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CHAPTER SIX

ZONING - LAND USE PLANNING

ARTICLE 1 - Planning and Zoning Commission

6.0101 Zoning Commission

There is hereby created a zoning commission consisting of five members to be appointed by the governing body of the City which shall recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. If the City exercises extraterritorial zoning authority pursuant to North Dakota Century Code section 40-47-01.1, the zoning commission must include two members residing outside the corporate limits of the city. Such persons shall be appointed by the county commission. Such commission shall make a preliminary report and hold public hearings before making its final report. Such commission shall also hold hearings and make reports and recommendations as to the supplements and changes in boundaries and regulations. (Source: North Dakota Century Code section 40-47-06)

ARTICLE 2 - Definitions

6.0201 Definitions

For the purpose of this chapter the following words and phrases shall have the meanings herein given:

1. "Accessory Use or Building" is a subordinate use or building customarily incident to and located on the same lot with the main use or building.
2. "Alteration" as applied to a building or structure, is a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
3. "Building" is a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, including tents, lunch wagons, dining cars, camp cars, trailers and other roofed structure on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. For the purposes of this definition "roof" shall include an awning or other similar covering, whether or not permanent in nature.
4. "Building Line" is the line between which and the street line or lot line no building or other structure or portion thereof, except as provided in this Code, may be erected above the grade level. The building line is considered a vertical surface intersection the ground on such line.
5. "Dwelling" is a building designed or used as the living quarters for one or more families.
6. "Dwelling House" is a detached house designed for and occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit.
7. "Dwelling Unit" is one or more rooms providing complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping and eating.
8. "Dwelling, Multi-Family" is a dwelling or group of dwellings on one plot containing separate living units for three or more families, but which have joint services or facilities for both.
9. "Family" is a single individual, doing his or her own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon

the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage or other domestic bond as distinguished from a group occupying a boarding house, lodging house, club, fraternity or hotel.

10. "Garage, Private" is a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
11. "Lot" is a parcel of land occupied or capable of being occupied by one building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter.
12. "Non-conforming Use" is a building, structure or use of land existing at the time of the enactment of this chapter and which does not conform to the regulations of the district in which it is located.
13. "Other political subdivision" is a political subdivision not including another city, which would otherwise have zoning or subdivision regulation jurisdiction.
14. "Setback Building Line" is a building line back of the street line.
15. "Structure" is anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.
16. "Use" is the purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.
17. "Yard" is an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.
18. "Yard, Front" is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.
19. "Yard, Rear" is an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.
20. "Yard, Side" is an open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a lot line.

ARTICLE 3 - Establishment of Districts

6.0301 Use and Area Districts Established

For the purposes of this chapter, the City is hereby divided into use districts and area districts as provided hereafter.

6.0302 Maps and Boundaries

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of LaMoure" which is on file in the office of the city auditor. This map, with all explanatory matter thereon, is hereby made a part of this chapter.

6.0303 Annexed Property

Property which has not been included within a district and which has become a part of the City by annexation shall automatically be classified as lying and being in the R-2 residential district until such classification has been changed by an amendment to the zoning ordinances as prescribed by law.

ARTICLE 4 – Property Annexed to City of LaMoure

6.0401 Annexation of Parcel in Lot 7, Sec. 6-133-60

There is hereby annexed to the City of LaMoure the following described real property situated in the County of LaMoure and State of North Dakota, to-wit: A parcel of land in Lot 7, Section 6, T133N, R60W lying south of the right of way of the Fargo and SW Railway with its point of beginning at SW corner of said Section 6, thence due north 260 feet, thence east parallel to the south boundary line of said Section 6, to the railroad right of way, thence southeasterly along the railroad right of way to the section line, thence due west along the section line to the point of beginning, less city and highway rights of way of record.

6.0402 Annexation of Auditor’s Lot 6-1, Ryan Township

There is hereby annexed to the City of LaMoure the following described real property situated in the County of LaMoure and the State of North Dakota, to-wit: Auditor’s Lot 6-1, Ryan Township, within the E½SW¼ of Section 6, T133N, R60W, according to the plat thereof recorded as Document No. 153067.

ARTICLE 5 - Mobile Homes

6.501 Parking of Mobile Homes Prohibited; Exceptions

No person shall park or occupy any mobile home or travel trailer in the city of LaMoure or within one-half mile of the limits of said city other than in a mobile home park, except the following shall be permitted:

- A. Parking of one unoccupied travel trailer in a storage structure or in the rear yard.
- B. Other parking of a travel trailer, whether occupied or unoccupied, for a period of not more than 21 days.

No person may establish or maintain a mobile home park in the city or within one-half miles of the city limits without making application therefor to the city and being granted a permit by the city.

6.0502 Penalty

A violation of this section is an offense punishable by a fine not to exceed \$100.00. Each day the violation continues shall constitute a separate offense. Further, any person violating this section is subject to being enjoined in a court of law.

ARTICLE 6 – District Specifications

6.0601 Residential District

The predominant use of land within the district is housing. It is the purpose of this district to maintain this use and to provide for further utilization of land within this district for additional housing expansion. The minimum area for designation as a Residential District shall be ten (10) acres.

6.0601.1 District Boundaries:

The boundaries of the “A” Residential District are defined as follows: All that part of the city of LaMoure lying East and North of R and G Streets up to First Street North, thence West to I Street,

thence due North on H Street to and including Outlot D of said city.

The Boundaries of the “B” Residential District are defined as follows: All that part of the city of LaMoure lying West and North of R and G Streets up to First Street North, thence West to H Street, thence due North on H Street to Outlot D of said city.

The district boundaries are the center lines of the streets referred to.

6.0601.2 “A” Residential District Regulations

In the “A” Residential District the regulations shall be as follows:

A. Front yard. There shall be a front yard for residences having depth of not less than 15 percent of the lot depth. Houses built in blocks where other houses are already built shall be built in line with other existing structures, with a variance therefrom of not more than 10 feet. No residential building shall be built within 10 feet of any existing structure or within 5 feet of a property line if there is no existing structure. This section (1) does not apply to non-residential structures, the location of which on the lot shall be regulated by the City Council.

B. Houses and other buildings constructed in the “A” district shall have a total square feet area of not less than 800 square feet with built in garage area included, and a minimum finished cost of at least \$5,000.00, which shall not include the lot but which shall include all labor and materials for the construction thereof, including plumbing, heating and electrical, either new construction or moved in buildings.

C. Construction of Buildings in “A” Residential District. All new buildings and alterations of existing buildings in the “A” Residential District, shall have a foundation wall built of stone, brick, concrete or some other equally good permanent substance, under or around the whole building; shall have the sidewalls either sided and painted, or shingled, or stuccoed, or some other equally good, permanent finish construction; and shall be connected with the city waterworks and sewage provided the city water mains and sewage mains, respectively, are within 120 feet of the lot line of the lot on which such building is built, and said building shall also have an inside toilet connected with the city sewer system, provided the sewer system mains are laid within 120 feet of said lot line.

D. Height of Buildings. All buildings erected in the “A” Residential District shall be at least one story above the basement level. However, the City Council may permit construction and occupancy of a basement portion of a residence, provided the remainder of such building consisting of at least one story above the basement level is completed within two years from the date of issuance of the building permit.

6.0601.3 “B” Residential District Regulations

None of the regulations governing “A” Residential District Regulations shall apply to building of either residences or other structures or additions in the “B” Residential District, although the City Council, through the permit system, may make such regulations therein as are in the public interest and welfare.

6.0601.4 Permitted Uses:

- A. Single family dwellings and accessory buildings both as defined in Section 8.0401.
- B. Churches, schools and related facilities.
- C. Public parks and playgrounds.

6.0601.5 Conditional Uses:

- A. Multiple family dwellings.
- B. Hospitals and nursing homes.

- C. Public buildings and facilities but not including storage or repair shops.
- D. Mobile home parks.
- E. Home occupations.

6.0601.6 Area and Density Requirements:

- A. Where public sewer is available, the minimum lot area shall be 10,000 square feet with a minimum lot width of seventy-five (75) feet.
- B. Where public sewer is not available, a single family residence shall have a minimum lot width of one-hundred fifty (150) feet. No multiple family dwellings or mobile home parks shall be allowed unless public sewer is available.

6.0601.7 Building Height Limits:

Structures hereafter erected or altered shall not exceed two and one-half (2½) stories or thirty-five (35) feet in height.

6.0601.8 Yard Requirements:

- A. The minimum side yard shall be five (5) feet with no building line closer than ten (10) feet to another structure on an adjacent lot, including overhang.
- B. Permanent fencing may be placed within property boundaries in such a manner that:
 - 1. the fence does not encroach on property lines;
 - 2. it is no closer than five (5) feet to any structure;
 - 3. it does not obstruct the view for traffic.

6.0601.9 Setback Requirements:

- A. The minimum setback from road or street right-of-way shall be twenty (20) feet. In the case of corner lots, minimum setback shall be twenty (20) feet from each street right-of-way.
- B. In the case of newly designated residential districts outside the city limits, there shall be a maximum of two (2) approaches per quarter mile on each side of a public highway for access to such highway.

6.0602 "POC" Public, Open Space, Conservation District

The predominant use of land within this district is agriculture, public facilities and undeveloped land. It is the purpose of this zoning district to maintain these uses, to limit development upon flood prone land, and to provide for future expansion of the city.

6.0602.1 Permitted Uses:

- A. Grain and crop farming, nurseries, greenhouses, and roadside stands for the sale of products which are grown on the premises.
- B. Single family dwellings and accessory buildings both as defined in Section 8.0401.

- C. Churches and facilities related to religious institutions.
- D. Golf courses but not including miniature golf courses.
- E. Public parks, facilities and playgrounds.
- F. Public and parochial schools including elementary and secondary schools and colleges.
- G. Temporary structures incidental to construction work but not extending beyond the period of such work.
- H. Utility lines and public service facilities.
- I. Home occupations.

6.0602.2 Conditional Uses:

- A. Dairying, livestock and poultry raising.
- B. Airports.
- C. Cemeteries and crematoriums.
- D. Radio and television towers and accessory buildings.

6.0602.3 Area and Density Requirements:

- A. Where public sewer is available, the minimum lot area shall be 10,000 square feet with a minimum width of seventy-five (75) feet.
- B. Where public sewer is not available, the minimum lot area shall be one acre with a minimum width of one hundred fifty (150) feet.

6.0602.4 Building Height Limits:

For residential uses, the maximum height of structures shall be two and one-half (2½) stories or thirty-five (35) feet.

6.0602.5 Yard Requirements:

There shall be a minimum side yard of five (5) feet with no building closer than ten (10) feet to another structure on an adjacent lot, including overhang.

6.0602.6 Setback Requirements:

- A. The minimum setback from road and highway rights-of-way shall be one hundred fifty (150) feet.
- B. In the case of new development, there shall be a maximum of two (2) approaches per quarter mile on each side of a public highway for access to such highway.

6.0603 "C" Commercial District

It is the purpose of the commercial district to provide for adequate space for the grouping of retail merchandising, light industry and service activities. The minimum area for designation as a commercial

district shall be ten (10) acres.

6.0603.1 Permitted Uses:

- A. Single family dwellings and accessory buildings both as defined in Section 8.0401.
- B. Multiple family dwellings and accessory buildings.
- C. Boarding and rooming houses.
- D. Commercial eating and drinking establishments.
- E. Hotels and motels.
- F. Retail services including grocery stores, drug stores, radio and television repair shops, automobile service stations, bakeries, cabinet shops, professional offices and clinics.
- G. Miniature golf courses and amusement places.
- H. Lumber yards.
- I. Sales and service of automobile and farm implements.

6.0603.2 Conditional Uses:

- A. All commercial establishments shall provide for adequate off street parking facilities.
- B. Warehouses.
- C. Outdoor theaters.

6.0603.3 Area and Density Requirements:

- A. Where public sewer is available, the minimum lot area shall be 10,000 square feet with a minimum width of seventy-five (75) feet.
- B. Where public sewer is not available, single family residences shall have a minimum lot area of one acre and a minimum width of one hundred fifty (150) feet. No multi-family dwelling, commercial eating and drinking establishment, hotel or motel shall be allowed unless public sewer is available.

6.0603.4 Building Height Limits:

For residential uses, the maximum building height shall be two and one half (2½) stories or thirty-five (35) feet.

6.0603.5 Yard Requirements:

For residential uses, there shall be a minimum side yard of five (5) feet with no building line closer than ten (10) feet to another structure on an adjacent lot, including overhang. The City Council shall establish yard requirements for commercial uses on an individual basis.

6.0603.6 Setback Requirements:

- A. The minimum setback for residential uses shall be twenty (20) feet from road or street

right-of-way.

- B. In the case of newly designated commercial districts outside the city limits, there shall be a maximum of two (2) approaches per quarter mile on each side of a public highway for access to such highway.

6.0604 "I" Industrial District

It is the purpose of the industrial district to provide for adequate space for the grouping of industrial uses which will minimize the potential for adverse effects upon the environment and the public health, safety and welfare.

6.0604.1 Permitted Uses:

- A. Manufacturing establishments.
- B. Mineral extraction including sand and gravel.
- C. Grain elevators and feed mills.
- D. Concrete and block plants.
- E. Commercial activities.
- F. Transportation lines and facilities.
- G. Electrical transmission facilities and substations.

6.0604.2 Conditionally Permitted Uses:

The City Council shall review all permits for future industrial development to insure adequate measures are provided for the welfare and safety of the public.

ARTICLE 7 - Application of Regulations

6.0701 Application of Regulations, Extraterritorial Zoning

Except as provided in this chapter:

1. Conformity of Buildings and Land. No building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.
2. Conformity of Buildings. No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.
3. Conformity of Open Spaces. No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

6.0702 Extraterritorial Zoning

Pursuant to North Dakota Century Code section 40-47-01.1, the City may extend the application of the City's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within the following distance of the corporate limits of the city:

Two miles [3.22 kilometers] if the city has a population of five thousand or more, but fewer than twenty-five thousand. A city that has exercised its authority under this subdivision has joint zoning and subdivision regulation jurisdiction from one mile [1.61 kilometers] to two miles [3.22 kilometers] with the other political subdivision.

6.0703 Joint Jurisdiction - Extraterritorial Zoning

Joint jurisdiction is jurisdiction in which the other political subdivision has jurisdiction to receive applications and issue permits and impose administrative fees for applications and permits. In addition, under this jurisdiction the other political subdivision may adopt, modify, and enforce any zoning designation or regulation and approve any subdivision plat or regulation. For a decision to be final, the other political subdivision shall give written notice to the city. The city may request negotiation as to any decision made by the other political subdivision under the other political subdivision's jurisdiction within thirty days of notice. If negotiation is not requested, the decision of the other political subdivision is final. If the governing body of the other political subdivision and the city do not come to an agreement as to the disputed zone or subdivision regulation within thirty days of request for negotiation, the dispute must be submitted to a committee for mediation. The committee must be comprised of one member appointed by the governor and two members of the governing body of the other political subdivision and two members of the governing body of the city. The governor's appointee shall arrange and preside over the meeting and act as mediator at the meeting. A meeting may be continued until the dispute has been resolved or until the mediator determines that continued mediation is no longer worthwhile. If the mediation committee is unable to resolve the dispute to the satisfaction of the governing bodies, the dispute must be resolved by the board of county commissioners. (Source: North Dakota Century Code section 40-47-01.1(2))

6.0704 Extra Territorial Zoning Agreement

The city and the other political subdivision may enter a written agreement regarding the authority to receive applications and issue permits in the area subject to joint jurisdiction. (Source: North Dakota Century Code section 40-47-01.1(1)(c))

ARTICLE 8 - Non-Conforming Uses

6.0801 Non-Conforming Uses

The lawful use of any building, structure or land existing at the time of the enactment of this chapter may be continued, although such use does not conform with the provisions of this chapter, provided the following conditions are met

1. Alterations. A non-conforming building or structure may be altered, improved or reconstructed provided such work is not to an extent exceeding in aggregate cost twenty-five percent (25%) of the assessed value of the building or structure, unless the building or structure is changed to a conforming use.
2. Extension. A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this ordinance shall not be deemed the extension of such non-conforming use.
3. Changes. No non-conforming building, structure or use shall be changed to another non-conforming use.
4. Abandonment. A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such non-conforming use.

5. Unlawful Use Not Authorized. Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this chapter.
6. Certificate of Non-Conforming Use. Upon the effective date of this chapter, the zoning administrator shall issue a "Certificate of Non-Conforming Use" to all owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.
 - a. In accordance with the provisions of this section no use of land, buildings or structures shall be made other than that specified on the "Certificate of Non-Conforming Use," unless said use shall be in conformity with the provisions of the use zone in which the property is located.
 - b. A copy of each "Certificate of Non-Conforming Use" shall be filed with the office of the zoning administrator. No permit or license shall be issued to any property for which a "Certificate of Non-Conforming Use" has been issued until said permit or license has been approved by the zoning commission.
7. District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any non-conforming uses existing therein.

ARTICLE 9 - Use Districts

6.0901 Use Districts

The City is hereby divided into the following Use Districts to be known as:

- R-1 Residential Districts, Single-Family
- R-2 Residential Districts, Two-Family
- R-3 Residential Districts, Multi-Family
- C Commercial Districts
- I Industrial Districts

6.0902 R-1 - Residential Districts - Single Family

In a single-family district, the following buildings and uses are permitted:

1. Dwelling houses occupied by not more than one family.
2. Publicly owned and operated buildings.
3. Churches and parish houses.
4. Hospitals.
5. Nursing and Rest Homes.
6. Homes for the Aged.
7. Playgrounds and Parks.
8. Cemeteries.

6.0903 R-2 - Residential Districts - Two-Family

In a two-family district, the following buildings and uses are permitted:

1. Dwelling houses each occupied by not more than two families. Each family shall not be allowed more than two roomers or boarders per family.
2. All other uses permitted in a one-family district.

6.0904 R-3 - Residential Districts - Multi-Family

In a multi-family district the following buildings and uses are permitted:

1. All uses permitted and as regulated in a two-family district.
2. Multi-family dwellings.
3. Private clubs.
4. Lodges or social buildings.
5. Hotels, motels, tourist camps.

6.0905 Accessory Uses in Residential Districts

The following accessory uses and buildings are permitted in residential districts:

1. Professional office for a physician, clergyman, architect, engineer, attorney or similar professional person residing in such main building.
2. Home Occupation. Customary home occupation for gain carried on in the main building or a building accessory thereto requiring only home equipment and employing no non-resident help and no trading in merchandise is carried on.
3. Agricultural uses, gardens, poultry enclosures, beehives.
4. Private garages.
5. Any other accessory use customarily incident to a use authorized in a residential district.

6.0906 Commercial District

The following buildings and uses are permitted in the commercial district:

1. Retail stores and shops.
2. Service establishments.
3. Business and professional offices.
4. Eating establishments.
5. Funeral homes and mortuaries.
6. Transportation services.
7. Amusements and recreation.
8. Wholesale businesses.
9. Storage buildings and warehouses.
10. Any other building or use similar to the uses herein listed in the type of services or goods sold.
11. Any accessory use customarily incident to a use herein listed.

6.0907 I - Industrial

The compounding, assembly, treatment, manufacture, processing and packing of articles or materials shall be permitted in the industrial district.

The following buildings and uses are permitted in the industrial district:

- a. Uses permitted. All uses permitted in a C - Commercial District.
- b. Uses prohibited. No dwelling or dwelling unit.

ARTICLE 10 - Area Districts

6.1001 Area Regulations - Residential Districts

In any use district no residence building shall hereafter be erected, established or altered on a parcel of land that consists of less than three lots

ARTICLE 11 - Yard Regulations

6.1101 Yard Regulations

In **one-family** districts there shall be:

1. A front yard of not less than 15 feet.
2. A side yard on each side of not less than 5 feet.

ARTICLE 12 - Enforcement

6.1201 Administrative Official

1. Administrative Official. Except as otherwise provided herein the zoning administrator shall administer and enforce the provisions of this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued except where the provisions of this chapter have been met.
2. Building Permit Required. No building or structure shall be erected, added to or structurally altered until a permit therefore has been issued by the zoning administrator. All applications for such permits shall be in accordance with the requirements herein and, unless upon written order of the Board of Adjustment, no such building permit or certificate of occupancy, shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this chapter.
 - a. Matter Accompanying Application. There shall be submitted with all applications for building permits two copies of a layout or plot drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinance.
 - b. Payment of Fee. One copy of such layout or plot plan shall be returned when approved by the zoning administrator together with such permit to the applicant upon the payment of a fee of \$10.00.
3. Certificates of Occupancy
 - a. No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the zoning administrator, stating that the building or proposed use thereof complies with the provisions of this chapter.

- b. No non-conforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the zoning administrator therefore.
- c. All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within 60 days after the erection or alteration shall have been approved.
- d. The zoning administrator shall maintain a record of all certificates and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.
- e. No permit for excavation for, or the erection or alteration of or repairs to any building shall be issued until an application has been made for the certificate of occupancy.
- f. Under such rules and regulations as may be established by the Board of Adjustment and filed with the zoning administrator, a temporary certificate of occupancy for not more than thirty (30) days for a part of a building may be issued by the zoning administrator.

ARTICLE 12 - Board of Adjustment

6.1201 Creation of Board

1. Creation, Appointment and Organization. A Board of Adjustment, to be appointed by the City governing body, is hereby created. Said Board shall consist of five members for three-year terms. The Board shall elect a chairman from its membership, shall appoint a secretary and shall prescribe rules for the conduct of its affairs. (Source: North Dakota Century Code section 40-47-07)
2. Powers and Duties. The Board of Adjustment shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:
 - a. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
 - b. Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the Board of Adjustment shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in the strict application of any provision of this chapter shall be granted by the Board of Adjustment unless it finds:
 - 1) That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
 - 2) That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose.
 - 3) That the granting of this variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the board, in determining its finding, shall take into account the number

of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

3. Procedure. The Board of Adjustment shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the city auditor.
4. Notice and Hearing. No action of the Board shall be taken on any case until after due notice has been given to the parties and public hearing has been held.
5. Appeal of decision. A decision of the board of adjustment may be appealed to the governing body by either the aggrieved applicant or by any officer or department of the city. The appeal must be filed with the city auditor within fifteen days after notice of the decision of the board of adjustment. The governing body shall fix a time, within thirty days, for hearing the appeal, and give due notice of the hearing to the parties.

6.1302 Amendments

The governing board may, from time to time, amend this article by supplementing, changing, modifying or repealing any of the regulations, restrictions or other provisions thereof or of the district map or the districts on said map or of the boundaries of such district. A proposed amendment may be initiated by the Board upon its own motion, or upon receipt of a request therefore from the City zoning commission or upon receipt of a petition therefore from any interested person or persons or their agents.

1. Report by City Zoning Commission - Public Hearing. The governing body shall require a report from the City zoning commission on a proposed amendment before taking final action thereon. The City zoning commission shall thereupon make a tentative report and hold a public hearing thereon with notice the same required for a public hearing by the governing body, before submitting its final report. Such final report shall be submitted within ninety (90) days after the time of referral of the proposed amendments to the City zoning commission unless the governing body is agreeable to an extension of time.
2. Action by Governing Body - Public Hearing. After the receipt of the required final report on any amendment from the City zoning commission or in the event of the failure of the City zoning commission to so report within ninety (90) days following the time of referral of the proposed amendment to the City zoning commission, the governing body shall hold a public hearing. No regulation, restriction, or boundary change may become effective until after a public hearing at which parties in interest and citizens shall have the right to be heard. Notice of the hearing must be published once a week for two successive weeks before the time set for hearing in the official newspaper. The notice must contain the following items:
 - a. The time and place of the hearing.
 - b. A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.
 - c. A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary.
 - d. A statement of times at which it will be available to the public for inspection and copying at the auditor's office.

3. Establishment of Regulation, Restriction, or Boundary -Publication. Upon establishment of any regulation, restriction, or boundary hereunder, a certified copy shall be filed with the auditor and notice of the same shall be published in the official newspaper. The notice must state the nature, scope, and purpose of the regulation, restriction, or boundary and must state the times at which it will be available for viewing and copying at the auditor's office.
4. Final Report. The governing body, the zoning commission, and a board of adjustment shall state the grounds upon which any request for a zoning amendment or variance is approved or disapproved, and written findings upon which the decision is based must be included within the records of the governing body, commission, or board.
5. Vote after Protest. If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of twenty percent (20%) or more:
 - a. Of the area of the lots included in such proposed change; or
 - b. Of the area adjacent, extending one hundred fifty feet [45.72 meters] from the area to be changed, excluding the width of the streets,

The amendment shall not become effective except by the favorable vote of three fourths of all the members of the governing body of the city. Protests in writing must be filed with the city auditor prior to the time set for the hearing. (Source: North Dakota Century Code sections 40-47-04 and 40-47-05)

6.1303 Enforcement

The erection, construction, reconstruction, alteration, repair, conversion or maintenance of any building or structure or the use of any building, structure or land in violation of this article or of any regulation, order, requirement, decision or determination made under authority conferred by this article, shall constitute the maintenance of a public nuisance and any appropriate action or proceeding may be instituted by the City, through any administrative officials, department, board or bureau charged with the enforcement of this article:

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
2. To restrain, correct or abate such violation;
3. To prevent the occupancy of the building, structure or land; or
4. To prevent any illegal act, conduct, business or use in or about such premises.

A violation of any provision of this article or a violation of or refusal or failure to comply with any regulation, order, requirement, decision of determination made under authority conferred by this article shall be punishable as an infraction. Each day the violation continues constitutes a separate violation. (see North Dakota Century Code section 12.1-32-01)

