet above ground level.
 - b) Front façade entrances: minimum of one entrance per every 60 feet of façade.
 - c) Building finishes of any façade facing a street or parking lot shall consist of materials comparable in grade and quality to the following. A minimum of two (2) materials shall be used:
 - i) Brick
 - ii) Natural stone
 - iii) Integral colored split-face (rock-face) concrete block
 - iv) Cast-in-place concrete or pre-cast concrete panels
 - v) Wood, with finished surfaces for exterior use
 - vi) Glass curtain wall panels
 - vii) Stucco or EIFS
 - d) All new building facades shall include a minimum of three (3) of the following elements:
 - i) Architectural detailing such as cornices, awnings, parapets or columns;
 - ii) Contrasting yet complementary material colors;
 - iii) A combination of horizontal or vertical design features;
 - iv) Irregular building shape;
 - v) Horizontal offsets of at least four (4) feet in depth;
 - vi) Vertical offsets in the roofline of at least four (4) feet; or

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- vii) Fenestration on the ground floor recessed horizontally at least one (1) foot into the façade.

Sec. 101-10-9. Levee Buffer and Overlay District.

1) General description.

- a) The Levee Buffer and Overlay District provides additional criteria for development activities and improvements in areas adjacent to or within the vicinity of the Lower Heart River Levee System.

2) Applicability.

- a) New buildings, development review activities, property improvements and utility dig requests shall meet the requirements established in this section.

3) Definitions. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning.

- a) *Centerline* means the central point of the levee structure.
- b) *Clear zone* means the area used for levee operations, maintenance and flood fighting activities. This area is fifteen feet from the landward levee toe.
- c) *Landward side* means areas on the land side of the levee infrastructure.
- d) *Levee* means the embankment built to prevent the overflow of the Heart River during high water events.
- e) *Levee toe* means the edge of a levee where the base meets the natural ground elevation.
- f) *Lower Heart River Water Resource District* means the local sponsor of the Lower Heart River Levee System, including the Sunny, Mandan and Lower Units of the levee system. Also referred to as LHRWRD.
- g) *Riverward side* means areas on the river side of the levee infrastructure.

4) Existing uses. The following language shall apply to existing structures or improvements that exist as encroachments within the levee clear zone.

- a) Encroaching structures that do not have a permanent foundation shall be removed or relocated by the property owner to a location outside the levee right-of-way and/or clear zone.
- b) Encroaching structures that have a permanent foundation should not be removed or relocated.
 - i) No additional improvements may be made to the structures without approval from LHRWRD. This includes all external improvements and internal improvements that would modify the basement or the way the structure is connected to external features.

5) Development and property improvements.

- a) No improvements or structures, including gardens, fences, trees, decks, sheds, landscaping, sidewalks, or yard storage, shall be made within the levee clear zone.
- b) All applicable building permits, site plan review, and development review activities coordinated by the city shall be provided to LHRWRD for review for interference with operation or safety of the levee.
 - i) This restriction applies within 500 feet landward and 300 feet riverward of the levee centerline.
 - ii) Any work proposed within the levee clear zone or right-of-way (whichever is greater) or proposed private infrastructure that would intersect with the levee in any way requires the applicant to meet with LHRWRD and a memorandum of understanding between the applicant/owner and LHRWRD.
- c) Utility dig requests within the levee clear zone shall require the contractor to meet with LHRWRD to review potential interference with operation and safety of the levee.

ARTICLE 11. SPECIFIC USE STANDARDS

Sec. 101-11-1. Purpose

In order to carry out the purposes of this chapter, the Board of City Commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area or other reasons, include additional standards to ensure the health, safety, and overall harmony on and surrounding a specific site.

Sec. 101-11-2. Airports and heliports

An airport may be permitted as a special use in an A agricultural district, in the extraterritorial jurisdiction and a heliport may be permitted as a special use associated with a medical facility within the zoning jurisdiction of the city, provided that:

- 1) The area is sufficient to meet the federal requirements for the class of airport or heliport proposed;
- 2) There are no existing flight obstructions, such as towers, chimneys, or other tall structures, or natural obstructions outside the boundaries of the proposed airport or heliport which would fall within the approach zone to any of the proposed runways or landing strips of the airport or heliport;
- 3) There is sufficient distance between the end of each useable landing strip and the airport boundary to satisfy the requirements of the federal aviation administration or any other appropriate authority. In cases where air rights or easements have been acquired from the owners of abutting properties, in which approach zones may fall, satisfactory evidence thereof shall be submitted with the application;
- 4) Any building, hangar or other structure shall be at least 100 feet from any street or property boundary;
- 5) Adequate space for off-street parking has been provided. A traffic study must be submitted to document the need for the number of spaces proposed; and
- 6) The application for authorization of an airport or heliport shall be accompanied by plans meeting the requirements of the FAA, other regulatory agencies and the city.

Sec. 101-11-3. Animal Hospitals, Kennels, and Rescues

Animal hospitals, kennels, and rescues are subject to the following minimum standards:

- 1) The facility shall be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.
- 2) Outdoor kennels or cages and any outdoor storage uses are prohibited.
- 3) The facility's minimum floor area size must provide for 75 square feet per dog and 20 square feet per cat or other animal at any one time, exclusive of office or storage area. The facility must provide one cage or air kennel per animal.
- 4) Animal wastes shall be immediately cleaned with solid wastes being enclosed in a container of sufficient construction to eliminate odors and organisms. All animal waste must be properly disposed of daily by a contracted refuse service.
- 5) For all areas for animal care or keeping, wall finish materials below 48 inches in height shall be impervious, washable materials such as sealed masonry, ceramic tile, glassboard, or marlite. Floor finish shall be sealed concrete or other approved impervious surface.
- 6) If an outdoor exercise area is provided, it shall be at least 100 square feet in size for each animal that occupies that area at any time.

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- 7) Outdoor areas used for animal training or exercise shall be enclosed or fenced in such manner as to prevent the running at large or escape of animals confined therein and must fully screen the activity from public right-of-way and adjacent property.
 - 8) If adjacent to residential uses, outdoor animal use areas must be set back at least 50 feet from all property lines, and 75 feet from residential property lot lines.
 - 9) Outdoor use areas must be located in side or rear yards of the property.
 - 10) Fencing materials must be at least six feet in height, must be fully opaque and must consist of durable, maintenance-free materials.
 - 11) Use of outdoor areas is limited to 7:00 a.m. to 9:00 p.m.
 - 12) Outdoor use areas shall be limited to no more than six animals outside at any one time.
 - 13) Animals must be supervised at all times when outdoors.
 - 14) No more than four animals shall be outside the fenced area per supervising staff person and all animals must be leashed.
 - 15) The facility ventilation system must be completely separate and independent of other tenant space within the building.
 - 16) All city codes and State license requirements for such facilities must be current and compliant.

Sec. 101-11-4. Animal Husbandry

Animal husbandry is an allowable use within the General Farming use group, subject to the following standards:

- 1) No animal, animal stable, barn or shelter shall be located within one hundred feet of any neighboring residence.
- 2) The City reserves the right to enter, evaluate and correct any corral-stable area to alleviate odorous and unsanitary conditions at the owner's expense, after a ten (10)-day written notice to correct these conditions has been issued.
- 3) The number of animals permitted will be based on one (1) domestic farm animal unit on premises which contains at least two (2) acres and additional domestic farm animal units shall be allowed at the rate of one half ($\frac{1}{2}$) unit for every additional one and one half ($1\frac{1}{2}$) acres on the premises.
- 4) For the purpose of this section, domestic animal units are calculated as follows:

Animal	Animal Units
Horse	1
Llama	1
Mule	1
Sheep	1
Miniature Horse	0.5
Chicken	0.1

Animal	Animal Units
Cattle	1
Alpaca	1
Burrow/Donkey	0.5
Goat	0.5
Pony	0.5
Duck	0.1

Sec. 101-11-5. Concrete and Asphalt Batch Plants

- 1) Concrete and Asphalt batch plants may be permitted within Industrial Group B, subject to the following standards:

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- a) The site is located at least 0.5 miles from any residentially zoned or used property.
 - b) A permit to operate is issued by the North Dakota Department of Health, if applicable.
 - c) The proposed access for the operation is approved by the City and/or County Engineer.
- 2) Temporary asphalt or concrete batch plants may be permitted as an interim use for the Industrial Group B or within the A-Agriculture district subject to the following additional standards:
- a) The temporary plant is for a specific construction project and not for general sale of product to the public.
 - b) The applicant provides a detailed, written explanation of the length of time needed for the use.
 - c) The use is for a specified period of time, tied to the duration of the construction project, which shall be clearly stated in the administrative approval.
 - d) The site will be returned to a natural vegetative state after the temporary use has ended.

Sec. 101-11-6. Bed and Breakfasts

Bed and breakfast establishments are subject to the following minimum standards:

- 1) One parking space is required per bedroom, plus one parking space for the owner/operator.
- 2) One sign no larger than four square feet is permitted.
- 3) A copy of the State license shall be provided to the City for its records.
- 4) The owner of the dwelling is the holder of a current bed and breakfast facility license for not to exceed four lodging units issued pursuant to the provisions of Century Code.

Sec. 101-11-7. Car Washes

A car wash is permitted within Service Group B and is subject to the following minimum standards.

- 1) Drive-through stacking spaces must be provided in accordance with section 105-1-6(n).
- 2) Vacuums and dryers may not be located closer than 150 feet to the nearest adjoining residential property unless the nearest residential property is across a collector or arterial roadway in which case it may be no less than 100 feet in distance from said use.
- 3) The minimum front yard setback shall be 25 feet.
- 4) The facility must front on an arterial or collector street and may be adjacent to a local street.
- 5) The facility may not produce noise in excess of limits in section 16-6-3.

Sec. 101-11-8. Cemeteries

A cemetery, mausoleum, or columbarium may be permitted in an RM, CB, CC, MA, MB, MX and A district, provided that:

- 1) No graves shall be located less than 100 feet from any property line;
- 2) There shall be a strip at least 75 feet in width adjacent to all boundaries of the cemetery landscaped and maintained as a green area;
- 3) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the ground, the green area shall include a dense evergreen hedge at least six feet in height; and
- 4) No mausoleum, columbarium, or cemetery chapel shall be erected within 200 feet of any boundary of the lot or parcel on which it is located.

Sec 101-11-9. Crematoriums

Crematoriums are permitted in the MA and MB Industrial districts, with the following standards:

- 1) Crematorium equipment shall be located a minimum of 50 feet from a property line.
- 2) Crematorium equipment shall be located a minimum of 350 feet from a residentially zoned or developed property.

Sec. 101-11-10. Child Care Centers

A child care center is a facility providing services to more than 12 children or any number of adults. A day care center requires a conditional use permit approval and must comply with the following criteria:

- 1) The facility must receive state approval before an occupancy permit can be issued;
- 2) For a facility catering to children, each building shall provide not less than 35 square feet of interior play area per child;
- 3) For a facility catering to children, a fenced outdoor play area of not less than 75 square feet per child shall be provided that is located no closer than ten feet to an adjoining residential lot;
- 4) For a facility catering to adults, there shall be an outdoor lawn area and covered porch offering either active recreation or passive activities for groups or individuals;
- 5) As a minimum, onsite parking shall be provided at the ratio of one space per manager and employee per shift plus one space for each 12 clients; and
- 6) Drop off and pickup of clients shall be in an area off the public street that is separate from parking spaces.

Sec. 101-11-11. Correctional Facilities

A correctional facility may be permitted in an industrial or A district , provided that:

- 1) The facility fronts on or receives access from an arterial street;
- 2) There are no churches, schools or residentially zoned or developed property within 500 feet;
- 3) The primary illumination field for exterior lighting shall not extend beyond the property boundary;
- 4) No building shall be closer than 35 feet to any property line; and
- 5) As a minimum, onsite parking shall be provided at a ratio of one space for each employee per shift plus one space per four inmates.

Sec. 101-11-12. RESERVED

Sec. 101-11-13. Drug or Alcohol Outpatient Treatment or Counseling Facility

A drug or alcohol outpatient treatment or counseling facility may be permitted in a CC Commercial, MA, MB or MX Industrial or A – Agriculture district with the following standards:

- 1) The facility fronts on an arterial street;
- 2) As a minimum, onsite parking shall be provided at a ratio of one space for each employee per shift plus one space per two clients per hour;
- 3) Hours of operation are limited to between 6:00 a.m. and 8:00 p.m.;

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- 4) The facility is no closer than 1,000 feet to a pre-existing school, daycare facility or residentially zoned property; and
 - 5) The facility is no closer than 500 feet to an establishment licensed to sell alcohol.

Sec. 101-11-14. Electric Vehicle Charging

- 1) Purpose and Intent: It is the intent of the City to promote and encourage the installation and availability of publicly accessible electric vehicle charging stations especially when located at commercial centers, existing fueling stations, hotels, tourist attractions, public facilities, and in conjunction multi-unit housing development. It is the purpose of this section to establish standards for electric vehicle charging stations.
- 2) General Requirements for all electric vehicle charging equipment:
 - a) Unless installed as part of a city or NDDOT initiated effort, electric vehicle charging stations are not permitted within the public right-of-way. In all other instances, electric vehicle charging must occur on property entirely out of the public right of way.
 - b) Any cords connecting the charging equipment to a vehicle shall be configured so that they do not cross any driveway, sidewalk, or passenger unloading area whether on public right of way or not.
- 3) General Requirements for publicly accessible electric vehicle charging:
 - a) Charging equipment cords shall be retractable or have a place to hang the connector and cord sufficiently above the pedestrian surface.
 - b) Charging station outlets and connector devices shall be no less than 36 inches and no higher than 48 inches from the surface where mounted.
 - c) Equipment mounted on pedestals, lighting posts, bollards, or other devices shall be designed and located as to not impede pedestrian travel or create trip hazards within the right-of-way
 - d) Charging station equipment pedestals shall be designed to minimize potential damage by accidents, vandalism and to be safe for use in inclement weather. Adequate charging station protection, such as concrete-filled steel bollards shall be used. Curbing may be used in lieu of bollards, if the charging station is setback a minimum of 24 inches from the face of the curb.
 - e) Charging station outlets and connector devices shall be mounted to comply with state code and must comply with all relevant Americans with Disabilities Act (ADA) requirements
 - f) Charging station stalls must include signage in accordance with N.D.C.C. § 39-10-50.1.
- 4) Level 1 and Level 2 are an allowable accessory use in all zoning districts for either private or public use.
- 5) Level 3 electric vehicle charging stations are a permitted use in the RM, RH, CA -, CB -, and CC -Commercial, the MA -, MB -, and MX – Industrial. CMU – Corridor Mixed Use and Gateway / Memorial Highway Overlays, the A - Agricultural and the DF - and DC - Downtown zoning districts.

Sec. 101-11-15. Public Safety and Emergency Response Facilities

A facility providing fire and/or emergency medical response services may be permitted in any zoning district with the following standards:

- 1) Ingress and egress from the street shall be so designed and constructed as to provide safe traffic movement. A demand activated traffic control signal for emergency vehicle egress from the site may be required,
- 2) Sufficient parking shall be provided to accommodate the maximum number of personnel per shift plus at least two visitor spaces; and,
- 3) If the use is approved, landscaping, signage and design of the building exterior shall be reviewed and approved by the Mandan Architectural Review Commission.

Sec. 101-11-16. Golf Driving Range

A golf driving range may be permitted in an A Agriculture or MA, MB or MX Industrial district with the following standards:

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- 1) No residential structures shall be located within 300 feet of the landing area of the driving range; and
 - 2) Any flood-lights used to illuminate the premises are so directed and shielded as to prevent the direct lighting area from extending beyond the property boundary.

Sec. 101-11-17. Sand and Gravel Extraction

Sand and Gravel Extraction is permitted in the MB and MX Industrial districts, as well as a conditional use in the A Agricultural district subject to the following standards:

- 1) A site plan for operation and reclamation of the mined land, including location of haul roads and points of access, and existing and proposed contours, is required.
- 2) Evidence of a reclamation agreement with the property owner must accompany the application.
- 3) Reclamation shall be completed within one year of the resource being exhausted, abandoned, or closed, Per N.D.C.C. Title 38.
- 4) No excavation or digging shall be made beyond the limits for which the particular permit is granted, and in no case shall any excavation or digging be made within 30 feet of any adjoining road right-of-way or structure as may be in the area.
- 5) All mining operations shall be conducted between 6:00 a.m. and 9:00 p.m. Monday through Saturday.
- 6) Operators shall utilize all practical means to reduce the amount of dust caused by the operation. In no case shall the amount of dust or particulate matter exceed the standards established by the North Dakota Department of Environmental Quality.
- 7) Operators shall comply with all applicable state Department of Environmental Quality regulations and federal and Environmental Protection Agency regulations for the protection of water quality. No waste products or process residue, including untreated wash water, shall be deposited in any lake or natural drainage system, except that lakes or ponds wholly contained within the extraction site may be so utilized.
- 8) Operators shall dispose of all waste water used on the site in a manner which will not adversely affect adjoining property and shall use stilling ponds or other methods satisfactory to the City Commission for disposing of the suspended solids in the waste water.
- 9) All wells greater than six inches in diameter placed in or upon the premises described in the application shall be secured and capped upon abandonment under the specific direction of the city engineer.

Sec. 101-11-18. Junkyards

Junkyards are permitted in MB and MX and require a conditional use permit in MA, provided that all operations are conducted wholly within an enclosed building or within an area enclosed on all sides with a solid wall, compact evergreen hedge or uniformly painted fence, not less than six feet in height; provided, further, that there shall be no burning of wrecked motor vehicles or other products except within a furnace or incinerator approved by the city engineer.

Sec. 101.11.19. Livestock Market

Livestock markets are permitted in the MB district, subject to the following minimum standards:

- 1) No livestock market shall be located within 2,640 feet of any R7, R4, R3.2, RM, RH or RMH residential district.
- 2) Type of animal permitted: cattle, horses, pigs, and sheep.
- 3) Animals must be fully contained/fenced in at all times.
- 4) No animal feedlots are permitted on the site.

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- 5) Hours of operation are limited to 7:00 a.m. to 10:00 p.m.
 - 6) No slaughtering is permitted on the site.

Sec. 101-11-20. Manufactured and Modular Homes

General regulations for manufactured and modular homes. Manufactured and modular homes that are placed on individually owned lots must meet the following standards:

- 1) The home shall have no less than 1,000 square feet of floor area except where the zone in which it is to be located has a greater minimum square footage requirement.
- 2) The home shall have no less than a 24-foot exterior width.
- 3) The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run.
- 4) The home shall have a non-reflective roofing material.
- 5) All transporting apparatus including wheels, axles, transporting lights or towing hitch must be removed.
- 6) The home shall be located and installed or built according to the same standards for foundation system, permanent utility connections and setback which would apply to a site-built, single-family dwelling on the same lot.
- 7) The design, location and appearance of the home must be in harmony with existing adjacent properties, structures and locations.
- 8) Any such home which, according to its title document, was manufactured prior to the year during which it is to be sited upon its permanent foundation shall be subject to the provisions of chapter 111, article 10 moving of vehicles.
- 9) Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

Sec. 101.11.21. Medical Marijuana Growing

Medical Marijuana Growing facilities are permitted in the MB district and are subject to the standards in North Dakota State Requirements Chapter 19-24.1 Medical Marijuana. The following minimum requirements also apply:

- 1) Must be located in a closed building and possess a state permit that demonstrates the facility meets all state regulations.
- 2) Facility may not be located within 1,000 feet of the property line of a pre-existing public or private school, place of religious assembly, or child care center.
- 3) Facility may not be located within 300 feet of a residential zone.
- 4) At time of application, applicant must provide odor control plans, including HVAC plans, which have been satisfactorily reviewed and approved by the City.

Sec. 101-11-22. Microbrew pubs, brewer taprooms, domestic distilleries, and wineries

Microbrew pubs, domestic distilleries, and wineries are permitted with standards in the CB, CC, MA, DC districts and as a conditional use in the DF, CMU, NMU and CA districts. Brewer taprooms are permitted with standards in the MA or MB district and allowed as a conditional use in the CMU, CB and CC districts. The following standards apply to these uses:

- 1) In the CA, CB, CC, MA, NMU, CMU, DF, and DC districts, the facility at the proposed location will not have an adverse impact on the surrounding neighborhood. The following criteria may be used to evaluate proposed sites: the effect on traffic movements in the area; the general nature, character, age and condition of the

adjacent development; the proximity to residential areas, regardless of zoning; and any other criteria the city may deem pertinent.

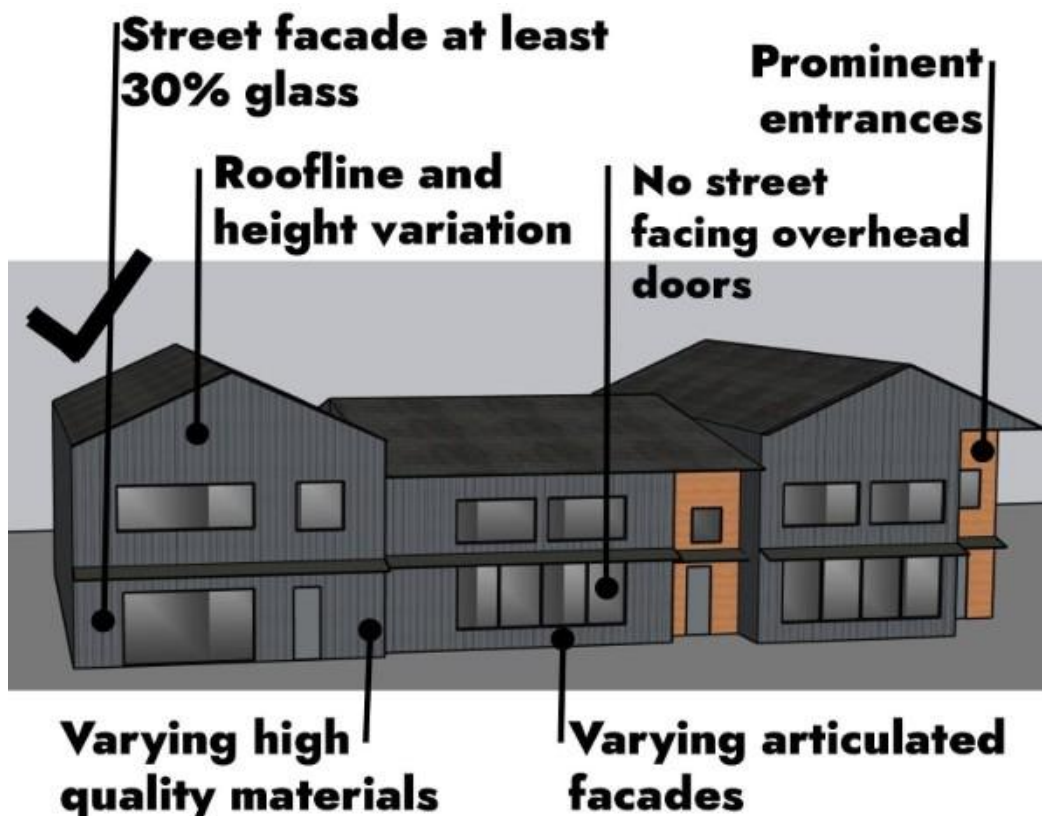
- 2) All brewing, distilling, and storage activities are located within a completely enclosed building.
- 3) The facility complies with all applicable building code, health and sanitation, and zoning regulations.
- 4) The facility complies with all applicable licensing and operation requirements of the state.
- 5) Beverages brewed or distilled onsite cannot be sold or otherwise provided for consumption on the premises unless the owner holds the appropriate liquor license from the city.
- 6) Beverages brewed or distilled onsite cannot be sold or otherwise provided to non-wholesale customers for consumption off the premises unless the owner holds an appropriate liquor license from the city.
- 7) Adequate parking is provided onsite in accordance with the provisions of Article 12, unless the facility is located in the parking exempt district.

Sec. 101-11-23. Multi-use Shops

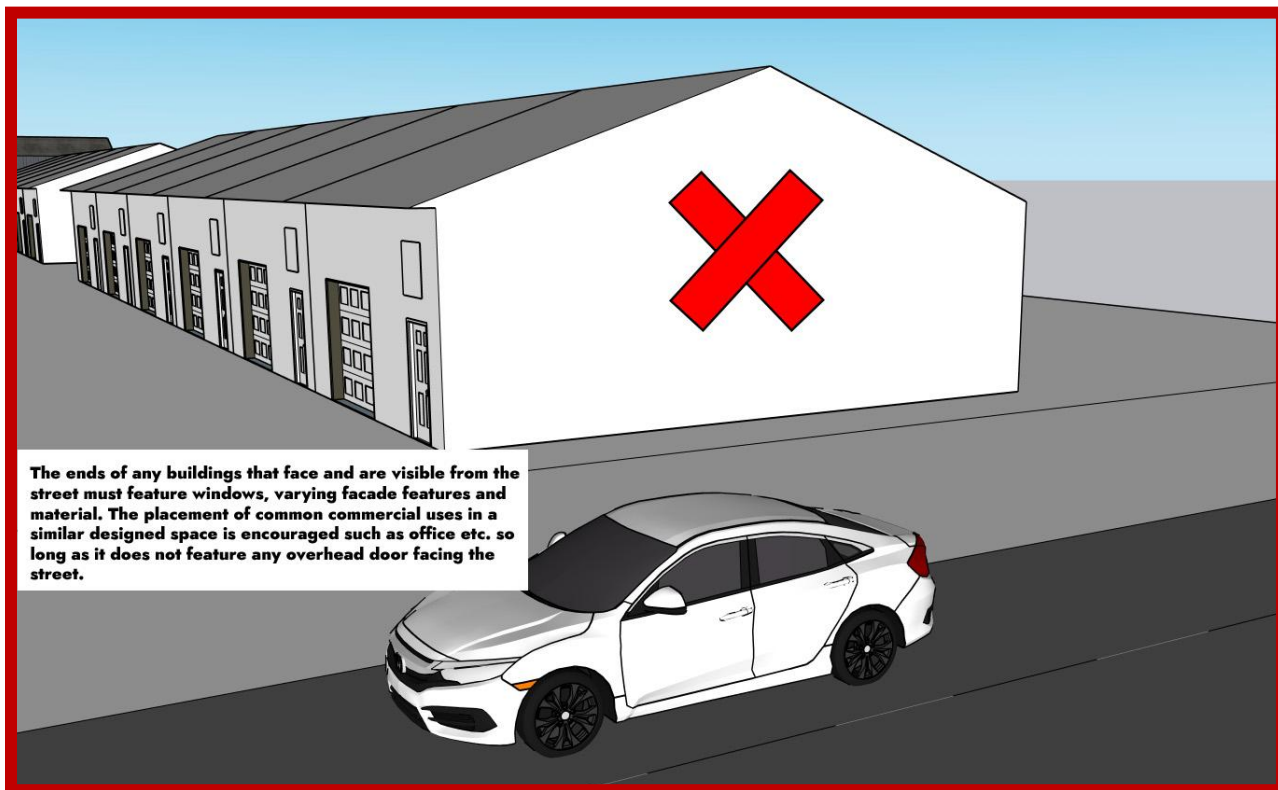
- 1) Purpose and Intent: It is the intent of these standards to provide provisions for the development of multi-use shops (commonly referred to as shop-condos) with the understanding that these buildings frequently provide affordable spaces for personal hobby and storage needs as well as places of business for commercial and industrial start up and small businesses. Since not all uses allowed within these structures are compatible and each may have varying building code, fire safety, and parking requirements, it is necessary to identify and maintain the types of uses that shall be permitted in these structures.
- 2) Use Standards. Each multi-use shop development may be permitted subject to the following minimum standards:
 - a) Each individual unit within the structure shall have an open space/yard or public way on no more than three sides.
 - b) Each individual unit within the structure shall have its own separate means of egress.
 - c) Such units shall only contain group business, factory, mercantile, or storage occupancy classifications as set forth by Section 3 of the North Dakota State Building Code.
 - d) Uses, whether commercial or accessory to residential, shall be declared at the time of the building permit issuance. No change in use may be conducted unless reevaluated through the building permitting or, if applicable, change of use permitting process and the structure meets all building code requirements for the desired change of use.
 - e) Traditional mixed-use (residential and commercial combined) multi-use shops shall not be permitted. All units within the structure shall be constructed according to the minimum standards of the building code for the declared use.
 - f) Minimum off-street parking requirements shall be planned and provided for based on 2 exterior parking spaces per unit.
 - g) Each structure shall be limited to one curb stop accessible by city staff.
 - h) The declaration of uses shall in no way affect the way valuation, special assessments, utility rates, and other city fees are determined. These shall remain determined by separate city policy.
 - i) Covenants, conditions, and restrictions (CC&Rs) or another form of recorded agreement approved by the city attorney shall set out, at a minimum, provisions for access and responsibility for costs of inspections related to the fire suppression system, if any, and shall be recorded prior to issuance of building certificate of occupancy.

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- j) For the city's utility billing purposes, a recorded development association or another form of recorded agreement approved by the city attorney is required if any of the individual units within the development are not owned by the same owner of the development. The recorded development association or recorded agreement shall set out, at a minimum, the allocation of costs and statement of understanding of the collective responsibility of owners for payment of city utilities. If a recorded development association or another form of recorded agreement approved by the city attorney is in place, the city will issue one utility bill per month to one owner or representative of the structure for the entire structure's base charges and consumption or usage. The monthly utility bill will not be sent to each individual owner within the structure. If ownership is divided after a special use permit has been obtained, the property owner shall furnish a copy of said recorded agreement to the city showing it meets this provision.

Multi-Use Shop Design Use Standards – Required In Gateway Corridor Overlay, CB and CC Districts



Not permitted when facing street: Blank flat wall featuring minimal or no windows, large overhead service doors, unarticulated facades, individual street access points and non-prominent entrances that face outward.



Sec. 101-11-24. Self-Storage Facilities

- 1) The intent of these use standards is to ensure that self-storage facilities contribute positively to the urban landscape, particularly along major corridors and within downtown areas. By implementing thoughtful design and placement requirements, these standards aim to:
 - a) Enhance the visual appeal and architectural coherence of commercial and industrial zones.
 - b) Ensure that self-storage facilities integrate seamlessly with surrounding uses, particularly in high-visibility areas.
 - c) Promote the efficient use of land in Downtown Core and Fringe districts by allowing self-storage in basements and within mixed-use developments.
 - d) Maintain the character and functionality of public-facing spaces while accommodating the practical needs of self-storage facilities.
- 2) General Standards
 - a) Location: Self-storage facilities should be located in commercial or industrial zones, with specific allowances for downtown core and fringe districts.
- 3) Self-storage development along major corridors
 - a) Screening and Placement:
 - i) Self-storage facilities visible from major corridors must be located behind other buildings such as retail, office spaces, or self-storage office spaces, provided these front-facing spaces are designed in a manner typical for commercial public spaces.
 - ii) If direct placement behind other buildings is not feasible, the facility must be designed to blend with the surrounding architecture and not appear as a typical self-storage facility.
 - b) Architectural Design:
 - i) Facades facing the street must incorporate architectural elements such as windows, awnings, and varied building materials to enhance visual interest.
 - ii) Ensure facade variation through the use of different materials, varying setbacks/depths, and/or rooflines.
 - c) Landscaping:
 - i) A landscaped buffer of at least 10 feet must be provided along the street frontage, including trees, shrubs, and ground cover to soften the visual impact.
 - ii) Landscaping should be designed to conceal and screen views of the self-storage units from major streets, using a combination of trees, shrubs, and fencing where appropriate.
- 4) Design Standards for Indoor Storage Facility Buildings
 - a) Building Design:
 - i) Indoor storage facilities must have a facade that is consistent with the architectural style of the surrounding buildings.
 - ii) Incorporate elements such as articulated facades, varied rooflines, and high-quality materials.
 - b) Entrances and Exits:
 - i) Main entrances should be clearly marked and accessible from the street.

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- ii) Loading and unloading areas must be screened from public view.
- 5) Self-Storage Facilities in Downtown Core District. Within the Downtown Core district, self-storage shall be allowed if the self-storage is located in the basement of the structure.
- a) Basement Use:
 - i) Self-storage facilities are permitted in the basements of buildings located in the downtown core and fringe districts.
 - ii) Access to basement storage must be from within the building, with no direct exterior access.
 - iii) Storage of chemicals or other hazardous materials is prohibited.
 - b) Mixed-Use Integration:
 - i) Encourage integration of self-storage facilities within mixed-use developments to maximize land use efficiency.
 - ii) Ensure that the presence of self-storage does not detract from the primary use of the building, whether it be residential, commercial, or office space.
 - c) Building Materials. All walls visible from the street shall be finished with architectural materials such as brick, glass, stone, ceramic, stucco, precast panels, exterior insulation finish systems (e.g., dryvit), or curtain walls. The following material shall not be used on walls that are visible from the street: metal panels; non-residential grade metal siding; non-residential grade wood-based materials; non-residential grade composition materials, such as plastic or asphalt; concrete blocks or cinder blocks. Concrete block may be used only if it is burnished, standing flute or sculptured.

Sec. 101-11-25. RESERVED

Sec. 101-11-26. Telecommunication (Radio/Cell) Towers

- 1) Telecommunication (radio/cell) towers may be permitted in MB and MX, and permitted with a conditional use permit in Ag, CA, and MA districts. These requirements apply to Telecommunication transmission towers and antennas exceeding 120 feet and are subject to the following standards:
 - a) Development of the radio tower shall be performed in accordance with all applicable County, State and Federal rules and regulations.
 - b) Towers must be set back from residential districts and schools a distance equal to tower height.
 - c) Prior to obtaining a building permit, the developer shall submit a letter from the Federal Aviation Administration (FAA) stating that the tower does not exceed the maximum height permitted under FAA regulations.
 - d) Towers shall be constructed of galvanized metal and shall be of an appropriate color to fit the surroundings.
 - e) A minimum six-foot-high security fence shall be installed around the entire perimeter of the facility.
 - f) Wireless communication facilities located in historic areas shall comply with all requirements applicable to those areas and may be subject to additional city review.
 - g) The Collocation of wireless communication facilities on existing towers, utility poles, etc. is required to minimize the number of new towers and allow for additional providers.
 - h) Unless required by the Federal Communications Commission or the Federal Aviation Authority, the telecommunications tower shall not be lighted.

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- i) Planning review is required for the construction of new towers, along with a building permit and site plan.
 - j) When a telecommunication tower facility is no longer in use, the tower must be removed within six (6) months, at the provider's expense, and the site must be restored.
 - k) The owner shall oversee all maintenance of the tower, equipment, and all access roads.
 - l) Any change in tower use, height, structure, or relocation shall require Planning and Zoning Commission review and approval.

Sec. 101-11-27. Utility Group

- 1) The design and location of the premises and structure is in full compliance with all requirements of state and federal regulations governing the operation of the utility;
- 2) The design and location of the premise and structure is reasonably necessary to provide service for a reasonable period of time with projected growth considered;
- 3) Except for electrical distribution installations, when a side of the lot on which the use is located adjoins a lot in a residential district or adjoins a residentially developed lot in a multi-use district there shall be planted and maintained a landscaped strip no less than five feet in width on that side of the lot;
- 4) Proper fencing with lot entrances shall be erected at least six feet high and maintained around all installations and structures in which there is any safety hazard whatsoever for children, provided that all structures shall be so located that such safety fence shall be so placed as not to encroach on any front yard required in the district in which the use is located. In the DC and DF districts said fencing shall meet the architectural; and
- 5) For the proper operation of the utility, it is necessary that the proposed use be located on, or within a short distance of, the site on which it is proposed to be located.

Sec. 101-11-28. Solar Energy Systems

- 1) Purpose and Intent. It is the purpose of this section to provide standards and requirements for the operation, siting, design, appearance, construction and use of solar energy systems in order to encourage solar energy systems in the city while protecting the general welfare of the public. Standards for the regulation of solar energy systems are based on the following two types:
 - a) Accessory solar energy systems refer to solar collection systems that capture energy from the sun and convert it into electrical or thermal power primarily for on-site use. These systems can serve as a primary or additional power source for residential, commercial, or industrial structures, and any excess energy can be fed back into the electric grid. Accessory solar energy systems include building-integrated, ground-mounted, and roof-mounted solar energy systems as defined in Section 101-7-1.
 - b) Community solar arrays are designed to generate electricity on a larger scale, often for commercial or community-wide purposes as defined in Section 101-7-1.
- 2) General standards for all solar energy systems.
 - a) Exterior electrical and communication lines shall be buried below the surface of the ground when possible.
 - b) All systems shall comply with all City and state building and electrical codes and permitting requirements.
 - c) The property owner shall notify the electrical utility where the solar system is connected to the electrical utility system.
 - d) Lot Coverage – Ground-mounted and community solar arrays are exempt from lot coverage requirements if the soil under the system is maintained in vegetation and not compacted.

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- e) If the solar collector system ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities by no later than 90 days after the end of the 12-month period.
- 3) Standards for accessory solar energy systems
- a) Permitted accessory use – Building-integrated, ground-mounted and roof-mount solar energy systems are a permitted accessory use in all zoning districts where structures of any sort are allowed, subject to certain requirements as set forth below.
 - b) Height – Accessory Solar energy systems must meet the following height requirements:
 - i) Building- or roof- mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be given an equivalent exception to the zoning district’s height standards in the district in which the system is located as building-mounted mechanical devices or equipment.
 - ii) Ground- or pole-mounted solar energy systems shall not exceed 15 feet in height when oriented at maximum tilt.
 - c) Property line setback – Solar energy systems must meet the principal structure setback for the zoning district with the lot on which the system is located, except as allowed below.
 - i) Roof- or building-mounted solar energy systems – The collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built, unless the collector and mounting system has been explicitly engineered to safely extend beyond the edge, and setback standards are not violated. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building within the side yard setback. Solar collectors mounted on the sides of buildings and serving as awnings are considered to be building-integrated systems and are regulated as awnings. Under no circumstance may the solar energy system or any appurtenances extend past the property line or into public right of way.
 - ii) Ground-mounted Solar Energy Systems – Ground-mounted solar energy systems may not extend into the side-yard or rear setback when oriented at minimum design tilt, except as otherwise allowed for building mechanical systems. Under no circumstance may the solar energy system or any appurtenances extend past the property line or into public right of way.
- 4) Standards for community solar arrays
- a) Conditional Use Permit Requirement. A community solar arrays may be a permitted use in the A – Agricultural; RR – Rural Residential; CB – Commercial, CC - Commercial and the MA, MB and MX Industrial zoning districts upon approval and issuance of a conditional use permit subject to certain requirements as set forth here within.
 - b) Height – Community solar arrays shall not exceed 15 feet in height.
 - c) Setbacks – Community solar arrays must meet the property line setback for principal buildings or structures in the district in which the system is located.
 - d) Off-site Glare Impact Reduction – Measures to minimize nuisance glare include selective placement of the system, screening on the north side of the solar array, modifying the orientation of the system, reducing use of the reflector system, or other remedies that limit glare.
 - e) Site plan required. A site plan of existing and proposed site conditions and other information necessary demonstrate compliance with the requirements of this Code.

Sec. 101-11-29. Adult Establishments

1) *Purpose and intent.*

- a) *Purpose.* It is the purpose of this article to regulate adult entertainment establishments in order to promote the health, safety, and general welfare of the citizens of the city, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects and concentrations of adult entertainment establishments within the city. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this article to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene material.
- b) *Findings.* Based on evidence concerning the adverse secondary effects of adult uses presented in hearings and in reports made available to the board, and on findings incorporated in the cases of *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 426 U.S. 50 (1976); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *Thomas v. Chicago Park District*, 122 S. Ct. 775 (2002); *California v. LaRue*, 409 U.S. 109 (1972) *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); and other cases; and reports of secondary effects occurring in and around adult entertainment establishments, including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma County, Oklahoma; Cleveland, Ohio; Dallas, Texas; Tucson, Arizona; St. Croix County, Wisconsin; Bellevue, Washington; Newport News, Virginia; New York, New York; Phoenix, Arizona; and from summaries of several of the foregoing secondary effects reports; and also on findings from the Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), the board finds:
 - i) The nature of adult establishments is such that they are recognized as having adverse secondary characteristics, particularly when they are accessible to minors and located near residential property or related residential uses, such as schools, day care centers, libraries, churches or parks.
 - ii) The concentration of adult establishments has an adverse effect upon the use and enjoyment of adjacent areas.
 - iii) The nature of adult establishments requires that they not be allowed within certain zoning districts, or within minimum distances from each other or residential and related residential uses. Regulation of adult establishments is necessary to ensure that the adverse secondary effects would not contribute to or enhance criminal activity in the area of residential uses or contribute to the blighting or downgrading of the surrounding property and lessening of its value.
 - iv) The Planning and Zoning Commission, following notice thereof, held a public hearing on the ordinance from which this article is derived, and has considered testimony, written comments, and material from the public by and through said hearing, and has recommended approval of the zoning changes for adult uses.
 - v) This article is consistent with the Downtown Mandan and Memorial Highway Redevelopment Plan, purposes, goals, and policies:
 - (1) To establish Downtown Mandan as a progressive pedestrian-oriented district using smart growth initiatives that are responsive to local vernacular design, community values, and adaptable to technological changes.

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- (2) To improve image and character through investment, beautification, and heritage.
 - (3) To encourage new mixed-use development, including commercial, residential and educational, to maintain a lively, attractive, and safe place to live, work and visit.
- 2) *Construction and definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:
- a) *Adult cabaret entertainment* means:
 - i) Any exhibition, performance or dance of any type conducted in any premises where such exhibition, performance, or dance involves a person who performs in such clothing or sheds clothing to a point where the area below the top to the bottom of the areola of a female breast or any portion of pubic area, anus, buttocks, vulva or genitals are covered by opaque material, or wearing any device or covering exposed to view which simulates the appearance of any portion of the female breast below the top of the areola or any portion of the pubic region, anus, buttocks, vulva or genitals, or human male genitals in a discernibly turgid state, even if completely and opaquely covered;
 - ii) Any exhibition, performance or dance which includes any of the following:
 - (1) The performance of acts, or simulated acts, of sexual intercourse;
 - (2) Masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;
 - (3) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;
 - (4) The actual or simulated displaying of the pubic hair, anus, vulva or genitals, or the nipples of the female; or
 - (5) Appearances, entertainment or performances of any type consisting of or containing any nude performer, or topless female dancer; or
 - iii) Any exhibition, performance or dance which is intended to sexually stimulate any member of the public and which is conducted on a regular basis or as a substantial part of the premises activity. This includes, but is not limited to, any such exhibition, performance or dance performed for, arranged with, or engaged in with, fewer than all members of the public on the premises at that time, with separate consideration paid, either directly or indirectly, for such performance, exhibition or dance and which is commonly referred to as table dancing, couch dancing, taxi dancing, lap dancing, private dancing or straddle dancing.
 - b) *Adult establishments or adult uses* includes adult arcades, adult bookstores, adult cabarets, adult companionship establishments, adult motion picture theaters, adult motion picture rental, adult mini-motion picture theaters, adult massage parlors, adult steamroom/bathhouse/sauna facilities, adult companionship establishments, adult rap/conversation parlors, adult health/sport clubs, adult novelty businesses, adult motion picture arcades, adult modeling studios, adult hotels/motels, adult body painting studios, and other premises, enterprises, establishments, businesses or places open to some or all members of the public, at or in which there is an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas, which are capable of being seen by members of the public.
 - c) *Adult use - arcade* means any place to which the public is permitted or invited, but from which minors are excluded by reason of age, wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are regularly maintained to show images to one person per machine, located within individual viewing areas, cubicles or booths and where the images so displayed are distinguished or characterized by their emphasis upon matters exhibiting specified sexual activities or specified anatomical areas.

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- d) *Adult use - body painting studio* means an establishment or business which provides the service of applying paint or other substance, whether transparent or nontransparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas.
 - e) *Adult use - bookstore* means a building or portion of a building used for the barter, rental or sale of items of printed matter, including publications, books, magazines, and other periodicals, pictures, slides, records, audio tape, CD, DVD, videotape or motion picture film, if such building or portion of a building is not open to the public generally but only to one or more classes of the public, excluding any minor by reason of age or if such items are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.
 - f) *Adult use - cabaret* means a building or portion of a building used for providing dancing or other live entertainment or activity as defined in adult cabaret entertainment, if such building or portion of a building excludes minors by virtue of age or if such dancing, activity or other live entertainment is distinguished or characterized by an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas.
 - g) *Adult use - companionship establishment* means a companionship establishment which excludes minors by reason of age, or which provides the service of engaging in or listening to conversation, talk, or discussion between an employee of the establishment and a customer or patron, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
 - h) *Adult use - health/sport club* means a health/sport club which excludes minors by reason of age, or if such club is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
 - i) *Adult use - hotel/motel* means an adult hotel or motel from which minors are specifically excluded from patronage and wherein material is presented which is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
 - j) *Adult use - massage parlor, health club* means a massage parlor or health club which restricts minors by reason of age, and which provides the services of massage if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
 - k) *Adult use - mini-motion picture theater* means an enclosed building or portion of a building with a capacity for less than 50 persons used for presenting materials or motion pictures, if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such materials or motion pictures are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons of the theater.
 - l) *Adult use - modeling studio* means an establishment whose major business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers or patrons and who engage in specified sexual activities or display specified anatomical areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers or patrons.
 - m) *Adult use - motion picture arcade* means any place to which the public is permitted or invited wherein coin- or slug-operated or electronically, electrically or mechanically controlled or operated still or motor picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, if such place as a prevailing practice excludes minors by virtue of age or if the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.
 - n) *Adult use - motion picture theater* means an enclosed building or portion of a building with a capacity of 50 or more persons used for presenting materials or motion pictures, if such building or portion of a

building as a prevailing practice excludes minors by virtue of age or if such material or motion pictures are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons of the theater.

- o) *Adult use - novelty business* means a business which has as a principal activity the sale of devices which stimulate human genitals or devices which are designated for sexual stimulation or the sale of sexually oriented devices.
- p) *Adult use - sauna* means a sauna which excludes minors by reason of age or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxing, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- q) *Adult use - steam room/bathhouse facility* means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent if such building or portion of a building restricts minors by reason of age or if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas.
- r) *Adult uses - accessory* means a use, business, or establishment having 20 percent or less of its stock in trade or floor area allocated to, or 30 percent or less of its gross receipts derived from, movie rentals, novelties or magazine sales, of which there is an emphasis on the presentation, display, depiction, or description of specified sexual activities or specified anatomical areas.
- s) *Adult uses - principal* means a use, business, or establishment:
 - i) Having, as one of its principle business purposes, an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas; or
 - ii) Having a substantial or significant portion of its stock in trade or floor area allocated to the sale of materials, films, services or activities, of which there is an emphasis on the presentation, display, depiction or description of specified sexual activities or specified anatomical areas. Alcoholic beverage-licensed premises which offer adult cabaret entertainment shall be deemed an adult use - principal, regardless of allocated floor area, and shall comply with all of the requirements for an adult use - principal.
- t) *Massage* means the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping by hand or mechanical device.
- u) *Massage business* means any establishment or business wherein massage is practiced, including establishments known as health clubs, physical culture studios, massage studios or massage parlors.
- v) *Nude performer or nude dancer* means any person who performs or appears in attire such that any portion of the pubic area, anus vulva or genitals is exposed to view or not covered with an opaque material.
- w) *Sexually oriented devices* means, without limitation, any artificial or simulated specified anatomical area or any other device or paraphernalia that is designed in whole or in part for specified sexual activities.
- x) *Specified anatomical areas* means:
 - i) Less than completely and opaquely covered human genitals and pubic regions, buttocks, or female breasts below a point immediately above the top of the areola.
 - ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- y) *Specified sexual activities* means:

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- i) Actual or simulated sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, or the use of excretory functions in the context of a sexual relationship, and any of the following sexually-oriented acts or conduct: anilingus, buggery, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pederasty, pedophilia, piquerism, sapphism, zooerasty.
 - ii) Clearly depicted human genitals in the state of sexual stimulation, arousal or tumescence.
 - iii) Use of human or animal ejaculation, sodomy, oral copulation, coitus or masturbation.
 - iv) Fondling or touching of nude human genitals, pubic region, buttocks or female breast.
 - v) Situations involving a person, any of whom are nude, clad in undergarments or in sexually revealing costumes, and who are engaged in activities involving the flagellation, torture, fettering, binding or other physical restraint of any such persons.
 - vi) Erotic or lewd touching, fondling or other sexually oriented contact with an animal by a human being.
 - vii) Human erection, urination, menstruation, vaginal or anal irrigation.
 - z) *Topless female performer or topless female dancer* means any female who performs or appears in attire such that any portion of her breasts below the top of the areola is exposed to view or is not covered with an opaque material.
- 3) Adult uses.
- a) *General provisions.* Adult uses shall be subject to the following general provisions:
 - i) Activities classified as obscene are not permitted and are prohibited. In no instance shall the application of or interpretation of this article be construed to allow an activity otherwise prohibited by state law or city ordinance.
 - ii) Adult uses, either principal or accessory, shall be prohibited from locating in any building which is also utilized for residential purposes.
 - iii) An adult use which does not qualify as an accessory use pursuant to this section shall be classified as an adult use - principal.
 - b) *Adult use - principal.*
 - i) Adult use - principal shall be a permitted use in the MB, MC and MD Industrial Districts, subject to the regulations, location and separation criteria outlined in this article.
 - ii) Adult use - principal shall be located at least 500 radial feet, as measured in a straight line from the closest point of the property line of the building in which the adult use- principal is located, to the property line of:
 - (1) A zoning district in which residential uses are specifically listed as a permitted or conditional use.
 - (2) A licensed day care center.
 - (3) A public or private educational facility, classified as a kindergarten, elementary, junior high or senior high.
 - (4) A public library.
 - (5) A public park.
 - (6) Any church or church related organization.
 - (7) Another adult use - principal.

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- iii) No adult use - principal shall be located in the same building or upon the same property as another adult use - principal.
 - iv) No building, premises, structure or other facility in which sexually oriented devices, as defined in this chapter, are displayed or offered for sale shall contain any other kind of adult establishment or adult use.
 - v) Adult use - principal shall adhere to the following signing regulations:
 - (1) Sign messages shall be generic in nature and shall only identify the name of the business.
 - (2) Signs shall comply with the requirements of size and number for the district in which they are located or as required by the building code.
 - c) *Adult use - accessory.* Adult uses - accessory shall be permitted in all commercial districts, provided the accessory use conforms to the provisions of this subdivision.
 - i) Adult use - accessory shall:
 - (1) Comprise no more than 20 percent of the floor area of the establishment in which it is located.
 - (2) Comprise no more than 30 percent of the gross receipts of the entire business operation.
 - (3) Not involve or include any activity except the sale or rental of merchandise.
 - (4) Not be located in any building or portion of a building in which an adult use, either principal or accessory, is located.
 - ii) Adult use - accessory shall be restricted from and prohibit access to minors by physical separation of such items from areas of general public access:
 - (1) *Movie rentals.* Display areas shall be restricted from general view and the access of which shall be in clear view and under the control of persons responsible for operation.
 - (2) *Magazines.* Publications classified or qualifying as adult uses shall not be physically accessible to minors and shall be covered with a wrapper or other means to prevent display of any material other than the publication title.
 - (3) *Other uses.* All other adult uses - accessory, such as adult use - novelty, shall comply with the intent of this section.
 - iii) Adult use - accessory shall be prohibited from both internal and external advertising and signing of adult materials and products.
 - 4) Nonconforming adult uses.
 - a) Any adult use lawfully operating prior to June 27, 2003, that is in violation of section 105-5-3(b)(2), shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for reason or voluntarily discontinued. In no instance shall a nonconforming use be allowed to structurally expand the use on the lot on which it is located when the use became a nonconforming use, or expand the adult use to include another lot on which the adult use was not located when it became nonconforming, or in any way be increased, enlarged, extended or altered, except that the use may be changed to a conforming use.
 - b) If the building in which a temporary nonconforming use is located is destroyed by any means to an extent of greater than 50 percent of its market value, or if the building in which the temporary nonconforming use is vacant for more than six months, an adult use shall not be re-established unless it is in conformance with this article.

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- c) Any adult entertainment establishment or use which is either made nonconforming by this article or which is an existing nonconforming use shall be terminated within the time provided in subsection (a) of this section. However, such termination date may be extended upon approval by the board of an application filed with the city administrator within three months of the effective date of the ordinance from which this article is derived, requesting an extension to such amortization period. The board's decision on whether or not to approve any extension and the length of time of such period shall be based upon the applicant clearly demonstrating extreme economic hardship based upon an irreversible financial investment or commitment made prior to June 3, 2003, which precludes reasonable alternative uses of the subject property. The applicant shall also include the request for an extension an amortization schedule demonstrating the financial investment and time period being requested.
 - d) An adult establishment business lawfully operating as a conforming use is not rendered nonconforming by the location, subsequent to the grant or renewal of an adult entertainment license, of a use listed in section 105-5-3(b)(2) within 500 feet of the adult establishment. This provision applies only to the renewal of a valid license, and does not apply when an application is made for a license after the applicant's previous license has expired or been revoked.
- 5) Violations; penalties.
- a) Any person violating any provision of this article related to adult uses is guilty of a Class B misdemeanor and, upon conviction, is subject to the penalties as prescribed under state law.
 - b) Any violation of this article related to adult uses shall be a basis for the suspension or revocation of the certificate of occupancy for the property or building in or on which the adult use is located. In the event the board proposes to revoke or suspend a certificate of occupancy, the property owner shall be notified in writing of the basis for such proposed suspension or revocation. The board shall hold a hearing for the purpose of determining whether to revoke or suspend the certificate of occupancy, which hearing shall be within 30 days of the date of the notice.
 - c) The board shall determine whether to revoke or suspend a certificate of occupancy within 30 days after the close of the hearing or within 60 days of the date of the notice, whichever is sooner, and shall notify the property owner of its decision within that period.

Article 12 PARKING, LOADING, DRIVE-THROUGHS.

Sec. 101-12-1. Off-Street Parking

1) *Purpose.*

- a) The purpose of this section is to provide for off-street parking and loading areas and pedestrian facilities that are accessible, attractive, secure, maintained and meet the needs generated by specific uses. It is further the intent of these regulations to avoid undue congestion on public streets; to protect the level of service and capacity of existing streets; to avoid unnecessary conflicts between pedestrians and vehicles; and to protect the public health, safety and welfare.

2) *Applicability.*

- a) Off street parking is required for all uses listed in this section. The provisions of this Article apply to all new development, including expansions and alterations, and to any development or building that undergoes a change in use or intensity.

3) *Continuing obligation.*

- a) The schedule or requirements for off-street parking space and off-street loading space shall be a continuing obligation of the owner or the real estate on which any such structure is located, as long as the structure is in existence, and its use requiring vehicle parking or vehicle loading facilities continues.
- b) It is unlawful for an owner of any building affected by this section to discontinue, change or dispense with, or cause the discontinuance or change of, the required vehicle parking or loading space apart from the discontinuance, sale or transfer of such structure without establishing alternative vehicle parking or loading space which meets the requirements of, and is in compliance with, this section.
- c) It is unlawful for any firm or corporation to use such building without acquiring such land or other suitable land for vehicle parking or loading space which meets with the requirements of and is in compliance with this chapter.

4) *Plan of required off-street parking or loading area.*

- a) For the purpose of converting parking or loading spaces into the required parking or loading area, plans must be submitted to the City Planner to show how the required parking or loading space shall be arranged in the area supplied for that purpose and to indicate sufficient space for parking maneuvers, as well as adequate ingress and egress to the parking or loading area.

5) *Nonconforming uses.*

- a) In the case of nonconforming uses, where major repairs, substantial alterations, or extensions are made, no such major repairs, substantial alterations or extensions shall be permitted unless and until the off-street parking and off-street loading facilities space requirements of this section, so far as they apply to the use to which such building is devoted, shall be fully provided for.

6) *Commercial vehicles in residential districts.*

- a) Off-street parking of commercial vehicles weighing in excess of 2.5 tons in residential districts is not allowed, except for deliveries.

7) *General Standards.* The following standards apply to all off-street parking areas serving commercial, multi-unit residential, industrial and institutional uses.

- a) *Surface.*

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- i) All required off-street parking areas and driveways shall be surfaced with an all-weather dustless material consisting of bituminous, brick, concrete pavers or concrete or an alternative material as approved by the City Planner.
 - ii) Residential and commercial properties may not utilize surface areas that are not surfaced as noted in 101-12-1.7.a.i. as part of their required or supplemental off-street parking.
 - b) *Striping.*
 - i) Required parking spaces shall be striped.
 - c) *Location of required parking and loading facilities.*
 - i) The off-street parking facilities required by this section shall be on the same lot or parcel of land as the structure they are intended to serve; provided, however, that when practical difficulties, as determined by the board of adjustment, prevent the establishment of such facilities upon the same lot or parcel, they shall be furnished within 400 feet of the premises to which they are appurtenant and provided that there is at least one sign on the off-site location indicating which use the parking is for.
 - ii) The off-street loading facilities required by this section shall, in all cases, be on the same lot or parcel of land as the structure they are intended to serve. In no case shall the required off-street loading space be part of the area used to satisfy the off-street parking requirements of this chapter.
 - d) *Size of parking spaces.*
 - i) Each space for a passenger vehicle shall contain a minimum area of 180 square feet, exclusive of access drives.
 - ii) Minimum parking space dimensions shall be nine feet in width and 20 feet in depth.
 - iii) Up to 20% of required parking spaces may be marked compact stalls with a width of not less than eight (8) feet and depth of not less than sixteen (16) feet, unless otherwise determined by the City Planner.
 - iv) Each space intended for commercial vehicle parking shall have a minimum area and dimensions as determined by the City Engineer.
 - v) All loading spaces shall be sufficient to meet the requirements of each use and shall provide adequate space for storage and maneuvering of the vehicles they are designed to serve.
 - vi) Parking ramps and underground parking may be allowed to have some reduction in the dimensions stated above.
 - vii) For each parking space not under roof, there shall be provided 200 square feet in addition to all lanes, alleys, aisles and drives necessary for safe and adequate parking maneuvering.
 - viii) For each off-street loading space required by this section, there shall be provided space clear and free of all obstruction, at clear up to be at least ten feet in width, 50 feet in length and 14 feet in height.
 - ix) Off-street parking and off-street loading space shall be provided with methods of ingress and egress such that it will be unnecessary for trucks or tractor trailer combinations to back into them from a street or out of them into a street.
 - e) *Computing requirements.* In computing the number of such parking spaces required, the following rules shall govern:
 - i) Floor area shall mean the gross floor area of the specific use.

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- ii) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
 - iii) Where the number of employees is used in calculating required parking for a business, the number of employees on the maximum shift shall be used.
 - f) *Multiple uses.*
 - i) If multiple uses are provided within the same site or building, required parking shall be the sum of the parking required for each individual use. This total may be reduced at the discretion of the City Planner if peak hours for the uses do not overlap and a parking study is provided.
 - g) *Minimum and maximum parking spaces.*
 - i) Minimum off-street parking spaces are required pursuant to section (4) herein. The maximum number of parking spaces provided on a site shall not exceed 125% of the minimum number of spaces required.
 - h) *Access.*
 - i) All off – street parking spaces shall have access off driveways and not directly off a public street. The use of the public right of way for maneuvering into parking spaces is prohibited.
 - i) *Pedestrian Connections.*
 - i) Safe pedestrian pathways shall connect public sidewalks to building entrances through parking lots. Pathways must prioritize safety, accommodate expected pedestrian traffic, and may require multiple routes based on site conditions, subject to City staff approval.
 - j) *Use of parking and loading space.*
 - i) Required parking or loading spaces shall not be used for storage of goods or for storage of vehicles that are inoperable or for sale or rent.
 - k) *Restriping.*
 - i) When a parking area is restriped, accessible parking spaces shall be marked/designated.
 - l) *Snow storage.*
 - i) Areas for the collection of plowed snow may occupy up to 25% of required parking spaces on a temporary basis. The City Planner may require hauling of snow from parking areas to maintain adequate parking to meet the demands of the use.
 - m) *Maintenance.*
 - i) All required parking areas shall be permanently maintained and remain free and clear of litter and debris. The owner or responsible party shall repair damaged paved surfaces, as necessary.
 - n) *Electric Vehicle Charging.*
 - i) The City encourages the inclusion of electric vehicle (EV) charging infrastructure and dedicated spaces within parking areas.
 - ii) Dedicated EV parking spaces shall count towards off-street parking requirement, at a rate of 1 EV space being equivalent to 2 required off street spaces.
 - 8) *Off-Street Parking Standards by Use.*
 - a) The minimum number of required off-street parking spaces for the following uses shall be as indicated in the accompanying table. Where a specific use is not listed, the City Planner shall determine the minimum

number of required off-street parking spaces by considering functional similarities between uses listed and the use not listed.

- b) If a mixture of uses is provided within the same site or building, required parking shall be the sum of the parking required for each individual use.

Land Use	Specific Use	Minimum Parking Requirement
Residential		
	Single unit detached and attached two-unit dwellings	2 per dwelling unit
	Cottage court and multi-unit dwellings	1 space per bedroom (efficiency < 400 sf = 1 space)
	Accessory dwelling units	1 per unit
	Manufactured homes within a manufactured housing park	1 per unit
Lodging		
	Hotel	1 per 2 guest rooms; additional parking for onsite restaurants, bars, clubs, or assembly spaces per those use group standards
	motels, trailer courts	1 per each guest room, cabin or trailer parking space
Retail & Service		
	Retail Group A & B	1 per 500 sq ft GFA
	Theaters	1 space for each 5 seats provided for patron use.
	Restaurants	1 space per 4 seats provided for patron use.
Office & Medical		
	Office	1 per each 400 square feet of floor area
	Hospitals (nursing homes, treatment facilities, and similar institutions)	1 per each two patient beds plus additional space for each staff doctor, plus one additional for each two regular employees, including nurses.
	Medical clinics (offices of doctors, dentists and drugless physicians)	3 spaces 1,000 sf. of gross floor area.
Assembly		
	General assembly (churches, halls, clubs, museums, libraries, gyms, etc.)	1 per 4 seats or 1 per 400 sq ft GFA, whichever is greater
Industrial & Wholesale		

	Wholesale uses	1 space for each two employees, plus sufficient space to park all company-owned or leased vehicles, including passenger automobiles, trucks, trailers and similar company-operated motor vehicles.
	Industrial Group A & B	As required to serve customers/visitors + 1 per 2 employees + fleet/commercial vehicle parking
Education		
	Schools & Colleges	1 space for each classroom, plus additional space for any places of public assembly in accordance with the requirements set forth in the Mandan parking requirements.
Marinas		
	Marinas	1 truck and 1 trailer space and 0.5 vehicle parking spaces per boat slip
Transportation		
	Terminal facilities (airports, railroad passenger, and freight stations, bus depots, truck terminals and all other similar personal or material terminal facilities)	Spaces determined based on board of adjustment to be adequate to serve the public as customers, patrons, and visitors, plus one space to provide one off-street parking space for each two regular employees, plus space to provide off-street parking for all owned, leased or operated commercial vehicles, buses, and similar motor vehicles.

- 9) **Parking Reductions.** A reduction of up to 25% in the amount of required off-street parking may be granted by the City Planner under the following circumstances. Reductions greater than 25% may be granted pursuant to a variance:
- a) **Shared Parking.** Developments or uses with different operating hours or peak business periods may share off-street parking spaces per the following standards:
 - i) **Shared Parking Study.**
 - (1) Those wishing to use shared parking as a means of satisfying off-street parking requirements shall submit a shared parking analysis to the City Planner that clearly demonstrates the feasibility of shared parking. The study shall address, at a minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.
 - ii) **Location.**
 - (1) Shared parking must be provided within five hundred (500) feet of the primary entrance of all uses served unless remote parking shuttle service is provided.
 - iii) **Agreement.**

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- (1) A shared parking plan shall be enforced through a properly drawn legal instrument, executed among all parties participating in the shared parking arrangement, duly approved as to form and manner of execution by the City Attorney, and filed with the Zoning Administrator or other Authorized Agent. Shared parking privileges shall continue in effect only so long as such an instrument, binding on all parties, remains in force. If such instrument becomes legally ineffective, then parking shall be provided as otherwise required in this Subdivision.
 - b) Mixed Uses.
 - i) Parking requirements may be reduced by 10% for mixed use developments that include residential, or a hotel/motel in combination with office and/or commercial uses.
 - c) Residential Uses with Low Automobile Ownership.
 - i) The number of required parking spaces may be reduced for residential uses that are determined to have low automobile ownership, including, but not limited to, senior housing.
 - d) Bicycle Parking Reductions.
 - i) The number of vehicle parking spaces may be reduced by one per each five approved bicycle parking spaces provided on the parcel, up to 10 percent.
 - (1) Bicycle parking areas must be no more than fifty feet from building entrances and connected by sidewalk.
 - (2) Bicycle parking racks and spaces must be maintained in a clean and serviceable state. Bicycles that have been abandoned or are non-functional must be removed in a timely manner, or upon request by City staff.
 - e) On-street Parking for Pedestrian Oriented Development.
 - i) The minimum number of required off-street parking spaces associated with a pedestrian oriented development may be reduced by the number of on-street parking spaces abutting the parcel, provided that the existing and proposed conditions for the street in which on-street parking spaces are proposed is supportive of on-street parking.
 - f) Parking Study.
 - i) Other uses wishing to reduce off-street parking requirements may submit a parking study to the City Planner for consideration. The study shall, at a minimum, address the nature of the use, numbers of employees or residents, anticipated demand, peak demand hours, and other unique circumstances that apply.
- 10) Proof of Parking.
- a) When the required off-street parking is 30 or more spaces, the owner is only required to pave and stripe 80% of the required parking spaces if the following conditions are met:
 - i) A parking plan drawn to scale for the property is submitted to the Zoning Administrator and the plan indicates that the site complies with the total parking requirements stated above and with the parking lot design to the standards required by this section.
 - (1) The portion of the site which is not paved and is capable of containing the amount of parking equal to the difference between the total amount of required parking and the amount of parking required to be paved (known as the proof of parking area) is suitably landscaped and curbed to meet the requirements of this section;
 - (2) The proof of parking area shall be clearly delineated on the parking plan for the site;

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- (3) The proof of parking area is not used to satisfy any other landscaping or other requirement and is not located in an area occupied by a building;
 - (4) The property owner is responsible for informing any subsequent owner of the proof of parking area and parking status of the property;
 - (5) The city may, at its sole discretion, require that the proof of parking area be paved and striped in such a way that it meets the requirements to provide the total number of required parking spaces on the site or a percentage between 80% and 100% if so determined by the city.

11) *Temporary parking of travel trailers, camper trailers, cargo trailers and boat trailers.*

- a) *Forty-eight-hour parking limit.*
 - i) No owner of property within the corporate limits of the city shall permit the parking, maintaining or keeping upon their property, and no person shall park, maintain or keep any travel trailer, camper trailer, cargo trailer or boat trailer for more than 48 hours, unless such trailer is located in a garage.
- b) *Parking sites in mobile home parks.* A separate travel trailer park site for travel trailers or camper trailers shall be permitted in any mobile home park, provided that:
 - i) Said camp area comprises less than ten percent of the total area of said mobile home park;
 - ii) A 25-foot buffer strip exists between said camp site and any mobile home site; and
 - iii) Toilet, water and garbage disposal facilities are available and easily accessible to users of said camp site.
- c) *Parking of trailers in residential districts.*
 - i) Travel trailers, camper trailers and boat trailers not in excess of eight feet in width shall be permitted to park on private property in any residential district, provided that they are:
 - (1) Located behind the front building line and not on the public boulevard;
 - (2) Located in a storage shed or garage; or
 - (3) Located in a driveway area permitted for the parking of passenger cars.
 - ii) Collapsible camping trailers, when stored on a residential lot, shall be stored in a collapsed state.
- d) *Parking of self-propelled mobile homes.* Self-propelled mobile homes, not exceeding state department of transportation limits in length, shall be permitted to park as a passenger vehicle, but shall not be permitted to be used as a living unit on any public right-of-way.
- e) *Parking on public property prohibited.* No trailer or mobile home shall be parked upon any public right-of-way, park or other public property within the corporate limits of the city more than 48 hours, and shall not be used for sleeping, housekeeping or living quarters while so parked, unless located in an area publicly designated for such use.
- f) *Parking of construction trailers.* Trailers used for construction offices on a construction site in a subdivision shall be permitted during the period of construction only after a building permit for the construction job has been issued. Such trailers must be removed from the site or subdivision before a certificate of occupancy is issued for the new construction. Such permitted trailers shall not be used for sales, habitation or promotional purposes and shall be permitted only after receiving a permit from the building inspector for each such trailer.

Sec. 101-12-2. Off-Street Loading

- 1) Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial building or use shall be approved unless there is included with the plan for such building, improvement or use, a plot plan showing the required space or structural design for off-street loading purposes to be provided in connection with such building, improvement or use, in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided in accordance with those shown on the approved plan. Such off-street loading space shall be provided in accordance with the following minimum requirements:
- 2) Each department store, freight terminal or railroad yard, hospital or sanitarium, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment which has an aggregate gross floor area of 25,000 square feet or more, arranged, intended or designed for such use, shall provide off-street truck loading or unloading berths in accordance with the following table:

Square Feet of Aggregate Gross Floor Area Devoted to Such Use	Required Number of Berths
25,000 but less than 40,000	1
40,000 but less than 100,000	2
100,000 but less than 160,000	3
160,000 but less than 240,000	4
240,000 up to and including 321,000	5
For each additional 90,000	1 additional

- 3) Each multifamily dwelling having ten dwelling units: One off-street loading berth for ten up to and including 30 dwelling units, plus one additional off-street loading berth for each additional 30 dwelling units.
- 4) Each auditorium, convention hall, exhibition hall, funeral home, hotel, office building, restaurant, sports arena, hospital or welfare institution which has an aggregate gross floor area of 50,000 square feet or more arranged, intended or designed for such use shall provide one off-street loading berth for 50,000 square feet up to and including 250,000 square feet and one additional berth for each additional 200,000 square feet of floor space.

Sec. 101-12-3. Drive-Through Establishments

- 1) Except as provided elsewhere in this section, no application for a building permit or certificate of occupancy for a commercial or industrial use shall be approved unless there is included with the plan for such building improvement or use, a site plan showing the required space designated as being reserved for off-street vehicle stacking purposes to be provided in connection with such building improvements or use in accordance with this section; and no certificate of occupancy shall be issued unless the required facilities have been provided.
- 2) Vehicle stacking spaces shall be hard surfaced.
- 3) A vehicle stacking space shall consist of an area of at least ten feet by 20 feet.
- 4) The number of off-street vehicle stacking spaces shall be provided on the basis of the following minimum requirements:

TABLE 101-12-3.A: OFF STREET STACKING SPACES REQUIRED

Use	Number of Spaces	Measured From
ATM	3 spaces per lane	Machine/kiosk
Bank teller	3 spaces per lane	Kiosk/window
Drive-through restaurant	9 spaces	Pick-up window
Car wash	3 spaces	Wash entrance
Drive-through car service	3 spaces	Bay entrance
Drive-through pharmacy	3 spaces	Window
Gated/secured parking lot entrances	2 spaces	Gate/booth

Article 13 LANDSCAPING.

Sec. 101-13-1. Purpose and Intent

- 1) *Intent.* Landscaping is an essential element of the site design process and is an important feature in promoting the public health, safety, comfort, convenience and general welfare of the City and its extraterritorial jurisdiction.
- 2) *Purpose.* The purpose of these landscaping requirements is to:
 - a) Mitigate incompatibilities, reduce negative impacts, and provide critical visual and noise buffering of higher intensity land uses on lesser intensity adjacent land uses;
 - b) Increase tree canopy to provide shade, traffic calming and wildlife habitat;
 - c) Lessen the impact of development by reducing glare and heat buildup;
 - d) Promote the creation of landscape areas within vehicular areas to enhance pedestrian experience and safety, break up large expanses of pavement and reduce impervious surface area, storm water run-off and the level of pollutants;
 - e) Consistently refresh the city's tree canopy with new landscaping associated with development and redevelopment; and
 - f) Reduce stormwater runoff by incorporating landscaping elements that promote water infiltration, decrease impervious surfaces, and filter pollutants naturally.

Sec. 101-13-2 Applicability and Administration

- 1) Landscape Requirements Applicability Table. The requirements contained within this Article shall apply to properties in the City and the extraterritorial jurisdiction as indicated in the table and applicable Tiers 1 and 2 as shown in

TABLE 101-13-2.A: LANDSCAPE REQUIREMENTS							
Applicability		Street trees	Perimeter Buffer	Vehicle parking area screening	Interior vehicle parking area	Open Space and Yard	General Landscape Standards
Tier 1	A. Residential structures with 1 to 4 units and applicable under Tier 1	X ¹	-	-	-	X	X
	B. Any DC -Downtown Core zoned properties applicable under Tier 2	X	-	X	X	X	X
Tier 2	C. Any DF - Downtown Fringe zoned Properties applicable under Tier 2	X	X	X	X	X	X
	D. Industrial uses applicable under Tier 2	X	X	X	-	-	X
	E. Any properties not applicable under A., B., C., or D. and also applicable under Tier 2	X	X	X	X	X	X
¹ Alternative Location within Lot Acceptable: If more than 1 street tree per block face is required, the owner may elect to place up to 50% of the required street trees within their property, off the public right of way, as a privately owned and maintained tree. [X] indicates landscaping requirements based on property use or location. [-] indicates landscape standard not required, although not prohibited if desired.							

2) Tier 1 Landscaping:

- a) Landscaping standards apply to detached residential structures and attached structures with up to four units in the following cases:
 - i) Construction of a new residential dwelling.
 - ii) Replacement or redevelopment of an existing dwelling unit.
 - (1) Replacement of nonconforming residential structures under Section 101-7-2 is exempt from these standards but requires re-establishing ground cover and in-kind plant replacement.

3) Tier 2 Landscaping:

- a) Landscaping is required for attached residential structures with more than four units, commercial,

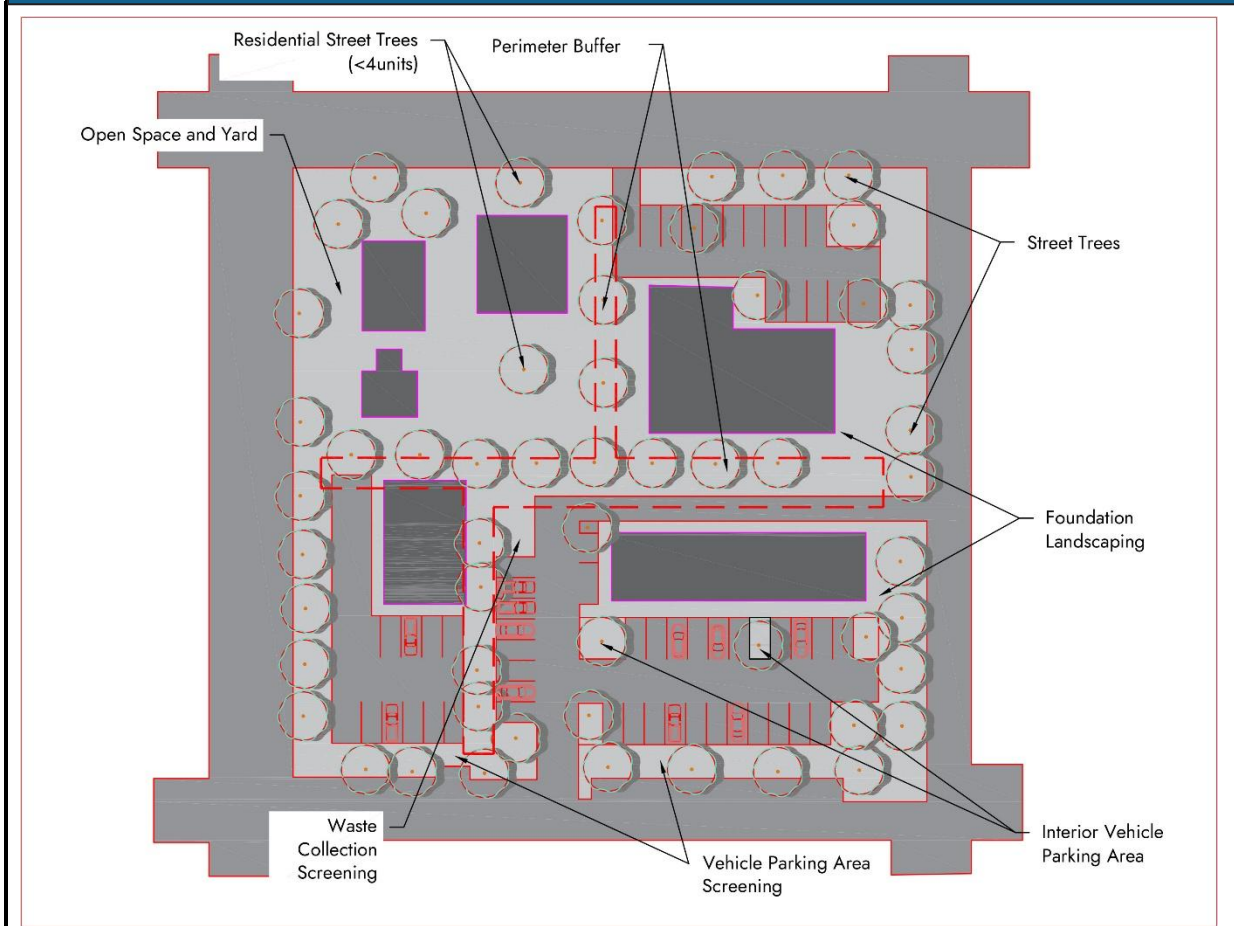
industrial, or institutional uses under these conditions:

- i) Construction of any new structure or parking areas for the uses listed under this tier.
- ii) Full conversions, redevelopments, or additions to these uses must meet landscaping requirements.
- iii) Partial conversions, redevelopments, or additions, provided:
 - (1) Improvements or repairs increasing floor area by 25%, or exceeding 25% of assessed value, require compliance with landscaping and street-tree standards.
 - (2) Improvements or repairs increasing floor area by greater than 25% but less than 75% shall require compliance in the area where the addition is constructed. The City Planner determines the affected area.
 - (3) Credit may be given to existing landscaping.
 - (4) New accessory structures shall count toward the addition or enlargement thresholds listed above.
 - (5) New and expanded parking areas with five or more spaces provided that:
 - (a) Parking areas without permanent hard surfaces shall meet parking area landscape requirements if surfaced or altered in any way.
 - (b) Significant (more than 50% of the surface area) parking area reconstructions, including mill and overlay, shall meet parking area landscaping requirements.
 - (6) Parking areas lacking landscaping shall meet street tree requirements when the associated building is improved subject to 101-7-2.
- iv) Whenever storage of materials, ground mounted equipment, or other equipment is commenced on a site that has not previously been used for that purpose, screening shall be provided.
- b) If a property will be developed in phases, a site plan for the entire property shall be provided with the initial phase; plant units, however, unless part of a required perimeter buffer, may be installed as phases are developed.
- c) Special consideration will be given to site design, topography, unique relationships to adjacent properties and existing utilities in enforcing screening requirements. If the applicant can demonstrate that the public interest is better served through alternative landscape design, the City Planner may permit variation from these regulations.

Sec. 101-13-3 Landscape Areas

Standards are established for landscape areas as shown in Figure 101-13-3.A

FIGURE 101-13-3.A - LANDSCAPING AREAS



1) Street Trees

- a) Street trees shall be planted along all private or public streets and shared driveways with curb and gutter in accordance with this section.
- b) Type, Size, and Spacing.
 - i) One tree is required per every 40 linear feet of street frontage. Street trees need not be placed at exact intervals, but they must be placed evenly along the street frontage based on the total lot length. Adjustments to location may be made to account for any under- or above-ground utilities conflicts and where non-impervious areas such as driveway aprons, access locations, trail and sidewalks exist provided that these areas are not exempt from the lot length measurement used to determine the total number of trees required.
 - ii) Projects meeting the applicability standards of this article shall include large deciduous trees of a species and size appropriate to the setting and as specified by the approved street tree list.

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- iii) Where existing overhead utilities interfere with part of the landscape area, the large deciduous tree requirement may be substituted by installing ornamental trees provided that branches of any tree shall be kept trimmed so as to not interfere with pedestrian, bicyclist or vehicular movements.
 - iv) Minimum size at planting shall be as specified in Table 101-13-6.A.
- c) Location.
- i) Trees not in the Downtown Core or Downtown Fringe zoning districts shall be located in the right-of-way centered within the boulevard between the sidewalk and street curb edge except as follows.
 - (1) If no sidewalk is present, assume a sidewalk placed one foot from the outer edge of the right of way and place tree centered within the boulevard between the assumed sidewalk and street curb edge.
 - (2) When boulevard planting space between the curb and sidewalk is not available but additional right-of-way exists, trees shall be located centered in the available public right-of-way space between the back of sidewalk and the edge of right-of-way.
 - (3) If no additional right-of-way space exists behind the sidewalk up to the edge of the property line, street trees shall be planted centered within the front five feet of the property line provided that the trees do not interfere with other planting requirements of this article.
 - (4) Street trees for private streets with shared driveways must be located within easements in accordance with Section 109.
 - ii) Trees in residential zones shall be located in the right-of-way centered within the boulevard between the sidewalk and street curb edge OR located within 15 feet of the front yard property line.
 - iii) Trees in the Downtown Core or Downtown Fringe zoning districts shall be located in the public right-of-way located in the area directly behind the curb provided that:
 - (1) When the area between the curb and the edge of the right of way is hard surfaced with sidewalk paving, street trees shall be located in tree wells measuring a minimum of 36 square feet and no less than 4 feet wide provided that a minimum remaining sidewalk width of 6 feet closest to the edge of the right-of-way is maintained.
 - (2) When the area between the curb and the edge of the right of way is hard-surfaced with sidewalk paving and there is not room to maintain a 6 foot wide clear and unobstructed sidewalk width, street trees shall not be required. However, any additional public right-of-way space between the curb and the sidewalk shall be planted with perennial plantings in areas no less than 18 inches wide and 6 feet long. Sidewalk paving that is 6 feet long shall be provided between perennial planting areas. Perennial plants species shall be selected that have tall upright structure and are appropriate for an urban environment.
 - (3) When boulevard planting space exists between the curb and sidewalk, trees shall be located centered in the available public right of way space between the back of sidewalk and the edge of right of way.
 - (4) Street trees for private streets with shared driveways must be located within easements in accordance with Section 109.

2) Perimeter Buffer Landscaping

- a) Perimeter buffers are categorized into three types based on opacity to suit various buffering needs between different district uses. These types and standards are summarized in Figure 101-13-3.B. and Table 101-13-3.A.
 - i) Type A: Open: Designed for lots where adjacent districts have similar intensities of use, providing a pleasant visual experience with minimal sound and visual barrier.
 - ii) Type B: Semi: Intended for lots with potentially similar land use intensities but where some buffering from lights and sounds is necessary.
 - iii) Type C: Opaque: Designed for lots in higher intensity districts bordering lower intensity districts, providing substantial visual and sound barrier.
- b) Required Perimeter Buffer. All required perimeter buffers shall be landscaped in compliance with the requirements in Tables 101-13-3.A and B.
- c) Location.
 - i) When a perimeter buffer is required, and the adjacent properties are already developed, the perimeter buffer shall be provided on the subject property of the new development or redevelopment.

FIGURE 101-13-3.B
PERIMETER BUFFER TYPES

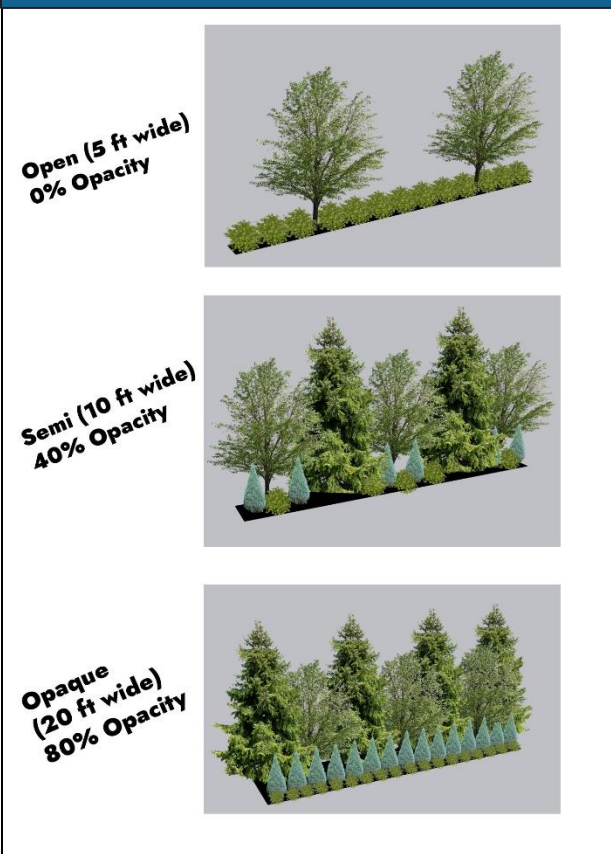


TABLE 101-13-3.A
PERIMETER BUFFER TYPES AND MINIMUM
STANDARDS

Type	A: Open	B: Semi	C: Opaque
Plant Opacity:	0	40%	80%
Large Deciduous Tree/ft*	2/100'	3/100'	3/100'
Large Coniferous Trees/ft*	0	2/100'	4/100'
Small Coniferous Trees/ft*	0	6/100'	10/100'
Shrubs/ft*	9/100'	4/100'	10/100'
Height of Buffer	0'	4'	8'
Width of Buffer	5'	10'	30'

* Trees and shrubs shall be provided for each 100-foot segment of the site perimeter, or proportionally for a fraction of 100 feet.

TABLE 101-13-3.B REQUIRED PERIMETER BUFFER

		Subject Property Use District														
		RR	R7	R4	R3.2	RM	RH	RMH	CA	CB	CC	MA	MB/MX	DC	DF	A
Adjacent Property Use District	RR	- ¹	- ¹	- ¹	- ¹	- ¹	B ²	- ¹	B	B	C	C	C	B	B	-
	R7	- ¹	- ¹	- ¹	- ¹	- ¹	B ²	- ¹	B	B	C	C	C	B	B	-
	R4	- ¹	- ¹	- ¹	- ¹	- ¹	B ²	- ¹	B	B	C	C	C	B	B	-
	R3.2	- ¹	- ¹	- ¹	- ¹	- ¹	B ²	- ¹	B	B	C	C	C	B	B	-
	RM	B	B	B	B	- ¹	B ²	B	B	B	B	C	C	B	B	-
	RH	A	A	A	A	- ¹	B ²	A	B	B	B	B	C	A	A	-
	RMH	A	A	A	A	- ¹	B ²	A	B	B	B	B	C	A	A	-
	CA	-	-	-	-	-	B ²	-	A	A	B	B	B	A	A	-
	CB	-	-	-	-	-	B ²	-	A	A	B	B	B	A	A	-
	CC	-	-	-	-	-	B ²	-	-	A	A	A	B	A	A	-
	MA	-	-	-	-	-	B ²	-	A	A	-	-	-	A	A	-
	MB/MX	-	-	-	-	-	B ²	-	A	A	-	-	-	A	A	-
	DC	-	-	-	-	-	B ²	-	B	A	B	C	C	-	-	-
	DF	-	-	-	-	-	B ²	-	B	A	B	C	C	-	-	-
	A	-	-	-	-	-	B ²	-	A	A	A	B	B	-	-	-
	PUD	Determined by Adopted PUD Ordinance. The city planner is authorized to identify which required perimeter buffer landscape standards applies for any new development occurring within a PUD ordinance created prior to the enactment of this ordinance article. All PUD Districts created after the enactment of this ordinance article will identify which Required Buffer standard shall apply unless specific alternative standards are listed within the PUD District ordinance.														
		¹ Non-residential uses shall require Buffer Type 'B' ² Buffer strip required along all edges of Manufactured Housing Parks in the RH Manufactured Housing zoning district. [-] indicates perimeter buffer not required, although not prohibited if desired.														

3) Vehicle Parking Area Screening

- a) Applicability. The screening requirements in this section shall apply to any off-street, vehicle parking areas required by or in excess of the parking requirements of Article 12 – Motor vehicle Parking and Loading and any portion of a lot used for the outdoor storage, display, or sale/lease of automobiles, watercraft, and other motorized equipment within.
 - i) All new or majorly reconstructed surface vehicle parking areas. Major reconstruction is the removal of parking lot surface material to expose any subgrade or soil material.
 - ii) Expanded surface vehicle parking areas. Vehicle parking areas shall include areas used for the parking or display of automobiles, vehicles, boats, truck or farm equipment associated with a dealership or leasing business. Vehicle parking areas shall not include areas used for off-street loading areas, semi-truck maneuvering areas and semi-truck parking areas.
- b) Exemptions. The screening requirements in this section shall not apply to the following:
 - i) Residential driveways and parking areas for detached dwelling units and attached dwelling unit containing 4 or less units
 - ii) Off-street loading, semi-truck maneuvering, and semi-truck parking areas
 - iii) Minor parking lot regular maintenance, which involves minor repairs, patch work or a partial mill and overlay does not constitute a major reconstruction.
- c) Requirement.
- d) For any vehicle parking areas located within the front yard and visible from public right-of-way, the edge of the parking area facing public right-of-way shall be screened by one of the following:

i) Shrubs:

- (1) A compact row of shrubs/hedge plants at least 4 feet wide, with shrubs planted 3 feet on-center, growing to a mature height of 3 to 4 feet in height;

ii) Shrubs and fence or wall:

- (1) Shrubs / hedge plants in combination with an ornamental or masonry wall shall be located in a landscape area at least 4 feet wide, provided that the total amount of plant material is at least 50% of what would be required under this requirement if no wall or fence were installed; or,

iii) Grade Separation:

- (1) If the surface elevation of the parking area is at least 3 feet below the elevation of the lot line located along such yard, and where the minimum elevation separation is represented by an average slope of not less than 25% percent from the lot line to the edge of the parking area.

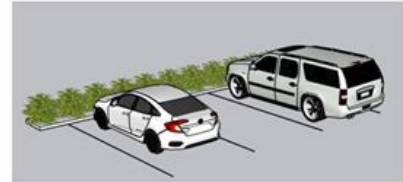
- (2) If the surface elevation of the parking area is at least 2 feet higher than the elevation of the abutting public street, a barrier must be installed for the length of the elevated portion of the lot, except where prohibited by sight triangle requirements. The barrier shall be between 3 and 4 feet in height and may consist of a living hedge, earthen berm, solid decorative fence or wall, or a combination of these elements.

4) Interior Vehicle Parking Areas

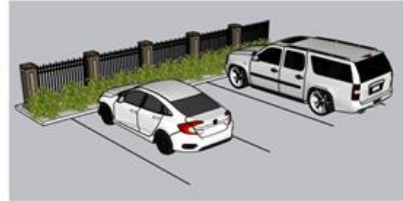
- a) Applicability. The requirements in this section apply to all vehicle parking areas with 5 or more spaces except those associated with an industrial use.
- b) Standards applicable to all parking lots
 - i) All interior parking lot landscaping areas shall be constructed with poured-in-place concrete curbing to minimize damage to plant material.
 - ii) The curbing may be modified to allow for stormwater management applications designed to function as rain gardens, bioswales, or stormwater infiltration areas at the discretion of the City Planner.
- c) Landscape Islands
 - i) Interior landscape islands shall be required for all vehicle parking areas with 50 or more spaces.
 - ii) An interior landscape island shall be provided for every ten parking spaces, and a terminal island shall be provided at both ends of each row of parking.
 - iii) Interior and terminal landscape islands shall be no less than six feet wide and no shorter than the length of the adjacent parking space(s).

FIGURE 101-13-3.C PARKING AREA SCREENING

Shrubs



Fence and Shrubs



Grade Separation

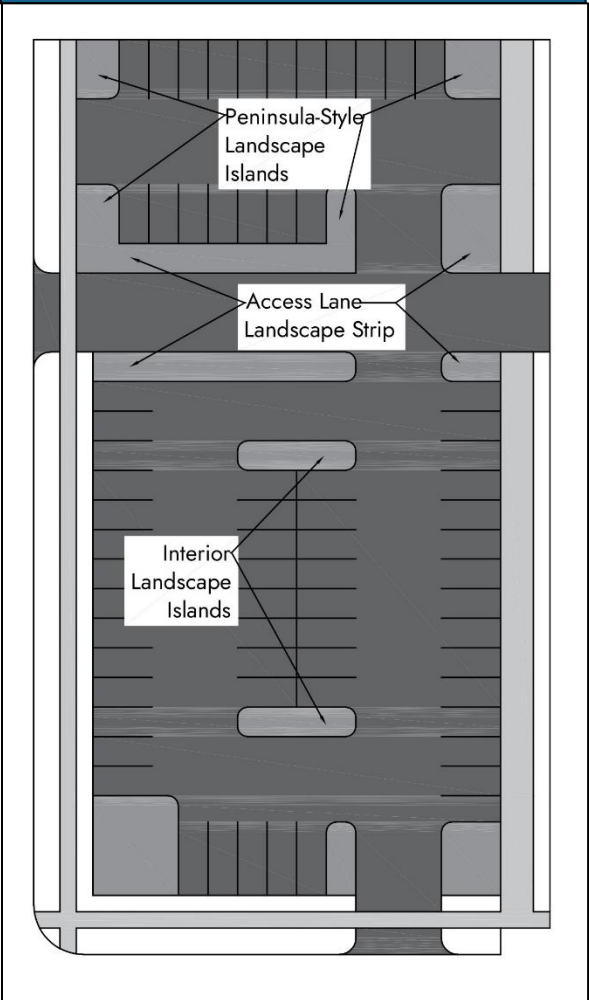


- iv) An island adjacent to the length of one parking space shall contain at least one canopy tree, surrounded by 90 square feet of permeable surface area.
- v) A double-length island adjacent to the length of two parking spaces shall provide at least two canopy trees, planted no less than 15 feet apart. Each tree shall have a minimum permeable surface area of 90 square feet.
- vi) Trees shall be selected from the Tree List, and the species chosen shall have a root spread at maturity that will not be constrained by the island width.
- vii) Any remaining surface area of the island shall be covered with living plant material, mulch, or other material approved by the City Forester, such as pea gravel or rock mulch.
- viii) Parking lot lighting shall not be installed within landscape islands.

5) Open Space and Yards

- a) Any areas of a parcel and the adjacent boulevard area in public right of way not reserved for structures, driveways/access lanes, parking areas, pedestrian walkways, contractor storage and outdoor sales display areas and outside of the DC and DF zoning districts, shall be landscaped and include ground cover which may consist of: grasses; preserved existing natural vegetation (i.e., thickets); organic mulch, chipped bark, pine straw; wildflowers; wild grass areas; or other natural forms of ground cover. Upon City Planner approval, loose stone, rock, or chipped gravel may be used as a landscaping accent but shall not exceed 20% of the required landscape area in which it is used.
- b) It is the property owner's responsibility to landscape all boulevard strips adjacent to their property which:
 - i) Must be maintained in a safe and well-kept condition. Trash, debris, and noxious weeds are not permitted.
 - ii) Must provide sufficient water for vegetative ground cover, annuals, perennials, shrubs, and trees to keep them in a healthy condition. No plants meant for human consumption may be planted in boulevards.
 - iii) Must not inhibit access to a water meter lid, shutoff, or other utility or access, landscaping for a radius of at least twelve (12) inches. For surfaces around a fire hydrant, landscaping must not inhibit access for a radius of at least three (3) feet
- b) Boulevard Ground Treatment:
 - i) Perennial and annual plant materials other than grasses and street trees may cover twenty-five (25) percent or more of the boulevard surface when plants have reached maturity. For lots with multiple street frontages, this standard shall be applied separately to each boulevard. In new or replacement

FIGURE 101-13-3.D INTERIOR VEHICLE PARKING AREA



landscaping, it is recommended that water conserving plants are used. The use of drip irrigation rather than overhead spray systems is required.

- ii) Perennial and annual plants shall be planted so that their mature size is a minimum of two feet from the sidewalk and three feet from a street curb.
 - iii) Installation of weed barrier fabric under mulch is required to inhibit weed growth. Weed barrier shall not be visible and must be covered with soil, mulch, or gravel.
 - iv) Organic mulch materials such as bark may be used as water conserving mulch for plants and may also be used as the only material in portions of a boulevard. It is recommended to use organic mulch that is three (3) to four (4) inches in depth for weed control.
 - v) Landscaping rocks and boulders may be used on portions of the boulevard. Large diameter rocks and boulders shall be kept a minimum of thirty (30) inches away from street trees that are in the boulevard and eighteen inches from the curb. Organic mulch or gravel shall be used near existing street trees.
 - vi) Paving materials, limited to poured concrete, brick pavers, concrete pavers, or natural stone pavers, may be used for pedestrian walkways in portions of a boulevard subject to the following:
 - (1) Paving materials shall be kept a minimum of thirty (30) inches away from existing trees. Organic mulch or gravel shall be used near existing street trees.
 - (2) If concrete is used, it shall be stamped with a brick, stone, or other decorative pattern to distinguish it from the adjacent sidewalk.
 - (3) All hard surface sections shall be installed to be flush with both the sidewalk and curb and gutter. The use of water conserving plants in combination with paving materials is encouraged.
 - (4) Except for in the DC and DF areas, paving materials, gravel, rocks, and boulders shall not exceed seventy-five (75) percent of the total boulevard surface area and poured concrete shall not be used except for pedestrian pathways as outlined below.
 - c) In the DC and DF districts, landscaping in any open space and yards shall conform with the City's Downtown Design and Streetscape Design Guidelines.
 - d) Approved Street Trees List.
 - i) Only tree species listed on the City's Allowed Trees for Boulevard Planting list are permitted for planting within the boulevard space. To ensure adequate growing medium for street trees, species should be selected based on the boulevard widths available.
- 6) General Landscaping Requirements
- a) Sight Lines. Except for tree trunks, landscaping is prohibited in sight distance triangles.
 - b) Quality and Diversity.
 - i) For the purposes of this section, trees shall be nursery grown, single stem varieties, typical of their species or variety, freshly dug, normally shaped, heavy, and well branched; with full foliage when in leaf and shall have healthy, well developed root systems.
 - ii) Trees must be self-supporting, with straight trunks and with a single intact leader. All wounds present at the time of digging must exhibit callusing, with the bark at the edges of any such wound tight and intact. No abrasions or unhealed cuts are allowed on the trunks of trees. All trees furnished shall be free of any insect infestations and diseases.
 - iii) All trees planted to meet the street tree requirement must be well matched specimens.
 - c) To maintain a high-quality urban streetscape, each street must contain at least 2 species of trees with a similar canopy. No more than 55% of a single species shall be used on each street.

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- d) Drought Tolerant Species Selection. All landscape plans are encouraged to incorporate water conservation materials and techniques through application of xeriscape landscaping principles, including but not limited to:
- i) Use of low water demanding plants and turf (i.e., native plant species)) where practical;
 - ii) Use of re-use water supplies for irrigation;
 - iii) Minimizing the use of high irrigation turf;
 - iv) Limiting the use of high-irrigation turf (i.e., fescue) to areas of high-use, high-visibility, and high functional needs;
 - v) Use of mulches to reduce evaporation rates; and,
 - vi) Modification of any poured in place curbing, excluding street curbing, to allow for storm water management applications designed to function as rain gardens, bioswales or storm water infiltration areas.
 - vii) Xeriscape landscaping principles shall not include: artificial turf or plants; mulched or gravel beds without live plant materials; paving of areas not required for walkways, plazas or parking areas; bare ground, weed covered or infested surfaces; or, any landscaping that does not comply with the regulations of this Section.
- e) Screening:
- i) Mechanical Equipment. Except for solar and wind collection devices, all rooftop and ground mounted mechanical equipment shall be designed and located so to be as unobtrusive as possible. Ground equipment shall be screened from view of adjacent properties and public rights-of-way by landscape plantings, fencing or other screening treatment compatible with the principal building.
 - ii) Solid Waste Collection Areas. All solid waste collection areas for commercial, industrial, institutional or multi-family buildings with more than four units shall be screened when visible from public rights-of-way on at least three sides with a six-foot solid masonry wall, opaque wood fence or other compatible building material that matches or compliments the principal structure.
 - iii) Utility Equipment Screening. Except for small solar and wind collection devices, all utility equipment and facilities associated with electric, cable, telephone, wireless communication, gas, or other similar utility, including ground-based electrical transformers and power meters, shall be screened, to the extent possible, with coniferous landscape or fencing material or other acceptable alternatives approved by the City Planner. This requirement applies to both multi-unit residential (5 or more units) and non-residential developments. Areas around equipment and facilities shall remain clear based on each utility company's guidelines. This section does not apply to individual meters, service lines and ground mounted transformers. This section does include community-scale utility equipment such as telecommunication towers, substations, lift stations, and pump houses.
 - iv) Areas reserved for the placement of plant material and other elements provided to satisfy the requirements contained in this article may not be designed for access and utility easements without express written consent, but may be utilized for drainage structures. No other structures shall be placed within any of the landscape areas except for utility poles and illumination poles and devices.

Sec. 101-13-4 Fences, Walls and Streetscape Elements in Conjunction with Landscaping

- 1) A fence or wall may be used in conjunction with required landscaping subject to the following regulations.
- 2) Location.

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- a) A fence or wall shall be located in such a manner as to not interfere with any sight distance requirements of this ordinance and shall not encroach upon any platted easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted.
 - 3) Design.
 - a) A fence or wall shall be designed to not interfere with any walkway or pedestrian/ bikeway system serving the site. Except for large scale industrial uses, where landscaping, fencing, or another physical barrier creates a site frontage impenetrable to pedestrians and bicyclists, there shall be no less than one point of access to a pedestrian pathway for every 100 feet of street frontage. Where landscaping, fencing or another physical barrier creates a site frontage impenetrable to pedestrians and bicyclists from any pedestrian pathway from an adjacent property, there shall be provided a point of access to encourage cross property pedestrian movements.
 - 4) Fences and walls within perimeter buffers.
 - a) When a fence or wall is used in conjunction with required perimeter buffer landscaping, the fence or wall must be installed at a minimum of 10 feet from the right-of-way.
 - b) When an opaque fence or wall which is a minimum of 6 feet in height is used within the perimeter buffer, the required landscaping for that portion of the perimeter may be reduced by up to 25% of the required landscaping.
 - 5) Decorative Fencing and Streetscape Elements
 - a) The use of decorative fencing and other streetscape elements is encouraged in the DC and/or DF districts. Additionally, such elements may be utilized in other areas of the community, subject to interpretation by the City Planner, based on consistency with relevant plans, studies, and design guidelines.

Sec. 101-13-5 Landscape Plan Requirements

- 1) Identification of Landscape Requirements Fulfilled by the Landscape Plan.
 - a) All landscape plans shall include a list of proposed landscape materials and notation of which of the following landscape requirements is intended to be met by the landscape materials indicated on the landscape plan:
 - i) Perimeter buffer;
 - ii) Vehicle parking area screening;
 - iii) Interior vehicle parking area; or
 - iv) Street trees.
- 2) Variety of Plant Species Required.
 - a) No single species of landscape material, except grass, shall constitute more than 50% of the plant material of its type installed on a single development site or within a subdivision with detached residential lots.
- 3) Submission of an Existing Landscape Plan (if applicable).
 - a) Any existing, healthy plant material that will be utilized to satisfy landscaping requirements, provided it meets the minimum sizes specified, shall be indicated on the landscape plan along with language to ensure protection of the plant material during construction activities.
- 4) Identification of Landscape Materials indicated on Landscape Plan.
 - a) All landscape plans shall include a list of proposed landscape materials, with quantities and calculations demonstrating how the plan meets the perimeter buffer landscaping standards per 100-foot increment, vehicle parking area screening, interior vehicle parking area landscaping, and street trees as stipulated in

this article.

5) Calculation of Required Landscape Material.

- a) When the determination of the number of plants required results in a requirement of a fractional space, any fraction up to and including one-third shall be disregarded and fractions over one-third shall require one additional plant unit unless waived by the City Planner due to unique site challenges that could impact the viability of plant material.

Sec. 101-13-6 Installation and Maintenance

1) Installation Required.

- a) All landscaping required by this Section shall be installed prior to commencement of the use on the lot or the issuance of a Building Occupancy Permit. If season and weather conditions are not appropriate for the installation of landscaping immediately prior to commencement of the use or the issuance of a Building Occupancy Permit, a performance bond, or other surety acceptable to the City, shall be provided to the City Planner, in compliance with the provisions of this Section. All landscaping required by this Section shall be installed within the first 3 months of the next planting season after the use of the lot is commenced.

2) Failure to maintain required landscape areas shall constitute noncompliance of this ordinance enforceable under the provisions of Chapter 26 – Municipal Code Enforcement.

3) Live Vegetation.

- a) All landscape materials installed as required by this Article shall be living vegetation.

4) Required Plant Size.

- a) All landscaping installed to meet the requirements of this Article shall meet the minimum size requirements of Table 101-13-6.A

TABLE 101-13-6.A - REQUIRED PLANT SIZE

Landscape Material	Minimum Size
Large Deciduous Trees	Caliper of 1½ inches measured 6 inches above the root collar for trees with a mature height of 30 feet or greater
Ornamental Trees (Deciduous)	Caliper of 1 inch measured 6 inches above the root collar for trees with a mature height of less than 30 feet
Large Coniferous Trees	Minimum height of 4 feet above grade with a mature height of 30 feet or taller
Small Coniferous Trees	Minimum height of 4 feet above grade with a mature height of 10 to 30 feet
Shrubs	Minimum container size of 2 gallons and minimum mature height of at least 3 feet above grade
Perennials	Minimum container size of 1 gallon, with varying mature heights. If used for parking area screening, must have a mature height of three feet.
Ground Cover	Vegetative ground cover shall be of a size and spacing to provide a minimum of fifty percent (50%) coverage during the first full growing season and complete coverage upon maturity. Only pervious weed barriers shall be allowed. Mulch may not be used in lieu of vegetative ground cover, except in those situations where mulch is necessary to promote healthy tree and shrub growth. Where mulch is used, an adequate vertical barrier must be included around the perimeter of the mulch area to prevent mulch from washing into the public right-of-way or on to adjacent properties.

5) Street Tree Installation.

- a) All required street trees must be installed prior to commencement of the use on the lot or the issuance of a Building Occupancy Permit. A seasonality waiver may be granted if construction is completed during a season not suitable for planting.
- b) At the time of installation, the nursery tags must remain on the street trees and a written statement must be submitted to the City Planner to certify that the correct species of tree(s) has been installed.
- c) Trees shall be installed with root guards, tree stakes and ties in accordance with the standards listed in the City's Allowed Trees for Boulevard Planting list. Tree bags shall also be provided in non-irrigated areas provided that the bags are only used during the growing season.
- d) Replacement and Maintenance.
 - i) Replacement.
 - (1) Dead plants must be promptly removed and replaced within the next growing season.
 - ii) Maintenance.
 - (1) The owner shall be responsible for:
 - (a) The maintenance of all required landscaping by keeping lawns mowed, all plants pruned and maintained as disease-free, all planting beds groomed and kept weed free (except in areas of preserved existing natural vegetation (i.e., thickets), and kept free from trash, debris and other objectionable materials;
 - (b) The replacement of any required planting, which is removed or dies after the date of planting. Such replacement shall occur during the next planting season; and,

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- (c) The replacement of any tree in a tree preservation area which is removed or dies after the date of approval of a Preservation Landscape Plan. Such replacement shall occur during the next planting season.
 - (d) Tree topping is prohibited.

Section 101-13--7 Alternate Landscape Plan Approval

- 1) If site conditions exist that make the landscape requirements of this chapter impractical, the City Planner, upon request by an applicant, shall have the authority to modify the landscape requirements of this chapter and approve an alternative landscape plan so long as the alternative plan:
 - a) Maintains the total quantity of plant material otherwise required and is similar in quality, size, durability, and hardiness;
 - b) Is appropriate to the site and its surroundings;
 - c) Is consistent with the intent and purpose of this chapter;
 - d) Provides landscaping that is equal or better than normal compliance;
 - e) Safety considerations make alternative compliance necessary.
- 2) If the City Planner disapproves of a proposed alternative landscape plan, the applicant may, within 5 business days, appeal the City Planner's decision by filing an Administrative Appeal per the requirements of Section 101-4-6, stating the reasons and justification for the appeal.

Sec. 101-13-8 Minor Revision to Landscape Plan

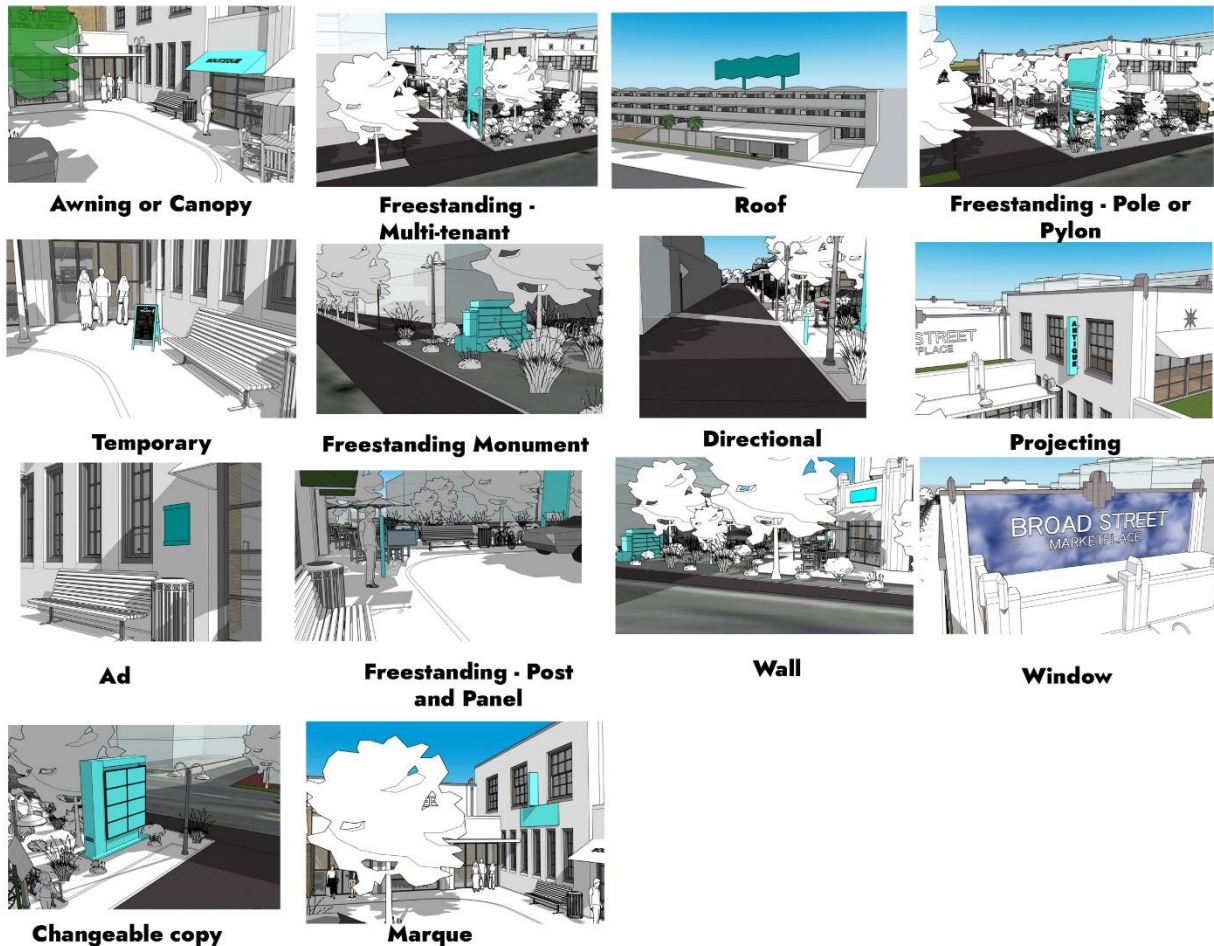
- 1) An approved landscape plan in need of minor revisions to the specified plant materials due to lack of plant availability or other reasons to be demonstrated by the applicant may be revised if the requested revisions meet the following criteria:
 - a) No reduction in the quantities of overall plant materials.
 - b) No significant change in size or location of plant materials.
 - c) New plant materials fall within the same general functional category of plants including size (height and spread), and type (coniferous or deciduous) of trees and shrubs as the plant materials being replaced.
 - d) The proposed new plant materials are considered appropriate with respect to elements necessary for good survival and continued growth.
- 2) A letter shall be submitted to the City Planner requesting a minor revision for plant substitution. The letter shall include a list of the quantities, types, and sizes of the original plants and the proposed substitution(s), and the location of the substitute plants on the plan.

Article 14. SIGNS

Sec. 101-14-01. General

- 1) *Purpose.* The purpose of these sign requirements is to establish regulations that allow businesses to effectively convey information through signage while also maintaining a neat and orderly appearance. These regulations apply to new signs installed after adoption of these regulations and existing signs that are rebuilt or relocated. Permanent types of signs require a building permit and payment of the established fee. Permanent signs must meet building and utility code requirements. The regulations contained in this chapter serve the following purposes:
 - a) Protect freedom of speech, ensure equity, and enable consistent sign enforcement.
 - b) Support businesses and others in communicating, identifying, and providing wayfinding.
 - c) Maintain an attractive visual environment through reasonable sign regulations.
 - d) Ensure traffic safety by minimizing distractions and hazards from unregulated signs.
 - e) Protect property values and nearby properties from sign-related impacts.
 - f) Attract tourists and support local businesses to promote economic development.
 - g) Safeguard public investments in infrastructure.
 - h) Enhance public health, safety, and overall welfare.

TABLE 14.1: SIGN TYPES



- 2) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.
- a) *Awning (or Canopy)* means a structure or architectural element that is made of metal or other noncombustible materials and is either freestanding or attached to a building means a roof-like structure that is supported by a metal or wood frame.
 - b) *Awning (or Canopy) sign* means a message or identification which is affixed to or supported by an awning or canopy.
 - c) *Banner* means a sign printed on lightweight, flexible material such as cloth, canvas or plastic that contains decorations and/or graphics or provides information to the public that is temporarily attached to a building or suspended between permanent poles or columns.
 - d) *Bench sign* means a place for people to sit that also contains wording and/or graphics advertising a business or activity.

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- e) *Billboard* means an off-premise sign constructed to industry standards that either advertises one business or contains an easily changeable face that can be rented by a business or multiple businesses for a period of time.
 - f) *Directional sign* means an on-premise sign using arrows and/or words to assist with internal circulation that may contain the name or logo of an establishment but no advertising copy.
 - g) *Display* means a structure of any kind that is arranged, intended, designed or used as an advertisement, announcement or direction.
 - h) *Electronic or changeable copy* means a portion of a sign that includes a screen or letters, characters, or graphics that are not permanently affixed to the structure, that can be modified from time to time either electronically or manually.
 - i) *Erect* means to build, construct, attach, hang, place, suspend or affix.
 - j) *Facing or surface* means the part of a sign upon, against, or through which the message is displayed or illustrated.
 - k) *Flag sign* means a loose section of fabric or other flexible material designed to move with the wind that is attached to a lightweight pole which is either pushed into the ground or into some form of support.
 - l) *Flashing* means a pattern of changing light, pictures or wording for the purpose of drawing attention to the sign.
 - m) *Frame effect* means a defining element on an electronic message center sign applied to a single frame or to transition from one frame to the next.
 - n) *Frame hold* means the duration or interval of time during which each individual advertisement or message is displayed on any sign which is capable of sequentially displaying more than one advertisement or message on its display surface.
 - o) *Freestanding* means a sign supported by uprights or braces placed in or upon the ground surface with no attachment to any building.
 - p) *Illuminated* means a sign that has either internal or external lights or luminous tubes.
 - q) *Marquee* means a hood or awning of permanent construction projecting from the wall of a building above an entrance and extending over a sidewalk.
 - r) *Marquee sign* means a message attached to the face of a marquee.
 - s) *Monument* means a freestanding sign where the entire bottom of the sign is affixed to a base on the ground that fully supports the sign.
 - t) *NIT* means a unit of illuminative brightness equal to one candela (12.5 lumens) per square meter measured perpendicular to the rays of the source.
 - u) *Non-conforming* means a sign that was lawfully erected prior to the effective date of the ordinance that adopted this article and that fails to conform to any of the provisions of this article.
 - v) *Obstructive* means a sign erected with the purpose of hiding or covering from the view of the public an adjacent or nearby sign.
 - w) *Off-premise* means a sign advertising a business, person, service or product which is located or conducted elsewhere than on the premises where the sign is located.
 - x) *On-premise* means a sign advertising a business, service or major product located on that property.
 - y) *Permanent* means a sign not falling under the definitions of temporary or portable.
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- z) *Pole* means a free standing sign supported from the ground by one or two supports that are normally bare.
 - aa) *Portable* means a sign designed to be transported, including inflatable devices and signs carried or attached to a trailer or vehicle unless such trailer or vehicle is used in normal day-to-day operations of the business.
 - bb) *Post and panel* means a freestanding sign that does not have a base other than the support posts.
 - cc) *Privilege panel* means a permanent sign provided by the distributor or manufacturer of a product which utilizes a portion of the sign to advertise a specific product with the rest of the sign allocated to identifying business located at the property upon which the sign is placed.
 - dd) *Projecting* means a sign which is attached directly to a building wall and which extends more than 12 inches from the face of the wall.
 - ee) *Pylon* means a free standing sign supported from the ground by one or two supports that are normally shrouded.
 - ff) *Roof* means a sign erected or constructed wholly upon or over the roof of a building.
 - gg) *Sign* means any written announcement, demonstration, display, illustration, or insignia used to advertise or promote the interests of any person when the same is displayed or placed out of doors in view of the general public and shall include every detached sign or billboard and every sign attached to or forming a component part of any building marquee, canopy, awning, street clock, pole, parked vehicle or other object whether stationary or moveable.
 - hh) *Sign size*.
 - i) The size of a sign shall mean the area including all lettering, wording, and accompanying designs, logos, and symbols. The area of a sign shall not include any supporting framework, bracing or trim which is incidental to the display, provided that it does not contain any lettering, wording, or symbols.
 - ii) Where the sign consists of individual letters, designs, or symbols attached to a building, awning, or wall, the area shall be that of the smallest rectangle which encompasses all of the letters, designs, and symbols.
 - ii) *Signable wall surface area* means the portion of a building wall that is free of windows, doors or major architectural details.
 - jj) *Sight triangle* means the area on each side of a driveway, the area at the intersection of two streets or the area at the intersection of an alley and a street that provides visibility along the street for drivers of vehicles, pedestrians and cyclists wishing to turn onto or cross the adjoining street or exit the property onto or across the street.
 - kk) *Streamer* means one or more small, typically triangular, flags attached to a line or cable that can be tied or otherwise attached to a portion of a permanent structure or sign post.
 - ll) *Temporary* means a sign that is designed to be used only for a limited period of time to advertise a special event or activity and includes banners, construction signs, finance signs, real estate signs, flag signs, political signs, portable signs and streamers.
 - mm) *Wall mount* means a sign which is affixed parallel to the exterior wall of a building and which does not project more than 12 inches from the surface to which it is attached nor does it extend beyond the top of any parapet wall.
 - nn) *Window* means a sign which faces the exterior of the building and is applied in any manner to the window from either side.
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- 3) *Application for permit.* An application for issuance of a sign permit shall be submitted to the City of Mandan Building Department. An application shall include all necessary drawings and specifications showing dimensions and materials to be used on the sign. Required fees must be paid before an application will be processed. Fees for processing and issuance of a sign permit shall be set by action of the Board of City Commissioners. Actions requiring a permit include the following.
- a) Alterations to an existing sign. No sign shall be altered except in conformity with the provisions of this policy. The changing of moveable parts of an approved sign that is designed for such changes, repainting the sign or reposting of display matter shall not be deemed an alteration provided the conditions of the original approval and the requirements of this section are not violated.
 - b) New signs.
 - c) Relocated signs. A sign that is moved to another location on the same premise or to another premise.
- 4) *Sign Masterplan.* A sign masterplan may be submitted instead of a variance when onsite signage plans exceeds the maximum number of signs under this section. Sign masterplans provide more flexibility for large-scale, mixed use, or unique developments. Examples of such are listed below. A sign masterplan is reviewed and approved administratively by the Planning Department or their designee, upon an application for a sign permit.
- a) Multi-tenant commercial, office, or residential properties.
 - b) Entertainment, recreation, hospitals, educational campuses, large hotels.
 - c) Drive-throughs with multiple signs and/or menu boards
 - d) Other uses where the Planning Department or their designee finds it beneficial.
- 5) *Permit exemptions.* No permit shall be required for signs or outdoor display structures listed here. However, not having to get a permit does not relieve the owner of the sign from responsibility for its erection and maintenance in a safe and conforming manner to the requirements contained in this section.
- a) Directional or instructional signs. Signs not exceeding four square feet in area which provide direction, instruction or identify public facilities; are located entirely on the property to which they pertain; and do not in any way advertise a business.
 - b) Political signs. Signs that meet the standards contained in this section.
 - c) Professional name plates. Professional name plates not exceeding two square feet in area.
 - d) Real estate, construction and finance signs. These signs do not require a permit but signs larger than 16 square feet must be registered with the building department.
 - e) Rental signs. Rental companies that provide portable signs to businesses must register with the building department and provide an inventory of where the signs are located by the 5th business day of each month in which they have a sign rented within the city. The inventory shall include the dates that the sign was or will be in place.
 - f) Special displays. Decorative displays used for holidays, public demonstrations or promotion of civic welfare or charitable purposes and on which there is no commercial advertising.
 - g) Store signs. Signs erected on a show window or on the door of a store or business establishment which announces the name of the proprietor and the nature of the business conducted therein as well as temporary signs placed in windows used to advertise a special product or sale.
 - h) Street signs. Signs erected by the city for street direction.
 - i) Transit directions. Signs designating the location of a transit line, a railroad station or other public carrier not more than three square feet in area.
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- 6) *Processing of application.* Upon receipt of a sign permit application, the building department shall process the application in a timely manner relaying all information that pertains to any violation of the city codes and ordinances so the applicant can make changes as needed to comply with standards set forth by this section. If a situation arises and the applicant requests a variation of this section an application to the Mandan Architectural Review Commission (MARC) can be requested by the applicant for a site specific waiver. The MARC meeting shall occur within thirty (30) days of the request for a site specific waiver. Once the MARC has reviewed the application and rendered a decision, the building department will process the application and issue any permit recommended by the MARC.
- 7) *Unsafe or unlawful signs.* Unlawful signs shall be submitted to the Code Enforcement Officer and an application for the unlawful sign shall be submitted to the Building Inspections Department. The Code Enforcement Officer and building department shall take whatever action is necessary to correct an unsafe condition with a sign or have an unlawful sign removed. If necessary, the Code Enforcement Officer and building department may file a complaint with any court of competent jurisdiction.
- a) Whenever any sign becomes insecure, in danger of falling or otherwise unsafe, the owner of the sign shall be notified by the building department and given a specified time to correct the problem.
 - b) The building department shall order the removal of any sign that has been unlawfully installed, erected or maintained in violation of any of the provisions of this code.
 - c) The building department shall notify the owner and lessee of a building or structure whenever a sign is so erected as to obstruct free ingress to or egress from a required door, window, fire escape or other required exit way and shall require appropriate corrective action within a specified time frame.
 - d) Signs damaged by storm or accident shall be repaired to a safe condition by the owner of the sign at the direction of the building department within a specified period of time. Signs that present a clear and present danger to the public shall be removed or repaired within 48 hours. Signs that are impeding traffic may be removed immediately by the city and the owner of the sign billed for the costs incurred by the city.
 - e) Signs that are destroyed or removed shall not be re-erected, reconstructed, rebuilt or relocated unless the sign is made to comply with all applicable requirements of this section.
 - f) A sign that no longer advertises a bona fide business or product is considered an unlawful sign and must be removed within 90 days of the business closure.
- 8) *Non-conforming signs.*
- a) A previously approved or permitted and properly maintained non-conforming permanent sign will be allowed until the building is remodeled to an extent greater than 50 percent of its value, a new business occupies the building or structural or dimensional changes are proposed for the sign.
- 9) *Maintenance and inspection.*
- a) It shall be the duty and responsibility of the owner or lessee of every sign to maintain the sign in a clean, sanitary and healthful condition.
 - i) The sign, together with all supports, braces, guy wires and anchors, and individual letters and symbols shall be kept in good repair.
 - ii) Parts that are not galvanized or constructed of approved corrosion-restrictive materials shall be painted as necessary to prevent corrosion.
 - b) Every sign for which a permit has been issued shall be inspected by the building department upon completion of erection or installation.
- 10) *Abandoned signs.*
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- a) An abandoned sign is a sign that no longer advertise a bona fide business or activity for a period of at least one year.
 - b) Abandoned signs must be removed from the property.
 - c) If the property owner or business owner fail to remove the sign after one year of inactivity, the City shall provide the property owner 30 days written notice to remove it. Upon failure to comply with the notice, the City may have the sign removed at the owner's expense.

11) *General requirements and provisions.*

- a) All signs shall be designed and constructed in conformity to the provisions for materials, loads and stresses of the adopted version of International Building Code Appendix H.
 - b) No sign shall be illuminated by other than electrical means and electrical devices. Wiring shall be installed in accordance with the requirements of the ND State Electrical Board. No open spark or flame shall be used for display purposes unless specifically approved in writing by the building department and the fire chief.
 - c) No sign shall be erected in such a manner as to obstruct the sight triangle in accordance with 101-7-3.11. Support posts may be located between three feet and ten feet above the edge of the roadway will be greater than fourteen (14) inches wide.
 - d) No sign shall be erected that closely resembles or approximates the size, shape or form of an official traffic regulation sign or marker.
 - e) No private sign shall be attached to a public building or structure, a utility pole or any existing public signage.
 - f) The light for a sign shall not be directed into any residential dwelling or towards any oncoming vehicle.
 - g) Signs containing or utilizing flashing, rotating, or moving lights shall be prohibited unless they are used solely for public safety, e.g., construction markers.
 - h) The use of laser lights, strobe lights, searchlights, beacons and similar upward or outward oriented lighting as part of any sign is prohibited.
 - i) No sign shall be attached to, affixed to, painted or drawn on trees, shrubs, rocks, other natural features or organic material unless approved by the MARC or the city commission for a specific site or application. Certain species of wood products may be used for construction of a sign with approval of the MARC or city commission.
 - j) No permanent sign shall use fluorescent type coloring such as that known as "day-glow".
 - k) No sign shall be attached to the stairwell railing of a basement business unless a site specific waiver of this requirement is approved by the MARC or the city commission.
 - l) Obstructive signs are prohibited.
 - m) No advertising sign within 300 feet of a residentially zoned area shall have any bulb that is greater than 11 watts of incandescent lighting or generate more than 165 lumens in light brightness. Public service information signs and other electronic message signs permitted within an area zoned for commercial or industrial use shall have a bulb no greater than 75 watts of incandescent lighting or generate more than 1,125 lumens of light brightness.
 - n) Illuminated signs are permitted for buildings housing three or more dwelling units.
 - o) No sign shall hide from a driver's view or interfere in any material degree with the effectiveness within 500 feet of any traffic control device, sign or signal.
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- p) No advertising sign, by reason of location, position, shape, or color may be designed to be confused with any public sign. The use of cautionary words such as: "stop", "danger", "caution", "beware" or similar words is prohibited.
 - q) No sign shall contain statements, words, or pictures of an obscene, indecent, pornographic, or immoral character.
 - r) Except for sidewalk signs in the downtown commercial area and signs above sidewalks, no sign shall be allowed in the public right-of-way unless otherwise provided for in this section.
 - s) Signs that can only be accessed from a state controlled roadway must have written approval from NDDOT.
 - t) No motorized vehicle or trailer on which is attached thereto or located thereon any sign or advertising device that provides the advertisement of products, services, or directs people to a business may be parked in a public right-of-way or on public property. This subsection shall not apply to vehicles that have been decorated with signs or messages advertising a business or product or to vehicular signs that are attached to or affixed on a motor vehicle used in the normal day-day-day operations of a business.
 - u) No sign shall be permitted to obstruct any window, door, fire escape, stairway, or opening intended to provide air, ingress or egress for any building or structure.
 - v) Audio speakers or any form of pyrotechnics are prohibited on or in association with a sign.
 - w) The total sign area for all permanent signs associated with a structure may not exceed 30% of the street fronting sides of the structure.

12) *Zoning district requirements.*

- a) On single unit detached and two unit residentially used lots or subdivisions the following sign standards shall apply.
 - i) Each lot may have one sign not exceeding two square feet in area. The sign may be of a wall, foundation or projecting type. Signs may not project past the property boundary. House numbers are not counted as a sign.
 - ii) For subdivisions, one sign not exceeding 12 square feet in area identifying the subdivision is allowed at each principal entrance.
 - iii) For existing subdivisions that were platted more than **two years ago**, one sign not exceeding six square feet in area may be erected at each principal entrance to the subdivision advertising property for sale or rent within the subdivision.
 - iv) For subdivisions under construction, one sign not exceeding 32 square feet in area may be erected at each principal entrance to the subdivision advertising lots or dwellings for sale within the subdivision.
 - v) No sign shall be illuminated.
- b) In commercial and industrial zoning districts and residential lots containing three or more dwelling units the following sign standards shall apply.
 - i) Each business on a lot containing one or two businesses may have an individual freestanding sign. Lots with more than two businesses must share any freestanding signage. The MARC shall determine the number of signs allowed on any lot with multiple businesses.
 - ii) Each business may have one projecting, roof or marquee sign per building side.
 - iii) Each business may have one wall sign per building side.
 - iv) Each multi-family residential lot may have up to two signs.

13) *Awning or canopy signs.*

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- a) Awnings or canopies may extend from a building over the public right-of-way two feet less than the distance from building to curb. Such structures shall be at least eight feet above the sidewalk or ground grade line. Suspended signage or valances shall be at least eight feet above the sidewalk or ground grade line.
 - b) Awnings or canopies should complement the building architecture. Awning shape, color, material, and location on the building shall be compatible with the building architecture and relate well to the dominant architectural features.
 - c) Signs are allowed on the band or the valance. Signs on a sloped surface shall be at the discretion of the MARC. The sign band shall be no greater than 12 inches in the downtown commercial area. Signs shall not be the dominant feature of an awning or canopy.
 - d) Awnings or canopies shall not extend more than 12 inches above or below a canopy.
 - e) Awning or canopy signs shall not extend closer than three inches to any edge of an awning or canopy.
 - f) Awning or canopy signs may be located beneath or above an overhead canopy but shall not project lower than eight feet above the sidewalk.
 - g) Awnings or canopies should generally be located to fit within window and/or door recesses.
 - h) A uniform shape, color, and placement should be used when multiple awnings or canopies are proposed for a single building. New awnings or canopies should generally match any existing awnings on the building. Existing inconsistent awning or canopy styles of a building do not justify approval of additional or new awning or canopy styles. Inconsistent awning or canopy styles are to be reduced, not increased with new awning approvals.
 - i) Individual awning or canopy proposals for multi-tenant buildings will be evaluated as to their acceptability as a model for use by all other similarly located tenants in the buildings.
 - j) Awnings or canopies shall be approved by the MARC if installed under significant eave overhangs, cantilevers, or other prominent architectural projections.
 - k) In the Downtown Core and Downtown Fringe districts, day-glow colors, reflective materials and illuminated back lighting of transparent materials are not allowed.
 - l) Solid colors or low contrast, non-jarring patterns are generally acceptable awning or canopy color treatments.
 - m) Fabric awnings or canopies shall not be painted.
 - n) Awnings or canopies shall be maintained in good repair with a clean and attractive appearance as long as they are installed on the building. Torn, bent and/or faded awnings shall be repaired, replaced or removed.
 - o) An application for an awning or canopy that is submitted to the MARC shall include a sample of the proposed awning material to show color, texture and finish.
 - p) If any upper story window is treated with an awning or canopy, then all upper story windows on that side of the building shall be treated with awnings.

14) *Basement business signs.*

- a) When only one business is utilizing a basement area, an appropriate wall sign may be provided.
 - b) When two businesses exit from the basement of a building, appropriate signs or directories to such businesses may be provided on the wall over the entrance to the basement and coordinated with other building signs.
 - c) Signs or directories shall not exceed nine square feet in area.
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15) *Benches or structures with signage.*

- a) The total number of bench signs located in any district shall be limited and approved by the MARC.
- b) Bench signs shall not be located closer than 75 feet to one another (measured from base to base).
- c) Maximum height of four feet.
- d) Maximum sign area of 20 square feet.
- e) Only one advertising panel advertising one business is permitted per bench.
- f) Bench rental companies shall be licensed with the city.
- g) All signs and structures shall be properly maintained, well-kept and in good condition.
- h) If signage is out of date, the signage or the structure shall be removed or replaced.
- i) Signs must advertise Mandan businesses, events, or transit if they are located within public right-of-way.
- j) MARC must review and recommend the design and content of any bench sign that will be located in public right-of-way. The city commission must grant approval for any bench sign that is to be located in public right-of-way. City commission may include conditions or design requirements with its approval.

16) *Billboard signs.*

- a) Billboards are only permitted in the CB, CC, A and industrial districts.
- b) No billboard sign shall exceed a height of 40 feet above the lot grade of the adjacent roadway.
- c) No billboard sign shall exceed 1,200 sf.
- d) The exposed upright or super structure of billboard signs shall be of non-corrosive metal materials or be painted a color so as to blend with the surrounding environment.
- e) Billboard signs shall be of all steel or similar material, constructed and designed in accordance with the Mandan Building Code.
- f) There shall be a minimum of 300 feet between billboards.
- g) All billboards shall meet city, state and federal requirements and must be located totally on private property.

17) *Electronic signs and message centers.*

- a) Electronic signs or message centers, other than billboards, are only permitted as part of a monument sign.
- b) Flashing, scrolling, or lights that simulate motion are prohibited.
- c) The City reserves the right to require any sign to be modified based on timing or frame changes or effects of movements displayed.
- d) *Electronic Billboards:* Electronic signs incorporated as part of a billboard, are only permitted in CB, CC, and industrial districts.
 - i) When adjacent to federal or state aid highways, all NDDOT standards for design and approval must be followed.
 - ii) Electronic billboards must be spaced at least 300 feet apart along the roadway.
 - iii) Electronic billboards may not exceed 16 feet by 50 feet per face of sign in size (multiple faces must be treated as one face), and the support structure and sign may not exceed 50 feet in height, measured from the top of the nearest curb line to the top of the sign or structure.

- iv) Electronic billboards must be located at least 300 feet from any other non-digital ground sign (billboard), at least 1,200 feet from any other digital billboard, and at least 500 feet from an interstate interchange, as measured from any part of the sign to the nearest portion of any part of any other billboard sign on the same side of the roadway or to the nearest right-of-way line of the interchange. Digital billboards that face state or federal highways are subject to NDDOT regulation.
- v) Electronic billboard signs shall have a frame hold time of no less than seven seconds and must transition instantaneously from one static image to another static image without any special effects. The use of streaming video, full-motion video, and animation or frame effects is prohibited.
- e) No electronic message center sign installed after January 1, 2010, shall be permitted to operate unless it is equipped with:
 - i) A default mechanism that shall freeze the sign in one position as a static message if a malfunction occurs; and
 - ii) A mechanism able to automatically adjust the illuminative brightness of the display according to ambient light conditions by means of a light detector/photocell.
- f) The maximum brightness of the sign shall not exceed a maximum illumination of 5,000 NITS during daylight hours or a maximum illumination of 750 NITS between one-half hour before sunset to one-half hour after sunrise as measured at the sign's face at maximum brightness. These illumination levels may be set manually or by an alternative method approved by the building official.
- g) Only one electronic message center sign shall be allowed per property.
- h) The electronic message center sign portion of any sign shall not exceed the area specified in the table below. The maximum size is based on the type of zoning district in which the sign is located and the functional classification of the roadway adjacent to the sign or 50 percent of the total sign area, whichever is less.

TABLE 101-14-01.A ELECTRONIC MESSAGE SIGN ALLOWABLE SIZE

Zoning District	Functional Classification of Adjacent Roadway				
	Interstate	Principal Arterial	Minor Arterial	Collector	Local
Industrial	100 sf	100 sf	72 sf	48 sf	32 sf
Commercial	100 sf	100 sf	72 sf	48 sf	32 sf

- i) Electronic message center signs shall be subject to the following operational requirements:
 - i) The sign shall have a frame hold time of no less than one second. The use of animation and background animation is allowed and is not subject to the one second frame hold time requirement.
 - ii) Entrance and exit effects may be used to transition from one frame to another, provided said entrance effects result in all of the text within the frame appearing at once or in the order that the text is normally read (including, but not limited to, scrolling from right to left or scrolling from bottom to top entrance effects). Entrance effects where all of the text within the frame does not appear at once or in the order that the text is normally read are prohibited (including, but not limited to, scrolling from left to right, scrolling from top to bottom, and entrance effects referred to as slot machine, slots, splice, mesh, radar, kaleidoscope and spin). There are no limitations on the types of exit effects used. Except for such transitions, each frame shall remain static with no additional frame or hold effects applied to text within the frame (including, but not limited to, the fading or flashing on

any part of the message and hold effects referred to as flash, spin, twinkle, wavy and rumble). The use of bijou lights as a frame effect is allowed.

iii) The use of streaming video or full-motion video on any electronic message center sign is prohibited.

j) Electronic signs located within 300 feet of any residentially zoned district, as measured from any part of the sign to the nearest property line within any residential zoning district, are subject to the following additional requirements:

i) The sign shall not exceed 32 square feet in area, or 50 percent of the total sign area, whichever is less.

ii) Between 7:00 a.m. and 10:00 p.m., the sign shall be allowed to operate. Between 10:00 p.m. and 7:00 a.m., the sign shall only display static images with a frame hold time of no less than three seconds and shall be limited to instantaneous transitions from one static frame to another static frame without the use of any frame entrance, exit or hold effects or the use of any animation or background animation.

k) An electronic sign cannot be installed on an existing sign that is nonconforming unless the entire sign is brought into compliance with all applicable provisions of this chapter.

l) No portion of any existing sign shall be replaced with an electronic sign unless a sign permit is obtained for the new electronic sign.

18) *Marquee and marquee signs.*

a) Marquees and marquee signs attached to a building may extend from the building into the public right-of-way to a point within two feet of the back of curb or edge of pavement where there is no curb. No portion of such a structure or anything attached to the structure shall be lower than eight feet above the sidewalk or ground grade line.

b) A sign attached to the face of a marquee may not exceed three feet above the top edge of the marquee and not to extend below the marquee's lower edge.

c) Marquee signs shall be constructed entirely of approved materials and size.

d) Marquee signs may extend the full length but in no case shall they project beyond the ends of the marquee.

19) *Monument signs.*

a) A monument sign shall be solid from the grade to the top of the structure using non-flammable architectural materials.

b) The minimum setback is ten feet from the property line or sight triangle, whichever is greater.

c) The maximum allowable height of a monument sign is 12 feet unless the sign is set back farther from the property line or sight triangle. For each additional two feet of setback, the height of the sign can be increased by one foot up to a maximum sign height of 16 feet.

d) Monument signs may be incorporated into a retaining wall or masonry wall.

e) The bottom edge of the sign portion of a monument sign must be in continuous contact with the base and be a minimum of 12 inches above grade.

f) Monument signs must be placed within a landscaped area.

g) No sign shall be attached to the stairwell railing of a basement business.

20) *Post and panel signs.*

a) A post and panel sign shall be no taller than 12 feet off the ground.

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- b) No part of the sign may encroach on the sight triangle.
 - c) The bottom edge of a post and panel sign must be a minimum of 12 inches above grade and must be placed within a landscaped area.
 - d) The support posts must be made of a non-flammable material.

21) *Projecting signs.*

- a) The bottom edge of the sign board, or of any affixed devices, must be at least eight feet above grade.
- b) A projecting sign or any part thereof may not project more than 36 inches from the face of the supporting building, not be within less than two feet of the back of the curb, not be more than ten feet in height and not be greater than 30 inches in width.
- c) No projecting sign shall extend more than four feet above a building roof eave or parapet.
- d) No projecting sign shall originate from other than a front wall of the building. The maximum square footage for sign face is 50 square feet.
- e) No projecting sign shall be permitted in any alleyway.

22) *Pylon and pole signs.*

- a) Pylon and pole signs are prohibited in the Downtown Core and Downtown Fringe districts.
- b) No pylon or pole sign shall extend into a public utility easement or right-of-way.
- c) The maximum pylon or pole sign height is 40 feet in the other commercial and industrial districts; and 60 feet in the Gateway Overlay Zone.
- d) The sign portion of a pylon or pole sign shall be a minimum of ten feet above the top of curb or surrounding grade, whichever is higher. The clearance shall be a minimum of 13 feet within a vehicle parking or travel area.
- e) For single business properties with sufficient frontage, multiple pylon or pole signs will be allowed provided they can be set back from the adjacent or adjoining lot line a minimum of 25 feet and are no closer to each other, as measured parallel to the property frontage, than 155 feet.
- f) A pylon or pole sign's support shall originate from the surface of the ground only and be made of non-flammable material.
- g) Pylon or pole signs may be used as a directory for more than one business.
- h) The maximum sign area for pylon and pole signs is 2.5 square feet per 1 foot of lot frontage but cannot exceed 30% of the area of all sides of the building that front a street.

23) *Roof signs.* Roof signs shall not project above the roof peak (this includes mounting brackets).

24) *Sidewalk signs.*

- a) All signs must be self-supporting and not be attached to any other structure or object.
 - b) One sign of this type will be allowed per place of ground level business.
 - c) The maximum width of a sign shall be two and one-half feet, a minimum height of three feet and a maximum height of four feet.
 - d) The sign support and base shall not extend beyond the edge of the sign.
 - e) A sign shall be placed only where a minimum width of five feet for pedestrian movements can be maintained and all ADA standards are met.
 - f) This type of sign is allowed only within a business district.
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- g) Signs may be placed on the sidewalk only during hours of operation and must be stored inside the building during non-business hours.
 - h) Signs may be used for on-premise advertising only.
 - i) Signs shall not be illuminated.
 - j) Streamers, flags or banners shall not be attached to the sign or use the sign as an anchor.

25) *Temporary signs.*

- a) Temporary signs are not to be used as a substitute for erecting a permanent sign. Temporary signs are to be used for short duration events that do not occur on a regular basis. Activities that repeatedly occur throughout the year are to be publicized using permanent signage.
- b) Temporary signs shall be removed after the event advertised has ended.
- c) No temporary sign shall be located within the public right-of-way.
- d) Use of off-premise temporary signs is limited to a maximum of 30 days per event, activity or function. Off-premise temporary or portable signs may be used only in places where they meet all city, state and federal regulations. Signs proposed to be located along federal aid routes that are impacted by the federal rules regulating off-premise signs must receive written permission from NDDOT. A copy of the written permission from NDDOT must be presented to the city building department prior to sign installation. Off-premise temporary or portable signs can be no closer together than 100 feet along a state highway.
- e) The owner of a property where a temporary or portable off-premise sign is to be placed must provide the city with written permission for the placement of the sign prior to installation of the sign.
- f) Except for the requirements for construction, finance and real estate signs and political signs; each type of temporary sign is limited to 240 days per calendar year per property.
- g) Banner signs are limited to three per property. The total area of all banner signs on a wall may not be larger than 20 percent of the wall surface area of the wall to which they are attached or which they are in front of.
- h) Construction, finance and real estate signs.
 - i) Construction and finance signs may be displayed during the duration of the construction phase of a project and must be removed within 30 days after receiving a certificate of occupancy.
 - ii) Signs indicating that an individual lot is for sale, sold, for rent or for lease are limited to 16 square feet in size.
 - iii) Signs indicating that a large, undeveloped property is for sale are limited to 48 square feet in size unless a larger size is approved by the city engineer for a specific parcel.
 - iv) Open house signs advertising a one or two day event that are no greater than 36 inches in height and in place for less than 48 hours may be placed in the public right-of-way provided that they are located at least one foot behind the back of curb or three feet off the pavement where no curb exists. Other types of real estate signs or signs that will be in place for more than 48 hours may be authorized by city commission to be placed in the public right-of-way.
 - v) Once a property has been sold, the sale sign must be removed within 30 days after closing.
 - vi) Parade of Homes signs shall conform to the following requirements.
 - (1) The signs shall be placed at least one foot behind the back of curb or three feet off the edge of pavement where no curb exists.
 - (2) The signs may be in place for no more than 12 days twice each year.

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- (3) The signs shall be located no closer than 100 feet to an intersection as measured from the pedestrian crossing or stop bar.
 - (4) The signs shall not be attached to trees, traffic control signs, traffic signal poles or street light poles.
 - (5) No ribbons, balloons, streamers, lighting or ancillary devices may be attached to the signs.
 - (6) The Bismarck-Mandan Home Builders Association shall be responsible for any costs incurred during installation or removal of the signs.
 - (7) The signs shall not be higher than three feet above the road surface.
- i) Flag signs are limited to one per 20 feet of lot frontage with a limit of five per lot.
 - j) Political signs. Political signs shall follow North Dakota Century Code. (N.D.C.C.) regulations.
 - k) Portable signs.
 - i) All companies that rent portable signs to customers within the city must be licensed with the city and carry liability insurance in a form and amount specified by the city. Each rental sign shall have the rental companies name and phone number clearly visible on the sign.
 - ii) All portable signs and sign lettering shall be properly maintained, well-kept and in good condition. The city may order removal of a sign that is not advertising a current event or is not being maintained in good condition.
 - iii) No ribbons, balloons, streamers, lighting or ancillary devices may be attached to any portable sign.
 - iv) Each property is allowed one portable sign.
 - v) Maximum square footage for a portable sign shall be 64 square feet and maximum height shall be eight feet. The portable sign shall not be illuminated or electronic.
 - vi) The owner of each rented portable sign shall submit a monthly report to the building department showing days in use and the location of the sign.
 - vii) Inflatable moving signs are prohibited.
 - l) Streamers may be strung on a line or cord no longer than three times the width of the lot.
- 26) *Wall signs.*
- a) Wall signs shall be securely fastened to the wall of a building by its supporting structure.
 - b) Wall signs shall consist of panels, raised letters, and/or illumination to add dimension to the sign.
 - c) Wall signs placed against exterior walls of buildings and structures shall not extend more than 12 inches from a wall's surface. The lowest edge of such sign shall be a minimum of eight feet above grade.
 - d) No combination of wall signs and supports shall exceed 20 percent of the signable wall surface area up to a maximum of 200 square feet.
 - e) No wall sign shall extend beyond the width of a building or project above the roof eave.
 - f) Second floor businesses can utilize wall signs to advertise their establishments but must do so between floors and not below their floor.
 - g) A wall sign shall not obstruct the required door or exit window of any building, nor shall it be attached to or placed on fire escapes.
- 27) *Window signs.*
- a) Maximum ground-floor window coverage by signs or non-transparent material: 30%
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- b) No paper or solid surface signs shall be permitted on a second floor window or above.
 - c) No window signs shall advertise or identify a business other than the one contained therein.
 - d) No moving, flashing, or blinking lights are permitted on building windows.

Article 15 KEEPING OF CHICKENS.

Sec 101-15-01. General

- 1) *Purpose.* It is the purpose of this section to regulate the keeping of chickens at an individual or household scale to promote the health, safety, and general welfare of the citizens of the city. This section in no way applies to commercial production and processing of poultry as regulated in section 105-3.
 - 2) *Permit required.*
 - a) A renewable permit issued by the city planner or his/her designee shall be required prior to conducting any keeping of chickens at an individual or household scale. The permit shall be good for one calendar year as measured from the date of issuance and is tied to both the applicant and the land. Permits shall be non-transferrable.
 - 3) *Revocation.*
 - a) A permit may be revoked by the city planner or his/her designee for failure to comply with the requirements outlined in this section or any other local or state regulation governing keeping or cruelty to animals. Any person whose permit is revoked shall, within ten business days thereafter, humanely dispose of all chickens being owned, kept or harbored by such person, and no part of the application fee shall be refunded.
 - 4) *Appeal.*
 - a) The permittee may appeal the revocation or refusal of renewal of the permit by timely request for a hearing before the Board of City Commissioners. The request for hearing must be received by the city planner or his/her designee within ten business days following the date of the notice of revocation or refusal of renewal. The Board of City Commissioners shall hold a hearing on the permittee's request for hearing and shall render a final decision on the matter after said hearing.
 - 5) *Multiple property limitation.*
 - a) An applicant owning multiple properties abutting or in close proximity is limited to a single permit. The planner or his/her designee shall make the determination of what is considered "close proximity."
 - 6) *Application.* An application for a permit shall include:
 - a) General form established by staff to capture applicant, property owner, and property information, including necessary signatures.
 - b) Property owner and applicant, if different than the property owner, signed understanding of the requirements and responsibilities outlined in this section.
 - c) Site plan illustrating:
 - i) Property lines and distance to proposed coop and run
 - ii) Neighboring residence(s) location and distance to proposed coop and run
 - iii) Type and style of back and side yard fence
 - d) Construction drawings including at least one of the following:
 - i) Materials used in the construction of the coop and run
 - ii) Diagram and illustration if provided in a prefabricated kit
 - e) Fee. A non-refundable application fee as established by the Board of City Commissioners shall be required at the time of application. The Board of City Commissioners may establish a different fee to be applied to new applications and renewal applications.
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- 7) *Late renewal applications not accepted.* Late renewal applications shall be treated the same as new applications, including fee and submittal requirements.
- 8) *Definitions.* The established definitions are for purposes of this section only. If any conflict exists with other sections of this code the more restrictive shall apply.
- a) *Brood* means group of chickens, whether or not from the same hatching.
 - b) *Brooding* means the period in the animal's growth when supplemental heat must be provided due to the bird's inability to generate enough body heat.
 - c) *Chicken* means a domesticated fowl more formally known and scientifically classed as gallus gallus domesticus.
 - d) *Coop* means a fully enclosable, non-residential structure for housing chickens.
 - e) *Hen* means a female chicken.
 - f) *Rooster* means a male chicken.
 - g) *Run* means a fully enclosed and covered area attached to a coop where the poultry can roam unsupervised.
- 9) *Standards.*
- a) No more than four hens shall be permitted on any one lot.
 - b) Roosters shall not be permitted. As soon as a rooster is identified it shall be culled from the brood.
 - c) The chickens, coop, and run, shall be located in the rear or side yard obscured from view from any street, trail, public park, or other right-of-way.
 - d) Chickens outside of the coop and run shall be supervised at all times.
 - e) The coop dimensions shall total less than 120 square feet.
 - f) Coop height as measured from the average ground elevation to the highest point on the coop shall not exceed eight feet.
 - g) The coop and run shall be located no closer than ten feet from the property line and no closer than 20 feet from an adjacent property dwelling.
 - h) The coop shall be constructed in a manner which prevents rodent infiltration.
 - i) The coop shall be constructed to provide a minimum of four square feet per chicken.
 - j) The run shall be constructed to provide a minimum of ten square feet per chicken.
 - k) Chickens shall at no time be located off the property for which they have been permitted.
 - l) Coops, runs, and manure storage shall be kept 20 feet from streams, tributaries, ditches, storm water management facilities, drop inlets, or other storm drainage areas that would allow fecal matter to enter any city storm drainage system or stream. Dumping chicken manure into the city's storm drainage system is prohibited.
 - m) Except for chickens properly slaughtered for consumption, dead chickens must be disposed of within 24 hours after death. Legal forms of chicken carcass disposal include burial and off-site incinerate or rendering. All slaughtering of chickens shall be conducted so as not to be visible to the public or adjacent property owners and occupants.
 - n) All grain and food stored for the use of the chickens shall be kept in a rodent proof container.

Cross reference(s)—Animals, ch. 6.

Article 16 MURALS.

Sec. 101-16-01. Murals

- 1) *Purpose.* It is the purpose of this section to promote art within the City of Mandan while preserving significant architectural elements and an orderly appearance, preserving public safety, traffic and pedestrian safety, as well as preserving property values. This section applies to all commercial, industrial, and downtown districts. Murals are not regulated in residential districts.
- 2) *Definitions.* The established definitions are for purposes of this section only.
 - a) *Mural* means a hand-painted or hand-tiled work of visual and original art that is either affixed to or painted directly on the exterior of a structure with the permission of the property owner. A mural does not include any display containing an electrical or mechanical component and does not include any changing image art display.
 - b) *Mural area* means the portion of a structure that is generally free of windows, doors, or major architectural elements or details.
 - c) *Mural size* means the smallest rectangle containing the art which encompasses all of the letters, designs, and symbols therein.
 - d) *Structure* means fence or window, door, or wall of a building, where a mural will be applied directly or affixed.
- 3) *Permit required.*
 - a) A permit is required for any new mural application proposing a mural viewable from any public street, trail, park, or other right-of-way.
 - i) A mural applicant may submit a complete application and any necessary non-refundable application fee to the planner or the planner's designee and shall await receipt of the permit prior to beginning work applying the proposed mural to the structure.
 - ii) A permit shall be tied to the mural for which it is being applied.
- 4) *Revocation.*
 - a) A permit may be revoked by the planner or the planner's designee because of non-compliance with the permitting process, because of non-compliance with this section, or because of substantial degradation of the original artwork as measured against the submitted color rendering or photographs, whether the cause of such substantial degradation is due to a lack of maintenance or exposure to time or weather.
 - b) A mural shall be removed and the structure brought back into substantial conformity of the original aesthetic of the structure unless it is brought back into conformity with the submitted color rendering or photographs within 60 days of the issuance of written notice by the city.
 - c) If it cannot be brought into such conformity within 60 days due to weather, artist unavailability, or other extenuating circumstance, an extension may be granted by the planner or the planner's designee.
- 5) *Revocation due to vandalism.*
 - a) If the artwork is vandalized resulting in substantial degradation of or damage to the artwork, the mural shall be removed and the structure brought back into substantial conformity of the original aesthetic of the structure, unless it is brought into conformity with the submitted color rendering or photographs within six months from the date of the issuance of written notice by the city.

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- b) If it cannot be brought back into such conformity within six months due to weather, artist unavailability, or other extenuating circumstance, an extension may be granted by the planner or the planner's designee.

6) *Appeal.*

- a) An applicant may appeal a denial or a conditional approval of a permit, or a permittee may appeal a revocation of a permit, by timely request for a hearing before the Board of City Commissioners.
- b) The request for hearing must be received by the city planner or the planner's designee within ten business days following the date of the notice of revocation, conditional approval, or denial.
- c) The Board of City Commissioners shall hold a hearing on the applicant's or permittee's request for appeal hearing and shall render a final decision on the matter at or within a reasonable time after said hearing.
- d) A separate, non-refundable appeal fee may be required as established by the Board of City Commissioners.

7) *Non-affixed mural application.*

- a) In order to obtain necessary permission for a non-affixed mural, which is typically applied by painting, an applicant may submit a complete application to the planner or the planner's designee.
- b) Upon receipt of the complete application for a mural that satisfies the standards, the planner or planner's designee shall seasonably issue the permit and shall provide the applicant with a copy of the mural standards set forth in this section.
- c) A complete application for a non-affixed mural permit shall include:
 - i) General form established by staff to document applicant, property owner, artist, and property information, including necessary signatures demonstrating owner permission.
 - ii) Proposed materials to be used for the non-affixed mural.
 - iii) Proposed maintenance plan to address degradation due to time, weather, and other exposures.
 - iv) Written acknowledgement of understanding of the requirements as set forth in this section.

8) *Affixed mural application.*

- a) In order to obtain necessary permission for a mural affixed to a structure, whether mechanically or by some other construction method, an applicant may submit a complete application to the planner or the planner's designee.
- b) Upon receipt of the complete application for a mural that satisfies the standards, the planner or planner's designee shall seasonably issue the permit and shall provide the applicant with a copy of the mural standards set forth in this section.
- c) A complete application for an affixed mural permit shall include:
 - i) General form established by staff to document applicant, property owner, artist, contractor, and property information, including necessary signatures demonstrating owner permission.
 - ii) Proposed maintenance plan to address degradation and structural integrity concerns of the mural fixture due to time, weather, and other exposures.
 - iii) Proposed means, methods and materials to be used to securely and safely affix the mural to the structure.
 - iv) Proof of any necessary completed building permit application, fee, and other information required by the building inspection department in relation to the mural fixture.

v) Written acknowledgement of understanding of the requirements as set forth in this section.

9) *Timing of decision and period of review.*

- a) The planner or planner's designee shall seasonably inform the mural applicant of any additional information required to complete the application, to complete the planner's or planner's designee's review of the application, or to complete any necessary further review and decision by the MARC or building inspection department. If a complete mural application is not approved, such decision shall be accompanied by reasons within any correspondence to the applicant. Reasons for conditional approval or denial may only include non-conformity with the standards set forth in this section.
- b) To the extent MARC or building inspection department review should be necessary to decide whether the application does or does not meet the standards set forth under this section or other sections of the Mandan Code of Ordinances, the planner or planner's designee must forward the application in a timely manner to the MARC or building inspection department such that a decision can be timely rendered. Any decision by the MARC or the building inspection department is subject to appeal pursuant to this section.
- c) To the extent a complete mural application is received and no additional review or action by the MARC or building inspection department is necessary, the planner or planner's designee shall provide approval, conditional approval, or denial of the application within ten days of receipt of any review decision by the MARC or the building inspection department.

10) *Submitted color rendering or photographs.*

- a) Within seven days of the date of completion of the mural for which a permit has been granted, the permittee shall provide the planner or planner's designee a color rendering or a sufficient number of photographs of the completed mural that faithfully represent the following:
 - i) The color rendering of the mural;
 - ii) Dimensions of the mural;
 - iii) Dimensions of the mural area; and
 - iv) Location on the structure.

11) *Standards.* The following standards shall apply to both affixed and non-affixed murals.

- a) A mural shall not contain illustrations or text that are obscene or incite violence, as those terms are defined by the United States Supreme Court.
- b) A mural shall not be installed on any original facade of a building listed as a contributing structure of an historic district or independently listed on the National Historic Register, unless the mural may be attached to a removable panel without damage to the underlying historic facade and the manner of affixture does not constitute a safety hazard.
- c) A mural may not be applied to, cover over, or obscure significant architectural elements or significant building materials, including, but not limited to, any balustrade, colonnade, column, cornice, cresting, entablature, frieze, grille, latticework, lintel, lunette, molding, parapet, relief, or spandrel, or any structure or part thereof constructed of stone, cut stone, marble, granite, or glass block.
- d) Mural materials and application processes shall be appropriate to the environment, the structure and surface upon which the mural will be applied to ensure durability and longevity of the mural, and so as not to impede building use, occupant safety, public and pedestrian safety, or traffic safety.
- e) The city has lawful aesthetic, public safety, pedestrian and traffic safety interests in minimizing excessive distractions that are directly observable to pedestrian and automotive traffic. Where it is reported or documented that a mural caused: two or more traffic accidents and/or a significant increase in traffic

infractions or traffic or pedestrian disruptions, a mural permit is subject to revocation and the property owner is subject to enforcement, as set forth in this section.

- f) No mural shall extend beyond the building or structure to which it is painted or affixed or otherwise interfere with the functionality of other components supporting the use of the building or structure. These other components include, but are not limited to, existing signs, external lighting, utilities, sidewalks, parking, building or street address, and ingress/egress.
- g) A mural shall be a two-dimensional medium, except for minor three-dimensional surface variations of the structure on which the mural is directly applied.

12) *Non-compliance.*

- a) The failure to comply with any part of this section may subject the property owner to the penalties and processes set forth in Chapter 26 Municipal Code Enforcement.

13) *Severability.*

- a) If any part, sentence, phrase, clause, term, or word in this section of Mandan Code of Ordinances relating to public art is declared invalid or unconstitutional by a valid court judgment or decree of any court of competent jurisdiction, the declaration of such unconstitutionality shall not affect the constitutionality of or lawfulness of the remainder of this section, the Mandan Code of Ordinances, or any other Mandan regulation regulating signage, billboards, murals, or public art.