

**ZONING SUPPLEMENT
TO THE
CITY OF MINOT
CODE OF ORDINANCES**

MAY 12, 2004

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CHAPTER 1 -- TITLE

Sec. 1-1. Title:

This ordinance shall be known and may be cited and referred to as the Zoning Ordinance of the City of Minot. (Ord. 1149)

CHAPTER 2 -- DEFINITIONS

Sec. 2-1. Definitions:

For the purpose of this title certain words and terms used herein are defined as follows:

All words used in the present tense include the future tense. All words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. The word "building" includes the word "structure". The word "shall" is mandatory and not directory. The word "used" shall be deemed also to include "designed, intended or arranged to be used." Unless otherwise specified, all distances shall be measured horizontally. The word "city" means the City of Minot, North Dakota; the term "city council" means the City Council of said city; the term "board of adjustment" means the Board of Adjustment of said city; the term "city planning commission" means the City Planning and Zoning Commission of said city; all officials referred to herein refer to the current appointed officials of said city or their authorized representatives.

- 1) Accessory Building or Use: A subordinate building or use incidental to and located on the same lot occupied by the principal building or use and constructed or established at the same time or after construction of the main building or use.
- 2) Adult Bookstore: A commercial enterprise or activity at a fixed place of business which consists of the sale on a recurring basis of materials such as books, magazines, films and video tapes, which materials depict visually or describe verbally specified sexual activities, and which materials are delivered to or obtained by the purchaser at such place of business.
- 3) Adult Cabaret: A cabaret that features Go-Go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers.
- 4) Adult Cinema: A commercial enterprise or activity at a fixed place of business which consists of the direct or indirect projection on a regular basis of materials which visually depict specified sexual activities for observation by persons who pay a valuable consideration to do so, irrespective of the number of patrons who may be able to view the presentation at one time.
- 5) Adult Entertainment Center: An adult bookstore or adult cinema or both.
- 6) Alley: A public right of way less than thirty (30) feet in width dedicated to public use, primarily to provide vehicular service access to side or rear of properties otherwise abutting on a street.
- 7) Apartment: A room or suite of rooms intended, designed or used as a residence by a single family.

- 8) Automobile Repair - Minor: Repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks, but not including any operation specified under "Automobile Repair - Major".
- 9) Automobile Repair - Major: General repairs, rebuilding or reconditioning of engines, motor vehicles or trailers; collision service, including body, frame or fender straightening or repairs; overall painting or paint shop; vehicle steam cleaning.
- 10) Automobile Wrecking Yard: The use of any part of any premises whether inside or outside of a building for the demolition or storage of unlicensed or abandoned automobiles or other vehicles, or machinery or parts thereof.
- 11) Bed and Breakfast: A private home that is used to provide accommodations for a charge to the public with not more than four lodging units, in which no more than two family style meals per day are provided.
- 12) Boardinghouse: A building other than a hotel where for compensation and by arrangement meals, lodging, or both, are provided for three (3) or more persons. This includes lodging and rooming houses.
- 13) Buffer Strip: A unit of land containing one or more of the following to minimize conflicts between adjacent land uses:
 - A) Fencing
 - B) Earth berms
 - C) Landscaping, including trees, dense hedges or similar features.
- 14) Building: Any structure used or intended for supporting or sheltering any use or occupancy.
- 15) Building - Principal: A building in which is conducted the principal use of the lot on which it is established.
- 16) Building Setback: The required minimum distance between the building line and the property lines. Yard is the same as building setback.
- 17) Clinic: An establishment where patients, who are not lodged overnight, are admitted for examination and treatment by a physician or group of physicians practicing medicine together.
- 18) Club or Lodge: A building or portion thereof or premises owned or operated by any corporation or association organized for civic, fraternal, social, or business purposes, or for the promotion of sports.
- 19) Commercial Kennel: Any building or fenced area where dogs are kept for breeding, for sale, for medical care, for training or for boarding. In addition, any building or fenced area where five (5) or more dogs, six (6) months or older, are kept for other than an individual's own use.

- 20) Commercial School: Any educational facility owned and operated by a nonpublic sponsor and designed to provide occupational training in a job-related skill or craft.
- 21) Commercial Parking Lot: Any parking facility in which charges are made for vehicular parking privileges.
- 22) Condominium: A single-family dwelling located in a complex of two or more single-family dwellings, which are attached by common walls and which either can be side-by-side or over-and-under. The dwellings are individually owned, but the property upon which the structure sits is owned in common and administered by an association of the condominium owners.
- 23) Day Care Center: The business of providing at a fixed location adult supervision of children, one or more of whom is under the age of thirteen, on either a for-profit or a non-profit basis.
- 24) Density: The quotient of the total number of dwelling units divided by the total acreage of a site.
- 25) District: Any section of the City of Minot for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.
- 26) Drive-In Restaurant: Any establishment dispensing food or drink where the customers are served in their cars, pick up such food or drink by driving by a pick-up window, or where they step out of the automobile briefly to pick up food or drink.
- 27) Duplex: A single structure situated on only one lot consisting of two single-family dwellings that may be either located side-by-side or on more than one level.
- 28) Dwelling: Any structure or portion thereof that is designed for or used as a permanent human residence.
- 29) Dwelling, Group: In general, a building in which several unrelated individuals or families permanently reside, but in which individual cooking facilities are not provided for the individual persons or families. Specifically, "group dwelling" shall include rooming houses, fraternity and sorority houses, dormitory, halfway house and private club in which one or more members have a permanent residence. "Group Dwelling" shall not be deemed to include uses such as a hotel, motel, mobile home park, sanitarium, hospital or nursing home.
- 30) Dwelling, Multiple: A building designed for or occupied exclusively by three (3) or more families. This includes apartment houses.
- 31) Dwelling: Any structure or portion thereof which is designed for or used as a permanent human residence.

- 32) Dwelling, Two-Family: A building designed for or occupied exclusively by two (2) families.
- 33) Dwelling Unit: Any building or portions thereof, which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, for not more than one family.
- 34) Easement: A grant by the property owner of the use of land by the public, or by one or more persons or corporations for a specific purpose or purposes.
- 35) Family: An individual who lives in a household unit to the exclusion of all other persons. Also (i) two or more individuals who are related to one another by blood, marriage or adoption and no more than one other individual not so related to the others or (ii) not more than four individuals whether or not related to one another, who in either case (i) or case (ii) live together in a household unit. For purposes of this definition a household unit means one or more rooms so arranged that one can pass between or among the sleeping quarters, the food preparation and food dining area, and the bathing facilities without being required to pass through an area open to the general public. Also for purposes of this definition a foster parent-foster child relationship established by a court order shall be considered to be the equivalent of a blood relationship between the foster parent and the foster child as long as the court order remains in effect.
- 36) Filling Station: A building or lot having pumps and storage tanks where fuels, oils and/or accessories for motor vehicles are dispensed, sold or offered for sale at retail only; and no storage or parking space is offered for rent.
- 37) Fraternity/Sorority House: Includes every building or structure, or any part thereof, occupied primarily by members of any social fraternity or sorority, with accommodations for four (4) or more boarders, which is kept, used or maintained as a place where food or sleeping accommodations are furnished to regular boarders for one week or more.
- 38) Frontage: All the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
- 39) Funeral Home: A facility used for pre-burial preparations of human cadavers, including but not limited to a mortuary, crematorium, chapel, viewing area, vehicular storage, and parking but not including burial facilities.
- 40) Garage, Private: An accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the buildings to which it is accessory, and storing not more than one commercial vehicle or any vehicle which exceeds a two-ton capacity.

- 41) Grade:
- a) for buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
 - b) for buildings having walls adjoining more than one street, the average of the elevation of the sidewalk at the centers of all walls adjoining the streets.
 - c) for buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building, if approved by the City Engineer.

Any wall approximately parallel to and not more than five (5) feet from a street line is to be considered as adjoining the street. Where no sidewalk exists the grade shall be established by the City Engineer.

- 42) Group Home: A community based residential home licensed by the appropriate North Dakota State Licensing Authority that provides room, board, personal care, habitation, services, or supervision in a family environment.
- 43) Hazardous Materials: Hazardous materials, hazardous substances or hazardous waste as those terms are defined in Title 49 of the Code of Federal Regulations at Section 171.8, if the amount of the hazardous material, hazardous substance, or hazardous waste on particular premises at only one time exceeds the “reportable” quantity. The reportable quantity shall be specified in Title 49 Code of Federal Regulations Section 172.101, unless the reportable quantity is specified by the Fire Chief, in which case his specifications shall govern.
- 44) Height of Building: The vertical distance from grade to the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.
- 45) Home Occupation: Any occupation or activity that meets all of the following tests:
- a) The occupation is managed and owned by a person residing on the premises and not more than one other person is employed by the owner/manager on the premises except members of the immediate family of the owner/manager who also live on the premises.
 - b) The exterior of the premises used for the home occupation is indistinguishable from any other residential dwelling of like design and character, in that no commercial displays, show windows, exterior storage areas, parking area, or the conduct of the business itself may be viewed from outside the premises, except that a non-illuminated name plate or non-illuminated business sign not more than four (4) square feet in area may be exhibited, which is attached flush to the side of the building.
 - c) The home occupation does not generate pedestrian traffic nor vehicular parking substantially greater or substantially different in character than that ordinarily associated with a similar dwelling which is used solely for residential purposes.

The home occupation combined with all other activities on the same premises does not generate more than (i) 30 vehicular trips per day or (ii) the number of vehicular trips per day equal to 3% of the average per day vehicular traffic past the premises, whichever is greater.

- d) The home occupation is no more dangerous to life, personal safety, or property than any other activity ordinarily carried on with respect to premises used solely for residential purposes. No loud or unpleasant noises, bright or glaring lights, offensive or noxious fumes, or odors, or perceptible vibrations attributable to the home occupation are emitted from the premises.
- e) The home occupation does not require as an incident thereto that a permit for the storage of flammable liquids or flammable gases be issued pursuant to the Fire Code - Chapter 13 of the Code or Ordinances.
- f) If the home occupation consists of the maintenance or repair of motor vehicles, it does not involve any one or more of the following activities:
 - 1. The spraying of paint or industrial finishes or any flammable liquid;
 - 2. The parking of more than three motor vehicles on or about the premises where the home occupation is conducted, which vehicles would not be so parked, were it not for the home occupation; and

It is registered with the City Planner, who shall have the right to require as part of the initial registration, and as frequently as annually thereafter, such information be furnished as the planner reasonably determines is necessary for the enforcement of the restrictions stated above.

- 46) Hotel: A building in which lodging or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boarding house, a lodging-house, or an apartment, which are herein separately defined.
- 47) Institution: A building occupied by a non-profit corporation or a non-profit establishment for public use.
- 48) Junkyard: The use of any part of any premises whether inside or outside of a building for the storage of, keeping or abandonment of junk, including scrap metals, rags, paper or other scrap material, used lumber, salvage from house wrecking and used structural steel material and equipment for dismantling.
- 49) Laundromat: An establishment providing home-type washing, drying or ironing machines to be used by customers on the premises.

- 50) Loading Space: A space within the main building or on the same lot therewith, providing for the standing, loading or unloading of trucks and having a minimum dimension of 12 feet by 35 feet and a vertical clearance of at least 14 feet.
- 51) Lot: Any tract of land owned by one person or jointly owned by a combination of persons, the boundaries of which are established or depicted by any one or combination of the following methods:
- A) Metes and bounds description;
 - B) A closed figure formed by a series of interconnecting lines drawn on a plat or by reference to a portion or fraction of a figure thus depicted or;
 - C) A reference to a U.S. Government section or U.S. Government lot or a fraction or a portion thereof.
- 52) Lot, Corner: A lot abutting upon two or more streets, except alleys, at their intersection(s).
- 53) Lot, Depth of: The mean horizontal distance between the front and rear lot lines.
- 54) Lot, Double Frontage: A lot having a frontage on two non-intersecting streets, except alleys, as distinguished from a corner lot.
- 55) Lot of Record: Land designated as a separate and distinct parcel on a legally recorded subdivision plat or in a legally recorded deed filed in the record of the Register of Deeds Office of Ward County, North Dakota.
- 56) Manufactured Home: A dwelling—
- A) the whole of which, or each of the major components of which, is constructed on a metal chassis, which chassis-
 - 1) is mounted on wheels, or
 - 2) has brackets or other facilities to which wheels may be readily mounted, such that the entire dwelling (or its major component parts) may be easily transported on a highway without occupying substantially more than one lane of traffic.
- 57) Manufactured Home Park: A plat of ground under single ownership or management which has been planned and improved for the placement of two (2) or more manufactured homes, which are used for dwelling or sleeping purposes, regardless of whether or not a charge is made of such accommodations.
- 58) Model Home: A structure erected for the primary purpose of eventual sale as a dwelling on the lot upon which it was constructed, but is being used as a display home, not as a dwelling, to encourage the sale of the structure or sales of similar structures to the general public.
- 59) Modular or Prefabricated Home: A non-mobile housing unit that is fabricated in a central factory and transported to a building site where final installations are made, permanently affixing the module to the site, and is built according to Uniform Building Code.

- 60) Motel: A building or group of buildings used for the temporary residence of motorists of travelers.
- 61) Nonconforming Use: The use of land or a building, or portion thereof, which use does not conform to the use regulations of the district in which it is situated.
- 62) Parking Lot: A parking lot shall mean any land legally used for the parking of motor vehicles.
- 63) Reserved.
- 64) Place of Assembly: A building or portion of a building used for the gathering together of fifty (50) or more persons for such purposes as deliberation, education, instruction, worship, entertainment, drinking or dining or waiting transportation.
- 65) Protective Covenants: Contracts made between private parties as to the manner in which land may be used with a view towards protecting and preserving the physical and economic integrity of an area.
- 66) Rabbitry: Includes any establishment where rabbits are raised, bred, housed, sold or otherwise disposed of for hire or for profit, or where more than four (4) rabbits are harbored or kept.
- 67) “R” District Excluded Manufactured Home: A manufactured home which meets one of more of the following criteria-
- A) its main floor size is less than 900 square feet;
 - B) it does not have at least two exterior side walls, each of which is at least twenty-four feet in length and not parallel to the other;
 - C) it has a roof pitch less than two and one-half inches of vertical rise for each twelve inches of horizontal run;
 - D) its roofing material is other than (a) asphalt shingles, (b) wood shingles, (c) tile, (d) rock, or (e) a non-reflective material which simulates one of the foregoing;
 - E) it was built or assembled before June 15, 1976;
 - F) the ceiling height of a majority of the rooms therein is less than seven and one half feet; or
 - G) its outside appearance when ready for occupancy is such as to make it readily distinguishable from a site-built home.
- 68) Recreational Vehicle: A unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power, is mounted onto, stored in or drawn by another vehicle.
- 69) Recreational Vehicle Campground: A plat of ground under single ownership or management which has been planned and improved for the parking of recreational vehicles and tents, regardless of whether or not a charge is made for such accommodations.

- 70) Row Housing or Townhouse: A building which has two (2) or more dwelling units erected in a row as a single building on adjoining lots, each being separated from the adjoining unit or units by an approved two-hour fire-rated wall, which shall extend from the footing to and through the roof.
- 71) Semi-Trailer: A wheeled vehicle (a) which under the laws of the State of North Dakota needs to be licensed and registered in order to be operated lawfully upon State highways, (b) which does not have its own means of propulsion or locomotion, but which is coupled or hitched directly or indirectly to a means of propulsion when moved, and (c) which exceeds 27 feet in length, except for, however, fifth-wheel campers and pull type recreational vehicles.
- 72) Single-Family Dwelling: (A) Attached - Attached on one side to one other single-family dwelling, with attachment made along a common or "Party" wall. Each dwelling is located on an independent lot. (B) Detached - Complete independent single-family dwelling not adjoining or physically attached to another dwelling.
- 73) Site Plan: A plan, to scale, showing uses, structures and associated amenities proposed for a parcel of land.
- 74) Small Animal Clinic: A facility in which the veterinary practice conducted is essentially an outpatient type of practice with an occasional confinement limited to domestic household pets.
- 75) Special Use: A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such uses as specified in a zoning ordinance and authorized by the City Council.
- 75.1) "R" District Excluded Manufactured Home: A manufactured home which meets one or more of the following criteria--
- 1) its main floor size is less than 900 square feet;
 - 2) it does not have at least two exterior side walls, each of which is at least twenty-four feet in length and not parallel to the other;
 - 3) it has a roof pitch less than two and one-half inches of vertical rise for each twelve inches of horizontal run;
 - 4) its roofing material is other than (a) asphalt shingles, (b) wood shingles, (c) tile, (d) rock, or (e) a non-reflective material which simulates one of the foregoing;
 - 5) it was built or assembled before June 15, 1976;

- 6) the ceiling height of a majority of the rooms therein is less than seven and one-half feet; or
- 7) its outside appearance when ready for occupancy is such as to make it readily distinguishable from a site-built home.
- 76) Specified Sexual Activities:
- A) Human genitals in a state of sexual stimulation or arousal;
 - B) Acts of human masturbation, sexual intercourse or sodomy;
 - C) Fondling by one person of another person's genitals, pubic region, buttock or breast.
- 77) Stable, Private: An accessory building in which horses are kept for private uses and not for hire, remuneration or sale.
- 78) Stable, Commercial: A building in which any horses are kept for remuneration, sale or hire.
- 79) Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a usable or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such usable or unused under-floor space shall be considered as a story.
- 80) Story, First: The lowest story in a building, which qualifies as a story, as defined herein, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade, as defined herein, for more than fifty (50) percent of the total perimeter, or not more than eight (8) feet below grade, as defined herein, at any point.
- 81) Street: A public or private thoroughfare or right-of-way. A private street is a street (i) the use of which as a matter of right is limited to abutting landowners and their permittees and (ii) which is not maintained with public funds. All other streets are public streets.
- 82) Street, Arterial: A street or highway used primarily for fast or heavy traffic, including expressways, freeways and bypasses.
- 83) Street, Collector: A street or highway that is intended to carry traffic from local streets to major streets. Collector streets are usually the principal entrance streets to residential developments and the streets for circulation within the developments.
- 84) Street, Local: A street intended primarily to provide pedestrian and vehicular access to the abutting properties.
- 85) Structures: Anything constructed or erected, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on

the ground, including but without limiting the generality of the foregoing: advertising sign, billboards, back stops for tennis courts and pergolas.

- 86) Structural Alteration: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, girders or any structural change in the roof.
- 87) UBC - Uniform Building Code: The building code in effect in the City of Minot.
- 88) Use: The term referring to:
- A) Any purpose for which buildings, other structures, or land may be arranged, designed, intended, maintained or occupied;
 - B) Any occupation, business, activity or operation carried on (or intended to be carried on) in a building or other structure or on land;
 - C) A name of a building, other structure or tract of land, which indicated the purpose for which it is arranged, designed, intended, maintained or occupied.
- 89) Uses Permitted: Any use permitted by these regulations. The term "permitted" or its equivalent shall not be deemed to include any nonconforming uses.
- 90) Variance: A device that grants a property owner relief from certain provisions of the zoning regulations.
- 91) Vehicular Trip: The act of a motorized vehicle either arriving at or departing from a particular location.
- 92) Yard: An open space at grade, which is unoccupied and unobstructed by any portion of a structure from the ground upward, subject to exceptions set forth in Chapter 21 of these regulations.
- 93) Yard, Front: A yard extending across the front of a lot between the side lot lines, which yard extends from the front lot line to that point of any structure located on the lot nearest to the front lot line.
- 94) Yard, Rear: A yard extending across the rear of a lot between the side lot lines, which yard extends from the rear lot line to that point of any structure located on the lot nearest to the rear lot line.
- 95) Yard, Side: A yard between the side lot line of a lot and that point of any structure located on the lot nearest to the side lot line, which yard extends from the front yard to the rear yard.

(Ord. 3463)

CHAPTER 3 -- DISTRICTS AND BOUNDARIES

Sec. 3-1. Districts:

For the purpose of this zoning ordinance, the City of Minot is divided into various districts. The name of each district and the restrictions, limitations, rights and privileges attributable to each of the districts are set forth in the Chapters which follow. The placing of property within a district shall be by the enactment of an appropriate ordinance, which ordinance need not specifically amend this zoning ordinance, but which ordinance need only set forth the legal description of the property in question and the district in which it is placed. In some instances a parcel of land may be placed in more than one district if the nature of the districts so permit (that is, "overlying zones"). Once an ordinance is enacted which places property within a certain district the appropriate administrative personnel of the City shall amend the zoning map accordingly. Lands within a particular district need not be contiguous.

Sec. 3-2. Maps:

The boundaries of these districts are hereby established as shown on the map accompanying and made part of this ordinance which map is designated as the "Zoning District Map". The zoning district map and all the notations, references and other information shown thereon are a part of this ordinance and shall have the same force and effect as if such map and all the notations, references, and other information shown thereon were all fully set forth or described herein, which zoning district map is properly attested and on file with the city clerk of the City of Minot.

Sec. 3-3. District Boundaries:

(a) The district boundary lines on said map are intended to follow either streets, or alleys or lot lines, and where the districts designated on the map are bounded approximately by such street, alley or lot lines, the street or alley or lot shall be construed to be the boundary of the district unless such boundary is otherwise indicated on the map. In the case of un-subdivided property, the district boundary lines shall be determined by the use of the scale appearing on the zoning district map or by dimensions.

(b) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.

Sec. 3-4. Petitions for Annexation:

All petitions for annexation of property to the City of Minot shall contain a recommendation from the Planning Commission relative to zoning which shall be subsequently approved by the city council.

Sec. 3-5. Street, Alley, or Public Way Vacation:

Whenever any street, alley or other public way is vacated by official action of the city council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and hence forth be subject to all appropriate regulations of the extended districts.

Sec. 3-6. Water Areas:

All areas within the corporate limits of the City of Minot, which are under water and not shown as included within any district, shall be subject to all of the regulations of the district which immediately adjoins the water area. Where said water area adjoins two or more districts, the boundaries of each district shall be construed to extend to the center of the water area.

CHAPTER 4 -- COMPLIANCE WITH THE REGULATIONS

Sec. 4-1. Use Restrictions:

No lot or structure shall be used (1) except for a use permitted in the district (or districts, in case of overlying zones) within which the lot or structure lies, or (2) in a manner inconsistent with the terms of any special use permit applicable to the land or structure.

Sec. 4-2. Restrictions on Construction, Reduction of Lot Areas, and the Dissolution of Common Ownership of Lots:

(a) No structure shall be erected (and in this context, a structure moved onto a lot, whether or not it is placed on a permanent foundation, shall be considered to have been erected thereon), converted, enlarged, reconstructed, altered or other-wise modified in a manner prohibited in subsection (d) hereof.

(b) No existing lot of record shall be subdivided or otherwise reduced in area in a manner prohibited in subsection (d) hereof.

(c) The common ownership or control of two or more lots or sublots shall not be dissolved in a manner prohibited in sub- section (d) hereof.

(d) The actions referred to in subsections (a), (b), and (c) above shall not be done -

(1) In a manner as to result in a violation of the provisions of this zoning ordinance, when there would have been no violation in the absence of such action;

(2) If there is a pre-existing condition with respect to such structure or lot, or both, which would constitute a violation of the provisions of this zoning ordinance in the absence of Chapter 25 pertaining to Non-Conforming Uses, or in the absence of a special non-conforming use permit, in a manner as to increase the physical extent of such violation or to further perpetuate the temporal duration of such violation, provided that reasonable and necessary repairs and maintenance of an existing structure are not prohibited hereby if they do not constitute a capital improvement; or

(3) If there is a pre-existing condition with respect to the structure or lot that constitutes a violation of this zoning ordinance notwithstanding Chapter 25 pertaining to Non-Conforming Uses and notwithstanding any applicable special non-conforming use permit, in a manner which fails to remedy the pre-existing violation.

(Ord. 1149; Ord. 1171; Ord. 1789; Ord. 2437)

CHAPTER 5 -- "R-1" SINGLE-FAMILY RESIDENCE DISTRICT

Sec. 5-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this ordinance when referred to in this chapter, are the regulations in the "R-1" Single-Family Residence District.

Sec. 5-2. General Description:

The R-1 residential district is established as a district in which the principal use of land is for single-family dwellings and related residential neighborhood uses.

Sec. 5-3. Uses Permitted:

The following uses are permitted:

- a) Single-family dwellings other than "R" District Excluded Manufactured Homes.
- b) Elementary school.
- c) High school or junior high school.
- d) Kindergarten.
- e) Private or parochial school offering a curriculum substantially equivalent to that offered by public schools.
- f) Golf course (public or private).
- g) Park (public or private).
- h) Playground or athletic field (public or private).
- i) Swimming pool (public or private).
- j) Ice skating rink (outdoor).
- k) Churches, or other places of worship or Sunday school.
- l) Accessory building or use customarily incidental to all permitted uses including a private garage. Only two (2) storage sheds shall be allowed per ownership, except where the lot area exceeds 15,000 square feet, in which case Section 5-5 shall apply. Accessory buildings for single-family dwellings may be used for vehicle or other storage, play areas, shop or office use and no others.
- m) A church or public bulletin board or temporary sign pertaining to the lease, hire, or sale of a building or premise, which sign or bulletin board shall not exceed ten (10) square feet in area.
- n) A group home for housing of no more than six (6) persons plus staff.
- o) Home occupations, except bed and breakfast businesses.

Sec. 5-4. Lot, Height, Area and Yard Requirements:

- a) Maximum height of any building shall not exceed thirty-five (35) feet, except the maximum height of an accessory building shall not exceed sixteen (16) feet.
- b) Maximum lot coverage shall be 40%, subject to Section 21-1(f).
- c) Minimum yards are as follows:
 - 1) Front - twenty-five (25) feet.
 - 2) Side - six and one-half (6.5) feet.

- 3) Rear - twenty (20) feet.
- 4) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
- d) Minimum lot dimensions shall be as follows:
 - 1) Area - 7500 square feet
 - 2) Width - 65 feet
 - 3) Depth - 85 feet
- e) The total coverage and floor area of all accessory buildings shall not exceed those of the primary structure.

Sec. 5-5. Miscellaneous Provisions:

(a) All accessory buildings to a residence shall be limited to a total coverage of twelve hundred (1,200) square feet, except the coverage shall not exceed that of the primary structure. For an attached garage, any coverage in excess of seven hundred twenty (720) square feet shall be considered part of the maximum allowable accessory building coverage. The maximum accessory building coverage for lots exceeding 24,000 square feet in area shall be 5 percent of the lot area.

(b) The uses permitted or allowed by this chapter (which uses are enumerated in Section 5-3), shall not be construed to include as part thereof the parking of a semi-trailer upon land within the district regulated by this chapter, if the land is not part of the public right of way. (Parking upon the public right of way is governed under Division 2 of Article II of Chapter 20 of the City of Minot Code of Ordinances.)

(c) However, the restriction on parking set forth in subsection (b) hereof shall not extend to incidental and temporary parking of a semi-trailer by someone who is delivering materials to or supplying services on the property in question, in the course of such activity, if such parking is reasonably necessary to the accomplishment of the activity. That parking is not unlawful by virtue of the prior sentence shall be an affirmative defense in any proceeding to enforce the Zoning Ordinance.

d) The following restrictions shall apply in respect to animals:

(1) The uses permitted or allowed by this chapter shall not be construed to include as part thereof the provision of food or artificial shelter to any of the animals named hereafter (or hybrids thereof):

- (a) Alligators.
- (b) Bears.
- (c) Bees.
- (d) Cattle.
- (e) Coyotes.
- (f) Crocodiles.
- (g) Deer.
- (h) Elk.
- (i) Felines other than domestic house cats.
- (j) Foxes.

- (k) Goats.
- (l) Horses.
- (m) Mules.
- (n) Rabbits.
- (o) Raccoons.
- (p) Scorpions.
- (q) Sheep.
- (r) Skunks.
- (s) Swine.
- (t) Wolves.
- (u) Any other poisonous or venomous animal.
- (v) Any hoofed animal not named above.
- (w) Any other animal (except dogs) weighing over thirty (30) pounds.

- (2) Section 7-15 of the City of Minot Code of Ordinances is incorporated herein by reference, except that references therein to the "chief of police" shall be deemed to refer to the city planner.
- (3) This subsection shall apply to R-1 districts that lie within the extraterritorial jurisdiction of the City of Minot only.
- (4) Notwithstanding anything to the contrary in Chapter 25 (Non-conforming Uses), the restrictions imposed in this subsection in respect to horses shall not apply to any property which, as of January 1, 2003, was being used for the harboring or keeping of horses. However, nothing in this paragraph (4) is to be construed as legalizing that which may be illegal under some other provision of the ordinances of the City of Minot, such as, for example, those pertaining to the preservation of the public health and prohibiting the maintenance of a nuisance.

(Ord. 3799; Ord. 3831)

CHAPTER 5.1 -- "R-A" AGRICULTURAL RESIDENCE DISTRICT

Sec. 5.1-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this ordinance when referred to in this chapter, are the regulations in the "R-A" Agricultural Residence District.

Sec. 5.1-2. General Description:

The R-A residential district is established as a district in which the principal use of the land shall be for low density, large lot single-family dwellings, limited agriculture, and limited equine husbandry.

Sec. 5.1-3. Uses Permitted:

The following uses are permitted:

- a) Single family dwellings other than "R" District Excluded Manufactured Homes.
- b) Elementary school.
- c) High school or junior high school.
- d) Kindergarten.
- e) Private or parochial school offering a curriculum substantially equivalent to that offered by public schools.
- f) Golf course (public or private).
- g) Park (public or private).
- h) Playground or athletic field (public or private).
- i) Swimming pool (public or private).
- j) Ice skating rink (outdoor).
- k) Churches, or other places of worship or Sunday School.
- l) Accessory building or use customarily incidental to all permitted uses including a private garage.
- m) A church or public bulletin board or temporary sign pertaining to the lease, hire, or sale of a building or premise, which sign or bulletin board shall not exceed ten (10) square feet in area.
- n) A group home for housing of no more than six (6) persons plus staff.
- o) Home occupations, except bed and breakfast businesses.
- p) Private horse stables provided that horses shall be for private use only; that no horse, horse stable, barn or shelter shall be located within one hundred (100) feet of any neighboring residence, nor any closer to the lot lines than the minimum yards set forth in Section 5.1-4; that two (2) horses shall be permitted on any premises which contains at least two (2) acres and additional horses shall be allowed at the rate of one horse for every additional three (3) acres of contiguous property under the same ownership. For the purposes of this ordinance the definition of a horse will be only those horses that are one year of age or older. Also, this permitted use will be allowed only for properties outside the Minot City limits.
- q) Railroad right-of-way, not including railroad yards.
- r) Farming, except the keeping of livestock other than horses.
- s) The keeping of household pets such as dogs and cats.

Sec. 5.1-4. Lot, Height, Area and Yard Requirements:

- a) Maximum height of any building shall not exceed thirty five (35) feet.
- b) Maximum lot coverage shall be 10%, subject to Section 21-1(f).
- c) Minimum yards are as follows:
 - 1) Front - thirty-five (35) feet.
 - 2) Side - twenty (20) feet.
 - 3) Rear - thirty-five (35) feet.
 - 4) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
- d) Minimum lot dimensions shall be as follows:
 - (1) Area - 2 acres
 - (2) Width - 150 feet
 - (3) Depth - 150 feet

Sec. 5.1-5 Miscellaneous Provisions:

(a) **Accessory Buildings.** Accessory buildings may occupy up to 5 percent of the lot area. Accessory buildings for the above computation shall include the following buildings: barns, stables and storage buildings, and attached and detached garages, provided that seven hundred twenty (720) square feet of attached garages shall be excluded from the maximum allowable accessory building coverage computation.

(b) The uses permitted or allowed by this chapter (which uses are enumerated in Section 5.1-3), shall not be construed to include as part thereof the parking of a semi-trailer upon land within the district regulated by this chapter, if the land is not part of the public right of way. (Parking upon the public right of way is governed under Division 2 of Article II of Chapter 20 of the City of Minot Code of Ordinances.)

(c) However, the restriction on parking set forth in subsection (b) hereof shall not extend to incidental and temporary parking of a semi-trailer by someone who is delivering materials to or supplying services on the property in question, in the course of such activity, if such parking is reasonably necessary to the accomplishment of the activity. That parking is not unlawful by virtue of the prior sentence shall be an affirmative defense in any proceeding to enforce the Zoning Ordinance.

CHAPTER 6 -- "R-2" AND "R-2 (B)" TWO-FAMILY RESIDENCE DISTRICT

Sec. 6-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this ordinance, when referred to in this chapter, are the regulations in the "R-2" or "R-2 (B)" Two-Family Residence Districts.

Sec. 6-2. General Description:

The R-2 and R-2 (B) residential districts are established as districts in which the principal use of the land shall be for two-family dwellings.

Sec. 6-3. Uses Permitted:

The following uses are permitted:

- a) Any use in the "R-1" Single Family Residence District, except childcare facilities and private nursing homes in a two-family dwelling.
- b) Two-family dwellings (attached) on the same lot.
- c) Two-family townhouses.
- d) A group home for housing no more than eight (8) persons plus staff in a detached structure only.
- e) Accessory building or use customarily incidental to all permitted uses including a private garage. Only two (2) storage sheds shall be allowed per ownership.
- f) Home occupations, except bed and breakfast businesses.
- g) Condominiums

Sec. 6-4. Lot, Height, Area, And Yard Requirements:

- a) Maximum height of any building shall not exceed thirty-five (35) feet, except the maximum height of an accessory building shall not exceed sixteen (16) feet.
- b) Maximum coverage shall be 40% of the lot area
- c) Minimum yards are as follows:
 - 1) Front - twenty-five (25) feet.
 - 2) Side - (R-2) - six (6) feet, (R-2B) - five (5) feet.
 - 3) Rear - twenty-five (25) feet.
 - 4) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
- d) Minimum lot dimensions shall be as follows:
 - 1) Area (R-2) - seven thousand (7000) square feet.
 - 2) Area (R2-B) - five thousand (5000) square feet.
 - 3) Lot width (R-2) - sixty (60) feet.
 - 4) Lot width (R2-B) - fifty (50) feet.
 - 5) Depth - eighty-five (85) feet.

- e) For a two-family townhouse in the R-2 district, the following shall be required per townhouse as minimums:
 - 1) Lot area - three thousand and five hundred (3500) square feet.
 - 2) Lot width - thirty (30) feet.
- f) For a two-family townhouse in the R-2B district, the following shall be required per townhouse, as minimums:
 - 1) Lot area - two thousand and five hundred (2500) square feet.
 - 2) Lot width - twenty-five (25) feet.
- g) The total coverage and floor area of all accessory buildings shall not exceed those of the primary structure.

Sec. 6-5. Miscellaneous Provisions:

(a) The uses permitted or allowed by this chapter (which uses are enumerated in Section 6-3), shall not be construed to include as part thereof the parking of a semi-trailer upon land within the district regulated by this chapter, if the land is not part of the public right of way. (Parking upon the public right of way is governed under Division 2 of Article II of Chapter 20 of the City of Minot Code of Ordinances.)

(b) However, the restriction on parking set forth in subsection (a) hereof shall not extend to incidental and temporary parking of a semi-trailer by someone who is delivering materials to or supplying services on the property in question, in the course of such activity, if such parking is reasonably necessary to the accomplishment of the activity. That parking is not unlawful by virtue of the prior sentence shall be an affirmative defense in any proceeding to enforce the Zoning Ordinance.

(Ord. 3799)

CHAPTER 7 -- "R-3" AND "R-3 (B)" MULTIPLE RESIDENCE DISTRICTS

Sec. 7-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this ordinance, when referred to in this chapter, are the regulations in the "R-3" or "R-3 (B)" Multiple Residence Districts.

Sec. 7-2. General Description:

The R-3 and R-3 (B) districts are established as districts in which the principal use of land is for multi-family dwellings and similar high-density residential development.

Sec. 7-3. Uses Permitted:

- a) Any use permitted in the "R-1" Single Family Residence District, and
- b) In the "R-2" or "R-2 (B)" Two Family Residence Districts, except that child care facilities and private nursing homes as home occupations shall be allowed only in single-family detached homes.
- c) Multi-family dwellings.
- d) Nursing, convalescent, or rest home.
- e) Sorority or fraternity house.
- f) Accessory building or use customarily incidental to all permitted uses including a private garage. Only two (2) storage sheds shall be allowed per ownership.
- g) Condominiums

Sec. 7-4. Lot, Height, Area, and Yard Requirements:

- a) Maximum height of any building shall be three (3) stories not to exceed forty-five (45) feet, except the maximum height of an accessory building shall not exceed sixteen (16) feet.
- b) Maximum coverage shall be 40% of the lot area.
- c) Minimum yards are as follows:
 - 1) Front - twenty-five (25) feet.
 - 2) Side - (R-3) - six (6 feet), (R-3 (B)) - five (5) feet.
 - 3) Rear - twenty-five (25) feet.
 - 4) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
- d) Minimum lot area shall be as follows:
 - 1) Area for single-family dwelling in R-3 or R-3 (B) districts shall be five thousand (5,000) square feet.
 - 2) Area for a two-family dwelling in R-3 district shall be seven thousand (7,000) square feet, and in R-3 (B) district shall be five thousand (5000) square feet.

- 3) Area for a three-family dwelling in R-3 district shall be ten thousand (10,000) square feet, in a R-3 (B) district shall be six thousand (6000) square feet. For each additional dwelling unit in the R-3 district in excess of a three-family dwelling, the lot shall have an additional area of three thousand (3000) square feet. For each additional dwelling unit in the R-3 (B) district in excess of a three-family dwelling, the lot shall have an additional area of two thousand (2000) square feet.
- e) Minimum lot dimensions shall be as follows:
 - 1) Lot width (R-3) - sixty (60) feet.
 - 2) Lot width (R-3B) - fifty (50) feet.
 - 3) Lot depth - eighty-five (85) feet.
- f) The total coverage and floor area of all accessory buildings shall not exceed those of the primary structure.

(Ord. 3799)

CHAPTER 8 -- "R-3C" TOWNHOUSE RESIDENCE DISTRICT

Sec. 8-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this ordinance when referred to in this chapter, are the regulations in the "R-3C" Townhouse Residence District.

Sec. 8-2. General Description:

The R-3C residential district is established as a district in which the principal use of the land shall be townhouse dwellings.

Sec. 8-3. Uses Permitted:

The following uses are permitted:

- a) Townhouses.
- b) Golf course (private).
- c) Park (private).
- d) Playground or athletic field (private).
- e) Swimming pool (private).
- f) Accessory building or use customarily incidental to all permitted uses including a private garage. Only (2) storage sheds shall be allowed per ownership.
- g) A public bulletin board or temporary sign pertaining to the lease, hire, or sale of a building or premise, which sign or bulletin board shall not exceed 10 square feet in area.
- h) Day care facilities or private nursing homes are not permitted.
- i) Home occupations.

Sec. 8-4. Lot, Height, Area and Yard Requirements:

- a) Maximum height of any building shall not exceed thirty-five (35) feet.
- b) Maximum coverage shall be 50% of the lot area.
- c) Minimum yards are as follows:
 - 1) Front - twenty-five (25) feet.
 - 2) Rear - twenty (20) feet.
 - 3) Zero (0) feet wherever two townhouses are joined by a common wall.
 - 4) Six feet on each end of a two-unit townhouse complex.
 - 5) On each end of the townhouse complex site, greater than two units, there shall be required a minimum of ten percent (10%) of the entire site width or fifteen (15) feet, whichever is greater, unless an end lot of a townhouse complex is a corner lot, in which case the provisions pertaining to corner lots if more restrictive shall govern. In any instance, however, the end yard need not exceed thirty (30) feet. (See Chapter 21.)
- d) Minimum lot area - twenty five hundred (2500) square feet.
- e) Minimum lot width - sixteen (16) feet.
- f) Minimum lot depth - one hundred (100) feet.

Sec. 8-5. Miscellaneous Provisions:

(a) The uses permitted or allowed by this chapter (which uses are enumerated in Section 8-3), shall not be construed to include as part thereof the parking of a semi-trailer upon land within the district regulated by this chapter, if the land is not part of the public right of way. (Parking upon the public right of way is governed under Division 2 of Article II of Chapter 20 of the City of Minot Code of Ordinances.)

(b) However, the restriction on parking set forth in subsection (a) hereof shall not extend to incidental and temporary parking of a semi-trailer by someone who is delivering materials to or supplying services on the property in question, in the course of such activity, if such parking is reasonably necessary to the accomplishment of the activity. That parking is not unlawful by virtue of the prior sentence shall be an affirmative defense in any proceeding to enforce the Zoning Ordinance.

(Ord. 3808)

CHAPTER 9 -- "R-4" PLANNED RESIDENCE DISTRICT

Sec. 9-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this ordinance, when referred to in this chapter, are the regulations in the "R-4" Planned Residence District.

Sec. 9-2. General Description:

The R-4 residential district is established as a district in which the principal use of the land shall be planned attached or detached multiple residential housing developed as a unit according to a plan approved by the Planning Commission.

Sec. 9-3. Uses Permitted:

The following uses are permitted:

- a) Single family detached dwellings.
- b) Apartments.
- c) Townhouses.
- d) Condominiums.
- e) Accessory building or use customarily incidental to all permitted uses including a private garage.
- f) Childcare facilities or private nursing homes are not permitted in attached dwellings.

Sec. 9-4. Lot, Height, Area and Yard Requirements:

- a) Maximum height of any building shall not exceed sixty (60) feet.
- b) Maximum coverage shall be based on R-3 density requirements.

Sec. 9-5. Plan Required:

- a) Before a building permit may be issued with respect to premises zoned as R-4 Planned Residence District, the person desiring the issuance of the building permits shall first obtain approval of the Planning Commission of a building plan, which building plan shall:
 - 1) be drawn to scale;
 - 2) show the boundaries of property to be developed;
 - 3) show existing topography with contour intervals of not more than 5 feet;
 - 4) show in detail the manner in which the land is to be used, including the size, location, character, appearance, use and arrangement of buildings, parking areas, with proposed arrangement of stalls and number of cars, service areas, walks, public areas, play areas, lighting, signs, the provision for grass, trees, shrubs, and other landscaping adjustments to the property, and entrance and exit driveways and their relationship to existing and proposed streets;
 - 5) show the drainage plan with sufficient control grades to indicate the intent of the developer;

- 6) indicate building location and use of properties adjacent to the proposed development.
 - 7) provide for the dedication of any right-of-way for the widening, extension or connection of major streets as shown on the official major street plan.
 - 8) indicate the stages, if any, which will be followed in construction of the complex;
 - 9) provide for a suitable fence, wall or greenbelt border compatible to the area to be developed as determined by the Planning Commission.
- b) The Planning Commission after public hearing with notice thereof as required in Chapter 30 hereof shall approve, approve with changes, or reject the plan.
- c) Planning Commission approval is not required for the following:
- 1) Additions to existing structures that do not exceed 20% of the gross floor area.
 - 2) Addition of an accessory building as defined in Section 2-1(1).

Sec. 9-6. Drainage Plan Required:

- a) As part of the application for plan approval the applicant shall submit a drainage study and/or plan to include:
- 1) On-site storm management facilities necessary to drain the project.
 - 2) Inclusion of storm-water detention/retention methods available to reduce the runoff impact from his properties.
 - 3) Statements of impacts, if any, on other properties within the same drainage basin or sub-basin as the proposed project.
 - 4) Drainage calculations using accepted engineering standards and formulas to substantiate the drainage plan and impacts.
 - 5) A recommendation from a registered civil engineer in the State of north Dakota as to the storm drainage management method to be used.
 - 6) A schedule of implementation of the storm water management project or projects necessitated by the plan, and a statement of the financing method intended to be used.
 - 7) A preliminary grading plan showing how the property will be graded relative to potential drainage impact on adjacent lots.
 - 8) If proposed storm-water detention/retention facilities are to be operated and maintained by the City, the applicant shall deed the land necessary for the facilities to the City and provide a dedicated and improved access road to the facilities from a public street. The nature of access road improvements shall be determined on a case-by-case basis.

CHAPTER 10 -- "C-1" LIMITED COMMERCIAL DISTRICT

Sec. 10-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this zoning ordinance when referred to in this chapter are the regulations in the "C-1" Limited Commercial District.

Sec. 10-2. General Description:

The C-1 Limited Commercial District is established as a district in which the predominant use of the land is for commercial and service uses to serve residential districts in the general area.

Sec. 10-3. Uses Permitted:

- a) Any use permitted in the R-3 Multiple Residence District.
- b) Antique store.
- c) Appliance, radio, television store.
- d) Auto accessory store, minor auto repair.
- e) Book, magazine, newspaper store.
- f) Butcher shop.
- g) Camera store, art supply store.
- h) Candy store.
- i) Clothing, clothing accessories store.
- j) Delicatessen.
- k) Drugstore.
- l) Flower shop.
- m) Furniture, office equipment store.
- n) Gift shop.
- o) Grocery store.
- p) Hardware store.
- q) Hobby, toy store.
- r) Jewelry store.
- s) Music store.
- t) Notion, variety store.
- u) Office supply, stationery store.
- v) Package liquor store.
- w) Photographic studio.
- x) Shoe store.
- y) Sporting goods store.
- z) Bakery, in which nothing is baked except for retail sale on premises.
- aa) Pet shops, limited to cats, dogs, fish and other small animals provided all pets are confined within a building and same do not create an odor, noise or nuisance affecting the adjacent occupants.
- bb) Barbershop.
- cc) Beauty shop.

- dd) Dressmaker, tailor.
- ee) Laundry pickup service.
- ff) Laundry - self-service (laundromat).
- gg) Radio and appliance repair.
- hh) Drinking or food service establishment, exclusive of drive-in restaurant, designed to accommodate no more than fifty (50) persons at one time.
- ii) Shoe repair.
- jj) Watch, jewelry, camera repair.
- kk) Dry cleaning plants, providing service for wearing apparel and complying with all provisions of the fire prevention code for a class four system.
- ll) Mortuary or funeral home.
- mm) Banks, savings and loan institutions.
- nn) General offices.
- oo) Attorneys.
- pp) Physicians, dentists, chiropractors, and associated clinics.
- qq) Research laboratories.
- rr) Engineering/Architects.
- ss) Certified Public Accountants.
- tt) Real Estate Offices.
- uu) Medical offices.
- vv) Day care centers subject to day care center showing evidence of application for day care center and all appropriate federal, state, and local regulations must be fulfilled.
- ww) Interior decorating studios.
- xx) Other uses of similar nature or general character to those specifically permitted in the district.
- yy) Bed and breakfast business in a single-family home.
- zz) Temporary real estate offices in a model home.

Sec. 10-4. Limitations on Permitted Uses:

- The uses permitted in Section 10-3 hereof shall be limited in the following manner:
- a) There shall be no storage of: 1) wares offered for sale or 2) items being repaired or to be used in the course of effecting repairs - unless the storage area forms part of a permitted structure, or, if such materials are stored out-of-doors, the storage area is enclosed by a permanent fence or screen which is totally opaque and at least six (6) feet high.
 - b) No veterinary clinics, animal hospitals, or kennels are permitted.
 - c) No hotels are permitted.
 - d) No places of assembly are permitted which are designed to accommodate more than fifty (50) persons at any one time unless the place of assembly constitutes a part of or is associated with a use that is permitted in an R district such as a school or church.
 - e) Only parking spaces may be maintained which are incidental to one of the uses set forth in Section 10-3; that is, no parking garages or pay parking lots are permitted.

- f) No uses on premises abutting a local (non-arterial and non-collector) street are permitted which can reasonably be anticipated to generate an annual average daily traffic count in excess of 250 vehicles entering or exiting the premises.
- g) No loud or unpleasant noises, bright, or glaring lights, offensive or noxious fumes, or odors, or perceptible vibrations may be emitted from the premises.
- h) No building shall exceed ten thousand (10,000) square feet in area.

Sec. 10-5. Lot, Height, Area and Yard Requirements:

- a) Maximum height of any building shall not exceed thirty-five (35) feet.
- b) Maximum coverage:
 - 1) Commercial - No limit except as limited by yard requirements and must meet off-street parking requirements.
 - 2) Residential - 40% of lot area, subject to Section 21-1(f).
- c) Minimum yards are as follows:
 - 1) Commercial - front - twenty-five (25) feet.
 - 2) Commercial - rear - zero except where the rear of the lot adjoins the "Ag" District or any "R" district in which case the minimum rear yard shall be twenty-five (25) feet.
 - 3) Commercial - side - zero except where the side of the lot adjoins the "Ag" District or any "R" district in which case the minimum side yard shall be five (5) feet.
 - 4) Residential - same as R-3 district.
 - 5) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
- d) Minimum lot area - none, except exclusively residential use must comply with R-3 district area requirements.
- e) Minimum lot dimensions - none.
- f) Buffer strips may be required along lot lines adjacent to a more restrictive zoning district.

CHAPTER 11 -- "C-2" GENERAL COMMERCIAL DISTRICT

Sec. 11-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this zoning ordinance when referred to in this chapter are the regulations in the "C-2" General Commercial District.

Sec. 11-2. General Description:

The C-2 General Commercial District is established as a heavy commercial district located in close proximity to major thoroughfares or highways in order that highway services types of land use can be provided and is designed to furnish a wide range of retail services and goods.

Sec. 11-3. Uses Permitted:

- a) All uses permitted within the C-1 Limited Commercial District, without respect, however, to the limitations imposed by Sec. 10-4 thereof (other than 10-4(g).
- b) Hotel, motel, and tourist home.
- c) Parking structures.
- d) Laundromats (commercial).
- e) Small animal clinic or commercial kennel where all animals are kept indoors at all times.
- f) Theater, excluding drive-in types of service.
- g) Filling station for gasoline and oil.
- h) Bus or rail stations.
- i) Club or lodge.
- j) Commercial greenhouse.
- k) Commercial parking lot.
- l) Commercial school.
- m) Drive in restaurant; or restaurant of any size; drinking establishment.
- n) Boat and marine sales and services.
- o) Carwash.
- p) Funeral home.
- q) Automobile repair shops - major.
- r) Automobile sales and used car lots.
- s) Manufactured home sales and service.
- t) Billiard and pool halls, bowling alleys, skating rinks and dance halls.
- u) Arcades not to include adult entertainment center.
- v) Miniature golf course.
- w) Lumberyards.
- x) Places of assembly.
- y) Upholstering shop, not involving furniture manufacturing.
- z) Truck or transfer terminal.
- aa) Adult cabaret, but not considered an adult entertainment center.
- bb) (removed)

- cc) Any commercial use listed in Section 11-3 plus residential (R-3) use on the same lot and in the same building with the residential use located in the floor or floors above the commercial use, provided all off-street parking and loading requirements are met for both uses. The height, area and yard requirements of the C-2 district must be met.
- dd) Commercial recreational or amusement development for temporary or seasonal periods.
- ee) Manufacturing, assembling, processing and fabricating businesses, and contractors' equipment storage yards and offices which are subject to the following special conditions:
- 1) Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illuminations, shall not be visible at any property line.
 - 2) Exterior lighting, used for exterior illumination shall be directed away from adjoining properties.
 - 3) Vibration, shall not be discernible at any property line to the human sense of feeling at any time.
 - 4) Smoke, Dust, Fumes, Gases, and Odors. The design, construction, and performance of all industrial uses shall be in conformance with city, county and state standards and regulations. The storage of trash shall be within principal buildings or otherwise shall be within an accessory enclosure complete with roof and walls of the same exterior finish as the main structure or screened from all residence districts with an adequate buffer.
 - 5) Storage of Material and Equipment. Open storage of materials and equipment in any required front yard shall be prohibited. For businesses adjoining any "R" district or across a street or alley from any "R" district, outside storage shall be located or screened so as not to be visible from the "R" district at ground level.
 - 6) The area of the yard adjacent to any residential district shall be landscaped and permanently maintained in landscaping to the extent of a minimum of 35% of the yard area. This requirement shall also apply to any front yard on the side of any street opposite any residential district.
 - 7) Businesses under this section shall be limited to the manufacture, compounding, processing, packaging or treatment of such good, materials and products as the following:
 - i) bakery goods, candy, cosmetics, pharmaceutical, toiletries, food products excepting fish and meat products, sauerkraut, vinegar, yeast, and the rendering of fats and oils.
 - ii) articles made from previously prepared materials such as: bone, canvas, cellophane, cloth, concretes and plaster, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, metals and sheet metals, masonry, paper, plastics, precious or semi-precious metals or stone, shell, textiles, wax, wire, wood, yarns, and the like.
- ff) Except for filling stations there shall be prohibited those uses involving the storage or handling of hazardous materials, hazardous substance, or hazardous waste as those terms defined in Title 49 of the Code of Federal Regulations at Section 171.8, if the amount of the hazardous material, hazardous substance, or hazardous waste on particular premises at any

one time exceeds the “reportable” quantity. The reportable quantity shall be as specified in Title 49 Code of Federal Regulations Section 172.101, unless the reportable quantity is specified by the Fire Chief, in which case his specifications shall govern.

- gg) Other uses of similar nature or general character to those specifically permitted in the district.

Sec. 11-4. Lot, Height, Area and Yard Requirements:

- a) Maximum height of any building shall not exceed sixty (60) feet.
- b) Maximum coverage:
 - 1) Commercial and industrial - no limit except as limited by yard requirements and must meet off-street parking requirements.
 - 2) Residential - 40% of lot area, subject to Section 21-1(f).
- c) Minimum yards are as follows:
 - 1) Commercial and industrial - front - twenty-five (25) feet.
 - 2) Commercial - rear - zero except where the rear of the lot adjoins the "Ag" District or any "R" district in which case the minimum rear yard shall be twenty-five (25) feet.
 - 3) Industrial - rear - zero except where the rear of the lot adjoins the "Ag" district or any "R" district or across any street from any "R" district, in either case the minimum rear yard shall be thirty-five (35) feet.
 - 4) Commercial - side - zero except where the side of the lot adjoins the "Ag" district or any "R" district in which case the minimum side yard shall be five (5) feet.
 - 5) Industrial - side - zero except where the side of the lot adjoins the "Ag" district or any "R" district in which case the minimum side yard shall be fifteen (15) feet.
 - 6) Residential - same as R-3 district.
 - 7) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
 - 8) Filling station pumps and pump islands may be located within a required front yard provided they are not less than fifteen (15) feet from any street line and not less than one hundred (100) feet from the boundary of any residential district. Filling station canopies may be constructed so that the canopy is no closer than five (5) feet from any front lot line. These pump island and canopy exceptions also pertain to the C-3, M-1 and M-2 districts.
- d) Minimum lot area - none, except for exclusively residential use must comply with R-3 district area requirements.
- e) Minimum lot dimensions - none.
- f) Buffer strips may be required along lot lines adjacent to a more restrictive zoning district.

Sec. 11-5. Miscellaneous Provision:

Any permitted uses shall not emit beyond the premises where located loud or unpleasant noises, bright or glaring lights, offensive or noxious odors or perceptible vibrations.

CHAPTER 12 -- "C-3" CENTRAL BUSINESS DISTRICT

Sec. 12-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this ordinance when referred to in this chapter are the requirements of the "C-3" Central Business District.

Sec. 12-2. General Description:

The C-3 Central Business District is established as the central core business district in which use of the land is for commercial and service uses.

Sec. 12-3. Uses Permitted:

- a) Any use permitted in the "C-2" General Commercial District.
- b) Laboratory, experimental, film or testing.
- c) Wholesale or distributing establishment or warehouse or wholesale market.
- d) Printing, publishing or engraving.
- e) Heliports.
- f) Hospitals.
- g) Convention center, civic center.
- h) Service industry such as a laundry, cleaning or dyeing establishment or similar use.
- i) The manufacture, compounding, processing, packaging or treatment of such goods, materials and products as the following:
 - 1) Bakery goods, candy, cosmetics, pharmaceutical, toiletries, food products excepting sauerkraut, vinegar, yeast, the rendering of fats and oils, and fish and meat products.
 - 2) Articles made from previously prepared materials such as: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stone, shell, textiles, wax, wire, wood, yarns, and the like.
 - 3) Musical instruments, toys, novelties, rubber or metal stamps, and other small molded rubber products.
- j) The fabrication and repair of electric or neon signs or other commercial advertising structures, light sheet metal products, and the like.
- k) Any other use of similar character which is not objectionable by reason of the emission of odor, dust, smoke, gas, fumes, noise or vibration of which is not specifically prohibited or regulated in Chapter 15.
- l) Any commercial use listed in Section 12-3 plus residential (R-3B) use on the same lot and in the same building with the residential use located in the floor or floors above the commercial use. The height, area and yard requirements of the C-3 district must be met. The number of dwelling units permitted, based on R3-B density, shall be based upon the area of the lot, regardless of the size of the commercial use.
- m) Residential use, but not combined with a commercial use, which shall comply with the lot, height, area and yard requirements of the R-3 (B) zoning district.

Sec. 12-4. Lot, Height, Area and Yard Requirements:

- a) Maximum height of any building shall not exceed one hundred fifty (150) feet.
- b) Maximum coverage - No limit except as limited by yard requirements in this section and Section 28-13 of the City of Minot Code of Ordinances.
- c) Minimum yards are as follows:
 - 1) Front - zero feet except as limited by Section 28-13 of the City of Minot Code of Ordinances.
 - 2) Rear - zero except where the rear of the lot adjoins the "Ag" district or any "R" district in which case the minimum rear yard shall be twenty five (25) feet.
 - 3) Side - zero except where the side of the lot adjoins the "Ag" district or any "R" district in which case the minimum side yard shall be five (5) feet.
 - 4) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
- d) Minimum lot area - none.
- e) Minimum lot dimensions - none.
- f) Buffer Strips may be required along lot lines adjacent to a more restrictive zoning district.

CHAPTER 13 -- "C-4" PLANNED COMMERCIAL DISTRICT

Sec. 13-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this ordinance, when referred to in this chapter are the regulations of the "C-4" Planned Commercial District.

Sec. 12-2. General Description:

The C-4 Planned Commercial District is established as a district in which the principal use of the land is for regional shopping centers and related services.

Sec. 13-3. Use Regulations:

A building or premise shall be used only for the following purposes:

Any use permitted in the "C-2" General Commercial District, except dwellings, provided such uses shall be laid out and developed as a unit according to an approved plan for the purpose of providing modern shopping and commercial facilities of integrated design in appropriate locations when development and use of property is undertaken in accordance with the following procedure.

Sec. 13-4. Plan Required:

- a) Before a building permit may be issued with respect to premises zoned as "C-4" Planned Commercial District the person desiring the issuance of the building permit shall first obtain approval of the Planning Commission of a building plan, which plan shall:
- 1) be drawn to scale;
 - 2) show boundaries or property to be developed;
 - 3) show existing topography with contour lines of not more than five (5) feet, and preferably two (2) feet;
 - 4) show in detail the manner in which the land is to be used, including the size, location, character, appearance, use and arrangement of buildings, parking areas with proposed arrangement of stalls and number of cars, serviced areas, walks, signs, lighting and appurtenant facilities with sufficient detail to indicate that lighting will not interfere with the vision of motor vehicle operators or shine directly on property located in any "R" district; the provision of grass, trees, shrubs, and other landscaping adjustments to the property, and entrance and exit driveways and their relationship to existing and proposed streets;
 - 5) show drainage plan with sufficient control grades to indicate the intent of the developer;
 - 6) indicate building location and use of properties adjacent to the proposed development;
 - 7) provide for the dedication of any rights-of-way for the widening, extension, or connection of major streets as shown on the official major street plan;
 - 8) indicate the stages, if any, which will be followed in construction of the center;

- 9) provide for a suitable fence, wall or evergreen border at least six feet high measured from the adjacent surface of the property to be developed wherever a “C-4” district adjoins an “R” district.
- b) The Planning Commission after public hearing with notice thereof made as required in Chapter 30 hereof shall approve, approve with changes, or reject the plan.
- c) Planning Commission approval is not required for the following:
 - 1) Additions to existing structures which do not exceed 20% of the gross floor area
 - 2) Addition of an accessory building as defined in Section 2-1 (1).

Sec. 13-5. Drainage Plan Required:

As part of the application for plan approval the applicant shall submit a drainage study and/or plan to include:

- a) On-site storm management facilities necessary to drain the project.
- b) Inclusion of storm water detention/retention methods available to reduce the runoff impact from his properties.
- c) Statements of impacts, if any, on other properties within the same drainage basin or sub-basin as the proposed development.
- d) Drainage calculations using accepted engineering standards and formulas to substantiate the drainage plan and impacts.
- e) A recommendation from a registered civil engineer in the State of North Dakota as to the storm drainage management method to be used.
- f) A schedule of implementation of the storm water management projector or projects necessitated by the plan, and a statement of the financing method intended to be used.
- g) A preliminary grading plan showing how the property will be graded relative to potential drainage impact on adjacent lots.
- h) If proposed storm water detention/retention facilities are to be operated and maintained by the City, the applicant shall deed the land necessary for the facilities to the City and provide a dedicated and improved access road to the facilities from a public street. The nature of access road improvements shall be determined on a case-by-case basis.

CHAPTER 14 -- "M-1" LIGHT INDUSTRIAL DISTRICT

Sec. 14-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this zoning ordinance when referred to in this chapter are the regulations in the "M-1" Light Industrial District.

Sec. 14-2. General Description:

The M-1 Light Industrial District is established as a district in which the principal use of land is for heavy commercial establishments and non-nuisance industries.

Sec. 14-3. Uses Permitted:

- a) A building or premises may be used for any use permitted in the C-2 and C-3 districts except those uses permitted in any "R" district. However, living quarters for night watch persons or caretakers employed on the same premises may be provided.
- b) A building or premises may be used for the manufacturing, fabricating, assembling, or processing of products or materials including, among others, factories, assembling plants, food processing plants, industrial laboratories and all other industrial and manufacturing uses. In addition to those uses, which are also permitted in the C-2 and C-3 districts, the following are typical permitted uses:
 - 1) Pottery and other ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
 - 2) Light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves, and similar products.
 - 3) Welding and machine shop.
 - 4) Ice manufacturing.
 - 5) Assembly of electric appliances, electronic instruments and devices, including the manufacture of small parts only, such as coils, condensers, transformers, crystal holders and similar products.
 - 6) Soft drinks bottling plant.
- c) Storage building and warehouses including refrigerated storage.
- d) The following uses when conducted wholly within a completely enclosed building, or when enclosed on all sides with a solid wall, compact hedge or security fence, not less than six feet in height:
 - 1) Building materials sales yard, including the sale of rock, sand and gravel.
 - 2) Contractors' equipment storage yard.
 - 3) Pipe storage yard, including sales.
 - 4) Feed storage yard including sales.
 - 5) Public utility service yard.
 - 6) Sale, rental or storage of oil and gas well-drilling equipment.
- e) Concrete products, material storage and mixing.
- f) Manufacturing, brewery, and storage of alcoholic beverages.
- g) Textile mills and woodworking.

- h) Accessory uses customarily incidental to the uses permitted in this section.

Sec. 14-4. Special Conditions:

- a) It is the intent of this section to provide that industry and related activities shall be established and maintained with proper appearance from streets and adjoining properties to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of the following:
 - b) Standards:
 - 1) Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illuminations, shall not be visible at any property line.
 - 2) Exterior lighting, used for exterior illumination shall be directed away from adjoining properties.
 - 3) Vibration, shall not be discernible at any property line to the human sense of feeling at any time.
 - 4) Smoke, Dust, Fumes, Gases, and Odors. The design, construction, and performance of all industrial uses shall be in conformance with city, county and state standards and regulations. The storage of trash shall be within principal buildings or otherwise shall be within an accessory enclosure complete with roof and walls of the same exterior finish as the main structure or screened from all residence districts with an adequate buffer.
 - 5) Storage of Material and Equipment. Open storage of materials in any required front yard shall be prohibited. For businesses adjoining any "R" district or across a street or alley from any "R" district, outside storage shall be located or screened so as not to be visible from the "R" district at ground level.
 - c) Except for welding shops, uses shall be prohibited which in involve the storage or handling of hazardous materials, hazardous substances, or hazardous wasted was those terms are defined in Title 49 of the Code of Federal Regulations at Section 171.8, if the amount of hazardous material, hazardous substance, or hazardous waste on a particular premises at any one time exceeds the "reportable" quantity. The reportable quantity shall be specified in Title 49 Code of Federal Regulations Section 171.101, unless the reportable quantity is specified by the Fire Chief, in which case his specifications shall govern.

Sec. 14-5. Lot, Height, Area and Yard Requirements:

- a) Maximum height of any building shall not exceed ninety (90) feet.
- b) Maximum coverage - no limit except as may be affected by yard and off-street parking requirements.
- c) Minimum yards are as follows:
 - 1) Front - twenty-five (25) feet.
 - 2) Rear - zero except where the rear of the lot adjoins the "Ag" district or any "R" district in which case the minimum rear yard shall be twenty five (25) feet.

- 3) Side - zero except where the side of the lot adjoins the "Ag" district or any "R" district in which case the minimum side yard shall be five (5) feet.
- 4) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
- d) Minimum lot area - ten thousand (10,000) square feet.
- e) Minimum lot width - fifty (50) feet.
- f) Minimum lot depth - one hundred (100) feet.
- g) Buffer strips may be required along lot lines adjacent to a more restrictive zoning district.

CHAPTER 15 -- "M-2" HEAVY INDUSTRIAL DISTRICT

Sec. 15-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this zoning ordinance when referred to in this chapter are the regulations in the "M-2" Heavy Industrial District.

Sec. 15-2. General Description:

The "M-2" industrial district is established as a district in which the principal use of land is for heavy commercial and industrial establishments, which may create some nuisance, and which are not properly associated with nor compatible with residential, institutional and neighborhood commercial and service establishments.

Sec. 15-3. Uses Permitted:

- a) All uses permitted within the "M-1" Light Industrial District.
- b) Rail freight yards, including switching and classifications yards, repair shops and round houses.
- c) Sewage treatment plants and lagoons.
- d) Weighing stations.
- e) Adult entertainment center.
- f) Grain storage elevator
- g) Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods, or products that conform to Sec. 15-4: Special Conditions.
- h) Accessory uses customarily incidental to the uses permitted in this section.

Sec. 15-4. Special Conditions:

- a) It is the intent of this section to provide that industry and related activities shall be established and maintained with proper appearance from streets and adjoining properties to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of the following:
- b) Standards:
 - 1) Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.
 - 2) Exterior lighting used for exterior illumination shall be directed away from adjoining properties.
 - 3) Vibration shall not be discernible at any property line to the human sense of feeling at any time.
 - 4) Smoke, Dust, Fumes, Gases, and Odors. The design, construction, and performance of all industrial uses shall be in conformance with city, county and state standards and regulations. The storage of trash shall be within principal buildings or otherwise shall be within an accessory enclosure complete with roof and walls of the same

exterior finish as the main structure or screened from all residence districts with an adequate buffer.

- 5) Storage of Material and Equipment. Open storage of materials and equipment in any required front yard shall be prohibited. For businesses adjoining any "R" district or across a street or alley from any "R" district, outside storage shall be located or screened so as not to be visible from the "R" district at ground level.

Sec. 15-5. Adult Entertainment Center:

Notwithstanding anything in this zoning ordinance to the contrary, an adult entertainment center shall be permitted only in the "M-2" Heavy Industrial District and in no other district, and then only if the center meets the following conditions:

- a) The center is located no closer than one thousand two hundred fifty (1250) feet from any pre-existing church, school, or property zoned or used as residential.
- b) The center excludes from its premises those persons less than eighteen (18) years of age.
- c) The center displays no signs visible from the exterior of the center, except for signs identifying the center as an adult bookstore or adult cinema or both.
- d) No materials depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of the center.
- e) The manager and the owners of the center are registered with the Chief of Police and have provided him with such information as he reasonably may require with respect to their identities, including finger prints, and prior criminal records, if any.
- f) The business premises of the center which is generally open to its patrons is open equally at the same time without charge to members of the city police force who may wish to enter thereon provided the entry is in the course of the discharge of the policemen's duties.

Sec. 15-6. Lot, Height, Area and Yard Requirements:

- a) Maximum height - no limit.
- b) Maximum coverage - no limit except as may be affected by yard and off-street parking requirements.
- c) Minimum yards are as follows:
 - 1) Front - twenty-five (25) feet.
 - 2) Rear - zero except where the rear of the lot adjoins the "Ag" district or any "R" district in which case the minimum rear yard shall be twenty five (25) feet.
 - 3) Side - zero except where the side of the lot adjoins the "Ag" district or any "R" district in which case the minimum side yard shall be five (5) feet.
 - 4) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
- d) Minimum lot area - ten thousand (10,000) square feet.
- e) Minimum lot width - fifty (50) feet.
- f) Minimum lot depth - one hundred (100) feet.
- g) Buffer strips may be required along lot lines adjacent to a more restrictive zoning district.

CHAPTER 16 -- "P" PUBLIC ZONE

Sec. 16-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in this ordinance when referred to in this chapter are the regulations in the "P" Public Zone.

Sec. 16-2. General Description:

The "P" Public Zone district is designed to retain and provide land areas owned by the local government for public use.

Sec. 16-3. Uses Permitted:

- a) Civic centers
- b) Public libraries
- c) Fire stations
- d) Auditorium
- e) Armories
- f) Other government offices
- g) Sewage lift stations and water pump houses.
- h) Sewage and water treatment plants
- i) Court houses
- j) Jails
- k) Municipal landfills
- l) Municipal parking lots
- m) Commercial recreation group occupying publicly owned lands.
- n) Community Center
- o) Golf course
- p) (removed)
- q) Municipal water storage tank
- r) Museum
- s) Park
- t) Playground or athletic field
- u) Swimming pool
- v) Ice arena
- w) Zoo
- x) Airport
- y) Cemetery
- z) Private universities, colleges, junior colleges and associated uses
- aa) Elementary, middle and high schools

Sec. 16-4. Review Required:

Any proposed use or change of use of land or building by any public agency, or others on public land, shall be submitted to the Planning Commission for review and approval, except for development authorized by, and in accordance with, a plan of development previously approved by the Planning Commission. The Planning Commission review shall concern itself with the proposed uses relative to the comprehensive plan, lot area, lot dimensions, lot coverage, floor area ratio, building height, building setbacks, parking and loading spaces, traffic flow and other similar requirements governing the use of private property. Alterations or additions equaling not more than 20% of the gross floor area of an existing building are exempt from this review.

A processing fee of \$25.00 shall be paid at the time of plan review application.

(Ord. 3853)

Sec. 16-5. Application:

This district shall apply to property under the ownership of local governmental bodies or agencies, except those held by agencies for private redevelopment purposes.

Sec. 16-6. Parking Regulations:

Each facility located in this district shall be provided with sufficient off-street parking spaces to satisfy the entire parking demand created by such facility.

Sec. 16-7. Drainage Plan Required:

- A) As part of the application for plan approval the applicant shall submit a drainage study and/or plan to include:
- 1) On-site storm management facilities necessary to drain the project.
 - 2) Inclusion of storm-water detention/retention methods available to reduce the runoff impact from his properties.
 - 3) Statement of impacts, if any, on other properties within the same drainage basin or sub-basin as the proposed project.
 - 4) Drainage calculations using accepted engineering standards and formulas to substantiate the drainage plan and impacts.
 - 5) A recommendation from a registered civil engineer in the State of North Dakota as to the storm drainage management method used.
 - 6) A schedule of implementation of the storm water management project or projects necessitated by the plan, and a statement of the financing method intended to be used.
 - 7) A preliminary grading plan showing how the property will be graded relative to potential drainage impact on adjacent lots.
 - 8) If proposed storm-water detention/retention facilities are to be operated and maintained by the City, the applicant shall deed the land necessary for the facilities to the city and provide a dedicated and improved access road to the facilities from a

public street. The nature of access road improvements shall be determined on a case-by-case basis.

CHAPTER 17 -- “MH” MANUFACTURED HOME DISTRICT

Sec. 17-1. Regulations:

The regulations set forth in this section or set forth elsewhere in this ordinance when referred to in this section are the regulations in the “MH” Manufactured Home District.

Sec. 17-2. General Description:

The “MH” manufactured home district is established as a district in which the principal use of land is for manufactured home parks or manufactured home subdivisions.

Sec. 17-3. Use Regulations:

- a) Premises shall be used only for the following purposes:
 - 1) One family detached or attached manufactured homes;
 - 2) One family detached or attached single-family dwellings;
 - 3) Parks, playgrounds, community centers, and non-commercial recreational facilities such as golf courses, shuffleboard courts, swimming pools, tennis courts, marinas, game rooms, libraries, and the like;
 - 4) Structures and uses required for operation of a public utility, performance of a government function, or performance of any function necessary for the construction, operation or maintenance of permitted uses within the district;
 - 5) Uses and structures which are customarily accessory and clearly incidental and subordinate to permitted principal uses and structures, including approved storage facilities;
 - 6) Commercial and office uses intended solely to serve the needs of persons in the MH district or uses of a nature permitted in an R-1 district which conform to the requirements of that district for such uses.
- b) The maximum height for buildings shall be thirty-five (35) feet.
- c)
 - 1) A manufactured home may not A) be moved into or within the City of Minot or the extraterritorial zoning jurisdiction of the City of Minot and B) be placed at a site or location therein for more than five (5) days, unless it is placed i) within an MH district, ii) on a site where the placement is permitted under the doctrine of prior valid non-conforming uses, iii) at a site where the placement is permitted under a special non-conforming use permit, iv) within the business premises of an establishment which sells, manufactures or repairs or otherwise deals in manufactured homes, provided that, however, the business premises is properly zoned for such activity, v) on a site where it serves as a farm dwelling under Section 19-3(b) or Section 19-3(j), or vi) as a temporary office or storage building in a non-residential district for a period not to exceed 2 years.
 - 2) A manufactured home placed within the MH district, or placed elsewhere when the placement is not prohibited by paragraph 1) of this subsection, need not comply with the provisions of the City of Minot Building Code (except portions thereof pertaining to dangerous buildings) as long as the manufactured home complies with federal construction

standards pertaining to manufactured homes and to the City of Minot Housing Code. Nothing herein shall be construed to prohibit the application of other codes to the manufactured home if by their terms they are so applicable, such as, for example, the plumbing code, the electrical code, the fire code, etc.

- 3) If a manufactured home is so constructed as to meet the definitional requirements imposed by item 31) of Section 2-1 as to when a manufactured home constitutes a "dwelling" then it shall not be considered a manufactured home for purposes of this subsection c), but rather it shall be considered a "dwelling" for purposes of this zoning ordinance.
- d) Land within a MH district may be divided into individual manufactured home lots, which lots are collectively owned by one person or entity which person typically does not own the manufactured homes resting upon the lots, as in a manufactured home park. Or the lots may be individually owned by the persons who own the manufactured homes resting thereon, as in a manufactured home subdivision. Alternatively, the land, whether or not subdivided into individual manufactured home lots, may be collectively owned by the persons who own the manufactured homes resting thereon as in a manufactured home condominium or cooperative. For purposes of this chapter, the sense in which the word "condominium" is used in the prior sentence governs over the contrary definition of the word in Section 2-1.
- e) No MH district shall be less than two (2) acres in area.
- f) If an MH district is created in compliance with this Chapter whereby one manufactured home only is permitted on each of platted lots of at least 2 acres in size, then the keeping of horses on the premises shall be permitted with the limitations set forth in paragraph p) of Section 5.1-3 of Chapter 5.1.

Sec. 17-4. Plan Required with MH Zone Application:

An application that a specific parcel of land to be zoned "MH" shall be accompanied by a detailed plan which:

- a) is drawn to scale;
- b) shows the location and boundaries of the land requested to be zoned MH;
- c) shows existing topography with contour intervals of not less than five (5) feet.
- d) shows in detail the manner in which the land is to be used, including the size, location, character, appearance, use and arrangement of buildings, parking areas, proposed arrangement of stalls and number of cars, service areas, walks, public areas, play areas, lighting, provision for grass, trees, shrubs, and other landscaping, and entrance and exit driveways and their relationship to existing and proposed streets;
- e) shows the drainage plan with sufficient control grades to indicate the intent of the developer;
- f) indicates building locations and use of properties adjacent to the proposed development; and
- g) provides for the dedication of any right-of-way for the widening, extension or connection of major streets as shown on the official major street plan.

Sec. 17-4.1 Drainage Plan Required:

As part of the application for the plan approval, the applicant shall submit a drainage study and/or plan to include:

1. On-site storm management facilities necessary to drain the project.
2. Inclusion of storm-water detention/retention methods available to reduce the runoff impact from his properties.
3. Statement of impacts, if any, on other properties within the same drainage basin or sub-basin as the proposed project.
4. Drainage calculations using accepted engineering standards and formulas to substantiate the drainage plan and impacts.
5. A recommendation from a registered civil engineer in the State of North Dakota as to the storm drainage management method used.
6. A schedule of implementation of the storm water management project of projects necessitated by the plan, and a statement of the financing method intended to be used.
7. A preliminary grading plan showing how the property will be graded relative to potential drainage impact on adjacent lots.
8. If proposed storm-water detention/retention facilities are to be operated and maintained by the city and provide a dedicated and improved access road to the facilities from a public street. The nature of access road improvements shall be determined on a case-by-case basis.

Sec. 17-5. Design And Construction Standards For Manufactured Home Districts:

Manufactured home development in a MH district must be in accordance with the following design and construction standards:

- a) Minimum lot widths and areas shall be as required to meet the lot coverage, yard maintenance, building space and other requirements set forth hereafter. So long as these requirements are met, and the resulting lot pattern is functional and provides for the efficient provision of utilities, and for convenient pedestrian and vehicular access, lot lines shall not be required to be perpendicular to streets or radial to curves, and lot shapes may take any form, provided, however, that in no case shall any area of the lot more than fifty (50) feet from the manufactured home site, nor any portion of the lot less than fifteen (15) feet in minimum dimension between opposing lot lines, be included in required lot area or open space area.
- b)
 - 1) Density shall be prescribed in the plan required in Section 17-4 but not to exceed the density limits allowed under licensing of the district by North Dakota State Health Department.
 - 2) No lot that contains a manufactured home site shall be less than three thousand (3,000) square feet.
 - 3) The City Council may stipulate by ordinance that if so requested by the owner, the number of mobile homes per acre can be reduced.
- c) Detached manufactured homes and their accessory buildings shall occupy not more than thirty-five percent (35%) of lot area, and attached manufactured homes and their accessory

buildings not more than forty-five percent (45%) of lot area, provided that a structure such as a carport or outdoor recreation shelter which is open for fifty percent (50%) or more of its perimeter shall be computed as one-half (1/2) the area covered by the roof.

- d) Detached manufactured homes must be placed at least fifteen (15) feet from one another. Attached manufactured home arrangements may be specifically provided as part of the plan required under Section 17-4.
- e) Streets, drives, parking and service areas shall provide space and convenient access to manufactured home units and project facilities, and for service and emergency vehicles, but streets shall not be so laid out as to encourage outside traffic to traverse the development on minor streets.
- f) All-weather walkways for pedestrians shall be included to provide access from the street to all manufactured home units. A parking slab or improved driveway may serve as part or all of a walkway.
- g) At least eight percent (8%) of the total area of any manufactured home district established under these regulations must be devoted to common recreational areas and facilities such as playgrounds, swimming pools and community buildings. Where only one recreational area is provided, it shall be in a central location conveniently accessible to all manufactured home units. Recreational areas and facilities shall be located, designed and improved so as to minimize traffic hazards to users and adverse effects in surrounding residential uses.
- h) There shall be provided two (2) parking spaces with respect to each site within the district that is designed or used for the placement of a manufactured home. The parking spaces shall be within one hundred (100) feet of the site. Parking for other uses within the district shall be governed by Chapter 23.
- i) If land within a MH district is so platted as to meet the requirements of Chapter 5 with respect to an R-1 district, then such land can be improved in accordance with R-1 standards established in Chapter 5 rather than as required by this section.
- j) Streets that are to be dedicated to the City, if any, shall be dimensioned and improved in accordance with general subdivision regulations. All non-public streets shall be hard surfaced for all-weather travel with designs approved by the City Engineer and shall not be less than thirty-six (36) feet in width, unless the street is a one-way street serving less than twenty (20) manufactured home sites, in which case the street need only be twenty (20) feet wide.

Sec. 17-6. Development to be Substantially in Accordance with Approved Plan:

An application for MH zoning shall be construed as an express representation by the applicant that if the zoning is granted the premises so zoned will be developed in substantial conformance with the plan submitted as part of the application. If there is material deviation from such plan the City, after providing the landowner with appropriate notice and an opportunity to be heard, may revoke or suspend the grant of MH zoning and any building permit issued pursuant thereto. Nothing in this paragraph shall be construed so as to prevent the landowner from requesting an amendment to an approved manufactured home development plan, which request shall be subject to the same procedures for approval as though it were an original application for MH zoning.

Sec. 17-7. Exclusions:

Those prior valid non-conforming manufactured home parks in existence as of July 6, 1981 shall not be required to comply with MH requirements, except when modifications, alterations, or additions which require building permits are made to an existing park. In those cases the modifications, alterations, or additions must conform to the MH guidelines.

CHAPTER 18 -- "O" OFFICE DISTRICT

Sec. 18-1. Regulations:

The regulations set forth in this Chapter or set forth elsewhere in this Ordinance, when referred to in this Chapter, are the regulations in the "O" Office District.

Sec. 18-2. Purpose and Definitions:

(a) The purpose of this District is to create a limited commercial district in which business activities are ordinarily limited to day time hours and which businesses do not ordinarily attract large numbers of customers or clients at one time. The District thus created is intended to be harmonious with surrounding residential development, or to constitute a suitable transition zone between residential uses and a more intensive commercial district.

(b) Offices are defined as those offices designated and used for the sale of or the rendering of professional business or commercial personal services, as opposed to the sale or rendering of services of a retail or repair nature. Professional businesses or commercial personal services allowed, under this ordinance, are as follows: The practice of law or medicine, accountant, tax consulting, engineering, architecture, planning and consulting, real estate appraisal and sales, insurance, abstractors, travel agencies, Regional Child Support Enforcement Agency, private investigators, computer hardware and software telecom services, hotel/motel services or similar uses, and no other.

(c) Specifically excluded from this District are offices pertaining to the practice of veterinary medicine.

Sec. 18-3. Use Regulations:

A building or premises can be used for the following purposes:

(a) any use permitted in the "R-1" Single Family District.

(b) Offices.

Sec. 18-4. Area Regulations:

The area regulations set forth in Chapter 5 and Chapter 21 for the R-1 Single Family Residence District shall be observed in this District.

Sec. 18-5. Parking/Loading Regulations, Off-Street Parking:

Parking and loading requirements for specific uses shall be provided in accordance with the requirements for specific uses set forth in Chapter 23, provided that, however, no area which is part of a required yard or set back may be used for parking.

Sec. 18-6. Special Regulations for Signs:

All signs must be attached flush to the face of the building and may not be illuminated.

Sec. 18-7. Building Plan Required:

- a) Before a building permit may be issued with respect to premises zoned as “O” Office District the person desiring the issuance of the building permit shall first obtain approval of the Planning Commission of a building plan, which plan shall:
 - 1) be drawn to scale;
 - 2) show boundaries or property to be developed;
 - 3) show existing topography with contour intervals of not more than five (5) feet and preferably two (2) feet;
 - 4) show in detail the manner in which the land is to be used, including the size, location, character, appearance, use and arrangement of buildings, parking areas with proposed arrangement of stalls and number of cars, service areas, walks, signs lighting and appurtenant facilities with sufficient detail to indicate the lighting will not interfere with the vision of motor vehicle operators or shine directly on property located in any “R” district; the provision of grass, trees, shrubs, and other landscaping adjustments to the property, and entrance and exit of driveways and their relationship to existing and proposed streets;
 - 5) show drainage plan with sufficient control grades to indicate the intent of the developer;
 - 6) indicate building location and use of properties adjacent to the proposed development;
 - 7) indicate the stages, if any, which will be followed in construction of the project;
 - 8) provide or suitable fence, wall or evergreen border at least six (6) feet high measured from the adjacent surface of the property to be developed wherever an “O” district adjoins an “R” district.
- b) A processing fee of \$25.00 shall be paid at the time of plan review application. Also, the applicant shall pay the cost of mailed notices required by Chapter 30.
- c) The Planning Commission after public hearing with notice thereof made as required in Chapter 30 hereof shall approve, approve with changes, or reject the plan.
- d) Planning Commission approval is not required for the following:
 - 1) Additions to the existing structures that do not exceed 20% of the gross floor area.
 - 2) Addition of an accessory building as defined in Section 2-1(1).

CHAPTER 18.1 -- AIRPORT NOISE BUFFER AREA

Sec. 18.1. Definitions:

“ANBA” means the Airport Noise Buffer Area, the perimeters and location of which are stated hereafter.

“NLR” is an acronym for noise level reduction, which means the amount of noise level reduction (LA) achieved through incorporation of noise attenuation (between outdoor and indoor levels) in the design and construction of a structure.

“Underlying Zoning” means the zoning district, other than the ANBA, within which a particular parcel of land lies, and the regulations applicable thereto.

Sec. 18.1-2. ANBA Restrictions:

(a) The following uses are prohibited within the ANBA, without regard to the underlying zoning, to-wit: Mobile home parks, outdoor music shows, amphitheaters, nature exhibits and zoos.

(b) That portion of any building or structure occupied by humans, which is used within the ANBA in connection with any of the following uses (assuming the underlying zoning so permits), shall be so designed and constructed as to accomplish a NLR of 25: Governmental services; transportation; parking; business and professional offices; the wholesale and the retailing of building materials; hardware and farm equipment; general retail trade; utilities; communications; general manufacturing; photographic and optical manufacturing; golf courses; riding stables; and water recreation.

(c) That portion of any building or structure occupied by humans which is used within the ANBA in connection with any of the following uses (assuming the underlying zoning so permits) shall be so designed and constructed as to accomplish a NRL of 30: Residential, other than mobile homes; transient lodgings; schools; hospitals; nursing homes, churches; auditoriums; and concert halls.

Sec. 18.1-3. Perimeter and Location of Airport Noise Buffer Area:

The Airport Noise Buffer Area is defined to include all of the following described property located in Ward County, North Dakota, which is not owned by the city of Minot:

Eureka Township (156-83)

- | | | |
|--------------|----|---------------------------------|
| Section 34 - | 1. | NE1/4 less the NE1/4NE1/4NE1/4 |
| | 2. | N1/2SE1/4 |
| | 3. | SE 1/4SE1/4 |
| | 4. | NE1/4SW1/4SE1/4 |
| Section 35 - | 1. | SW1/4 Less NE1/4NE1/4SW1/4 |
| | 2. | SW1/4NW1/4 less NE1/4SW1/4NW1/4 |

3. SW1/4SW1/4SE1/4

Harrison Township (155-83)

- Section 1 -
1. Northside Addition, Lots 1-12 inclusive
 2. Airport Industrial Park Addition, Block 3, Lots 1-4 inclusive
 3. Airport Industrial Park Addition, Block 5, Lots 1-6 inclusive
- Section 2 -
1. SE1/4 less SW1/4SW1/4SE1/4
 2. NE1/4SW1/4 less SW1/4NE1/4SW1/4
 3. S1/2NE1/4
 4. NW1/4NE1/4
 5. SW1/4NE1/4NE1/4
 6. NW1/4 less SW1/4SW1/4NW1/4
- Section 3 -
1. NE1/4NE1/4 less SW1/4NE1/4NE1/4
- Section 11 -
1. NE1/4NE1/4 less SW1/4NE1/4NE1/4
- Section 12 -
1. Outlots 1 and 2, 12-155-83
- Section 13 -
1. NE1/4NE1/4
 2. NE1/4NW1/4NE1/4
 3. NE1/4SE1/4NE1/4

Nedrose Township (155-82)

- Section 17 -
1. SW1/4SW1/4SW1/4
- Section 18 -
1. NW1/4
 2. SW1/4NE1/4
 3. SW1/4NW1/4NE1/4
 4. SE1/4 less NE1/4NE1/4SE1/4
 5. E1/2SW1/4 less SW1/4SE1/4SW1/4
 6. NE1/4NW1/4SW1/4
- Section 19 -
1. N1/2NE1/4 less SW1/4NW1/4NE1/4
 2. SE1/4NE1/4 less SW1/4SE1/4NE1/4
- Section 20 -
1. N1/2SW1/4
 2. S1/2NW1/4
 3. NW1/4NW1/4
 4. SW1/4NE1/4NW1/4

(Ord. 2339; 2711; 2902)

CHAPTER 19 -- "AG" AGRICULTURAL DISTRICT

Sec. 19-1. Regulations:

The regulations set forth in this chapter or set forth elsewhere in the zoning ordinances when referred to in this chapter are the regulations in the "AG" Agricultural District.

Sec. 19-2. General Description:

The "AG" agricultural district is established as a district in which the principal use of the land shall be for farming, ranching and related uses.

Sec. 19-3. Uses Permitted:

A building or premise shall be used only for the following purposes:

- a) Agricultural and ranching excluding therefrom commercial food processing and commercial livestock feeding operations.
- b) Agricultural buildings including farm dwellings and such other buildings as may be accessory to normal agricultural and ranching activities; provided that, however, only one farm dwelling will be permitted upon a tract or parcel of land, or a combination of contiguous tracts and parcels of land jointly owned and such tracts or parcels of land or combination of contiguous parcels of land jointly owned must individually or in the aggregate exceed 20 acres in area. For the purposes of this subsection only, a manufactured home may be considered a farm dwelling.
- c) Parks, playgrounds, recreation areas and facilities, community centers.
- d) Public school, elementary or high or a private school having a curriculum the same as ordinarily given in a public school.
- e) Country club or golf course, except miniature course or practice driving tee operated for commercial purposes.
- f) Churches, or other places of worship or Sunday school.
- g) Sale of nursery and greenhouse products, the majority of which are raised on the premises.
- h) (Removed)
- i) Railroad rights-of-way and trackage, not including switching, storage, terminal facilities or freight yards.
- j) A second dwelling unit on an ownership of more than twenty (20) contiguous acres where the second unit is to be occupied by relatives of the owner, who with the owner are engaged in the operation of the agricultural use of the land. This "second" dwelling unit may be a manufactured home provided the first farm dwelling is of conventional construction.

Sec. 19-4. Lot, Height, Area And Yard Requirements:

- a) Maximum height - none.
- b) Maximum lot coverage - none
- c) Minimum yard from any property line shall be thirty-five (35) feet.

- d) Minimum lot area - twenty (20) acres.
- e) Minimum lot dimensions - none.

CHAPTER 20 -- FLOOD PROTECTION REQUIREMENTS

ARTICLE I

Definitions

Sec. 20-1. Definitions Additional to Those in Chapter 2; This Chapter to Govern in Case of Conflict:

Terms used in other articles of this chapter of the zoning ordinance shall be given the meaning assigned to them by definition in this article. The definitions given in this chapter are intended to be supplementary to the definitions found in Chapter 2 of the City of Minot Zoning Ordinances. However, in the event of a conflict between a definition of a term or word as set forth in Chapter 2 and as set forth in this Chapter 20, the provisions of this chapter govern.

Sec. 20-2. Definitions:

“A Zone” or “Zone A” is an area of special flood hazard without water surface elevations determined.

“AE Zone” or “Zone AE” is an area of special flood hazard with water surface elevations determined.

“AO Zone” or “Zone AO” is an area of special flood hazard having shallow water depths and/or unpredictable flow paths between one (1) and three (3) feet, where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. The AO Zone may further be shown on the FIRM as being divided into sub areas or sub zones with a water elevation depth or depth number for such sub zone rounded off to the nearest foot, i.e., 1, 2, or 3 feet.

“Area of special flood hazard” is the land in the flood-prone area subject to 1% or greater chance of flooding in any given year. This area as shown on the FIRM is usually refined to show Zones A, AE, AO, AI-30, and AI-99.

“Base flood” means the flood having a 1% chance of being equaled or exceeded in any given year.

“Basement” means any area of the building having its floor sub grade (below ground level) on all sides.

“Breakaway wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

“Building” see “structure.”

“Community” means the area of land encompassed in the corporate limits of the City of Minot and within the extra-territorial zoning authority granted to the city by state law as either or both may be extended from time to time.

“Depth number” is the highest water surface elevation” (which see) as expressed in number of feet, which is attained for a particular area or zone during the base flood.

“Development” means any man-made improvement of, additions to or alterations of improved or unimproved real estate (including but not limited to buildings or other structures), or mining, dredging, filling, grading, paving, excavation or drilling operations.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before April 1, 1990.

“Expansion to an existing manufactured home park or subdivision” means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either the final site grading or the pouring of concrete pads).

“FEMA” means the Federal Emergency Management Agency.

“FIRM” means the most recent flood insurance rate map (see Sec. 20-111), applicable to the City of Minot and its environs, and prepared by the Federal Emergency Management Agency, on which map FEMA has delineated areas or zones of special flood hazards, to the extent that those areas and the boundaries thereof have been modified and incorporated into the city zoning map (which zoning map is on file with the city clerk and which map is incorporated herein by reference).

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas.

“Flood plain” or “Flood-prone area” means land area susceptible to being inundated by water from any source (see definition of ‘flood’), to the extent the same is shown on the FIRM as being in the area of special flood hazard. This shall include all areas shown thereon which bear the designation “A” or which bear an “A” prefix, such as A1.

“Flood-proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

“Floodway” means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood more than one (1) foot.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Inspector” includes those city officials designated as “inspectors” by municipal ordinance and the city engineer or a member of his staff when authorized to issue a permit.

“Lowest floor” means lowest floor of the lowest enclosed area, and includes a basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design

“Manufactured home” see Section 2-1. A manufactured home does not include a recreational vehicle except as specified in § 20-46(g).

“Manufactured home park or subdivision” means a parcel or contiguous parcels of land divided into two or more manufactured home lots for rent or sale.

“Mean sea level” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations are referenced in the FIRM.

“New construction” means structures for which the “start of construction” commenced on or after June 1, 1977.

“New manufactured home park or subdivision” means one which is not an existing mobile park or subdivision.

“Person” means any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies.

“Principally above ground” means that at least 51% of the actual cash value of the structure, less land value is above the ground.

“Recreational vehicle” means a vehicle that is:

- (1) built on a single chassis;
- (1) 400 square feet or less when measured at the largest horizontal projection;
- (2) designed to be self-propelled or permanently towable by light duty truck; and
- (3) designed primarily not for use as a permanent dwelling but instead intended as temporary living quarters for recreational, camping, travel, or seasonal use.

“Start of construction” means with regard to an improvement either the date on which the building permit pertaining thereto was issued (if the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date), or it means the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement, whichever is earlier.

The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a 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; nor does it include the installation of streets or walkways or both; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include 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.

For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not the alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

“Subdivision proposal” means—

- (1) an application for a zone change;
- (2) an application or request for a special use permit; or
- (3) a request for approval of a plat pursuant to the provisions of the land subdivision regulations of the City of Minot (Chapter 28 of this Zoning Ordinance).

“Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

“Substantial improvement” means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures that have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.

“Water surface elevation” means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, where specified, of floods of various magnitudes and frequencies in the flood plain.

“Work is commenced” means at the start of construction.

Sec. 20-03 -20-39 Reserved.

ARTICLE II

Restrictions on Land Use and Construction

Division 1: Flood Plain Generally

Sec. 20-40. Application:

The provisions of this division shall be applicable to all of the land within the flood plain in the community.

Sec. 20-41. New Construction or Substantial Improvements:

All new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) on which work is commenced on or after April 1, 1987, shall—

- (1) be designed (or modified) and anchored as to prevent flotation, collapse, or lateral movement of the structure;
- (2) be constructed with materials and utility equipment resistant to flood damage;
- (3) be constructed by methods and practices that minimize flood damage; and
- (4) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or located or both designed and located so as to prevent water from entering or accumulating within the components during floods.

Sec. 20-42. Public Utilities and Facilities:

All public utilities and facilities such as sewer, gas, electrical and water systems constructed or substantially reconstructed on or after June 1, 1977, shall be located, designed and constructed so as to minimize or eliminate flood damage to such system.

Sec. 20-43. New and Replacement Water Supply Systems:

New and replacement water supply systems on which work is commenced on or after June 1, 1977, shall be designed to minimize or eliminate infiltration of flood waters into the systems.

Sec. 20-44. Substantial Alteration of the Topography:

Substantial alteration of the topography which is commenced on or after June 1, 1977, will be permitted only upon a demonstration that the alteration will not increase to an appreciable degree the exposure of the community to flood hazards, either through direct drainage into the river or as a result of increased pressure upon the internal drainage system of the city, or otherwise.

Sec. 20-45. New and Replacement Sanitary Sewage Systems:

New and replacement sanitary sewage systems on which work is commenced on or after June 1, 1977, shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters. On-site waste disposal systems on which work is commenced on or after June 1, 1977, shall be located so as to avoid impairment to them or contamination from them in the event of flooding.

Sec. 20-46. Elevation Requirements and Anchoring Requirements for Manufactured Homes and Recreational Vehicles; Exceptions:

(a) A manufactured home or a recreational vehicle deemed to be manufactured home under subsection (f), hereafter called "the unit"

- (1) which is moved into or within the flood plain and placed at a location therein from which it is not moved within five days thereafter, or
- (2) which while located within the flood plain is substantially improved—

shall be secured to resist flotation, collapse, or lateral movement as hereafter specified, except as provided in subsection (e).

(b) If the unit is located –

- (1) outside of a manufactured home park or subdivision, or
- (2) in a new manufactured home park or subdivision, or
- (3) in an expansion to an existing manufactured home park or subdivision, or
- (4) in an existing manufactured home park or subdivision within which a manufactured home has incurred substantial damage as the result of a flood—

it shall be elevated on a permanent foundation so that the lowest floor of the unit is elevated at or above the base flood elevation.

(c) If the unit is located at a location not described in subsection (b) it shall be elevated so that—

- (1) its lowest floor is at or above the base flood elevation, or
- (2) its chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade.

(d) The unit shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, over-the-top or frame ties to ground anchors.

(e) This section shall not apply to a unit which was moved onto or within the flood plain, or which was substantially improved, prior to April 1, 1990.

(f) A manufactured home which is removed from its ordinary location as part of an official emergency evacuation of manufactured home, and which is returned to such location, shall be treated for purposes of this section as though that particular move had not occurred.

(g) A recreational vehicle shall be deemed to be a manufactured home for purposes of this section unless –

- (1) the unit is not at any one site for more than 180 consecutive days, or
- (2) the unit is continually fully licensed and ready for highway use. That is, it is on its own wheels or jacking system on a site to which it is attached only by quick disconnect type utilities and security devices, and it has no permanently attached additions.

(h) If a recreational vehicle is to be treated as though it were converted to a manufactured home, due to the operation of subsection (g), it shall be deemed to have been placed at the site which it occupies on the date of conversion on that same day for purposes of applying subsection (e).

Sec. 20-47. Manufactured Home Permit Required:

(a) On or after June 1, 1977, no manufactured home shall be—

- (1) moved into or within the flood plain, and
- (2) placed at a site or location therein for more than five days— unless a permit shall first have been obtained from the Building Inspector.

(b) On or after April 1, 1987, if a structure or vehicle within the flood plain shall become a manufactured home because it no longer is excluded from the definition of such by the operation

of Section 20-46(g), then the owner or person in charge of such structure or vehicle shall obtain a permit therefor.

(c) The fee for a permit under this section shall be \$3.00.

Sec. 20-48. Land Fill Permit Required:

On or after June 1, 1977, no person may perform any fill or land fill operations or place materials associated with other development activities within the geographical area to which this chapter applies unless he shall first have obtained a permit from the city engineer. The fee for such permit shall be \$3.00.

Sec. 20-48.1. Flood Flow-Through Requirements:

On and after April 1, 1987 enclosed areas below the lowest floor, that are usable solely for parking of vehicles, building access or storage in an area other than a basement, and which are subject to flooding - for all new construction and substantial improvements within the flood plain - shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and the exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
- (2) The bottom of the openings shall be no higher than one foot above grade.
- (3) The openings may be equipped with screens, louvers, valves or other coverings or devices only if they permit the automatic entry and exit of floodwaters.

Division 2: Zone "A"

Sec. 20-49. Application:

The provisions of this division shall be applicable to all of the land within the community that is shown on the FIRM as being in a zone bearing the designation "A".

Sec. 20-50. General Restrictions:

The restrictions imposed by Division I are incorporated herein by reference and shall be considered as part of this division as though set forth fully herein.

Sec. 20-51. Elevation Required:

All new construction and substantial improvements of residential structures shall have the lowest floor elevated to or above base flood level and all new construction and substantial improvements of non-residential structures shall have the lowest floor elevated or flood proofed to or above the base flood level.

Sec. 20-52 -20-59. Reserved for Future Use.

Division 3: Zone "A 0"

Sec. 20-60. Application:

The provisions of this division shall be applicable to all of the land within the community that is shown on the FIRM as being in a zone bearing the designation "AO."

(a) The restrictions imposed by Division 1 are incorporated herein by reference and shall be considered as part of this division as though set forth fully herein.

(b) New construction and substantial improvements of structures on slopes on which work is commenced on or after January 1, 2000, shall include adequate drainage paths to guide floodwaters around and away from such structures.

Sec. 20-61. General Restrictions:

The restrictions imposed by Division 1 are incorporated herein by reference and shall be considered as part of this division as though set forth fully herein.

Sec. 20-62. Residential Structures:

All new construction and substantial improvements of residential structures on which work is commenced on or after April 1, 1987, shall have the lowest floor elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM or at least two feet if no depth number is so specified.

Sec. 20-63. Non-Residential Structures:

All new construction and substantial improvements of non-residential structures on which work is commenced on or after April 1, 1987, shall—

- (1) have the lowest floor elevated above the highest adjacent grade at least as high as the depth number specified in feet on the FIRM or at least two feet if no depth number is so specified; or
- (2) together with attendant utility and sanitary facilities be flood-proofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Division 4: Zone "A1-30"

Sec. 20-64. Application:

The provisions of this division shall be applicable to all of the land within the community that is shown on the FIRM as being in the zone designated "A1-30."

Sec. 20-65. General Restrictions:

The restrictions imposed by Division 1 are incorporated herein by reference and shall be considered as part of this division as though set forth fully herein.

Sec. 20-66. Residential Structures:

All new construction and substantial improvements of residential structures on which work is commenced on or after June 1, 1977, shall have the lowest floor (including basement) elevated to or above the base flood level.

Sec. 20-66.1 Below-Grade Residential Crawlspace Construction:

New construction and substantial improvement of any below-grade crawlspace shall:

- 1) Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade;
- 2) Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four feet at any point;
- 3) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;

- 4) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
- 5) Be constructed with materials and utility equipment resistant to flood damage;
- 6) Be constructed using methods and practices that minimize flood damage;
- 7) Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- 8) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
 - a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b) The bottom of all openings shall be no higher than one foot above grade;
 - c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(Ord. 3754)

Sec. 20-67. Non-Residential Structures:

All new construction and substantial improvements of non-residential structures on which work is commenced on or after June 1, 1977 shall have the lowest floor (including basement) elevated to or above the base flood level, provided that, however, such elevation shall not be required if the new construction or substantial improvement of the structure, together with attendant utility and sanitary facilities, is designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capacity of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

Sec. 20-68.20-70. Reserved.

Division 5: Zone “A-99”

Sec. 20-71.20-79. Reserved for Future Use.

Division 6: The Floodway

Sec. 20-80. Application:

The provisions of this division shall be applicable to all of the land within the community which is shown on the city zoning map as being located within the floodway.

(Ord. 2486)

Sec. 20-81. Establishment of the Floodway:

The floodway is hereby located as adopted in Section 20-111 effective 12:01 A.M., January 10, 1995.

(a) Any encroachments, including fill, new construction, substantial improvements or other development that would result in any increase in flood levels within the community during the occurrence of the base flood are prohibited. However, a development or improvement which consists of the repair or reconstruction of a damaged structure, and which does not alter the external dimensions of the structure as they existed prior to the occurrence of the damage, shall be excluded from the operation of this section.

(b) Additions and garages attached to residential structures and churches are permitted, provided—

- (1) the city engineer determines that such construction will not cumulatively result in any measurable increase in flood levels during the occurrence of the base flood; and
- (2) such construction does not constitute more than 50% of the fair market value of the structure before such construction was started.

Sec. 20-83. Reserved.

Sec. 20-84. Restrictions Cumulative:

The restrictions imposed by this division are in addition to those restrictions that may be imposed by the operation of any other division.

ARTICLE III

Enforcement and Compliance Mechanisms

Division 1: Duties of the City Planning Commission

Sec. 20-90. Planning Commission to Review Subdivision Proposals in Area of Special Flood Hazard:

The Planning Commission shall apply the provisions of this division to subdivision proposals made on or after June 1, 1977, if it shall determine that the premises affected by the subdivision proposal are within the area of special flood hazard shown on the FIRM. The provisions of this division are in addition to all other provisions of law relating to subdivision proposals.

Sec. 20-91. Criteria of Review:

Subdivision proposals subject to the provisions of this division shall be reviewed to determine that

- (1) the proposal is consistent with the need to minimize flood damage,
- (2) proposed or projected easements for public utilities and facilities, such as sewer, gas, electrical, and water systems, are so located as to minimize or eliminate flood damage, and
- (3) adequate drainage is provided to reduce exposure to flood hazards.

To facilitate such review the Planning Commission may prescribe the type of information it requires and the form in which the information is to be provided as part of the subdivision proposal.

Sec. 20-92. Elevation Data; When Required:

Subdivision proposals subject to this division and containing 50 or more lots, or exceeding five acres in area, shall include base flood elevation data as to the premises involved and the planning commission may prescribe the type of information it requires and the form in which the information is to be provided as part of the subdivision proposal.

Sec. 20-93. Additional Prerequisites to the Issuance of Permits:

- (a) On or after June 1, 1977, an inspector, in issuing any permit which he has the duty or

discretion to issue pursuant to city ordinance or state law, shall apply the provisions of this chapter as additional requirements for the lawful issuance of such permit, in the manner and to the extent set forth in Sections 20-94 to 20-96, if such permit pertains to development within the floodplain.

(b) The provisions of this division shall be considered as supplementary to and not as superseding other provisions in state law or in municipal ordinances concerning the form of an application for a permit, the showing or demonstration which must be made before a permit may be granted, and the method or procedure by which a permit is granted or denied.

Sec. 20-94. Federal Water Pollution Control Permits Required:

Before the inspector shall grant the permit he shall determine that all necessary permits relating to the proposed development have been received from those governmental agencies from which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334. Such determination may be made (a) by requiring that copies of the state or federal permits be included as part of the application for the city permit, or (b) by the applicant displaying the original of the state or federal permit to the inspector, with the inspector certifying the existence of the same upon the application.

Sec. 20-95. Article II Restrictions to be Observed:

(a) The inspector shall review all permit applications to determine whether that portion of the proposed development which pertains to the permit requested of him complies with the requirements imposed by Article II of this Chapter 20 of the Zoning Ordinance, that is, Sections 20-40 through 20-89 above, as the same may be applicable to the particular premises involved in such application.

(b) With respect to the A Zone he shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, until other data has been provided by FEMA. The inspector is hereby authorized to require provision of such data by the applicant for any building permit within any A Zone.

Sec. 20-96. Flood Damage Effect of Entire Proposal Considered:

The building inspector in denying or granting a construction or mobile home moving permit, or the city engineer in denying or granting other permits for development, shall review the proposed development as a whole to determine if such development is consistent with the need to minimize flood damage within the community. Such review and determination shall be independent of and in addition to the determinations required to be made in Sec. 20-95.

Sec. 20-97. Actual Construction Compliance. How Enforced When No Certificate of

Occupancy Issued:

(a) In the event a structure or development is not of the type for which a certificate of occupancy is issued, the permit or permits which are required to be granted before work may be undertaken to accomplish the development shall be conditioned upon the completion of such development in strict accordance with the requirements of Article II above.

(b) At the discretion of the inspector granting the permit, the obligation imposed under subsection (a) in connection therewith may be secured by a surety bond in the form, and in the amount, and with the conditions as might be determined by the inspector as being necessary and sufficient to insure completion of the development as projected. If no surety bond is required the inspector shall have the continuing obligation to assure that the development is completed in accordance with provisions of Article II and to the end he is authorized to bring an injunctive proceeding on behalf of the City of Minot in district court or to commence proceedings on behalf of the City in municipal court as may be most appropriate to accomplish that result.

(c) The provisions of this section shall apply only to developments on which work is commenced on or after June 1, 1977.

Sec. 20-98. Actual Construction Compliance. How Enforced With Certificate of Occupancy; When Flood Proofing Certificate Required:

(a) The building inspector shall apply the certificate of occupancy provisions of Chapter 27 of this Zoning Ordinance for all developments regulated by this Chapter 20 of the Zoning Ordinance.

(b) The building inspector shall establish that the development was accomplished in the manner required by Article II of this Chapter, and that the completed development or improvement is currently in conformity with such requirements. To that end he may require other City inspectors to certify that as to the particular components of such structure or development within the jurisdiction of each such other inspector – such as electrical, plumbing, etc. – the work meets the applicable Article II requirements.

(c) In the event that a certificate of occupancy relates to a structure which has been flood proofed in accordance with the provisions of Article II hereof, the building inspector shall require, before the certificate of occupancy is issued, that he receive a written flood proofing certificate from a registered professional engineer or architect to the effect that the flood proofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood. The flood-proofing certificate shall indicate thereon the specific elevation (in relation to Mean Sea Level) to which the structure is flood proofed. The original of the flood-proofing certificate shall be retained by the building inspector as a permanent record open for public inspection.

(d) The provisions of this section shall apply only to developments, structures or substantial improvements wholly or partially within the area of special flood hazard shown on the FIRM on which work is commenced on or after June 1, 1977.

Sec. 20-99. Record of Elevations and Flood Proofing to be Kept:

The building inspector shall, as to all new or substantially improved structures within the area of special flood hazard shown on the FIRM on which work is commenced on or after June 1, 1977, obtain and maintain as a permanent record open for public inspection the following information:

- (1) the elevation (in relation to Mean Sea Level) of the lowest floor (including basement),
- (2) whether or not such structure contains a basement, and
- (3) if applicable, the elevation (in relation to Mean Sea Level) to which the structure has been flood proofed.

Sec. 20-100. Water Courses; Notice of Alteration; Capacity Maintained:

The city engineer shall notify in writing adjacent communities and the State Water Conservation Commission prior to the alteration or relocation of a water course within the community and he shall submit copies of these notifications to the Federal Emergency Management Agency.

(b) He shall further assure that the flood carrying capacity within the altered or relocated portion of the water course is maintained at no less than the capacity prior to such alteration or relocation. To achieve the purposes set forth herein the city engineer is permitted on behalf of the City of Minot to bring appropriate court proceedings to enjoin acts by private persons who, to a reasonable degree of certainty, would have the tendency to diminish the capacity of a water course within the community. The city engineer is further authorized to issue cease and desist orders to any persons acting under the authority of the city if in his opinion such person is engaging in activities which, to a reasonable degree of certainty, would have the tendency to diminish the capacity of a water course within the community.

Sec. 20-101. Manufactured Home Park Evacuation Plan Required:

The city engineer by June 1, 1977, and as often as changed circumstances make necessary thereafter, shall prepare an evacuation plan for all manufactured home parks located within the area of special flood hazard on the FIRM which plan shall indicate alternate vehicular access and

escape routes. He shall file the plan and amendments thereto with the Office of Ward County Emergency Management upon completion.

Division 3: Additional Duties of the City Manager

Sec. 20-102. City Manager to Implement FEMA Commitments:

The city manager is hereby appointed as the official with primary responsibility and authority to implement such commitments as may be required by the Federal Emergency Management Agency pursuant to the authority of Subsection (a) of Section 59.22 of Subpart B of Part 59 of Sub-chapter B of Chapter I of Title 44 of the Code of Federal Regulations (1998).

Sec. 20-103. City Manager to Submit Annual FEMA Report:

The city manager is designated as the official with the responsibility and authority to submit an annual report to the Federal Emergency Management Agency concerning the participation by the City of Minot in national flood insurance program authorized by 42 USC Sections 4001-4128, which report shall describe the development and implementation of flood-prone area management regulations. He shall also perform on behalf of the City of Minot all other actions required of the City pursuant to Subsection (b) of Section 59.22 of Subpart B of Part 59 of Sub-chapter B of Chapter I of Title 44 of the Code of Federal Regulations (1998).

Sec. 20-104. Other Duties:

The city manager is designated as the official with the authority and responsibility to file such reports and take such actions as may be required by Section 60.2 of Title 44 of the Code of Federal Regulations (1998).

Sec. 20-105 -- 20-109. Reserved.

ARTICLE IV

Miscellaneous

Sec. 20-110. Effect of this Chapter on Other Land Use Rules; Whether Private or Public:

The provisions of this chapter of the Zoning Ordinance govern over and supersede any conflicting or inconsistent provisions in other municipal ordinances and in private restrictive covenants, agreements, easements and the like. However, when the provisions of this chapter are consistent with the provisions of other municipal ordinances or private agreements relating to land use, all the provisions shall be considered supplementary to one another.

Sec. 20-111. Flood Insurance Study:

The areas of special flood hazard—identified by FEMA in the scientific and engineering report entitled “Revised Preliminary Flood Insurance Study for the City of Minot, Ward County, North Dakota” dated September 30, 1994, (or, if and as available, more recent updates, editions, or revisions of such report or study), with the flood insurance rate maps and flood boundary-flood way maps forming a part thereof—are hereby adopted by reference and declared to be part of this ordinance. The flood insurance study is on file at the office of the City Clerk.

CHAPTER 20.1 -- SUNDRE WELLHEAD PROTECTION REQUIREMENTS

Sec. 20.1-1. Definitions:

As used in this chapter, the following definitions apply—

Ancillary activity means a regulated activity which is subordinate to, or supportive of a non-regulated activity, and which involves the use or storage at any one time of no more than 55 gallons, or its equivalent in kilograms or pounds, of hazardous material at the facility where the non-regulated activity takes place.

Applicant means, as appropriate in context, a person who applies for (i) an exemption under 20.1-4 or (ii) a permit under 20.1-6. In the context of providing information with respect to an applicant which is an entity, the term “applicant” shall include any parent or subsidiary entity, the principal officers and directors of the corporation if the entity is a corporation (or the equivalent persons in respect to a non-corporate entity), and each owner of more than a five percent interest in such entity.

Application means, as appropriate in context, an application for an exemption under section 20.1-4 or an application for a permit under section 20.1-6.

Bulk storage facility means any portion of property where oil or petroleum liquids are received by tank vessel, pipeline, railroad car, or tank vehicle for the purpose of storage.

Chemigation means the process of applying agricultural chemicals (fertilizer or pesticides) using an irrigation system by injecting the chemicals into the water.

Certified hazardous materials manager (CHMM) means a hazardous materials manager certified by the Institute of Hazardous Materials Managers, who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable law and to identify appropriate pollution prevention practices for such activities.

Entity means a person other than a natural person.

Environmental professional means a person who demonstrates — to the satisfaction of the City Engineer — that by virtue of such person’s education, training, and experience, he or she has expertise in the subject matter of this chapter.

Existing regulated activity means a regulated activity which substantially commenced, or was in active operation, or with respect to which a municipal building permit was issued, before May 1, 2001.

Feedlot means a parcel of land whereon there is contained an operation of feeding or raising animals in excess of one hundred (100) animal units per acre or in excess of five hundred (500) animal units per parcel of land, whichever is the more restrictive. One animal unit is equivalent to one beef cow, steer, feeder or

fat beef animal; one horse; 0.7 dairy cow; 1.7 swine; 6.7 sheep; 33 hens, cockerels, capons, broiler or ducks; or 10 geese or turkeys.

Floor drain means any opening in a floor or surface which opening or surface receives materials spilled or deposited thereon.

Hazardous material means a material that is defined in one or more of the following categories:

- Carcinogenic:* A gas, liquid or solid which is normally considered to be cancer causing or mutagenic. Examples: PCB's in some waste oils.
- Corrosive:* Any material, whether acid or alkaline, which will cause severe damage to human tissue, or in case of leakage might damage or destroy other containers of hazardous materials and cause the release of their contents. Examples: battery acid and phosphoric acid.
- Explosive:* A reactive gas, liquid or solid which will vigorously and energetically react uncontrollably if exposed to heat, shock, pressure or combinations thereof. Examples: dynamite, organic peroxides and ammonium nitrate.
- Highly Toxic:* A gas, liquid, or solid so dangerous to man as to afford an unusual hazard to life. Examples: parathion and chlorine gas.
- Ignitable:* A gas, liquid or solid which may cause fires through friction, absorption of moisture, or which has low flash points. Examples: white phosphorous and gasoline.
- Moderately Toxic:* A gas, liquid or solid which through repeated exposure or in a single large dose can be hazardous to man. Example: atrazine.

Hazardous waste means hazardous waste as defined by NDCC 23-20.3-02(6).

Hazardous waste facility means a "facility" as defined by NDCC 23-20.3-02(4).

Industrial laundry means a process for washing clothes, cloth or other fabric used in industrial operations.

Infiltration device means any discharge device installed below or above the ground surface which device is designed to allow liquid to travel to the ground.

Manure storage area means an area for the containment of animal manure in excess of 8,000 pounds or 1,000 gallons

Modify a regulated activity or modification of a regulated activity means to expand an existing regulated activity by increasing the physical size of the facility at which such regulated activity is conducted, or by increasing the storage capacity for hazardous materials; or to alter a regulated activity in a manner which may increase the risk of pollution of the SWPA.

New regulated activity means a regulated activity that commences after April 30, 2001

Owner means the owner, lessee, or person in charge of the premises or facility in question.

Pavement de-icing chemical means sodium chloride, calcium chloride, or calcium magnesium acetate.

Person means any individual, partnership, association, firm, corporation or other entity, except a municipality, and includes a federal agency as permitted by law, the state or any instrumentality of the state, and any officer or governing or managing body of any partnership, association, firm or corporation.

Pollution means the man-made or man-induced degradation of the chemical, physical, biological, and radiological integrity of water.

Pollution prevention means the use of processes and materials so as to reduce or minimize the amount of hazardous materials used in an activity, or the quantity and concentration of pollutants in the waste generated by such activity.

Professional engineer means a professional engineer licensed in accordance with Chapter 43-19.1, of the North Dakota Century Code and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable law and identify appropriate pollution prevention practices for such activities.

Publicly owned treatment works (POTW) means a publicly owned “wastewater treatment plant” as that term is defined in NDCC 23-26-03(7).

Public service company means an entity that sells electrical energy, whether or not such entity is regulated by the North Dakota Public Services Commission.

Public water system means a public water system as defined in NDCC 61-28.1-02(5).

Public water system supply means a point where water is inducted into a public water system

Registered regulated activity means an existing regulated activity, which has been registered under section 20.1-5.

Registrant means a person who or which has submitted a registration for an existing regulated activity under 20.1-5.

Regulated activity means an activity listed in column 1 of Table 3-c of section 20.1-3, if such activity is located or conducted, wholly or partially, in the SWPA.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of a hazardous material.

Solid waste means solid waste as defined in NDCC 23-29-03(14).

Solid waste facility means a facility for the assembly or treatment or storage (or two or more of such activities), of solid waste.

Storage tank means a stationary device, which is designed to store hazardous materials and which is constructed of non-earthen materials including but not limited to concrete, steel, fiberglass or plastic.

Sundre wellhead protection area means those lands or that area to which this chapter applies, as established in Section 20.1-02.

SWPA means the Sundre Wellhead Protection Area.

Underground when referring to a storage tank or storage tank component means that (a) ten percent or more of the volumetric capacity of such tank or component is below the surface of the ground and (b) that portion which is below the surface of the ground is not fully visible from the ground's surface.

Vehicle means a boat, vessel, or other watercraft which is powered by an internal combustion or diesel engine; and any vehicle propelled or drawn by any non-muscular power, including without limitation an automobile, aircraft, all-terrain vehicle, or snowmobile.

Sec. 20.1-2. Delineation of Sundre Wellhead Protection Area Boundaries:

The Sundre Wellhead Protection Area (SWPA) is delineated on the City of Minot Official Zoning Map, which by reference thereto is incorporated herein.

Sec. 20.1-3. Regulated and Prohibited Activities:

(a) Each regulated activity listed in Column 1 of Table 3-c of subsection (c) is prohibited in the SWPA, unless such activity is:

- (1) an ancillary activity in accordance with subsection (b) of this section,
- (2) exempted under Section 20.1-4,
- (3) registered as an existing regulated activity in accordance with section 20.1-5, or
- (4) a modification of an existing regulated activity allowed pursuant to Section 20.1-6.

(b) An ancillary activity, whether existing or new, is not regulated under the provisions of this chapter, provided all the following conditions are satisfied—

- (1) such ancillary activity takes place only within an entirely enclosed building;
- (2) such ancillary activity involves no more than 10% of the floor area in the building where the activity takes place;
- (3) any hazardous material used in connection with the activity is stored in the building at all times;
- (4) all waste waters which are generated by such activity are lawfully disposed through a connection to a publicly owned treatment works;
- (5) such ancillary activity does not involve—

- (A) repair or maintenance of vehicles, or of equipment associated with such vehicles, including without limitation, internal combustion engines;
 - (B) underground storage of any hazardous material; or
 - (C) above ground storage of more than 55 gallons of hazardous materials; and
- (6) such ancillary activity is conducted in compliance with best management practices described in section 20.1-7.

(c) Table 3-c includes the following information—

- (1) in column 1, a listing of every activity which is a regulated activity; and
- (2) in column 2, examples of businesses or other facilities at which such a regulated activity takes place, provided that if an activity identified in column 1 actually takes place at a business or facility other than one identified in column 2, such activity at such other business or facility is a regulated activity.

Table 3-c Regulated Activities

Column 1 Regulated Activity	Column 2 Examples
The following activity is prohibited if it is a new regulated activity and subject to the provisions of Sec. 20.1-5 if it is an existing regulated activity.	The following are examples of a business or facility that typically involve the regulated activity.
1. Activities involving any equipment for the underground storage or transmission of oil or petroleum, or hazardous material, except for: (i) underground storage tanks which contain number 2 fuel oil for heating that are located more than 500 feet from the nearest public water system source, or (ii) underground electrical facilities such as transformers, breakers, or cables containing oil for cooling or insulation purposes which are owned and operated by a public service company.	Any business or facility. Some examples include automotive service station, gasoline station, or fleet garage
2. The discharge to ground water of non-biodegradable wastes other than a discharge from: (A) a pump and treat system for ground water remediation, and (B) water treatment waste waters lawfully disposed of through a connection to publicly owned treatment works.	Any business or facility.
3. Car or truck washing, unless all waste waters from such activity are lawfully disposed of through a connection to publicly owned treatment works.	Car or truck washes.
4. Production or refining of chemicals, including without limitation hazardous materials or asphalt.	Chemical, petroleum, asphalt, or pesticide manufacturer.
5. Clothes or cloth cleaning service, which involves the use, storage, or disposal of hazardous materials including without limitation dry-cleaning solvents.	Dry cleaner.
6. Generation of electrical power by means of fossil fuels, except for (i) generation of electrical power by emergency generators, or (ii) generation of electrical power by means of natural gas or propane.	Fossil-fueled electric power producer.
7. Production of electronic boards, electrical components, or other electrical equipment involving the use, storage, or disposal of any hazardous material or involving metal plating, degreasing of parts or equipment, or etching operations.	Electronic circuit board, electrical components or other electrical equipment manufacturer.
8. On-site storage of fuel oil for the purpose of wholesale or retail sale.	Fuel oil dealer.
9. Embalming or crematory services which involve the use, storage, or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to publicly owned treatment works.	Funeral home or cremator.
10. Furniture stripping operations that involve the use, storage, or disposal of hazardous materials.	Furniture stripper.

11. Furniture finishing operations which involve the use, storage, or disposal of hazardous materials, unless all wastewaters from such activity are lawfully disposed of through a connection to publicly owned treatment works.	Furniture repair.
12. Storage, treatment, or disposal of hazardous waste.	Hazardous waste facility.
13. Clothes or cloth cleaning service for any industrial activity that involves the cleaning of clothes or cloth contaminated by hazardous material, unless all waste-waters from such activity are lawfully disposed of through a connection to publicly owned treatment works.	Industrial laundry.
14. Any biological or chemical testing, analysis or research which involve the use, storage, or disposal of hazardous material, unless all waste waters from such activity are lawfully disposed of through a connection to publicly owned treatment works, but on-site testing of a public water system by a public water utility is not a regulated activity.	Laboratory: biological, chemical, clinical, or educational; product testing; or research.
15. Pest control services that involve storage, mixing, or loading of pesticides or other hazardous materials.	Lawn care or pest control service.
16. Salvage operations of metal or vehicle parts.	Metal salvage yards, vehicle parts salvage yards, or junkyards.
17. Photographic finishing that involves the use, storage, or disposal of hazardous materials, unless all wastewaters from such activity are lawfully disposed of through a connection to publicly owned treatment works.	Photographic finishing laboratory.
18. Production, fabrication, of metal products which involves the use, storage, or disposal of hazardous materials including: (A) metal cleaning or degreasing with industrial solvents, (B) metal plating, or (C) metal etching.	Metal foundry, metal finisher, metal machinist, metal fabricator, or metal plator.
19. Printing, plate making, lithography, photoengraving, or gravure, which involves the use, storage, or disposal of hazardous materials.	Printer or publisher.
20. Pulp production, which involves the use, storage or disposal of any hazardous materials.	Pulp, paper, or cardboard manufacturer.
21. Accumulation or storage of waste oil, anti-freeze or spent lead-acid batteries.	Recycling facility, which accepts waste oil, spent antifreeze, or spent lead-acid batteries.
22. Any activity listed in this column that is conducted at a residence for compensation.	Residential occupations.
23. Production of rubber, resin cements, elastomers, or plastic, which involves the use, storage, or disposal of hazardous materials.	Rubber, plastic, fabric coating, elastomer, or resin cement manufacturer.
24. Storage of pavement de-icing chemicals unless such storage takes place within a weather -tight water-proof structure for the purpose of retail sale, or for the purpose of de-icing parking areas or access roads to parking areas for the premises where the storage occurs.	Salt storage facility.
25. The accumulation, storage, handling, recycling, disposal, reduction, processing, burning, transfer, or composting of solid waste except for a potable water treatment sludge disposal area.	Solid waste facility.
26. Finishing or etching of stone, clay, concrete or glass products, or painting of clay products, which activity involves the use, storage, or disposal of hazardous materials.	Stone, clay or glass products manufacturer.
27. Dying, coating, or printing of textiles, or tanning or finishing of leather, which activity involves the use, storage, or disposal of hazardous materials.	Textile mill, or tannery.
28. Repair or maintenance of automotive or marine vehicles or internal combustion engines of vehicles, involving the use, storage, or disposal of hazardous materials, including solvents, lubricants, paints, brake or transmission fluids, or the generation of hazardous wastes.	Vehicle service facilities, which may include: new or used car dealership; automobile body repair and/or paint shop; aircraft repair shop; automobile radiator, or transmission repair; boat dealer; recreational vehicle dealer; motorcycle dealer; automotive service station; fleet maintenance garage; or construction equipment repair or rental.
29. On-site storage of hazardous materials for the purpose of wholesale or sale.	Wholesale trade, storage or warehousing of hazardous substances, hazardous wastes, pesticides or oil or petroleum.
30. Production or treatment of wood veneer, plywood, or reconstituted wood, which involves the use, storage, or disposal of any hazardous material.	Manufacturer of wood veneer, plywood, or re-constituted wood products.
31. Chemigation or feedlot.	Farm or ranch.

- (d) Replacement of residential underground storage tanks that contain #2 fuel oil for heating and that are located less than 500 feet from the nearest public water system source is prohibited.
- (e) The provisions of this section are in addition to the restrictions applicable to a property within the SWPA by virtue of the underlying zoning of such property.

Sec. 20.1-4. New Regulated Activities; Application for an Exemption from Prohibition:

(a) The City Engineer may, upon application in accordance with the provisions of this section, exempt a new regulated activity from the provisions of subsection 20.1-3(a) if he finds that such activity does not or will not pose a threat of pollution to any existing or potential public water system source. The City Engineer shall not grant an exemption unless the owner of such activity clearly and convincingly demonstrates that—

- (1) a non-hazardous material has been permanently substituted for each hazardous material normally used in such activity; or
- (2) any hazardous material released into the ground from the facility or business would not render the ground water unsuitable for drinking without treatment.

(b) An applicant for an exemption under subsection (a) of this section shall submit an application therefor to the City Engineer on a form prescribed by him, and shall also submit a copy of such application to the First District Health Unit. The application shall, without limitation—

- (1) Provide a map showing the location of the new regulated activity;
- (2) Describe the purpose and nature of the new regulated activity, any associated processes, and the type and quantity of all materials used or produced or to be used or produced in connection therewith;
- (3) Demonstrate that the new regulated activity does not or will not pose a risk of pollution of the ground water;
- (4) Describe the nature, chemical composition, and means of disposal of any waste, including wastewater, generated or to be generated in connection with the new regulated activity and, if any wastewater is or will be discharged to a water of the state identify by means of an engineering drawing all points at which such discharge occurs or will occur;
- (5) Provide a pollution prevention plan to be implemented in connection with the new regulated activity;
- (6) Demonstrate that storm water discharge from the property at which the new regulated activity takes place is managed in a manner that prevents pollution of the ground water;
- (7) Provide any other information that the City Engineer reasonably deems necessary to determine whether the new regulated activity poses or may pose a threat to the ground water;

(8) Report any criminal conviction of the applicant involving a violation of any environmental protection law if such violation occurred within the five years immediately preceding the date of the application; and

(9) Report any civil penalty imposed against the applicant in any state or federal judicial proceeding, or any civil penalty exceeding five thousand dollars imposed against the applicant in any administrative proceeding, for a violation of any environmental protection law of North Dakota, any other state, or the United States, if such violation occurred within the five years immediately preceding the date of the application.

(c) The City Engineer shall not act upon an application under this section without affording reasonable opportunity for public comment by way of a public hearing, or the submission of written comments, or both.

(d) If under subsection (a) of this section, the City Engineer exempts a new regulated activity from the provisions of Subsection 20.1-3(a), he may impose reasonable conditions on the applicant, including without limitation requirements relating to—

- (1) performance bonds or other financial assurance that any pollution resulting from the permitted activity will be remediated to the City Engineer's satisfaction;
- (2) best management practices in addition to those set forth in Sec. 20.1-7;
- (3) ground water monitoring; and
- (4) record keeping.

Sec. 20.1-5. Registration of Existing Regulated Activities:

(a) Before July 1, 2001, each person who is engaged in an existing regulated activity shall, on a form prescribed by the City Engineer, register such activity with the City Engineer.

(b) The City Engineer in processing the registration may reasonably request information in addition to that required by this section. A registration shall include at least the following—

- (1) The name of the registrant; and if the registrant is an entity registered with the North Dakota Secretary of State, the exact name so registered;
- (2) The business telephone number and mailing address of (A) the registrant, and if the registrant is not the owner of the subject facility or business, the name, business, telephone number and mailing address of the owner of such facility or business, and (B) the manager or other individual who oversees operations at such facility or business;
- (3) The location of such business or facility, using street address or other appropriate method of location;
- (4) The nature of the business or facility, including any product or operations produced thereat;
- (5) A description of all raw materials, wastes, fuels, and chemicals transferred, treated, stored, utilized, generated or otherwise handled at such facility, including any hazardous material or hazardous waste, and the

maximum quantities of any such material, fuel, or chemicals so handled during any 12-month period in the past five years;

(6) A description of waste management practices at such facility and of potential sources of a release to the ground, including without limitation materials handling and storage areas, fuel handling and storage areas, process operation areas, floor drains, storm drains, and waste handling and storage areas, including waste treatment or disposal areas;

(7) A legible photocopy of each state, federal, and local authorization issued with respect to such facility or business or activities thereat; and

(8) A certification signed by the registrant that the new regulated activity is in compliance with the best management practices set forth in section 20.1-7(a) as follows:

"I have personally examined and am familiar with the information submitted in this registration and all attachments, and certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in this document or certification may be punishable as a criminal offense."

(c) If the City Engineer determines that a registration is incomplete, he shall reject the registration and notify the registrant of what additional information is needed and the date by which it must be submitted. If the registration is determined to be complete, the new regulated activity shall be deemed registered. Such registration shall be determined to be complete if the registrant has not received a notice of rejection from the City Engineer ninety (90) days from the date the registration is submitted.

(d) A registrant may transfer his or its registration to another person on a form prescribed by the City Engineer.

(e) No person to whom a registration under this section has been issued or transferred may modify the regulated activity so registered or initiate any other regulated activity on the property, which is the subject of such registration, except in accordance with Sec. 20.1-6.

(f) The City Engineer may require that the person to whom a registration has been issued, or transferred, prepare and adhere to a new materials management plan under 20.1-7(b)(1) for the new regulated activity if the City Engineer deems it necessary for pollution prevention.

Sec. 20.1-6. Permit for Modification of Registered Regulated Activity:

(a) Except as provided in subsections (b), (c) and (g) of this section, no person shall modify a registered regulated activity without having first received a permit therefor from the City Engineer.

(b) The following modifications of registered regulated activities may be made without a permit under this section—

- (1) Substitution of one hazardous material for another provided such substituted material is used for the same function and in equal or lesser amounts as the original material;
- (2) Substitution of equipment or process for equipment or process provided that such substituted equipment or process performs the same function as the original equipment or process, without increasing the storage volume of hazardous materials stored at the location of the registered activity;
- (3) Expansion of wholesale or retail sales volume which increases the use of hazardous materials but which does not increase the storage capacity for hazardous material, or the physical size of the subject facility or business, beyond that existing when the registered activity was registered; and
- (4) Initiation of an activity that is not a regulated activity.

(c) A registrant may modify a registered regulated activity to an activity which is not a regulated activity, provided the registrant, before commencing such modification, receives written confirmation from the City Engineer, that the proposed modifications will result in an activity which is not a regulated activity. A request for confirmation shall be made on a form provided by the City Engineer. Re-conversion of a modified regulated activity to its original unmodified form shall be deemed a new regulated activity for the purposes of section 20.1-4.

(d) To the extent practicable, an application for a permit under this section shall be handled procedurally, and shall contain the information required, as provided for in Sec. 20.1-4.

(e) A permit shall not be issued under this section unless the applicant demonstrates that the proposed modification will not cause an increase in the registrant's number of underground storage tanks, or the capacity of underground storage tanks, used to store hazardous materials. In addition to the information required under subsection (d), the applicant shall provide all of the following information, with respect to both the registered activity and the proposed modification—

- (1) The volumes of hazardous materials necessary used and to be used;
- (2) The solubility and other physical characteristics of hazardous materials used and to be used;
- (3) The safeguards the registrant uses and proposes to use for preventing release of such hazardous materials; and
- (4) With respect to each location at a facility where a modification is proposed, a signed certification by an Environmental Professional (EP), on a form provided by the City Engineer, that such EP has investigated such location to determine whether a release of pollutants has occurred there, and, if so, whether such release has been remediated in accordance with applicable law.

(f) A permit under this section shall not be issued unless an environmental audit has been satisfactorily completed by a professional engineer, or a certified hazardous materials manager, which audit demonstrates that the applicant is in compliance with all applicable environmental laws. Such audit shall include the following information at a minimum—

- (1) A confirmation that the business or facility has implemented best management practices required in Sec. 20.1-7 and has completed an approved materials management plan in accordance with Sec. 20.1-7(b) for both the registered activity and the proposed modified activity;
- (2) A process flow diagram identifying where hazardous materials are stored and used on the subject property, and where on such property hazardous wastes are generated and subsequently stored and disposed for both the registered activity and the proposed modified activity;
- (3) A list of all federal and state environmental laws applicable to the registered regulated activity, indicating whether the applicant is in compliance with each such law; and
- (4) A pollution prevention plan for the subject facility or business for the proposed modified activity and a schedule to implement such plan; and
- (5) The following certification signed by the applicant and the professional engineer or certified hazardous materials manager responsible for preparing the application, each of whom shall certify as follows:

"I have personally examined and am familiar with the information submitted in this application and all attachments, and I certify that, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that a false statement made in the submitted information, or this certification, may be punishable as a criminal offense."

(g) With the written consent of the City Engineer, a registered regulated activity may be modified without a permit under this section, provided that a professional engineer or a certified hazardous materials manager certifies on a form provided by the City Engineer that—

- (1) The modification will not increase the registrant's capacity to store hazardous materials;
- (2) The modification will not increase the registrant's number of underground storage tanks, or the capacity of underground storage tanks, used to store hazardous materials; and
- (3) The registrant has implemented the best management practices prescribed in Sec. 20.1-7, including the completion of an approved materials management plan for the modified activity in accordance with Subsection 20.1-7(b).

(h) The City Engineer shall not act upon a request under subsection (g) without affording reasonable opportunity for public comment, by way of a public hearing, or the submission of written comments, or both.

Sec. 20.1-7. Best Management Practices for Regulated Activities:

- (a) Every regulated activity shall be conducted in accordance with the following—

(1) Hazardous materials may be stored within the SWPA only in accordance with the following conditions—

(A) Hazardous material shall be stored in an enclosed structure or under a roof which minimizes storm water entry to the containment area, except that a roof is not required for a bulk storage facility as defined in Sec. 20.1-1;

(B) Floors within a structure where hazardous material may be stored shall be coated to protect the surface of the floor from deterioration due to spillage of any such material. A structure, which may be used for storage or transfer of hazardous material, shall be protected from storm water run-on and ground water intrusion.

(C) Hazardous material shall be stored within an impermeable containment area which is capable of containing at least the volume of the largest container of such hazardous material present in such area, or 10% of the total volume of all such containers in such area, whichever is larger, without overflow of released hazardous material from the containment area;

(D) Hazardous material shall be stored in a manner that will prevent the contact of chemicals with such materials so as to create a hazard of fire, explosion or generation of toxic substances;

(E) Hazardous material shall be stored only in a container that has been certified by a state or federal agency or the American Society of Testing Materials as suitable for the transport or storage of such material; and

(F) Hazardous material shall be stored only in an area that is secured against entry by the public;

(2) The requirements of subdivision (1) of this subsection are intended to supplement, and not to supersede, any other applicable requirements of federal, state, or local law, including applicable requirements of the Resource Conservation and Recovery Act of 1976, as amended;

(3) Use, maintenance, or installation of floor drains, dry wells, or other infiltration devices or appurtenances, which allow the release to the ground of wastewater is prohibited; and

(4) No substance or material shall be discharged or injected into the ground in the SWPA unless such activity is permitted by law.

(b) The City Engineer, if deemed necessary to protect the SWPA, may require by written notice any registrant to submit for written approval a Materials Management Plan and to implement such plan once it is approved. If required, a Materials Management Plan shall be submitted to the City Engineer within 180 days of such request. The plan shall contain at a minimum the following information—

(1) A pollution prevention plan of such scope and covering such matters as the City Engineer may reasonably prescribe;

(2) An inventory of all hazardous materials which are or will likely be manufactured, produced, stored, utilized or otherwise handled at the subject property;

(3) a description of waste, including waste waters, generated by the regulated activity and a description of how they are handled, stored, and disposed;

(4) A description of any operations or practices associated with the regulated activity, which may pose a threat of pollution to the ground water within the SWPA;

(5) The name, mailing address, title and telephone number of the individual(s) responsible for implementing the Materials Management Plan and the individual(s) who should be contacted by the City in an emergency;

(6) A record-keeping system — open to inspection by the City Engineer or his delegate during the registrant's business hours — which accounts for the types, quantities, and disposition of hazardous materials which are used, stored, or otherwise handled at the subject property or which are discharged or emitted there from; and

(7) An emergency response plan used to respond to a release at the subject property due to a fire, explosion, earthquake, flood, or a storm. Such plan shall describe how each such event could result in a release to the groundwater and shall set forth the methods used or to be used to prevent and abate any such a release.

(c) The City Engineer may, if it is deemed necessary to protect a public water system source from pollution, require by written notice, that any registrant, any person who has received an exemption to conduct a new regulated activity under Sec. 20.1- 6, or any applicant for a permit, submit for written approval a storm water management plan and implement such plan once it is approved. A storm water management plan shall consist of information to assure that storm water run-off generated by the subject activity is managed in a manner so as to prevent pollution of ground water and surface water.

Sec. 20.1-9. Doctrine of Prior Valid Non-Conforming Use Inapplicable; Variance Unavailable; Other Laws:

(a) Chapter 25 shall be inapplicable to matters within the scope of this chapter, as protection of established rights is provided for in this chapter in a manner more consistent with the public purposes of this chapter than would be provided by Chapter 25.

(b) The Board of Adjustment shall have no jurisdiction to vary or waive any of the provisions of the chapter, notwithstanding anything to the contrary in Chapter 26.

(c) Nothing in any exemption issued under section 20.1-4, any registration submitted under 20.1-5, or any modification allowed under section 20.1-6 shall relieve any person of any other obligations under federal, state, or local law.

Sec. 20-10. Domestic and Agricultural Exemptions:

(a) Nothing in this chapter shall be construed as prohibiting the use or storage of substances or products typically used for domestic purposes in an ordinary household, as long as the quantities used or stored do not exceed the amounts customarily used or stored in such a household, and the activities which employ such substances or products are likewise typical of activities occurring within an ordinary household. Thus, for example, it is permissible for one to change the oil in one's own private vehicle at home.

(b) Except with respect to chemigation, nothing in this chapter shall be construed as prohibiting the use or storage of substances or products typically used in agricultural operations, as long as the quantities used or stored do not exceed the amounts customarily used or stored on a farm or ranch of approximately the same size as that to which this exemption applies or is sought to be applied.

CHAPTER 21 -- HEIGHT, AREA AND YARD REQUIREMENTS

Sec. 21-1. General Principles:

- a)
 - 1) No structure shall be erected, no change of lot boundaries shall be permitted, and no change of ownership allowed which will result in a violation of this ordinance.
 - 2) No lot in an R-1 or R-A district may have more than one building (other than accessory buildings) wholly or partially located thereon.
 - 3) No boundaries of a lot, upon which lot there rests a structure or structures, shall be altered in such a manner that a violation of paragraph 1) above would have occurred if the boundaries as altered had first been established and then the structure or structures built, instead of the other way around.
 - 4) No change in ownership or control of two or more lots or sublots, upon one or more of which lots or sublots rests a structure or structures, shall be made in such a manner that a violation of paragraph 1) above would have occurred if the change in ownership or control had occurred before the building of the structure or structures, instead of the other way around.
- b) For purposes of this Chapter, the erection of a structure shall include 1) moving a structure upon a lot, whether or not it is placed upon a permanent foundation, or 2) any alteration to an existing structure which changes any of its exterior dimensions.
- c) A lot for purposes of this zoning ordinance may consist of two or more contiguous lots under common ownership or control, as long as the contiguous lots remain under common ownership or control.
- d)
 - 1) In measuring distances for purposes of determining whether a structure is located within a required yard there shall be used the shortest horizontal distance between any point on the structure to which the measurement relates and the appropriate lot line to which the measurement is made.
 - 2) For purposes of this subsection d) the following items wherever located on a lot shall not be considered to be structures: flag poles, ornamental lights, chimneys and fences.
 - 3) For purposes of this subsection d) the following items if located in a required side yard or rear yard shall not be considered to be structures: clotheslines, utility poles, barbecues, detached fireplaces, propane or fuel oil storage tanks, aerials or antennas including specifically satellite television dishes.
 - 4) If a structure has a wall or a portion thereof which corresponds to a wall (as, for example, the posts supporting a carport) then for purposes of this subsection d) the measurement shall be to an appropriate point in the wall or its equivalent.
 - 5) The following projections from buildings are allowed: Eaves may extend into a minimum required side yard to the extent of one-fourth (1/4) thereof or three (3) feet, whichever is less, and into the minimum required front or minimum required rear yard to the extent of five (5) feet. These limitations are applicable notwithstanding anything to the contrary in the Building Code of the Code of Ordinances. Other projections such as oriel windows, sills, cornices, and other decorative works may not project beyond the point to which eaves could be projected. An attached unroofed porch, landing or stairs and associated railings may

project beyond the eaves as long as the projection into a minimum required side yard does not exceed five (5) feet or up to two and one-half (2 1/2) feet from the nearest side lot line, whichever is less, and as long as the projection into the minimum required front yard or minimum required rear yard does not exceed ten (10) feet. An awning may project into a minimum required yard two-thirds (2/3) of the height of the window it protects or up to two and one-half (2 1/2) feet from the nearest lot line, whichever is less.

- e) If more than one lot line abuts a street (other than an alley) then the owner of the lot may designate which of these lot lines shall be considered the front lot line as long as he can do so in conformity with the requirements of this zoning ordinance. Otherwise, if only one lot line abuts on a street, (other than an alley) that lot line shall be considered the front lot line. The above “owner designation” is for building configuration purposes only. Front yard setbacks are covered in Sec. 21-4.

Sec. 21-2. Regulations:

- a) Table of Height, Area, and Yard Requirements (See Exhibit 1).
- b) The rules set forth in the various use district chapters and in the Table of Height, Area and Yard Requirements are modified as follows:
- 1) If a building (other than an accessory building) is erected upon a non-rectangular lot A) the building may be erected no closer to any lot line than the minimum side yard width; B) the building may be erected no closer to the front lot line than the minimum front yard depth; and C) at least one point on a lot line, other than the front lot line, must be no closer to the building than the minimum rear yard depth.
 - 2) The two dwelling townhouses permitted in the R-2B, R-2 and R-3B and R-3 districts shall be constructed so that the two abutting lots taken together, along with the structures erected thereon, meet the height, area and yard requirements imposed by the R-2B, R-2, R-3B and R-3 chapters and by this chapter with respect to a duplex located in the same district and each dwelling unit is served by its own independent water, sewer, heat and other utility service.
 - 3) The R-2B and R-3B districts are available only for those lots platted prior to July 1, 1980. No new plats for residential construction shall be allowed on or after July 1, 1980, with areas less than the requirements for the R-2 district (with the exception of an R-3C Townhouse District).

Sec. 21-3. Height Exceptions And Modifications:

The height regulations prescribed herein and elsewhere in this zoning ordinance shall not apply to television, radio and other communications towers, church spires, belfries, monuments, tanks, water and fire towers, stage towers and scenery lofts, cooling towers, ornamental towers and spires, chimneys, elevator bulkheads, smokestacks, conveyors, flag poles, and grain storage elevators.

Sec. 21-4. Special Rules Concerning Front Yards:

- a) When forty percent (40%) or more of the frontage on one side of the street between two intersecting streets is improved with buildings that have a front yard which is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a front yard depth shall not be required to exceed fifty percent (50%) in excess of the front yard otherwise required in the district in which the lot is located. The frontage percentage shall be determined by the summation of the length of the front walls of all existing buildings in the block divided by the total lot frontage in the block. This paragraph shall not pertain to property located in the C-2 General Commercial District except where the average front yard is determined to be less than twenty-five (25) feet.
- b) On lots having double street frontage the required front yard shall be provided on both streets.
- c) On a corner lot the width of the yard along any street shall not be less than any required front yard on such street, provided, however, that the buildable width of a lot of record as of November 3, 1958, shall not be reduced to less than thirty-two (32) feet.
- d) Off-street parking facilities may be located within the required front yard of any "C" or "M" district. No required off-street parking spaces may be located in the required front yard of any "R" district.

Sec. 21-5. Special Rules Concerning Side Yards:

- a) Where a lot of record as of November 3, 1958, is fifty (50) feet or less in width the required side yard may be reduced to ten percent (10%) of the width of the lot, provided, however, that no side yard shall be less than three (3) feet.
- b) In the case of a corner lot the side yards on the interior lot lines shall be the minimum side yard required in the district in which the lot is located.

Sec. 21-6. Special Rule Concerning Accessory Buildings:

No accessory building shall be permitted on any lot prior to the erection of the primary use structure thereon. Also, accessory buildings shall be subordinate to the existing primary building or use, regardless of the zoning district in which the primary building or use is located. For example, a subordinate building to a single-family dwelling (use) in an R-3 District shall comply with the accessory building regulations in Chapter 5.

Sec. 21-7. Other Exceptions:

- a) Where a lot of record as of November 3, 1958, has less area or width than herein required in the district in which it is located, and it is not now possible to treat the lot as one of two or more contiguous lots for purposes of Section 21-1, and it was never so possible at any time subsequent to November 3, 1958, the lot may nonetheless be used for a one family dwelling or for any non-dwelling use permitted in the district in which it is located.
- b) Notwithstanding anything in this chapter to the contrary, an accessory building may be erected in a minimum required side yard or minimum required rear yard subject to the

following limitations, which limitations are applicable notwithstanding anything to the contrary in the Building Code of the Code of Ordinances.

- 1) The walls or equivalent part thereof (e.g. posts or pillars supporting a carport roof) may not be located less than three (3) feet from any lot line, nor closer than six (6) feet from the wall or equivalent of any other building on the same lot, nor closer to the front lot line of the lot upon which the accessory building is located than the minimum front yard depth applicable to the lot. However, a detached garage facing a front yard may have a front yard depth equal to the front yard depth of the primary building on the lot, except the front yard for the detached garage shall not be less than eighteen (18) feet.
 - 2) The eaves and other parts of the accessory building which project beyond the walls or the equivalent of the accessory building may not extend more than four (4) feet beyond such walls, nor within two (2) feet of any property line, nor within two and one-half (2 1/2) feet (measured horizontally) of any part of any other building on the same lot.
 - 3) The walls or equivalent of a garage for which the vehicle entry door or doors face the alley must be at least eighteen (18) feet from the alley lot line.
- c) The walls or equivalent of an addition to an existing building may be constructed so that the walls or equivalent of the addition have the same front yard depth as the existing building. Where the addition is a garage facing the front yard, the front yard for the garage shall not be less than eighteen (18) feet.

Sec. 21-8. Required Landscaping:

(a) This section shall apply to new development within all zoning districts other than “R” districts, the “MH” district, and the C-3 District, unless the new development consists of a multifamily dwelling containing more than four dwelling units, in which case this section shall apply without regard to the district in which such multifamily new development occurs.

(b) Townhouses and condominiums shall be exempt from these requirements.

(c) As used in this section the following terms shall have the following meanings --

“Development area” means the area of the lot being developed to be occupied by all structures, parking, walkways, access drives and required building setbacks which in total constitute all features to make the development complete.

“Landscaping” means the planting, placement, or installation (in accordance with the Landscape Construction Reference Manual published by the Minnesota Nursery and Landscape Association as a standard) of:

- (1) shade trees, evergreen trees, ornamental trees, shrubs, grass, flowers, and other live organic ground coverings;
- (2) associated inorganic or dead organic materials such as decorative rock, gravel, stones, flatwork, bark chips and the like; and

- (3) ponds, fountains, picnic areas, playgrounds, and similar amenities.

“New development” means the improvement of a vacant lot by the erection of a structure, whether the lot is vacant because it never has been improved, or because of the demolition of existing improvements thereon.

(d) A building permit for new development shall not be issued unless the application for such permit includes therein a plan or provision for the development to include associated therewith the installation of landscaping equal to at least 5 per cent in area of the development area.

(e) The plan or provision for landscaping called for in subsection (d) must contain the following elements:

(1) trees, shrubs, grass, flowers or other live organic ground coverings in any combination; and

(2) no more than 20% of the area required to be landscaped will consist of decorative rock, gravel, stones, flatwork, bark chips or similar inorganic or dead organic material.

(f) At the election of the landowner, up to one-half of the required landscaped area may be considered as though it were part of a parking lot, for purposes of compliance with the mandatory minimum off-street parking requirements imposed by Chapter 23 (although no portion of such area may be actually parked upon, except in the course of installing and maintaining landscaping).

(g) Unless an issued building permit for new development is abandoned, the owner of the premises to which it relates shall accomplish the installation of landscaping, substantially as indicated in the application for such permit, within two years of the grant of the permit, unless, for good cause shown and after the holding of a public hearing, the City Council of the City of Minot extends the time for such installation upon such terms and conditions — including the giving of security — as it may impose.

(h) Upon the installation of landscaping, which is required by this section, the landowner or other person lawfully in possession of the premises subject to such landscaping requirement shall be under a continuing obligation to exert a reasonable good faith effort to preserve and maintain such landscaping in good health and appearance.

(i) Compliance with the requirements of this section shall be considered a continuing condition for the lawful occupancy and use of the premises to which this section applies, so that upon the failure to comply with such condition the City shall be entitled to order — and to enforce by way of injunctive relief, if necessary — the whole or partial vacation and abandonment of such premises.

EXHIBIT 1 - SECTION 21-2(a) NOTE: Section numbers shown indicate exceptions or references.

DISTRICT	MAXIMUM HEIGHT OF STRUCTURE		21-4 MINIMUM DEPTH OF FRONT YARD	21-5 & 21-7 MINIMUM WIDTH OF SIDE YARDS	21-6 MINIMUM DEPTH OF REAR YARDS	21-7(a) MINIMUM LOT AREA	MINIMUM LOT WIDTH/DEPTH
	Stories	Feet	(IN FEET)	(IN FEET)	(IN FEET)	(IN SQUARE FEET)	(IN FEET)
R-1	-	35	25	6.5	20	7,500	21-5(a) 65/85
R-A	-	35	35	20	35	87,000 (2 acres)	50/150
R-2	-	35	25	21-2(b)(2) 6	25	7,000	60/85
21-2(b)(3) R-2B	-	35	25	21-2(b)(2) 5	25	5,000	50/85
R-3	3	45	25	21-2(b)(2) 6	25	5,000-1family dwelling 7,000-2 family dwelling 2,000-addn'l for each family dwelling over 3	
21-2(b)(3) R-3B	3	45	25	21-2(b)(2) 5	25	5,000 - 1-2 family dwelling 6,000-3 family dwelling 2,000-addn'l for each family dwelling over 3	50/85
R-3C	-	35	25	8-4(c)	20	2,500	16/100

EXHIBIT 1 - SECTION 21-2(a) NOTE: Section numbers shown indicate exceptions or references.

DISTRICT	MAXIMUM HEIGHT OF STRUCTURE Stories Feet	21-4 MINIMUM DEPTH OF FRONT YARD (IN FEET)	21-5 & 21-7 MINIMUM WIDTH OF SIDE YARDS (IN FEET)	21-6 MINIMUM DEPTH OF REAR YARDS (IN FEET)	21-7(a) MINIMUM LOT AREA (IN SQUARE FEET)	MINIMUM LOT WIDTH/DEPTH (IN FEET)
R-4	----- REFER TO CHAPTER 9 ----- (PLANNING COMMISSION MUST APPROVE CONSTRUCTION PLANS PRIOR TO BUILDING PERMIT ISSUANCE)					
MH	----- REFER TO CHAPTER 17 -----					
C-1	- 35	25	10-5(c) None	10-5(c) None	10-5(d) None	10-5(c) None
C-2	- 60	25	11-4(c) None	11-4(c) None	11-4(d) None	11-4(e) None
C-3	- 150	12-4(c)	12-4(c)	12-4(c)	12-4(d)	12-4(e) None
C-4	----- REFER TO CHAPTER 13 ----- (PLANNING COMMISSION MUST APPROVE CONSTRUCTION PLANS PRIOR TO BUILDING PERMIT ISSUANCE)					
AG	19-4(A) None	35	35	35	20 Acres	19-5(e) None
M-1	- 90	25	14-5(c)	14-5(c)	10,000	50/100
M-2	15-6(a) No Limit	25	15-6(c)	15-6(c)	10,000	50/100
P	----- REFER TO CHAPTER 16 -----					
O	----- REFER TO CHAPTER 18 -----					

(Ord. 3799)

CHAPTER 22 -- (Reserved for future use.)

CHAPTER 23 -- OFF-STREET PARKING AND LOADING REQUIREMENTS

Sec. 23-1. Off-Street Parking Requirements:

In all districts off-street parking shall be provided and thereafter maintained at any time any building or structure is erected or structurally altered, except as provided in Section 23-2, in accordance with the following formula, provided, however, this chapter does not apply to the C-3 district.

- a) Dwellings, including single, two-family multiple, or townhouses: two parking spaces per each dwelling unit.
- b) Rooming or boarding houses: one parking space for each two sleeping rooms.
- c) Fraternity or sorority: one off-street motor vehicle parking space for every 200 square feet of floor area of the fraternity or sorority house, including developed and livable areas in the basement.
- d) Private club or lodge: two parking spaces for the first one thousand (1,000) Gross Square Feet of Leasable Area and one parking space for every one hundred (100) Gross Square Feet of Leasable Area thereafter.
- e) Church or temple: one parking space for each four seats in the main auditorium.
- f) School (except high school or college): one parking space for each ten seats in the auditorium or main assembly room, or one space for each classroom, whichever is greater.
- g) College or high school: ten spaces for each classroom.
- h) Country club or golf club: A minimum of fifty spaces. In addition, with respect to buildings suitable for assembly, two parking spaces for the first one thousand (1,000) Gross Square Feet of Leasable Areas and one parking space for every one hundred (100) Gross Square Feet of Leasable Area thereafter.
- i) Community center, library, museum or art gallery: Ten parking spaces plus one additional space for each three hundred (300) Gross Square Feet of Building Area in excess of 2,000 square feet.
- j) Hospital: 1.5 parking spaces for each bed.
- k) Sanitarium, convalescent home, home for the aged or similar institutions: one parking space for each four rooms.

- l) Theater or auditorium (except school): one parking space for each four seats or bench seating spaces.
- m) Sports arena, stadium, or gymnasium: one parking space for each five seats or seating spaces.
- n) Hotel, motel: one parking space per room.
- o) Hotel, motel with convention facilities or lounge or restaurant: one parking space per room plus 1.5 parking spaces per each 100 square feet of gross floor area of the other uses.
- p) Dance hall, assembly or exhibition hall without fixed seats: one parking space for each one hundred (100) square feet of floor area used therefor.
- q) General business or professional office: three parking spaces for each one thousand (1,000) gross square feet of building area.
- r) Bank: four parking spaces for each one thousand (1,000) gross square feet of building area.
- s) Medical/Dental clinic: four parking spaces for each one thousand (1,000) gross square feet of building area.
- t) Bowling alley: five parking spaces for each lane.
- u) Mortuary or funeral home: one parking space for each 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms.
- v) Supper club, night club or similar establishment: Sixteen parking spaces for each one thousand (1,000) gross square feet of leasable area or one parking space for each two seats, whichever is greater.
- w) Family restaurant: nine parking spaces for each one thousand (1,000) gross square feet of leasable area or one parking space for each three seats, whichever is greater.
- x) Fast-food restaurant: twelve parking spaces for each one thousand (1,000) gross square feet of leasable area or one parking space for each two seats, whichever is greater.
- y) Shopping center, retail store or personal service establishment, except as otherwise specified herein: one parking space for each two hundred (200) gross square feet of leasable area.
- z) Supermarket: one parking space for each two hundred fifty (250) gross square feet of leaseable area.
- aa) Convenience store: four parking spaces per 1,000 gross square feet.

- bb) Furniture of appliance store, hardware store, wholesale establishment, machinery or equipment sales and service, clothing or shoe repair or service shop: two parking spaces plus one additional parking space for each three hundred (300) gross square feet of leasable area.
- cc) Industrial Park: 1.5 parking spaces per 1,000 gross square feet or 0.75 spaces per employee, whichever is greater.
- dd) Warehousing: one space per 2,000 gross square feet or one space per employee, whichever is greater.
- ee) Printing or plumbing shop or similar service establishment: one parking space for each three persons employed therein.
- ff) Manufacturing or industrial establishment, research or testing, creamery, bottling plant, or similar establishment: 1.6 spaces per 1000 gross square feet or 0.73 spaces per employee, whichever is greater.
- gg) Commercial airport: 8.5 spaces per daily airplane movement or 0.85 spaces per enplaning passenger day, whichever is greater.
- hh) Roller/ice skating rink: 5.8 spaces per 1,000 gross square feet.
- ii) Government offices: 3.85 spaces per 1,000 gross square feet.
- jj) Discount store: 4 spaces per 1,000 gross square feet.
- kk) Quality restaurant: 16 spaces per 1,000 gross square feet or 0.5 spaces per seat, whichever is greater.

Sec. 23-2. Computations:

In computing the number of such parking spaces required, the following rules shall govern:

- a) “Gross Square Feet of Building Area” shall mean the sum of the areas at each floor level, including cellars, basements, mezzanines, penthouses, corridors, lobbies, stores and offices included within the principal outside faces of exterior walls.
- b) “Gross Square Feet of Leasable Area” shall mean the total building area designed for tenant occupancy and exclusive use, including basements, mezzanines or upper floors.
- c) Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.
- d) The parking space requirement for a use not specifically mentioned herein shall be the same as required for a use of similar nature.

- e) Whenever a building or use constructed or established after November 3, 1958, is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change. Whenever a building or use existing prior to November 3, 1958, is enlarged to the extent of 50 percent or more in floor area or in the area used, said building or use shall then and thereafter comply with the parking requirements set forth herein.
- f) Unless otherwise specified in the Chapter and in the case of mixed used, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- g) Parking spaces required by this Chapter may be shared by two or more buildings or uses if it reasonably appears that ordinarily the patrons of one building or use will not use the spaces at the same time as the patrons of the other buildings or uses involved in the sharing agreement, as for example, by way of illustration and not by limitation, a retail store sharing parking spaces with a church or a theater or dance hall sharing parking spaces with a bank. In order to avail themselves of this exception the parties must enter into a written agreement providing for the sharing of parking spaces as herein provided for a period of time co-extensive with the projected lifetime of the building or uses sharing the parking, which written agreement shall be recorded in the office of the Register of Deeds. Shared parking allowed by this section shall comply with the distance requirements in Section 23-3(2) but shall not be separated from the uses or buildings by any public street.

Sec. 23-3. Off-Street Parking Locations; Exceptions:

All parking spaces required herein shall be located on the same lot as the building or use which by its existence requires the spaces to be established and maintained, provided, however, that the spaces may be provided in whole or in part upon another lot if -

- 1) The use of the lot or an appropriate portion thereof is assured for a period of time co-extensive with the projected life of the building or use served by the parking, by means of a written agreement recorded in the office of the Register of Deeds or by common ownership of the parking lot and the building or use served thereby; and
- 2) The distance between i) the entrance to the building or use served by the parking lot which is nearest to the parking lot and ii) the parking space in the parking lot farthest from the entrance does not exceed -
 - A) In the case of residential building, one hundred fifty (150) feet, or
 - B) In the case of non-residential buildings, three hundred (300) feet.

Sec. 23-4. Loading Space Requirements:

Every building or part thereof erected or occupied for retail business, service, manufacturing storage, warehousing, hotel, mortuary or any other use similarly involving the receipt or distribution

by vehicles of materials or merchandise, shall provide and maintain on the same premises loading spaces in accordance with the following requirements:

- a) In the “C-1” and “C-2” Commercial Districts and in the “M-1” and “M-2” Industrial Districts one loading space for each ten thousand (10,000) square feet or fraction thereof of gross floor area in the building.
- b) In the “C-3” Central Business District, one loading space for the first 15,000 square feet or fraction thereof of floor area in the building and one additional loading space for each fifteen thousand (15,000) square feet or fraction thereof of floor area in excess of fifteen thousand (15,000) square feet.

Sec. 23-5. Parking Lot Design Standards:

- a) Parking space defined: a parking space is an area, enclosed in the main building or in an accessory building, or unenclosed, exclusive of driveways, which is used on a regularly recurring basis for the parking of a motor vehicle and which is connected—
 - (1) immediately, or
 - (2) by an access driveway, or
 - (3) by a combination of an aisle or aisles and an access driveway—with a street or alley.
- b) Parking lot defined: a parcel of land (or combined parcels of land under common ownership or control) which contains five or more parking spaces, along with any associated access driveway and any associated aisle or aisles.
- c) Parking lot design standards are shown in Table 23-5(a) and 23-5(b) for 9 foot and 10 foot parking spaces respectively. Required parking space width will be determined by the Traffic Engineer according to proposed land use. For example, 10 foot wide spaces will be required for high parking turnover uses such as retail sales, while 9 foot wide spaces will be required for low parking turnover uses such as office or employee parking lots.
- d) Except in the AG, RA, R1 and R2 districts, a parking lot must be hard-surfaced so as to be free of dust and mud.
- e) Each parking space therein which is intended to be used by the public, shall be delineated by paint stripes or other materials satisfactory to the Traffic Engineer.
- f) Within the city limits, any portion of an access drive that is located within a public right of way shall be constructed of Portland cement concrete or asphalt concrete in accordance with the standard specifications of the City of Minot.
- g) Parking lot design, including specifically but without limitation, the location of access drives within a public right of way, must be approved by the Traffic Engineer.

NOTE: This section shall become effective in respect to parking spaces and parking lots that come into existence after June 30, 2003. (Ord. No. 3753)

Table 23-5(a): PARKING LAYOUT DIMENSIONS - 9 FOOT STALL

Minimum Permitted Dimensions	Parking Angle in Degrees				
	0° (parallel)	45°	60°	75°	90°
Stall Width at Parking Angle (SW)	9.0'	9.0'	9.0'	9.0'	9.0'
Stall Width Parallel to Aisle (WP)	18.0' ³	12.7'	10.4'	9.3'	9.0'
Stall Depth to Wall (D)	9.0' ¹	19.1' ¹	20.1'	19.7' ¹	18.0' ¹
Stall Depth to Interlock (DI)	-	12.7'	15.6'	17.4'	-
Stall Length (incl. 1.5' curb overhang) (SL)	18.0'	18.0'	18.0'	18.0'	18.0'
Aisle Width (AW)	15.0' ²	15.0' ²	18.0' ²	22.0' ²	26.0' ²
Parking Module Width (PMW):					
Wall to Wall (Single-Loaded) (W1)	24.0'	34.1'	38.1'	41.7'	44.0'
Wall to Wall (Double Loaded) (W2)	33.0'	53.2'	58.2'	61.4'	62.0'
Wall to Interlock (double Loaded) (W3)	-	46.8'	53.7'	59.1'	-
Interlock to Interlock (Double Loaded) (W4)	-	40.5'	49.2'	56.8'	-

- ¹ Parking spaces located behind an enclosed garage & located directly off a through aisle shall be at least 30 feet deep.
- ² This dimension represents (AW) for one-way traffic. for two-way traffic, add 8.0 feet to a maximum (AW) of 26.0 feet.
- ³ End spaces only. Interior spaces shall be 22.0'

Diagram for Table 23-5(a): TYPICAL PARKING LAYOUT DIMENSIONS

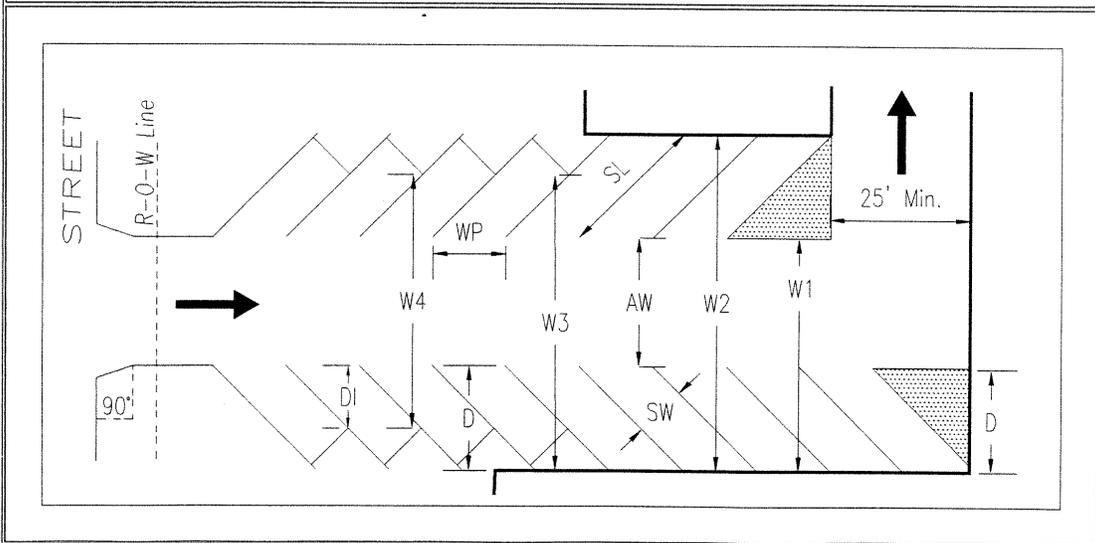
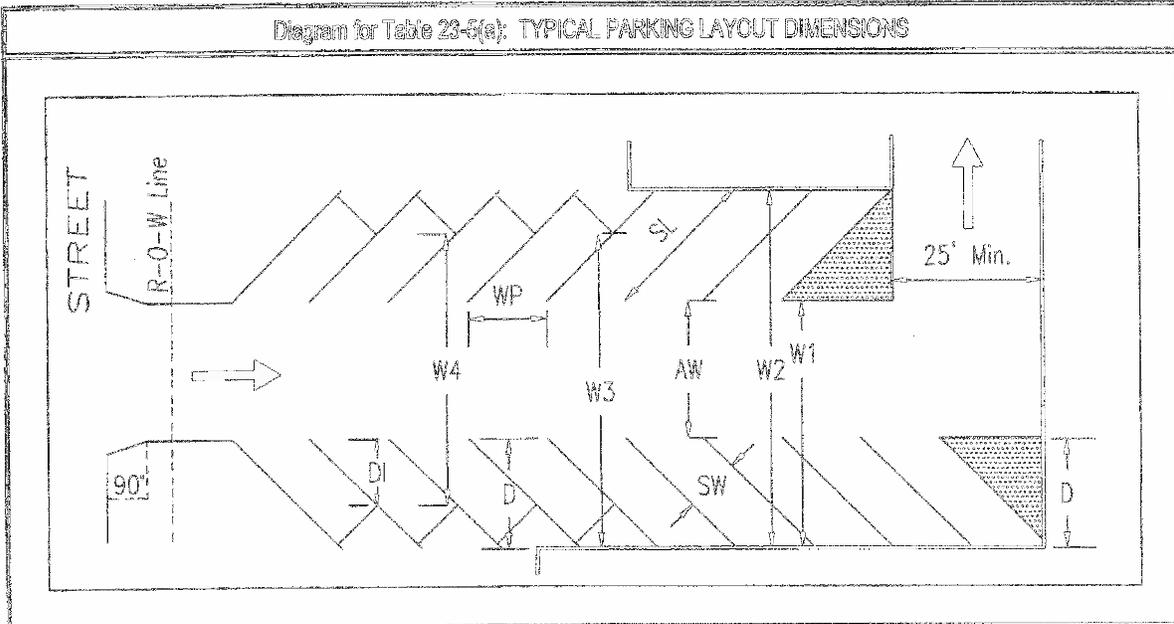


Table 23-5(b): PARKING LAYOUT DIMENSIONS - 10 FOOT STALL

Minimum Permitted Dimensions	Parking Angle in Degrees				
	0° (parallel)	45°	60°	75°	90°
Stall Width at Parking Angle (SW)	10.0'	10.0'	10.0'	10.0'	10.0'
Stall Width Parallel to Aisle (WP)	18.0' ³	14.2'	11.5'	10.4'	10.0'
Stall Depth to Wall (D)	10.0' ¹	19.8' ¹	20.6' ¹	20.0' ¹	18.0' ¹
Stall Depth to Interlock (DI)	-	12.8'	15.6'	17.4'	-
Stall Length (incl. 1.5' curb overhang) (SL)	18.0'	18.0'	18.0'	18.0'	18.0'
Aisle Width (AW)	15.0' ²	15.0' ²	18.0' ²	22.0' ²	26.0' ²
Parking Module Width (PMW):					
Wall to Wall (Single-Loaded) (W1)	25.0'	34.8'	38.6'	42.0'	44.0'
Wall to Wall (Double Loaded) (W2)	35.0'	54.6'	59.2'	62.0'	62.0'
Wall to Interlock (double Loaded) (W3)	-	47.5'	54.1'	59.4'	-
Interlock to Interlock (Double Loaded) (W4)	-	40.5'	49.2'	56.8'	-

¹ Parking spaces located behind an enclosed garage & located directly off a through aisle shall be at least 30 feet deep.
² This dimension represents (AW) for one-way traffic. for two-way traffic, add 8.0 feet to a maximum (AW) of 26.0 feet.
³ End spaces only. Interior spaces shall be 22.0'

Diagram for Table 23-5(a): TYPICAL PARKING LAYOUT DIMENSIONS



CHAPTER 24 -- SPECIAL USE REGULATIONS

Sec. 24-1. Special Uses:

- a) The City Council by an affirmative two-thirds vote of all its members may, by resolution, grant a special use permit for the following special uses in any district, except as herein qualified, which uses are otherwise prohibited by this ordinance, and may impose appropriate conditions and safe guards including a specified period of time for the permit, to protect the comprehensive plan and to conserve and protect property and property values in the neighborhood.
- 1) airport, landing field or landing strip for aircraft, except that this use is permitted in the "P" District.
 - 2) amusement park, but not within 300 feet of any "R" district.
 - 3) cemetery or mausoleum.
 - 4) circus or carnival grounds but not within 300 feet of any "R" district.
 - 5) commercial recreational or amusement development for temporary or seasonal periods, except that this use is a permitted use in the "C-2" District.
 - 6) hospital, clinic, or institution, provided that any hospital, clinic, or institution placed on property within any "R" district shall maintain and observe such setback requirements, open space requirements, and height restrictions as are imposed upon a structure built solely for residential purposes within the same district, or such greater restrictions as may be imposed in the special use permit. These uses, however, are permitted uses in the "C-3" District.
 - 7) private club or lodge, the chief activity of which is a service customarily carried on as a business, except that this use is permitted in the "C-2" and "C-3" Districts.
 - 8) privately operated community building.
 - 9) any public or government building, except this use is a permitted use in the "P" District.
 - 10) radio or television broadcasting tower or station.
 - 11) tourist shelter camp or recreational vehicle campground.
 - 12) drive-in theater in the "C-2" District or "M" Districts.
 - 13) off-street motor vehicle parking in any "R" zone for adjoining commercial premises.
 - 14) rabbitries.
 - 15) storage or handling of hazardous materials, hazardous substances, or hazardous waste as those terms are defined in Title 49 of the Code of Federal Regulations at Sec. 171.8, if the amount of the hazardous material, hazardous substance, or hazardous waste on particular premises at any one time exceeds the "reportable" quantity. The reportable quantity shall be as specified in Title 49 Code of Federal Regulations Sec. 172.101, unless the reportable quantity is specified by the fire chief, in which case his specifications shall govern.
 - 16) automobile wrecking yards, junk yards, and scrap processors.
 - 17) extraction of minerals from the ground, to include sand and gravel, oil and gas, lignite, potash, rock and other minerals.
 - 18) a special non-conforming use, which is defined as an existing use occurring upon particular premises which would be unlawful by virtue of Chapter 4 of the Zoning

- Ordinance were it not for the provisions of Chapter 25 of the Zoning Ordinance, or which is unlawful notwithstanding Chapter 25, but which use should be exempted from the application of Chapter 4 because it would be extremely unfair to the owner of the premises to require him to change his use of the premises to that required by the Zoning Ordinance either (1) immediately or (2) when required by Chapter 25.
- 19) fraternity house or sorority house, except that this use is permitted in the "R-3" and "R-3B" Districts.
 - 20) an "in-law" apartment or guesthouse in any "R" District, provided the occupants of same are related to the owner-occupant of the property.
 - 21) a day care center in an "R" District or "MH" District, which is not a home occupation.
 - 22) a group home for housing more than six (6) persons plus staff in the "R-1" District and a group home for housing more than eight (8) persons plus staff in any other "R" District.
 - 23) temporary real estate offices in a model home in any "R" District.
 - 24) agricultural nurseries or tree farms in the "R-A" District.
 - 25) bed and breakfast business in a single-family detached home in the "R-3" and "R-3B" Districts, and which may include food service for people other than overnight patrons provided that such food service is limited to a seating capacity of 20 and that one off-street parking space be provided for each two (2) seats in the food service portion of the business. Further, required parking shall not be located in the front yard setback of the property and shall not occupy more than 30 percent of the total lot area.
 - 26) any multi-family residence exceeding three (3) stories in the "R-3" and "R-3B" Districts.
 - 27) any building in excess of thirty-five (35) feet high in the "C-1" District or any "R" District, except the "R-4" District.
 - 28) any building in excess of sixty (60) feet high in the "C-2" District or in the "R-4" District.
 - 29) any building in excess of one hundred fifty (150) feet high in the "C-3" District.
 - 30) vehicular racetrack.
 - 31) any building in excess of ninety (90) feet high in the "M-1" District.
 - 32) bed and breakfast business in a single-family detached home in the R-1, RA, R-2, and R2-B Districts, provided that no more than three (3) guest rooms are permitted and that one (1) off-street parking space be provided for each guest room in addition to the required off-street parking for the residential use.
 - 33) commercial food processing in the "AG" district
 - 34) the keeping of livestock in the "RA" district.
 - 35) large animal clinics in C or M Districts only.
 - 36) increased residential densities in the C-3 and R-4 Districts, limited by height, coverage and yard requirements.
 - 37) a specific identified use which is not permitted by the underlying zoning. (The purpose of a special use permit issued under this paragraph is to allow a property to be put to a more intensive use than allowed under the regulations of the zoning district in which it is located, without being required to re-zone such property, and thereby open it up to all of the other permissible uses which would be allowed by such a re-zoning.)

- b) Before authorization of any special uses, the request therefor shall be referred to the City Planning Commission for study and report concerning the effect of the proposed use on the comprehensive plan and on the character and development of the neighborhood. A public hearing shall be held in relation thereto before the Planning Commission, notice and publication of the time and place for which shall conform to the procedure prescribed in Chapter 30 for hearing on amendments. If no report is transmitted by the Planning Commission within 30 days of notification, the City Council may take action without further awaiting such report.
- c) Any proposed special use shall otherwise comply with all the regulations set forth in this ordinance for the district in which such use is located.
- d) If any special use approved under the provisions of this chapter is terminated for a period of one (1) year or more, the provisions of Chapter 25 pertaining to non-conforming uses shall apply.

(Ord. 3312; Ord. 3838)

CHAPTER 25 -- NONCONFORMING USES

Sec. 25-1. Nonconforming Buildings:

- a) Any lawful use of a building as of the date when the existing use of the building became nonconforming because of the application of this ordinance or its predecessors to such building may be continued, even though such use does not conform to the provisions hereof. If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or of a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use. The nonconforming use of a building may be extended throughout those parts thereof which were manifestly arranged or designed for such use at the time of application of this ordinance or its predecessor to such building.
- b) Whenever the use of a building shall become nonconforming through a change in the zoning ordinance or in the district boundaries such use may be continued, and if no structural alterations are made, may be changed to another nonconforming use of the same or of a more restricted classification.
- c) Whenever a nonconforming use of a building or portion thereof is discontinued for a continuous period of one (1) year, any future use of such building or portion thereof shall be in conformity with the regulations of the district in which such building is located.
- d) A nonconforming building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than 60 percent of its reproduction value at the time of damage shall not be restored except in conformity with the regulations of the district in which it is located.
- e) A nonconforming building which has been damaged by fire, explosion, act of God or the public enemy to the extent of less than 60 percent of its reproduction value may be repaired or reconstructed and used as before the time of damage provided such repairs or reconstruction are commenced within one (1) year of the date of such damage and completed within two (2) years of the date of such damage.
- f) A nonconforming use in violation of the provisions of any prior version of this zoning ordinance shall not be validated by the adoption of this ordinance, except as otherwise specifically provided by change of district or change of regulations within a district.

Sec. 25-2. Nonconforming Uses Of Land:

A lawful nonconforming use of land existing as of the date when the existing use of the land became nonconforming because of the application of this ordinance or its predecessors to such land may be continued; provided, however, that no such nonconforming use of land shall be in any way expanded or extended, either on the same or adjoining property. If such nonconforming use of land or any portion thereof is discontinued for a continuous period of one (1) year or changed, any future use of such land shall be in conformity with the provisions of this ordinance.

Sec. 25-3. Nonconforming Manufactured Home:

Notwithstanding any other regulations to the contrary in this zoning ordinance, a nonconforming manufactured home may be removed from its site and replaced on the same site with another manufactured home of equal size provided the replacement unit is placed on the site in less than thirty (30) days after the removal of the first unit. Otherwise, the use of the site shall thereafter be conforming to the zoning district in which the site is located.

Sec. 25-4. Temporary Buildings:

Temporary buildings used in conjunction with construction work only may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon completion of the construction work.

Sec. 25-5. Railroads And Utilities:

Existing railroads and utilities may continue to be operated and maintained in dwellings and commercial districts, but no new railroad or utility structure other than the usual poles, wires and underground utilities shall be established in such districts except when so authorized by the Board of Adjustment.

Sec. 25-6. Multi-Family Dwellings In R-1 Districts:

(a) A qualified multi-family dwelling located in an R-1 district shall be deemed conclusively to be a prior valid non-conforming use, without regard to whether in point of fact it is entitled to such status. In order to qualify a multi-family dwelling for the protection afforded by the prior sentence, the owner thereof shall submit proof to the Office of the City Engineer that such property was used as a multi-family dwelling on or before January 1, 1999, and continuously thereafter. Such proof must be submitted on or before July 1, 2002. The standard of proof to be met is a preponderance of the evidence. In the event that the City Engineer determines that the proof offered is insufficient in a given instance, he shall allow it to be supplemented or amended, or both, but the July 1, 2002 deadline for the submission of proof shall not be extended for that purpose. (But see subsection (b).) An adverse decision of the City Engineer may be appealed to the City Council, the decision of which concerning such appeal shall be considered to be final for the purpose of the judicial doctrine requiring a litigant to exhaust administrative remedies.

(b) After July 1, 2002, a multi-family dwelling located in an R-1 district which is not a qualified multi-family dwelling under subsection (a) for the protection afforded thereby shall be deemed not to be protected by the doctrine of prior valid non-conforming use, without regard to whether otherwise it would be so protected. However, in the event that the owner of such

(c) property makes the factual showing contemplated by subsection (a), which is defective only in that it is proffered after July 1, 2002, the property which is the subject of such late proof shall be deemed to be a prior, valid non-conforming use, but such status shall expire on December 31, 2020, and thereafter such property shall be

considered non-conforming.

(c) In order that the abolishment or partial abolishment of rights effected by subsections (a) and (b) may be accomplished consistently with the requirements of “due process” mandated by the Fourteenth Amendment to the United States Constitution, the City Engineer shall provide general notice to the public by way of publication, and specific notice to landowners in the R-1 district by way of written notice enclosed with their real estate tax statements, of the requirements and operation of subsections (a) and (b).

(d) Nothing herein shall be construed as waiving the right of the City of Minot to proceed against an existing or future invalid non-conforming use, except as provided in paragraphs (a) and (b).

CHAPTER 26 -- BOARD OF ADJUSTMENT

Sec. 26- 1. Membership:

- (a) A Board of Adjustment is hereby established. The word "Board" when used in this chapter shall be construed to mean the Board of Adjustment.
- (b) The Board shall consist of five members appointed by the mayor and confirmed by the city council. The terms of office of the members of the Board shall be for three years. Appointments shall be made in such a manner so that one term expires each year. Vacancies shall be filled for the unexpired term of the member whose place has become vacant by the appointing authority, which shall have the power to remove any member of the Board for cause after notice and hearing.
- (c) A chairman and any other officers that may be necessary shall be elected by the members of the Board.

Sec. 26-2. Meetings:

- (a) Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.
- (b) Any three members of the Board shall constitute a quorum for an official meeting. Any exception or variance to any provisions of the Zoning Ordinance shall require a majority of all the members of the Board.

Sec. 26-3. Appeals:

- (a) An appeal to the Board may be taken by any person aggrieved or by any officer, department, Board, or bureau of the city. The appeal shall be taken within the time prescribed by rule of the Board by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken forthwith shall transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(b) The Board shall fix a reasonable time for the hearing of the appeal and shall give due notice thereof to the parties. It shall decide the appeal within a reasonable time.

(c) An appeal to the Board stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board after notice of appeal shall have been filed with him that by reasons of facts stated in the certificate a stay, in his opinion, would cause imminent peril to life or property. In such a case, proceedings shall not be stayed except by a restraining order which may be granted by the Board or by a court of record on application and on due cause shown after notice to the officer from whom the appeal is taken.

(d) The Board shall also hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the building inspector in the enforcement of this ordinance.

(e) All appeals shall be in writing in duplicate and shall be filed with the building official who shall present the same to the Board. A fee of \$50.00 shall be paid at the time such appeal is filed. If the appeal is to be acted upon by the Planning Commission, the fee shall be \$25.00.

Sec. 26-4. Exceptions:

The Board may authorize after due notice and public hearing, the following exceptions to the terms of this ordinance:

- (1) Permit the extension of a district where the boundary line of a district divides a lot in a single ownership at the time of the creation of the district.
- (2) Interpret the provisions of this ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the map fixing the several districts accompanying and made a part of this ordinance where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.
- (3) Permit the erection and use of a building or the use of premises in any location for a public service corporation for public utility purposes which the Board determines reasonably necessary for the public convenience or welfare.
- (4) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than sixty (60) percent of its fair market value, where the Board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.
- (5) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of

parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

- (6) Permit an off-street parking area in an ‘R-3’ district where this would relieve traffic congestion on the streets, provided such parking area conforms to the following conditions:
- (A) The entire area is located within 200 feet of a “C-1”, “C-2” or “C-3” district exclusive of any publicly dedicated right-of-way.
 - (B) The area shall be used exclusively for the parking of vehicles belonging to invitees of the owner or lessee of said lot.
 - (C) Walls, fencing, or plantings shall be provided to protect and be in harmony with surrounding residential property.
 - (D) No parking or vehicles shall be allowed in the area reserved for front yard space in the district in which the parking lot is located.
 - (E) All driveways and the area used for parking spaces shall be properly drained and surfaced with a hard, durable, dustproof material and plans and specifications for same, together with the locations of entrances and exits, shall be approved by the city engineer.
 - (F) The area shall conform to such other reasonable requirements as the Board may require for the protection of surrounding property, persons and residential values.
- (7) To determine whether an industry should be permitted within the “M-1” Light industrial and the “M-2” Heavy Industrial districts because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.

Sec. 26-5. Granting of Variances:

- (a) Where, by reason of—
- (1) exceptional shallowness or shape of a specific piece of property;
 - (2) exceptional topographical conditions; or

- (3) other extraordinary or exceptional situation or condition of a specific piece of property — the strict application of any provision of this ordinance would result in—
 - (A) exceptional practical difficulties; or
 - (B) unreasonable hardships upon or fundamental unfairness to the owner of such property (as opposed to mere or even substantial inconvenience); or
 - (C) the denial to a property owner of a similar property right enjoyed by other property owners in the neighborhood— the Board may authorize, after notice and hearing, a variation in the strict application of the terms of the ordinance to the extent that justice may be done.

(b) Before granting a variance the Board must specifically find that it can be granted without substantial detriment to the public good and without actually impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in this ordinance.

(c) Any variance approved by the Board shall have a time limit of one (1) year after the Board's approval, during which the variance must be put into effect by the owner. Alternatively, the Board may establish a different time limit for any variance implementation if special circumstances warrant the same. If the time limit should expire before the variance is put into effect, the City Engineer, upon the owner's written request, may grant additional time, not to exceed the number of days originally allowed by the Board.

Sec. 26-6. Flood Protection Requirements Variances:

If the variance requested relates to a restriction or requirement imposed by Chapter 20 of this Zoning Ordinance (whether a request for a variance of other provisions of this Zoning Ordinance is also requested or not) the Board shall apply the following additional criteria and procedures to such request:

- (1) A variance may be issued for the repair or rehabilitation of an historical structure upon a determination that the proposed repair or rehabilitation will not preclude the structure's continuing designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
- (2) No variance shall be granted within the floodway if any increase in flood levels in the community during the base flood would result from the grant of such variance.
- (3) A variance may be issued for new construction or a substantial improvement to be erected on a lot of one-half acre or less in size which is contiguous to and

surrounded by lots with existing structures constructed in below the base flood level. Such variance 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;
- (C) a determination that the granting of the variance will not result in increased flood height, additional threats to public safety, extraordinary public expense, or create nuisances, or cause fraud on or victimization of the public, or conflict with existing ordinances other than Sec. 20 of this Zoning ordinance (unless a variance is also obtained as to such other ordinance as pursuant to Sec. 26-4 above); and
- (D) a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (E) If a variance is granted as requested, the Board shall notify the applicant in writing over the signature of one of the members of the Board that—
 - (i) the application is granted, or modified and as modified is granted;
 - (ii) the issuance of a variance to construct the structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage; and
 - (iii) such construction below the base flood level increases risks to life and property.

(4) The Board or such city official as it may delegate shall maintain as a public record open for inspection all variance applications. If an application was granted or modified and as modified granted, the Board shall prepare a written memorandum setting forth the reasons or justifications for the issuance of the variation which shall be annexed to the application. In addition there shall be attached to the application a photocopy of the notice sent to the applicant pursuant to § 26-6(3)(E) above and an affidavit of service by mail establishing that the notice was mailed to the applicant at the address provided by the applicant as part of the application.

CHAPTER 27 -- CERTIFICATE OF OCCUPANCY

Sec. 27-1. Certificate of Occupancy; When and Where Required:

Certificates of occupancy shall be required only for premises located within the Flood Plain (see Sec. 20-1) for—

- (1) Occupancy and use of a building hereafter erected or structurally altered;
- (2) Change in use of an existing building to a use of a different classification; or
- (3) Occupancy and use of vacant land.

No such occupancy, use or change of use shall take place until a certificate of occupancy therefor shall have been issued by the building inspector.

Sec. 27-2. Issuance of Certificate of Occupancy:

(a) A certificate of occupancy as required under Sec. 27-1 shall be issued by the building official if the official finds that the occupancy and use, or change in use, is lawful under Chapter 20, or under a variance granted under Chapter 26, and that the premises to which the certificate relates are not in violation of Chapter 20 or any restrictions imposed upon the variance granted under Chapter 26, as the case may be.

(b) Pending the issuance of a permanent certificate, the building official may issue a temporary certificate of occupancy for a period not to exceed six months, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owner or of the city relating to the premises, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

Sec. 27-3. Records:

A record of all certificates of occupancy shall be kept on file in the office of the building official.

CHAPTER 28 -- LAND SUBDIVISION REGULATIONS

ARTICLE I

Purpose, Grant of Authority, Jurisdiction

Sec. 28-1. Purpose:

The major street plan of which certified copies are on file in the office of the County Recorder of Ward County, North Dakota, and the regulations of this chapter are designed to provide for the proper arrangement of streets in relation to other existing and planned streets and to other elements of the comprehensive plan; and for adequate and convenient open spaces for traffic, utilities, access of fire-fighting apparatus, recreation, light and air, for the avoidance of congestion of population, and for easements for building setback lines and for public utility lines.

Sec. 28-2. Grant of Authority:

These land subdivision regulations are adopted under the authority granted by Chapter 40-48 of the North Dakota Century Code.

Sec. 28-3. Jurisdiction:

These land subdivision regulations shall govern all sub divisions of land within the corporate limits of the City of Minot, North Dakota as now or hereinafter established and all land in the unincorporated area of Ward County within two miles of the corporate limits of the City of Minot.

Sec. 28-4. Master Plan Required:

Any development of 10 acres or more have a master plan submitted to the Planning Commission for review and approval. If a landowner proposes to develop less than 10 acres of a contiguous parcel exceeding 10 acres, the entire parcel must be included in a master plan.

Sec. 28-5. Reserved.

ARTICLE II

Definitions

Sec. 28-6. Scope of Definitions:

The definitions of words or phrases set forth in this chapter are supplemental to the definitions of the same or similar words or phrases set forth in Chapter 2 of this zoning ordinance, but to the extent that there may be an inconsistency between definitions in this chapter and definitions in Chapter 2, the definitions in this chapter govern for the purpose of the application and interpretation of this chapter.

Sec. 28-7. Auditor's Outlot Plat:

An auditor's outlot plat is the plat referred to in NDCC 57-02-39.

Sec. 28-8. Commission:

The Commission means the Planning Commission of the City of Minot.

Sec. 28-9. Conveyance:

A conveyance is the document, instrument, or act that transfers title to real estate from one person to another.

Sec. 28-10. Lot:

A lot is any tract of land, owned by one person or jointly owned by a combination of persons, the boundaries of which are established or depicted by any one or combination of the following methods:

- (a) Metes and bounds description;
- (b) A closed figure formed by a series of interconnecting lines drawn on a plat or by reference to a portion or fraction of a figure that is thus depicted; or
- (c) Reference to a U.S. Government section or U.S. Government lot or a fraction or portion thereof.

For purposes of this chapter contiguous lots that are under the same ownership shall be considered jointly to be one lot.

Sec. 28-11. Plat:

A plat is an instrument upon which is depicted a map, drawing or plan of a certain tract of land, drawn to scale, which is designed to facilitate the location of, reference to, and legal

description of such tract, or boundary lines shown thereon, by indication therein of certain points of reference which are known to or which are described to coincide with established survey monuments.

Sec. 28-12. Subdivision:

A subdivision or subdividing is -

- (a) Any act that creates one or more lots which did not exist prior to the performance of such act, or which alters the boundaries of a lot that existed prior to the performance of such act. However, as long as the rule laid down in the prior sentence is observed, no subdivision occurs when there is a change of ownership with respect to a lot in its entirety; or
- (b) The establishment by recording in the office of the County Recorder of a conveyance or other instrument dedicating a street, highway, road, alley or other public right-of-way through a tract of land.

Sec. 28-13. Surveyor's Certificate:

A surveyor's certificate is a map, drawing or plan of one or more tracts of land, drawn to scale, upon which is depicted the boundaries of the tracts, and the size and location of structural improvements located upon such tracts, if any, and which is certified by a professional engineer or registered land surveyor as being accurate.

Sec. 28-14 -- 28-19. Reserved.

ARTICLE III

Subdivision Process.

Division 1

Methods of Subdivision

Sec. 28-20. Lawful and Unlawful Subdivision:

(a) It shall be unlawful for any person who is the owner, or agent of an owner, of any land within the City of Minot or within two miles of its corporate limits to subdivide the land except as specifically permitted hereafter.

(b) The following methods of subdivision are permitted:

(1) A conveyance of land by reference to a U.S. Government survey lot or U.S. Government section, or portion or fraction of either, if each tract of land so conveyed and each separate tract of land adjoining the conveyed tracts, which is still owned by the grantor or grantors following such conveyance, if any, equals or exceeds 20 acres in area.

(2) A conveyance that has been approved as required in this chapter with respect to the legal description contained therein;

(3) A conveyance which incorporates by reference a plat, which plat has been approved as required in this chapter and which has been recorded in the office of the County Recorder, if the boundaries of the lot or lots so conveyed completely coincide with boundary lines depicted on the plat, and no violation of Chapter 4 is accomplished by such conveyance. As used in this paragraph (3) the word "plat" includes an auditor's outlot plat or a surveyor's certificate.

(c) The use of the permitted methods of subdivision set forth in Subsection (b) is restricted as follows:

(1) Any subdivision may be accomplished by use of a plat.

(2) A surveyor's certificate can serve as the predicate for a conveyance that creates no more than two lots, which did not exist prior to the conveyance, and it can so serve only once.

(3) An auditor's outlot plat can serve as the predicate for a conveyance only when:

(A) An unimproved rectangular lot is being divided into not more than two new lots that share an irregular common boundary;

(B) An unimproved non-rectangular lot is being divided into not more than two new lots; or

(C) A common boundary is being adjusted between two unimproved lots, one or both of which is non-rectangular.

(4) Subdivision by an approved conveyance pursuant to 28-20(b)(2) is permissible only:

(A) To adjust a common boundary between two unimproved rectangular lots in such a manner as not to destroy the rectangularity of either lot; or

(B) To divide an existing unimproved rectangular lot into not more than two new rectangular lots.

(5) For purposes of this subsection, a lot that has its dimensions altered, but which has its ownership unaffected by a conveyance, is treated as a new lot or a lot that did not exist prior to the conveyance.

(6) If the use of a surveyor's certificate is permissible hereunder to subdivide land, and if the certificate is approved by the Commission and City Council as provided for in this chapter, then the City Engineer in his sole discretion may permit a subdivision to be created by way of a conveyance approved by him as to its form, without the recording of the certificate, if in his opinion (i) the legal description set forth in the conveyance accurately coincides with the boundary lines depicted in the surveyor's certificate, and (ii) the description is easily understandable without reference to the surveyor's certificate, and (iii) appropriate monuments could be erected to establish the corners of the tract described without reference to the surveyor's certificate.

Sec. 28-21 -- 28-22. Reserved.

Subdivision Design Approval Process

Sec. 28-23. Approval and Acceptance of Subdivision Design:

(a) Prior to the preparation and submission of a subdivision design the person proposing to subdivide land subject to the jurisdiction of the City of Minot as asserted in this chapter is permitted and encouraged to consult with any one or more of the following: the City Planner, members of his staff, the Commission and other appropriate city officials. Such consultation is not mandatory but is encouraged to avoid needless expenditure of time and money on a proposed subdivision design that will not meet the approval of the City without extensive revision. No representations or statements made by, or actions taken by, the City Planner, members of his staff, the Commission, or other city officials in the course of such consultations shall be in any way binding upon the Commission prior to final approval of the subdivision design.

(b) The applicant for subdivision design approval shall submit as part of his application the subdivision design documents referred to in Subsection (c) and the applicable supplemental information described in Division 4 of this Article. The Commission shall study the subdivision design documents and the supplemental materials to see whether or not the design conforms to the minimum standards and requirements set forth in this zoning ordinance, and if not, whether any of the requirements should be waived or varied. The Commission shall not grant final approval or disapproval of the design until it has conducted a public hearing thereon. Notice of the public hearing specifying the time and date thereof, the place where held, and the legal description of the premises to be affected by the proposed subdivision design shall be published once in a newspaper of general circulation within the City of Minot, with the publication to be at least 7 days prior to the date of the hearing exclusive of the date of publication and the date of the hearing. The public hearing may be continued by the Commission as it deems necessary in order to solicit additional views and opinions concerning the proposed subdivision design or to permit revisions of the design to meet objections raised or requirements imposed at the public hearing, or for any other purpose; provided that, however, final approval or disapproval shall be granted within 90 days of the initial hearing on the design, unless the applicant for approval agrees to a further continuance.

(c) The subdivision design documents with respect to an application for surveyor's certificate approval, or an application for an auditor's outlot plat approval, if the original itself is not submitted, shall consist of a drawing to scale of the subdivision design, and the information required by Division 4 of this Article, except that the City Engineer may waive specific requirements of Division 4 on a case by case basis or by a general rule with respect to requests for an approval of an auditor's outlot plat or surveyor's certificate. The subdivision design documents with respect to the application for approval of a subdivision by conveyance shall consist of a copy of the legal description sought to be used and a sketch map of the boundaries sought to be created or altered by the conveyance, drawn to scale, showing the streets, rights of way, and lots adjacent to the lots which will be created or which will have their boundaries affected by the proposed conveyance.

(d) The City Engineer is granted the authority to establish rules, regulations and procedures for the implementation of this chapter, such as, by way of example, and not by way of limitation, rules pertaining to the size and scale of sketch maps required under Subsection (c).

(e) In the event a proposed subdivision plat includes the proposed vacation of all or portion of a street or alley, notice shall be sent to all owners of property abutting the street or alley to be vacated. Such notice shall be mailed no later than the date of publication of the public hearing notice for the proposed plat.

Sec. 28-24. Considerations Governing Subdivision Design Approval, Conditions Imposed Thereon:

In approving or disapproving a proposed subdivision design the Commission will make a determination as to whether or not the proposed design meets the technical requirements imposed by Sections 28-40 through 28-44, inclusive, of this chapter, and if not, whether any such requirements should be waived. Additionally, as suggested by North Dakota Century Code 40-48-09, the Commission shall bear in mind the purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City of Minot and its environs, which development, in accordance with present and future needs, will best promote the amenities of life, health, safety,

morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development, and which will encourage adequate provision for light and air, surface drainage and sewage disposal, distribution of population, good civic design and arrangement, wise and efficient expenditure of public funds, adequate provisions of public utilities and other public requirements, and the general embellishment of the area under its jurisdiction.

Sec. 28-25. Procedure Following Subdivision Design Approval:

(a) If the Commission approves the subdivision design it shall next be submitted to the City Council for final approval and for acceptance of all streets, alleys, public ways, easements, parks, or other areas reserved or dedicated to the public.

(b) No later than six months (or twelve months with the concurrence of the Commission) after a subdivision design has been approved by the City Council, the applicant for design approval may submit to the City Engineer for his approval the final form of the instrument or document which is to be recorded in the office of the County Recorder in order to accomplish the subdivision or to establish the necessary predicate for the later accomplishment of the subdivision. That is, the subdivider shall submit the final form of the original of the appropriate instrument of conveyance, or surveyor's certificate, or auditor's outlot plat, or plat, and the necessary copies thereof required by ordinance or by way of regulation. The City Engineer shall indicate his approval on the original by signing his name under a suitable statement or legend that expresses approval. However, if the documents or instrument for which approval is sought is a plat, then before the City Engineer approves it he shall first satisfy himself that the technical requirements of Section 28-27 have been complied with and that monuments have been placed at all block corners, angle points, points of curves in streets which are depicted in the plat, and at such intermediate points as he may require. The monuments must be of concrete and not less than 4 inches in diameter and 30 inches long encasing steel rod at least 1/2 inch in diameter and 30 inches long.

(c) The City Engineer may waive as a pre-requisite of final plat approval the monument requirements of Subsection (b) with respect to internal monuments only, if he requires in lieu thereof that some suitable person file with him a monument bond, in a form and with sureties satisfactory to him, conditioned upon the future placement of the monuments to which the bond relates in the manner and on or before the date which he shall establish in writing before the bond is accepted.

Sec. 28-26. Administrative Approval of Certain Types of Subdivisions:

(a) The following types of subdivisions may be approved by the City Engineer:

(1) To adjust a common boundary between two lots. If either or both of the two lots are improved, the City Engineer may require the submittal of a surveyor's certificate as part of the subdivision application.

(2) To divide an existing unimproved lot into not more than two new lots.

(b) In consideration of approval of a subdivision under this section, the City Engineer shall determine that no variances from this ordinance shall be created by the subdivision.

(c) The City Engineer shall cause publication of a notice of said subdivision for each application under this section, said notice to be published once in a newspaper of general circulation within the City of Minot, with the publication to be at least 7 days prior to the time and date set for decision by the City Engineer. If any protests are received prior to the time and date of decision, the application shall be referred to the Planning Commission as prescribed in this chapter.

(d) The City Engineer may establish rules and regulations relative to the form of application, required materials for submittal, application deadline dates, and similar items.

(e) Within 30 days of approval of a subdivision under this section, the City Engineer shall submit a report to the Planning Commission including information on the subdivision such as location, maps, the name of the applicant, and related items. Such report shall be entered into the record of a regular Planning Commission meeting.

(f) Nothing in this section shall preclude the City Engineer from referring an application to the Planning Commission, rather than processing an administrative approval, if in his judgment, the Planning Commission should consider the application as set forth in Section 28-23.

Forms and Contents of Plats.

Sec. 28-27. Information Required on Recordable Plat:

(a) A recordable plat (other than a county auditor's outlot plat) shall consist of one original and four black and white prints thereof. The original shall be drawn on one or more sheets on (i) tracing cloth or (ii) Mylar (with a dull finish on both sides) at a scale of 100 feet to the inch from an accurate survey. Each sheet will be of the dimension of 18 inches x 24 inches. In certain cases where the subdivided area is of unusual size or shape, the City Engineer may permit a variation of the scale of the plat.

(b) The recordable plat shall show the following:

(1) The name of the subdivision and the legal description of the property subdivided and points of compass, scale of plat, the date, and names of the owner or owners and the sub divider or the proponent of the plat, and the surveyor's certification required by North Dakota Century Code 40-50-04.

(2) The boundary lines of the area being subdivided with accurate dimensions and bearings;

(3) The lines of all proposed and existing streets and alleys with their widths and names;

(4) An accurate outline of any property that is offered for dedication to public use and all lot lines with an identification system for all lots and blocks;

(5) An indication of (i) building lines (if such lines by reason of restrictive covenants are more restrictive than those required under the City of Minot Zoning Ordinance), (ii) easements for any right-of-way provided for public use, services or utilities, with figures showing their dimensions and an indication of the types of uses permitted within the easement, and (iii) the location and dimension of existing buildings, if any;

(6) Radii, arcs, chords, points of tangency, central angles for all curvilinear streets, and radii for all rounded corners;

(7) All dimensions, both linear and angular, necessary for locating boundaries of subdivisions, lots, streets, alleys, and of any other areas for public or private use, with linear dimensions expressed in feet and decimals of a foot;

(8) The location of all survey monuments with their descriptions;

(9) The proper acknowledgement of the owners and their written consent to the plat and restrictions, including dedication to the public use of all public streets, alleys, parks or other open spaces shown thereon and the granting of easements indicated thereon; and

(10) A certificate of approval for endorsement by the City Engineer, which when signed shall be conclusive proof of prior approval of the plat by the Commission and City Council.

(c) In his discretion the City Engineer shall have the authority to waive or vary any of the above indicated requirements except (b)(10) which in his judgment are not required because of the nature of the plat or plan of the development.

Sec. 28-28. Auditor's Outlot Plat Contents:

The City Engineer shall by regulation establish the form of and the information required on a recordable auditor's outlot plat.

Sec. 28-29. Additional Requirements for All Subdivision and Outlot Plats:

(a) All plats shall be tied to within twelve (12) inches of a minimum of two (2) accepted State Plane Coordinate monuments based on NAD 83 ND Zone 3301.

(b) An electronic copy shall be submitted with the hard copies of all plats to be supplied to the City Engineer.

(Ord. 3821;Ord. 3844)

Supplemental Information Required

Sec. 28-30. Sketch Map, Covenants, Title Memorandum Required:

(a) As part of the application for approval of his subdivision design the applicant who seeks plat approval shall submit:

(1) A sketch map, drawing or plan drawn to scale and showing:

(A) The location of the present property lines, streets, buildings, water courses, tree masses, and other existing features within the premises to be subdivided and similar information regarding existing conditions of land immediately adjacent thereto;

(B) The names and adjoining boundaries of all adjoining subdivisions;

(C) Existing sanitary and storm sewers, water mains, culverts, and other underground structures within the premises to be subdivided or immediately adjacent thereto;

(D) Contours with intervals sufficient to determine the character and topography of the premises to be subdivided; but in no case shall the intervals be more than five feet;

(E) The manner in which any proposed streets or public rights-of-way within the premises to be subdivided will interconnect with the nearest arterial or minor arterial street; and

(F) Such other information as the City Engineer may require;

(2) Copies of private restrictions such as protective covenants or restrictive covenants applicable to the premises sought to be subdivided, if any; and

(3) A title memorandum or memo of ownership from a certified abstractor showing the apparent record title ownership and any outstanding unsatisfied security interests such as mortgages or contracts for deed in respect to the premises sought to be subdivided, when the applicant is not the owner of the premises on the tax rolls.

(b) The applicant for approval of an auditor's outlot plat or surveyor's certificate shall submit so much of the information described in subsection (a) as the City Engineer requires pursuant to 28-23(c).

Sec. 28-31. Sewage Disposal Plans Required:

If the premises to be subdivided will not immediately have access to the municipal sewage system, no final subdivision design can be approved by the Commission unless it is accompanied by a report from the inspector in charge of health and sanitation, which report will indicate an approval or disapproval of the petitioner's plan for sewage disposal. Specifically this report will comment on the following items:

- (1) Type of system/systems proposed to be utilized;
- (2) Soils testing and borings constructed by the petitioner;
- (3) Lot size;
- (4) Lot width and depth;
- (5) Topography, including slope of the land;
- (6) Relationship to sources of drinking water, including wells and aquifers; and
- (7) Proposed location of the systems on individual lots, when individual sewage disposal systems are to be used.

Sec. 28-32. Drainage Plan Required:

- (a) As part of the application for approval of his subdivision design the applicant who seeks plat approval shall submit a drainage study and/or plan to include:
 - (1) On-site storm management facilities necessary to drain the subdivision.
 - (2) Inclusion of storm water detention/retention methods available to reduce the runoff impact on his or other properties.
 - (3) Statement of impacts, if any, on other properties within the same drainage basin or sub-basin as the proposed subdivision.
 - (4) Drainage calculations using accepted engineering standards and formulas to substantiate the drainage plan and impacts.
 - (5) A recommendation from a registered civil engineer in the State of North Dakota as to the storm drainage management method to be used.
 - (6) A schedule of implementation of the storm water management project or projects necessitated by the subdivision, and a statement of the financing method intended to be used.
 - (7) A preliminary grading plan showing how each lot will be graded relative to potential drainage impact on adjacent lots.
 - (8) If proposed storm water detention/retention facilities are to be operated and maintained by the City, the applicant shall deed the land necessary for the facilities to the city and provide a dedicated and improved access road to the facilities from a public street. The nature of access road improvements shall be determined on a case-by-case basis.

(b) The City Engineer may waive any or all of the requirements in subsection (a) if in his sole opinion, the proposed subdivision by nature of its size, topography, or location, will have little or no impact with respect to storm water runoff.

(c) If the necessary storm water improvements will require funding by the sub divider, such funding must be guaranteed before the subdivision plat is recorded. Such guarantee can be a bond, letter of credit, special escrow account, or other method acceptable to the City Council.

Sec. 28-33 -- 28-39. Reserved.

ARTICLE IV

Subdivision Design Standards

Sec. 28-40. Compliance with Design Standards:

The design and layout of all subdivisions shall conform to the standards set forth in this division, to the extent that they are applicable given the nature of the subdivision or the method by which the subdivision is to be accomplished.

Sec. 28-41. Relation of Streets to Adjoining Street System:

The arrangement of streets in new subdivisions shall make provision for the continuance of existing streets in adjoining areas or their proper projection where the land is not subdivided, insofar as they may be deemed necessary by the Commission for public requirements. The street and alley arrangement should also avoid creating hardships to the owners of adjoining property when they plat their own land and seek to provide a convenient access to it. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted. Streets obviously in alignment with existing streets shall bear the names of the existing streets. All proposed street names shall be checked for duplication.

Sec. 28-42. Street and Alley Width, Dead-End Streets:

- (a) The widths and locations of major streets shall conform to widths and locations designated on the plan for major streets.
- (b) The minimum width for minor streets shall be 66 feet. When streets adjoin un-subdivided property, a half street at least 33 feet in width must be dedicated.
- (c) Dead-ended streets are to be avoided, but if necessary, in the opinion of the Commission, they shall terminate in a circular right-of-way with a minimum diameter of 120 feet unless the Commission approves an equally safe and convenient space, provided that, however, no dead-end street or street ending in a cul-de-sac shall be more than 500 feet in length from the point of intersection with the cross street to the beginning of the cul-de-sac.
- (d) Alleys, when provided, shall have a minimum width of 20 feet.
- (e) Necessary utility easements will be provided as required. Specifically, for storm sewers, sanitary sewers or water mains, permanent easements shall be a minimum of 20 feet wide. Also, 10-foot-wide public utility easements shall be provided along the front lot line of every lot.

Sec. 28-43. Lot Arrangement:

- (a) The lot arrangement and design shall be such that all lots will provide satisfactory building sites and street access, properly related to topography and the character of surrounding development.
- (b) All side lines of lots shall be as near as possible at right angles to straight street lines, or radial to curved street lines, unless a variation from this rule will give a better street and lot plan. Lots with double frontage shall be avoided wherever possible.
- (c) The minimum width and area of residential lots subject to the zoning authority of the City of Minot shall not be less than that specified in the zoning district in which the lot is located.
- (d) All lots shall have at least one lot line abutting a street other than an alley.

Sec. 28-44. Easements Along Streams:

Whenever any stream or important surface drainage course is located in an area that is being subdivided, the subdivider shall provide an adequate easement for the purpose of widening, deepening sloping, improving, or protecting the stream or drainage course.

Sec. 28-45. -- 28-49. Reserved.

ARTICLE V

Exceptions, Enforcement, Validity

Sec. 28-50. Considerations Governing Waiver or Modification of these Regulations:

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in these regulations would result in real difficulties or substantial hardship or injustices, or for other good cause, the Commission may waive, vary or modify the non-procedural requirements of these regulations so that the sub divider is allowed to develop his property in a reasonable manner, but so that, at the same time, the public welfare and interests of the city and the surrounding area are protected and the general intent and spirit of these regulations are preserved.

Sec. 28-51. Additional Enforcement Provisions:

(a) No building permit shall be issued for an improvement located on a lot unless (i) on a lot of record as defined herein, (ii) on a lot depicted in a plat or established by a conveyance which has been approved in accordance with these regulations, or (iii) on a lot created pursuant to Section 28-12, or (iv) on a lot the boundaries of which were established at a time when and where the City of Minot Planning Commission had no jurisdiction with respect to the establishment of such boundaries. If a lot at one time qualifies for the issuance of a building permit under one of the four categories stated in the prior sentence then the subsequent alteration of its boundaries pursuant to Section 28-12 shall not alter its status in that regard as long as Chapter 21 is complied with. (Ord. 2486, Ord. 3766)

(b) Nothing herein is intended to waive any rights the city might have under North Dakota Century Code Chapter 40-48 or other state law with respect to penalties and the grant of a cause of action.

Sec. 28-52. Validity:

If any section, subsection, sentence, clause or phrase of these regulations is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of these regulations.

(Ord. 2234; Ord. 2437; Ord. 2623; Ord. 2772)

CHAPTER 28.1 -- STORM WATER MANAGEMENT

DIVISION 1.

GENERAL PROVISIONS

Sec. 28.1-01. Purpose and Policy:

- (a) This chapter sets forth uniform requirements for storm water management systems within the City of Minot and its extraterritorial jurisdiction. In the event of any conflict between the provisions of this chapter and the provisions of another applicable law, the more restrictive standard shall prevail.
- (b) The objective of this chapter is to provide for adequate storm water system analysis and appropriate storm water system design as necessary to protect public and private property, water quality and existing natural resources.
- (c) The storm water management program provided for in this chapter includes all of the following elements:
- (1) Regulation of development through the issuance of storm water plans and permits.
 - (2) Establishment of storm water management criteria for public underground storm sewers, artificial and natural open channel drainage systems, storm water detention and retention ponds, and private storm water drainage systems discharging into the public system.
 - (3) Monitoring and compliance mechanism.

Sec. 28.1-02. Definitions:

For the purpose of this chapter, the following terms, phrases, and words, and their derivatives, shall have the meaning as stated in this section. When consistent with the context, words used in the present tense include the future tense. Words in plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and the word "may" is always permissive.

Base flood means the flood having a one percent chance or probability of being equaled or exceeded in any given year (i.e. 100-year flood).

Best management practices means measures designed to—

- (1) prevent pollutants from leaving a specific area; and
- (2) reduce or eliminate the introduction of pollutants; and
- (3) protect sensitive areas; and
- (4) prevent the interaction between precipitation and pollutants.

BMP's means best management practices.

Control measure means a practice or combination of practices to control soil erosion and attendant pollution, see also best management practices.

Erosion means any process that wears away at the surface of the land by the action of water, wind, ice, or gravity.

Extraterritorial jurisdiction means the area outside of the City limits over which the zoning authority of the City may be extended under state law, and over which it has in fact been extended by ordinance.

Flood fringe means that portion of the flood plain outside of the floodway.

Flood plain means the areas adjoining a water course or water basin that have been or may be covered by a base flood.

Floodway means the channel of the water course, the bed of water basins, and those portions of the adjoining flood plains that are reasonably required to carry and discharge floodwater and provide water storage during a base flood.

Hydric soils means soils that are saturated, flooded, or covered by water long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile.

Hydrophytic vegetation means macrophytic plant life growing in water, soil, or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

In lieu fee means a fee which the City of Minot will accept in lieu of requiring that a storm water management plan incorporate certain features, improvements, or facilities.

Land Disturbing Activity means any manmade change of the land surface including removing vegetative cover, excavating, filling, grading, mining, dredging, and drilling, but not including agricultural activities such as planting, growing, cultivating and harvesting of crops, growing and tending of gardens, and harvesting trees.

Local detention means detention provided to serve only the developing area in question and no areas outside of the development boundaries.

Outlet means any outlet including storm sewers and combined sewer overflows into a watercourse, pond, ditch, lake or other body of surface or groundwater.

Person means any individual, corporation, partnership or any other entity, public or private, capable of owning, occupying or developing land.

Retention facility means a natural or manmade structure that provides for the storage of all or a portion of storm water runoff by means of creating a permanent pool of water (e.g., wet pond).

Runoff means the rainfall or snowmelt, water flowing over the ground surface and into open channels, underground storm sewers, and detention or retention ponds.

Sediment means solid material or organic material that, in suspension, is being transported or has been moved by air, water, gravity, or ice, and deposited at another location.

Site means the area included in the legal description of the parcel of land on which storm water alteration activities, either projected or ongoing, require the submission and approval of a storm water management plan pursuant to section 28.1-21.

Storm sewer means a pipe or conduit for carrying storm waters, surface runoff, street and wash waters, and drainage, excluding sewage and industrial wastes.

Storm water alteration activities means activities which, either while being conducted, or upon completion, or both, will result in one or more of the following:

- (1) An increase in the flow or discharge, per unit of time, of storm water from a given property.
- (2) Degradation of storm water runoff quality.
- (3) Restriction of flow in any storm sewer system, open ditch or natural channel, storm water easement, water body, or wetland outlet.

Some examples of storm water alteration activities include the stripping of vegetation from land preparatory to performing cut or fill operations thereon; building roads and parking lots; and altering the grade of land to increase the pitch thereof.

Storm water detention means the temporary storage of storm water runoff in ponds, parking lots, depressed grassy areas, roof tops, buried underground tanks, etc., used to delay and attenuate flow and for future or controlled release.

Storm water management permit means a permit issued by the City Engineer pursuant to Division 3.

Storm water management plan means a document provided for in Division 2.

Storm water management system means physical facilities that collect, store, convey, and treat storm water runoff in urban areas. These facilities normally include detention and retention facilities, streets, storm sewers, inlets, open channels, and special structures, such as inlets, manholes, and energy dissipaters.

Storm water retention means storage designed to eliminate or reduce the frequency of subsequent surface discharge. Wet ponds are the most common type of retention storage (though wet ponds may also be used for detention storage).

Structure means anything manufactured, constructed, or erected which is normally attached to or positioned on land, including portable and permanent structures, earthen structures, roads, parking lots, and paved storage areas.

Watercourse means the natural path for the flow of water where there is sufficient natural and accustomed runoff to form and maintain a distinct and defined channel, or an open channel facility that has been constructed for such purpose. This shall include any easements which have been obtained for the purposes of runoff conveyance.

Watershed Master Plan means a plan that an engineer/designer formulates to manage urban storm water runoff for a particular project or drainage area. It typically addresses such subjects as characterization of the existing and future site development, land uses and grading plan, peak flow rates of runoff, flow duration, runoff volumes for various return frequencies, locations, criteria and sizes of detention or retention ponds and conveyances, runoff control features, land parcels, easement locations, opinions of probable costs, measures to enhance runoff quality, salient regulations and how the plan addresses them, and consistency with secondary objectives such as public recreation, aesthetics, public safety, and groundwater

recharge. This plan is either included as an integral part of a Storm Water Management Plan or it may be developed by the City Engineer and used to establish compliance criteria to regulate land development activities within a given watershed, provided the plan is reviewed and approved by the Planning Commission after allowing public comment.

Wet pond means a retention facility which includes a permanent pool of water used for the purposes of providing for the treatment of storm water runoff.

Wetlands means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or when the land is covered by shallow water. Lands which meet all the following criteria are deemed to be wetlands:

- (1) They are comprised predominantly of hydric soils.
- (2) They are inundated and saturated by the surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.
- (3) They exhibit a prevalence of hydrophytic vegetation under normal circumstances.

Sec. 28.1-03. Scope of Chapter:

This chapter shall apply within the City and its extraterritorial jurisdiction.

Sec. 28.1-04. Waiver:

The City Engineer may waive any requirement of this chapter upon making a finding that compliance with the requirement will involve an unnecessary hardship, and the waiver of such requirement is not contrary to the objectives in Section 28.1-01. The City Engineer may impose conditions upon any waiver. For example, the City Engineer may require such dedication or construction, or agreement to dedicate or construct, as may be necessary to adequately meet the said standards and requirements.

Sec. 28.1-05. Mitigation Measures During Construction Activities:

Construction activities must comply with all of the following requirements (without regard as to whether such activities are specifically addressed by, or within the scope of, a storm water management plan or storm water management permit):

(1) Water may not be discharged in a manner that causes erosion, sedimentation, or flooding on the site, on downstream properties, in the receiving channels, or any wetland. Consequently, water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, soil concentrators or other appropriate controls as may be necessary to that end.

(2) Waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, petroleum based products, paints, toxic materials, or other hazardous materials) shall be properly disposed of off-site and shall not be allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland.

(3) A construction site shall have roads, access drives and parking areas of sufficient width, length and surfacing to prevent sediment from being tracked onto public or private roadways. Any material placed by vehicles or other construction equipment reaching a public or private road shall be removed (not by flushing) within twenty-four hours.

(4) The construction contractor, including the general contractor and all subcontractors, shall be required to control oil and fuel spills and chemical discharges to prevent such spills or discharges from entering any watercourse, sump, sewer system, water body, or wetland.

(5) To the extent not already addressed in the foregoing paragraphs, construction operations must include erosion and sedimentation control measures meeting accepted design criteria, standards and specifications contained in the Storm Water Design Standards Manual, or in Article IV (Excavations and Water Runoff Control) of Chapter 9 (Buildings and Housing) of the City of Minot Code of Ordinances, whichever is the more restrictive.

Sec. 28.1-06. Contaminating or Degrading Storm Waters Prohibited:

No person shall dispose of or make use of material amounts of—

(1) fertilizer, or other substances which can degrade the quality of storm waters, such as, for example, chemicals (fertilizers, herbicides, pesticides, etc.), or petroleum based products (gasoline, oil, fuels, solvents, paints, etc.); or

(2) grass clippings, leaves, or other vegetative materials, on impervious surfaces or within storm drainage systems, natural or manmade watercourses, wetlands, or wetland buffer areas, except as may be incidental to ordinary mowing or weed control within such areas.

Sec. 28.1-07 -- 28.1-20. Reserved.

DIVISION 2.

STORM WATER MANAGEMENT PLAN

SUBDIVISION A — IN GENERAL

Sec. 28.1-21. Storm Water Management Plan; When Required; Exceptions:

Submission and approval of a storm water management plan shall be required for premises prior to undertaking any storm water alteration activities thereon, or prior to final plat approval of a subdivision thereof, whichever is earlier.

(a) Subsection (a) shall not apply to any of the following:

(1) Storm water alteration activities on any part of a subdivision that is included in a plat that has been approved by the City Council and recorded with the County Recorder on or before the effective date of this chapter;

(2) Storm water alteration activities on individual lots or properties located within a subdivision or plat for which a Storm Water Management Plan has already been approved or in areas included within a Watershed Master Plan area;

(3) Storm water alteration activities involving the construction of a single-family or a two-family dwelling, as long as such construction affects less than one acre of land;

(4) Storm water alteration activities on a parcel for which a building permit has been approved on or before the effective date of this chapter;

(5) Any land disturbance activity not associated with building construction that will affect less than one acre of undeveloped land;

(6) Any utility service line installations affecting less than one acre; or

(7) Emergency work to protect life, limb, or property.

(8) Activities which the City Engineer determines will only have a *de minimus* effect on the amount of storm water flow, the quality of storm water flow, and the capacity of any existing or planned storm water system. In making such determination the City Engineer shall examine not only the particular activities being considered for *de minimus* treatment, but also the cumulative effect of all other similar and related activities reasonably likely to occur in the future.

(b) A Storm Water Permit may still be required for any of the activities listed in Subsection (b) as determined by the City Engineer.

(c) No person shall engage in storm water acceleration activities if approval of a storm water management plan in respect to such activities is required under subsection (a), unless such approval is excused under subsection (b) or waived under Section 28.1-04.

Sec. 28.1-22. Application; Application Fee; Application Review Process:

(a) A written application for approval of a storm water management plan shall be filed with the City Engineer.

(b) Two sets of legible copies of the drawings and required information shall be submitted. Plans shall be prepared to a scale appropriate to the site of the project and suitable for performing the review.

(c) The application shall be accompanied by a processing and approval fee. In the case of complex applications or regional storm water facilities, which require additional staff review time, a secondary fee schedule will be used. Fees under this subsection shall be established by the City Council.

(d) The City Engineer shall approve, approve with conditions, or deny the application for approval of the storm water management plan.

(e) In passing judgment on a proposed storm water management plan, the City Engineer shall consider the fidelity of the plan to the principles and procedures set forth in Subdivision B.

(f) Before taking final action on an application under this section the City Engineer shall publish (at the applicant's prepaid expense), a notice informing those persons who may have an interest in the proposed storm water management plan that they may inspect the plan at the City Engineer's office, and submit written comments thereon, which comments, if submitted prior to a date specified in the notice, shall be considered by the City Engineer in reviewing the plan.

Sec. 28.1-23. Conditional Approval of a Storm Water Management Plan:

A conditional approval of a storm water management plan as authorized by 28.1-22(d) may include one or more of the following conditions:

(1) The posting of security, such as a bond, to ensure the timely and sequentially correct performance of particular activities contemplated by the plan.

(2) The acquisition, dedication, or conveyance to the City of Minot (or any combination of these) of certain lands or easements, or interests therein.

(3) The payment or provision of security for future payment of an in lieu fee.

Sec. 28.1-24. Storm Water Management Plan — Components:

A storm water management plan shall contain as much of the following data, elements, and sub-elements as the City Engineer shall require:

- (1) A map of existing conditions at the site and at immediately adjacent areas, showing:
 - (A) The name, address and phone number of the applicant, the section, township and range, a north arrow, date and scale of drawing, and number of sheets.
 - (B) The location of the tract by an insert or other map at a scale sufficient to clearly identify the location of the property and giving such information as the lot and block number, street address, the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns, and districts or other defining landmarks.
 - (C) The existing topography with a contour interval appropriate to the topography of the land, but in no case having a contour interval greater than two feet.
 - (D) A watershed boundary map illustrating the project site location as a subwatershed within the watershed of the larger or major drainage basin.
 - (E) A delineation of streams, rivers, public waters and the presence or absence of wetlands located on and immediately adjacent to the site, including depth of water, a general description of vegetative cover found within the site, a statement of general water quality, if applicable, and any classification given to the water body by state or federal agencies.
 - (F) The location and dimensions of existing storm water drainage systems and the natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public ditch, or wetland, and setting forth those areas of the unaltered site where storm water collects or passes.
 - (G) A description of the soils on the site, including a map indicating soil types of the areas to be disturbed, containing information on the suitability of the soils for the type of development proposed, potential for erosion, the type of storm water management system proposed, and any remedial steps to be taken by the developer or their contractor to render the soils suitable.
 - (H) A depiction of the current extent of vegetative cover and a clear delineation of any vegetation proposed for removal.
 - (I) A description or indication of the current land use of the area in which the site is located.
 - (J) A depiction of the 100-year flood plains, flood fringes, and floodways.

- (2) A site construction plan showing:
 - (A) Locations and dimensions of all proposed land disturbing activities and any phasing or scheduling of those activities.
 - (B) approximate locations of all temporary soil or dirt stockpile areas.
 - (C) location and description of all construction site erosion control measures necessary to meet the requirements of this ordinance.
 - (D) a schedule of anticipated starting and completion dates for each land disturbing activity, including the installation of construction site erosion control measures needed to meet the requirements of this ordinance.
 - (E) provisions for maintaining the construction site erosion control measures prior to, during, and after construction.
- (3) A final site plan on the same scale as the map of existing conditions showing:
 - (A) the proposed final grading plan shown at contours at the same interval as provided above or as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features.
 - (B) a landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of proposed landscape materials which will be added to the site as part of the development.
 - (C) a drainage plan of the developed site delineating the direction and at what rate storm water runoff will be conveyed from the site and setting forth the areas of the site where storm water will be collected.
 - (D) the proposed size, alignment, and intended use of any structures to be erected on the site.
 - (E) a clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used.
 - (F) any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the review of the project.
- (4) A narrative analysis discussing:
 - (A) pre and post development hydrologic and hydraulic analysis.
 - (B) erosion and sedimentation control during and after construction.
 - (C) protective measures for proposed and existing structures, and water quality concerns.
 - (D) a discussion as to how the storm water management plan applies or observes the principles and procedures set forth in Subdivision B.

Sec. 28.1-25. Sign-Off by Professional Engineer:

A storm water management plan, including all maps, drawings, specifications, narrative analyses or reports, and computations must be submitted under the seal and signature of a Professional Engineer registered in the State of North Dakota.

City of Minot

Sec. 28.1-26 -- 28.1-40. Reserved.

SUBDIVISION B. — PRINCIPLES AND PRACTICES

Sec. 28.1-41. Storm Water Design Standards Manual:

The storm water design standards manual, as adopted and amended by the City of Minot, is adopted herein by reference thereto. The manual contains the principal standards and design criteria for developing an effective and acceptable storm water management plan. The manual contains:

- (1) Details about the contents of a storm water management plans which are additional to those set forth in this chapter;
- (2) Criteria for hydrologic evaluations, the design of storm water management system facility components, water quality protection standards, instructions for the development of an erosion and sedimentation control plan, and requirements for easements and right-of-way.
- (3) A discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.

Sec. 28.1-42. Planning Preferences:

The narrative analysis component of the storm water management plan shall discuss whether the plan incorporates the following preferences in storm water management and control, or why such preferences were deemed to be not appropriate:

- (1) The natural infiltration of precipitation and runoff on-site, if suitable soil and geological conditions are available, using to that purpose as much natural or vegetated area on the site as possible, while minimizing impervious surfaces, and directing runoff to vegetated areas rather than onto adjoining streets, storm sewers and ditches.
- (2) The use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional water flow without compromising the integrity or quality of these natural features.
- (3) The use of storm water detention facilities.
- (4) The use of storm water retention facilities.

Sec. 28.1-43. Capacity Considerations:

The storm water management plan shall consider:

- (1) The hydraulic capacities of downstream natural channels, reaches, storm sewer systems, and streets, in order to determine whether they have sufficient conveyance capacity to receive and accommodate pos-development runoff discharges and volumes without causing:
 - (A) channel erosion;
 - (B) increased property damage; or
 - (C) any increase in the established base flood plain elevation.

(2) The adequacy of any outlet used as a discharge point.

(3) The requirement that in no circumstances shall the 50-year developed peak flow exceed the 50-year existing peak flow (except as specifically allowed by the City Engineer).

Sec. 28.1-44. Operation, Maintenance, and Inspection Considerations:

Insofar as a storm water management plan calls for permanent improvements on private property which are part of a storm water management system, due regard shall be paid to:

(1) The desirability of a design which minimizes the need for maintenance; and

(2) the right of the City Engineer to inspect such improvements from time to time and, to that end, the need of a legal right of access to them, such as by easements or other property interests.

Sec. 28.1-45. Construction Plans and Specifications:

When the construction of improvements called for in a storm water management plan are of sufficient magnitude and consequence to, in his judgment, so warrant, the City Engineer shall require that such plan include a drawing or drawings delineating the erosion and sedimentation management plan, including details of silt fences, storm drain inlet protection, erosion control facilities and other BMP's. In addition the construction specifications shall contain technical provision describing erosion, sedimentation, and water control requirements to be utilized during and after construction, as well as define the entities responsible for the installation and maintenance of the BMP's. See Sec. 28.1-41.

Sec. 28.1-46. Other Standards:

In the event that other standards, either state or federal, apply to matters within the scope of this subdivision, the more restrictive, or most restrictive, as the case may be, standard shall apply.

Sec. 28.1-47. Phasing Allowed:

On a case by case basis, and in the interest of economy and practicality, the City Engineer may allow a storm water management plan to be submitted and approved in phases, with such interim storm water alteration activities being performed in the interim between phases as allowed or required in the plan itself.

Sec. 28.1-48. Plan-Specific Enforcement Mechanisms:

On a case by case basis the City Engineer may require enforcement mechanisms specific to a particular storm water management plan, which may include without limitation any of the following:

(1) The posting of security such as a performance bond, cash bond or letter of credit.

(2) The use of the storm water management permit system provided for in Division 3.

(3) The filing of a special assessment petition with the City to guarantee construction of storm water management facilities.

(4) The withholding of building permits until the facilities are completed or otherwise guaranteed.

Sec. 28.1-49. In Lieu Fee:

The City Engineer, subject to the approval of the City Council, may approve a storm water management plan which provides for the payment of a specified in lieu fee instead of the provision for, and performance of, certain work which otherwise would form part of such plan. Typically, the in lieu fee would be applied to the cost of a regional storm management plan or project to which a sub-watershed drains. Notwithstanding the employment of such a fee, the plan may still provide for and require the dedication or retention of easements or other interest in land as may be necessary in the future for the full implementation of the plan.

Sec. 28.1-50 -- 28.1-60. Reserved.

SUBDIVISION C – PERFORMANCE

Sec. 28.1-61. Storm Water Management Plan Compliance:

- (a) No person having the authority to do otherwise shall perform, or allow the performance, of acts which are contrary to or inconsistent with an approved storm water management plan, or fail to perform in good faith acts required by the plan.
- (b) An approved storm water management plan shall be considered a covenant running with the land, enforceable by injunctive action or otherwise by the City of Minot, or by persons directly affected by its performance or non-performance, or the public generally. The presence of this civil remedy shall not be construed as precluding a criminal remedy under subsection (a) or otherwise.

Sec. 28.1-62. Compliance With Other Requirements:

The contents of an approved storm water management plan shall not be construed as purporting to excuse:

- (1) requirements imposed elsewhere in this Zoning Ordinance or in the City of Minot Code of Ordinances; and
- (2) the obtaining of required permits from other governmental agencies having any jurisdictional authority over the work to be performed. (Typically, such agencies would include, but not limited to the Ward County Water Resource District, the Ward County Engineer's Office, the State Water Commission and State Engineer's Office, the North Dakota State Department of Transportation, the State Health Department, the State Historical Preservation Office, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, Federal Emergency Management Agency, and possibly others not listed here.)

Sec. 28.1-63. As-Built Plan:

Upon completion of all work under an approved storm water management plan, or more frequently as prescribed in the plan itself, the person or persons acting under the authority of such plan shall file with the City Engineer an “as-built” plan or plans to document any changes or material modifications to the original storm water management plan concept. If no significant or material changes occurred between the approved plan and final construction, the “as-built”

plan need not be submitted to the City Engineer but must be retained and made available for inspection and copying by the City Engineer upon request.

Sec. 28.1-64. Right of Inspection and Access:

The City Engineer shall have the right of access, including the right of entry, and the right of inspection of all work being performed pursuant to a storm water management plan, and thereafter shall continue to exercise such rights to the extent so provided in the plan itself.

Sec. 28.1-65. Amendment of Storm Water Management Plan:

(a) The City of Minot and any person subject to the obligations imposed by an approved storm water management plan may amend the plan at any time by written agreement.

(b) The City of Minot, pursuant to its reserved police powers, may unilaterally, after it has provided reasonable notice and an opportunity to be heard, amend an approved storm water management plan if it initially attempts in good faith to achieve such amendment pursuant to subsection (a) and is unable to do so, and provided that the amendment is designed and intended to protect the public interest and does not impose undue burdens upon any private party who may have relied to its detriment upon the approved plan.

Sec. 28.1- 66 -- 28.1-80. Reserved.

DIVISION 3.

STORM WATER MANAGEMENT PERMIT

Sec. 28.1-81. Storm Water Management Permit; When Required and Nature Thereof:

(a) As contemplated by section 28.1-48, a storm water management permit may be required as part of an approved storm water management plan.

(b) The permit is designed to be used as an enforcement mechanism in those cases where ongoing, detailed, precise, and intensive control over activities affecting the discharge of storm water is desired. For example, such a permit may require monitoring of certain storm water retention facilities at stated intervals using protocols and procedures set forth in the permit.

(c) The storm water permit shall specify the restrictions sought to be imposed thereby. A permit runs with the property it covers and is transferable to new successors in title in its entirety or by parcel, with each parcel being subject to the permit and any conditions which apply to that parcel.

(d) The storm water permit shall state as part thereof its duration, and whether it is subject to renewal, and, if so, upon what terms and conditions.

Sec. 28.1-82. Amendment of Storm Water Management Permit:

(a) The City of Minot and the permittee under a storm water management permit may amend the permit at any time by written agreement.

(b) The City of Minot, pursuant to its reserved police powers, may unilaterally, after it has provided reasonable notice and an opportunity to be heard, amend a storm water management

(Supplement One)

permit if it initially attempts in good faith to achieve such amendment pursuant to subsection (a) and is unable to do so, and provided that the amendment is designed and intended to protect the public interest and does not impose undue burdens upon the permittee.

Sec. 28.1-83. Enforcement of Storm Water Management Permit:

(a) No permittee under a storm water management permit shall perform, or allow the performance, of acts which are contrary to or inconsistent with the storm water management permit, or fail to perform in good faith acts required by such permit.

(b) An approved storm water management permit shall be considered a covenant running with the land, enforceable by injunctive action or otherwise by the City of Minot, or by persons directly affected by its performance or non-performance, or the public generally. The presence of this civil remedy shall not be construed as precluding a criminal remedy under subsection (a) or otherwise.

Sec. 28.1-84 to 28.1-100. Reserved.

(Supplement One)

CHAPTER 29 -- MISCELLANEOUS

Sec. 29-1. Interpretation, Purpose and Conflict:

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon height of buildings or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants, or agreements the provisions of this ordinance shall govern.

Sec. 29-2. Enforcement; Procedure:

It shall be the duty of the City Engineer or his authorized representative to enforce this ordinance.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this ordinance, the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

Sec. 29-3. Extraterritorial Effect of this Ordinance:

All of the ordinances pertaining to the erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, use, height, area and maintenance of buildings or structures within the City of Minot shall apply to that area as amended from time to time which shall remain outside the corporate limits of the City of Minot and yet which shall be zoned pursuant to the extraterritorial zoning authority of the City of Minot. No building permit shall be issued without a signed, written approval by the First District Health Unit for both the sanitary water and sewer plants for the parcel or parcels of land in question.

Sec. 29-4. No Permits Required for Agricultural Buildings:

Building permits and building inspections for agricultural property shall apply only to the structures built as family dwelling units, and shall not apply to those other structures used in the normal course of agricultural operations.

Sec. 29-5. Penalty:

The penalty for violating any of the provisions of this ordinance shall be as prescribed in Section 1-8 of the City of Minot Code of Ordinances.

Sec. 29-6. City Council Action Required:

The City Council can enact, disallow or change Planning Commission decisions by a simple majority of the entire City Council, except when this ordinance otherwise requires a super majority, at which time a super majority will prevail.

Sec. 29-7. Powers of the Planning Commission:

In addition to the powers of the Planning Commission as set forth in this zoning ordinance as well as any other powers prescribed by law, the Planning Commission may grant variances with the same power and authority as the Board of Adjustment. Such variances may be granted only, however, in the course of the Planning Commission's allowed approval powers as set forth herein. By way of example and not to exclude other possibilities, the Planning Commission may grant a yard variance in the case of a lot division where a resulting new lot may warrant such a variance.

Sec. 29-8. Residence Development Plan:

- a) An authorized agency of the municipal, county, state or federal government or the owner or owners of any tract of land comprising an area of not less than ten (10) acres may submit to the City Council of the City of Minot, a plan for the use and development of all the tract of land for residential and allied purposes. The development plan shall be referred to the Planning Commission for study and report and for public hearings. Notice and publication of such public hearings shall conform to the procedures described in Chapter 30 for hearings on changes and amendments. If the Commission approves the plans, these shall then be submitted to the City Council for consideration and action. The approval and recommendations of the Commission shall be accomplished by a report stating the reasons for approval of the application and specific evidence and facts showing that the proposed community unit plan meets the following conditions:
- 1) The property adjacent to the area included in the plan will not be adversely affected, and to this end the Commission may require, in the absence of an appropriate physical barrier, that uses of least intensity or a buffer of open space or screening be arranged along the borders of the project.
 - 2) The plan is consistent with the intent and purposes of this ordinance to promote public health, safety, and morals and general welfare.
 - 3) The buildings shall be used only for single-family dwellings, two-family dwellings, or multiple dwellings, and the usual accessory uses such as private or storage garages, storage space, and for community activities, including churches.
 - 4) The average lot area per family contained in the site, exclusive of the area occupied by streets, will not be less than the lot area per family required in the district in which the development is located.

- b) If the City Council approves the plans, building permits and certificates of occupancy may be issued even though the use of land and the location and height of buildings to be erected in the area and the yards and open space contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located.
- c) A processing fee of \$25.00 shall be paid at the time of plan review application. Also, the applicant shall pay the cost of mailed notices required by Chapter 30.

Sec. 29-9. Residential Use – Utilities Required:

- a) Notwithstanding anything to the contrary in this zoning ordinance, or in the City of Minot Code of Ordinances, in order for a structure to be used as a permanent residence it must be served by-
 - 1) a potable water supply which has been approved as meeting all sanitary requirements applicable thereto by the public authority having jurisdiction over such matters;
 - 2) connection to a public sanitary sewage system or to a private sewage disposal or retention system which has been approved as meeting all sanitary requirements applicable thereto by the public authority having jurisdiction over such matters; and
 - 3) and a permanent system of space heating sufficient in design and as operated so as to allow the water supply and sanitary sewage system to function properly throughout the year.
- b) A “permanent residence” as used in this section means a structure which is used as a residence for more than thirty days (whether consecutive or not) in any one twelve month period of time.

(Supplement One)

CHAPTER 30 -- AMENDMENTS AND CHANGES

Sec. 30-1. Public Hearing:

The City Council on its own motion or on petition may amend or supplement by ordinance the regulations or districts established herein or subsequently established. No final action thereon by the City Council may be taken without a public hearing before the Planning Commission. The Planning Commission may close the hearing and forward its recommendations to the City Council at the same meeting at which it initially opens the public hearing, or may continue the item for further consideration or for further public comment, or for both, at a later meeting.

Sec. 30-2. Notice Required:

Notice of the time, place, and purpose of the initial hearing shall be given by publication once in a newspaper generally circulated in the City of Minot, with such notice to be published at least 7 days prior to the initial hearing, exclusive of the day of publication and the day of the hearing. The same notice shall be sent by certified mail, return receipt requested, not later than the date of publication of such notice to the owners of the premises to which the proposed zone change or other amendment of these regulations applies (the "affected area") and to the owner of the premises lying within one hundred and fifty feet (exclusive of streets and alleys) of the affected area. The expense of providing such notices shall be paid by the proponent of the zone change or other amendment pursuant to Sec. 30-6 hereof.

Sec. 30-3. Waiver of Notice:

The requirement that notice be mailed to landowners may be waived in whole, or in part (by such devices as selective or random mailing) in respect to proposals for zone changes or proposed amendments to these regulations that are initiated by the city itself. Such waiver shall be by resolution joined in by two-thirds of the city council and may be made at any time before or after the public hearing.

Sec. 30-4. Written Protest; Effect Thereof:

(a) If, prior to the second reading of an ordinance referenced in Section 30-1, one or more written protests of the ordinance have been filed with the City Clerk, which protests have been signed by the owners of at least 20 percent of:

- (1) the area described within the ordinance as being acted upon by the ordinance (as in, for example, an ordinance changing the zoning district for a specifically described lot); or
- (2) the area adjacent to and extending 150 feet (exclusive of streets) from the area described within the ordinance as being acted upon by the ordinance;

the passage of the ordinance on second reading shall require a minimum of 11 affirmative votes.

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(b) In computing area for purposes of subsection (a), there shall not be included real estate owned by the City of Minot.

(c) A written protest may be disavowed, in which event the protest shall be deemed to have been nullified. A disavowal of a written protest must be in writing, must be signed by the same person or persons who signed the written protest to which it relates, and must be filed with the City Clerk prior to the second reading of such ordinance.

Sec. 30-5. Petition Requirements:

All petitions requesting a change, amendment, or supplement of the established zoning districts of the city and regulations connected therewith shall be filed by the person requesting such action and such petition shall contain the street address of the petitioner, the lot number of any real estate owned by him adjacent to the area proposed to be changed and shall also contain an accurate legal description of the district or parts of districts proposed to be so altered. Such petition shall also recite facts indicating that the proposed change will not be detrimental to the general public interest and the purposes of this ordinance and shall further disclose the purpose for which such property is sought to be used.

(Ord. 2552)

Sec. 30-6. Filing and Fees:

A petition for a change in the regulations or districts herein or subsequently established shall be filed with the City Engineer. A fee of \$90.00 shall be paid at the time of filing. Also, the petitioner shall pay the total cost of mailed notices required by section 30-2.

Sec. 30-7. Post-Amendment Publication and Certification Not Required:

(a) Notwithstanding the provisions of N.D.C.C. 40-47-04 and 40-47-05 to the contrary no publication of a notice of the establishment of any regulation, restriction, or boundary nor amendment of the zoning ordinance shall be required after the City Council acts to establish such regulation, restriction, boundary or amendment.

(b) Notwithstanding the provisions of N.D.C.C. 40-47-04 and 40-47-05 to the contrary, a certified copy of an ordinance or resolution with respect to or affecting zoning need not be filed with the City Auditor, but rather the City Clerk shall file copies of such ordinances or resolutions in the same manner as applies to other ordinances or resolutions.

(Ord. 1149; Ord. 1874; Ord. 2133; Ord. 2404; Ord. 3340)