ZONING SUPPLEMENT TO THE CITY OF MINOT

CODE OF ORDINANCES

City Planning and Zoning Municipal Code

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City of Minot

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CHAPTER 1 - TITLE AND APPLICATION

Section 1-1. Title:

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

Section 1-2. Application:

1) Where the conditions imposed by any provision of this Ordinance are either more or less restrictive than comparable conditions imposed by other ordinance, rule, or regulation of the City, the ordinance, rule, or regulation which imposes the more restrictive condition, standard or requirement shall prevail.

2) Except as herein provided, no building, structure, or premises shall hereafter be used or occupied, no building permit shall be granted, and no plat approved that does not conform to the requirements of this Ordinance.

3) No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose which is not in conformity with the provisions of this Ordinance.

4) Whenever in any zoning district a use is neither specifically allowed nor specifically prohibited, the use shall be considered prohibited unless the City Council determines that the proposed use is very similar to an allowed use in which case the proposed use shall be deemed allowed.

5) The City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if a use which is neither allowed nor prohibited is acceptable and if so, what zoning district would be most appropriate and the conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, if appropriate, shall initiate an amendment to the Zoning Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

6) Upon adoption of the zoning ordinance (adopted July 1, 2013) zoning district names changed. Below is a table with the previous zoning district and corresponding new zoning district.

Previous Zoning District	New Zoning District
“R-1” Single Family Residence District	“R1” Single Family Residential District
No comparable previous district	“R1S” Single Family Residential District with Small Lot Flexibility
“R-A” Agriculture Residence District	“RA” Agriculture Residence District
“R-2” and “R-2B” Two-Family Residence District	“R2” Two-Family Residential District
“R-3” and “R-3B” Multiple Residence District	“RM” Medium Density Residential District
“R-3C” Townhouse Residence District	“R3C” Townhouse Residence District
“R-4” Planned Residence District	“RH” High Density Residential District or Planned Unit Development (PUD)
“C-1” Limited Commercial District	“C1” Neighborhood Commercial District
“C-2” General Commercial District	“C2” General Commercial District
“C-3” Central Business District	“C3” Central Business District
“C-4” Planned Commercial District	Planned Unit Development (PUD)
“M-1” Light Industrial District	“M1” Light Industrial District
“M-2” Heavy Industrial District	“M2” Heavy Industrial District
No comparable previous district	“M3” Office Park District
“P” Public Zone	“P” Public Zone
“MH” Manufactured Home District	“MH” Manufactured Home District
“O” Office District	No comparable district was recreated
No comparable previous district	“GMU” General Mixed Use District
“AG” Agricultural District	“AG” Agricultural District

CHAPTER 2 - DEFINITIONS

Section 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 "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.

Abut: To physically touch or border upon; or to share a common property line.

Access: A way or means of approach to provide physical entrance to property.

Accessory Building or Use: A subordinate building or use of land incidental to and located on the same lot occupied by the principal building or use. It is and constructed or established at the same time or after construction of the main building or use.

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.

Adult Cabaret: A cabaret that features Go-Go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers.

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.

Adult Entertainment Center: An adult bookstore, adult cinema, or adult cabaret.

Aesthetic: The perception of artistic elements or elements in the natural or created environment that is pleasing to the eye.

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.

No parking or storage is permitted on alleys.

Alteration: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions; any change in doors, windows, or any enlargement of a building or structure, whether horizontally or vertically; or the moving of a building or structure from one location to another.

Amusement Park: An outdoor facility, which may include structures and buildings, where there are various devices for entertainment, including rides, booths for the conduct of games or sale of items, and buildings for shows and entertainment.

Animal Hospital: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short-term care incidental to the hospital use.

Annexation: The incorporation of land area into the City with a resulting change in the boundaries of the City.

Apartment: A room or suite of rooms in a multiple dwelling use or design for occupancy by a single family.

Architectural Feature: A prominent or significant part or element of a building or site.

Architectural metal: Metal accenting that has a shape, design, surface texture, and permanent color finish that enhance the building's architecture. The metal panels for architectural requirements shall not have exposed fasteners.

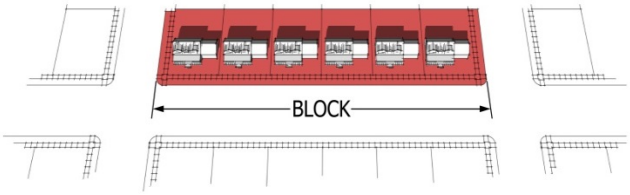
Automobile Repair - Minor: Repairs, incidental body and fender work, painting and upholstering, replacement of parts, and motor service to passenger automobiles and trucks, but not including any operation specified under "Automobile Repair - Major".

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.

Automobile Wrecking Yard: The use of any part of any premises, whether inside or outside of a building that is used for the demolition or storage of unlicensed or abandoned automobiles, other vehicles, or machinery or parts thereof.

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.

Block: That property abutting one side of a street and lying between the two nearest intersecting or intercepting streets and railroad right of way, waterway or other

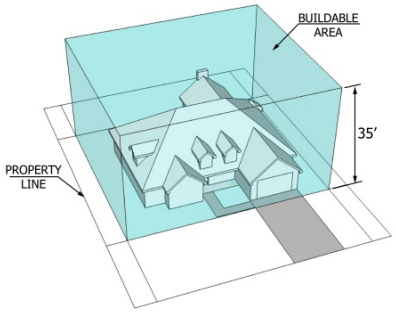


barrier to or gap in the continuity of development along such street.

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.

Brew Pub: A restaurant that sells alcoholic beverages brewed or crafted on premises.

Buffer Strip: Land area used to visibly separate one use from another or to shield or block noise, light or other nuisances.



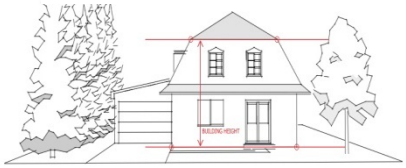
Building: Any structure used or intended for supporting or sheltering any use or occupancy.

Building Area: That portion of the lot that can be occupied by the principal use, excluding required yard areas.

Building, Height of: The vertical distance from the grade to the highest point of the coping of a flat roof, or the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

Flat Roof

Mansard Roof



Pitched Roof

Building - Principal: A building in which is conducted the principal use of the lot on which it is established.

Building Setback: The required minimum distance measured between the building foundation line and the property lines. Also known as “yard”.

City Council: The City Council of the City of Minot.

Clinic: An establishment where outpatients obtain medical examination, medical treatment, or medical advice, and/or employees of the establishment disburse medication to outpatients. This definition includes, but is not limited to, medical clinics, eye clinics, dental clinics, and opioid treatment centers.

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.

Commercial Kennel: Any building or fenced area where dogs are kept for breeding, sale, medical care, training, or 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.

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.

Commercial Parking Lot: Any parking facility in which charges are made for vehicular parking privileges.

Comprehensive Plan: A statement in documented text setting forth explicit goals, objectives, policies and standards of the jurisdiction to guide public and private development.

Conditional Use: A land or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon finding that: a) certain conditions as detailed in the zoning ordinance exist, and b) the use or development conforms to the comprehensive land use plan of the city, and c) is compatible with the existing neighborhood.

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.

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.

Density: The quotient of the total number of dwelling units divided by the total acreage of a site.

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.

Doggie Daycare: A facility that cares for dogs and other household animals during the day. No overnight boarding is permitted.

Dormitory: A building used as group living quarters for a student body or religious order as an accessory use for a college, university, boarding school, orphanage, convent, monastery, or other similar institutional use.

Double Fronted Lots: These lots which extend continuously between two parallel (or approximately parallel) streets bounding a block. A block containing double frontage lots is composed of one rather than two tiers of lots.

Driveway: A private roadway providing access for vehicles to a parking space, garage, dwelling, or other structure.

Driving Aisle: In a parking lot, that portion of a lot which allows ingress and egress of vehicles from a public or private right-of-way to the parking stall.

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.

Duplex: Will be referred to in this ordinance as two-plex with two units under common ownership may be either located side-by-side or on more than one level, owned by the same person.

Dwelling: Any structure or portion thereof which is designed for or used as a permanent human residence.

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.

Dwelling, Multiple: A building designed for or occupied exclusively by three (3) or more families. This includes apartment houses.

Dwelling, Single-family: A building containing only one dwelling unit designed to be located on a permanent perimeter foundation and, if site built, constructed in accordance with the provisions of the applicable City codes governing construction.

Dwelling, Two-Family: A building designed for or occupied exclusively by two (2) families.

Dwelling, Townhouse: A one-family dwelling in a row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, each dwelling is located on a separate lot, and each unit is separated from any other unit by one or more common fire resistant walls.

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.

Easement: A grant of legal permission by the property owner of the use of land by the public or others, or by one or more persons or corporations for a specific purpose(s).

Existing Use: The use of a lot or structure at the time of enactment of this ordinance.

Extraterritorial Jurisdiction: The territorial zoning and subdivision authority of the City which extends to all unincorporated land located within two (2) miles of the corporate limits of the City as authorized by the North Dakota Century Code.

Exterior Storage: Outdoor storage of fuel, raw materials, products, equipment and motor vehicles.

Façade: The exterior wall of a building exposed to public view or the wall viewed by persons not within the building.

Family: An individual, or two (2) or more persons related by blood, marriage, guardianship or adoption, living together as a single housekeeping unit; or a group of not more than four (4) persons not so related, maintaining a common household and using common cooking and kitchen facilities.

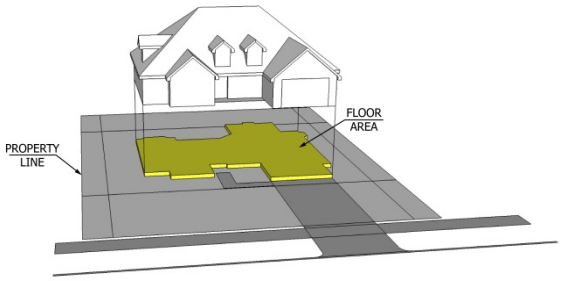
Farmers Market: Outdoor sales of fruits, vegetables, honey, flowers, plants, homemade bakery goods, cheeses, soaps and the like.

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.

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.

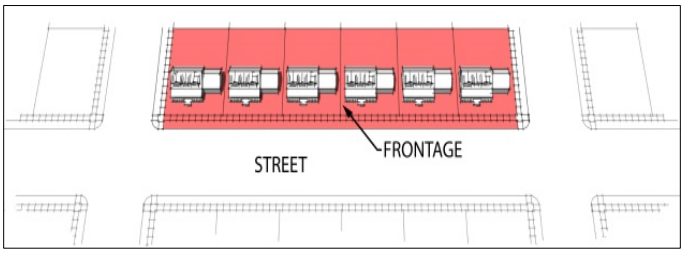
Flood or Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from:

- The overflow of waters, and/or
- The unusual and rapid accumulation or runoff of surface water from any source.



Floor Area: The total number of square feet of floor space within the exterior walls of a building, not including space in basements, carports, or garages.

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.



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.

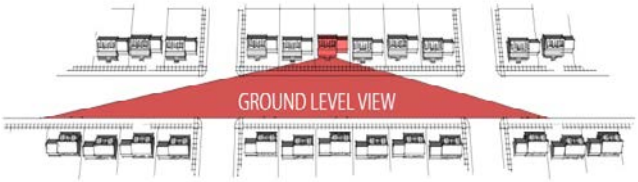
Functional Classification: The process by which streets and highways are grouped into classes or systems, according to the character of service they are intended to provide.

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.

Grade: The elevation of the ground. For purpose of measuring the height of structures:

- for buildings having walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- 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.
- 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.

Ground Level View: The view of the main floor of a building that is at or nearest to the level of the ground around the building.



Group Child Care Home (Facility): A child care facility where supplemental care is regularly provided for 8 to 18 children, which is subject to requirements as set forth in Chapter 50-11.1 of the North Dakota Century Code.

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.

Hard Surface: To consist of concrete or asphalt pavement.

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.

Heavy Equipment Vehicles: Any vehicle one (1) ton or greater used for construction, farming, heavy industrial, the oil industry and similar uses including track vehicles.

Homeowners Association: An organization of homeowners of a particular subdivision,

condominium or planned unit development to that makes and enforces rules and maintains shared private property in its jurisdiction.

Home Occupation: Any occupation or activity that meets all of the following tests:

- 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. Exceptions can be made for members of the immediate family of the owner/manager who also lives on the premises.
- The occupation does not occupy more than twenty-five percent (25%) of the floor area of the principal building (including attached garage). The home occupation shall not be conducted in any detached or accessory structures.
- No alteration of the principal building that changes the character thereof as a residential dwelling.
- 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.
- The home occupation does not generate pedestrian traffic or 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) thirty (30) vehicular trips per day or (ii) the number of vehicular trips per day equal to three percent (3%) of the average per day vehicular traffic past the premises, whichever is greater.
- 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.
- 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.

Hotel: A building in which lodging or boarding 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.

Impervious Surface: A material which reduces and prevents absorption of storm water into the ground.

Improvements: Street grading and surfacing, with or without curbs and gutters, sidewalks,

crosswalks, watermains, sanitary and storm sewers, culverts, street lighting, bridges and street trees.

Institution: A building occupied by a non-profit corporation or a non-profit establishment for public use.

Interim Use Permit (IUP): A permit issued by the City Council in accordance with procedures specified in this title.

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.

Laundromat: An establishment providing home-type washing, drying or ironing machines to be used by customers on the premises.

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 twelve (12) feet by thirty-five (35) feet and a vertical clearance of at least fourteen (14) feet.

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:

- Metes and bounds description;
- 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;
- A reference to a U.S. Government section or U.S. Government lot or a fraction or a portion thereof.

Lot, Corner: A lot abutting upon two or more streets, except alleys, at their intersection(s).

Lot, Depth of: The mean horizontal distance between the front and rear lot lines.

Lot, Double Frontage: A lot having a frontage on two non-intersection streets, except alleys, as distinguished from a corner lot.

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 Office of the County Recorder of Ward County, North Dakota.

Lot Width: The distance as measured by a straight line, between side lot lines, at the points of intersection with the building foundation's outer most parallel line.

Manufactured Home: A dwelling unit fabricated in an off-site manufacturing facility for

installation or assembly at the building site and to be used with or without a permanent foundation and bearing a label certifying that it was built in compliance with the Federal Manufactured Housing Construction and Safety Standard Act of 1974 (24 CFR 3280) which became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development.

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.

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.

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.

Mini-storage: A building containing small compartments to be used for the storage of personal property.

Motel: A building or group of buildings used for the temporary residence of motorists or travelers.

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.

Nursing Home: An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves.

Open Space: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment, or for the use and enjoyment of owners and occupants of land adjoining or neighboring such open space.

Outdoor Storage: The keeping, in an unroofed area of any goods, junk, material, merchandise, or vehicles in the same place for more than 24 hours.

Open Sales Lot: Land devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.

Parcel: A lot or tract of land.

Park: A tract of land designated and used by the public for active and passive recreation.

Parking Lot: Any land legally used for the parking of motor vehicles.

Permitted Use: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

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, dining, or awaiting transportation.

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

Planned Unit Development: An area of a minimum contiguous size, as specified by ordinance, to be planned and developed as a single entity containing one or more residential clusters or planned unit residential developments and one or more public, quasi-public, commercial, or industrial areas in such ranges of ratios of nonresidential uses to residential uses as shall be specified.

Portable Classroom: A temporary structure connected or immediately adjacent to a school or institutional facility for additional classroom or facility space. The use of a portable classroom is an Interim Use limited to schools and institutional uses only in Residential, Public and Commercial Districts.

Principle Use: The primary or predominant use of any lot.

Prohibited Use: A use that is not permitted in a zone district.

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.

R2B & R3B Two Family Residential: These districts were available in the previous zoning ordinance only for those lots platted prior to July 1, 1980. No new plats for residential construction were allowed since July 1, 1980. All R2 and R2 (B) zoned lots shall comply with the requirements of Chapter 6, Two-Family Residential District. All R3 and R3(B) zoned lots shall be reviewed under the requirements of Chapter 7, Medium Density Residential or Chapter 9, High Density Residential based on existing conditions and by recommendation of City staff.

"R" District Excluded Manufactured Home: A manufactured home which meets one of more of the following criteria:

- its main floor size is less than nine hundred (900) square feet;
- it does not have at least two (2) exterior side walls, each of which is at least twenty -four (24) feet in length and not parallel to the other;
- it has a roof pitch less than two and one-half (2½) inches of vertical rise for each twelve (12) inches of horizontal run;
- its roofing material is other an (a) asphalt shingles, (b) wood shingles, (c) tile, (d) rock, or (e) a non-reflective material which simulates one of the foregoing;

- it was built or assembled before June 15, 1976;
- the ceiling height of a majority of the rooms therein is less than seven and one half (7 ½) feet; or
- its outside appearance when ready for occupancy is such as to make it readily distinguishable from a site-built home.

Recreational Vehicle: A unit primarily designed as temporary living quarters for recreational, camping or travel use, which has its own motive power, is mounted onto, stored in or drawn by another vehicle.

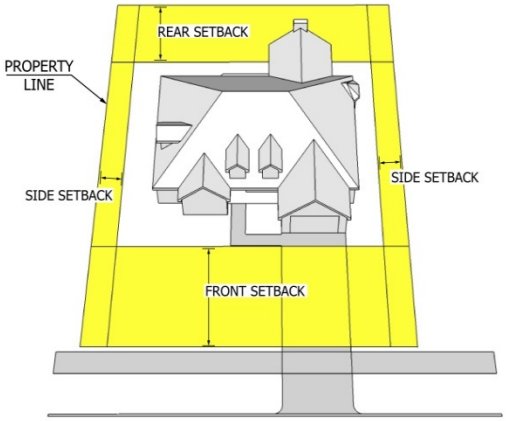
Recreational Vehicle Campground: A plat of ground under single ownership or management which has been planned and improved for the parking of recreational vehicles and tents, regardless of whether or not a charge is made for such accommodations.

Restaurant, Fast Food: An establishment whose principal business is the sale of food and/or beverages in a ready to consume state for consumption: a) within the restaurant building, b) within a motor vehicle parked on the premises, or c) off the premises as carryout orders, and whose principal method of operation may include the following characteristics: food and/or beverages are usually served in paper, plastic or other disposable containers.

Restaurant, Family (sit down): An establishment whose principal business is the sale of food and/or beverages to customers in a ready to consume state, and whose principal method of operation includes one or both of the following characteristics: a) customers, normally provided with an individual menu, are served their foods and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; b) a cafeteria type operation where food and beverages generally are consumed within the restaurant building.

Retail Sales: Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

School: Any building or part thereof which is designed, constructed, or used for education or instruction in any branch of knowledge.



Setback: The minimum required distance between a sign, parking lot or the vertical wall of a building and a lot line as regulated by this title.

Sign: Any surface, fabric, device, or display which bears lettered, pictorial, or sculptured matter, including forms shaped to resemble any human, animal, or product, designed to convey information visually and which is exposed to public view. For purposes of this ordinance, the term "sign" shall include all structural members. A sign shall be construed to be a display surface or device containing organized and related elements composed to form a single unit. In cases where matter is displayed in a random or unconnected manner without organized relationship of the components, each such component shall be considered to be a single sign.

Sign, Billboard: A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

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 twenty-seven (27) feet in length, except for, however, fifth-wheel campers and pull type recreational vehicles.

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.

Site Plan: The development plan of the subdivision showing the existing and proposed conditions on the lots including: streets, lots, means of ingress and egress, landscaping, sidewalks, buildings, lot, building dimensions, screening devices, any other information that reasonably may be required in order that an informed decision can be made by the Planning Commission.

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.

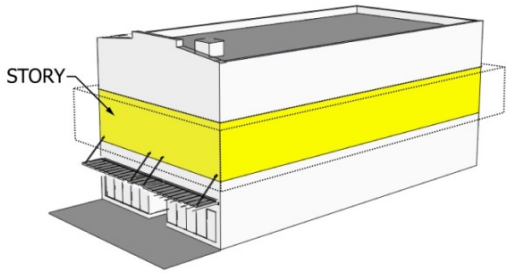
Special Use: A use permitted in a particular zoning district only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of such uses as specified in a zoning ordinance and authorized by the City Council.

Specified Sexual Activities:

- Human genitals in a state of sexual stimulation or arousal;
- Acts of human masturbation, sexual intercourse or sodomy;
- Fondling by one person of another person's genitals, pubic region, buttock or breast.

Stable, Private: An accessory building in which horses are kept for private uses and not for hire, remuneration or sale.

Stable, Commercial: A building in which any horses are kept for remuneration, sale or hire.

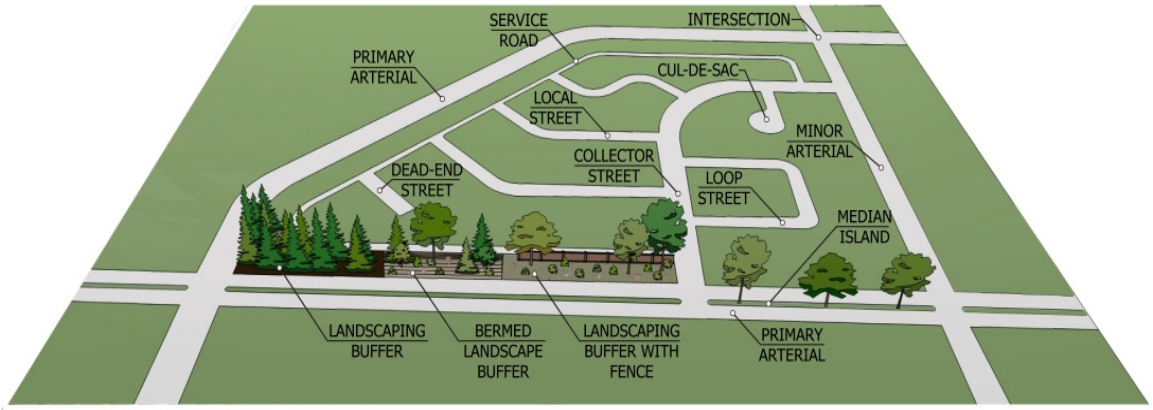


Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor 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 percent (50%) 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.

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 percent (50%) of the total perimeter, or not more than eight (8) feet below grade, as defined herein, at any point.

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.



Street, Arterial: A major street (as defined by NDDOT functional classification map) intended to move through traffic to and from major facilities and also distributes traffic to and from minor arterials. Primary arterials shall also include routes which carry traffic between communities.

Street, Collector: A street (as defined by NDDOT functional classification map) 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.

Street, Local: A street designed to provide vehicular access to abutting property and to discourage through traffic.

Street, Cul-de-sac: A street with a single common ingress and egress with a turnaround at the end.

Street, Dead End: A street with a single common ingress and egress.

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.

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.

Subdivision: The division of a lot, tract, or parcel of land into two or more lots, tracts or parcels for the purpose of sale or of building development. Any plat or place which includes the creating of any part of one or more streets, public easements, or other rights-of-way, whether public or private, for access to or from such lots; or the creation of new or enlarged parks, playgrounds, plazas or open spaces.

Temporary Use or Structure: A use established for a fixed period of time with intent to discontinue such use upon the expiration of the time period.

UBC - Uniform Building Code: The building code in effect in the City of Minot.

Use: The term referring to:

- Any purpose for which buildings, other structures, or land may be arranged, designed, intended, maintained or occupied;
- Any occupation, business, activity or operation carried on (or intended to be carried on) in a building or other structure or on land.
- 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.

Uses Permitted: Any use permitted by these regulations. The term "permitted" or its equivalent shall not be deemed to include any nonconforming uses.

Variance: The relaxation of the requirement of the Zoning Regulations in relation to height, area, size, setback, where specific physical conditions, unique to the site, would create an unreasonable hardship in the development of the site for permitted uses.

Vehicular Trip: The act of a motorized vehicle either arriving at or departing from a particular location.

Visibility Triangle: A triangular area void of obstructions that may block a driver's view of oncoming, potentially conflicting vehicles. View obstructions are defined as objects greater than three (3) feet in height that are located in the sight triangle (see Section 28-13 of the Code of Ordinances for full definition). An exception will be made to residential fences meeting Section 21-5.

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.

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.

Yard, Rear: A yard extending (opposite the front yard) 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.

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.

Zoning Map: The map or maps, which are a part of the zoning ordinance and delineate the boundaries of the zoning districts.

CHAPTER 3 - DISTRICTS AND BOUNDARIES

Section 3-l. 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.

Section 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.

Section 3-3. District Boundaries:

a) The district boundary lines on said map are intended to follow either streets, 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.

Section 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.

Section 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.

Section 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 (2) 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

Section 4-l. Use Restrictions:

No lot or structure shall be used (l) 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.

Section 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 otherwise 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 subsection (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. ll49; Ord. ll7l; Ord. l789; Ord. 2437)

CHAPTER 5 - "R1" SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 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 "R1" Single-Family Residential District.

Section 5-2. General Description:

The R1 (Single-Family Residential District) is established as a district in which the principal use of land is for single-family dwellings and related residential neighborhood uses. The R1 District falls within the Low Density Land Use Category of the City of Minot Comprehensive Plan with a density range of four (4) to eight (8) units per acre.

Section 5-3. Uses Permitted:

The following uses are permitted:

a) Single-family dwellings other than “R” District Excluded Manufactured homes (single wide).
b) Elementary school.
c) High school or middle 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) Public places of assembly;
l) 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.
m) A group home for housing of no more than six (6) persons plus staff.
n) Home occupations, except bed and breakfast businesses.

Section 5-4. Accessory Uses:

a) 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 fifteen thousand (15,000) square feet, in which case Section 5-8 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.
b) Temporary real estate offices as part of a new development.

c) Residential association managed community building.

Section 5-5. Conditional Uses:

Within any R1 district, no structure or land shall be used for the following uses except by a conditional use permit:

a) Accessory Dwelling Unit provided it meets the following requirements:

1) The Single family dwelling in which the Accessory Dwelling Unit is proposed is owner occupied. The Accessory Dwelling Unit is occupied by a family member or extended family member of the single family dwelling, with no more than four unrelated individuals within the entire structure.
2) The lot meets minimum lot size requirements.
3) One paved (or other permeable surface material as approved by the City Engineer) on-site parking space for the accessory dwelling unit is provided.
4) The unit must be attached to the single-family dwelling living space or located within the single-family dwelling. Accessory Dwelling Units are not permitted in detached structures, including, but not limited to, detached garages and accessory buildings.
5) No more than one Accessory Dwelling Unit is permitted per residential site.
6) Accessory Dwelling Units must be at least three hundred (300) square feet in area but cannot exceed nine hundred-sixty (960) square feet. Total floor area must not exceed thirty percent (30%) of the living area of the associated single family dwelling unit.
7) Entrances for an accessory apartment in dwellings constructed after the effective date of the ordinance shall not be placed on the building front; no new entrances shall be established along the building front of an existing dwelling to serve an accessory apartment.
8) Occupancy is limited to two persons.
9) The Accessory Dwelling Unit must be designed and constructed to allow conversion of the Accessory Dwelling Unit back to single family residential space in the future.
10) An accessory apartment may not be established where a home occupation is already located on the property.

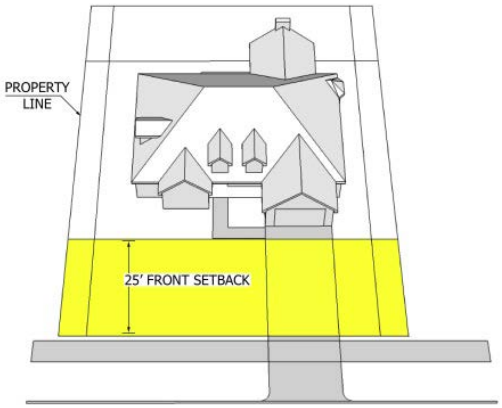
b) Bed and breakfast business in a single family detached home provided that no more than three (3) guest rooms are permitted and that one (1) off-street parking space be provided for each guest room in addition to the requirement off-street parking for the residential use.

c) Day care facility, licensed – serving more than eighteen (18) persons;

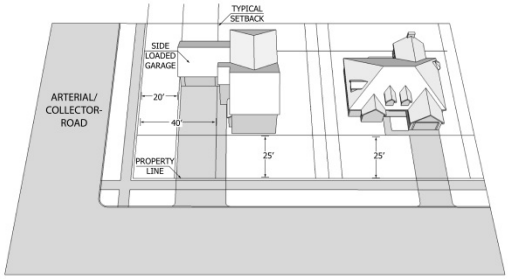
d) Privately operated community building integrated into the overall residential development plan.

e) Residential facility (group home), licensed – serving more than six (6) persons.

f) Temporary real estate offices in a model home.



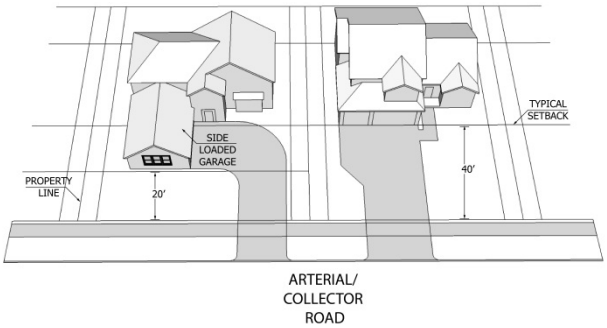
Section 5-6. Interim Uses:



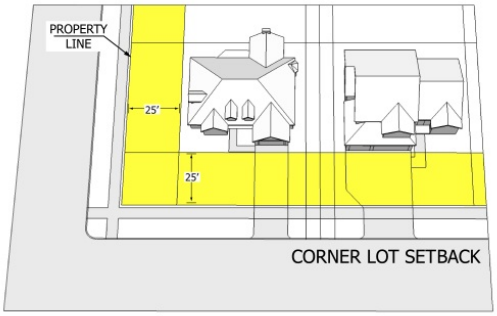
Within any R1 district, no structure or land shall be used for the following uses except by an interim use permit:

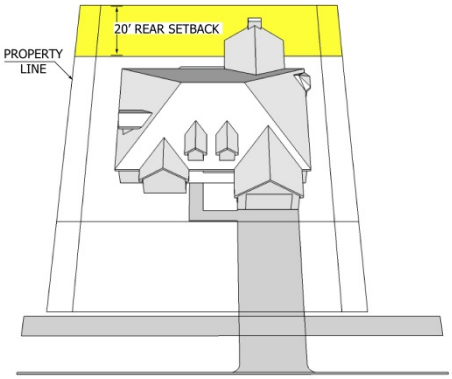
a) Modular classrooms connected or immediately adjacent to a school building.

Section 5-7. Lot, Height, Area and Yard Requirements:



a) Maximum height of any residential building shall not exceed thirty- five (35) feet, except the maximum height of an accessory building's sidewall shall not exceed sixteen (16) feet.
b) Maximum lot coverage shall be forty percent (40%), subject to provisions in Chapter 21.
c) Minimum yards for principal structure are as follows:
   1) Front – twenty-five (25) feet. Front yards facing a platted or proposed collector or arterial street – forty (40) feet. An exception will be made for a side-loaded garage to be twenty (20) feet provided the lot is an interior lot and a window is included on the street facing garage elevation.
   2) Side (interior lot line) – six and one-half (6.5) feet.
   3) Side (corner side) – twenty-five (25) feet. Corner side yards facing a platted or proposed collector or arterial street – forty (40) feet.
   4) Rear – twenty (20) feet. Detached garages parallel to an alley shall be three (3) feet.
   5) No required off-street parking shall be located in the required front yard.
   6) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
   7) Accessory buildings (sheds) are subject to setback requirements of Chapter 21, Sec. 21-8.

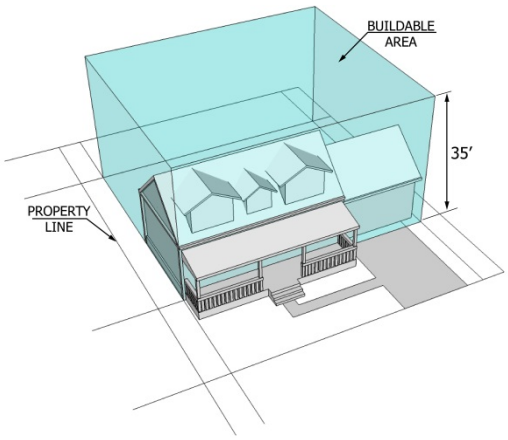




d) Minimum lot dimensions shall be as follows:
   1) Area – 7500 square feet (interior lots)
   2) Area – 9500 square feet (corner lots)
   3) Width – 65 feet (interior lots)
   4) Width – 75 feet (corner lots)
   5) Depth – 85 feet

e) The total coverage and floor area of all accessory buildings shall not exceed those of the primary structure.

f) Front Yard: The front yard setback for living area in an R1 district shall be twenty- five (25) feet. The setback may be reduced to twenty (20) feet if the following conditions are met:



1) The setback reduction is for an attached living area or porch to the principal structure, not including the garage, which does not exceed a total of one hundred twenty (120) square feet of above grade finished livable space.
2) The exterior materials of the proposed living area or porch are consistent or complementary in color, texture and quality with those visible at the front of the dwelling.
3) The roof of the proposed living area or porch is properly proportioned to and integrated with the roof of the dwelling.
4) The structure does not adversely affect drainage on the lot or neighboring properties.
5) Does not affect visibility at an intersection for corner lots.

g) Legal non-conforming dwellings, due to setback requirements, can be replaced at the existing setback provided any replacement structure is within the same footprint as original structure or within current setback requirements. The replacement structure shall be of the same design character, height and roof design as the original structure.

Section 5-8. Residential Design Standards:

Newly constructed single family homes shall be constructed with the following design considerations:

a) Platted residential developments of ten (10) or more adjoining lots under single ownership shall provide for a variety of elevations and color choices throughout the development.
b) Homeowners' Association: A homeowners' association shall be established in instances where developments within the R1 district contain common open space, driveways, utilities (not maintained by public entity), etc. Those Homeowners' Associations' are subject to review and approval by the City Attorney prior to the release of the final plat. This document shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common, when there is more than one individual property owner having interest within the development. All association documents must be recorded at the County Recorders' office against the property.

Section 5-9. 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 twenty-four thousand (24,000) square feet in area shall be five percent (5%) of the lot area. Accessory buildings side wall height shall not exceed sixteen (16) feet from the bottom plate to the top of sidewall plate.

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 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 prohibited in Chapter 7 of the code of Ordinances of the City of Minot.

    1) 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.
    2) This subsection shall apply to R1 districts both within City limits and within the extraterritorial jurisdiction of the City of Minot only.
    3) 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, for example, those pertaining to the preservation of the public health and prohibiting the maintenance of a nuisance.

CHAPTER 5.1 - “R1S" SINGLE-FAMILY RESIDENTIAL DISTRICT WITH SMALL LOT SIZE FLEXIBILITY

Section 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 "R1S" Single-Family Residential District.

Section 5.1-2. General Description:

The R1S (Single Family Residential District with Small Lot Size Flexibility) is established as a district in which the principal use of land is for varying lot sizes, with support for small lot single-family dwellings, in a planned residential neighborhood. Developments shall be planned in a manner that maintains the natural topography of the site, preserves open space, and preserves or enhances natural features on the site within private common and public open space. Development in an R1S District shall provide shared amenities on site together, with the variety of lot width and lot sizes. This is an integrated and well planned development including a greater variety in home design.

Section 5.1-3. Uses Permitted:

a) Same permitted uses as in the R1 District.

Section 5.1-4. Accessory Uses:

a) Same accessory uses as in the R1 District

Section 5.1-5. Conditional Uses:

Within any R1S district, no structure or land shall be used for the following uses except by a conditional use permit:
a) Same conditional uses as in the R1 District except accessory dwelling units are not permitted.

Section 5.1-6. Interim Uses:

Within any R1S district, no structure or land shall be used for the following uses except by an interim use permit:
a) Same interim uses as in the R1 District except accessory dwelling units are not permitted.

Section 5.1-7. 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 forty percent (40%), subject to provisions in Chapter 21.
c) Minimum lot size shall be five thousand (5,000) square feet. Developments providing

elements as indicated in the following categories (listed below) may include a variety of lots sizes, including lots below five thousand (5,000) square feet provided the overall density does not exceed eight (8) units per acre. Various lot sizes shall be distributed throughout the development. This section does not apply to developments of eight (8) units or less. Required elements include the following:

Category 1: Choose one of the following (located in a centralized location useable by all residents):

1) Inclusion of private open space (maintained by homeowners association);

2) Inclusion of increased park land dedication (useable) beyond the required park dedication amount when land is required by the ordinance (maintained by homeowners association) or increased park land dedication beyond the required amount dedicated to the Park District. The Park District must agree to maintain if dedication occurs;

3) Expansion of existing open space or open space corridors and/or linking open space corridors beyond borders of the site;

4) Preservation of existing natural resources and woodlands (as mapped as the greenway corridor on the land use plan).

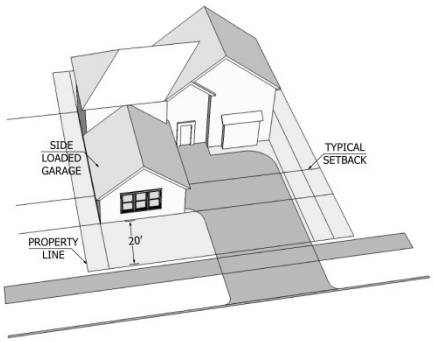
Category 2: Minimum element plus optional elements that will serve the intended population:

5) Site amenities: A manicured landscape open space area shall be provided in each development. In addition, a minimum of one additional amenity shall be provided, in a centralized location, which will meet the needs of the intended population. This may include but is not limited to: private parks or playground area/tot lots (maintained by homeowners association), trails (above what is required by ordinance), on site recreational facilities such as a community center, picnic pavilion, basket/volleyball courts, and swimming pools.

6) Alternative choices may include development wide features including the following elements: enhanced pedestrian scale and decorative street lighting, monument signage with decorative lighting (located in private easement), water feature or enhanced entry landscaping surrounding the monument.

d) Density: The maximum density shall be eight (8) units per gross acre.

e) Minimum yards are as follows:
   1) Front (house with side-load garage or front

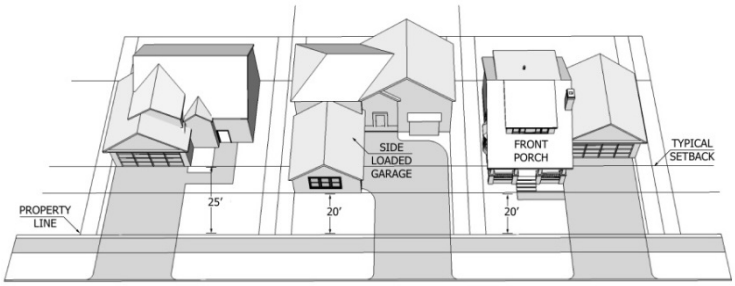


porch) – twenty (20) feet. Front yards facing a platted or proposed collector or arterial street – forty (40) feet.

2) Front (garage) – twenty-five (25) feet. An exception will be made for a side-loaded garage to be twenty (20) feet provided the lot is an interior lot and a window is included on the street facing garage elevation.

3) Side (interior lot line) – five (5) feet.

4) Side (corner) – fifteen (15) feet. Corner side yards facing a platted or proposed collector or arterial street- forty (40) feet.



5) Rear – twenty (20) feet. Detached garages parallel to an alley shall be three (3) feet.

6) No required off-street parking shall be located in the required front yard.

7) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.

8) Accessory buildings (sheds) are subject to setback requirements of Chapter 21, Sec. 21-8.

f) Minimum lot dimensions shall be as follows:
   1) Area – five thousand (5,000) square feet but may vary based on requirements above. Corner lots shall be a minimum of seven thousand (7,000) square feet.
   2) Width – sixty (60) feet
   3) Corner lot – seventy (70) feet
   4) Depth – eighty (80) feet (minimum)

g) The total coverage and floor area of all accessory buildings shall not exceed those of the primary structure.

h) Front Yard: The front yard (house) setback for living area in an R1S district shall be twenty-five (25) feet. The setback may be reduced to fifteen (15) feet if the following conditions are met:

   1) The setback reduction is for an attached living area or porch to the principal structure, not including the garage, which does not exceed a total of one hundred-twenty (120) square feet of above grade finished livable space.
   2) The exterior materials of the proposed living area or porch are consistent or complementary in color, texture and quality with those visible at the front of the dwelling.

3) The roof of the proposed living area or porch is properly proportioned to and integrated with the roof of the dwelling.
4) The structure does not adversely affect drainage on the lot or neighboring properties.
5) Does not affect visibility at an intersection for corner lots.

i) Legal non-conforming dwellings, due to setback requirements, can be replaced at the existing setback provided any replacement structure is within the same footprint as original structure or within current setback requirements. The replacement structure shall be of the same design character, height and roof design as the original structure.

Section 5.1-8. Residential Design Standards:

Newly constructed single family homes shall be constructed with the following design considerations:

a) Platted residential developments of ten (10) or more adjoining lots under single ownership shall provide for a variety of elevations and color choices throughout the development.

b) A homeowners' association shall be established in instances where developments within the district contain common open space, driveways, utilities (not maintained by public entity), etc. Homeowners' associations are subject to review and approval by the City Attorney prior to the release of the final plat. This document shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common, when there is more than one individual property owner having interest within the development. All association documents must be recorded at the County Recorders' office against the property.

Section 5.1-9. Miscellaneous Provisions:

a) All accessory buildings to a residence shall be limited to a total coverage of eight hundred (800) 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 twenty-four thousand (24,000) square feet in area shall be five percent (5%) of the lot area. Accessory buildings side wall height shall not exceed sixteen (16) feet from the bottom plate to the top of sidewall plate.

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.

CHAPTER 5.2 - "RA" AGRICULTURAL RESIDENTIAL DISTRICT

Section 5.2-1. 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 "RA" Agricultural Residential District.

Section 5.2-2. General Description:

The RA (Agricultural 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.

Section 5.2-3. Uses Permitted:

The following uses are permitted:

a) Single family dwelling other than “R” District Excluded Manufactured Homes.
b) Elementary school.
c) High school or middle 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) Places of public assembly.
l) 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.
m) A group home for housing of no more than six (6) persons plus staff.
n) Home occupations, except bed and breakfast businesses.
o) 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 (1) horse for every additional three (3) acres of contiguous property under the same ownership. For the purpose 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.
p) Railroad right-of-way, not including railroad yards.
q) Farming, except the keeping of livestock other than horses.
r) The keeping of household pets such as dogs and cats.

Section 5.2-4. Accessory Uses:

a) Accessory buildings meeting requirements in Sec. 5.2-7.

Section 5.2-5. Conditional Uses:

Within any RA district, no structure or land shall be used for the following uses except by a conditional use permit:

a) Accessory Dwelling Unit provided it meets the following requirements:
   1) The Single family dwelling in which the Accessory Dwelling Unit is proposed is owner occupied. The Accessory Dwelling Unit is occupied by a family member or extended family member of the single family dwelling
   2) The lot meets minimum lot size requirements.
   3) One paved (or other permeable surface material as approved by the City Engineer) on-site parking space for the accessory dwelling unit is provided.
   4) The unit must be attached to the single-family dwelling living space or located within the single-family dwelling. Accessory Dwelling Units are not permitted in detached structures, including, but not limited to, detached garages and accessory buildings.
   5) No more than one Accessory Dwelling Unit is permitted per residential site.
   6) Accessory Dwelling Units must be at least three hundred (300) square feet in area but cannot exceed nine hundred-sixty (960) square feet. Total floor area must not exceed thirty percent (30%) of the living area of the associated single family dwelling unit.
   7) Entrances for an accessory apartment in dwellings constructed after the effective date of the ordinance shall not be placed on the building front; no new entrances shall be established along the building front of an existing dwelling to serve an accessory apartment.
   8) Occupancy is limited to two persons.
   9) The Accessory Dwelling Unit must be designed and constructed to allow conversion of the Accessory Dwelling Unit back to single family residential space in the future.
b) Agricultural nurseries or tree farms.
c) Bed and breakfast business in a single family detached home provided that one (1) off-street parking space be provided for each guest room in addition to the requirement off-street parking for the residential use.

Section 5.2-6. Lot, Height, Area and Yard Requirements:

a) Maximum height of any residential building shall not exceed thirty five (35) feet. Accessory buildings side wall height shall not exceed sixteen (16) feet from the bottom plate to the top of the sidewall plate.
b) Maximum lot coverage shall be ten percent (10%), subject to provisions in Chapter 21.
c) Minimum yards are as follows:
   1) Front – thirty-five (35) feet. Front yards facing a platted or proposed collector or arterial roadway– forty (40) feet.
   2) Side – twenty (20) feet. Side yards facing a platted or proposed collector or arterial street – forty (40) feet.
   3) Rear – thirty-five (35) feet.

4) No required off-street parking shall be located in the required front yard.
5) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
6) Additional setbacks may be required on county roads within the two-mile jurisdiction.

d) Minimum lot dimensions shall be as follows:
   1) Area – two (2) acres
   2) Width – one hundred-fifty (150) feet
   3) Depth – one hundred-fifty (150) feet

Section 5.2-7. Miscellaneous Provisions:

a) Accessory Buildings: Accessory buildings may occupy up to five percent (5%) of the lot area. Accessory buildings above the five percent (5%) threshold may be considered through a conditional use permit request. Accessory buildings side wall height shall not exceed sixteen (16) feet from the bottom plate to the top of sidewall plate. Accessory buildings for the above computation shall include the following buildings: barns, stables and storage buildings, and attached and detached garages, provided those 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 - "R2" TWO-FAMILY RESIDENTIAL DISTRICT

Section 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 "R2" Two-Family Residential Districts.

Section 6-2. General Description:

The R2 (Two-Family Residential) District is intended to establish areas for the development of a mixture of single and two-family housing; to restrict encroachment on incompatible uses; to broaden the choice of residential living styles in the City; and to promote quality development. This district includes parcels previously zoned R2 and R2(B). These previously platted parcels are subject to the requirements in this chapter. If lot sizes, setbacks or other requirements in this chapter do not meet the requirements, the site may be considered legal non-conforming subject to requirements in Chapter 25.

Section 6-3. Uses Permitted:

The following uses are permitted:

a) Dwelling, single-family detached.
b) Dwelling, two-plex (attached under common ownership) on the same lot.
c) Dwelling, two-family (townhouse).
d) Schools, public or private.
e) Golf course (public or private).
f) Park (public or private).
g) Playground or athletic field (public or private).
h) Swimming pool (public or private).
i) Ice skating rink (outdoor).
j) Places of public assembly.
k) Accessory building or use customarily incidental to all permitted uses including a private garage.
l) 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.
m) A group home for housing of no more than six (6) persons plus staff.
n) Home occupations, except bed and breakfast businesses.

Section 6-4. Accessory Uses:

a) 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 fifteen thousand (15,000) square feet, in which case Section 5-8 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.

b) Temporary real estate offices as part of a new development.
c) Residential association managed community building.

Section 6-5. Conditional Uses:

Within any R2 district, no structure or land shall be used for the following uses except by a conditional use permit:

a) Same conditional uses as in the R1 District except accessory dwelling units are not permitted.

Section 6-6. Interim Uses:

Within any R2 district, no structure or land shall be used for the following uses except by an interim use permit:

a) Same interim uses as in the R1 District except accessory dwelling units are not permitted.

Section 6-7. 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 forty percent (40%) of the lot area.
c) Minimum yards are as follows:
    1) Front – twenty-five (25) feet at the street of each platted lot. Front yards facing a platted or proposed collector or arterial street – forty (40) feet. An exception will be made for a side – loaded garage to be twenty (20) feet provided the lot is an interior lot and a window is included on the street facing garage elevation.
    2) Side – six (6) feet
    3) Side (street) – twenty-five (25) feet at the street of each platted lot. Corner side yards facing a platted or proposed collector or arterial – forty (40) feet.
    4) Rear – twenty-five (25) feet.
    5) No required off-street parking shall be located in the required front yard.
    6) All yards are subject to the limitations, exceptions and other modifications set forth in Chapter 21.
d) Minimum lot dimensions for a single family dwelling shall follow the R1 requirements for lot dimensions in Sec. 5-7.
e) For a two-family townhouse in the R2 district, the following shall be required per townhouse as minimums:
    1) Lot area – three thousand and five hundred (3,500) square feet.
    2) Lot width – thirty (30) feet.
f) The total coverage and floor area of all accessory buildings shall not exceed those of the primary structure.
g) Each dwelling unit is served by its own independent water, sewer, heat and other utility service. With respect to a duplex located in the same district, where one owner owns both units, combined utilities are allowed.
h) Accessory buildings (sheds) are subject to setback requirements of Chapter 21, Sec. 21-8.

i) Legal non-conforming dwellings, due to setback requirements, can be replaced at the existing setback provided any replacement structure is within the same footprint as original structure or within current setback requirements. The replacement structure shall be of the same design character, height and roof design as the original structure.

Section 6-8. Residential Design Standards:

Newly constructed single family homes shall be constructed with the following design considerations:

a) Platted residential developments of ten (10) or more adjoining lots under single ownership shall provide for a variety of elevations and color choices throughout the development.
b) A homeowners' association shall be established in instances where developments within the district contain common open space, driveways, utilities (not maintained by public entity), etc. Those Homeowners' Associations' are subject to review and approval by the City Attorney prior to the release of the final plat. This document shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common, when there is more than one individual property owner having interest within the development. All association documents must be recorded at the County Recorders' office against the property.

Section 6-9. 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.

CHAPTER 7 - "RM" MEDIUM DENSITY RESIDENTIAL DISTRICT

Section 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 "RM" or "R3B" Multiple Residential Medium Density Residential Districts.

Section 7-2. General Description:

The purpose of the RM (Medium Density Residential) District is to allow a variety of housing types including single-family attached and detached dwellings and multi-family (stacked) with a minimum net density of six (6) units per acre and maximum net density of twelve (12) units per acre.

This district includes parcels previously zoned R3 and R3(B). These previously platted parcels are subject to the requirements in this chapter. If lot sizes, setbacks or other requirements in this chapter do not meet the requirements the site may be legal non-conforming subject to requirements in Chapter 25.

Section 7-3. Uses Permitted:

a) Any use permitted in the "R1" Single Family Residential District.
b) Any use permitted in the "R2" Two Family Residential Districts, except that child care facilities and private nursing homes as home occupations shall be allowed only in single-family detached homes.
c) Two-plex, three-plex and four-plex.
d) Townhomes with no more than six (6) dwelling units per structure in a row or no more than eight (8) dwelling units if back to back, with each having a separate entrance.
e) Stacked multi-family dwellings including apartment or condominium buildings provided any principle structures are not located within one hundred (100) feet from the property line abutting an R1 or R1S zoning district or existing single family residential structure.
f) Nursing, convalescent, or rest home, age restricted housing.
g) Condominiums

Section 7-4. Accessory Uses:

a) Accessory building customarily incidental to all permitted uses including a private garage. Only two (2) storage sheds shall be allowed per ownership. Any accessory building shall be used by the development and shall not be rented.
b) Temporary real estate offices as part of a new development.
c) Residential association managed community building.

Section 7-5. Conditional Uses:

Within any RM district, no structure or land shall be used for the following uses except by a conditional use permit:

a) Bed and breakfast business in a single family home and which may include food service for people other than overnight patrons provided that such food service is limited to a seating capacity of twenty (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 thirty percent (30%) of the total lot area.
b) Day care facility, licensed - serving more than eighteen (18) persons.
c) Fraternity house or sorority house.
d) Multi-family residential building (stacked) exceeding three (3) stories.

Section 7-6. 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 fifty percent (50%) of the lot area.
c) Minimum yards are as follows:
    1) Front – twenty - five (25) feet. Front yards facing a platted or proposed collector or arterial street – forty (40) feet.
    2) Side – ten (10) feet, or zero (0) feet wherever two (2) units are joined by common wall.
    3) Side (street) – twenty-five (25) feet. Corner side yards facing a platted or proposed collector or arterial street – forty (40) feet.
    4) Rear –twenty-five (25) feet.
    5) On each end of the townhouse complex site, greater than two (2) units, there shall be 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. 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 RM districts shall be five thousand (5,000) square feet. Corner lots shall be a minimum of seven thousand (7,000) square feet.
    2) Area for a two-family dwelling in RM district shall be seven thousand (7,000) square feet (3,500 square feet per unit).
    3) Area for a three-family dwelling in RM district shall be ten thousand (10,000) square feet. For each additional dwelling unit in the RM district in excess of a three-family dwelling, the lot shall have an additional area of three thousand (3,000) square feet.
    4) Minimum net density of eight (8) units per acre and maximum net density of sixteen (16) units per acre.
e) Minimum lot dimensions shall be as follows:
    1) Lot width (RM) – sixty (60) feet (interior)
    2) Lot width – eighty (80) feet (corner).
    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.
g) Legal non-conforming dwellings, due to setback requirements, can be replaced at the existing setback provided any replacement structure is within the same footprint as original structure or within current setback requirements. The replacement structure shall be of the same design character, height and roof design as the original structure.

Section 7-7. Special Minimum Requirements for buildings containing three units or greater of attached units:

Stacked Multiple Family buildings in the RM district shall follow the RH Special Minimum.

a) Unit Width: The minimum width of a dwelling unit within the RM district shall be twenty-five (25) feet.
b) Unit Construction:
   1) Subdivision or Rezoning Requests: Site plans, building elevations and floor plans shall be furnished with any subdivision and or rezoning requests illustrating overall site plan, landscaping, exterior building material and colors to demonstrate compliance of this title. Building floor plans shall identify the interior storage space within each unit.
   2) Decks or Porches: Provision shall be made for possible decks, porches or additions as part of the initial dwelling unit building plans. The unit lot shall be configured and sized to include decks or porches.
   3) Exterior Building Finish: The exterior of attached/townhome dwelling units shall include a variation in building materials which are to be distributed throughout the building façades and coordinated into the architectural design of the structure to create an architecturally balanced appearance.
c) Elevations: Platted residential developments of five (5) or more dwelling units (detached) or attached buildings (twin and townhomes) shall provide for a variety of elevations and color choices throughout the development.
d) Façades and walls: Each façade of a townhouse, twin home or apartment building shall be finished with a minimum of two (2) different colors and two (2) different finishes (exterior finishes exclude exposed foundation walls constructed of poured concrete or smooth-face concrete block, whether painted or not painted). Accenting shall be incorporated into the design where appropriate to avoid expansive, unadorned areas, including, but not limited to, areas below gabled roofs.
e) Roofs: Each attached/townhome building shall feature a combination of primary and secondary roofs. Primary roofs shall be articulated by at least one of the following elements:
   1) Changes in place and elevation.
   2) Dormers or gables.
   3) Transitions to secondary roofs over entrances, garages, porches, bay windows.
f) Outside Storage: Outside storage shall be allowed only in designated areas which are screened in accordance with this Ordinance and under the ownership of the property owners' association subject to other applicable provisions of this title.
g) Required Parking and Guest Parking: At minimum, one-quarter ($^1/_4$) of guest parking spaces per unit shall be provided in an off street parking lot or private drive at locations dispersed within the development to provide convenient access to individual dwelling units. The design and location of the off street parking shall be between or to the side of buildings in a manner

compatible with surrounding dwelling units, including (but not limited to) a minimum fifteen (15) foot setback from principal buildings, decks, patios or other open spaces intended for active use. Required parking shall not be located within the front yard. Guest parking areas shall be screened in conformance with the requirements of Chapter 23.

h) Trash Handling and Recycling: All trash and recyclable materials and handling equipment shall be stored within the principal structure, completely screened from eye level view from a public street and adjacent properties by the principal building, or enclosed within a solid fence. Wood and chain link (with or without slats) fence materials shall not be permitted. The fence shall be a minimum of six (6) feet in height, with a swinging door and person gate. The enclosure cannot be located in the front yard setback. Compactors that are attached to the principal structure shall be completely screened from eye level view from public streets and adjacent properties by means of landscaping or fencing.

i) Parking Lot Screening:
   1) The light from automobile headlights and other sources shall be screened whenever it may be directed onto residential windows.
   2) When required parking areas abut any residential district, the edge nearest the lot line shall be completely screened to a height of at least three and one-half feet ($3^1/_2$') above the parking grade. Such screening shall either be constructed of durable building materials designed in harmony with the principal structure or accomplished through use of earth mounds and/or landscape materials as approved.
   3) When the design of the site is such that parking occurs in the front yard, a minimum of ten (10) feet landscaped area shall be provided between parking and building, in addition to the required setbacks.

j) Amenities: On site amenities shall be provided for developments with twenty-five (25) units or greater, or for the development of a single lot with twenty-four (24) units or greater. Amenities may include such elements as community room, swimming pools, tennis, basketball or volleyball courts, play equipment, walking trails, gardens, or other appropriate amenity that are suitable for the projected population of the development shall be provided when the nearest public park or school with field and playground amenities is more than one-half ($^1/_2$) mile or across a collector or arterial roadway from the development.

k) A homeowners' association shall be established in instances where developments within the RM district contain common open space, driveways, utilities (not maintained by public entity), etc. Those Homeowners' Associations' are subject to review and approval by the City Attorney prior to the release of the final plat. This document shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common, when there is more than one individual property owner having interest within the development. All association documents must be recorded at the County Recorders' office against the property.

CHAPTER 8 - "R3C" TOWNHOUSE RESIDENTIAL DISTRICT

Section 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 "R3C" Townhouse Residential District.

Section 8-2. General Description:

The R3C (Townhouse Residential) District is established as a district in which the principal use of the land shall be townhouse dwellings. The R3C district will be limited to areas guided Medium Density on the Future Land Use Plan and those Medium Density guided parcels that are immediately abutting or are across the street from existing single family residential where townhome versus stacked multiple family is more compatible. Density range shall be six (6) and twelve (12) units per acre.

Section 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 two (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 ten (10) square feet in area.
h) Home occupations.

Section 8-4. Accessory Uses:

a) Accessory building customarily incidental to all permitted uses including a private garage. Any accessory buildings shall serve development and shall not be rented.
b) Temporary real estate offices as part of a new development.
c) Residential association managed community building.

Section 8-5. Conditional Uses:

Within any R3C district, no structure or land shall be used for the following uses except by a conditional use permit:

a) Fraternity house or sorority house.

Section 8-6. Lot, Height, Area and Yard Requirements:

a) Maximum height of any building shall not exceed thirty-five (35) feet.
b) Maximum coverage shall be fifty percent (50%) of the lot area.
c) Minimum yards are as follows:
   1) Front – twenty - five (25) feet. Front yards facing a platted or proposed collector or arterial street – forty (40) feet. An exception will be made for a side-loaded garage to be twenty (20) feet provided the lot is an interior lot and a window is included on the street facing garage elevation.
   2) Rear – twenty-five (25) feet.
   3) Side – zero (0) feet wherever two townhouses are joined by a common wall.
   4) Side (street) – twenty-five (25) feet. Corner side yards facing a platted or proposed collector or arterial street – forty (40) feet.
   5) Six (6) feet on each end of a two-unit townhouse complex.
   6) 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 – two thousand five-hundred (2,500) square feet.
e) Minimum lot width – sixteen (16) feet.
f) Minimum lot depth – one hundred (100) feet.

Section 8-7. Special Minimum Requirements for Townhome buildings containing three units or greater:

a) Unit Width: The minimum width of a dwelling unit within the RM district shall be twenty-five (25) feet.
b) Unit Construction:
   1) Subdivision or Rezoning Requests: Site plans, building elevations and floor plans shall be furnished with any subdivision and or rezoning requests illustrating overall site plan, landscaping, exterior building material and colors to demonstrate compliance of this title. Building floor plans shall identify the interior storage space within each unit.
   2) Decks or Porches: Provision shall be made for possible decks, porches or additions as part of the initial dwelling unit building plans. The unit lot shall be configured and sized to include decks or porches.
   3) Exterior Building Finish: The exterior of attached/townhome dwelling units shall include a variation in building materials which are to be distributed throughout the building façades and coordinated into the architectural design of the structure to create an architecturally balanced appearance.
c) Elevations: Platted residential developments of five (5) or more dwelling units (detached) or attached buildings (twin and townhomes) shall provide for a variety of elevations and color choices throughout the development.
d) Façades and walls: Each façade of a townhouse, twin home or apartment building shall be finished with a minimum of two (2) different colors and two (2) different finishes (exterior finishes exclude exposed foundation walls constructed of poured concrete or smooth-face concrete block, whether painted or not painted). Accenting shall be incorporated into the

design where appropriate to avoid expansive, unadorned areas, including, but not limited to, areas below gabled roofs.

e) Roofs: Each attached/townhome building shall feature a combination of primary and secondary roofs. Primary roofs shall be articulated by at least one (1) of the following elements:
   1) Changes in place and elevation.
   2) Dormers or gables.
   3) Transitions to secondary roofs over entrances, garages, porches, bay windows.

f) Outside Storage: Outside storage shall be allowed only in designated areas which are screened in accordance with this Ordinance and under the ownership of the property owners' association subject to other applicable provisions of this title.

g) Required Parking and Guest Parking: At minimum, one-quarter ($^1/_4$) of guest parking spaces per unit shall be provided in an off street parking lot or private drive at locations dispersed within the development to provide convenient access to individual dwelling units. The design and location of the off street parking shall be between or to the side of buildings in a manner compatible with surrounding dwelling units, including (but not limited to) a minimum fifteen (15) foot setback from principal buildings, decks, patios or other open spaces intended for active use. Required parking shall not be located within the front yard. Guest parking areas shall be screened in conformance with the requirements of Chapter 23.

h) Trash Handling and Recycling: All trash and recyclable materials and handling equipment shall be stored within the principal structure, completely screened from eye level view from a public street and adjacent properties by the principal building, or enclosed within a solid fence. Wood and chain link (with or without slats) fence materials shall not be permitted. The fence shall be a minimum of six (6) feet in height, with a swinging door and person gate. The enclosure cannot be located in the front yard setback. Compactors that are attached to the principal structure shall be completely screened from eye level view from public streets and adjacent properties by means of landscaping or fencing.

i) Parking Lot Screening:
   1) The light from automobile headlights and other sources shall be screened whenever it may be directed onto residential windows.
   2) When required parking areas abut any residential district, the edge nearest the lot line shall be completely screened to a height of at least three and one-half ($3^1/_2$) feet above the parking grade. Such screening shall either be constructed of durable building materials designed in harmony with the principal structure or accomplished through use of earth mounds and/or landscape materials as approved.
   3) When the design of the site is such that parking occurs in the front yard, a minimum of ten (10) feet landscaped area shall be provided between parking and building, in addition to the required setbacks.

j) Amenities: On site amenities shall be provided for developments with twenty- five (25) units or greater, or for the development of a single lot with twenty-four (24) units or greater. Amenities may include such elements as community room, swimming pools, tennis, basketball or volleyball courts, play equipment, walking trails, gardens, or other appropriate amenity that are suitable for the projected population of the development shall be provided when the nearest public park or school with field and playground amenities is more than one-half ($^1/_2$) mile or across a collector or arterial roadway from the development.

k) A homeowners' association shall be established in instances where developments within the R3C district contain common open space, driveways, utilities (not maintained by public entity), etc. Those Homeowners' Associations' are subject to review and approval by the City Attorney prior to the release of the final plat. This document shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common, when there is more than one individual property owner having interest within the development. All association documents must be recorded at the County Recorders' office against the property.

l) Legal non-conforming dwellings, due to setback requirements, can be replaced at the existing setback provided any replacement structure is within the same footprint as original structure or within current setback requirements. The replacement structure shall be of the same design character, height and roof design as the original structure.

Section 8-8. Miscellaneous Provisions:

a) The uses permitted or allowed by this chapter (which uses are enumerated in Section 8.1-3) 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.)

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.

CHAPTER 9 - "RH" HIGH DENSITY RESIDENTIAL DISTRICT

Section 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 "RH" High Density Residential District.

Section 9-2. General Description:

The purpose of the RH (High Density Residential) District is to allow development of multi-family housing. It is intended that this district provide a mix of life-cycle housing choices throughout the city with a maximum density of twenty-four (24) units per acre. The RH district will be limited to areas guided High Density Residential as identified on the Future Land Use Plan.

Section 9-3. Uses Permitted:

a) Public Parks, trails, playfields, playgrounds, and directly related buildings and structures;
b) More than one principal building on a base lot.
c) Townhomes with no more than six (6) dwelling units per structure if in a row or no more than eight (8) dwelling units if back to back, with each having a separate entrance.
d) Dwelling, multiple-family (apartment, condominium, cooperative, age restrictive);

Section 9-4. Conditional Uses:

a) Day care facility, licensed – serving more than eighteen (18) persons.
b) Fraternity house or sorority house
c) High-rise apartment building above the maximum forty-five (45) feet permitted subject to the following requirements:
    1) The principal building are not located within one hundred (100) feet from the property line abutting an R1, R1S zoning district or existing single family residential structure.
    2) Additional amenities (as required in Section 9-7) shall be incorporated into the development plan at time of review of the application for a conditional use permit.

Section 9-5. Accessory Uses

a) Only those accessory buildings, structures, or fences owned and maintained by a homeowners' association shall be erected on a common base lot or on an individual townhome dwelling lot. An accessory building on site shall be used to serve the development and cannot be rented.
b) Temporary real estate offices as part of a new development.
c) Residential association managed community building.

Section 9-6. 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 by conditional use permit. The maximum height of an accessory building shall not exceed sixteen (16) feet.

b) Maximum coverage shall be fifty percent (50%) of the lot area.
c) Minimum yards are as follows:
   1) Front – thirty (30) feet. Front yards facing a platted or proposed collector or arterial street – forty (40) feet.
   2) Side – ten (10) feet, or zero (0) feet wherever two (2) units are joined by common wall.
   3) Side (street) – thirty (30) feet. Corner sides facing a platted or proposed collector or arterial street – forty (40) feet.
   4) Rear – twenty-five (25) feet.
   5) On each end of the townhouse complex site greater than two (2) units, there shall be 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 three (3) feet. 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 a townhouse dwelling in R4 district shall be ten thousand (10,000) square feet. For each additional dwelling unit in the RH district in excess of a four-family dwelling, the lot shall have an additional area of two thousand (2,000) square feet.
   2) Area for a stacked multiple family building shall be one (1) acre with a one hundred (100) feet lot width.
   3) Maximum density of twenty-four (24) units per acre.

Section 9-7. Special Minimum Requirements for Multi-Family Residential Developments.

a) Utilities: All multiple-family dwellings shall be served by public sanitary sewer and water.
b) Parking: The design and maintenance of off street parking areas and the required number of parking spaces shall be in accordance with Chapter 23 of this title.
   1) No required off-street parking shall be located in the required front yard.
   2) Private driveways for garages in townhouse developments shall be a minimum of twenty (20) feet in length to allow vehicle parking on the driveway.
c) Trash Handling and Recycling: All trash and recyclable materials and handling equipment shall be stored within the principal structure, completely screened from eye level view from a public street and adjacent properties by the principal building, or enclosed within a solid fence. Wood and chain link (with or without slats) fence materials shall not be permitted. The fence shall be a minimum of six (6) feet in height, with a swinging door and person gate. The enclosure cannot be located in the front yard setback. Compactors that are attached to the principal structure shall be completely screened from eye level view from public streets and adjacent properties by means of landscaping or fencing.
d) On Site Screening: All mechanical equipment, utility meters, storage and service areas and similar features shall be screened from grade eye level view from adjacent properties and public streets, or designed to be located on site so as not to be visible from the street. This section applies only to building wide mechanical units, not unit specific units.
e) Building Design and Materials – Multi-family (stacked): Each façade of a townhouse, twin home or stacked multi-family buildings shall be finished with a minimum of two (2) different colors and two (2) different finishes (exterior finishes exclude exposed foundation walls

constructed of poured concrete or smooth-face concrete block, whether painted or not painted).

f) Accenting shall be incorporated into the design where appropriate to avoid expansive, unadorned areas, including, but not limited to, areas below gabled roofs.

g) Parking Lot Screening:
   1) The light from automobile headlights and other sources shall be screened whenever it may be directed onto residential windows.
   2) When required parking areas abut any residential district, the edge nearest the lot line shall be completely screened to a height of at least three and one-half ($3^1/_2$) feet above the parking grade. Such screening shall either be constructed of durable building materials designed in harmony with the principal structure or accomplished through use of earth mounds and/or landscape materials as approved.
   3) When the design of the site is such that parking occurs in the front yard, a minimum of ten (10) feet landscaped area shall be provided between parking and building, in addition to the required setbacks.

g) Setbacks in Townhouse Developments: Buildings in townhouse developments shall be located at least twenty (20) feet apart and twenty (20) feet from the back of the curb of private roadways.

h) Amenities: On site amenities shall be provided for developments with twenty-five (25) units or greater, or for the development of a single lot with twenty-four (24) units or greater. Amenities may include such elements as community room, swimming pools, tennis, basketball or volleyball courts, play equipment, walking trails, gardens, or other appropriate amenity that are suitable for the projected population of the development shall be provided when the nearest public park or school with field and playground amenities is more than one-half ($^1/_2$) mile or across a collector or arterial roadway from the development.

i) A homeowners' association shall be established in instances where developments within the RH district contain common open space, driveways, utilities (not maintained by public entity), etc. Homeowners' Associations' are subject to review and approval by the City Attorney prior to the release of the final plat. This document shall be responsible for all exterior building maintenance, approval of any exterior architectural modifications, landscaping, snow clearing and regular maintenance of private driveways and other areas owned in common, when there is more than one individual property owner having interest within the development. All association documents must be recorded at the County Recorders' office against the property.

j) Legal non-conforming dwellings, due to setback requirements, can be replaced at the existing setback provided any replacement structure is within the same footprint as original structure or within current setback requirements. The replacement structure shall be of the same design character, height and roof design as the original structure.

CHAPTER 10 - "C1" NEIGHBORHOOD COMMERCIAL DISTRICT

Section 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 “C1” Neighborhood Commercial District.

Section 10-2. General Description:

The C1 (Neighborhood Commercial) District is intended to support the establishment of highly limited scale neighborhood commercial centers that offer basic convenience type goods and services to the immediately surrounding residential neighborhoods. It is not intended to permit major commercial or service establishments in such districts nor any automobile service stations. Extension of this district along major streets in a "strip" fashion is not intended and shall be discouraged. Property zoned C1 falls within the Neighborhood Commercial Land Use designation on the Future Land Use Plan.

Section 10-3. Uses Permitted:

a) Retail businesses, such as general merchandise, groceries, liquor, hardware, and apparel stores; eating and drinking establishments (excluding drive-in and drive-through services and designed to accommodate no more than fifty (50) persons at one time).
b) Business services, such as banks and other financial institutions, and professional offices.
c) Personal services, such as barber and beauty shops, photographic studios, laundromats and dry cleaning establishments, tailors.
d) Repair services, such as radio shops, appliance shops, upholstery shops (not involving furniture manufacturing) and shoe repair shops.
e) Public/semi-public facilities, such as armories, parks, police and fire stations, telephone exchange buildings, and civic centers.
f) Professional offices, banks, attorneys, accountants, real estate, and other similar office uses.
g) 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.
h) Day care centers must show evidence of application for day care center and all appropriate federal, state, and local regulations must be fulfilled.
i) Temporary/seasonal outdoor sales uses, subject to the following requirements:
    1) Sales area may operate between the hours of 7:00 a.m. and 9:00 p.m.
    2) A site plan shall be provided illustrating that the location of the temporary/seasonal sales facility meets all required parking lot setbacks, unless otherwise determined by the City.
    3) Must be placed on an approved hard surface such as bituminous or concrete.
    4) Parking shall be available to those purchasing goods from the temporary/seasonal sales area.
    5) Temporary/seasonal sales facilities may not be permanently connected to permanent utilities, including electric, gas, sewer, water, and phone. An exception shall be made for below ground electrical service.

6) One (1) temporary banner not exceeding forty (40) square feet may be used in conjunction with the temporary/seasonal sales operation.
7) Trash containers shall be provided on site for debris. All waste from the operation shall be properly disposed of.
8) Temporary/seasonal sales may occur up to two (2) times a year on a specific property of a business or businesses and no longer than sixty (60) consecutive days with sixty (60) days between events.

j) Places of Public Assembly
k) Other uses of similar nature or general character to those specifically permitted in the district.
l) Essential service structures.

Section 10-4. Conditional Uses:

Within any C1 district, no structure or land shall be used for the following uses except by a conditional use permit:

a) Antennas, radio, television, cellular towers as regulated by this ordinance.
b) Buildings in excess of thirty-five (35) feet in height.
c) Clinic.
d) Convenience store with fuel sales subject to the following:
   1) Motor fuel facilities shall be installed in accordance with State and City standards. Additionally, adequate space shall be provided to access gas pumps and to allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on site.
   2) A protective canopy located over pump islands may be an accessory structure on the property and may be located twenty (20) feet or more from the front property line, provided adequate visibility both on and off site is maintained.
   3) The hours of operation shall be limited to 6:00 AM to 10:00 PM, unless extended by the Council as part of the special use permit.
   4) All canopy lighting shall be recessed or fully shielded.
e) Drive-through uses subject to the following:
   1) Location of menu board and location of drive-through stacking shall be approved by the Traffic Engineer.
   2) A minimum of six (6) vehicle stacking distance shall be accommodated on site.

Section 10-5. Limitations on Permitted Uses, Conditional Uses and Interim 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 and repairs are completely enclosed in a principal structure.
b) 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.

c) 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.
d) 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 two hundred-fifty (250) vehicles entering or exiting the premises.
e) No loud or unpleasant noises, bright, or glaring lights, offensive or noxious fumes or odors, or perceptible vibrations may be emitted from the premises.
f) No building shall exceed ten thousand (10,000) square feet in finished floor area. Buildings are limited to two (2) stories above ground.

Section 10-6. 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.
c) Minimum yards are as follows:
   1) Front – twenty-five (25) feet. If located on a platted or proposed collector or arterial street – fifty (50) feet.
   2) Side-street side (corner) and double fronted street side lots twenty-five (25) feet on each street side. If located on a platted or proposed collector or arterial street – fifty (50) feet.
   3) Parking lot – ten (10) feet along all public streets.
   4) Side – interior side – zero (0) 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.
   5) Rear – zero (0) 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.
   6) 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 dimensions – one hundred (100) feet
f) Buffer strips will be required along lot lines adjacent to a more restrictive zoning district according to requirements in Chapter 24.

Section 10-7. Building Design and Materials for C1-District:
All buildings shall be designed to accomplish the goals and policies of the comprehensive plan. Building materials shall be attractive in appearance, of a durable finish, and be of a quality that is compatible and harmonious with adjacent structures. All buildings shall be of good aesthetic and architectural quality to ensure they will maintain and enhance the property values of neighboring properties and not adversely impact the community's public health, safety and general welfare.
a) Design Elements: All new building fronts and refacing of existing buildings shall include a minimum of three (3) of the following elements:
   1) Accent materials that are different from exterior building finishes;
   2) A visually pleasing front entry that, in addition to doors, shall be accented a minimum of one hundred-fifty (150) square feet around the door entrance for single occupancy buildings and a minimum of three hundred (300) square feet total for the front of multi-tenant buildings (this area shall be counted as one (1) element);

3) Twenty-five percent (25%) window coverage on each front that faces a street;
4) Contrasting yet complementary, material colors;
5) A combination of horizontal and vertical design features;
6) Irregular building shapes; or
7) Other architectural features in the overall architectural concept including such things as awnings, eaves, overhangs, various roof lines/profiles, use of columns or posts, enhanced windows or door detail, etc.

b) Accent Materials: Accent materials shall be wrapped around walls visible from public view. Painting shall not be substituted for visual relief, accenting, or a required element. No wall shall exceed one hundred (100) feet in length without visual relief. "Visual relief" may be defined as the incorporation of design features such as windows, horizontal and vertical patterns, contrasting material colors, or varying wall depths. Use of fiber cement trim, soffit and fascia shall be allowed as accent materials.

c) Exterior Building Finishes:
   1) The exterior building façade finishes of any façade viewable from a street or parking lot shall consist of materials comparable in grade and quality to the following list. A minimum of two (2) shall be used:
      a. Brick.
      b. Natural stone.
      c. Integral colored split face (rock face) concrete block.
      d. Cast in place concrete or pre-cast concrete panels (not to include raked or plain finish).
      e. Wood, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood, or cypress.
      f. Architectural metal (limited to 35% of surface of any building wall) with semi or fully concealed fasteners provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.
      g. Glass curtain wall panels.
      h. Stucco, EFIS (Engineered Finishing Insulation System).
      i. Other materials determined as acceptable by the City Planner.
   2) Side and rear elevations not viewable from a street or parking lot shall be permitted to use one material within this façade(s) provided no wall shall exceed one hundred (100) feet in length without visual relief.
   3) Any exposed metal or fiberglass finish shall be limited to thirty-five percent (35%) of the surface of any building wall. Any metal finish utilized in the building shall be a minimum of twenty-six (26) gauge steel. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.

d) Building and Roofing Materials: All building and roofing materials shall meet current accepted industry standards, and tolerances, and shall be subject to review and approval by the City Planner for quality, durability, and aesthetic appeal.

e) Trash and Recyclable Materials: All trash and recyclable materials and handling equipment shall be stored within the principle structure or stored within an accessory structure constructed of building materials compatible with the principal structure, maintenance free or composite materials or a steel sub-structure wrapped with composite material that matches the principal building. Wood or Chain link fencing with and/or without slats is not a

permitted enclosure material. The structure shall have a swinging doors or an overhead door on tracks with a person door provided.

f) Utilities: The view of all rooftop equipment and related piping, ducting, electrical and mechanical utilities shall be camouflaged through placement on the roof; or screened from the ground level view. Screening may include parapet walls, penthouses, or other architecturally integrated elements. Wood fencing or chain-link with slats shall not be used for screening.

The term "ground level view" for this provision shall be defined as the view of the front entrance from the property line from the main floor elevation. If abutting perimeter property lines are higher than ten (10) feet above the finished floor elevation of the building, rooftop screening is not required. A ground level view perspective plan shall be provide demonstrating how rooftop units will be screened from view.

g) External Loading and Service Areas: External loading and service areas must be one hundred percent (100%) screened from the ground level view from contiguous residential or commercial properties and adjacent streets, except at access points.

h) Additions, Alterations to existing Buildings:
   1) A one-time building addition of twenty-five percent (25%) or less of the existing floor area does not have to comply with the standards of this Section after adoption of the ordinance. For any building addition of more than twenty-five percent (25%) of the existing floor area, but less than fifty percent (50%) of the area, the addition shall comply with the standards of this Section.
   2) When an existing building is expanded over fifty percent (50%) but below seventy-five percent (75%) of the existing square footage the building addition plus the existing building area shall meet the standards of this Section with an enhanced entry or building accenting added to the existing portion to bring the existing building closer to conformance.
   3) When an existing building is completely refaced or building remodeled over seventy-five percent (75%) of the existing square footage the building, the addition plus the existing building area shall meet the standards of this Section.

CHAPTER 11 - "C2" GENERAL COMMERCIAL DISTRICT

Section 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 "C2" General Commercial District.

Section 11-2. General Description:

The purpose of the C2 (General Commercial) District is to provide an area of service facilities to the motoring public. It is because of the unique character and its dependence upon transient trade and traffic as well as the greater than normal adverse effects created by the uses within the district, that the location of such activities are critical. The parcels within the district should be developed either within other commercial spheres adjacent to arterial traffic routes or as well buffered areas adjacent to major streets. This district is also intended as a business district which may be located adjacent to shopping centers or other retail business districts. The intention is to keep the basic retail areas compact and convenient, or in separate areas, which may be located in close proximity to a major street or highway.

Section 11-3. Uses Permitted:

a) All uses permitted within the C1 (Neighborhood Commercial) District without respect, however, to the limitations imposed by Section 10-5 thereof.
b) Hotel, motel.
c) Parking structures and commercial parking lots.
d) Small animal clinic or commercial kennel and boarding.
e) Convenience store with fuel sales subject to the following:
    1) Motor fuel facilities shall be installed in accordance with State and City standards. Additionally, adequate space shall be provided to access gas pumps and to allow maneuverability around the pumps. Underground fuel storage tanks are to be positioned to allow adequate access by motor fuel transports and unloading operations which do not conflict with circulation, access and other activities on site.
    2) Filling station canopies may be constructed so that the canopy is no closer than fifteen (15) feet from any front lot line.
    3) Filling station pumps and pump islands may be located within a required front yard provided they are not less than twenty (20) feet from any property line and not less than one hundred (100) feet from the boundary of any residential district.
    4) All canopy lighting shall be recessed or fully shielded.
f) Bus or rail stations.
g) Commercial greenhouse provided it is contained entirely within a building.
h) Cultural and educational facilities such as commercial schools, trade schools, museums, adult education centers.
i) Automobile, boat and marine sales and services provided it is conducted entirely within a building.
j) Carwash (drive-through, mechanical and self-service) subject to the following:

1) Stacking space is provided to accommodate an appropriate number of vehicles and shall be subject to the approval of the City Council.
2) The entire area shall have a drainage system which is subject to the approval of the City and gives special consideration to the prevention of ice buildup during winter months.

k) Cemetery, funeral home, crematory, mausoleum.

l) Automobile repair shops – major
1) There shall be no outdoor service operation of lubrication equipment, hydraulic lifts or service pits, tire changing, drive systems repair or tuning, or similar operations.
2) No outside storage of parts, equipment, or inoperable vehicles shall be allowed.
3) Sale of products other than those specifically mentioned in this sub-section shall be limited to those allowed in this district and shall be subject to approval as part of the conditional use permit.

m) Entertainment, social or recreational businesses, such as bowling alley, skating rinks, theatres (excluding drive-ins), night clubs (not including adult entertainment), places of public assembly.

n) Brewpub

o) Lumberyards provided it is contained entirely within a building.

p) Research Lab

q) Residential units (rental or owner-occupied) use on the same lot and mixed in the same building with the residential use located in the floor(s) above the commercial use. All off-street parking and loading requirements are met for both uses. The height, area and yard requirements of the C2 district must also be met. Any residential units cannot exceed RM densities.

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

s) Drive-through uses subject to the following:
1) Location of menu board and location of drive-through stacking shall be approved by the Traffic Engineer.
2) A minimum of six (6) vehicle stacking distance shall be accommodated on site.

t) Essential service structures.

u) Public parking structure.

<u>Section 11-4. Conditional Uses:</u>

Within any C2 district, no structure or land shall be used for the following uses except by a conditional use permit:

a) Open sales/rental lots (motor vehicles, manufactured homes, and recreational vehicles) for permitted or conditional uses in the C2 district subject to the following requirements:
1) Shall have a principal structure on the lot.
2) Vehicles for sale, lease, or rental shall be parked on a paved surface that conforms to Chapter 23.
a. No outside repair or maintenance of vehicles.
b. Parking lot landscaping shall comply with all requirements of Chapter 21 and 23.
c. No auctions shall be permitted.
d. The use of outdoor speaker systems shall be limited to the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M.

e. Delivery and loading hours shall be limited to the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M. for all open sales/rental lots that abut or are across the street from a residential use. No idling trucks shall be permitted outside of approved delivery hours.

b) Accessory car wash/vacuums shall be subject to the following requirements:
   1) The car wash shall be designed to be an integral part of the principal building or, if freestanding, constructed of the same materials and design of the principal structure.
   2) The site shall provide stacking space for the car wash. The amount of stacking space shall take into account the type of car wash and the amount of time it takes to wash a vehicle. Stacking spaces shall not interfere with parking spaces or traffic circulation.
   3) The exit from the car wash shall have a drainage system which is subject to the approval of the City and gives special consideration to the prevention of ice build-up during winter months.
   4) Neither the car wash nor an accessory vacuum shall be located within three hundred (300) feet of any residentially zoned or guided property, unless completely screened by an intervening building or located across an arterial or major collector roadway from residentially zoned or guided property.

c) Open storage lots of products manufactured on site or made available for sale to the public for permitted or conditional uses in the C2 district subject to the following requirements:
   1) Shall have a principal structure on the lot where the open storage area is located. Open storage lots of products manufactured on-site or made available for sale to the public for permitted, interim or conditional uses in the C2 district are subject to the following requirements:
      a. All open storage shall be one hundred percent (100%) screened, at a minimum of six (6) feet in height, or to the height of storage racking, (up to a maximum of ten (10) feet), at the time of installation. The screening must be from ground level view from public streets, along any property line abutting a residential district, or in the event the storage faces the abutting lot's front yard or the entrance area of an adjoining building.
      b. Storage of materials shall not exceed the height of the screening provided.
      c. All open storage shall be paved with concrete or bituminous surface (no recycled materials permitted)
      d. Delivery and loading hours shall be limited to seven o'clock (7:00) A.M. to ten o'clock (10:00) P.M. for all open storage lots that abut or are across the street from a residential use. No idling trucks shall be permitted outside of approved delivery hours.

d) Climate controlled storage condominiums (excluding mini-storage and cold storage) subject to the following requirements:
   1) All unit doors shall face inward; no unit doors shall face the public right-of-way.
   2) The site and building shall meet all requirements in Section 11-8.
   3) Landscape screening shall be provided on all sides and rear property lines.

e) Clinic, hospital, nursing home, institutional facility.

f) Doggie Daycare.

g) Antennas, radio, television, cellular towers as regulated by this ordinance.

h) Buildings in excess of sixty (60) feet in height.

i) High-rise professional office buildings.

j) Storage or handling of hazardous materials, hazardous substances, or hazardous waste as these terms are defined in Title 49 of the Code of Federal Regulations at Sec. 171.8, if the amount of the hazardous materials, hazardous substance, or hazardous waste on a particular premise at any one time exceeds the "reportable" quantity. The reportable quantity shall be as specified in Title 49 Code of Federal Regulations Sec. 171.101. Any change in ownership requires renewal of the conditional use permit.
k) Other similar uses as listed in Section 11-4 as approved by the City Council.

Section 11-5. Interim Uses:

Within any C2 district, no structure or land shall be used for the following uses except by an interim use permit:

a) Commercial recreational or amusement development (such as carnivals, amusement park, and circus) not located within three hundred (300) feet of any "R" district, for temporary or seasonal periods.
b) Farmer's markets and produce sales, seasonal, provided such products are sold directly to the consumer, subject to the following:
    1) Products shall be limited to produce, vegetables, flowers, plants, and similar items.
    2) Sales activities may be conducted within a required yard provided the area is paved and the activity does not interfere with parking, traffic circulation or emergency vehicle access. Temporary sales on unpaved landscaped areas are prohibited.
    3) Tents, stands, and other similar temporary structures may be used, provided they are clearly identified on the submitted plan and provided that it is determined by the City Planner that they will not impair the parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicular traffic on or off the site.
    4) The submitted plan shall clearly demonstrate that adequate off-street parking for the proposed event can and will be provided for the duration of the event. Determination of compliance with this requirement shall include an analysis of the nature of the event and the applicable parking requirements of Chapter 23. Consideration shall be given to the parking needs and requirements of other occupants in the case of multi-tenant buildings.
    5) The maximum time for sales shall not exceed eight (8) months per calendar year per property.
    6) All stands, equipment, signs, and other structures shall be removed on the last day of the sales event.
c) Other similar uses as listed in Sections 11-4 or 11-5 where reasonable conditions, including specified period of time for the permit is determined, as approved by the City Council.

Section 11-6. Miscellaneous Provision:

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

Section 11-7. Lot, Height, Area and Yard Requirements:

a) Maximum height of any building shall not exceed sixty (60) feet.
b) Maximum coverage – no limit except as limited by yard requirements and must meet off-street

parking requirements.

c) Minimum yards are as follows:
   1) Front – twenty -five (25) feet. If located on a platted or proposed collector or arterial street – forty (40) feet.
   2) Side – street side (corner) and double fronted street side lots twenty-five (25) feet on each street side. If located on a platted or proposed collector or arterial street – forty (40) feet.
   3) Side – interior side – zero (0) 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.
   4) Parking lot – ten (10) feet along all public streets.
   5) 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.
   6) 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 – one hundred (100) feet

f) Buffer strips will be required along lot lines adjacent to a more restrictive zoning district according to Chapter 24.

Section 11-8. Building Design and Materials C2 Districts:

All buildings shall be designed to accomplish the goals and policies of the comprehensive plan. Building materials shall be attractive in appearance, of a durable finish, and be of a quality that is compatible and harmonious with adjacent structures. All buildings shall be of good aesthetic and architectural quality to ensure they will maintain and enhance the property values of neighboring properties and not adversely impact the community's public health, safety and general welfare.

a) Design Elements: All new building fronts and refacing of existing buildings shall include a minimum of three (3) of the following elements:
   1) Accent materials that are different from exterior building finishes;
   2) A visually pleasing front entry that, in addition to doors, shall be accented a minimum of one hundred-fifty (150) square feet around the door entrance for single occupancy buildings and a minimum of three hundred (300) square feet total for the front of multi-tenant buildings (this area shall be counted as one (1) element);
   3) Twenty-five percent (25%) window coverage on each front that faces a street;
   4) Contrasting yet complementary, material colors;
   5) A combination of horizontal and vertical design features;
   6) Irregular building shapes; or
   7) Other architectural features in the overall architectural concept including such things as awnings, eaves, overhangs, various roof lines/profiles, use of columns or posts, enhanced windows or door detail, etc.

b) Accent Materials: Accent materials shall be wrapped around walls visible from public view. Painting shall not be substituted for visual relief, accenting, or a required element. No wall shall exceed one hundred (100) feet in length without visual relief. "Visual relief" may be defined as the incorporation of design features such as windows, horizontal and vertical patterns, contrasting material colors, or varying wall depths. Use of fiber cement trim, soffit and fascia shall be allowed as accent materials.

c) Exterior Building Finishes.

1) The exterior building façade finishes of any façade viewable from a street or parking lot shall consist of materials comparable in grade and quality to the following list. A minimum of two (2) materials shall be used:
    a. Brick.
    b. Natural stone.
    c. Integral colored split face (rock face) concrete block.
    d. Cast in place concrete or pre-cast concrete panels (not to include raked or plain finish).
    e. Wood, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood, or cypress.
    f. Architectural metal (limited to 35% of the surface of any building wall) with semi or fully concealed fasteners provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.
    g. Glass curtain wall panels.
    h. Stucco, EFIS (Engineered Finishing Insulation System).
    i. Other materials determined as acceptable by the City Planner.
2) Side and rear elevations not viewable from a street or parking lot shall be permitted to use one material within this façade(s) provided no wall shall exceed one hundred (100) feet in length without visual relief.
3) Any exposed metal or fiberglass finish shall be limited to thirty-five percent (35%) of the surface of any building wall. Any metal finish utilized in the building shall be a minimum of twenty-six (26) gauge steel. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.

d) Building and Roofing Materials: All building and roofing materials shall meet current accepted industry standards, and tolerances, and shall be subject to review and approval by the City Planner for quality, durability, and aesthetic appeal.

e) Trash and Recyclable Materials: All trash and recyclable materials and handling equipment shall be stored within the principle structure or stored within an accessory structure constructed of building materials compatible with the principal structure, maintenance free or composite materials or a steel sub-structure wrapped with composite material that matches the principal building. Wood or Chain link fencing with and/or without slats is not a permitted enclosure material. The structure shall have a swinging doors or an overhead door on tracks with a person door provided.

f) Utilities: The view of all rooftop equipment and related piping, ducting, electrical and mechanical utilities shall be camouflaged through placement on the roof; or screened from the ground level view. Screening may include parapet walls, penthouses, or other architecturally integrated elements. Wood fencing or chain-link with slats shall not be used for screening.

The term "ground level view" for this provision shall be defined as the view of the front entrance from the property line from the main floor elevation. If abutting perimeter property lines are higher than ten (10) feet above the finished floor elevation of the building, rooftop screening is not required. A ground level view perspective plan shall be provide demonstrating how rooftop units will be screened from view.

g) External Loading and Service Areas: External loading and service areas must be one hundred percent (100%) screened from the ground level view from contiguous residential or commercial properties and adjacent streets, except at access points.

h) Additions, Alterations to existing Buildings:

1) A one-time building addition of twenty-five percent (25%) or less of the existing floor area does not have to comply with the standards of this Section after adoption of the ordinance. For any building addition of more than twenty-five percent (25%) of the existing floor area, but less than fifty percent (50%) of the area, the addition shall comply with the standards of this Section.

2) When an existing building is expanded over fifty percent (50%) but below seventy-five percent (75%) of the existing square footage the building addition plus the existing building area shall meet the standards of this Section with an enhanced entry or building accenting added to the existing portion to bring the existing building closer to conformance.

3) When an existing building is completely refaced or building remodeled over seventy-five percent (75%) of the existing square footage the building, the addition plus the existing building area shall meet the standards of this Section.

CHAPTER 12 - "C3" CENTRAL BUSINESS DISTRICT

Section 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 "C3" Central Business District.

Section 12-2. General Description:

The C3 (Central Business) District is established as the central core business district in which use of the land is for commercial and service uses.

Section 12-3. Design Character:

The character of the C3 District shall reflect the existing character of historical downtown business with high quality design. New development in this district shall create a unifying identity and transition between different uses through high quality design, pedestrian amenities, compact development, and connections to public spaces.

Section 12-4. Uses Permitted:

a) Retail businesses, such as general merchandise, liquor, hardware, pharmacy and apparel stores.
b) Eating and drinking establishments (no drive-through except by conditional use permit).
c) Bakery (including production of bakery products for sale).
d) Specialty grocery or meat market.
e) Business services, such as banks, financial institutions.
f) Art, decorating, hobby, general gift stores.
g) Music galleries, studios and music schools
h) Florist
i) Office and Professional offices (e.g., attorney, accountants, real estate, and similar uses).
j) Printing, publishing or engraving.
k) Heliports.
l) Convention center, civic center.
m) Service industry such as a laundry, cleaning, tailor or similar use.
n) Any commercial use listed in Section 12- 4 plus residential 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 C3 district must be met.
   The number of dwelling units permitted, based on RM density, shall be based upon the area of the lot, regardless of the size of the commercial use.
o) Public parking structure.
p) Specialty schools.

Section 12-5. Permitted Accessory Uses:

The following uses are permitted accessory uses in the C3 Districts:

a) Outdoor seating (consisting of more than one table and a few chairs) accessory to a restaurant or café with the following conditions:
   1) All outdoor seating areas that serve alcohol shall provide a perimeter barrier to delineate outdoor seating area. Said barrier shall be no less than 36” in height. No privately owned structure shall be anchored to the sidewalk. No temporary banners or signs shall be located on the barrier.
   2) No alcoholic beverages or food shall be served to persons outside of the designated outdoor seating area. Signage shall be posted that restricts consumption of alcohol outside of the designated outdoor seating area.
   3) A minimum of 72 inches (6 feet) of clear sidewalk area shall be maintained at all times to allow for adequate movement of pedestrians. Within this clear sidewalk area public street fixtures such as regulatory signs, street lights, pedestrian scaled landscaping shall be permitted. At no such time shall the clear sidewalk be less than 36” (3 feet) in width.
   4) Patrons shall access the outdoor seating area through the main entrance or host station and shall be seated by a staff person and all full service restaurants with wait-staff service.
   5) All exterior sound equipment shall be shut off at ten o'clock (10:00) P.M.
   6) Lighting shall be permitted to the extent that it only illuminates the designated area. Lighting cannot shine or cause a glare upon other public or private property outside the designated area.
   7) Outdoor seating is allowed April 1st through December 1st. All elements must be removed prior to December 2nd of each year.
   8) An encroachment agreement with the City of Minot shall be obtained prior to implementation. The encroachment agreement is effective up to a two (2) year term or upon change in ownership.
   9) A site plan shall be submitted for review and approval with the encroachment agreement. The scaled site plan shall include the following:
      a. The proposed use, materials, colors and design.
      b. Relationship of the outdoor seating to the adjacent existing building and entrances.
      c. The distance of the proposed outdoor seating area, tables, chairs and barrier to the existing sidewalk. Include any existing public fixtures with in the area.
      d. The dimensions of the proposed outdoor seating area and total number of seats/occupants.
      e. Plans for operation of the outdoor seating, including but not limited to hours of operation, serving, and maintenance.
      f. Evidence of the abutting property owners and/or leases has been notified of the proposed encroachment.

<u>Section 12-6. Conditional Uses:</u>

Within any C3 District, no structure or land shall be used for the following uses except by Conditional Use Permit.

a) Residential or professional high rise building.
b) Drive-through use providing location does not impact traffic or impact public or other on-street parking areas.

c) Clinic or hospital.

Section 12-7. 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 (0) feet except as limited by Section 28-13 of the City of Minot Code of Ordinances.
   2) Rear – zero (0) 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 (0) 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) At least sixty-five (65) percent of the street frontage of any lot shall be occupied by building facades at the property line or right-of-way edge.
e) Parking lots in the C3 district shall be located to the side or rear of a building.
f) Minimum lot area - none.
g) Minimum lot dimensions - none.
h) Buffer Strips may be required along lot lines adjacent to a more restrictive zoning district.

Section 12-8. Site Design:

a) Orient and consolidate structures to complement existing, adjacent development to create a coordinated and visually attractive mixed use setting.
b) Site planning shall respect the relationship of the site to the existing and proposed building, streets and major roadways.
c) Building façades should face the primary street.
d) Align the building front façade with adjacent buildings to promote visual continuity from the public right-of-way, unless site or use constraints are prohibitive.
e) Buildings shall have a clearly defined primary pedestrian entrance at street level.
f) Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements to a minimum height of two and one half (2½) feet and a maximum height of three and one half (3½) feet above the level of the parking lot at the setback.
g) Where multiple buildings are proposed on a single site the buildings shall be designed with varying heights.

Section 12-9. Parking Requirements:

a) Parking for any residential units in the C3 District shall be calculated as required in Chapter 23. Residential parking spaces shall be specifically reserved for the use of residents and visitors only, separate from any commercial, office or other uses on-site or nearby and shall not be counted as part of any shared parking or joint parking arrangement that is required for non-residential uses.

Section 12-10. Building Design Requirements:

To maintain the character of the existing downtown business and mixed use character of the area, the C3 District is subject to the following standards to reflect the character of the District.

a) All new building fronts (single story or multi-story) shall include a minimum of four (4) of the following elements:
   1) Architectural detailing, such as cornice, awning, parapet, or columns;
   2) A visually pleasing primary front entrance that, in addition to doors, shall be accented a minimum of one hundred-fifty (150) square feet around the door entrance for single occupancy buildings and a minimum of three hundred (300) square feet total for the front of multi-tenant buildings (this area shall be counted as one element). Entrances shall be clearly articulated and obvious from the street;
   3) A minimum of thirty percent (30%) window coverage on each front (first floor/ground level only) that faces a street;
   4) Contrasting yet complementary, material colors;
   5) A combination of horizontal and vertical design features;
   6) Irregular building shape;
   7) Horizontal offsets of at least four (4) feet in depth;
   8) Vertical offsets in the roofline of at least four (4) feet;
   9) Fenestration at the first floor level which is recessed horizontally at least one (1) foot into the façade;
   10) Other architectural features in the overall architectural concept.

b) Multi-story buildings shall have a ground floor distinguished from the upper floors by having one or more of the following:
   1) Awning
   2) Trellis
   3) Arcade (passage or walkway)
   4) Window lintels
   5) Intermediate cornice line
   6) Architectural detailing such as quoins or corbels

d) Residential uses on first floors: Whenever residential uses are included on the first floor of a building, the first floor elevation shall be stepped up above the sidewalk, i.e. elevations immediately adjacent to the front of the residential unit to ensure the residential unit is raised from the public space. In addition, each first floor unit must have an individual private entrance at the street level with private courtyard enclosure.

e) Any exterior building wall adjacent to or visible from a public street, public open space or abutting property may not exceed fifty (50) feet in length without significant visual relief consisting of one (1) of the following:
   1) The façade shall be divided architecturally by means of significantly different materials or textures;
   2) Horizontal offsets of at least four (4) feet in depth;
   3) Vertical offsets in the roofline of at least four (4) feet; or
   4) Fenestration at the first floor level that is recessed horizontally at least one (1) foot into the façade.

f) Accent materials: Accent materials shall be wrapped around walls visible from public view. Where a mixed use building is visible from a public road all elevations shall be architecturally treated; accent material shall consist of materials comparable in grade and quality to the primary exterior material. Such materials may include glass, prefinished decorative metal and fiber cement trim within soffit and fascia areas.

g) Exterior Building Finishes:

1) The exterior building finishes of any façade viewable from a street or parking lot shall consist of materials comparable in grade and quality to the following list. A minimum of two (2) materials (in differing but compatible colors) shall be used:

a. Brick
b. Natural stone
c. Integral colored split face (rock face) concrete block
d. Cast in place concrete or pre-cast concrete panels (not to include raked or plain finish)
e. Wood, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood, or cypress
f. Glass curtain wall panels
g. Stucco, EFIS
h. Other materials determined as acceptable by the City Planner.

h) Building roofs: Mansard or mansard style roofs are not permitted except for mansard style cornices. Acceptable designs include flat, pitched or curved. Building roof styling shall incorporate a minimum of one (1) of the following elements:

1) Parapets or cornices;
2) Varying building height and variety of roof lines (must meet height requirements)

<u>Section 12-11. Screening:</u>

a) Trash and Recyclable Materials: All trash and recyclable materials and handling equipment shall be stored within the principle structure or stored within an accessory structure constructed of building materials compatible with the principal structure, maintenance free or composite materials or a steel sub-structure wrapped with composite material that matches the principal building. Wood or Chain link fencing with and/or without slats is not a permitted enclosure material. The structure shall have a swinging doors or an overhead door on tracks with a person door provided.

b) Utilities: The view of all rooftop equipment and related piping, ducting, electrical and mechanical utilities shall be camouflaged through placement on the roof with, or screened from the ground level view. Screening may include parapet walls, penthouses, or other architecturally integrated elements. Wood fencing or chain-link with slats shall not be used for screening.

The term "ground level view" is defined as the view of the front entrance from the property line from the main floor. If abutting perimeter property lines are higher than ten (10) feet above the finished floor elevation of the building, rooftop screening is not required. A ground level view perspective plan shall be provide demonstrating how rooftop units will be screened from view.

c) External loading and service areas: External loading and service areas must be one hundred percent (100%) screened from the ground level view from contiguous residential or commercial properties and adjacent streets, except at access points.

Section 12-12. Pedestrian Environment:

a) Pedestrian amenities shall be included (and maintained by the property owner) in places where people typically gather, including but not limited to transit stops, building entrances, street corners or abutting bike and pedestrian trail connections. These amenities shall benefit the intended users and be located in places that are highly visible. These spaces must include at least two (2) of the following (master planned developments shall provide two (2) elements in a central location):
   1) Patterned materials on walkways
   2) Shelters
   3) Trash receptacles
   4) Pedestrian scale lighting
   5) Fountains, sculptures or kiosks
   6) Street trees, flower boxes or containing landscaping.

Section 12-13. Signage Permitted within the C3 District:

a) Standards: All signs erected on any building or land within the C3 district must comply with the standards of this section and sections Section 21-15.

CHAPTER 13 - "PUD" PLANNED UNIT DEVELOPMENT

Section 13-1. General Provisions:

A tract of land, which is developed as a unit under single or unified ownership or control and which generally includes two (2) or more principal buildings or uses but which may consist of one building containing a combination of principal and supportive uses. A Planned Unit Development (PUD) may be requested in any zoning district under the provisions set forth in this Chapter. Uses not otherwise allowed in the zoning district are prohibited within a planned development unless specific provisions are made and listed in the development plan or modified in the conditions of approval.

Section 13-2. Purpose:

The purposes of this chapter are:

a) To encourage a more creative and efficient development of land and its improvements through the preservation of natural features and amenities than is possible under the more restrictive application of zoning requirements. This section may allow modifications such as non-standard lot sizes, private streets and driveways, reduced rights-of-way and street widths, housing types, lines and building setbacks. These changes shall meet the standards and purposes of the comprehensive plan while preserving the health, safety, and welfare of the citizens of the city.
b) To allow for the potential mixture of uses in an integrated and well planned area when such mixing of land uses could not otherwise be accomplished under this chapter.
c) To ensure concentration of open space into more usable areas, and a preservation of the natural resources of the site.
d) To protect natural features in private, common and public open space.
e) To facilitate the economical provision of streets and public utilities (consideration may be made for reduced right-of-way or setbacks)
f) To facilitate one or more of the following: mixed use developments, affordable housing, recreational uses and institutional uses.

Section 13-3. Allowed Uses:

Uses within the PUD may include only those uses generally considered associated with the general land use category shown for the area on the official comprehensive land use plan unless otherwise approved in the development plan. Specific allowed uses and performance standards for each PUD shall be delineated in an ordinance and development plan. The PUD development plan shall identify all the proposed land uses and those uses shall become permitted uses with the acceptance of the development plan. Any change in list of uses presented in the development plan will be considered an amendment to the PUD and will follow the procedures specified in Sec.13-7 of this ordinance.

Section 13-4. General Standards for Approval:

a) A rezoning will be required of all planned unit developments. The rezoning will be applied as an overlay to the underlying zoning district and reflected as such on the official zoning map. Only one reading of the rezoning to planned unit development will be required by the City Council. The city may approve the planned unit development only if it finds that the development satisfies all of the following standards:
   1) The planned unit development is consistent with the comprehensive plan of the city.
   2) The planned unit development is an effective and unified treatment of the development possibilities on the project site and the development plan provides for the preservation or creation of unique amenities such as natural streams, stream banks, wooded cover, natural terrain, manmade landforms or landscaping and similar areas.
   3) The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site. The development plan will not have a detrimental effect upon the neighborhood in which it is proposed to be located.
   4) The planned unit development provides transitions in land use in keeping with the character of adjacent land use, and provides variety in the organization of site elements and building design.
   5) The tract under consideration is under single ownership or control.
   6) The tract is at least five (5) acres in size unless the applicant can show that PUD of less acreage meets the standards and purposes of the comprehensive plan and preserves the health, safety and welfare of the citizens of the city and that all of the following conditions exist:
      a. The proposal better adapts itself to the physical and aesthetic setting of the site and with the surrounding land uses than could be developed using strict standards and land uses allowed within the underlying zoning district.
      b. The proposal would benefit the area surrounding the project to greater degree than development allowed within the underlying zoning district(s).
      c. The proposal would provide mixed land use and/or site design flexibilities while enhancing site or building aesthetics to achieve an overall, workable higher quality of development than would otherwise occur in the underlying zoning district.
      d. The proposal would ensure the concentration of open space into more workable or usable areas and would preserve the natural resources of the site than would otherwise occur in the underlying zoning district.
   7) The public benefits, such as but not limited to:
      a. improved site or architectural design,
      b. open space preservation,
      c. improved parks, trails, recreation facilities or other amenities,
      d. a mix of compatible land uses which foster Comprehensive Plan goals, of the Planned Unit Development, justify any deviations from the primary zoning ordinance provisions and performance standards.
   8) The Planned Unit Development will not create an excessive burden on parks, schools, streets, or other facilities and utilities that serve or are proposed to serve the Planned Unit Development.

Section 13-5. Coordination with Subdivision Regulations:

Subdivision review shall be carried out simultaneously with the review of the PUD according to subdivision regulations. The plans required under this chapter shall be submitted in a form which will satisfy the requirements of the subdivision ordinance for the preliminary and final plat.

Section 13-6. PUD Procedures:

a) In addition to criteria and standards set forth in this Ordinance chapter for granting of a rezoning, the following additional findings shall be made before the approval of a General Development Plan:
   1) An applicant shall make an application for a planned unit development.
   2) The proposed PUD is in conformance with the comprehensive plan.
   3) The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.
   4) Each phase of the proposed development, as it is proposed to be completed, is of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
   5) The PUD will not create an excessive burden on parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the area.
   6) The proposed total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.
b) The following exhibits and written narratives shall be submitted to the City by the proposed developer as a part of the application for a PUD:
   1) An explanation of the character of the planned development and the manner in which it has been planned to take advantage of the planned development regulations including public benefits it is providing.
   2) A general indication of the expected schedule of development including progressive phasing and time schedule.
   3) Legal description of the subject property or defined boundaries of the site.
   4) A complete site plan of the proposed planned unit (Detailed Development Plan) prepared at a scale of not less than one (1) inch equals one hundred (100) feet shall be submitted in sufficient detail to evaluate the land planning, building design, and other features of the planned unit. The site plan must contain, insofar as applicable, the following minimum information.
      a. The existing topographic character of the land;
      b. Existing and proposed land uses;
      c. The location of all existing and proposed buildings, structures and improvements;
      d. The maximum height of all buildings;
      e. The density and type of dwelling;
      f. The internal traffic and circulation systems, off-street parking areas, and major points of access to public right-of-way;
      g. Areas which are to be conveyed, dedicated or reserved as common park areas, including public parks and recreational areas;

h. Proposed interior buffer areas between uses;
i. Acreage of PUD;
j. Utility service plan showing existing utilities in place and all existing and proposed easements and utility layout;
k. Landscape plan;
l. Surrounding land uses, zoning and ownership;
m. Storm water features;
n. Street right-of-way, proposed street width, and types;
o. Architectural drawings – the following architectural drawings shall be submitted in sufficient detail to allow evaluation of building height, form, massing, texture, materials of construction, and type, size, and location of door and window openings:
    i. Elevations of the front and one side of a typical structure.
    ii. A perspective of a typical structure, unless waived by the planning department.
p. An engineering report presenting results of percolation tests and soil analysis of the site if applicable and required by City Staff.
q. Any additional information requested by the city staff, the Planning Commission and City Council that may be required for clarification of the proposed project.

c) The applicant shall also submit a preliminary plat and all the necessary documentation as required under Chapter 28 of all or that portion of the project to be platted. For purposes of administrative simplification, the public hearings required for the PUD and preliminary plat may be combined into one hearing or may be held concurrently.
d) Restrictive Covenants: Any restrictive covenants that are to be recorded with respect to property included in the proposed PUD (for city records, not to administer)

Section 13-7. Review and Approval:

a) All planned units shall be considered by the Planning Commission in the same manner as a zoning change. The Planning Commission may grant the proposed planned unit in whole or in part, with or without modifications and conditions, or deny it.
b) All approved detailed development plans for planned units, including modifications or conditions shall be endorsed by the Planning Commission. The zoning district map shall indicate that a planned unit has been approved for the area included in the site plan.
c) Application for Planned Development Amendment.
    1) The application shall be completed and filed by all owners of the property proposed to be changed, or his/their designated agent. The application shall be submitted by the specified application deadline on the proper form and shall not be accepted by the City Planner until all of the application requirements of this section have been fulfilled.
    2) Public Hearing by Planning Commission: Following preliminary approval of a completed application, the City Planner shall place the item on the next available scheduled agenda for a public hearing thereon. Notice of the time and place of holding such public hearing shall be published in a newspaper of general circulation in the City of Minot not less than seven (7) days prior to the date of the scheduled public hearing. The City shall attempt to notify all known adjacent property owners within three hundred (300) feet of the planned unit development amendment. “Notify” shall mean the mailing of a written notice to the address on record with the Ward County. The failure of adjacent

property owners to actually receive the notice shall not invalidate the proceedings. The Planning Commission may approve, approve subject to certain stated conditions being met, deny, or table the application for further consideration and study, or, because of the nature of the proposed change, make a recommendation to send to the City Council for final action.

3) After receipt of the recommendation from the Planning Commission, the City Council shall review the Detailed Development Plan for the PUD (or amendment) and approve, approve with modifications or conditions, or deny the request. The Detailed Development Plan is attached to and is part of the Zoning designation of the property. The Detailed Development Plan is the document on which building permits and other City development approvals are issued. The City Building Inspector is not authorized to issue permits for improvements which are not indicated on the approved plan.
4) A written agreement with the City of Minot detailing that improvements set forth in Detail Development Plan must be completed within eighteen (18) months after the initiation of construction, then and in that event the City of Minot shall be authorized to provide for the installation of said improvements. The installation of said improvements shall be paid for by utilization of the special assessment process, for such cases made, and the developer so involved shall, as a part of the agreement waive any rights s/he might otherwise have to protest said special assessments.

Section 13-8. Conveyance and Maintenance of Common Open Space:

a) All land shown on the site plan/development plan as common open space must be conveyed to homeowners association or similar organization provided in an indenture establishing an association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the homeowner's association or similar organization subject to covenants to be approved by the city attorney which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.
b) If a homeowner's association is created, the applicant shall submit any required homeowner's association documents at the time of the first final plat of development to the city attorney and city staff which explains:
   1) Ownership and membership requirements.
   2) Articles of incorporation and bylaws.
   3) Time at which the developer turns the association over to the homeowners.
   4) Approximate monthly or yearly association fees for homeowners.
   5) Specific listing of items owned in common including such items as roads, recreation facilities, parking, common open space grounds, and utilities.
c) Standards for common or open space. No open area may be approved as common open space under the provisions of this article unless it meets the following standards:
   1) The location, shape, size, and character of the common open space must be suitable for the planned development.
   2) Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of

the planned development, considering its size, density, expected population, topography, and the number and type of dwellings to be provided.

3) Common open space must be suitably improved for its intended use but common space containing natural features worthy of preservation may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.
4) Parcels of land to be dedicated for park (as approved by the City and Park District), ponding or other purposes shall be deeded to the city with the final plat for recording.

Section 13.9. Review and Amendments:

a) Minor changes in the location, placement, and heights of the buildings or structures may be authorized by the City Planner if required by engineering or other circumstances not foreseen at the time the final site plan was approved.
b) Approval of the Planning Commission and City Council shall be required for other changes such as rearrangement of lots, blocks and building tracts. These changes shall be consistent with the purpose and intent of the approved final development plan.

CHAPTER 14 - "M 1" LIGHT INDUSTRIAL DISTRICT

Section 14-1. 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 M1 (Light Industrial) District

Section 14-2. General Description:

The M1 (Light Industrial) District is established as a district in which the principal use of land is for light industrial consisting of non-nuisance industries. This district is to provide an area for the establishment of manufacturing, warehousing and light industrial development, large volume truck oriented uses and outdoor storage uses. This district supports uses that require close access to major thoroughfares, accommodate primarily automotive-oriented customers, generate truck traffic, or have similar characteristics which make them incompatible uses in the commercial districts. This district establishes and preserves, in a location and manner which benefits the City, industrial and related uses which are relatively free from objectionable influences and therefore are of a nature that they will not adversely affect surrounding areas. Property M1 falls within the Industrial Land Use designation on the Future Land Use Plan.

Section 14-3. Uses Permitted:

a) 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, and industrial laboratories. In addition to those uses, which are also permitted in the C2 and C3 districts (except residential uses). 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.
    7) Wholesale distribution facilities.
b) Commercial condominium building, storage building, and warehouses including refrigerated storage.
c) Plant nurseries and greenhouses.
d) Veterinary clinics (small or large animal) with overnight boarding facilities
    1) Commercial kennels must be connected to public sewer or an on-site treatment system to handle the waste.

2) Kennels and runs shall provide protection against weather and be enclosed. Floors of runs shall be made of impervious material to permit proper cleaning and disinfecting.
3) All animal quarters and runs are to be kept in a clean, dry and sanitary condition.
4) Fencing surrounding exercise areas and/or runs shall be of a sufficient height to prevent escape and shall be buried as part of installation to prevent escape by digging beneath the fence line or panel.
5) Kennel noise shall be mitigated so as to not create a public nuisance for adjoining properties. This shall exclude noise from exercise or training while outdoors during the daytime. Kennels shall comply with all local noise regulations.

e) Sales of construction equipment, farm implements, mobile homes, recreational vehicles, and sale of lumber and other building materials.
f) Repair and service of automobiles, mobile homes, and construction equipment.
g) The following uses when conducted wholly within a completely enclosed building, or when completely enclosed on all sides one hundred percent (100%) screened, not less than six (6) 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.
h) Concrete products, material storage and mixing.
i) Manufacturing, brewery, and storage of alcoholic beverages.
j) Textile mills and woodworking.
k) Recreational uses which, by their nature, require large land areas to buffer them from adjoining uses, such as racetracks or drive-in movie theaters.
l) Accessory uses customarily incidental to the uses permitted in this section including essential service structures.

Section 14-4. Conditional Uses:

Within any M1 district, no structure or land shall be used for the following uses except by a conditional use permit:

a) Motor freight or other trucking facilities, truck stops and truck repair services.
b) Any building in excess of ninety (90) feet high.
c) Recycling center, nonhazardous resource recovery facility, when conducted entirely within a building.
d) Antennas, radio, television, cellular towers as regulated by Chapter 31.
e) Self-service storage facility:
   1) Units are to be used for cold storage only. Units are not to be used for retailing, auto repair, human habitation, or any commercial activity. Storage of any flammable or hazardous material is prohibited.
   2) One (1) off-street parking space is required for each ten (10) storage units and two (2) spaces are required for the live-in manager if one is provided for. Interior drives must be wide enough to accommodate a parked car and traffic that must pass.
   3) No outside storage is allowed.

4) An on-site manager may be allowed, provided adequate sanitary facilities are provided.
5) The facility shall be secured by either the walls of the structure and/or fencing.
6) All doors on the units shall face inward and away from the street.

f) Open storage lots containing track vehicles and/or heavy equipment, products manufactured on site, repaired, or made available for sale to the public, and overstock storage for permitted or conditional uses in the M1 district subject to the following requirements:
   1) Shall have a principal structure on the lot where the open storage area is located.
   2) All open storage shall be one hundred percent (100%) screened, at a minimum of six (6) feet in height, or to the height of the storage racking, (up to a maximum of ten (10) feet), at the time of installation from ground level view around the perimeter of the open storage area along all sides visible from public street or if abutting a less intense zoning district. Storage areas located along abutting property lines of the same or more intensive zoning district and/or use, screening shall not be required. Surrounding topography will be a consideration in meeting this screening requirement.
   3) Sites containing outdoor storage but located within a designated industrial park containing site perimeter screening shall be exempt from individual site screening requirements.
   4) Outdoor storage areas using gravel or other crushed and/or recycled asphalt, concrete or gravel shall comply with requirements in Section 23.6 (e) of this code.

g) Storage or handling of hazardous materials, hazardous substances, or hazardous waste as these terms are defined in Title 49 of the Code of Federal Regulations at Sec. 171.8, if the amount of the hazardous materials, hazardous substance, or hazardous waste on a particular premise at any one time exceeds the "reportable" quantity. The reportable quantity shall be as specified in Title 49 Code of Federal Regulations Sec. 171.101. Any change in ownership requires renewal of the conditional use permit.

h) Clinic or hospital.

i) Other similar uses as listed in Section 14-4 as approved by the City Council.

Section 14-5. Interim Uses:

Within any M1 district, no structure or land shall be used for the following uses except by an interim use permit:

a) Extraction of minerals from the ground, to include sand and gravel, oil and gas, lignite, potash, rock and other minerals.

b) Living quarters for temporary employee needs or night watch person.

c) Other similar uses as listed in Sections 14-4 or 14-5 where reasonable conditions, including a specified period of time for the permit can be determined, as approved by the City Council.

Section 14-6. 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 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 to the human sense of feeling at any time discernible at any property line.
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.
5) Storage of Material and Equipment: Open storage of materials in any required front yard shall be prohibited. All outdoor storage of material and equipment shall be one hundred percent (100%) screened from ground level view.

c) Except for welding shops, uses shall be prohibited which involve the storage or handling of hazardous materials, hazardous substances, or hazardous waste as 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.

Section 14-7. 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. If located on an arterial street-forty (40) feet.
   2) Side – street side (corner) and double fronted street side lots twenty-five (25) feet on each street side. If located on an arterial street – forty 40) feet.
   3) Side – interior side – zero (0) 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. If located on an arterial street – forty (40) feet.
   4) Rear – zero (0) 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.
   5) Parking lot – ten (10) feet along all streets.
   6) 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 will be required along lot lines adjacent to a more restrictive zoning district according to requirements in Chapter 24.

Section 14-8. Building Design and Materials for the M1 District:

All buildings shall be designed to accomplish the goals and policies of the comprehensive plan. Building materials shall be attractive in appearance, of a durable finish, and be of a quality that is compatible and harmonious with adjacent structures. All buildings shall be of good aesthetic and

architectural quality to ensure they will maintain and enhance the property values of neighboring properties and not adversely impact the community's public health, safety and general welfare.

a) Design Elements: All new buildings and refacing of an existing building shall include a minimum of three (3) of the following elements on the front façade:
   1) Accent materials that are different from exterior building finishes;
   2) A visually pleasing front entry that, in addition to doors, shall be accented a minimum of one hundred fifty (150) square feet around the door entrance for single occupancy buildings and a minimum of three hundred (300) square feet total for the front of multi-tenant buildings (this area shall be counted as one element);
   3) Twenty-five percent (25%) window coverage on each front that faces a street;
   4) Contrasting, yet complementary material colors;
   5) A combination of horizontal and vertical design features;
   6) Irregular building shapes; or
   7) Other architectural features in the overall architectural concept.
b) Exterior Building Finishes:
   1) The exterior building finish of the front façade facing a public street shall consist of materials comparable in grade and quality to the following list. A minimum of two (2) materials (in differing but compatible colors and wrapped around the sides a minimum of ten (10) feet shall be used:
      a. Brick
      b. Stone (natural or synthetic)
      c. Integral colored split face (rock face) concrete block
      d. Glass
      e. Stucco and synthetic stucco (EFIS)
      f. Cast in place concrete or pre-cast concrete panels (not to include raked or plain finish)
      g. Architectural metal with semi or fully concealed fasteners provided such panels are factory fabricated and finished with a durable non-fade surface.
      h. Wood, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood, or cypress.
      i. Other materials determined as acceptable by the City Planner.
c) Trash and Recyclable Materials: All trash, recyclable materials and handling equipment shall be stored within the principal structure; or stored within an accessory structure constructed of building materials compatible with the principal structure, maintenance free or composite materials or a steel sub-structure wrapped with composite material that matches the principle building. Wood or Chain link fencing with and/or without slats is not a permitted enclosure material. The structure shall have a swinging doors or an overhead door on tracks with a man door provided.
d) New multiple lot industrial parks platted after the adoption of this ordinance shall be screening with a landscaped berm along the perimeter of the industrial park.
e) Additions or Alterations to existing Buildings:
   1) A one-time building addition of twenty-five percent (25%) or less of the existing floor area does not have to comply with the standards of this Section after adoption of the ordinance. Any building addition of more than twenty-five percent (25%) of the existing

floor area, but less than fifty percent (50%) of the area, the addition shall comply with the standards of this Section.

2) When an existing building is expanded over fifty percent (50%) but below seventy-five (75%) of the existing square footage the building addition plus the existing building area shall meet the standards of this Section with an enhanced entry or building accenting added to the existing portion to bring the existing building closer to conformance.
3) When an existing building is completely refaced or building remodeled over seventy-five percent (75%) of the existing square footage the building, the addition plus the existing building area shall meet the standards of this Section.

CHAPTER 15 - "M2" 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 M2 (Heavy Industrial) District.

Sec. 15-2. General Description:

The M2 (Heavy 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. Property zoned M2 falls within the Industrial Land Use designation on the Future Land Use Plan.

Sec. 15-3. Uses Permitted:

a) All uses permitted within the M1 (Light Industrial) District.
b) Antennas, radio, television, cellular towers as regulated by this ordinance.
c) Rail freight yards, including switching and classifications yards, repair shops and round houses.
d) Sewage treatment plants and lagoons.
e) Weighing stations.
f) Adult entertainment center meeting the requirements of Section 15-7.
g) Grain storage elevator
h) Any manufacturing, production, processing, cleaning, storage, servicing, repair and testing of materials, goods, or products that conform to Section 15-6: Special Conditions.
i) Accessory uses customarily incidental to the uses permitted in this section including essential service structures.

Sec. 15-4. Conditional Uses:

Within any M2 district, no structure or land shall be used for the following uses except by a conditional use permit:
a) All conditional uses permitted within the M1 (Light Industrial) District.
b) Automobile wrecking yards, junk yards, and salvage yards when completely enclosed within a solid fence, a minimum of eight (8) feet in height, must include evergreen trees planted on the outside of the fence – one (1) tree per each 20 feet.
c) Grain elevators, seed cleaning, feed mixing and grinding plants when completely enclosed within a solid fence, a minimum of eight (8) feet in height, must include evergreen trees planted on the outside of the fence – one (1) per each 20 feet.
d) Rail unloading facility when completely enclosed within a solid fence, a minimum of eight (8) feet in height, must include evergreen trees planted on the outside of the fence – one (1) per each 20 feet.
e) Petroleum refining or storage when completely enclosed within a solid fence, a minimum

of eight (8) feet in height, must include evergreen trees planted on the outside of the fence – one (1) per each twenty (20) feet.

f) Fertilizer manufacture when completely enclosed within a solid fence, a minimum of eight (8) feet in height, must include evergreen trees planted on the outside of the fence – one (1) per each 20 feet.
g) Acid manufacture when completely enclosed within a solid fence, a minimum of eight (8) feet in height, must include evergreen trees planted on the outside of the fence – one (1) per each twenty (20) feet.
h) Cement, lime or gypsum manufacture when completely enclosed within a solid fence, a minimum of eight (8) feet in height, must include evergreen trees planted on the outside of the fence – one (1) per each twenty (20) feet.
i) Stockpiling of sand, gravel or fill dirt when completely enclosed within a solid fence, a minimum of eight (8) feet in height, must include evergreen trees planted on the outside of the fence – one (1) per each twenty (20) feet.
j) Recycling uses when completely screened up to the height of materials stored.
k) Private landfill when completely enclosed within a solid fence a minimum of eight (8) feet in height with evergreen trees planted on the outside of the fence.
l) Additional standards for conditional uses b) through i) listed above:
   1) Any existing use listed in items b) through i) above shall meet the required screening requirement specified for the use within three (3) years of adoption of this ordinance.
   2) Any new use (including outdoor storage areas) shall be located a minimum distance of one thousand (1,000) feet from a classified street.
m) Storage or handling of hazardous materials, hazardous substances, or hazardous waste as these terms are defined in Title 49 of the Code of Federal Regulations at Sec. 171.8, if the amount of the hazardous materials, hazardous substance, or hazardous waste on a particular premise at any one time exceeds the "reportable" quantity. The reportable quantity shall be as specified in Title 49 Code of Federal Regulations Sec. 171.101. Any change in ownership requires renewal of the conditional use permit.
n) Other similar uses as listed in Section 15-4 as approved by the City Council.

Section 15-5. Interim Uses:

Within any M2 district, no structure or land shall be used for the following uses except by an interim use permit:

a) Extraction of minerals from the ground, to include sand and gravel, oil and gas, lignite, potash, rock and other minerals.
b) Other similar uses as listed in Sections 15-4 or 15-5 where reasonable conditions, including a specified period of time for the permit can be determined, as approved by the City Council.

Section 15-6. 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.
   5) Storage of Material and Equipment. Open storage of materials in any required front yard shall be prohibited. All outdoor storage of material and equipment shall be one hundred percent (100%) screened from ground level view.

Section 15-7. Adult Entertainment Center:

(a) Notwithstanding anything in this zoning ordinance to the contrary, an adult entertainment center or sexually oriented business (as defined in Section 18-190 of the City of Minot Code of Ordinances) shall be permitted only in the "M-2" Heavy Industrial District and in no other district, and then only if it meets the following conditions:
   1) It is located no closer than seven hundred fifty (750) feet from any pre-existing church, school, child care facility, hospital, public park, public playground, adult entertainment center, sexually oriented business, establishment holding a license under Chapter 5 of the City of Minot Code of Ordinances, or property zoned or used as residential;
   2) It excludes from its premises those persons less than eighteen (18) years of age;
   3) It displays no signs visible from the exterior, except for signs identifying it as an adult bookstore, adult cinema; or other as the case may be;
   4) No materials depicting specified sexual activities or specified anatomical areas shall be visible from its exterior;
   5) The manager and the owners of each business are registered with the Chief of Police and have provided him with information on their identities and whether they have been convicted or are awaiting trial on charges of a specified criminal activity (as defined in section 18-190 of the City of Minot Code of Ordinances); and
   6) 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.

(b) For the purpose of subsection (a)(1), measurements shall be made in a straight line without regard to intervening structures or objects, from the nearest property line of the premises where the adult entertainment center/sexually oriented business is conducted, to the nearest property line of the premises of the use listed in subsection (a)(1).

Section 15-8. 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. If located on an arterial street – fifty (50) feet.
   2) Side – street side (corner) and double fronted street side lots – twenty-five (25) feet on each street side. If located on an arterial street – fifty (50) feet.
   3) Side – interior side – zero (0) 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.
   4) Rear – zero (0) 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.
   5) Parking lot – ten (10) feet along all streets.
   6) 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 will be required along lot lines adjacent to a more restrictive zoning district according to requirements in Chapter 24.

Section 15-9. Building Design and Materials for the M2 District:

All buildings shall be designed to accomplish the goals and policies of the comprehensive plan. Building materials shall be attractive in appearance, of a durable finish, and be of a quality that is compatible and harmonious with adjacent structures. All buildings shall be of good aesthetic and architectural quality to ensure they will maintain and enhance the property values of neighboring properties and not adversely impact the community's public health, safety and general welfare.

a) Design Elements: All new buildings and refacing of an existing building shall include a minimum of three (3) of the following elements on the front façade:
   1) Accent materials that are different from exterior building finishes;
   2) A visually pleasing front entry that, in addition to doors, shall be accented minimum of one hundred fifty (150) square feet around the door entrance for single occupancy buildings and a minimum of three hundred (300) square feet total for the front of multi-tenant buildings (this area shall be counted as one element);
   3) Twenty-five percent (25%) window coverage on each front that faces a street.
   4) Contrasting, yet complementary material colors;
   5) A combination of horizontal and vertical design features;
   6) Irregular building shapes; or
   7) Other architectural features in the overall architectural concept.
b) Exterior Building Finishes:
   1) The exterior building finish of the front façade facing a public street shall consist of materials comparable in grade and quality to the following list. A minimum of two (2) materials (in differing but compatible colors and wrapped around the sides a minimum of ten (10) feet shall be used:
      a. Brick
      b. Stone (natural or synthetic)
      c. Integral colored split face (rock face) concrete block
      d. Glass

e. Stucco and synthetic stucco (EFIS)
f. Cast in place concrete or pre-cast concrete panels (not to include raked or plain finish)
g. Architectural metal with semi or fully concealed fasteners provided such panels are factory fabricated and finished with a durable non-fade surface.
h. Wood, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood, or cypress.
i. Other materials determined as acceptable by the City Planner.

c) Trash and Recyclable Materials: All trash, recyclable materials and handling equipment shall be stored within the principal structure; or stored within an accessory structure constructed of building materials compatible with the principal structure, maintenance free or composite materials or a steel sub-structure wrapped with composite material that matches the principle building. Wood or Chain link fencing with and/or without slats is not a permitted enclosure material. The structure shall have a swinging doors or an overhead door on tracks with a man door provided.

d) New multiple lot industrial parks platted after the adoption of this ordinance shall be screening with a landscaped berm along the perimeter of the industrial park.

e) Additions or Alterations to existing Buildings:
   1) A one-time building addition of twenty-five percent (25%) or less of the existing floor area does not have to comply with the standards of this Section after adoption of the ordinance. Any building addition of more than twenty-five percent (25%) of the existing floor area, but less than fifty percent (50%) of the area, the addition shall comply with the standards of this Section.
   2) When an existing building is expanded over fifty percent (50%) but below seventy-five (75%) of the existing square footage the building addition plus the existing building area shall meet the standards of this Section with an enhanced entry or building accenting added to the existing portion to bring the existing building closer to conformance.
   3) When an existing building is completely refaced or building remodeled over seventy-five percent (75%) of the existing square footage the building, the addition plus the existing building area shall meet the standards of this Section.

CHAPTER 15.1 - "M3" OFFICE PARK DISTRICT

Section 15.1-1. 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 "M3" Office Park District. Property zoned M3 falls within the Office Park Land Use designation on the Future Land Use Plan.

Section 15.1-2. General Description:

a) The "M3" (Office Park) District is established to:
   1) Reserve larger areas for multi-use buildings, offices, wholesale showrooms, light manufacturing, research and development, training, limited retail uses and uses accessory to conducting business within a coordinated, well-defined campus environment;
   2) Protect business from incompatible and unrelated land uses intruding into the work environment;
   3) Create higher quality site and building design expectations that will not support any uses with outdoor storage;
   4) Create an area to provide opportunities for higher technology business and other industries that may benefit from the accommodation of both office and light industrial uses on site with internal and external amenities to benefit employees;
   5) Provide for accessible business park opportunities near major highways and future transit corridors;
   6) Preserve and utilize natural environmental features for office sites that are located next to or overlook public open space and trail uses, woodlands and wetlands.
b) Design Character: Development in this district shall establish and maintain high standards of site design, spatial relationships, proportions, building architecture and landscape design that will create a high quality environment attractive to major employers. The design character of this district will be characterized by a high level of design, site amenities such as trails or open space, storm water management, and other modern techniques used to create a high-end office and industrial park. No outdoor storage will be permitted with any use.

Section 15.1-3. Uses Permitted:

a) Offices and office showrooms;
b) Coffee shops, cafeterias, medical facilities, and athletic/fitness facilities if located within the principal structure;
c) Government offices/facilities;
d) Technical, vocational, business and college/university satellite facilities/schools;
e) Travel agencies;
f) Research and development;
g) Data processing;
h) Wholesale showroom;
i) Warehousing used in conjunction with offices or light manufacturing facilities with no outdoor storage;

j) Retail sales, incidental to manufacturing of products produced on the site not to exceed twenty-five percent (25%) of the gross square footage of the first floor;
k) High technology business uses including, but not limited to: the manufacturing, or assembly, of medical devices and equipment, telecommunications equipment, pharmaceuticals, computer or electronic products and software, aeronautical equipment or components;
l) Business incubators/multitenant facilities housing manufacturing, research labs, testing labs, offices, motor vehicle, implement and recreation equipment sales or repair, governmental or public uses, indoor commercial recreation, manufacturing, radio and television offices and stations, and wholesale businesses, provided they are indoor operations with no outside storage or display areas. A maximum of twenty percent (20%) of the units or suites of such a facility may be occupied by enclosed retail and rental activity as a principal use.
m) Public utilities and essential government services;
n) Athletic/fitness facility within principal building;
o) Other uses similar to those permitted in this Section as determined by the Planning Commission and the City Council.
p) Essential service structures.

Section 15.1-4. Conditional Uses:

Within any M3 district, no structure or land shall be used for the following uses except by a conditional use permit:
a) Restaurant, Full Service subject to the following standards:
   1) No drive through service is provided;
   2) No restaurant shall be allowed on a parcel of less than one and one-half ($1^1/_2$) acres.
   3) Exterior materials and design shall be compatible with surrounding properties.
b) Health and fitness centers, freestanding;
c) Financial institutions and banks subject to the following standards:
   1) No drive through facilities;
d) Full Service Hotels;
e) Radio and TV studios, sound stages, multi-media, post production studio and support facilities and equipment;
f) Cell towers subject to standards in this Ordinance;
g) High-rise professional office buildings.

Section 15.1-5. Lot, Height, Area and Yard Requirements:

a) Maximum height of any building shall not exceed sixty (60) feet.
b) Maximum coverage – seventy-five percent (75%) of the total lot area
c) Minimum yards are as follows:
   1) Front – thirty (30) feet. If located on an arterial street – fifty (50) feet.
   2) Rear – twenty-five (25) feet.
   3) Side (Interior) – zero (0) except where the side of the lot adjoins the "AG" district or any "R" district in which case the minimum side yard shall be twenty-five (25) feet.
   4) Side-street side (corner) and double fronted street side lots – twenty-five (25) feet on each street side. If located on an arterial street – fifty (50) feet.
   5) Parking lots – ten (10) feet along all streets.
   6) 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 will be required along lot lines adjacent to a more restrictive zoning district according to requirements in Chapter 24.

Section 15.1-6. Building Design and Materials for M3 Office Park District:

All buildings shall be designed to accomplish the goals and policies of the comprehensive plan. Building materials shall be attractive in appearance, of a durable finish, and be of a quality that is compatible and harmonious with adjacent structures. All buildings shall be of good aesthetic and architectural quality to ensure they will maintain and enhance the property values of neighboring properties and not adversely impact the community's public health, safety and general welfare.

a) Design Elements: All new building fronts and refacing of existing buildings shall include a minimum of three (3) of the following elements:
   1) Accent materials that are different from exterior building finishes;
   2) A visually pleasing front entry that, in addition to doors, shall be accented a minimum of one hundred fifty (150) square feet around the door entrance for single occupancy buildings and a minimum of three hundred (300) square feet total for the front of multi-tenant buildings (this area shall be counted as one element);
   3) Twenty-five percent (25%) window coverage on each front that faces a street;
   4) Contrasting, yet complementary material colors;
   5) A combination of horizontal and vertical design features;
   6) Irregular building shapes; or
   7) Other architectural features in the overall architectural concept including such things as awnings, eaves, overhangs, various roof lines/profiles, use of columns or posts, enhanced windows or door detail, etc.
b) Accent Materials: Accent materials shall be wrapped around walls visible from public view. Painting shall not be substituted for visual relief, accenting, or a required element. No wall shall exceed one hundred (100) feet in length without visual relief. "Visual relief" may be defined as the incorporation of design features such as windows, horizontal and vertical patterns, contrasting material colors, or varying wall depths. Use of fiber cement trim, soffit and fascia shall be allowed as accent materials.
c) Exterior Building Finishes:
   1) The exterior building façade finishes of any façade viewable from a street or parking lot shall consist of materials comparable in grade and quality to the following list. A minimum of two (2) materials (in differing but compatible colors) with an additional architectural feature, or three (3) materials (in differing but compatible colors) shall be used:
      a. Brick.
      b. Natural stone.
      c. Integral colored split face (rock face) concrete block.
      d. Cast in place concrete or pre-cast concrete panels (not to include raked or plain finish).
      e. Wood, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood, or cypress.

f. Architectural metal (limited to 35% of any building wall) with semi or fully concealed fasteners provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.
g. Glass curtain wall panels.
h. Stucco, EFIS.
i. Other materials determined as acceptable by the City Planner.

2) Side and rear elevations not viewable from a street or parking lot shall be permitted to use one (1) material within this façade(s) provided no wall shall exceed one hundred (100) feet in length without visual relief.
3) Any exposed metal or fiberglass finish shall be limited to thirty-five percent (35%) of the surface of any building wall. Any metal finish utilized in the building shall be a minimum of twenty-six (26) gauge steel. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.

d) Building and Roofing Materials: All building and roofing materials shall meet current accepted industry standards and tolerances. Materials shall be subject to review and approval by the City Planner for quality, durability, and aesthetic appeal.

e) Trash and Recyclable Materials: All trash, recyclable materials and handling equipment shall be stored within the principal structure; or stored within an accessory structure constructed of building materials compatible with the principal structure, maintenance free or composite materials or a steel sub-structure wrapped with composite material that matches the principle building. Wood or Chain link fencing with and/or without slats is not a permitted enclosure material. The structure shall have a swinging doors or an overhead door on tracks with a man door provided.

f) Utilities: The view of all rooftop equipment and related piping, ducting, electrical and mechanical utilities shall be camouflaged through placement on the roof; or screened from the ground level view. Screening may include parapet walls, penthouses, or other architecturally integrated elements. Wood fencing or chain-link with slats shall not be used for screening.

The term "ground level view" is defined as the view of the front entrance from the property line from the main floor. If abutting perimeter property lines are higher than ten (10) feet above the finish floor elevation of the building, rooftop screening is not required. A ground level perspective plan shall be provide demonstrating how rooftop units will be screened from view.

g) External Loading and Service Areas: External loading and service areas must be one hundred percent (100%) screened from the ground level view from contiguous residential or commercial properties and adjacent streets, except at access points.

h) Additions, Alterations to existing Buildings:

1) A one-time building addition of twenty-five percent (25%) or less of the existing floor area does not have to comply with the standards of this Section after adoption of the ordinance. Any building addition of more than twenty-five percent (25%) of the existing floor area, but less than fifty percent (50%) of the area, the addition shall comply with the standards of this Section.
2) When an existing building is expanded over fifty percent (50%) but below seventy-five percent (75%) of the existing square footage the building addition plus the existing

building area shall meet the standards of this Section with an enhanced entry or building accent added to the existing portion to bring the existing building closer to conformance.

3) When an existing building is completely refaced or remodeled over seventy-five percent (75%) of the existing square footage the building, the addition plus the existing building area shall meet the standards of this Section.

CHAPTER 16 - "P" PUBLIC ZONE

Section 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). Property zoned Public Zone falls within the Public/Semi-Public Land Use designation on the Future Land Use Plan.

Section 16-2. Approvals:

As these uses are utilized by and provided for the public, any proposed use or change in use of land or building shall be reviewed and approved by the Planning Commission, during a public hearing, prior to issuance of any permits as stated in Section 16-4 through 16-7 of this Chapter.

Section 16-3. General Description:

The "P" (Public Zone) district is designed to retain and provide land areas owned by the utility companies, private organizations, federal, state, and local governments for public use.

Section 16-4. 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. Municipal water storage tank
q. Museum
r. Park
s. Playground or athletic field
t. Swimming pool
u. Ice arena
v. Zoo
w. Airport

x. Cemetery
y. Substations
z. Public parking structure

Section 16-5 Conditional Uses:

Within any Public District, no structure or land shall be used for the following uses expect by a conditional use permit:
a) Universities, colleges, junior colleges and associated uses
b) Elementary, middle and high schools (public and private)

Section 16-6. Interim Uses:

Within any Public District, no structure or land shall be used for the following uses expect by an interim use permit:
a) Modular classrooms on school property with a principle building

Section 16-7. 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. The Planning Commission review shall concern itself with the proposed uses relative to the comprehensive plan, lot area, lot dimensions, lot coverage, and floor area ratio, building height, building setbacks, parking and loading spaces, traffic flow and other similar requirements governing the use of public property. Alterations or additions equaling not more than twenty percent (20%) of the gross floor area of an existing building are exempt from this review.

A processing fee as determined by city fee schedule shall be paid at the time of plan review application. (Ord. 3853)

Section 16-8. 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.

Section 16-9. 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. All necessary buffer and screening shall be provided as required in Chapter 24.

Section 16-10. Site Plan and Drainage Required:

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

1) Site plan drawn to scale indicating property lines, proposed building limits, setbacks, parking lot area and dimensions and total proposed parking spaces, total building coverage and impervious surface percentages, setbacks, landscaping, screening and other requirements as applicable to this ordinance.
2) On-site storm management facilities necessary to drain the project.
3) Inclusion of storm-water detention/retention methods available to reduce the runoff impact from his properties.
4) Statement of impacts, if any, on other properties within the same drainage basin or sub-basin as the proposed project.
5) Drainage calculations using accepted engineering standards and formulas to substantiate the drainage plan and impacts.
6) A recommendation from a registered civil engineer in the State of North Dakota as to the storm drainage management method used.
7) 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.
8) A preliminary grading plan showing how the property will be graded relative to potential drainage impact on adjacent lots.
9) 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.

Section 16-11. Building and Site Design:

a) Any building constructed or remodeled the Public Zoning District shall meet the building design and material requirements of the C2 zoning district as required in Sec. 11-8 of this ordinance and the C2 landscaping requirements as required in Chapter 24.

CHAPTER 17 - "MH" MANUFACTURED HOME DISTRICT

Section 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.

Section 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.

Section 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, shuffle board courts, swimming pools, tennis courts, marinas, game rooms, libraries, management offices 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 R1 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) A manufactured home may not:
   1) be moved into or within the City of Minot or the extraterritorial zoning jurisdiction of the City of Minot and;
   2) be placed at a site or location therein for more than five (5) days, unless it is placed:
      a. within an MH district,
      b. on a site where the placement is permitted under the doctrine of prior valid non-conforming uses,
      c. at a site where the placement is permitted under a special non-conforming use permit,
      d. 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,
      e. on a site where it serves as a farm dwelling under Section 19-3(b) or Section 19-3(j), or

f. as a temporary office or storage building in a non- residential district for a period not to exceed two (2) years.

3) 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.

4) If a manufactured home is so constructed as to meet the definitional requirements imposed by item 50) 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 an MH district may be divided into individual manufactured home lots, which lots are collectively owned by one (1) person or one entity, 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 38).

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 (1) manufactured home only is permitted on each of platted lots of at least two (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.

<u>Section 17-4. Plan Required with MH Zone Application:</u>

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;

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.

Section 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:

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) Statement of impacts, if any, on other properties within the same drainage basin or sub-basin as the proposed project.
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 used.
f) 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.
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 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.
i) All storm water management facilities are to be designed to the City of Minot Storm Water Design Standards.

Section 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) Lot Requirements: Minimum lot requirements are set forth in the paragraph and table below. Lot layout shall provide a pattern that is functional and provides for 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. In no case shall any area of the lot be more than fifty (50) feet from the manufactured home site, nor any portion of the lot less than fifteen (15) in minimum dimensions between opposing lot lines, be included in required lot area or open space area. Density shall be prescribed in the plan required in Section 17-4 but not to exceed density limits allowed under licensing of the district by North Dakota State Health Department.
b) Minimum lot requirements and setbacks shall be as follows:

Lot Requirements		Unit
Lot area (interior)	3,000	square feet
Lot area (corner)	4,000	square feet
Lot width (interior)	40	feet
Lot width (corner)	50	feet
Manufactured homes and accessory buildings lot coverage	35	%
Setback - Principal Structure:		
Front Yard (abutting a private street)	15	feet
Front Yard (abutting a public right-of-way)	25	feet
Side Yard	10	feet
Side Yard (street)	15	feet
Rear Yard	10	feet

c) 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.

d) 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.

e) 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.

f) Required Open Space: 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/or maintained open space) and facilities such as playgrounds, swimming pools and community buildings. Where only one (1) 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.

g) Required Parking: 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. In addition, at least one quarter (1/4) parking spaces per unit shall be provided for guest parking. These spaces shall be located throughout the development. Parking for other uses within the district shall be governed by Chapter 23.

h) Date of Installation: Any manufactured home structure installed within a manufactured home district created after the date of adoption of this ordinance shall be at least five (5) years old or newer.

i) Manufactured Home District Standards: Any manufactured home district approved after the date of this ordinance shall provide the City with manufactured home standards for moving units into the district, site placement, and anchoring, skirting, parking and overall operation

of the newly creating district.

j) Buffer yard: A buffer yard of not less than thirty (30) feet in width shall be landscaped with appropriate grass, shrubbery and trees around the entire perimeter of the manufactured home park. This buffer yard shall be maintained by the owner of the manufactured home park.

k) Garbage and Construction Materials: All waste material, debris, refuse, garbage, fuel or materials not currently in use for construction shall be stored indoors, or totally screened from the eye level view of public streets and adjacent properties.

l) Storm Shelter or Evacuation Plan: All manufactured home parks shall have a storm shelter or evacuation plan approved by the city.

m) If land within a MH district is so platted as to meet the requirements of Chapter 5 with respect to an R1 district, then such land can be improved in accordance with R1 standards established in Chapter 5, Sec. 5-7, rather than as required by this section.

n) Streets: 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.

Section 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.

Section 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 - "GMU" GENERAL MIXED USE DISTRICT

Section 18-1. 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 GMU (General Mixed Use) District.

Section 18-2. General Description:

The purpose of the General Mixed Use District is to provide an area for compact, walkable, mixed-use development that also provides for the establishment of a community focal point with a blend of cultural, recreational, entertainment, commercial retail and office uses along key community corridors. The mixture of land uses within the district is essential to establishing the level of vitality and intensity needed to support retail and service uses. A combination of retail, office, service and residential land uses are encouraged although not required. New residential uses may also be entirely residential. The mix of uses can occur vertically and horizontally. The placement of buildings and the relationship of the building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian-friendly environment envisioned for the GMU. Property zoned GMU falls within the General Mixed Use Land Use designation on the Future Land Use Plan.

Section 18-3. Design Character:

The character of the GMU District shall reflect high quality design due to the high visibility of these areas along major roadways. New development in this district shall create a unifying identity and transition between different uses through high quality design, pedestrian amenities, compact development, and connections to public spaces.

Section 18-4. Uses Permitted:

The following uses are permitted uses in the GMU District:

a) Retail businesses, such as general merchandise, groceries, liquor, hardware, pharmacy, and apparel stores not exceeding fifteen thousand (15,000) square feet.
b) Eating and drinking establishments (excluding drive-in and drive-through services and designed to accommodate no more than seventy-five (75) persons at one time).
c) Business services, such as banks and other financial institutions, and professional offices.
d) Art, decorating and music galleries and studios, music school.
e) Florist.
f) Personal services, such as barber and beauty shops, photographic studios, laundromats and dry cleaning establishments, tailor.
g) Offices and Professional offices, such as medical and dental clinics, banks, attorney, accountants, real estate, and other similar office uses.
h) Day care centers must show evidence of application for day care center and all appropriate federal, state, and local regulations must be fulfilled.

i) Dwelling, multiple families (apartment, condominium, cooperative, townhouse) at a minimum of eight (8) units per acre and a maximum of twenty-four (24) units per acre.
j) Specialty schools

Section 18-5. Permitted Accessory Uses:

The following uses are permitted accessory uses in the GMU District:
a) Outdoor seating accessory to a restaurant.
b) Private garages, off-street parking and loading spaces as required in Chapter 23.
c) Public open space plaza, square or other related uses.
d) Signs as regulated in Chapter 22.
e) Trash enclosure service structure.
f) Structured parking.

Section 18-6. Conditional Uses:

Within any GMU District, no structure or land shall be used for the following uses except by conditional use permit:
a) Drive-through lanes for permitted uses (restaurants, banks) if provisions for vehicle stacking, vehicle maneuvering, outdoor speaker devices, appearance and lighting of outdoor menu boards and other related matters can be shown to be in keeping with the intent and character of the GMU district and compatible with surrounding uses.
b) Theatres.
c) Residential or professional high rise buildings above the maximum forty-five (45) feet permitted subject to the following requirements:
    1) The principal building are not located within one hundred (100) feet from the property line abutting an R1, R1S zoning district or existing single family residential structure.
    2) Additional amenities shall be incorporated into the development plan at time of review of the application for a conditional use permit.
d) Places of Public Assembly.

Section 18-7. Lot, Height, Area and Yard Requirements:

a) Maximum height of any building shall not exceed forty-five (45) feet.
b) Maximum coverage:
    1) No limit except as limited by yard requirements and must meet off-street parking requirements.
c) Minimum yards are as follows:
    1) Front – twenty (20) feet. If located on a platted or proposed collector or arterial street (as indicated on the functional classification map) – forty (40) feet.
    2) Side – no setback is required unless abutting a Residential District; a setback of twenty (20) feet shall be required.
    3) Side street (corner) – twenty (20) feet. If located on a platted or proposed collector or arterial street (as indicated on the functional classification map) – forty (40) feet.
    4) Rear (not abutting a public street): No setback is required unless abutting a Residential District; a setback of twenty (20) feet shall then be required.

5) Parking lot – ten (10) feet along all streets.

d) Minimum lot area – Lot size: no minimum for non-residential uses; residential parcels shall maintain a lot width that is adequate for the design of the structure.
e) Buffer strips will be required along lot lines adjacent to a more restrictive zoning district according to requirements in Chapter 24.

Section 18-8. Site Design:

a) Orient and consolidate structures to complement existing, adjacent development to create a coordinated and visually attractive mixed use setting.
b) Site planning shall respect the relationship of the site to the existing and proposed building, streets and major roadways.
c) Building façades should face the primary street.
d) Align the building front façade with adjacent buildings to promote visual continuity from the public right-of-way, unless site or use constraints are prohibitive.
e) Buildings shall have a clearly defined primary pedestrian entrance at street level.
f) Wherever a surface parking area faces a street frontage, such frontage shall be screened with a decorative wall, railing, hedge, or a combination of these elements to a minimum height of two and one half (2½) feet and a maximum height of three and one half (3½) feet above the level of the parking lot at the setback.
g) Drive-through or drive-in lanes are not allowed within the front yard setback of any buildings. They must be located to the side or rear of a building.
h) Where multiple buildings are proposed on a single site the buildings shall be designed with varying heights.

Section 18-9. Parking Requirements:

a) Parking for residential units in the GMU District shall be calculated as required in Chapter 23. Residential parking spaces shall be specifically reserved for the use of residents and visitors only, separate from any commercial, office or other uses on-site or nearby and shall not be counted as part of any shared parking or joint parking arrangement.
b) Parking for non-residential uses in the GMU District shall be calculated under Chapter 23. Shared parking arrangements as provided in Chapter 23 are encouraged provided that such shared parking is fully connected between sites for automobiles and pedestrians. On-street parking shall count towards required parking.

Section 18-10. Building Design Requirements:

To maintain the character of the mixed use area, the GMU District is subject to the following standards to reflect the character of the District.

a) All new building fronts (single story or multi-story) shall include a minimum of three (3) of the following elements:
   1) Architectural detailing, such as cornice, awning, parapet, or columns;
   2) A visually pleasing primary front entrance that, in addition to doors, shall be accented a minimum of one hundred-fifty (150) square feet around the door entrance for single occupancy buildings and a minimum of three hundred (300) square feet total for the front

of multi-tenant buildings (this area shall be counted as one element). Entrances shall be clearly articulated and obvious from the street;

3) A minimum of thirty percent (30%) window coverage on each front (first floor/ground level only) that faces a street;
4) Contrasting yet complementary, material colors;
5) A combination of horizontal and vertical design features;
6) Irregular building shape;
7) Horizontal offsets of at least four (4) feet in depth;
8) Vertical offsets in the roofline of at least four (4) feet;
9) Fenestration at the first floor level which is recessed horizontally at least one (1) foot into the façade;
10) Other architectural features in the overall architectural concept.

b) Multi-story buildings shall have a ground floor distinguished from the upper floors by having one or more of the following:
   1) Awning
   2) Trellis
   3) Arcade (passage or walkway)
   4) Window lintels
   5) Intermediate cornice line
   6) Architectural detailing such as quoins or corbels

c) Residential uses on first floors: Whenever residential uses are included on the first floor of a building, the first floor elevation shall be stepped up above the sidewalk, i.e. elevations immediately adjacent to the front of the residential unit to ensure the residential unit is raised from the public space. In addition, each first floor unit must have an individual private entrance at the street level with private courtyard enclosure.

d) Any exterior building wall adjacent to or visible from a public street, public open space or abutting property may not exceed fifty (50) feet in length without significant visual relief consisting of one (1) of the following:
   1) The façade shall be divided architecturally by means of significantly different materials or textures;
   2) Horizontal offsets of at least four (4) feet in depth;
   3) Vertical offsets in the roofline of at least four (4) feet; or
   4) Fenestration at the first floor level that is recessed horizontally at least one (1) foot into the façade.

e) Accent materials: Accent materials shall be wrapped around walls visible from public view. Where a mixed use building is visible from a public road all elevations shall be architecturally treated; accent material shall consist of materials comparable in grade and quality to the primary exterior material. Such materials may include glass, prefinished decorative metal and fiber cement trim within soffit and fascia areas.

f) Exterior Building Finishes:
   1) The exterior building finishes of any façade viewable from a street or parking lot shall consist of materials comparable in grade and quality to the following list. A minimum of two (2) materials (in differing but compatible colors) shall be used:
      a. Brick
      b. Natural stone
      c. Integral colored split face (rock face) concrete block

d. Cast in place concrete or pre-cast concrete panels (not to include raked or plain finish)
e. Wood, provided the surfaces are finished for exterior use or wood of proven exterior durability is used, such as cedar, redwood, or cypress
f. Glass curtain wall panels
g. Stucco, EFIS
h. Other materials determined as acceptable by the City Planner.

g) Building roofs: Mansard or mansard style roofs are not permitted except for mansard style cornices. Acceptable designs include flat, pitched or curved. Building roof styling shall incorporate a minimum of one (1) of the following elements:
   1) Parapets or cornices;
   2) Varying building height and variety of roof lines (must meet height requirements)

Section 18-11. Screening:

a) Trash and Recyclable Materials: All trash, recyclable materials and handling equipment shall be stored within the principal structure or stored within an accessory structure. The enclosure must be constructed of building materials compatible with the principal structure or a steel sub-structure wrapped with composite material that matches the principle building. Wood or Chain link fencing with and/or without slats is not a permitted enclosure material. The structure shall have a swinging doors or an overhead door on tracks with a person door provided.
b) Utilities: The view of all rooftop equipment and related piping, ducting, electrical and mechanical utilities shall be camouflaged through placement on the roof with, or screened from the ground level view. Screening may include parapet walls, penthouses, or other architecturally integrated elements. Wood fencing or chain-link with slats shall not be used for screening.

   The term "ground level view" is defined as the view of the front entrance from the property line from the main floor. If abutting perimeter property lines are higher than ten (10) feet above the finished floor elevation of the building, rooftop screening is not required. A ground level view perspective plan shall be provide demonstrating how rooftop units will be screened from view.
c) External loading and service areas: External loading and service areas must be one hundred percent (100%) screened from the ground level view from contiguous residential or commercial properties and adjacent streets, except at access points.
d) Abutting districts: Wherever a GMU District is across the street from an Residential District, a berm, fence or screening consisting of compact evergreen trees or hedge or a combination thereof, not less than eighty percent (80%) opaque at time of installation, nor less than six (6) feet in height, except adjacent to a street where it shall be not less than three (3) feet nor more than four (4) feet in height shall be erected or installed and maintained. All screening shall comply with Chapter 24.

Section 18-12. Pedestrian Environment:

a) Pedestrian amenities shall be included (and maintained by the property owner) in places where people typically gather, including but not limited to transit stops, building entrances, street corners or abutting bike and pedestrian trail connections. These amenities shall benefit

the intended users and be located in places that are highly visible. These spaces must include at least two (2) of the following (master planned developments shall provide two (2) elements in a central location):

1) Patterned materials on walkways
2) Shelters
3) Trash receptacles
4) Pedestrian scale lighting
5) Fountains, sculptures or kiosks
6) Street trees, flower boxes or containing landscaping.

b) Sidewalk connections shall be provided to and through the development to existing and planned bus stops, trails, sidewalks and adjacent properties, where access exists or reasonable connections are possible. If a parking lot lies between the building entry and an adjacent public street, a pedestrian walkway at least six (6) feet wide shall be provided between them. Clear internal pedestrian circulation routes shall be provided on the site.

CHAPTER 18.1 - AIRPORT NOISE BUFFER AREA

Section 18.1-1. 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 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.

Section 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 twenty-five (25) decibels(dB) 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 NLR of thirty (30) db. 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

Section 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.

Section 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.

Section 19-3. Uses Permitted:

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

a) Agriculture 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 (1) 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 twenty (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 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, other places of worship or Sunday school.
g) Sale of nursery and greenhouse products, the majority of which are raised on the premises.
h) Railroad rights-of-way and trackage, not including switching, storage, terminal facilities or freight yards.
i) 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.

Section 19-4. Conditional Uses:

Within any AG district, no structure or land shall be used for the following uses except by a conditional use permit:

a) Campground or expansion to existing campgrounds

Section 19-5. Interim Uses:

Within any AG district, no structure or land shall be used for the following uses except by an interim use permit:

a) Extraction of minerals from the ground, to include sand and gravel, oil and gas, lignite, potash, rock and other minerals. No processing shall occur on site.

Section 19-6. 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

STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES

Section 20-1. Statutory Authorization

The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-47, 11-33 and 58-03, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

Therefore, the City Council of the City of Minot, North Dakota does ordain as follows:

Section 20-2. Findings of Fact

a) The flood hazard areas of the City of Minot are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety, and general welfare.

b) Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to the flood loss.

Section 20-3. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

a) To protect human life and health;

b) To minimize expenditure of public money for costly flood control projects;

c) To minimize the need for rescue and relief efforts associated with flooding, and generally undertaken at the expense of the general public;

d) To minimize prolonged business interruptions;

e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in special flood hazard areas;

f) To help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;

g) To ensure that potential buyers are notified that property is in a special flood hazard area; and,

h) To ensure that those who occupy the special flood hazard areas assume responsibility for their actions.

Section 20-4. Methods of Reducing Flood Losses

In order to accomplish its purposes, this ordinance includes methods and provisions for:

a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,

e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

ARTICLE II

DEFINITIONS

Section 20-5. Definitions

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

a) *Appeal* means a request for a review of the city engineer's interpretation of any provision of this ordinance or a request for a variance.

b) *Area of jurisdiction* shall mean the area within the corporate limits of the city, and any area in which the city has statutory planning and zoning authority.

c) *Base flood or 100-year flood* means the flood having a one percent chance of being equaled or exceeded in any given year.

d) *Base Flood Elevation (BFE)* means the height of the base flood or 100-year flood usually in feet above mean sea level.

e) *Basement* means any area of the building having its floor subgrade (below ground level) on all sides.

f) *Best Available Data (BAD)* means water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

g) *Conveyance or hydraulic conveyance* means a geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.

h) *Development* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the special flood hazard area.

i) *Flood Insurance Rate Map (FIRM)* means the official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A, AE, AO, AH, A1-A30 or A-99.

j) *Flood Insurance Study (FIS)* means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, and the water surface elevation of the base flood.

k) *Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or; from the unusual and rapid accumulation or runoff of surface waters from any source.

l) *Floodproofing (Dry)* means protection provided a structure, together with attendant utilities and sanitary facilities, which is watertight two feet above the base flood elevation with walls that are substantially impermeable to the passage of water.

m) *Floodway or regulatory floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

n) *Lowest floor* means the lowest floor of a structure including the basement.

o) *Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”, but does include “mobile home”.

p) *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.

q) *New construction* means structures for which the "start of construction" commenced on or after the effective date of this ordinance.

r) *Reasonably safe from flooding* means base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

s) *Recreational vehicle* means a vehicle which is:
   1) built on a single chassis;
   2) 400 square feet or less when measured at the largest horizontal projection;
   3) designed to be self-propelled or permanently towable by a light duty truck;
   4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

t) *Special Flood Hazard Area (SFHA)* means an area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.

u) *Start of construction* includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; 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.

v) *Structure* means a walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.

w) *Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

x) *Substantial improvement* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1) Before the improvement or repair is started; or

2) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

3) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

4) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

y) *Variance* means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

ARTICLE III

GENERAL PROVISIONS

Section 20-6. Lands to Which This Chapter Applies

This chapter shall apply to all special flood hazard areas within the corporate limits of the City and its extraterritorial jurisdiction.

Section 20-7. Basis for Establishing the Special Flood Hazard Areas

The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "Flood Insurance Study for Ward County, North Dakota and Incorporated Areas", dated February 15, 2002 with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study is on file at the office of the city engineer in Minot, North Dakota.

Section 20-8. Compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations.

Section 20-9. Greater Restrictions

This ordinance is not intended to repeal, remedy, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 20-10. Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

a) Considered as minimum requirements;

b) Liberally construed in favor of the governing body; and,

c) Deemed neither to limit nor repeal any other powers granted under state statutes.

Section 20-11. Warning and Disclaimer or Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger

floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Minot, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

ARTICLE IV

ADMINISTRATION

Section 20-12. Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any special flood hazard area established in Section 20-7. Application for a development permit shall be made on forms furnished by the city engineer and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

a) Elevation in relation to mean sea level, of the lowest floor of all structures;

b) Elevation in relation to mean sea level to which any structure has been floodproofed;

c) Certification by a registered professional engineer or architect in the State of North Dakota that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 20-17(b); and,

d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

Section 20-13. Designation of the City Engineer

The city engineer is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

Section 20-14. Duties and Responsibilities of the City Engineer

Duties of the city engineer shall include, but not be limited to:

a) Permit Review

1) Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

2) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required.

3) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 20-18(a) are met.

b) Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 20-7 , Basis for Establishing the Special Flood Hazard Areas, the city engineer shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available data) from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with Section 20-17, Specific Standards.

c) Information to be Obtained and Maintained

1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

2) For all new or substantially improved floodproofed structures:

a. obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed;

b. maintain the floodproofing certifications required in Section 20-12(c).

3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

d) Alteration of Watercourses

The city engineer shall:

1) Notify nearby communities, water resource districts, and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and,

3) Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.

e) Interpretation of Flood Insurance Rate Map (FIRM) Boundaries

Make interpretation where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 20-15.

Section 20-15. Variance Procedure

a) Appeal Board

1) The Planning Commission shall hear and decide requests for variances from the requirements of this chapter.

2) Any application for a variance under this chapter shall be made in writing and shall address all technical evaluations, all relevant factors, and standards specified in other sections of this ordinance, including, but not limited to, the considerations provided in 20-15(a)(5) and 20-15(b).

3) Appeals, when it is alleged there is an error in any requirement, decision, or determination made by the city engineer in the enforcement or administration of this chapter, shall be heard pursuant to Section 30-6.

4) Those aggrieved by the decision of the Planning Commission relating to requests for variances under this chapter may appeal such decision, pursuant to Section 30-6. Any person aggrieved by the final decision of the Minot City Council under this chapter may appeal such decision to the North Dakota district court pursuant to law.

5) In deciding upon such variance applications, the Planning Commission shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance; and:

a. the danger that materials may be swept onto other lands to the injury of others;

b. the danger to life and property due to flooding or erosion damage;

c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. the importance of the services provided by the proposed facility to the community;

e. the necessity to the facility of a waterfront location, where applicable;

f. the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

g. the compatibility of the proposed use with existing and anticipated development;

h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. the safety of access to the property in times of flood for ordinary and emergency vehicles;

j. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

k. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-k) in Section 20-15(a)(5) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7) Upon consideration of the factors of Section 20-15(a)(5) and the purposes of this ordinance, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.

8) The city engineer shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

b) Conditions for Variances

1) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory

of Historic Places, without regard to the procedures set forth in the remainder of this section.

2) Variances shall not be issued within the identified floodplain if any increase in flood levels during the base flood discharge would result.

3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4) Variances shall only be issued upon:

   a. a showing of good and sufficient cause;

   b. a determination that failure to grant the variance would result in exceptional hardship to the applicant; and,

   c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in Section 20-15(a)(5), or conflict with existing local laws or ordinances.

5) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

ARTICLE V

PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 20-16. General Standards

In all special flood hazard areas the following standards are required:

a) Anchoring

1) All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure and shall be capable of resisting the hydrostatic and hydrodynamic loads.

2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods for anchoring may include:

a. Over-the-top ties, provided at each of the four corners of the unit with two additional ties per side at intermediate locations. Manufactured homes less than 50 feet in length are only required one additional tie per side.

b. Frame ties at each corner of the unit with five additional ties per side at intermediate points. Manufactured homes less than 50 feet in length are only required four additional ties per side.

c. All components of the anchoring system must be capable of carrying a force of 4,800 pounds.

3) All additions to manufactured homes shall be similarly anchored.

b) Construction Materials and Methods

1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2) All new and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

c) Utilities

1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d) Subdivision Proposals

1) All subdivision proposals shall be consistent with the need to minimize flood damage;

2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

4) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

Section 20-17. Specific Standards

In all special flood hazard areas where base flood elevation data have been provided as set forth in Section 20-7 Basis for Establishing the Special Flood Hazard Areas or Section 20-14(b), Use of Other Base Flood Data, the following provisions are required:

a) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation.

b) Nonresidential Construction

Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated on fill to at least one foot above the base flood elevation or, together with attendant utility and sanitary facilities shall:

1) Be floodproofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water.

2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

3) Be certified by a registered professional engineer or architect in the State of North Dakota that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 20-14(c) (2).

c) Manufactured Homes

1) Manufactured homes shall be anchored in accordance with Section 20-16(a) (2).

2) All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated on fill to at least one foot above the base flood elevation, and is securely anchored to an adequately anchored foundation system as hereinabove provided.

Section 20-18. Floodways

Located within the special flood hazard areas established in Section 20-7 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

a) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

b) If Section 20-18(a) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article V PROVISIONS FOR FLOOD HAZARD REDUCTION.

ARTICLE VI

Section 20-19. Penalties for Violations

a) The penalty for violating any of the provisions of this chapter or failure to comply with any of its requirements, including violations on conditions and safeguards established in connection with grants or variances or conditional uses, shall be as prescribed in Section 1-8 of the City of Minot Code of Ordinances. Each day such violation continues shall be considered a separate offense.

b) Nothing herein contained shall prevent the City of Minot from taking such other lawful action as is necessary to prevent or remedy any violation.

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CHAPTER 20.1 - SUNDRE WELLHEAD PROTECTION REQUIREMENTS

Section 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 fifty-five (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 Section 20.1-4 or (ii) a permit under Section 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 eight thousand (8,000) pounds or one thousand (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 Section 20.1-5.

Regulated activity means an activity listed in column 1 of Table 20.1-3-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.

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

The Sundre Wellhead Protection Area (SWPA) has been incorporated into the City of Minot's extraterritorial jurisdiction and is no longer a stand-alone area.

Section 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) 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 ten percent (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 fifty-five (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 20.1-3-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 The following activity is prohibited if it is a new regulated activity and subject to the provisions of section 20.1-5 if it is an existing regulated activity.	Column 2 Examples 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 five hundred (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	Electronic circuit board, electrical

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.	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	Recycling facility, which accepts

lead-acid batteries.	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 five hundred (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.

Section 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 ($5,000) 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 section 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 Section 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 Section 20.1-7(b)(1) for the new regulated activity if the City Engineer deems it necessary for pollution prevention.

Section 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, and 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 un-modified 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 Section 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 Section 20.1-7 and has completed an approved materials management plan in accordance with Section 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 Section 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.

Section 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 Section 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 ten percent (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 one hundred-eighty (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 registered 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 Section 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.

<u>Section 20.1-9. Doctrine of Prior Valid Non-conforming Use Inapplicable; Variance Unavailable; Other Laws:</u>

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) 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.

Section 20.1-10. 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 chemical application, 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

Section 21-1. General Principles:

a) For the purpose of General Principles of this Chapter:
   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 R1 or RA 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 (2) or more lots or sublots, upon one (1) or more 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 (2) or more contiguous lots under common ownership or control, as long as the contiguous lots remain under common ownership or control.
d) For the purpose of measurement:
   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 setback or rear yard setback, shall not be considered to be structures: clotheslines, utility poles, barbecues, detached fireplaces, propane or fuel oil storage tanks, aerials or antennas including 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 setback 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 Ordinance. 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 setback 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 setback or minimum required rear yard setback 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 (1) 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/she can do so in conformity with the requirements of this zoning ordinance. Otherwise, if only one (1) 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.

Section 21-2. Regulations:

a) The rules set forth in the various use district chapters 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 (1) 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 (2) unit dwelling townhouses permitted in the R2 and RM districts shall be constructed so that the two (2) abutting lots taken together, along with the structures erected thereon, meet the height, area and yard requirements imposed by the R2 and RM chapters.
   3) The R2B and R3B 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 R2 District (with the exception of an R3C Townhouse District).

Section 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.

Section 21-4. Special Rules Concerning Front Yards:

a) When forty percent (40%) or more of the frontage on one (1) side of the street, between two (2) intersection streets, is improved with buildings that have front yard setbacks both less than or greater than the required setback for the district, no building shall project beyond the

average front yard. The front yard depth shall not be allowed to exceed fifty percent (50%) in excess of the front yard otherwise required in the district in which the lot is located.

b) On lots having double street frontage the required front yard setback 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 setback 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.

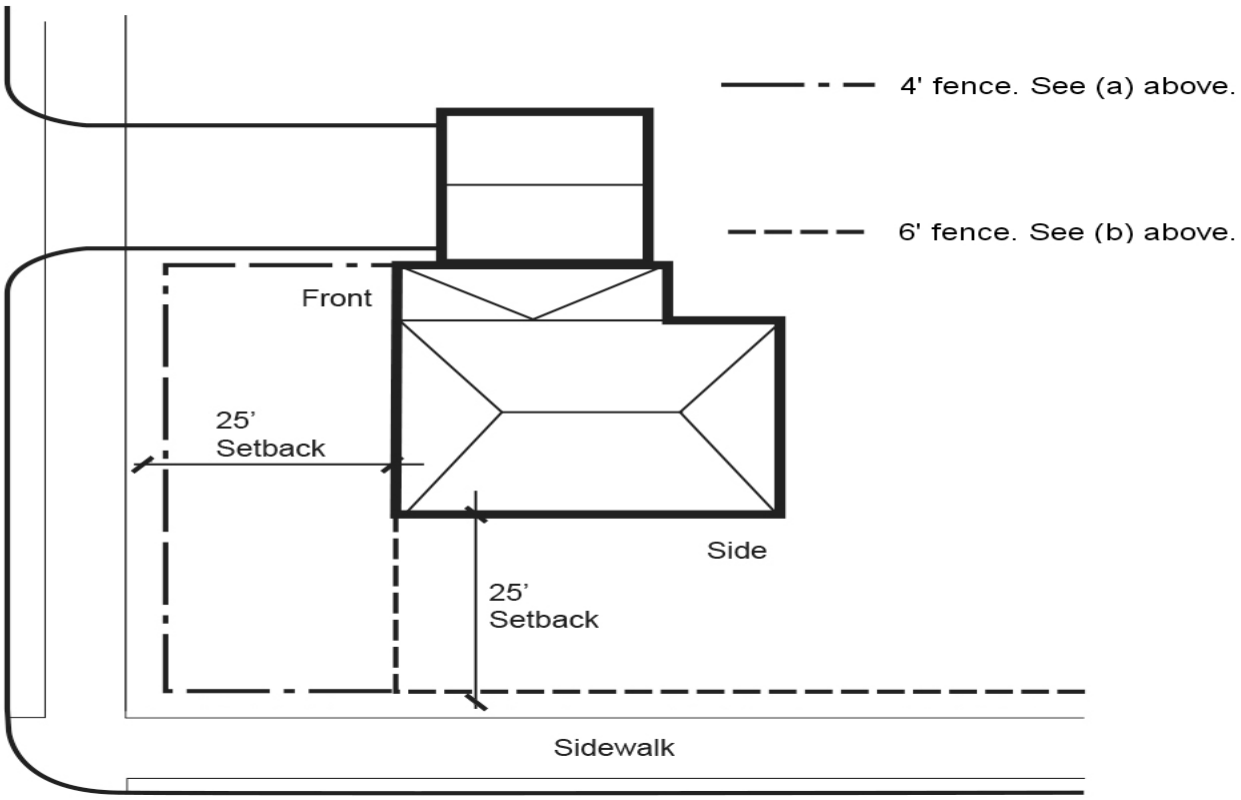
d) Off-street parking facilities may be located within the required front yard setback of any "C" or "M" district. No required off-street parking spaces may be located in the required front yard setback of any "R" district.

Section 21-5. Residential Fencing and Screening:

a) Fences extending across the front yard and along the side yard up to the front corner of the house shall not exceed four (4) feet in height and shall be at least fifty percent (50%) open space for the passage of air and light. In addition, for corner lots the fence height shall not exceed four (4) feet in height at the corner setback. See example:

b) Fences extending along the side yard, from the front corner of the house, to the rear yard shall not exceed six (6) feet in height.

c) Corner lots shall meet the visibility triangle requirements as defined in Section 2-1.



d) Fencing materials shall include maintenance free materials, wood, chain link, masonry or related materials. Sheet metal shall not be an approved fencing material.

e) No business sign or logo advertising the location in which the fence is located shall be attached to or painted on the fence.

Section 21-6. Commercial and Industrial Fencing:

a) Fences in commercial and industrial districts shall not exceed eight (8) feet in height.
b) Fence materials shall include maintenance free, wood, chain link, masonry or related materials. Sheet metal shall not be an approved fencing material.
c) No business sign or logo advertising the location in which the fence is located shall be attached to or painted on the fence.

Section 21-7. 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 setback may be reduced to ten percent (10%) of the width of the lot, provided, however, that no side yard setback 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.

Section 21-8. Special Rule Concerning Accessory Buildings:

a) No accessory building shall be permitted on any lot, in any zoning district, 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 RM-District shall comply with the accessory building regulations in Chapter 5.
b) An accessory building which is structurally attached to a main building shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.
c) No accessory building shall be erected in any required front yard setback.
d) On residential lots of less than twenty-four thousand (24,000) square feet, a maximum of two (2) accessory buildings totaling one thousand two-hundred (1,200) square feet is allowed per residence. 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. Additionally, on lots less than twenty-four thousand (24,000) square feet, accessory building(s) total square footage shall not exceed the square footage of the primary structure. On lots over twenty-four thousand (24,000) square feet, five percent (5%) of the lot is allowed for accessory buildings with a maximum of three (3) buildings.
e) Accessory buildings (in residential zoning districts) side wall height cannot exceed sixteen (16) feet from the bottom plate to the bottom of the top of the sidewall plate.
f) Notwithstanding anything in this chapter to the contrary, an accessory building (including residential sheds) may be erected in a minimum required interior 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.

g) 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.
h) In the R1, R2, RM and RH districts any accessory structure, (over 120 square feet in size) including detached garage, shall be constructed with a complimentary building design and roof style as the principle structure (house) using the same or similar building materials and colors.

Section 21-8. 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 (2) 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 (1) family dwelling or for any non-dwelling use permitted in the district in which it is located.

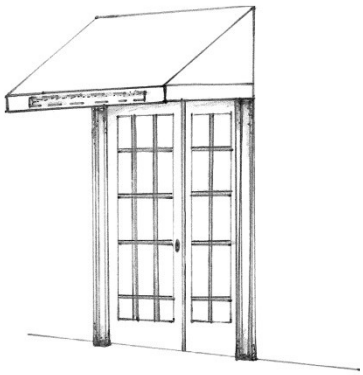
CHAPTER 22 - SIGNAGE REGULATIONS

Section 22-1. Purpose:

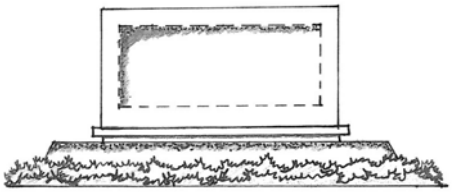
Signs have an impact on the character and quality of the environment as a prominent part of the scenery; they attract or repel the viewing public and affect the safety of vehicular traffic. Their suitability or appropriateness helps to set the tone of the neighborhood. The purpose of this section shall be to regulate the placement, erection and maintenance of signs in the city, and its' ETA, so as to promote the health, safety, aesthetics, economic welfare and general welfare of the community. The following standards in this chapter are, therefore, adopted to regulate signs. This ordinance applies to all signs located in residential, commercial (except C3), industrial, and agricultural zoning districts.

Section 22-2. Definitions:

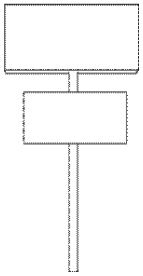
a) Abandoned sign: A sign which no longer identifies or advertises a bona fide business, lessor, service, owner, product, or activity, and/or for which no legal owner can be found;
b) Awning: A roof-like cover, often of fabric, plastic, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure primarily over a window, doorway, walk or similar;
c) Balloon Sign: A sign consisting of a bag made of lightweight material supported by helium or by hot or pressurized air, which is greater than twenty-four inches (24") in diameter;
d) Banner: A temporary sign device generally made of flexible materials such as cloth, plastic, or other non-rigid material with no enclosing framework;
e) Billboard Sign: An off-premise sign whose sign face is greater than seventy-two (72) square feet in size, but not greater than six hundred seventy two (672) square feet, and advertises a business, commodity, good, service, entertainment or attraction, which is not sold, produced, manufactured, or furnished on the premises where the billboard is located.
f) Building Sign**:** Any sign attached or supported by any structure used or intended for supporting or sheltering any use or occupancy;
g) Canopy: A roof-like cover, often of fabric, plastic, metal, or glass on a support, which provides shelter over a doorway;
h) Canopy Sign: Any sign that is part of or attached to a canopy. A canopy sign is not a marquee and is different from service area canopy signs;
i) Clearance (of a sign): The smallest vertical distance between the grade of vehicular uses or pedestrian uses and the lowest point of any sign, including framework and embellishments, extending over that grade;
j) Construction sign: A temporary sign identifying parties involved in construction on the property on which the sign is located;
k) Cabinet sign: A sign that contains all the text and/or logo symbols within a single enclosed cabinet;
l) Digital Sign: Electronic image displays that present multiple static advertising on a rotating basis through LED, or similar, electronic technologies;



m) Directional/Information sign: An on premise sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g. parking or exit and entrance signs may be located within the site or on a building wall.
n) Electronic or Digital Display Screen: An electrically activated changeable sign whose variable message capability can be electronically programmed. This does not include signs which contain only weather information, date or time, or fuel prices.
o) Flag: Any fabric or similar light weight material attached at one (1) end of the material, usually to a staff or pole, so as to allow movement of the material by atmospheric changes and which contains distinctive colors, patterns, symbols, emblems, insignia or other symbolic devices;
p) Flashing Sign: A directly or indirectly illuminated sign which exhibits changing light or color effect by any means, so as to provide intermittent illumination which includes the illusion of intermittent flashing light by means of animation. Also any mode of lighting which resembles zooming, twinkling, or sparkling;
q) Freestanding sign: A pole, pylon, or monument (billboards exempt) sign supported by a permanent foundation upon the ground and not attached directly to any building;
r) Height of Sign: The height of a sign shall be computed as the vertical distance measure from the base of the sign at grade to the top of the highest attached component of the sign or sign structure;
s) High impact sign: A sign that contains a mobile electronic message center, automatically changing sign faces, vehicles or other device of significant signage, or other hi-impact business promotion mechanisms non-digital in nature.
t) Illuminated sign: A sign, non-digital in nature, with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.
u) Incidental sign: A small sign, emblem, or decal informing the public of goods, facilities, or services available on the premises, e.g., a credit card sign or a sign indicating hours of business;
v) Monument sign: A sign mounted directly to the ground n supported by exposed posts or poles, which is architecturally designed and located less than two (2) fee from base of sign to ground where the base width dimension is at least as wide as the sign and has not more than two (2) signs and not greater than six (6) feet in tota height;

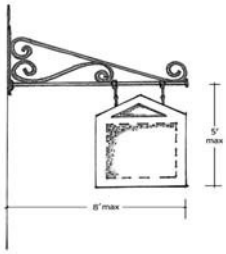


w) Nonconforming Sign: A sign that does not conform to the requirements of this section:
   1) Legal: A sign which lawfully existed at the time of the passage of this Ordinance or amendments thereto, but which does not conform to the regulations of this Ordinance;
   2) Illegal: A sign which was constructed after the passage of this Ordinance or amendments thereto, but which does not conform to the regulations of this Ordinance, or a sign which existed prior to the adoption of this sub-Ordinance which did not conform to regulations then in effect.
x) Off-Premise Advertising Sign: Any sign used to advertise products, goods, services which are not exclusively related to the premises or owner of the property on which the sign is located.
y) Pole Sign: A freestanding sign in excess of six (6) feet in height that is detached from a building which is supported by one or more structural elements which are either;
   1) architecturally dissimilar to the design of the primary structure or



2) less than ¼ the width of the sign faces.

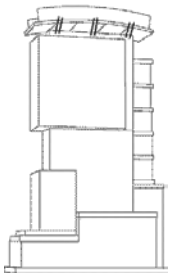
z) Portable sign: Any sign which meets one or more of the following conditions: movable, either by skids, wheels, truck, or other conveyance; any sign which does not have a permanent foundation or is otherwise permanently fastened to the ground and/or which is not wired for electricity in accordance with the sign code. When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category; neither does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors. Portable Signs and High Impact Signs are mutually exclusive. Portable sign are classified as temporary signs and are subject to the requirements in Section 22-6 of this ordinance.



aa) Project identification sign: A freestanding ground or wall sign identifying a recognized subdivision, condominium complex, or development;

bb) Projecting or flag mount sign: A sign, other than a flat wall sign, which is perpendicular to and projects from a building, is supported by a wall of a building where the leading edge extent more than twelve (12) inches beyond the surface of the wall. Any such sign that would project into a right-of-way must be accompanied by an encroachment permit.

cc) Pylon Sign: A freestanding sign in excess of six feet in height that is detached from a building and is supported by one or more structural elements which are architecturally similar in design to the primary structure.



dd) Real estate sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease, or sale;

ee) Roof sign: Any sign erected over or on the roof of a building;

ff) Sandwich board sign: A freestanding temporary sign with only two sides that are situated adjacent to a business with the intent to attract traffic to businesses. Sandwich board signs are not meant to be read by vehicular traffic. A sandwich board sign does not fall under the requirements for temporary signage.

gg) Sign: Any device, structure, fixture, or placard using graphics, symbols, and/or written copy for the primary purpose of identifying, providing directions, or advertising any establishment, product, good, or service;

hh) Sign Area: That area that includes;
1) the smallest rectangle around each line of copy for individually mounted letter signs
2) the entire face of a sign including the advertising surface and any framing, trim, or molding but not including the supporting structure for all other signs.

ii) Stringer: A line of string, rope, cording, or an equivalent to which is attached a number of pennants;

jj) Temporary Sign: A movable sign, poles, posts, or other structure or apparatus intended to be erected for a short period of time and not permanently fastened to a foundation or other permanent structure. Ref. Sec.22-6.

kk) Wall sign: Shall mean a sign attached essentially parallel to and extending not more than twenty-four inches (24”) from the wall of a building with no copy on the sides or edges. This definition includes painted, individual letter, and signs on a mansard;

ll) Window sign: Shall mean a sign installed inside or outside a window and intended to be viewed from the outside.

<u>Section 22-3. General Provisions: Regulations encompassing all signs</u>

a) No sign permitted by this title shall, by reason of its location, color or intensity, lighting, glare, focus, animation or flashing create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "Stop", "Caution", "Warning", etc., unless such sign is needed to direct traffic on the premises. No sign may be placed in a manner as to materially impeded vision between a height of two and one-half (2 ½) feet and ten (10) feet above the center grade of the intersecting streets within thirty (30) feet to the point of curvature of the intersecting street curbs.
b) All signs and sign structures shall be properly maintained in a safe, orderly condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind, and underneath the base of ground signs for a distance of ten (10) feet shall be neatly trimmed and free of weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.
c) All signs shall be constructed in accordance with the City of Minot adopted building and electrical codes. The maximum brightness shall not exceed one hundred (100) foot- lamberts (A unit of brightness equal to $1/\pi$ candela per square foot).
d) No sign shall be erected, placed or maintained on fences, trees, power and light poles or the supports thereof, except as allowed at special events. Signs on rocks shall be allowed if they use metal letters and numbers or the commercial message is etched into the surface of the rock.
e) No signs shall be erected, temporarily placed, project within any, upon any public lands, easements or public rights of way.
f) Window signs shall not cover more than thirty-five percent (35%) of the window area on each elevation of a building. Holiday signs placed in windows shall be included in the thirty-five percent (35%) window area. All window signs shall be placed on the inside surface of the glass, except for window signs of paint or decal application applied directly to the glass surface.
g) Commercial message of the sign shall be neat, orderly and not obscene. The signs shall be professionally prepared.
h) Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.
i) Signs with external lighting shall have no exposed light sources or fixtures unless decorative fixtures are utilized and the light source is fully concealed and diffused. If a wall sign is mounted above the first floor of a building, the illumination, if any, shall be internal.
j) The installation of electrical signs shall be subject to the State's Electrical Code.
    1) Electrical service to such sign shall be underground.
k) All signs except billboard/off premise signs shall be located on the property that contains the principal building in which the sign is advertising. No freestanding sign shall be installed on vacant property.
l) All freestanding, billboard and temporary signs shall be setback ten (10) feet from their leading edge to any property line adjacent a right-of-way, (except for C3 and Pylon signs). All pylon signs are subject to the same setback requirements as the principal structure.
m) No electronic message center or digital sign shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance depending on sign area. Measuring distance shall be calculated with the following formula: The square root of the product of the sign area and one- hundred.
    i. Example using a 12 square foot sign:
    ii. Measurement Distance = $\sqrt{(12 \text{ Sq. Ft.} \times 100)} = 34.6$
n) All digital billboards and electronic message centers shall come equipped with automatic

dimming technology that automatically adjusts the display's brightness based on ambient light conditions.

o) Any freestanding sign one hundred-fifty (150) square feet or above shall provide engineer structural plans stamped and signed by a professional engineer.
p) All signs shall be subject to the visibility triangle requirements as approved by the Traffic Engineer.

Section 22-4. Prohibited Signs (All districts):

a) Signs painted on or attached to rocks, trees, or other natural objects.
b) Signs or sign structures which resemble or conflict with traffic control signs or devices, which mislead or confuse persons traveling on public streets, or which create a traffic hazard.
c) Signs on or overhanging public property or public right-of-way, unless specifically authorized by the appropriate public agency.
d) Signs which create a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscure official signs or signals.
e) Abandoned Signs: Any abandoned sign (not in use, not containing a sign face) must be removed within six months of date of abandonment. Removal shall include removal of abandoned structural components.
f) Signs that are not clean or in substantial good repair; or are not affixed to a sound structure.
g) Signs advertising activities that are illegal under Federal, State, or local laws and regulations.
h) Roof signs.
i) Any sign which contains or consists of banners, bannerettes, pennants, ribbons, streamers, strings of light bulbs, balloons and hot or cold air inflatable devices, spinners, portable signs or similar outdoor advertising devices, except as may be approved by a special event permit in accordance with the provisions as set forth in section Sec. 22-6.
j) Signs on motorized vehicles (not including advertising on a business owned vehicle) not related to activities of the site in which the vehicle is located. Example of such signage includes: stationary vehicles or semi-trailers and detached trailers with off-premise signs.
k) In an agricultural district no on or off-premise sign shall be installed, except for signs specific to the agricultural business.
l) No off-premise signs other than billboards, temporary signs (subject to Section 22-6 regulations), or when accompanied by Interim Use permit are allowed by this ordinance.
m) Temporary signs exceeding the time and location limitations set forth in Section 22-6.

Section 22-5. Exempt Signs: (All districts)

a) Bulletin boards for religious assembly or school uses, provided that they have a maximum sign area of twenty (20) square feet and are not located in a required sign setback.
b) Real estate signs provided they meet the following requirements:
c) Property for sale signs shall be wall or freestanding sides and shall be removed within ten (10) days after the closing of the property.
d) Such signs shall be professionally designed. Freestanding signs shall be properly anchored into the ground.

e) The content of the commercial message on these signs shall include an offer of the property for sale or lease, realty company name, contact information.
f) Such signs shall measure no more than twelve (12) square feet in the Residential
g) Districts and forty (40) square feet in all other districts.
h) Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information.
i) Seasonal decorations for display on private or public property.
j) On-premise construction signs with a maximum sign area of ten (10) square feet in residential districts and ninety-six (96) square feet in other districts. Such signs must be removed within one week after the completion of the construction project to which they refer.
k) One (1) temporary sign per zoned lot for grand openings or special events provided that such sign remains in place for a maximum of seven (7) days.
l) Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
m) Residential signs below two (2) square feet in size (address sign)
    1) Subdivision identification signs under fifty (50) square feet.
    2) Street Address
    3) House Numbers
n) Directional/information signs placed on a building wall not to exceed eight (8) square feet.

<u>Section 22-6. Temporary Signs:</u> (only for grand openings, special events, and holidays)

a) Permitted in C1, C2, GMU, M1 and M2 districts based on the following regulations.
b) No more than two (2) temporary signs (banner or portable sign) not exceeding,
    1) Forty eight (48) total square feet in the C1, GMU, and M1 districts.
    2) One hundred and fifty (150) total square feet allowed in the C2 and M2 districts placed on an outside building wall (or tenant space in the case of multiple occupancy).
c) Temporary signs shall not have more than two (2) faces.
d) Each sign shall be allowed to be displayed for a maximum period of forty-five (45) days prior to a special event or holiday and shall be removed five (5) days following the event or holiday.
e) Temporary signs shall be secured in a manner as to prevent them from being moved or blown over by the wind.
f) Temporary signs shall be professionally made and constructed of durable, weather- resistant materials such as aluminum, plastic or wood finished surfaces and shall be maintained in good condition.
g) If any Temporary Sign is not removed by the end of the forty-five (45) day period, the City of Minot may remove it. The City may charge the costs of removal and storage to the individual or enterprise responsible or to the property owner.
h) Temporary signs for non-profit civic campaigns or events, political campaigns, or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this Article, subject to the following requirements:
    1) Such signs are installed no earlier than thirty (30) days before the date of the event or election and removed no later than seven (7) days after the date of the event or election.
    2) The maximum size of such signs is thirty-two (32) square feet when located in any R or C1 district; and one hundred (100) square feet in any other zoning district.
    3) Portable signs:

a. In the C2, GMU, M1 and M2 districts, portable signs shall not exceed sixty-four (64) square feet nor exceed eight (8) feet in height. Portable signs shall not be placed in the right-of-way. Portable signs are consider a temporary sign and required to follow the all regulations in this section governing the use of temporary signage.
b. May be displayed at a location for a period not to exceed thirty (30) consecutive days. Upon termination of the display, a portable sign may not be displayed again at the same location for an additional fourteen (14) days.
c. In no event may a portable sign be displayed at the same location for more than ninety-eight (98) days in any single calendar year.
d. Are prohibited in all zoning districts not specifically listed above. A high impact sign may not be displayed at a location at which a portable sign is displayed; neither shall a portable sign be displayed at a location at which a high impact sign is displayed.
    i. With respect to multi-tenant properties in C2, GMU, M1 and M2 districts consisting of three (3) or more businesses under six (6) or more separate leases, a maximum of either: (a) two (2) portable signs or (b) one (1) portable sign and one (1) high impact sign may be displayed during any given period on such multi-tenant property. For every four (4) businesses in addition to the initial three (3) businesses, one (1) additional portable sign is allowed.
    ii. Portable signs with blinking, flashing or fluttering lights or other illuminating devices which have a changing intensity; brightness or color may not be displayed within three hundred (300) feet of any residential zoning district.

i) High Impact Signs: A high impact sign may be displayed for a period no longer than the following:
1) In C2, GMU, M1 and M2 districts, high impact signs may be displayed at a location for a period not to exceed fourteen (14) days in any twelve (12) month period, but in no event may a high impact sign be displayed within three hundred (300) feet of any residential zoning district, as measured in all directions. High impact signs are prohibited in all other zoning districts.
2) A high impact sign may not be displayed on a parcel upon which a portable sign is displayed; provided, however that a maximum of either:
    a. two (2) high impact signs or;
    b. one (1) portable sign and one (1) high impact sign may be displayed during any given period on a multi-tenant property containing three or more businesses as described.

j) Sandwich Board Signs: Sandwich board signs are two (2) sided temporary signs which are allowed by annual permit only. Sandwich board signs may be no more than three (3) feet in width and four (4) feet in height and must be located within twenty (20) feet of the main entrance to the business they advertise. Sandwich board signs must be placed upon private property, leaving a minimum of four (4) feet of clearance for pedestrian access. Sandwich board signs may not be placed upon the public sidewalk, except in the Central Business District. Sandwich board signs may be used only during business hours and must be removed daily.

Section 22-7. Residential District Allowable Signage (R1(s), R2, RM, R3C, and RA)

a) Two (2) non-residential use identification signs shall be permitted for each property and two (2) non-residential identification signs shall be permitted for each entrance to a property.
b) The name, address and/or logo portion of a non-residential use identification sign shall not exceed forty-eight (48) square feet.
c) Non-residential use identification signs shall be constructed of durable, weather-resistant materials.
d) Standard lighting of a non-residential area identification sign shall be from either an external source directed at the sign, or from internal illumination. Lighting for the sign shall be so directed as to not interfere with the movement of traffic on adjacent roadways or be a nuisance to adjacent property owners with a timer that turns off the lighting during the hours of 10:00 p.m. until 6:00 a.m. Lighting for the sign shall be so directed as to not interfere with the movement of traffic on adjacent roadways or be a nuisance to adjacent property owners.
e) Digital signs shall only be allowed on non-residential uses. (e.g. church, school, etc.). Digital signs are allowed on a freestanding or wall sign provided the digital display does not exceed seventy percent (70%) of the total sign area per primary sign face (no more than two sign faces). The display message shall not change more than once every two (2) second interval. During the hours of 10:00 p.m. and 6:00 a.m. the message shall remain as a single static message. Digital display shall comply with requirements in Sec. 22-9 d).

Section 22-9 a). Commercial Districts Allowable Signage (C1, C2 and GMU):

a) Freestanding sign:
    1) One (1) freestanding sign is allowed per business establishment, provided that no more than two (2) business establishments are located on the same lot. Where more than two (2) business establishments are located on the same lot, and an additional freestanding sign is sought, a site plan must be submitted to the Planning Commission for review as a Conditional Use Permit. However, in multi-use establishments it is strongly recommended that a common sign be shared by all business establishments. In addition to one freestanding/pole or monument/ground sign, a business establishment may have one projecting or wall sign.
    2) Shall not exceed forty-five (45) feet in height.
    3) The sign face shall not exceed three (3) square feet per one (1) foot of lot frontage where the sign is to be placed, up to a maximum of one hundred-fifty (150) square feet (primary cabinet); but in any event, fifty (50) square feet is permitted. A secondary tenant and/or digital display panel (following the requirements in item d below) shall be permitted up to eighty percent (80%) of the primary cabinet sign area.
    4) The minimum freestanding sign height clearance to the bottom of the sign, including the cross bracing, framing or sign enclosure, shall be fourteen (14) feet, or ten (10) feet with ground protection.

5) All freestanding signs or monument/ground signs shall be located with the pole and edge of sign located completely within the property line.
6) Freestanding directional/information signs may be installed within the interior of a site and shall not to exceed eight (8) square feet and not greater than forty-two (42) inches in height.

b) Projecting signs/Flag mount:
   1) Projecting signs may be erected with a sign face of not more than fifty (50) square feet. The sign shall not extend above the top of the wall or façade to which it is attached. The sign shall be located a minimum of eight (8) feet above ground level. Projecting signs shall be permitted in a C1, C2, C3 or GMU district. c) Wall signs:

c) Wall signs:
   1) Wall signs may be erected with a sign face not exceeding the larger of twenty percent (20%) of the façade to which it is attached or sixty (60) square feet up to a maximum of two hundred (200) square feet.
   2) Total sign area allowed can be divided into multiple signs.
   3) Digital wall signs shall meet the standards in item d) below.
   4) The sign(s) shall not extend above the top of the wall or façade to which it is attached.

d) Digital signs:
   1) Digital signs are allowed on a freestanding or wall sign provided the digital display does not exceed eighty percent (80%) of the total primary sign area per sign face (no more than two sign faces). The display message shall not change more than once every one (1) second interval. Digital display shall comply with requirements in Sec. 22-9 d).

<u>Section 22-9 b). Signage Permitted within the C3 District:</u>

a) Freestanding sign:
   1) One (1) freestanding sign is allowed per business establishment, provided that no more than two (2) business establishments are located on the same lot. Where more than two (2) business establishments are located on the same lot, and an additional freestanding sign is sought, a site plan must be submitted to the Planning Commission for review as a Conditional Use Permit. However, in multi-use establishments it is strongly recommended that a common sign be shared by all business establishments. In addition to one freestanding/pole or monument/ground sign, a business establishment may have one projecting or wall sign.
   2) Freestanding signs shall not exceed forty-five (45) feet in height. The sign face shall not exceed one and one-half (1.5) square feet per one (1) foot of lot frontage where the sign is to be placed, up to a maximum of one hundred (100) square feet (primary cabinet); but in any event, sixty (60) square feet is permitted. A secondary tenant or digital display panel (following the requirements in item d below) shall be permitted up to fifty (50) percent of the primary cabinet sign area

b) Wall signage:
   1) Signs must be within a horizontal band no more than three feet (3') in height, at least ten feet (10') and no more than fifteen feet (15') above the ground.
   2) Wall signage shall be either:
      a. Attached to the wall: Flat and parallel to the surface of the building and projecting no more than one foot (1') from it, or

b. Projecting from the wall: Perpendicular to the surface of the building and no more than one foot (1') in thickness.

3) Attached wall signage shall consist of individual letters or script logos mounted on the building.

c) Projecting or Flag signs:

1) Projecting or Flag signs may be erected with a sign face of not more than fifty (50) square feet. The sign shall not extend above the top of the wall or façade to which it is attached. The sign shall be located a minimum of eight (8) feet above ground level. Projecting signs may not extend over a public right of way or public property unless by permit issued by the City Council. Projecting signs may not extend over a designated parking space or loading area.

2) Allowable area of wall signs is one and one-half (1.5) square feet of signage per linear foot of building frontage on a public street, public open space, or private parking area. Each wall shall be calculated individually and sign area may not be transferred to another side of the building. In calculating the total allowable area of wall signage, only one side of a two (2) sided projecting sign shall be counted. In calculating the amount of signage for tenants in a multi-tenant building, the exterior facade adjacent to the individual tenant bay shall be the basis for calculating the maximum area of signage allowed for that tenant.

d) Digital Display Requirements for freestanding signs:

e) Digital signs are allowed on a freestanding or wall sign provided the digital display does not exceed eighty percent (50%) of the total primary sign area per sign face (no more than two sign faces). The display message shall not change more than once every one (1) second interval. Digital display shall comply with requirements in Sec. 22-9 d).

f) Sandwich Board Signs: Sandwich board signs are two (2) sided temporary signs which are allowed by permit only. A one-time permit shall be required for installation of each new sandwich board sign. Sandwich board signs may be no more than three (3) feet in width and four (4) feet in height and must be located within twenty (20) feet of the main entrance to the business they advertise. Sandwich board signs must be placed upon private property, leaving a minimum of four (4) feet of clearance for pedestrian access. Sandwich board signs may not be placed upon the public sidewalk with the approval of an encroachment agreement. Sandwich board signs may be used only during business hours and must be removed daily. No banners, flag, balloons may be attached to the sandwich board sign.

<u>Section 22-11. Industrial Districts Allowable Signage (M1, M2, M3, M4):</u>

a) Freestanding sign or monument/ground sign:

1) One (1) freestanding sign or is allowed per business establishment, provided that no more than two (2) business establishments are located on the same lot. Where more than two (2) business establishments are located on the same lot, and an additional freestanding sign is sought, a site plan must be submitted to the Planning Commission for review as a Conditional Use Permit. However, in multi-use establishments it is strongly recommended that a common sign be shared by all business establishments. In addition to one freestanding or monument/ground sign, a business establishment may have one projecting or wall sign.

2) Freestanding signs shall not exceed fifty (50) feet in height on local roads and collectors and seventy-five (75) feet when facing an arterial or principle roadway. Monument signs shall not exceed six (6) feet in height. The sign face shall not exceed three (3) square feet per one (1) foot of lot frontage where the sign is to be placed, up to a maximum of two hundred-fifty (250) square feet (primary cabinet); but in any event, sixty (60) square feet is permitted. A secondary tenant or digital display panel (following the requirements in item d below) shall be permitted up to sixty (60) percent of the primary cabinet sign area.
3) The minimum freestanding sign height clearance to the bottom of the sign, including the cross bracing, framing or sign enclosure, shall be fourteen (14) feet, or ten (10) feet with ground protection.
4) All freestanding signs shall be subject to sight triangle requirements as approved by the Traffic Engineer.
5) Any freestanding sign one hundred-fifty (150) square feet or above shall provide engineer structural plans stamped and signed by a professional engineer.

b) Projecting/flag mount signs:
1) Projecting signs may be erected with a sign face of not more than fifty (50) square feet. The sign shall not extend above the top of the wall or façade to which it is attached. The sign shall be located a minimum of eight (8) feet above ground level.

c) Wall signs:
1) Wall signs may be erected with a sign face not exceeding the larger of twenty percent (20%) of the façade to which it is attached or sixty (60) square feet up to a maximum of two hundred (200) square feet.
2) Total sign area allowed can be divided into multiple signs.
3) The sign(s) shall not extend above the top of the wall or façade to which it is attached. Digital wall signs shall meet the standards in item d) below.

d) Digital signs
1) Digital signs are allowed on a freestanding or wall sign provided the digital display does not exceed sixty percent (60%) of the total primary sign area per sign face (no more than two sign faces). The display message shall not change more than once every one (1) second interval. Digital display shall comply with requirements in Sec. 22-9 d).

<u>Section 22-12. Billboards Advertising:</u>

a) Billboards are permitted only on the following roadways and upon properties zoned Commercial or Industrial: Highway 83; Highway 2/ 52 Bypass; Highway 2 E & Highway 2 W; Burdick Expressway; Highway 83 Bypass; 55th Street NE; Highway 52.

b) A sign permit shall be required for approval of a billboard pursuant to this Ordinance. The applicant shall provide landowner approval prior to the issuance of a sign permit for a billboard.

c) The owner shall place and maintain on such billboard the name of the person owning, in charge of, or in control of, said billboard.

d) The maximum sign size shall be six hundred and seventy-two (672) square feet (as the sign base). An additional amount, up to twenty percent (20%) of the sign base, shall be allowed for sign extension elements beyond the sign base.
e) The maximum sign height to the uppermost portion shall be fifty (50) feet. The closet point of any portion of the sign shall be setback ten (10) feet from the property line. No portion of the sign shall overhang into any right-of-way or recorded easement.
f) Billboards shall be a single support, metal structure free of any additional supports or guywires. The metal shall be either painted or treated in such a manner as to prevent deterioration.
g) Billboards shall have a maximum of two (2) faces.
h) Billboards signs, including mounting pole and devices, shall be located inside of the outside edge of the roadway easement in which the billboard sign is located.

Section 22-12. Billboard Sign Spacing Requirement:

No off-premise sign or digital billboard shall be placed in a location that causes it to violate any of the following spacing requirements:

a) Sensitive Land Uses: A sensitive land use is considered residential, public, institutional or mixed-use zoning districts. Any such land use shall be a distance of at least three hundred (300) feet from a billboard/off-premise sign, as measured from the closet point of the sign to the property line of the sensitive land use or zoning district, as measure along the curb line of the street along the same side of the street in which the sing is oriented, unless one or more structures or objects obstructs the view of all or substantially all the sign from such residences, religious institutions, parks or schools.
b) Spacing between off-premise signs shall be at least five hundred (500) feet, as measured from the curbline of the street along the same side of the street along in which the sign is oriented.
c) Digital Billboards: Spacing between digital billboards shall be at least one thousand two hundred (1,200) feet, as measured from the curbline of the street along the same side of the street in which the sign is oriented.

Section 22-13. Digital Billboards:

Digital billboards are subject to the following additional conditions:
a) Hold Time: Signs shall display a static message which message may not change or be changed for a period of at least seven (7) seconds.
b) Message Transitions: The transition from one such static message to the next shall occur instantaneously without the use of animation, flashing or frame effects.
c) Sign Brightness: Digital billboards shall come equipped with automatic dimming technology that automatically adjusts the display's brightness based on ambient light conditions.
    1) All electronic message centers shall come equipped with automatic dimming technology which automatically adjusts the sign's brightness in direct correlation with ambient light conditions.
    2) No electronic message center shall exceed a brightness level of 0.3 foot candles above ambient light as measured using a foot candle (Lux) meter at a preset distance

depending on sign area. Measuring distance shall be calculated with the following formula: The square root of the product of the sign area and one-hundred.

Example using a 12 square foot sign:

Measurement Distance = √ (12 Sq. Ft. x 100) = 34.6

Section 22-14. General Permit Procedures:

a) Applicability: Any installation, modification, or expansion of any sign which is not exempt from the provisions of this Section shall be subject to the following permit procedure prior to installation.
b) Sign permits shall be issued for individually zoned lots. A sign permit may be revoked if the sign is not maintained in good condition.
c) Sign Permit Applications. All applications for sign permits shall be submitted to the Building Official in accordance with application specifications established by the Building Official.
d) Application Fees: Each application for a sign permit shall be accompanied by any applicable fees, which shall be established by the City Council from time to time by resolution.
e) Permit Expiration: If a sign is not constructed in accordance with an approved permit within twelve months of the date of approval, such permit shall lapse.
f) Assignment of Sign Permits: A current and valid sign permit shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises.

Section 22-16. Nonconforming Signs:

a) All permanent signs in place and lawfully established on the effective date of this Ordinance shall be considered as legal nonconforming signs. The copy of such a sign may be changed from time to time, provided that the sign area shall not be enlarged beyond the sign area in existence on the effective date.
b) Any nonconforming sign which presently is or becomes structurally damaged or deteriorated, or is altered by more than fifty percent (50%) of its replacement cost, shall be either removed or altered so as to comply with this Section.

CHAPTER 23 - OFF-STREET PARKING AND LOADING REQUIREMENTS

Section 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 C3 district. All off-street parking spaces and all driveways on private property leading to such parking areas shall be all-weather hard surface material. Acceptable surfacing materials include asphalt, concrete, brick, cement pavers or similar materials installed and maintained according to industry standards. All parking areas containing four (4) or more spaces or containing angled parking shall have the parking spaces and aisles clearly marked on the pavement. The number of off-street parking spaces shall be provided on the basis of the following minimum requirements listed in the table below. If a specific use is not listed the City shall use the ITE Parking Generation Manual to determine minimum parking requirements.

Minimum Required Parking Spaces for Residential Uses	
Use	**Minimum Number of Spaces Required**
a) Bed and breakfast establishments and boarding and rooming houses	2 spaces for the principal residential dwelling unit plus 1 space for each rental room
b) Assisted Living and Memory Care Units	0.5 spaces for each unit
a) Nursing Home	1 space per 6 patient beds, plus one space per employee on the largest work shift.
b) Daycare facilities	No additional spaces required if located in a single dwelling or one unit in a multiple dwelling structure
c) Dwellings, attached or detached townhouses	2 spaces per unit, plus 0.25 space for each unit for guest parking.
d) Dwellings, single-family detached and two-family attached and residential facilities (licensed for 6 or fewer persons)	2 spaces per unit
e) Dwellings, multiple dwelling structures	2 spaces per unit plus 0.25 spaces for each unit for guest parking
f) Dwellings, Senior Independent Living	1 space per unit, plus 0.25 space for each unit for guest parking and an additional 0.5 spaces for demonstrated parking to be paved in the event the development is converted to regular occupancy.
g) Mobile home parks	2 space per unit, plus 3 per each 6 units as guest parking.

h) Fraternity or sorority	1 space for every 200 square feet of floor area of the fraternity or sorority house, including livable areas of the basement.
Minimum Required Parking Spaces for Assembly, Institutional and Community Uses	
Use	**Minimum Number of Spaces Required**
i) Sports Arenas, Amphitheaters, Stadiums, gymnasium	1 space for each 4 seats of design capacity and/or 10 seats for each field and/or 20 seats for each ball diamond. A percentage of the parking may be provided in grass lots provided those lots are used not more than 5 times per year.
j) Cemeteries	1 space for each full-time employee
k) Places of public assembly, clubs, lodges, funeral home/mortuaries, and banquet, or convention halls	1 space for each 3 seats (one seat equals 22 inches of pew or bench space) based on the design capacity in the main assembly area, plus parking figured separately for additional gymnasiums, banquet rooms, meeting rooms, offices, and other multi-use spaces
l) Schools – Elementary and Middle School	1 space for each classroom plus 1 for each 100 students of design capacity
m) Schools – High School, College, Trade, etc.	1 space per staff member on the largest shift, plus 1 space per 2 students of the largest class attendance period.
n) Community Center, library, museum or art gallery	1 space per 250 square feet of floor area, or 1 space per 4 patrons at the maximum occupancy load, whichever is greater, plus 1 space per employee on the largest work shift
o) County Club or Golf Course	5 spaces per green, plus 1 space per employee on the largest shift, plus 50 percent of the spaces otherwise required for any accessory uses (e.g., bars, restaurants)
p) Hospital	2 spaces for each patient bed.
s) Commercial airport	8.5 spaces per daily airplane movement or 0.85 spaces per enplaning passenger per day, whichever is greater.
Minimum Required Parking Spaces for Commercial Uses	
Use	**Minimum Number of Spaces Required**
t) Bank (customer service areas and offices).	4 spaces per 1,000 gross square feet of building area plus 4 off-street stacking spaces per drive-

	through lane.
u) Boat and other recreational equipment and vehicle sales	4 spaces plus 1 additional space for each 500 square feet of gross floor area over the first 1,000 square feet
v) Bowling alley	5 spaces per alley, plus additional parking calculated separately for restaurants and other related uses
w) Clinics-medical, dental, chiropractic, etc.	4 spaces per 1,000 gross square feet of building area.
x) Daycare, preschools, except residential	1 space per employee plus one space per 6 children of licensed capacity of the facility
y) Convenience store, Fuel or service stations	4 spaces plus 3 spaces for each auto repair service stall plus parking figured separately for retail or office space.
z) Hotel, motel	1 space per room or suite, plus 1 space per employee on the largest work shift, plus 1 space per 3 persons to the maximum occupancy load of each public meeting and/or assembly room, plus 50 percent of the spaces otherwise required for accessory uses (e.g., restaurants and bars)
aa) Manufacturing, fabricating or processing of a product or material	1.6 spaces per 1,000 gross square feet or 0.73 spaces per employee whichever is greater.
bb)Theatres	1 space for each 4 seats of design capacity
cc) Offices, including government buildings and other professional offices	Minimum of 3 spaces per 1,000 square feet of floor area.
dd) Open sales lots	1 space for each 2,000 square feet of land up to the first 8,000 square feet, plus 1 space for each 4,000 square feet up to a parcel of 24,000 square feet, plus 1 space for each 6,000 square feet over 24,000.
ee) Restaurants, delicatessens, bars, taverns	1 space per 3 patron seats or 1 space per 100 square feet of floor area, whichever is greater, plus 1 space per employee on the largest work shift
ff) Restaurants, fast food	1 space per 3 patron seats, plus 1 space per employee on the largest work shift, plus 6 off street stacking spaces per drive-through lane.
gg) Restaurants where no interior serving	1 space for each 15 square feet of building

areas are present, such as a drive-in or take out business	dedicated to patron service and 5 spaces for employees
hh) Restaurant, sit down	12 spaces for each 1,000 gross square feet of leasable area or one parking space for each two seats, whichever is greater.
ii) Restaurant, high turnover sit down	12 spaces for each 1,000 gross square feet of leasable area.
jj) Shopping center, retail store or personal service establishment, except as otherwise specified herein	1 space for each 200 gross square feet of leasable area.
kk) Self-service storage facility	Drive aisles between and around storage buildings must be 30 feet to accommodate through traffic and parking outside individual storage units plus parking figured separately for office and/or on-site security personnel residences, etc.
ll)Discount Store/ Big-Box retailers	Maximum of 4 spaces per 1,000 square feet of floor area
mm)Showrooms for display or sales including furniture stores, carpet stores, etc.	1 space per 400 square feet for first 25,000 square feet, plus 1 space per 600 square feet thereafter.
nn) Showrooms for sale of automobiles	5 spaces for customer parking for every acre of total site area, plus 5 spaces for customer service parking for every acre of total site area, plus 1 space for each 400 square feet of gross floor area for employees.
oo) Skating rinks (indoor), dance halls, miniature golf, ice arenas (indoor), health and fitness clubs etc.	1 space per 300 square feet of floor area, plus 1 space per employee on the largest work shift.
pp) Supermarket/Grocery Store	1 space for each 250 gross square feet of leasable area.
qq) Warehousing (and storage) in structures	1 space for each 2,000 square feet of gross floor area, or one space per employee, whichever is greater.

Section 23-2. Licensed Motorized Vehicle and Equipment Parking in Residential Districts:

a) Purpose: To permit the parking of personal vehicles on a single lot in a residential district subject to specific conditions. Personal vehicles defined as Class D or M include: passenger cars, motorcycles, vans, pick-up trucks, campers, toppers and other similar appurtenances

intended for attachment to a personal vehicles; trailers under twenty feet in length and boats. Trucks, tractor cab units, trailers, recreational vehicles, and other vehicles over ten tons gross empty weight shall be defined as heavy commercial vehicles and not permitted.

b) For the purposes of this ordinance, the following definitions apply:
   1) Currently Licensed Motorized vehicle or Equipment: Any personal motorized vehicle or equipment which is licensed and operable for the current year in which it is inspected by the City. This includes personal passenger vehicles with a cargo capacity rating of one ton or less and recreational equipment. See item c) 6 below.
   2) Improved Parking Surface: Shall consist of a durable surface to include concrete or bituminous, or gravel only where the existing driveway has not been improved to concrete or asphalt. Grass or dirt shall not constitute a durable surface
   3) Residential Districts: Shall include the zoning districts specified as R1, R1S, RA, R2, RM, R3C, RH, MH and Residential approved PUD.

c) Currently licensed personal vehicle or equipment parking on residential lots may be parked in the following described areas:
   1) One space in each garage stall.
   2) Two spaces in driveway (length) per stall provided no vehicle extends into the public right-of-way including the sidewalk.
   3) No parking shall be permitted on the grass.
   4) No parking shall be permitted in the rear yard.
   5) If no garage exists on site, parking shall be allowed as wide as the driveway (meeting city definition) and two vehicles deep (in length) outside of the right-of-way.

d) Required Side Yard: Parking or storage of one additional vehicle may occur on an improved parking surface adjacent to the garage, within the required side yard provided that a twelve (12) foot setback is maintained on the street side of a corner lot and a three (3) foot setback is maintained from the side lot line on interior lot lines. This requirement may be waived along interior lot lines where written agreement authorizing this waiver is made between abutting neighbors to either side of the subject property and thereupon presented to the City Planner for recording. This requirement may also be waived should a six (6) foot privacy fence or equivalent landscaped screened area exist between vehicle/equipment parking and the required side yard lot line. Vehicles or equipment over twenty-five (25) feet in length shall be parked behind the nearest portion of a building to the street unless written authorization is given by the neighbors in accordance with the process as described above. Should this authorization be given and recorded, these vehicles and equipment may extend no more than twenty-five (25) feet past the nearest portion of a building to a street and be parked on an improved parking surface. However, under no circumstance shall vehicle or equipment parking occur within three (3) feet of the sidewalk or, where no sidewalk exists, one (1) foot from the front lot line. No such vehicle or equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.
   1) Heavy commercial vehicles, including tractor cab units weighing more than 10 tons gross empty weight shall not be parked on any lot within a residential zoning district.

Section 23-3. Computations:

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

a) "Gross Floor Area" shall mean the sum of the areas at each floor level, as measured from the outside walls.
b) "Gross Leasable Area" shall mean the total building area designed for tenant occupancy excluding non-occupied areas including restrooms, underground parking, mechanical rooms, elevators, stairways, storage and or basement areas.
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 (10%) 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 fifty percent (50%) 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 use, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
g) Required parking in residential districts shall not be located within the front yard.
h) Shared Parking: 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 before a certificate of occupancy is issued. Shared parking allowed by this section shall not be separated from the uses or buildings by any public street or where it is unreasonable to expect people to park in those areas due to distance or traffic and shall not exceed a distance of three hundred (300) feet from the entrance to the building or use served by the parking lot.
i) Demonstrated parking: The City Council may approve a "proof-of-parking" plan which allows for a portion of the required future parking, not to be constructed, but demonstrates that the minimum number of required parking spaces can be accommodated on the property and meet setback requirements. The plan must demonstrate that all other applicable ordinances can be met if the full amount of required parking were to be constructed. The area for future parking must be maintained as green space (sodded with grass or natural plant materials). Any changes to use and/or building size could invalidate the approval for "Demonstrated Parking". Demonstrated parking may reserve the right to require installation of the additional parking spaces.

Section 23-4. Off-Street Parking Locations; Exceptions:

All parking spaces required herein shall be located on the same lot as the building or use based on the required number of spaces. Required spaces may be provided in whole or in part upon another lot only if:

a) 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
b) 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 :
   1) In the case of residential building, one hundred-fifty (150) feet, or
   2) In the case of non-residential buildings, three hundred (300) feet.

Section 23-5. Loading Space Requirements:

a) Every retail establishment, industrial or manufacturing use, warehouse, wholesale use, freight terminal, railroad yard, hospital or sanatorium having a gross floor area of six thousand (6,000) square feet or more shall provide off street loading facilities as follows:

Gross Floor Area (square feet)	Number of Spaces
6,000 - 24,999	1
25,000 - 74,999	2
75,000 - 150,000	3

For each additional one hundred thousand (100,000) square feet (or fraction thereof) of gross floor area, one (1) additional space shall be provided.

b) Public places of assembly uses, such as auditoriums, convention halls, exhibition halls, stadiums or sports arenas, with a gross floor area of greater than one hundred thousand (100,000) square feet shall provide a minimum of one (1) off street loading space.
c) Institutions, funeral homes, restaurants and hotels with a gross floor area of greater than thirty thousand (30,000) square feet and offices with a gross floor area of one hundred thousand (100,000) square feet or more shall provide a minimum of one (1) off street loading space.
d) Off street loading space shall be at least ten feet by twenty-five feet (10' x 25'), excluding area for maneuvering vehicles.
e) At no time shall any part of a truck or van be allowed to extend into the right-of-way of a public street while the truck or van is being loaded or unloaded.
f) Whenever loading and service areas are adjacent to or across the street from residential uses, interior parking lot circulation shall be arranged in such a way as to route service vehicle traffic away from residential uses.
g) All loading and service areas shall meet screening requirements of Chapter 21.

Section 23-6. 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 to a building entrance, either:
   1) immediately, or
   2) by an access driveway, orc)
   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 (5) 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 nine (9) foot and ten (10) foot parking spaces respectively. Required parking space width will be determined by the Traffic Engineer according to proposed land use. For example, ten (10) foot wide spaces will be required for high parking turnover uses such as retail sales, while nine (9) foot wide spaces will be required for low parking turnover uses such as office or employee parking lots:

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 Wirth 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 (D1)	-	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, add 8.0 feet to a maximum (AW) of 26.0 feet.

[3] End spaces only. Interior spaces shall be 22.0 feet.

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 Wirth 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 (D1)	-	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, add 8.0 feet to a maximum (AW) of 26.0 feet.

[3] End spaces only. Interior spaces shall be 22.0 feet.

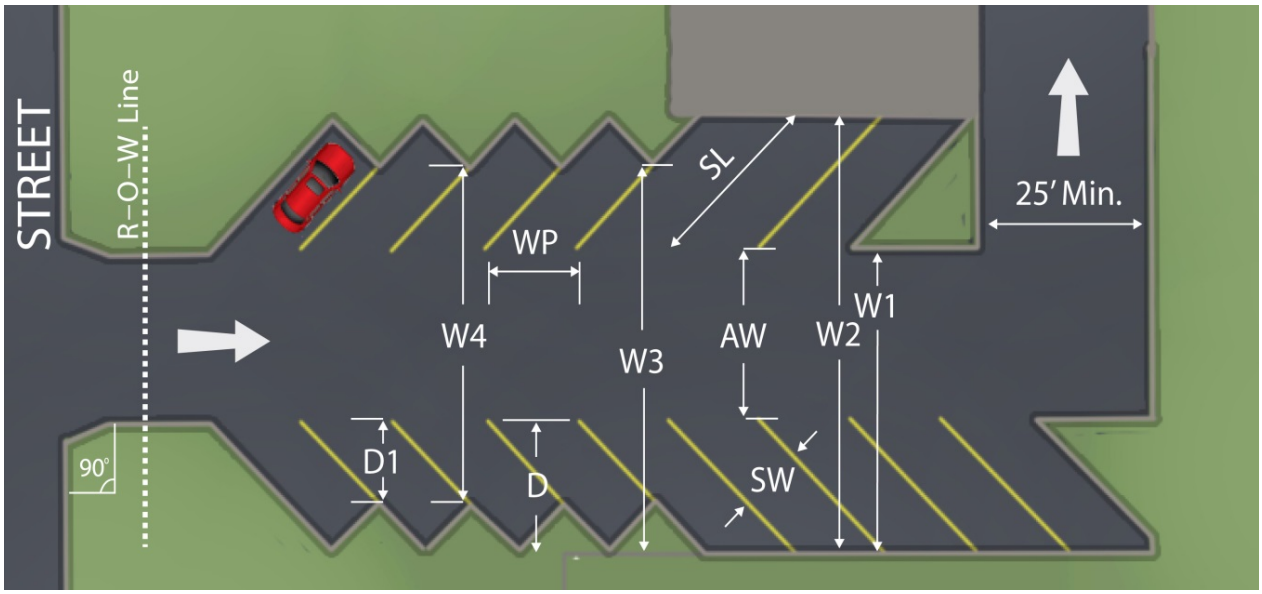


Diagram for Table 23-5(a): Typical Parking Layout Dimensions

d) Curbing required: All off-street parking lots, not including areas behind screened storage areas, shall be completed with curbing. Paving areas must be separated with curb and gutter from all designated landscaping areas, curb islands, and at ingress-egress locations to the traveled roadway. Curbing must be constructed of poured-in-place concrete equipped with a gutter and must be of a six (6) inch non-surmountable design. Other curb options may be allowed as approved by the city.

e) Paving: Except in the AG, RA, R1 and R2 districts, a parking lot or motorized vehicle storage area must be hard-surfaced so as to be free of dust and mud. This paving requirement includes the entire parking area including parking stalls, aisles and driveways. All areas shall be surfaced with concrete, bituminous, pavers, or pervious paving/paver systems provided appropriate soils and site conditions exist for the pervious systems to function. The city engineer shall make the final determination if soils are conducive for use of pervious paving/paver systems. The use of pervious paving/paver systems is encouraged for pedestrian walkways, parking areas, overflow parking areas, snow storage areas, within raised medians and islands, emergency vehicle lanes and other low traffic areas. The owner shall provide soils information to the City Engineer to prove that appropriate conditions exist for the pervious paving/paver system to function. The owner shall supply a written intention that the pervious installation will be maintained. This requirement also applies to open sales lots and open rental lots. Other materials such as decorative rock, gravel, sand, or bare soil are prohibited.

f) Outdoor Storage Paving: An exception to paving requirements can be made for outdoor storage areas and/or areas where track or heavy vehicles and equipment are parked in the M1 and M2 zoning districts where crushed and/or recycled rock, concrete or gravel can be used within only the defined outdoor storage area, as approved during site plan approval, provided the site is completely screened from public view from a public roadway. An exception can be made for track or heavy vehicles that are parked on gravel for display purposes (not screened) provided it is approved during the site plan approval.

Storage areas abutting a similar use or zoning district (including more intensive zoning districts), that are not visible from a public roadways, are not required to be screened.

Dust control provisions including sealant must be applied twice yearly.

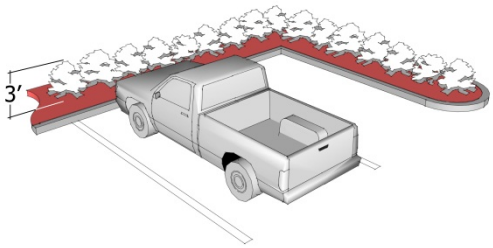
Use of gravel or other approved crushed and/or recycled asphalt, concrete or gravel material is limited to only the storage area. All driveway entries from the street including the first fifty (50) feet back from the right-of-way shall be concrete. In addition, a buffer of concrete or other approved hard surface material shall be provided between the gravel and parking lot areas. All parking lot drive aisles and customer and employee parking areas shall be concrete or other approved hard surface material.

All required ADA requirements shall be met on site.

g) All parking spaces must be designated by clearly visible painted lines.
h) Non-residential driveway width shall be approved at the time of site plan review and according to standard specifications.
i) Drainage: Driveways shall not exceed a grade of seven (7) percent (provided all ADA requirements are met) and all parking lots except those for less than four (4) vehicles shall include a minimum of a one percent (1%) grade. Catch basins, sumps, and underground storm sewers must be installed if required by the City Engineer.
j) Traffic regulatory signs: Stop signs are required at all driveway exits to city streets. Other signs may be required as part of the Site Plan Review process.
k) Stacking: All drive-through service windows must contain room for a minimum stacking of six (6) cars from the serving window and stacking must not extend into drive aisles.
l) 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 in accordance with the standard specifications of the City of Minot.
m) 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.

<u>Section 23-7. Screening:</u>

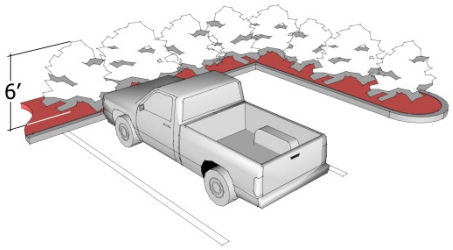
a) Perimeter Parking Area Landscaping Standards: Where a parking area abuts a street right-of-way, vacant land, or any other development (except another parking use area), perimeter landscaping strips shall be provided and maintained between the vehicle use areas and the abutting right-of-way or property line in accordance with the following standards:
   1) Location:
      (a) Perimeter landscaping strips shall be located on the same land where the parking use area is located.
      (b) Perimeter landscaping strips may not be placed within future street rights-of-way as identified on the City's transportation plans.
   2) Minimum Width: When the parking use area is located within fifty (50) feet of a street



right-of-way, the perimeter landscaping shall be located within a planting strip at least six feet wide. In all other instances, the strip shall be the minimum width necessary to assure required landscaping is not damaged by vehicle or other on-site activity. In no instance shall the strip be less than three feet wide.

b) Landscaping: Each perimeter landscaping strip shall include plant material of three (3) feet in height for properties abutting an adjacent commercial, industrial or mixed use district. When a parking area abuts a residential zoning district, a fence or screening system, minimum of eighty percent (80%) opaque and six (6) feet in height is required.

c) Pedestrian circulation: All parking lots in Commercial, Industrial, Mixed Use, Multiple Family and non-residential uses in residential zoning districts shall be subject to the following standards to provide a safe pedestrian environment:



1) Parking areas shall include a direct and continuous pedestrian network within and adjacent to parking lots to connect building entrances, parking spaces, public sidewalks, transit stops, and other pedestrian destinations.
2) At least one pedestrian route shall be provided between the main building entrance and the public sidewalk that is uninterrupted by surface parking and driveways.
3) In larger parking lots or where parking lots serve more than one building or destination, designated pedestrian pathways for safe travel through the parking lot shall be provided.
4) All pedestrian routes within a parking lot shall include a clear division from vehicular areas, with a change in grade, soft landscaping, or a change in surface materials.
5) Where pedestrian routes cross street access driveways and other major drive aisles, crossings shall be clearly marked and sight distance for both pedestrian and vehicles shall be unobstructed.
6) Cart Storage: Any retail commercial uses using carts shall provide ample space for the storage of customer service carts within off-street parking areas (unless all carts are stored and returned at the building entry). The need and specific amount of required cart storage shall be determined as part of the site plan review. When required, cart storage areas shall not occupy required off-street parking spaces, shall be clearly delineated areas, and include facilities for cart confinement.

<u>Section 23-8. Parking and/or Storage of Certain Vehicles, Equipment or Materials:</u>

a) Residential Districts: Automotive vehicles without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. Small trailers which are twenty (20) feet or less in length, including the hitch, are allowed to be parked on a residentially zoned property, provided the trailer is parked on an interior side yard (not street side) and parked on an improved parking surface. Automotive vehicles with a cargo capacity rating of one (1) ton or more, equipment used for construction, landscape services, snow removal services, and other commercial or agricultural equipment and trailers shall not be stored on any residential zoned property or on any street within a residentially zoned district, provided however that vehicles with a cargo capacity of one (1) ton or more,

snow removal equipment and agricultural equipment and trailers may be stored on property zoned “RA” Agricultural Residential. These provisions are not intended to prohibit vehicles and equipment engaged in contractual services for improvements to a given property. Recreational vehicles, recreational equipment and recreational trailers may not be parked on any street within a residentially zoned district for a period exceeding seventy-two (72) hours. No lot in any residential district shall be used for the outdoor storage, keeping, or abandonment of junk, including scrap metals, or other scrap materials or goods, or used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

b) Commercial and Industrial Districts: Outside storage of equipment, materials and inventory as part of a principal commercial or industrial use shall be subject to the district use provisions. All outside storage shall conform to the following provisions:
   1) The area occupied is not within a required front or required street side yard, except for vehicle and equipment sales display areas.
   2) Unless otherwise approved as a conditional use, the storage area with all equipment, materials, and inventory is completely screened from the motoring public by fence or landscaping as provided for in Chapter 21.
   3) Display and storage areas generally shall be improved to allow for good drainage, dust control and provide for neat appearance. Grassed areas may be utilized if there is good drainage, dust can be controlled and the grassed surface can be maintained for neat appearance.
   4) The storage area does not encroach upon required parking space, required loading space, or snow storage area for the use.
   5) Storage boxes, crates or other units utilized for the purpose of storage and protecting materials from the weather are considered outdoor storage. Such units are allowed in Commercial areas provided they do not exceed six (6) feet in height, are located in a side or rear yard, and are fully screened from view from any public street according to the screening provisions found in Chapter 21. In industrial areas, these storage units are not limited by height; however, must be located in a side or rear yard and be fully screened from any public street.
   6) All new commercial and industrial uses shall comply with the above procedures and standards. For the purposes of public health, safety and aesthetic appeal to the community, any outside storage existing upon the effective date of this Section shall be brought into compliance within twelve (12) months of written notification by certified mail to the property owner.

CHAPTER 24 - LANDSCAPING

Section 24-1. Required Landscaping:

a) Purpose: The purpose of this Section is to clearly express the city's intent for all properties to be landscaped and maintained with great care. Properties shall be landscaped to express sensitivity to environmental conditions as well as the aesthetic needs of the general public.
   1) The requirements of this section are intended to guide landscaping within commercial, industrial and residential zoning districts.
   2) All landscaping must be designed to add visual beauty to the property and provide a high level of aesthetic value. The quantity and quality of the design should be compatible with each zoning district and the intended use of the property.
   3) All new development or full redevelopment of a site shall comply with the landscape requirements of this chapter and incorporate sustainable landscape elements in the planting design to include, but not be limited to, use of native species, rain gardens/bioretention systems, green rooftops, xeriscaping, and aesthetic design elements such as public art, fountains, plazas, and front yard/entrance landscaping.
b) Applicability: This section shall apply to new development within all zoning districts other than "R1, R2" districts, the "MH" district, and the "C3" District, unless the new development consists of a multifamily dwelling containing more than four (4) dwelling units, in which case this section shall apply without regard to the district in which such multifamily new development occurs. This section also applies to all new public uses regardless of the zoning district in which the property is located. New public zoned uses shall follow same provisions as required for C2 zoned properties.
c) Single Family and two-family lots shall have turf (seeding, sod, or landscaped rock or mulch beds) established within the front yard, including the boulevard, within 120 days of the City issuing a certificate of occupancy (excluding time between October 1st and May 1st in which the turf shall be established within the next growing season). All silt fence or erosion controls must be maintained until turf is established. Turf and any required sidewalk installation must be established for all portions of a yard within one (1) year of the issuance of a certificate of occupancy. The boulevard is required to be seeded or sodded and maintained by the property owner.
d) Minimum Landscaping Required: A building permit for new development shall not be issued unless the application for such permit includes a landscaping plan meeting the following landscaping percentages in the development area based upon the zoning in which the property is located in:
   1) C1 Neighborhood Commercial District and Mixed Use District: 10 % (ten percent)
   2) C2 General Commercial District: ten percent (10%)
   3) RM and RH Multiple Family: fifteen percent (15%)
   4) M1 Light Industrial and M2 Heavy Industrial districts: ten percent (10%)
   5) M3 Office and Business Park District: fifteen percent (15%)
   6) Landscape beds may contain grass, ground cover, shrubs or trees or combination spaced properly for their respective sizes at maturity and which shall be well distributed though not necessarily evenly spaced. No more than twenty percent (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.

e) General Requirements: General requirements that shall apply in all multiple-family residential, business, mixed use, public and industrial districts (M1, M2, M3) include the following:
   1) Plant Diversity: The landscape plan design shall include a variety of trees including overstory, ornamental and evergreen trees to provide for year round interest and variety.
   2) Building Perimeter Landscaping: The front of the building (side facing the public street) plus ten (10) feet on each corner side shall be sodded and landscaped with approved ground cover, shrubbery and trees in an area of not less than six (6) feet.
   3) Heat Island Reduction: To improve shading and thereby reduce heat island effect, at least five percent (5%) of the total parking and drive area shall be landscaped. Required landscaping shall be located in parking lot islands installed at the end of each row. A minimum of one overstory or ornamental tree shall be provided in each island. This provision applies to properties zoned C1, C2, M3; in addition to the RM and RH residential districts if detached garages are not used for a portion of the required parking.

f) Minimum Tree Planting Quantity Requirements: The following tree and shrub planting requirements shall be installed within the required minimum landscaping percentages required in Section 21-4 item “d” above.
   1) One (1) tree (overstory or ornamental) per three thousand (3,000) square feet of total site area
   2) One (1) tree (overstory or ornamental) planted every twenty-five (25) feet of frontage (street tree). Placement shall avoid utilities and be placed a minimum of four (4) feet from the curb or sidewalk. Placement shall be outside of sight distance triangles at intersections.
   3) No more than twenty (20) percent of the required trees may be of the same species and variety.
   4) Minimum of thirty (30) percent of the required trees shall be evergreen variety to provide for year-long green space.
   5) Use of three (3) tall shrubs shall equal one (1) tree.

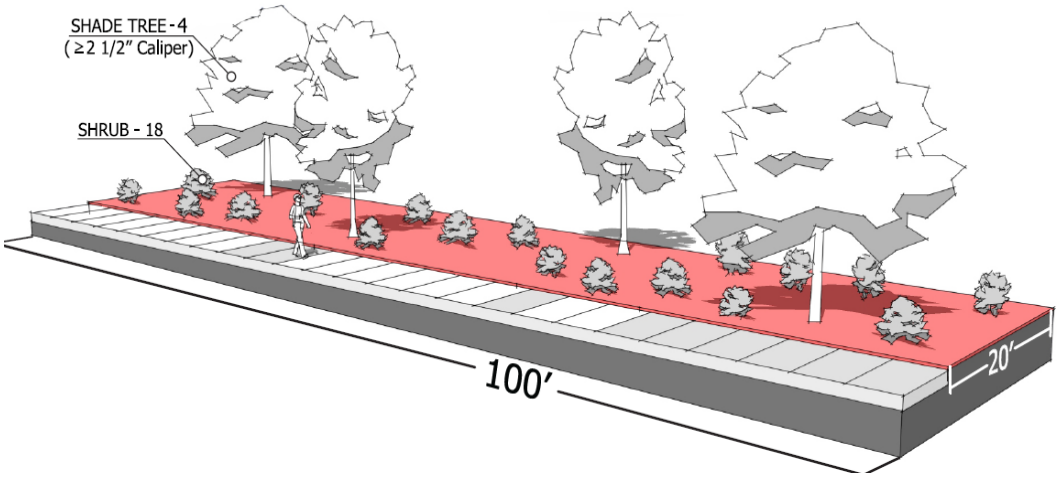
g) Minimum Planting Size Requirements:
   1) Nursery Stock Sizing: The following nursery stock standards shall be required at the time of planting. All measurements shall conform to the standards set forth in the current edition of the "American Standard for Nursery Stock". Larger plants may be used or specified at any time. Trunk diameter shall be measured six (6) inches above ground level for four (4) inch caliper trees or less and measured twelve (12) inches above ground level for four (4) inch caliper trees or more.

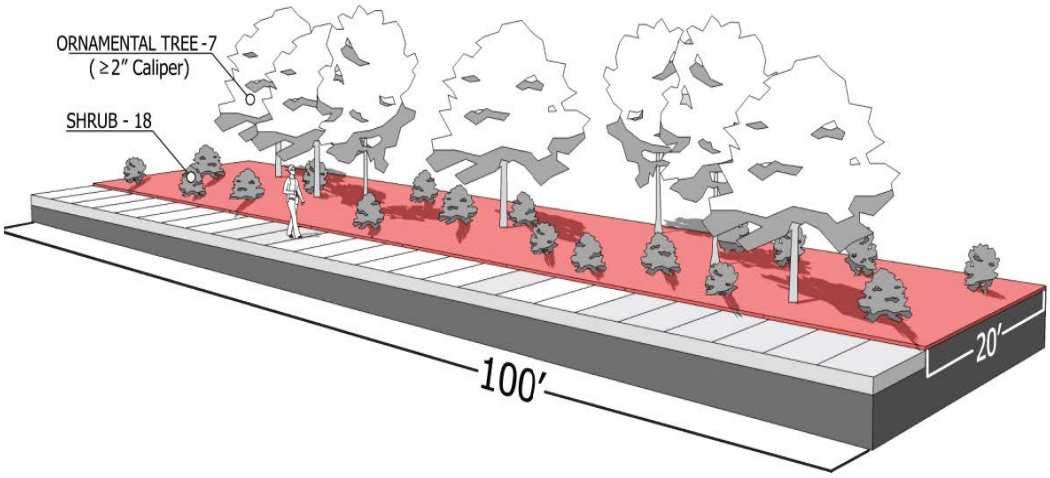
Plant	Potted	Balled & Burlapped
Overstory (shade) trees	2 1/2 inch diameter	2 1/2 inch diameter
Ornamental trees	6 to 7 feet	2 inch diameter
Evergreen trees		6 feet
Tall shrubs and hedge material (evergreen or deciduous)	3 to 4 feet	3 to 4 feet
Low shrubs, deciduous	18 - 24 inches	24 - 30 inches
Evergreen	18 - 24 inches	24 - 30 inches
Spreading evergreens	18 - 24 inches	18 - 24 inches

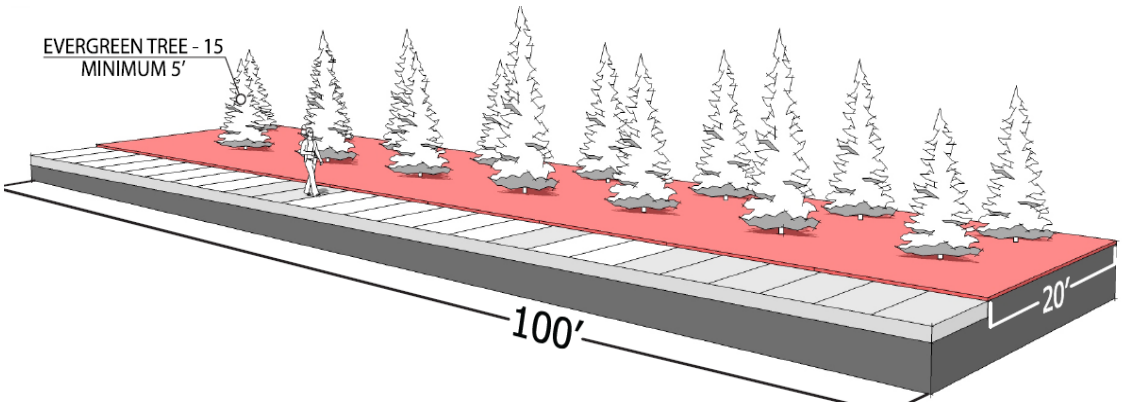
2) Plant Hardiness: All plants specified and installed must be nursery grown and identified as hardy plants which are appropriate for all seasonal conditions. Plants must be sound, healthy, vigorous, and free of disease, insect eggs and larvae.
3) Plant Diversity: To promote diversity for areas of a site where vegetative screening is required or proposed, no single variety of plants shall be allowed to constitute more than twenty-five percent (25%) of the screening materials and the complement of plants used shall provide year round visual interest.
4) Coverage: All landscaped areas shall contain sod, be seeded, or defined as a landscape planting bed with approved native vegetation, ground covers, shrubbery and trees with a mulch cover.

h) Buffer Area:
1) Buffer area/screening is required between adjacent zoning districts when a more intensive zoning district is abutting, directly visible from, or faces toward the boundary of the less intensive zoning district.
2) A buffer area may be required by a permitted or conditional use to ensure all outdoor storage activity or other activities is not visible from surrounding properties or roads.
3) The landscaped area must be at least twenty (20) feet in width and shall abut the property line, shared in common with the residential property. An exception may be considered by the City Planner to the minimum width requirement for a fully landscaped buffer screen.
4) The landscaped area must include in respect to every one hundred lineal feet thereof the following:
   a. Four (4) shade trees of at least a two and one half (2 ½) inch caliper and eighteen (18) shrubs or
   b. Seven (7) ornamental trees of at least two (2) inch caliper, and eighteen (18) shrubs, or
   c. Fifteen (15) evergreen trees at least five (5) feet in height, or
   d. Any combination of plant material that provides a suitable screen.

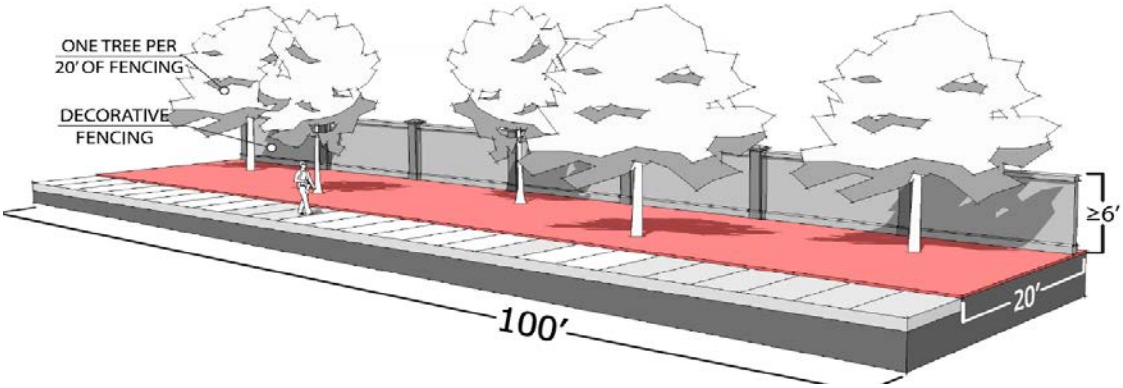
Graphics displayed below demonstrate the various buffers:







5) A decorative masonry fence or solid wooden fence that provides a suitable screen, not less than six (6) feet in height, may be substituted for some or all of the elements prescribed in paragraphs (a) through (d) of Item 4 above. Any fence that also includes a row of trees planted in front of the fence at a minimum of one (1) tree per twenty (20) feet of fence length may reduce the twenty (20) feet buffer width to ten (10) feet.



6) The plant material required in paragraph (4) must be so spaced as to achieve the purpose of creating a barrier between a residential district or less intensive zoning district and a more use-intensive district. The ratios established by paragraph (4) shall be prorated as necessary when the length of a buffer strip is not evenly divisible by one hundred (100), with fractional numbers rounded to the nearest whole number.

i) Sites not meeting the minimum landscaping and/or screening requirements at the time of adoption of this ordinance are considered non-conforming. Improvements to be site shall be made in accordance with Section 25-1 d) in Chapter 25.

j) Non-Plant material: No more than twenty percent (20%) of the minimum required landscaping may consist of decorative rock, gravel, stones, flatwork, bark chips, mulch, or similar inorganic or dead organic material.

k) Maintenance/Water schedule: Landscaping required under this section shall include a watering plan with submittal of the landscape design. The landowner is responsible for

regular weeding, mowing of grass, watering, fertilizing, pruning, and other maintenance of all plantings as needed.

l) Replacement: All plant materials shall be maintained in a healthy and growing condition as appropriate for the season of the year. Approved landscaping and screening materials that die, become diseased, or are significantly damaged must be replaced at the next appropriate planting period with plant materials of similar variety and size.

m) Visibility triangles: The landscaping requirements of this section shall be modified in their application as necessary so as to leave visibility triangles (as defined and established in Section 28-13 of the City of Minot Code of Ordinances) unobstructed.

n) Surety: No building permit for construction of a structure for which landscaping is required shall be issued unless the application for such permit is accompanied by:

1) A plan for the installation of such landscaping in compliance with the requirements of this section; or
2) A site plan showing exact locations and sizes of landscape areas accompanied by a letter of release by the City Planner.

The deadline for installation of required landscaping and associated improvements may be extended by the City Planner upon such terms and conditions as it may reasonably impose otherwise the timeline is within the following construction season.

o) Enforcement: Landscaping that is not installed, maintained or replaced as needed to comply with this section shall be considered a violation of this section and shall be subject to the penalty as described in Section 29-5.

p) Appeals: An appeal to the City Council may be taken by any person aggrieved or by any officer, department, Council or bureau of the city regarding the requirements of this landscape ordinance.

q) Definitions: As used in this section, the following terms shall have the following meanings:

Caliper means the diameter of a tree trunk measured two (2) inches above root flare.

Construction means the first placement of permanent construction of a structure on a site, such as the framing of forms for a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation.

Deciduous means plant material that loses its leaves part of the year.

Development area means all area within a perimeter large enough to encompass the structure, the construction of which triggers the application of this section, and also all other improvements being made or which are anticipated to be made in connection therewith, such as, for purposes of illustration and not limitation:

1) garages, storage shed, and other auxiliary buildings;
2) sidewalks and walkways;
3) driveways.

In addition, the development area shall include any yard area or setback area required by the zoning ordinance in connection with such construction to the extent not already included within the perimeter just described.

Evergreen tree, six (6) foot minimum, means that green foliage is persistent year round.

Ground Cover means the living landscape materials or low-growing plants, other than turf grasses, installed in such a manner so as to provide a continuous cover of the ground surface, and which upon maturity normally reach an average height of twenty-four (24) inches or less.

Landowner means the owner of the real property to which this section applies, or the person in control of such real property.

Landscaping means the planting, placement, or installation 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, stone, flatwork, bark chips and the like; and
3. Pools, fountains, picnic areas, and similar amenities.

Ornamental tree, two (2) inch caliper, means less than thirty-five (35) feet at mature height.

Screening means the creation of a visual barrier such that no more than twenty percent (20%) of whatever is on one side of the barrier is visible to an observer on the other side.

Shade Tree means a tree with at least a two and one half (2 ½) inch caliper more noted for its large and dense crown rather than its flowers or its light-colored bark and graceful leaves with an average height greater than thirty-five (35) feet at mature height.

Shrub means a deciduous or evergreen woody plant smaller than an ornamental tree and larger than ground cover, consisting of multiple stems from the ground or small branches near the ground, not less than twelve (12) inches in height.

Structure means any structure, which is designed, intended, or suitable for human occupancy (whether of a residential or non-residential character and whether on a permanent basis or periodic basis), or for storage of physical objects on a commercial basis.

CHAPTER 25 - NONCONFORMING USES

Section 25-1. Nonconforming Uses:

a) Within the districts established by this Ordinance, or amendments to it, there exists lots, structures, and uses of land which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

   To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

b) Nonconforming Lots of Record: Lots of record approved on or before the date of adoption of this ordinance may comply with lot size, width and setback requirements in place at the time of approval of the lot of record. This provision shall also apply to plats approved at the block level on or before the date of adoption of this ordinance provided that such block level plat was approved with a master plan of the full development area. Such master plan shall be followed with each subsequent plat. Any proposed changes in subsequent plats from the master plan that result in a request for a change in zoning or lot size shall be subject to all ordinance requirements herein.

c) Properties in the C1, C2, M1, and M2 zoning districts that are non-conforming, related to parking (amount of spaces or landscaping), paving, site landscaping or screening requirements, and either the site or building is expanding, shall make site related improvements to bring the site into or closer to conformance. Improvements shall be based on the following priorities and criteria: A one-time building addition (or site area expansion) of twenty-five percent (25%) or less of the existing floor are (or site area) does not have to make improvements. Buildings or sites expanding twenty-five (25) to fifty (50) percent shall choose one (1) of the priorities below. Buildings or sites expanding fifty (50) to seventy-five (75) percent shall chose two (2) of the priorities below. Sites with a building completely redeveloped or expanded over seventy-five (75) percent shall meet all landscaping, parking, screening requirements.
   1) Overall increase to the existing amount of green area and amount of trees and shrubs planted on site.
   2) If located on a major corridor or arterial roadway tree requirements and installation of street trees shall be increased to meet requirements of Chapter 24.
   3) If gravel exists on driveway entries, internal drive aisles, employee or customer parking areas then areas shall be resurfaced with approved hard surface material.

4) If parking areas do not meet parking lot buffer requirements then new tree, shrubs, fencing, berm or combination thereof, shall be installed meeting requirements of Chapter 24.
5) If existing outdoor storage exists without required screening then installation of new, meeting requirements of applicable zoning districts, shall be installed.
6) A site plan and narrative describing how the site improvements bring the site closer to compliance shall be submitted for review and approval by the City Planner.

d) Any lawful use of a building which 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.

e) Whenever the use of a building becomes 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.

f) 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.

g) Repairs and Maintenance: On any nonconforming structure, or portion of a structure containing a nonconforming use, work may be done in any period of twenty-four (24) consecutive months on ordinary repairs. Work may include repair or replacement of nonbearing wall, fixture(s), wiring, or plumbing, to an extent not exceeding twenty-five percent (25%) of the current replacement cost of the nonconforming structure or nonconforming portion of the structure, provided that the cubic content existing when it became nonconforming shall not be increased.

If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located. Nothing in this ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

h) A nonconforming building which has been damaged by fire, explosion, act of God or the public enemy to the extent of more than sixty percent (60%) 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.

i) A nonconforming building which has been damaged by fire, explosion, act of God or the public enemy to the extent of less than sixty percent (60%) of its reproduction value may be repaired or reconstructed and used as before the time of damage. Such repairs or reconstruction shall be commenced within eighteen (18) months of the date of such damage and completed within two (2) years of the date of such damage. The City Council may also grant a one (1) year conditional extension provided efforts to complete the work are

underway.

j) 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.

Section 25-2. Nonconforming Uses of Land:

A lawful nonconforming use of land existing as of the date 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.

Section 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.

Section 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.

Section 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 Planning Commission.

Section 25-6. Multi -Family Dwellings in R1 Districts:

a) A qualified multi-family dwelling located in an R1 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 R1 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 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 R1 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 - Reserve for Future Use

CHAPTER 27 - CERTIFICATE OF OCCUPANCY

Issued within the Floodplain

Section 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.

Section 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.

Section 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

Section 28-l. Purpose:

The major street plan, of which certified copies are on file in the office of the City Engineer and 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. Additional elements include 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.

Section 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.

Section 28-3. Jurisdiction:

These land subdivision regulations shall govern all subdivisions 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 (2) miles of the corporate limits of the City of Minot.

Section 28-4. Master Plan Required:

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

Section 28-5. Reserved.

ARTICLE II

Definitions

Section 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.

Section 28-7. Auditor's/ Outlot Plat:

An auditor's outlot plat is the plat referred to in NDCC 57-02-39 & ND Administrative Code Chapter 28-02.1-13.

Section 28-8. Commission:

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

Section 28-9. Conveyance:

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

Section 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:

1) Metes and bounds description;
2) 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
3) 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.

Section 28-11. Outlot:

A lot or parcel of land lying outside the corporate limits of a town but subject to its municipal jurisdiction or control.

Section 28-12. Plat:

A plat is an instrument upon which is depicted a map, drawing or plan of a certain tract of land, drawn to scale. A plat shall be 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.

Section 28-13. Subdivision:

A subdivision or subdividing is:

1) 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
2) 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.

Section 28-134. 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 registered land surveyor as being accurate.

Section 28-145 -- 28-19. Reserved.

ARTICLE III

Subdivision Process

Division 1

Methods of Subdivision

Section 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 (2) 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 twenty (20) acres in area.
   2) 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 (2) the word "plat" includes an auditor's outlot plat.
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) 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 (2) new lots that share an irregular common boundary;
      b. An unimproved non-rectangular lot is being divided into not more than two (2) new lots; or
      c. A common boundary is being adjusted between two unimproved lots, one or both of which is non-rectangular.
      d. To divide an existing unimproved rectangular lot into not more than two (2) new rectangular lots.
   3) 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.

Section 28-21 -- 28-22. Reserved.

Subdivision Design Approval Process

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

a) The person proposing to subdivide land subject to the jurisdiction of the City of 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). 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 seven (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. This will allow applicants to submit requirements imposed at the public hearing, or for any other purpose; provided that, however, final approval or disapproval shall be granted within ninety (90) days of the initial hearing on the design.
c) The subdivision design documents 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.

Section 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. The development, in accordance with present and future needs, which 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. This will also include 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.

Section 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 roadways, easements, parks, or other areas reserved or dedicated to the public.
b) No later than six months (or twelve (12) 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 the final form of the instrument or document to the City Engineer 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, 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, lot corners, angle points, points of curves in streets which are depicted in the plat, and at such intermediate points as may be required.
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~~ 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.

Forms and Contents of Plats

Section 28-27. Information Required on Recordable Plat:

a) A recordable plat (other than a county auditor's/outlot plat) shall consist of one (1) original. The original shall be drawn on one or more sheets on Mylar (with a dull finish on both sides) inch from an accurate survey. Each sheet will be of the dimension of eighteen (18) inches by twenty-four (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 the compass, the scale of plat, the date, and the 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.

Section 28-28. Auditor's/Outlot Plat Contents:

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

Section 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

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

a) As part of the application for approval of a 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 (5) 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).

Section 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.

Section 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 subdivider, 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.

Section 28-33 -- 28-39. Reserved.

ARTICLE IV

Subdivision Design Standards

Section 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.

Section 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.

Section 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 sixty-six (66) feet. When streets adjoin un-subdivided property, a half street at least thirty-three (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 one hundred twenty (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 five hundred (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 twenty (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 twenty (20) feet wide. Also, ten (10) feet wide public utility easements shall be provided along the front lot line of every lot.

Section 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.

Section 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.

Section 28-45. Public Land Dedication

a) Subdivision Requirements. This ordinance is set here for new development within the City and its extraterritorial area increases population and/or demand upon public services, it shall be required that the owner or developer (subdivider) of every subdivision or resubdivision of property dedicate land for parks, playgrounds, public open space, public trails, municipal facilities, park facilities and/or pay a fee per unit of development in accordance with those regulations for the purpose of providing the above-mentioned public uses and facilities for existing and future residents of the community. Subdivisions or resubdivions of properties which are partially or fully developed will only be required to provide for dedication on the undeveloped portion of the property being platted into lot(s). All land that qualifies for this must be approved in agreement to the Minot Park District and adhere to the following:
b) Application. The provisions of this requirement shall apply to all of residential, commercial, industrial and other subdivisions within these districts. This shall include replats where land dedication and/or Fee per Unit of dedication have not been previously provided. Where landowners previously have dedicated land in advance of development, the city staff in cooperation with the Minot Park District will determine if a dedication will be required and what an equitable amount would be. Prior to the submittal of the application the landowner or developer of the land must meet with the Minot Park District to discuss if the park dedication location is within a desired area of the park district and if any trail systems maintained by the park district need to be placed within the subdivision. The Minot Park District will not be forced to take any land that they don't need and/or want for the purpose of dedication.
c) Procedure. The subdivider of property shall submit with the application for subdivision or resubdivision a letter from the Park District indicating their recommendation for land dedication (based on Park Master Plan) or Fee per Unit of land dedication. When the subdivider has not provided a letter of recommendation from the Park District, the application will be considered incomplete. The City will then notify the Park District and provide information on the proposed subdivision. The Park District will be given thirty (30) days, concurrent with the review of the subdivision information and provide recommendations, whereupon the application will be considered complete and the City will proceed to Committee hearings.

The Planning Commission will consider the Park District recommendations in addition to public uses and facilities identified within the Comprehensive Plan and other City plans when formulating their recommendation to the City Council. The City Council will have final authority, with the approval of the Park District, to determine whether land dedication or Fee per Unit of land dedication will be accepted.

d) Agreement. For each subdivision of property, the subdivider will provide an agreement showing legal description of the land dedication, Fee Per Unit or both prior to any recording of the plat. This agreement will be approved by the City Attorney and the Park District Attorney and Director. The agreement needs to be approved and signed prior to the City's release of the signed final plat (Mylar's) for recording with Ward County Recorder's Office.

e) Types of Dedication. Dedication of land, Fee Per Unit or variation of both will be required for any large subdivision of land of ten (10) lots or three (3) acres of contiguous land or more within a development on any land previously divided by plat, metes or bounds or any other means, applicants and/or developers shall dedicate a reasonable amount of land for parks, playgrounds, public open spaces or trails. An exception can be made, upon approval by the Minot Park District, to postpone the required land dedication or determination of fee in lieu if the proposed subdivision is for purposes of sales transition and not for development purposes. If a dedication determination is postponed it shall be documented as such by the City of Minot and Minot Park District. Such postponement does not exempt the parcel from required future dedication upon future subdivision for development purposes. Meetings with the city staff and Minot Park District are required before any subdivision application will be considered for City Council. There are three different ways of dedicating land listed below.

1) Fee per Unit of Land Dedication. When it is determined by the Park District that park dedication is not desirable due to location, size or other suitability factors, the City shall require, in lieu of land dedication, a cash Fee Per Unit (individual dwelling unit, i.e. Single-family home equals one (1) dwelling unit) dedication. The Fee Per Unit is equal to a rate set by the Minot Park District that will be compiled yearly based on land value, price of materials, and additional costs. For the purposes of this section, Fee per Unit shall be determined at the time of final plat approval in accordance with the Park District rates. The Fee per Unit will then be issued when the building permit fee is collected. Fee per Unit will be adjusted yearly and all developments or property owners will pay the same per unit fee based on their zoning and units.

2) Land Dedication. The amount of land required to be dedicated by the subdivider pursuant to this ordinance, shall be based upon the type of development and the total amount of Fees per Unit that would be generated by the development at full build out. The Minot Park District will not be forced to take any land that they don't need and/or want for the purpose of dedication. Prior to the submittal of the application the landowner or developer of the land must meet with the Minot Park District to discuss if the park dedication location is within a desired area of the park district and if any trail systems maintained by the park district need to be placed within the subdivision.

   The city staff in cooperation with the Minot Park District will determine if a dedication will be required and what an equitable amount would be based on the Minot Park District Fee per Unit Breakdown. The subdivider and the Minot Park District will then have an agreement that will be submitted to the city stating the legal transfer of land, maintenance of land, and any additional amenities that would be included. When land dedication is accepted, the amount of land will be calculated based on the following figures:

a. The total amount of Fees per Unit that would be generated by the development at full build out.
b. Fair market value of land, based on the average cost of land within that zoning district.

For the purposes of this section, these two figures will be a rate set by the Minot Park District in accordance with the City Assessor, that will be compiled yearly based on land value, price of materials, and additional cost. Once these two figures are calculated, the amount of land to be dedicated is determined by how much land it would take to equal the fees generated by the development.

All land dedications shall be conveyed by warranty deed to the Park District.

Example of calculation of land amount: If fees generated (# of Units x Value) = $150,000 If fair market value =$25,000 per acre $150,000/$25,000 = 6 acres to be dedicated

Where no proposed use is given for lots within the proposed subdivision, the City will base the required dedication on the future land use as shown in the Comprehensive Plan. Industrially zoned properties are exempt.

3) Combined Land and Fee Per Unit Dedication. The City and the Minot Park District may elect to receive a combination of cash as a Fee Per Unit and land as part of park land dedication requirements. In such cases, the developer or builder would have an agreement that is approved by the Park District. This would allow the percentage of land dedicated to reduce the amount of Fee Per Unit or waived by an equal amount.

f) Land Sustainability. Land to be dedicated shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. In evaluating the adequacy of proposed land dedications, the City shall consider factors including size, shape, topography, geology, hydrology, tree cover, access and location. Land will not be accepted as meeting the required dedication if it is encumbered with major utility easements, storm drains or retention areas, wetlands or other features which make the property difficult to utilize for parks or other desired municipal or park facilities. The City may consider land for parks or open space that is located in the vicinity of areas for storm water retention, major drains, or wetlands or other natural features provided the dedication will further the interests of the City or Park District, as well as the City's Comprehensive Plan. The City Council will have final authority, with the approval of the Park District, to determine whether land will be accepted for dedication with the direction of the Park District.

g) Timing and Maintenance. Prior to final plat approval by the City Council, the subdivider shall denote on the plat the designated park or open space land, or shall tender a deed of the dedicated land to the public entity that is to receive the land. If the plat is not approved, the deed shall be returned to the subdivider. The transfer of the deed is only final upon final approval of plat. The public entity that receives the dedicated land shall be required to maintain such land.

h) Payment and Timing Procedures. The builder or property owner shall make the payment to

the City when fees are collected for the building permit. Funds received by the City shall be placed in the park district foundation for park development and in the discretion of the Park Board be used to benefit the residents of the community. Any public facilities constructed or improved with these funds shall be located in the general neighborhood if benefitting that subdivision, or elsewhere in the community if benefitting the community as a whole following the Park District master plan.

i) Private Open Space/ Parks in Higher Density Districts:
Private Open Space/Parks. Where private open space for park and recreation purposes is provided in a proposed subdivision, such areas may be used for credit, at the discretion of the City Council, against the requirement of dedication for park and recreation purposes, provided the City Council finds it in the public interest to do so. Generally, however, land dedications for private parks will be discouraged.

Homeowners' Association: If a homeowners' association shall be established, Fee per Unit maybe reduced or waived. The Park District will accept a reduced or waived Fee per Unit based on a proposed park or open space and connection to bike trail system, storm water elements, drives, utilities, etc. These elements are subject to review and approval from the City Engineer, City Attorney, and Director of the Park District. The Homeowners' Association will be responsible for all maintenance including but not limited to any landscaping, exterior building, snow clearing and regular maintenance of private driveways and other areas owned in common ownership when there is more than one individual property owner having interest within the development.

j) Plan to Provide for Public Use:
Wherever a tract to be subdivided includes area for school, or other public use, such as streets, which are indicated on official City plans or any portion thereof, such space may be required for reservation by the Planning Commission (zoning designation to Public Zone). If so required, the Planning Commission shall give the public agency involved sixty (60) days to express its interest in the proposed subdivision in connection with the use of the public site. Should interest be expressed by the public agency involved, that agency shall have an additional sixty (60) days within which to arrange for the acquisition of the public site under consideration. If no interest is shown within the first sixty (60) days, the developer may proceed with development of the parcel in question.

k) Amenities and Preservation of Natural Features:
   1) General. Existing and proposed natural features which would add value to land, enhance traffic corridors, or benefit the City as a whole, shall be preserved and/or included in the design of subdivisions.
   2) Boulevard Trees. Boulevard trees shall be planted in accordance with the City of Minot and the City Forester. The installation of the trees provided for within the landscaping plan shall then be installed when the street is developed to urban road standards.

l) Fair Market Value:
If the developer or subdivider doesn't believe in the fair market value that is set by the Minot Park District in accordance with the City Assessor that is compiled yearly may be subjected to the following:
   1) The City and the developer may agree as to the fair market value; or
   2) The fair market value may be based upon a current appraisal submitted to the City by the subdivider at the subdivider's expense. The appraisal shall be made by appraisers who are certified or licensed through the State of North Dakota.

3) If the City disputes such appraisal, the City may, at the subdivider's expense, obtain an appraisal of the property by a qualified real estate appraiser, in which the appraisal shall be conclusive evidence of the fair market value of the land.

m) Severability:
If Any Section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such as decision shall not affect the validity of the remaining portions of this ordinance.

n) Effective Date:
This ordinance shall take effect immediately following final passage, adoption and publication.

Section 28-46- 28-49. Reserved.

ARTICLE V

Exceptions, Enforcement, Validity

Section 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 subdivider 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.

Section 28-51. Additional Enforcement Provisions:

1) 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)
2) 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.

Section 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

Section 28.1-1. 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.

Section 28.1-2. Definitions:

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

a) *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).

b) 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.

c) *BMPs* means best management practices.

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

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

f) *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.

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

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

i) *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.

j) *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. These soils, under natural conditions, are either saturated or inundated long enough during the growing season to support the growth and reproduction of hydrophytic vegetation.

k) *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.

l) *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.

m) *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.

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

o) *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.

p) *Outlet* means any discharge point from a watershed including storm sewers and combined sewer overflows into a watercourse, pond, ditch, lake or other body of surface or groundwater.

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

r) *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).

s) *Runoff* means the precipitation, 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.

t) *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.

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

v) *Storm water alteration activities* mean 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 runoff water 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.

w) *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.

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

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

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

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

bb) *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.

cc) *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.

dd) *Watershed Master Plan* means a plan that a professional engineer formulates to manage storm water runoff for a large watershed or drainage basin (refer to Section 28.1-45, Subsection 3, for examples). 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 to establish compliance criteria to regulate land development activities within a given watershed, provided the plan is reviewed and approved by the City Council after allowing public comment.

ee) *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.

ff) *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.

Section 28.1-3. Scope of Chapter:

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

Section 28.1-4. 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 28.1-1. The City Engineer's waiver and finding shall be in writing and a copy of the written waiver and finding shall be maintained in the City Engineer's file. 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. Any condition imposed upon a waiver by the City Engineer shall be in writing a copy of the conditions shall be maintained in the City Engineer's file.

Section 28.1-5. Mitigation Measures During Construction Activities:

a) 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):
b) 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;
c) Waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, petroleum based products, paints, toxic materials, or other hazardous materials) shall be properly contained on site, then properly disposed of off-site and shall not be allowed to be carried by runoff into a receiving channel, storm sewer system, or wetland;
d) 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 on a public or private road shall be removed (not by flushing) within twenty – four hours;
e) 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;
f) 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;
g) Any additional Federal, State, local or other regulatory requirements including but not limited to: NPDES permit requirements, etc.; and
h) Any additional project specific requirements deemed necessary by the City Engineer.

Section 28.1-6. Contaminating or Degrading Storm Waters Prohibited:

No person shall dispose of—

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

b) 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.

Section 28.1-7 -- 28.1-20. Reserved.

DIVISION 2

STORM WATER MANAGEMENT PLAN
SUBDIVISION A —IN GENERAL

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

a) 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.

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, unless additional impervious area is added or grading activities modify the location of storm water discharge points;
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 utility service line installations affecting less than one acre; or
6) Emergency work to protect life, limb, or property.
7) 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. The applicant shall provide a technical memo with backup data to demonstrate the de minimus effect.

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

c) No person shall engage in storm water acceleration or alteration 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 28.1-4.

Section 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 printed copies and one digital copy (pdf) of the drawings, report and any additional 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. Any approval, approval with conditions, or denial of the storm water management plan shall be in writing.

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.

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

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

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

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

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

Section 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:

a) Existing conditions site plan including any immediately adjacent areas, showing:

1) Name, address, phone number, and email of the applicant and engineer; North Arrow;

2) Scale (plan view drawn at 1” = 50’ or larger scale);

3) The section, township, and range of the project site and 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;

4) 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. All elevations must be provided in NGVD 1929 datum and noted as such on that map;

5) A watershed boundary map illustrating the project site location as a subwatershed within the watershed of the larger or major drainage basin;

6) 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;

7) 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;

8) 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;

9) A depiction of the current extent of vegetative cover and a clear delineation of any vegetation proposed for removal;

10) A description or indication of the current land use of the area in which the site is located;

11) A depiction of the 10-year and 100-year floodplains (base flood), flood fringes, and floodways, including water surface elevations shown in NGVD29 datum (noted as such on that drawing), any floodplain easements; and

12) A narrative of groundwater information and the estimated ground water table in relation to surface contours (i.e. NRCS Depth of Water Table information found on it's Web Soil Survey).

b) Construction site plan showing:

1) Locations and dimensions of all proposed land disturbing activities and any phasing or scheduling of those activities;

2) Approximate locations of all temporary soil or dirt stockpile areas;

3) Location and description of all construction site erosion control measures necessary to meet the requirements of this ordinance;

4) 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; and

5) Provisions for maintaining the construction site erosion control measures prior to, during, and after construction.

c) Final site plan on the same scale as the map of existing conditions showing:

1) The proposed final grading plan shown at contours at the same interval as the existing conditions or as required to clearly indicate the relationship of the proposed changes to existing topography and remaining features, and showing rear yard grading in sufficient detail to determine the direction of rear and side yard drainage from each parcel;

2) A landscape plan, drawn to an appropriate scale, including dimensions, distances and the location, type, size and description of proposed landscape materials which will be added to the site as part of the development;

3) A drainage plan of the developed site delineating the direction and at what rate storm water runoff will be conveyed from the site, delineating the direction of

flow from the rear and side yard of each parcel, and setting forth the areas of the site where storm water will be collected;

4) The proposed size, alignment, and intended use of any structures to be erected on the site;
5) A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used;
6) A delineation of easements provided for drainage, including areas of flow or detention inundated in the 100-year storm event, the corresponding water surface elevations, recorded easements provided for access to inspect and maintain storm water management facilities, off-site flowage easements (upstream and downstream), as well as any City or FEMA designated floodplains;
7) A depiction of the 10-year and 100-year floodplains (base flood), flood fringes, and floodways, including water surface elevations shown in NGVD29 datum (noted as such on that drawing), any floodplain easements; and
8) Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the review of the project.
9) Any other information pertinent to the particular project which, in the opinion of the applicant, is necessary for the review of the project.

d) A narrative analysis discussing:
1) Pre and post development hydrologic and hydraulic analysis;
2) Erosion and sedimentation control during and after construction;
3) Protective measures for proposed and existing structures, and water quality concerns;
4) Feasibility of on-site infiltration to reduce runoff volume and address water quality concerns;
5) A discussion as to how the storm water management plan applies or observes the principles and procedures set forth in Subdivision B;
6) Planned maintenance;
7) Maintenance agreement;
8) Certification by Professional Engineer; and
9) Compliance with City ordinances.

e) An operations and maintenance plan including:
1) An inspection schedule for all storm water management facilities, acknowledging the City's right to inspect all storm water management facilities;
2) Description of and schedule for regular maintenance;
3) Criteria for determining the need for non-regular maintenance;
4) Clear definition of the party responsible for inspection and maintenance;
5) A letter of acknowledgement or maintenance agreement signed by the developer or agent who will perform the planned maintenance activities;
6) Discussion of access considerations for all permanent storm water management facilities; and
7) A signed agreement acknowledging the developer's responsibility to provide final grading plans to all property owners in the development.

f) A completed storm water management plan checklist (included in Storm Water Design Standards Manual) including:
   1) Page numbers for all required components of the storm water management plan;
   2) Summary of project site impervious area; and a
   3) Summary of hydrologic modeling of existing and proposed conditions.

Section 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.

Section 28.1-26 -- 28.1-40. Reserved.

SUBDIVISION B — PRINCIPLES AND PRACTICES

Section 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:

a) Details about the contents of a storm water management plans which are additional to those set forth in this Chapter;
b) 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.
c) A discussion of operation and maintenance requirements, standard forms to be used, and standard construction details adopted by the City.
d) A storm water management plan checklist that must be submitted to the City as part of a storm water management plan.

Section 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.

This narrative shall include:

a) 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.

b) 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.

c) The use of storm water detention facilities.

d) The use of storm water retention facilities.

Section 28.1-43. Capacity Considerations:

The storm water management plan shall:

a) Analyze 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 post-development runoff discharges and volumes without causing:
   1) Channel erosion;
   2) Increased property damage; or
   3) Any increase in the established base flood plain elevation.

b) Analyze the adequacy of any outlet used as a discharge point.

c) Satisfy the requirement that in no circumstances shall the developed peak flow exceed the existing peak flow for the 2-, 5-, 10-, and 100-year, 24-hour storm events and the 100-year, 10-day snowmelt event, except where the City has provided sufficient downstream flood detention facilities for the development or redevelopment area's proposed land use and area of imperviousness (as determined by the City Engineer). For projects located within the contributing drainage area to a regional detention facility, this requirement of no increase in peak flow is applicable until regional detention ponds are constructed.

d) Satisfy the requirement that hydrologic analysis performed to calculate peak flow must utilize the Soil Conservation Service, or SCS, (now Natural Resources Conservation Service, or NRCS) methodology, the NRCS Type II storm distribution, and precipitation values published in the National Oceanographic and Atmospheric Administration (NOAA) Atlas 14, Volume 8, unless otherwise specified by the City Engineer. Additional detail is provided in the Storm Water Design Standards Manual.

e) Consider the feasibility of infiltrating or otherwise retaining a volume equivalent to one inch of runoff from the project impervious area in situations where downstream volume capacity issues exist (as determined by the City Engineer). If determined to be infeasible, the rationale shall be presented in the narrative.

Section 28.1-44 Water Quality Considerations:

The storm water management plan shall satisfy the following requirements for water quality (additional detail is provided in the Storm Water Design Standards Manual):

a) Pre-treatment of all temporary off-site discharges during construction.

b) Implementation of all applicable erosion and sediment control devices and practices as specified in Chapter 11 of the Storm Water Design Standards Manual.

c) Treatment of the first one inch of runoff from the project's impervious area for new development. The City encourages developers to use the following methods to achieve water quality goals, in order of decreasing preference:
   1) Infiltration (or other abstraction)
   2) Filtration
   3) Extended detention

Section 28.1-45. Floodplain Considerations:

The storm water management plan must comply with applicable floodplain management criteria, which include:

a) Requirements included in the City Zoning Ordinance for areas shown on:
   1) The City flood insurance rate maps (FIRMs), and
   2) Federal Emergency Management Agency (FEMA) FIRMs.
b) The requirement of at least one foot of clearance (freeboard) between the lowest floor of a structure and the 100-year flood elevation of all adjacent storm water management facilities, including:
   1) Ponds,
   2) Wetlands,
   3) Streams,
   4) Sloughs, and
   5) Overland conveyances.
c) Requirements for projects near the following water bodies (or as determined by the City Engineer):
   - Mouse (Souris) River
   - Livingston Coulee
   - Gassman Coulee
   - Puppy Dog Coulee
   - First Larson Coulee
   - Second Larson Coulee

   This includes the requirement that the lowest floor of structures for all new plats must be higher than one (1) foot above the established floodplains.
d) The Ward County Floodplain Zoning Ordinance, if the parcel is within the extraterritorial jurisdiction and/or discharges onto property outside the extraterritorial jurisdiction.

Section 28.1-46. 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:

a) The desirability of a design which minimizes the need for maintenance (design considerations are included in the Storm Water Design Standards Manual).
b) 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.
c) The City's preference for a design which minimizes the extent to which storm water management facilities are located on private lots when regional detention is available.

d) The City's requirement that developers provide final grading plans to all property owners following completion of the project.
e) The right of the City Engineer to require a developer's agreement for maintenance, based upon review of the operation and maintenance plan included in the storm water management plan submitted by the developer. The developer's agreement specifies the authority of the City should the developer fail to fulfill the agreed-upon operation, inspection, and maintenance responsibilities.

Section 28.1-47. 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 Section 28.1-41.

Section 28.1-48. 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.

Section 28.1-49. 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.

Section 28.1-50. 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:

a) The posting of security such as a performance bond, cash bond or letter of credit.
b) The use of the storm water management permit system provided for in Division 3.
c) The filing of a special assessment petition with the City to guarantee construction of storm water management facilities.
d) The withholding of building permits until the facilities are completed or otherwise guaranteed.

Section 28.1-51. 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.

Section 28.1-52 -- 28.1-60. Reserved.

SUBDIVISION C – PERFORMANCE

Section 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) Modifications to the storm water management design or changes to the development type or intensity made subsequent to the approval of the storm water management plan may require resubmittal to the City Engineer if those modifications prevent compliance with the principles and practices listed in Subdivision B of this ordinance.
c) 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.

Section 28.1-62. Compliance with Other Requirements:

The contents of an approved storm water management plan shall not be construed as purporting to excuse:
a) Requirements imposed elsewhere in this Zoning Ordinance or in the City of Minot Code of Ordinances; and
b) 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.)

Section 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" survey (i.e., Record Drawings) to document the final condition of the site. The as-built survey must include the 100-year floodplain (including the 100-year water surface elevation), floodplain easements, and easements provided for maintenance of storm water management facilities. The developer must provide the City with evidence that the maintenance easements have been recorded at the County. The as-built survey must be certified by a professional engineer, and the developer must submit the survey to the City Engineer. The as-built survey must be accompanied by an updated storm water management plan and include a certified statement from the professional engineer confirming that:

a) All storm water management facilities were constructed as identified in the approved storm water management plan; and
b) All field modifications have been reviewed and approved by the professional engineer such that the modified facilities will meet the requirements of the approved storm water management plan. Calculations or backup data shall be provided for any modifications to the original plan.

Section 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.

Section 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.

Section 28.1- 66 -- 28.1-80. Reserved.

DIVISION 3

STORM WATER MANAGEMENT PERMIT

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

a) As contemplated by section 28.1-50, 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.

Section 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 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.

Section 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.

Section 28.1-84 to 28.1-100. Reserved. (Supplement One)

CHAPTER 29 - MISCELLANEOUS

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 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.

Section 29-8. 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) 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 (30) days (whether consecutive or not) in any one twelve (12) month period of time.

CHAPTER 30 - ADMINISTRATIVE PROCEDURES

Section 30-1 Development Administration, duties:

a) The City Planner and or staff shall:
   1) Administer and enforce this title.
   2) Maintain permanent and current records of this title, including, but not limited to, all maps, amendments and conditional uses, variances, appeals and applications therefor.
   3) Receive, file and forward all applications for appeals, variances, conditional uses and interim uses, amendments or other matters to the designated official bodies, and shall act as the official liaison between the planning commission and city council.
b) The building official shall:
   1) Review and determine that all building permits and certificates of occupancy comply with the terms of this title.
   2) Be responsible for the periodic inspection of buildings and land uses within the city to ensure compliance with the terms of this title.
   3) Initiate in the name of the city any appropriate actions or proceedings against any violator of this title, as provided by law.

Section 30-2. Variances:

a) Purpose: The Planning Commission may grant a variance from the strict application of this title only in instances where their strict enforcement would cause undue hardship in complying with the official control, because of circumstances unique to the individual property under consideration. A variance may be granted only when it is demonstrated that such actions will be in harmony with the general purposes and intent of this title and when the variance(s) are consistent with the comprehensive plan. The Planning Commission may impose conditions in the granting of variances. A condition must be directly related to the impact created by the variance.
b) Application: An application for a variance shall be filed with the City Planner and shall state the unique circumstances claimed as a basis for the variance. The application shall contain at least the following information:
   1) The signature of each owner of affected property or his agent.
   2) The legal description of the property and the common address.
   3) A description of the variance requested and a statement demonstrating that the variance would conform to the requirements necessary for approval.
   4) The present use.
   5) A site plan drawn to scale demonstrating the requested variance.
   6) Meeting with City Planning staff prior to submittal of the application.
c) Referral to Planning Commission: The application shall be referred to the Planning Commission for study concerning the effect of the proposed variance upon the comprehensive plan, and upon the character and development of the surrounding neighborhood. The planning commission shall make a decision to grant or deny the variance, and may impose conditions in the granting of the variance. The conditions may include considerations such as location, character and other features of the proposed building.

d) Approval; Denial: Variances require the approval of a majority vote of the Planning Commission. Variances may be denied by motion of the Planning Commission and such motion shall constitute a determination that the findings required for approval do not exist. No application for a variance which has been denied in whole or in part shall be resubmitted within six (6) months of the date of the order of denial, except upon grounds of new evidence or upon proof of change of conditions.

e) Granting of Variances: The granting of variance shall be considered under the following conditions: Whereby, a 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 (without the variance reasonable use of the property is not possible); or
      b. Unreasonable hardships: (due to circumstances unique to the property not created by the landowner, that would otherwise allow for reasonable use of the property) 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 Planning Commission may authorize, after notice and hearing, a variance to the strict application of the terms of this ordinance to the extent that justice my be done.

f) Before granting a variance, the Planning Commission 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.

g) Any variance approved by the Planning Commission shall have a time limit of one (1) year after the Commission's approval, during which the variance must be put into effect by the owner. Alternatively, the Planning Commission 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 Commission.

h) Variances shall be approved by a majority vote of the Planning Commission (and majority vote of the City Council (8 affirmative votes) in the event of an appeal).

i) Flood Protection Requirements Variances:
   If the variance requested relates to a restriction or requirement imposed by Chapter 20 of this Zoning Ordinance (whether or not a request for a variance of other provisions of this Zoning Ordinance is also requested or not) the Planning Commission 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 (1/2) 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, create nuisances, cause fraud on or victimization of the public, 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 Subsections a-h listed 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 Commission shall notify the applicant in writing that the application is granted or modified and as modified is granted;

j) The Planning Commission, 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 Planning Commission shall prepare a written memorandum setting forth the reasons or justifications for the issuance of the variation which shall be attached to the application.

<u>Section 30-3. Conditional Use Permits:</u>

a) Intent: The provisions of this section are intended to permit certain land uses which, under special conditions and review, can be compatible with the uses permitted by right in a zoning district, and desirable to the development of the City as a whole. Only those uses identified in the zoning district regulations are eligible for a conditional use permit under the procedure described below. A conditional use permit shall not be granted unless it meets the minimum standards and requirements of the applicable zoning district where permitted.

b) Application, Public Hearing, Notice And Procedure: The application, public hearing, public notice and procedure requirements for conditional use permits shall be the same as those for amendments as provided in Sec. 30-5 of this chapter, except that the permit shall be issued on the affirmative vote of a majority of the entire council. Although specific submittals required to complete an application for a conditional use permit may vary with the specific use and the district in which it is located, all applications for such permits must include at minimum:
   1) The signature of each owner of affected property or his agent.
   2) The legal description of the property and the common address.
   3) Zoning of adjacent properties
   4) A description of the request, proposed use and compliance with standards listed in item "c" below.
   5) A site plan drawn to scale showing principal and accessory buildings, setback lines, parking lot layout and stall sizes, curbing, landscaping (area calculation, plan and planting schedule), ingress/egress, loading areas, screening/buffering, lighting, refuse/service areas, grading and utilities.

6) Building Elevations/Floor Plan including existing and proposed: Provide front, sides and rear elevations with all building dimensions including height, materials and colors that are clearly labeled.
7) Meeting with City Planning staff prior to submittal of the application.

c) Standards: The Planning Commission shall recommend a conditional use permit and the Council shall issue such conditional use permits only if it finds that such use at the proposed location:
1) Will not be detrimental to or endanger the public health, safety, comfort, convenience or general welfare of the neighborhood or the city.
2) Will be harmonious with the general and applicable specific objectives of the city's comprehensive plan and this title.
3) Will be designed, constructed, operated and maintained so to be compatible in appearance with the existing or intended character of the general vicinity and will not change the essential character of that area.
4) Will not be hazardous or disturbing to existing or future neighboring uses.
5) Will be served adequately by essential public facilities and services, including streets, police and fire protection, drainage structures, refuse disposal, water and sewer systems and schools; or will be served adequately by such facilities and services provided by the persons or agencies responsible for the establishment of the proposed use.
6) Will not create excessive additional requirements for public facilities and services at public cost and will not be detrimental to the economic welfare of the community.
7) Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare because of excessive production of traffic, noise, smoke, fumes, glare or odors.
8) Will have vehicular approaches to the property which do not create traffic congestion or interfere with traffic on surrounding public thoroughfares.
9) Will not result in the destruction, loss, damage of a natural, scenic, or historic feature of major importance.
10) Will not depreciate surrounding property values.

In determining such conditions, special consideration shall be given to protecting immediately adjacent properties from objectionable views, noise, traffic and other negative characteristics associated with such uses.

d) Planning Commission Consideration: Provided the applicant has furnished all information as requested by the City Planning Office, the Planning Commission shall consider the application at its next meeting provided the prescribed notification requirements can be met. Before making a recommendation, the Planning Commission shall review the application for a conditional use permit to ascertain compliance with the specific standards governing individual conditional uses, and that satisfactory provision and arrangement has been made concerning the following, where applicable:
1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
2) Off-street parking and loading areas where required.
3) Refuse and service areas.

4) Utilities, with reference of locations, availability, and compatibility.
5) Screening and buffering with reference to type, dimensions, and character.
6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
7) Required yards and other open space.
8) General compatibility with adjacent properties and other property in the district.

e) Council Action: When it has been determined by the City Council (with approval by majority vote, 8 affirmative votes) that such conditional use will promote the public health, safety, and welfare, and that such proposal is, in general, compatible with adjacent or nearby land uses, the zoning code, and the City's comprehensive plan, the City Council may approve the conditional use permit. In authorizing this permit, the City Council may impose such conditions it deems necessary, i.e. landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, signage, planting screens, operational control, hours of operation, compatibility of appearance, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, to fulfill the purpose and intent of this Ordinance. Any conditions imposed by the Council shall be attached to the conditional use permit and failure to comply with any condition in a conditional use permit shall be a violation of this Ordinance.

f) Amended Conditional Use Permits: An amended conditional use permit may be applied for and administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include reapplications for permits that have expired or have been denied, requests for substantial changes in conditions or expansions of use, and as otherwise described in this Ordinance. Applications for conditionally permitted uses which consist of multiple structures to be developed on the property shall include a conceptual development plan showing the structures proposed. The conditional use permit is approved for the use of the property which does not require an amendment each time a structure is proposed; however, once proposed development exceeds the approved conceptual development plan or if the characteristics of use change, an amended application shall be submitted for consideration.

g) Expiration: If substantial construction has not taken place within one (1) year of the date on which the conditional use permit was granted, the permit is void except that, on application, the council, after receiving recommendation from the Planning Commission, may extend the permit for such additional period as it deems appropriate. If the conditional use is discontinued for six (6) months, the conditional use permit shall become void. This provision shall apply to conditional use permits issued prior to the effective date of this title, but the six (6) month period shall not be deemed to commence until the effective date of this title.

Section 30-4. Interim Uses:

a) Purpose: The purpose and intent of allowing interim uses is: 1) to allow a use for a limited period of time that reasonably utilizes the property where it is not reasonable to utilize it in the manner provided in the comprehensive guide; and 2) to allow a use that is presently acceptable but that, with anticipated development, will not be acceptable in the future.

~~b)~~ Application, Public Hearing, Notice and Procedure: The application, public hearing, public notice and procedure requirements for interim use permits shall be the same as those for conditional use permits as provided in Sec. 30-3 of this chapter.

c) Standards: The Planning Commission shall recommend an interim use permit and the council shall issue such interim use permits only if it finds that such use at the proposed location:
   1) Meets the standards of a conditional use permit set forth in Chapter 30-3 of this chapter.
   2) Conforms to the zoning regulations, performance standards and other requirements.
   3) Is allowed as an interim use in the zoning district.
   4) Will terminate upon a date or event that can be identified with certainty.
   5) Will not impose, additional costs on the public if it is necessary for the public to take the property in the future.
   6) Will be subjected to, by agreement with the owner, any conditions that the city council has deemed appropriate for permission of the use, including a condition that the owner will provide an appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit.

d) Termination: An interim use permit shall terminate upon the occurrence of any of the following events; whichever first occurs:
   1) The date stated in the permit; or
   2) A violation of conditions under which the permit was issued.

Section 30-5. Text Amendments and Zoning District Changes:

The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed or repealed by the City of Minot City Council.

a) 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.

b) 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 seven (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 three hundred feet (300) of the affected area. The expense of providing such notices shall be paid by the proponent of the zone change or other amendment.

c) 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 (2/3) of the city council and may be made at any time before or after the public hearing.

d) Who may initiate amendments of this Ordinance may be initiated by:
   1) A petition of the owner or owners of the property, the zoning of which is proposed to be changed.

2) A recommendation of the Planning Commission.
3) By action of the City Council

e) Application Required: If a property owner or representative of the property owner wishes to request an amendment, s/he shall fill out an application, copies of which are available at the City Planning Office. No application for a rezoning of a particular piece of property shall be accepted more than once in any six (6) month period except if the prior application was withdrawn before action was taken by the City Council, or if the Planning Commission determines that the circumstances surrounding a previous application for a rezoning has changed. The application shall be filed with the City Planner who shall refer the application together with his/her comments thereon to the Planning Commission. Applications for rezoning property which has not been previously platted shall be required to plat the property in accordance with Chapter 28. In addition, applications for rezoning shall be consistent with the City of Minot Comprehensive plan in terms of land use and be located within the stage growth area plans of the Comprehensive Plan to prevent premature subdivision and development.

f) Any application for rezoning of property shall include the following information:
1) A generalized location map showing the location of the proposed site in relation to the city.
2) A scale site plan, with north indicated, of the proposed site showing all site dimensions.
3) All types of proposed uses.
4) Location of all buildings and structures on the proposed site.
5) Elevation drawings or illustrations indicating the architectural treatment of all proposed buildings and structures.
6) Any plans for the modification of standards set by this title or any other provision of this code.
7) Location and size of all required parking spaces.
8) Landscape plan subject to Chapter 24.
9) General floor plans of all proposed buildings and structures.
10) Design layout and size of all proposed signs.
11) Drainage plan of the proposed site.

g) Any application for a zoning text amendment shall cite the ordinance section that is requested for amendment or specify new text for consideration as an amendment.

h) Review by Planning Commission: No amendment, supplement, change or modification of this Ordinance shall be made by the City Council without first the consideration of each by the Planning Commission. The Planning Commission approval shall be by majority vote of its members. Following a public hearing before and consideration by the Planning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Council within sixty (60) days after receipt thereof. Said recommendations shall include approval, disapproval or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendation shall be of an advisory nature only.

i) Action by the City Council: After receipt of the recommendation on any amendment from the Planning Commission, or in any event of the failure of the Planning Commission to so report, within ninety (90) days from the time of referral of the proposed amendment to the Planning Commission, the City Council shall hold a public hearing, after which the proposed

amendment may be passed. City Council approval shall be by majority vote (eight (8) affirmative votes).

j) Written Protest; Effect Thereof: If, prior to the second reading of an ordinance referenced in this Section, 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 twenty percent (20%) 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 three hundred (300) feet and three hundred (300) feet in the extraterritorial zoning jurisdiction, 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 eleven (11) affirmative votes.
   1) In computing area for purposes of subsection (a), there shall not be included real estate owned by the City of Minot.
   2) 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 (or forwarded from a Planning Commission meeting).

k) 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.

l) Filing and Fees: A petition for a change in the regulations or districts herein or subsequently established shall be filed with the City Planner. A fee, as established by the City Council, shall be paid at the time of filing. Also, the petitioner shall pay the total cost of mailed notices required by Section 30-2.

m) Post-Amendment Publication and Certification Not Required:
   1) 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 or amendment of the zoning ordinance shall be required after the City Council acts to establish such regulation, restriction, boundary or amendment.
   2) 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.

<u>Section 30-6. Appeals:</u>

a) At any time within thirty (30) days after the City Planner, or other city employee or committee makes a decision under the provisions of this title, except in connection with prosecution for violations thereof, the applicant or other person affected thereby may appeal the decision by filing a written notice stating the action appealed from and stating the specific grounds upon which the appeal is made.
b) The Planning Commission shall conduct a public hearing on the appeal and make a recommendation to the City Council.
c) The City Council shall conduct a public hearing and make the final determination. Final decision shall be by majority vote of the City Council.
d) Notice of the hearing before the Planning Commission and City Council shall be mailed to all appellants. In all cases involving determination of district boundary lines, or interpretation of the text of this title, ten (10) days published notice of hearing in the official newspaper shall be given. (Ord. 1189, 1-19-2010)
e) If the City Council denies the appeal an application for the same request or re-appeal cannot be submitted for three (3) months from the date of the final City Council decision.

Section 30-7. Annexation:

a) Annexation requests shall follow provisions outlined in 40-15.2-07 through 40-51.2-11 of the North Dakota Century Code.
b) Prior to second reading of the annexation ordinance, a notice of annexation must be published a minimum of one (1) time. If annexation is to be reviewed by resolution, a notice shall be published once each week for two (2) weeks at least thirty (30) days before the public hearing is held.
c) Approval of annexation requires a minimum of eight (8) votes of the City Council.

CHAPTER 31 - TOWERS

Section 31-1. Purpose:

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, these regulations are necessary to facilitate provision of wireless telecommunications services to the residents and businesses of the City. These regulations minimize adverse visual effects of towers through careful design and siting standards, avoid potential damage to adjacent properties from structural failure through structural standards and maximize the use of existing and approved structures and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

Section 31-2. Definitions:

a) Commercial Wireless Telecommunication Services: Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.
b) Tower: Any ground or roof-mounted pole, spire, structure, or combination thereof taller than fifteen (15) feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

Section 31-3. Towers in Residential and Other Zoning Districts:

a) Towers supporting amateur radio antennas and conforming to all applicable provisions of this ordinance are allowed only in the rear yard of residentially zoned property.
b) Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed only upon the following residential zoned property:
    1) Tower sites, subject to review and approval by the City Council.
    2) Church sites, when camouflaged as steeples, bell towers, or other architecturally compatible structures; subject to review and approval as conditional uses.
    3) Park sites, when compatible with the nature or the park and subject to review and approval as conditional uses.
    4) Government, school, and utility sites, subject to review and approval as conditional uses.
    5) Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed within the Agricultural, Public, Commercial and Industrial Districts, subject to review and approval of a Conditional Use Permit.
    6) Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed within the M2 Heavy Industrial District as a permitted use, provided the property does not abut an Agricultural, Light Commercial, or any Residential District. Otherwise, these towers would be considered conditional uses.

Section 31-4. Co-Location Requirement:

All commercial wireless telecommunication towers erected, constructed, or located within the City must comply with the following requirements:

a) A proposal for a new commercial wireless telecommunications tower must not be approved unless the applicant proves that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a reasonable search radius of the proposed tower due to one or more of the following reasons:
   1) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified professional engineer, and the existing or approved tower cannot be reinforced or modified to accommodate planned or equivalent equipment at a reasonable cost.
   2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional engineer and the interference cannot be prevented as a reasonable cost.
   3) Existing or approved towers and building within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified professional engineer.
   4) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building:
      a. Existing or approved towers, buildings, or other structures do not exist in the service area, or do not meet the needs of the user. Documentation shall be provided at the time of application clearly demonstrating why existing structures do not meet the needs of the users.
      b. The applicant shall demonstrate that a good faith effort to co-locate on existing towers or structures was made, but an agreement could not be reached.

b) Any proposed commercial telecommunications tower must be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least one additional user.

Section 31-5. Tower Construction Requirements:

All towers erected or constructed must be designed by a registered engineer.

Section 31-6. Tower and Antenna Design Requirements:

Proposed or modified towers and antennas must meet the following design requirements:

a) Towers and antennas must be designed to blend into the surrounding environment through the use of color, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
b) Commercial wireless telecommunication towers must be a monopole design unless the City Council determines that an alternative design would better blend into the surrounding environment or the applicant provides evidence to the City that an alternative design is necessary to successfully engage in commercial telecommunication services.

Section 31-7. Tower Setbacks:

Towers must conform to each of the following minimum setback requirements:

a) Towers must meet the setbacks of the underlying zoning district and may not encroach upon any easement.
b) Towers must be set back from the public right-of-way a minimum distance equal to one half (1/2) of the height of the tower including all antennas and attachments.
c) Towers may not be located between a principal structure and a public street within a front or side yard, with the following exceptions:
    1) In Industrial Zoning Districts, towers may be placed within a side yard abutting a public street, provided that the street is not along the perimeter of the district.
    2) On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.
d) A tower's setback may be reduced or its location in relation to a public street adjusted, at the sole discretion of the City Council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure or if the applicant provides evidence that a setback reduction is necessary to successfully engage in commercial telecommunication services.

Section 31-8. Tower Height:

All proposed towers must meet the following height limitations:

a) The height of towers will be determined by measuring the vertical distance from the tower's center point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and the tower must meet the height restrictions.
b) Towers must conform to the following height restrictions:
    1) In all residential zoning districts, the maximum height of any tower, including antennas and other attachments, will be the maximum height restriction for primary structures within that zoning district, unless otherwise provided for in this Ordinance.
    2) In all non-residential zoning districts, the maximum height of any tower, including all antennas and other attachments, must not exceed one (1) foot for each two (2) feet the tower is set back from a residential zoning district or a maximum height of one hundred and fifty (150) feet, whichever is less, unless the applicant provides evidence to the City that the proposed tower height is technically necessary to successfully engage in commercial telecommunication services.
    3) All towers must meet these maximum height restrictions of this section, unless located upon public buildings and utility structures, church sanctuaries, steeples and bell towers.

Section 31-9. Tower Lighting:

Towers must not be illuminated by artificial means and not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

Section 31-10. Signs and Advertising:

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

Section 31-11. Screening:

All towers and structures accessory to the tower must be screened in accordance with this Ordinance.

Section 31-12. Abandoned or Unused Towers or Portions of Towers:

All abandoned or unused towers and associated facilities must be removed within twelve (12) months of the cessation of operations at the site unless a time extension is approved by the City Council. In the event that a tower is not removed within twelve (12) months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.

Section 31-13. Antennas Mounted on Roofs, Walls, and Existing Towers:

The placement of commercial wireless telecommunication antennas on roofs, walls, and existing towers may be approved by resolution of the City Council without a public hearing provided the antennas meet the requirements of this ordinance. Requests under this section must be accompanied by a final site plan and building plan and a report prepared by a qualified professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method for affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment must be indicated. Completed information shall be provided to the City, which will then be placed on the City Council agenda. Applicants will be informed of incomplete applications within thirty (30) days. The City Council may require additional information when considering an application.

1) Private wireless telecommunications antennas, such as satellite dishes and other similar antennas, are permitted accessory uses in all residential districts to a maximum height of fifteen (15) feet and may not be located in a required front or side yard setback; except for private wireless telecommunications antennas less than thirty (30) inches in diameter which may be located within a required front or side yard setback if mounted upon a residential structure.

Section 31-14. Interference with Public Safety Telecommunications;

No new or existing telecommunications service may interfere with Public Safety Telecommunications. Before the introduction of new service or changes in frequencies or maximum signal output, telecommunication providers must notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

Section 31-15. Towers and Antennas Upon Public Right-of-Way and Public Property:

With the exception of the necessary electric and telephone service and connection lines approved by the City, no part of any antenna or tower nor any lines, cable, equipment, or wires or braces in connection with either may at any time extend across or over any part of the public right-of-way, public street, highway, sidewalk, or property line without a lease approved by the City of Minot.

Section 31-16. Additional Submittal Requirements:

a) In addition to the information required elsewhere in this ordinance, development applications for towers must include the following supplemental information:
   1) Descriptions of the tower height and design, including a cross-section and elevation.
   2) Documentation of the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas.
   3) Descriptions of the tower's capacity, including the number and type of antennas that can be accommodated.
   4) Documentation regarding what steps the applicant will take to avoid interference with established public safety telecommunications.
   5) Other information necessary to evaluate the request.
b) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successor to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
c) Before the issuance of a conditional use permit, the following supplemental information must be submitted:
   1) Proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and
   2) A report from a qualified professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.