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ARTICLE 13. FLOOD PLAIN DISTRICTS

16-1301 FINDINGS OF FACT

1. The flood hazard areas of the City of Wahpeton are subject to periodic inundation which can endanger life, result in loss of property, created 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.

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

16-1302 STATEMENT OF PURPOSE

It is the purpose of this Article 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:

1. To protect human life and health;

2. To minimize expenditure of public money for costly flood control projects;

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

4. To minimize prolonged business interruptions;

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

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

7. To ensure that potential buyers are notified that property is in an area of special flood hazard; and

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

16-1303 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purpose, this Article includes methods and provisions for:

1. 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;

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

3. Controlling the alteration of natural flood plains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

4. Controlling filling, grading, dredging, and other development which may increase flood damage; and

5. Preventing or regulation the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

16-1304 DEFINITIONS

Unless specifically defined below, words or phrases used in this Article shall be interpreted so as to give them the meaning they have in common usage and to give this Article its most reasonable application.

1. "Appeal" means a request for review of the Building Official's interpretation of any provision of this Article or a request for a variance.

2. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

3. "Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

4. "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 area of special flood hazard.

5. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters and/or;
(2) The unusual and rapid accumulation or runoff of surface waters from any source.

6. "Flood Insurance Rate Map" (FIRM) means that official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

7. "Flood Insurance Study" means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map,t he water surface elevation of the base flood, and identifies the floodway.

8. "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.

9. "Lowest floor" means the lowest floor of the lowest enclosed area (including 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 flood proofing designing requirements of this ordinance.

10. "Manufactured home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It includes recreational vehicles or travel

trailers placed on a site for more than 180 consecutive days.

11. "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.

12. "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 oft he 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.

13. "Structure" means a walled and roofed building, manufactured home or liquid storage tank that is principally above ground.

14. "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 purpose 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:

(1) 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

(2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

15. "Variance" means a grant of relief from the requirements of this Article which permits construction in a manner that would otherwise be prohibited by this Article.

16-1305GENERAL PROVISIONS

1. LANDS TO WHICH THIS ARTICLE APPLIES

This Article shall apply to all areas of special flood hazards within the jurisdiction of the City of Wahpeton.

2. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Wahpeton" (undated) with an accompanying Flood Insurance Rate map dated June 4, 1987 and all subsequent revisions thereto is hereby adopted by reference and declared to be a part of this

Article. The Flood Insurance Study is on file at Wahpeton City Hall.

3. COMPLIANCE

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

4. GREATER RESTRICTIONS

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

5. INTERPRETATION

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

(1) Considered as minimum requirements;
(2) Liberally construed in favor of the City Council; and,
(3)Deemed neither to limit nor repeal any other powers granted under state statutes.

6. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Article 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 man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or use permitted within such areas will be free from flooding or flood damages.

This Article shall not create liability on the part of the City of Wahpeton, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this Article or any administrative decision lawfully made thereunder.

16-1306ADMINISTRATION

1. ESTABLISHMENT OF DEVELOPMENT PERMIT

A Development Permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 16-305(2). Application for a Development Permit shall be made on forms furnished by the Building Official 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 flood proofed;
(c) Certification by a registered professional engineer or architect that the flooding proofing methods for any non-residential structure meet the flood proofing criteria in Section 16-1307(2)(B)l and,
(d) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. DESIGNATION OF THE BUILDING OFFICIAL

The Building Official is hereby appointed to administer and implement this Article by granting or denying development permit applications in accordance with its provisions.

3. DUTIES AND RESPONSIBILITIES OF THE BUILDING OFFICIAL

Duties of the Building Official shall include, but not be limited to:

A. Permit Review

(1) Review all development permits to determine that the permit requirements of this Article 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 16-1307(3)(a) are met.

B. Use of Other Base Flood Data

When base flood elevation date has not been provided in accordance with Section 16-1305(2), BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Building Official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, as criteria for requiring that new construction, substantial improvements or other development in the flood plain are administered in accordance with Section 16-1307(2), 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:

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

(ii) maintain the floodproofing certifications required in Section 16-1306(1)(c)

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

D. Alteration of Watercourses

(1) Notify adjacent communities and the North Dakota State Engineer 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.

E. Interpretation of Flood Insurance Rate Maps (FIRM) Boundaries

Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (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 16-1306(4).

4. VARIANCE PROCEDURE

A. Appeal Board

(1) The Board of Adjustment shall hear and decide appeals and requests for variances from the requirements of this Article.

(2) The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Building Official in the enforcement or administration of this Article.

(3) Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decision to the City Council, District Court as provide in Section 16-534.

(4) In passing upon such applications, the Board of Adjustment or the City Council where applicable shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Article, and:

(I) the danger that materials may be swept onto other lands to the injury of others;

(ii) the danger to life and property due to flooding or erosion damage;

(iii) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv) the importance of the services provided by the proposed facility to the community;

(v) the necessity to the facility of a waterfront location, where applicable;

(vi) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

(vii) the compatibility of the proposed use with existing and anticipated development;

(viii) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(ix) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(x) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,

(xi) 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.

(5) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre to less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 16-1306 (4)(A)(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(6) Upon consideration of the factors of Section 16-1306(4)(A)(4) and the purposes of this Article, the Board of Adjustment or the City Council where applicable may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

(7) The Building Official 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 this section.

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

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

(4) Variances shall only be issued upon:

(i) a showing of good and sufficient cause;
(ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
(iii) 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 16-1306(4)(A)(4), 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 risk resulting from the reduced lowest floor elevation.

16-1307 PROVISIONS FOR FLOOD HAZARD REDUCTION

1. GENERAL STANDARDS

In all areas of special flood hazard, 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.

(2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirements for resisting wind forces.

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 construction 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 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 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).

2. SPECIFIC STANDARDS

In all areas of special flood hazards where base flood elevation date has been provided as set forth in Section 16-1305(2), BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD

HAZARD or Section 16-1306(3)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 above the base flood elevation.

B. Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(1) be floodproofed so that below the base flood level 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 the effects of buoyancy. Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) a minimum of two openings having a total net area of not less than one square foot of enclosed area subject to flooding shall be provided;

(ii) the bottom of all openings shall be no higher than one foot above grade;

(iii) openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and

(3) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the official as set forth in Section 16-1306(3)(C)(2).

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CHAPTER 16. ZONING ORDINANCES
ARTICLE 1. TITLE, PURPOSE AND AUTHORITY

16-100 TITLE

An Ordinance titled Wahpeton, North Dakota, ZONING ORDINANCE - 1986.

BE IT ORDAINED by the Wahpeton City Council of the City of Wahpeton in the State of North Dakota:

16-110 SHORT TITLE AND MAP

This Chapter shall be known and may be cited and referred to as the Wahpeton Zoning Ordinance, 1986, as amended, to the same effect as if the full title were stated.

The map herein referred to, identified by the title "Zoning District Map, Wahpeton, North Dakota", 1986, as amended, and all explanatory matter thereon are hereby adopted and made part of this Ordinance.

16-120 PURPOSE AND AUTHORITY

The zoning regulations and district herein set forth are made in accordance with a comprehensive plan. They are designed to lessen congestion in the streets; secure safety from fire, flood, panic and other dangers; to promote health and general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population, to facilitate the adequate provisions of transportation, water sewerage, schools, parks and other public requirements.

They are made with reasonable consideration, among other things, to the character of the area of each district and the particular suitability of such area of particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City of Wahpeton.

For the purpose of promoting the health, safety, morals, or the general welfare of the community, the City Council of Wahpeton, North Dakota, is hereby empowered to regulate and restrict the height, number of stories, the size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes.

The authority of this Ordinance is based upon the right of the City Council of Wahpeton as empowered by the provisions of NDCC 40-47.

16-130 ZONING PERMIT REGULATION AND FEES IN EXTRA TERRITORIAL ZONED AREAS

It shall be the responsibility of any person erecting a structure within the area outside of the City limits of the City of Wahpeton but within the areas for which zoning has been established and controlled by the City of Wahpeton pursuant to the North Dakota Law, to obtain a zoning permit from the building official of the City of Wahpeton. Such zoning permit shall certify as to the zoning for the area for which the permit is applied; shall be signed by the building official.

Source: Ord #626

The request for zoning permit shall include a description of the property for which the permit is sought; the signature of the owner or contractor; a sketch or drawing of the contemplated structure; and such other information as requested by the building official, including cost,

construction materials to be used and the contractor's name.

Fees There shall be a fee of Five Dollars ($5.00) for the issuance of each zoning permit as described herein. Said fee shall be payable to the City of Wahpeton, Richland County, North Dakota, and shall be paid at or before the zoning permit is issued herein.

Source: Ord #413

Building Permits It shall be the responsibility of any person erecting a structure within the area outside of the City limits of the City of Wahpeton within the areas for which zoning has been established by the City of Wahpeton pursuant to North Dakota Law, to obtain a building permit from the building official of the City of Wahpeton in the manner as provided by the Ordinances of the City of Wahpeton.

Source: Ord #626

.1 Application of City's Zoning Regulations

The application of the City's zoning regulations is hereby extended to all unincorporated territory located outside the limits of the City of Wahpeton for a distance of one (1) mile from the City limits as permitted by NDCC 40-47-01.1. The application of the City's zoning regulations contained herein and elsewhere shall extend to each quarter (3) section of unincorporated territory the majority of which is located within one (1) mile of its limits in any direction.

Source: Ord #411

ANALYSIS AND INDEX TO SECTIONS

ARTICLE 2. **CONFLICT AND VALIDITY**
Section 16-200 Conflict
16-210 Validity

ARTICLE 2. CONFLICT AND VALIDITY

16-200 CONFLICT

Wherever the regulations made under authority of this Chapter require a greater width or size of yards, courts or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions or the regulations made under authority of this Chapter shall govern. Wherever the provisions or any other statute or local ordinance or regulation require a greater width or size of yards, courts or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of NDCC 40-47, the provisions of such statute or local ordinance or regulation shall govern.

16-210 VALIDITY

Should any Section, clause or provisions of this Chapter be declared invalid, such shall not affect the validity or the remaining portions of this Chapter.

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ARTICLE 3. DEFINITIONS

For the purpose of this Chapter, the following shall apply to the City as a whole.

16-300 WORD DEFINITIONS

Unless otherwise stated, the following words shall have the meaning herein indicated. Words used in the present tense shall include the future. The singular number shall include the plural, and the plural, the singular. The word "shall" is mandatory.

.1 Accessory Building

A detached subordinate building, the use of which is customarily incidental to that of the main building or to the main use of the land and which is located on the same lot with the main building or use. Such a building shall not include dwelling units or living quarters.

.2 Accessory Use

A use subordinate to the main use of land or a building on a lot and customarily incidental thereto.

.3 Agriculture

An area which is used for the growing of the usual farm products, such as vegetables, fruit, trees and grain, and their storage on the area, as well as for the raising, feeding or breeding thereon of the usual farm poultry and farm animals, such as horses, cattle, sheep and swine. The term "farming" includes the operating of such an area for one (1) or more of the above uses, including dairy farms with the necessary accessory use for treating or storing the produce; provided, however, that the operation of such accessory uses shall be secondary to that of the normal farming activities, and provided further, that farming does not include large scale commercial feeding of livestock.

.4 Alley

Minor ways which are used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

.5 Alterations, Structural

Any change in the load-bearing members of a building, such as bearing walls, partitions, columns, beams, or girders. The enlargement of the size or height of a building shall be construed to be a structural alteration.

.6 Apartment

A room or suite of rooms, with toilet and culinary accommodations, used or designed for use as a residence by a family, or any two (2) or more people, located in a building containing more than eight (8) such rooms or suites, or located in a building devoted primarily to nonresidential use.

.7 Auto Laundry

A building or portion thereof, where automobiles are washed commercially, or equipment is rented for the same purpose.

.8 Automobile Sales Room

A building or portion thereof where automobiles and vehicles are sold by a franchised dealer either with or without storage, parts sales, and repair facilities providing all such repair activities are enclosed within a structure.

.9 Basement

A story having part, but not more than one-half (2) of its height, above grade. A basement is considered a story, for the purpose of height regulation if used for dwelling purposes other than by a janitor employed on the premises.

.10 Boarding House

A building or place other than a fraternity or sorority house where lodging for no more than eight (8) persons and boarding for no more than twenty (20) is provided by prearrangement for definite periods of time for compensation, for no more than eight (8) persons, and is not open to transient guests.

.11 Building

Any enclosed space for human use or activities, whether stationary or movable. When any portion of a building is completely separated from any other portion thereof by a division from any other openings or by a view wall, then each such portion shall be deemed to be a separate building.

(a) Principal Building A building, including covered porches, carports and attached garages, in which is conducted the principal use of the lot on which it is situated. In any residence district the main dwelling shall be deemed to be the principal building on the lot on which the same is situated.

.12 Building, Height of

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

.13 Building Line

An imaginary line parallel to the front lot line over which no portion of any building, excluding unenclosed steps, may extend and which is a distance from the front lot line equal to the depth of the front yard required for the district in which such lot is located. On a cul-de-sac the building line shall be measured at the nearest point of tangency between the front property line and the building line and shall also be equal to the front yard requirement for the district.

.14 Carport

A form of private garage providing space for housing or storage of one (1) or more automobiles and enclosed on not more than two (2) sides by walls. The dimensions determining the overall size of the carport shall be measured from the extreme edge of any part of the building.

.15 Centerline

The true centerline of a street which has been fully dedicated to its required width. Where all of the required width of public right-of-way has not been dedicated or such public right-of-way exists in an offset or angular manner, the City Engineer shall determine the alignment of the centerline.

.16 Clinic

An establishment where patients are not lodged overnight, but are admitted for examination and treatment by physicians or dentists practicing medicine together.

.17 Club or Lodge

A nonprofit association of persons organized for the promotion of service to others, who are bona fide members paying annual dues which owns, hires or leases a building, or portion thereof, except a fraternity or sorority, the use of such premises being restricted to members and their guests.

It shall be permissible to serve food and beverages to members and their guests on such premises provided adequate dining room space and kitchen facilities and other services complimentary to the purpose of the club are available and are operated in compliance with the State and local municipal laws.

.18 Dwelling

A Adwelling@ is a building used exclusively for permanent residential occupancy, or a portion thereof, including one family dwelling, two family dwellings, and multiple family dwellings, but not including a mobile home as defined by these ordinances designed or used primarily for residential occupancy, or hotel, motel, apartments, boarding, lodging or rooming house, tents, cottage camps or other structures designed or used primarily for transient residents.

(a) Dwelling, Single-Family. A detached building containing only one dwelling unit designed to be located on a permanent foundation and, if site built, constructed in accordance with the provisions of the applicable city codes governing construction; or, if manufactured off site, constructed in accordance with either the city codes governing construction or the HUD Manufactured Home Construction and Safety Standards (24 CFR 3280) and designed for occupancy or use exclusively by one family. All single family dwellings shall be considered and taxed as real property as provided by law. Each single family dwelling shall meet the following requirements: (a) the main entrance shall face the street; (b) each unit shall have no less than two entrances; (c) the roof pitch shall not be less than (four/twelve) 4/12 ratio; (d) the roof shall have an overhang of not less than twenty-four (24) inches; (e) each unit shall have space for a least a single stall attached garage; (f) modular homes and site built homes meet the requirements of Uniform Building Code; (g) manufactured homes meet HUD Code; (h) each unit shall have at least nine hundred (900) square feet of living space with a minimum width of twenty-four (24) feet, excluding the garage; (i) each unit shall have appearance comparable to conventional site built homes and have roofing and siding similar to the surrounding dwelling units; and (j) All moving devices, such as wheels and hitches, if any, must be removed.

(b) Dwelling, Two-Family. A building designed or used exclusively for occupancy by two families.

(c) Dwelling, Multiple-Family. A building, or portion thereof, containing three or more dwelling units.

(d) Dwelling Unit. A ADwelling Unit@ consists of one or more rooms in a dwelling which are arranged, designed, used or intended for use as living quarters for one family. This includes permanent kitchen and bathroom facilities.

.19 Family or Household

One (1) or more persons related by blood, marriage or adoption, or one (1) family plus two (2) unrelated persons or no more than four (4) unrelated persons occupying a dwelling unit as an individual housekeeping entity.

.20 Feedlot

A commercial venture under corporate partnership, or individual ownership involving the assemblage of livestock for the express purpose of preparation for market int he least time possible, purchasing over seventy-five (75) percent of its feed, and characterized by rapid turnover of livestock; the absence of dwelling unit or structure for housing livestock, and presence of other uses normally associated with a farm.

.21 Floor Area

The total number of square feet of floor space as determined by the outside dimensions of the building, not including space in basements; however, if the basement is used for business or commercial purposes, excluding storage space, it shall be counted as floor area in computing off-street parking requirements.

.22 Garage, Private

An enclosed space for the storage of one (1) or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than two (2) licensed cars is rented to a nonresident of the premises.

.23 Garage, Repair

Any garage other than a private garage, available to the public, operated for gain, and which is used for storage, repair, rental, greasing, washing, servicing, parts sales and adjusting or equipping of automobiles or other motorized equipment.

.24 Service Stations

Any area of land, including structures thereon, that is used or designed to be used primarily for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, dry cleaning or otherwise cleaning or servicing such motor vehicles.

.25 Grade

The average level of the finished surface of the ground adjacent to the exterior walls of the building. When any wall approximately parallels and is not more than five (5) feet from a street line, the grade shall be measured from the top of the curb.

.26 Home Occupation

An occupation or a profession which:

(a) Is customarily cared on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and

(b) Is carried on by a member of the family residing in the dwelling unit for residential purposes, and

(c) Is clearly incidental and secondary to the use of the dwelling unit for residential purposes, and

(d) Which conforms to the following additional conditions:

1. The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto, and shall not occupy more than fifty (50) percent of the floor area of one (1) story.

2. Not more than one (1) person outside the family shall be employed in the home occupation.

3. There shall be no exterior display, nor exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building except as permitted by Article 12.

4. No noise vibration, smoke, dust, odors, heat or glare shall be produced which is detrimental to the residential character of the zoning district in which it is located.

.27 Hotel

A building occupied as the more or less temporary abiding place of individuals who are lodged with or without meals, and in which there are more than twenty (20) sleeping rooms usually occupied independently.

.28 Junk Yard

An area of land with or without buildings used for or occupied by a deposit, collection, or the storage, outside of a completely enclosed building, for used and/or discarded materials such as waste paper, rags or scrap metal, seed, building materials, house furnishings, machinery, vehicles, or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

.29 Kennel

Any lot or premises on which four (4) or more domestic animals or pets, at least four (4) months of age, are harbored.

.30 Lot

A piece, plat or parcel of land, or assemblage of contiguous parcels of land, as established by survey, plat or deed, occupied or to be occupied by a building, or a unit group of buildings, and accessory buildings thereto, together with such open spaces as are required under this Ordinance, and having its frontage on a dedicated public right-of-way.

(a) Lot, Area The area of land enclosed with the boundaries of the lot.

(b) Lot, Corner Lots conforming to the requirements of the following specified conditions shall be considered as corner lots:

1. A lot fronting on two (2) intersecting streets from which form an interior angle of one hundred thirty-five degrees (135E) or less and which lot has a frontage or not less than twenty-five (25) feet on each of such streets.

2. A lot located at the angle in a street where the interior angle formed by the intersection of the street lines is not one hundred thirty-five degrees (135E) or less and which lot has a frontage of not less than twenty-five (25) feet on each leg or such angle.

(c) Lot Line A boundary line of a lot.

(d) Lot Line, Front Shall be that boundary of a lot which is along an existing or dedicated public street, or where no public street exists, is along a public way. On a corner lot, the shorter street frontage shall be considered the front lot line.

(e) Lot Line, Repair Shall be that boundary of a lot which is most distance from and is, or is most nearly parallel to, the front lot line.

(f) Lot Line Side Shall be any boundary of a lot which is not a front lot line or a rear lot line.

(g) Lot, Width of "Lot width" shall be the straight line distance between points on opposite side lot lines at the building line.

.31(a) Manufactured Homes

AManufactured Homes@means factory built dwelling units, with at least nine hundred (900) square feet of living space, to be placed on a permanent foundation or basement and is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to be placed on a permanent site and bears a label certifying that it was built in compliance with the latest standards adopted by the U.S. Dept. of Housing and Urban Development for a manufactured home and the Uniform Building Code for a modular home.

.31(b) Mobile Home

AMobile Home@ means manufactured unit, transportable in one or more sections and has at least nine hundred (900) square feet of living space and is designed as a year-round dwelling unit and built prior to the enactment of the Federal Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280), which became effective June 15, 1976. A recreational travel trailer is not a mobile home.

.31(c) Mobile Home Park

Any premise where one or more mobile homes are parked for living or sleeping purposes, or any premises used or set apart for supplying to the public parking space for one or more mobile homes for living or sleeping purposes, and which include any buildings, structure, vehicles or enclosure used or intended for use as a part of the equipment of such mobile home park.

.32 Motel, Motor Court, Motor Lodge or Tourist Court

Any building or group of buildings containing guest rooms or dwelling units, some or all of which have a separate entrance leading directly from the outside of the building with garage or parking space conveniently located on the lot, and designed, used, or intended wholly or in part for the accommodation of automobile transients.

.33 Nonconforming Use

Any building or land lawfully occupies by a use at the time of passage of this ordinance or amendment thereto which does not conform after the passage of this ordinance or amendment thereto, with the use regulation of the district in which it is situated.

.34 Nursing Home

A home for the aged or inform, in which three (3) or more persons not of the immediate family are received, kept, provided with food and shelter or care, for compensation; but not including hospitals, clinics or similar institutions.

.35 Parking Space

An off-street space accessible and available for the parking of one (1) motor vehicle and having an area of not less than two hundred (200) square feet, together with a driveway

connecting the parking space with a street, road or alley, and permitting ingress and egress of an automobile.

.35(1) Permanent Foundation

APermanent Foundation@ means an extension of the outer walls of a building or structure made of solid materials such as brick, concrete or treated wood and extended below the ground surface through the frost zone, or other depths as required by the city. See attached Exhibit A which is by reference thereto incorporated herein as the required exterior footings and foundation and cross footings and foundation required by double-wide manufactured homes.

.36 Public Right-of-Way

All streets, roadways, sidewalks, alleys, and other areas reserved for present or future use by the public as a matter of right, for the purpose of vehicular or pedestrian travel or utility installation.

.37 Screen or Fence

A man-made enclosure or barrier regardless of material, extending above ground level, including walls, earthen beams or free standing objects.

.38 Sign

Any structure or part thereof or device attached thereto or painted or represented thereon which shall display or include any letter, work, model, banner, flag, pennant, insignia, device or representation used as or which is in the nature of any announcement, direction or advertisement. The word "sign" includes the word "billboard" but does not include the flag, pennant or insignia or authentic political, educations, charitable, philanthropic, civic, professional, religious or like campaign, drive movement or event.

.39 Story

That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or, if there be no floor above it, then the space between the floor and the ceiling next above it.

.40 Street

The traveled portion of the public right-of-way between curb faces, if curb exists, which affords the principal means of access to abutting property.

.41 Structure

Anything constructed or erected which requires location on the ground or attached to something having a location on the ground, but not including fences or walls used as fences less than six (6) feet in height, poles, lines, cables, or other transmission or distribution facilities of public utilities.

.42 Use, Principal

The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

.43 Yard

The space on a lot extending along a lot line between such "lot line" and a principal building or buildings, or non-building use occupying such lot. Yard measurements shall be taken from the building wall to the lot line.

(a) Front Yard A yard extending the full width of the lot and situated between the front lot line and the building line. The depth of front yard shall be measured between the building line and the front lot line. Covered porches and garages, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard.

(b) Rear Yard A yard extending the full width o the lot and situated between the rear line of the principal building and the rear lot line. Accessory buildings or non-building uses may be located within the rear yard only.

(c) Side Yard A yard situated between the building and the side lot line and extending from the front yard lot line to the rear lot line.

(d) Rear Yard Setback for Private Detached Garages Where there is a drive-in door which opens to the alley or to a lot line which abuts street, there shall be twenty (20) feet setback from such lot lines, if the garage doors are parallel with the alley, setback on the alley lot line shall be three (3) feet.

Source: Ord #623

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ARTICLE 4. GENERAL PROVISIONS

16-400 NONCONFORMING USES AND STRUCTURES

The continuance of nonconforming uses or structures shall be subject to the following limitations:

.1 Continuation

Any lawful use of a building or land existing at the original effective date of this ordinance may be continued, although such use does not conform to the provisions of this ordinance.

.2 Extension

A nonconforming use shall be allowed one (1) twenty-five percent (25%) expansion of the building. Said expansion shall not exceed twenty-five percent (25%) of the floor area. The extension of a conforming use to any portion of a nonconforming building which existed prior to the effective date of this ordinance shall not be deemed the extension of a nonconforming use.

.3 Restoration

No building damaged by fixture or other causes to the extend of ore than fifty percent (50%) of replacement value of the total building shall be repaired or rebuilt, except in conformity with the regulations of this ordinance.

.4 Abandonment

Whenever a nonconforming use has been discontinued for a period of one (1) year, such use shall not thereafter be reestablished, and any subsequent use shall be in conformity with the provisions of this ordinance.

.5 Substitution of Nonconforming Uses

No nonconforming use may be changed to any other nonconforming use, unless the board of adjustment shall find that the proposed nonconforming use is not more detrimental to the district than the existing nonconforming use of the property. The board of adjustment may specify such appropriate conditions and safeguards as may be required in connection with such change.

.6 Repairs and Maintenance

Ordinary repairs and maintenance of a structure containing a nonconforming use shall be permitted.

.7 Change in Use

A nonconforming use shall not be changed except to a conforming or to another use of higher or more restricted classification as provided in this ordinance. A change of a nonconforming use in an industrial district to a use which is residential shall not be permitted.

.8 Amortization of Nonconforming Signs

Signs and billboards which exist off the site of principal use on the original effective date of the adoption of this ordinance and which are nonconforming in accordance with the ordinance shall be made to conform within a period of three (3) years form said date or when the current contract or lease expires which ever occurs first.

.9 Amortization of Nonconforming Use of Open Land

All nonconforming junk yards, storage areas and similar nonconforming uses of open land involving a substantial investment in permanent buildings, shall be torn down, altered or otherwise made to conform within three (3) years from the date of the original adoption of this ordinance.

16-410 WATER AND SEWERAGE REQUIREMENTS

All buildings designated by the City Council constructed after the original adoption of this ordinance shall provide municipal sanitary and water supply before a zoning and use registration permit will be issued.

16-420 ACCESSORY BUILDINGS

A zoning use permit shall be issued for the principal building before one (1) shall be issued for an accessory building.

.1 Occupancy

Occupancy of an accessory building shall be allowed for a maximum period of one year only, prior to beginning construction of the principal building.

16-430 CONVERSION TO TWO (2) OR MULTIPLE FAMILY

The board of adjustment may recommend a variance to permit the conversion of any building into a two-family or multiple-family dwelling in any permissible residential district, provided that the lot area per family shall not be reduced thereby to less than the lot area required for such conversion in each of the respective residential districts, and provided further that such conversion is in accordance with the applicable health code.

16-440 APPROVED PLATS

Plats of record before the original enactment date of this ordinance shall not be affected by this ordinance, except as buildings are proposed they shall conform to yard requirements of the appropriate zoning district.

16-450 STREET FRONTAGE REQUIRED

All lots to contain a building shall abut a public street for the required frontage in the district which it is located; one (1) single-family dwelling may utilize a private easement of not less than twenty (20) feet wide and abutting upon a public street, if approved by the zoning board of adjustment.

16-460 VISIBILITY AT INTERSECTIONS/DISTANCE MEASUREMENTS FOR CLEAR SIGHT TRIANGLE

On any corner lot at a street intersection which has some form of traffic controls in all districts, there shall be no obstructions to traffic visibility within the clear sight triangle which is formed by the intersection of the centerline of two (2) intersecting streets and a straight line joining the two (2) said centerlines at points fifty-five (55) feet distant from their point of intersection.

On any corner lot at a street intersection which does not have any form of traffic control in all districts, there shall be no obstructions to traffic visibility within the clear sight triangle which is formed by the intersection of the centerline of two (2) intersecting streets and a straight line joining the two (2) said centerlines at points a given number of feet distant from their point of intersection. The distance from this point of intersection are given on the following table for various speeds in miles per hour of enforced speed limit:

DISTANCE MEASUREMENT FOR CLEAR SIGHT TRIANGLE

Miles Per Hour	Distance Measurements
20	73'
25	99'
30	126'

16-470 CORNER LOTS

The side yard facing the street shall be the same as the front yard requirements for those lots to the rear of said corner lot abutting on the intersecting street.

16-480 REDUCTION OF LOTS AND PARTS OF OTHERS

No lot shall be sold, divided or set off in such a manner that either the portion sold, divided or set off, or the portion remaining, shall be less than the minimum size prescribed by the regulations relating to the district in which it is situated.

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ARTICLE 5. ADMINISTRATION

16-500 ENFORCEMENT

The City Council shall appoint a Zoning Officer to enforce the provisions of this ordinance. It shall be his duty to examine all applications for permits, issue permits only for construction and uses which are in accordance with the requirements of this ordinance, record and file all applications for permits with accompanying plans and documents, and make such reports as the City Council may require. Permits for construction and uses which are a special exception or variance to requirements of this ordinance shall be issued only upon order by the Board of Adjustment. Nothing contained herein shall require any change in plans or construction of the lawful use, the construction of which is started before the original effective date of this ordinance and which is complete within one (1) year of the effective original date of this ordinance.

16-501 ENFORCEMENT BY ZONING OFFICER

This ordinance shall be enforced by the Zoning Officer who shall in no case, except under a written order of the Board of Adjustment or the City Council if the Board of Adjustment's decision has been appealed, issue any permit for the erection or structural alteration of any building, nor grant any zoning and use registration permit for any building or land where the proposed erection, structural alteration, or use thereof would be in violation of any provision of this ordinance.

16-502 REQUEST FOR AMENDMENT

Any request for any amendment or other modification to the zoning ordinance shall be reviewed by the planning commission prior to any official action by the City Council or Board of Adjustment.

16-510 PERMITS

16-511 ZONING AND USE REGISTRATION PERMITS

A zoning and use registration permit shall be obtained from the Zoning Officer for any of the following:

.1 Occupancy

Occupancy and use of a building hereafter constructed, enlarged, relocated, reconstructed or altered.

.2 Change

Any change in the use of an existing building.

.3 Occupancy, Vacant Land

Occupancy and use of vacant land, or change in the use of land except for any use consisting primarily of tilling the soil.

.4 Conformity

No such occupancy, use, or change of use shall take place until a zoning and use registration permit therefor has been issued by the Zoning Officer. No zoning and use registration permit shall be issued unless the proposed occupancy is in full conformity with all the provisions of this ordinance.

.5 Occupancy and Use of Building or Land

A zoning and use registration permit shall be deemed to authorize, and is required, for both initial and continued occupancy and use of the building or land to which it applies, and shall continue to effect so long as such buildings and the use thereof or the use of such land is in full conformity with the provisions of this ordinance and any requirements made pursuant thereto. However, on the serving of written notice by the Zoning Officer of any violation

of any of said provisions or requirements with respect to any building or the use thereof or of land, the zoning and use registration permit for such use shall thereupon without further action be null and void, and a new zoning and use registration permit shall be required for any further use of such building or land.

16-512 APPLICATION FOR PERMITS

Application for zoning permits and use registration permits shall be made to the Zoning Officer in writing upon forms approved by the Board of Adjustment prior to starting construction or establishing a use, and such forms shall be filled in by the owner or authorized agent, and shall be accompanied by a plan in duplicate, drawn to scale, showing the actual lot dimensions, use and intended use, height, size and location of building or buildings, and shall be accompanied by such date as may be required. Such plans and data shall be final and conclusive and any deviation therefrom shall require a new zoning and use registration permit.

16-520 PENALTIES

For each and every violation of the provisions of this ordinance, the owner, contractor, or other person interested as general agent, architect, engineer, land surveyor, building contractor, owner, tenant, or any other persons who commit, take part, or assist in any violation of this ordinance or who maintain any building or premises or uses of any land in violation of this ordinance shall for each and every violation be imprisoned for a period not exceeding thirty (30) days or be fined not exceeding Five Hundred Dollars ($500.00) or both, at the discretion of the judicial officer before whom such a conviction may be had. Whenever such person shall have been officially notified by the Zoning Officer or by service of a summons in a prosecution, or in any other official manner, that he is committing a violation, each day's continuance of such violation after such notification shall constitute a separate offense punishable by like fine or penalty.

16-521 INSTITUTING ACTION TO RESTRAIN, CORRECT, OR ABATE VIOLATIONS

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure, or land is used in violation of this chapter, the proper Zoning Officer, in addition to other remedies, may institute any appropriate action or proceeding;

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.

Source: NDCC 40-47-12

16-530 BOARD OF ADJUSTMENT

16-531 CREATION OF MEMBERSHIP, OFFICERS

.1 Established

A Board of Adjustment is hereby established as provided in Chapter 40-47-07 of the State Code of North Dakota, as amended, the members of which shall be appointed by the City Council.

.2 Consist of, Appointments

The Board of Adjustment shall consist of seven (7) members, none of whom shall hold an elective office or other official position in the City. Each member shall be appointed to a term of three (3) years. The members of the Board shall be removable for cause by the City Council upon written charges and after public hearing. A vacancy shall be filled by the City Council for the unexpired term of any member who resigns, dies, or is removed. The Board shall elect a chairman from its members, and secretary who may, but need not, be a member of the Board upon request of the Board, the City Council shall have the right to appoint an alternate member of the Board of Adjustment, who shall sit as an active member when and if a member of the Board of Adjustment is unable to serve at any hearing.

16-532 EXPENSES OF BOARD

The Board shall have authority to expend such sums as may be appropriated by the City Council. All requests for variance and special exception, except those initiated by the City Council or City Planning Commission, shall be accompanied by a fee of Fifty Dollars ($50.00) which shall be used to defray the expenses of administration preparation for consideration of the request.

16-533 BOARD OF ADJUSTMENT

The Board of Adjustment shall have the following powers:

.1 Administrative Review

The Board of Adjustment shall hear and decide appeals from and shall review any refusal, order, requirement, permit, decision, or determination made by the Zoning Officer or other administrative official when it is alleged by the appellant that there is an error in any order, requirement, decision, determination, permit, or refusal made by the Zoning Officer or other administrative official in the carrying out or enforcement of this chapter; and for interpretation of the zoning map.

.2 Vote Required

The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Zoning Officer or other administrative or to decide in favor of the applicant any matter upon which it is required to pass under the ordinances of the City of Wahpeton, or to effect any variation in the ordinances of the City of Wahpeton.

.3 Special Exceptions

To hear and decide applications for special exceptions as specified in this ordinance and for decisions on any special questions upon which the Board of Adjustment is specifically authorized to pass.

.4 Variance

To hear and decide applications for variance from the terms of this ordinance because of unnecessary hardship. Before any variance is granted, all of the following conditions must be shown to be present:

a. Conditions and circumstances are peculiar to the land, structure or building and do not apply to neighboring lands, structures or buildings in the same district.
b. Strict application of the provisions of the ordinance would deprive the applicant of the reasonable use of the lands, structure or building equivalent to the use made of neighboring lands, structures or buildings in the same district and permitted under the terms of this ordinance.
c. The peculiar conditions and circumstances are not the result of actions of the applicant taken subsequent to the addition of this ordinance.

.5 Financial Disadvantages to Property Owner

Financial disadvantages to the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.

.6 Use Not Generally Permitted

The Board does not possess the power to permit a use not generally or by special exception permitted in the district involved.

.7 Conditions and Safeguards

In granting a variance, the Board may attach thereto any conditions and safeguards it deems necessary or desirable in furthering the purposes of this ordinance. Violation of any of these conditions or safeguards shall be deemed a violation of this ordinance. Application for variance shall pay an application fee of Fifty Dollars ($50.00) prior to the hearing concerning such application for variance and payment of such fee is a condition precedent to the holding of any hearing to consider the application for variance.

Source: Ord #648

.8 Appeal to Board of Adjustment - Taking - Filing - Time - Transmitting Record

An appeal to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the City. The appeal shall be taken within the time prescribed by rule of the Board by filing with the Zoning Officer or other administrative official from whom the appeal is taken and with the Board of Adjustment a notice of appeal, specifying the grounds thereof. The Zoning Officer or other administrative official from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

.9 Hearing of Appeal by Board of Adjustment - Notice - Authority of Board – Items Taken into Consideration by Board

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal and shall give due notice thereof to the parties. It shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The Board may reverse or affirm, in whole or in part, or may modify, the order, requirement, decision, determination, permit or refusal appealed from, and shall make such order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end, the Board shall have all the powers of the officer from whom the appeal is taken. Provided, however, that any application, petition or appeal be anyone not affiliated with the City shall be set over to its next meeting which could be no sooner than one (1) week from the hearing at which the application, petition or appeal was or could have been presented.

.10 Effect of Appeal to Board of Adjustment - Restraining Order

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

Source: Ord #815

16-534 DETERMINATION OF BOARD OF ADJUSTMENT REVIEWABLE

Every decision of the Board of Adjustment is subject to review the following manner:

1. A decision of the Board of Adjustment may be appealed to the City Council by either the aggrieved applicant or by any officer, department, board, or bureau of the City. The appeal must be filed with the City Auditor within fifteen (15) days after notice of the decision of the Board of Adjustment. The City Council shall fix a time, within thirty (30) days, for the hearing of

the appeal and shall give due notice of the hearing to the parties. The City Council shall decide the appeal within a reasonable time. Any party may appear in person or by agent or by attorney at the hearing of the City Council on the appeal. The City Council may reverse or affirm the decision of the Board of Adjustment, in whole or in part, or may modify the order, decision, or determination appealed.

2. A decision of the City Council on an appeal from a decision of the Board of Adjustment is subject to review by certiorari. The application for a writ of certiorari shall be made to the district court of the county in which the City is situated within fifteen (15) days after notice of the decision of the City Council of the City. The writ is returnable within twenty (20) days after the rendition of the decision. The court may take evidence as may be required to determine the questions presented. The Supreme Court, upon application filed within fifteen (15) days after the determination of the District Court, shall review the action of the District Court by certiorari.

16-535 PLANNING COMMISSION TO ACT AS BOARD OF ADJUSTMENT FOR ETZ AREA

Notwithstanding any thing to the contrary, the Planning Commission shall have all powers, duties, responsibilities and authority that would otherwise be possessed by the Board of Adjustment concerning the Extra Territorial Zone. The Planning Commission shall hereafter exercise said powers, duties, responsibilities and authority as and for said Extra Territorial Zone in place of and in substitution for the Board of Adjustment. The Planning Commission's exercise of power, duty, responsibility and authority concerning the Extra Territorial Zone shall be exercised in the same manner and with the same standards and procedures as is set forth in this Article Five (5) or as set forth in other ordinance of the City except that the concurring vote of a majority of the Planning Commission shall be necessary to reverse any order, requirements, decision or determination of the Zoning Officer or other administrative official concerning a matter in the Extra Territorial Zone or to decide in favor of the applicant any matter upon which it is required to pass under this section or other ordinance of the City concerning the Extra Territorial Zone or to effect any variation in the ordinances of the City concerning the Extra Territorial Zone.

Source: Ord #617

16-540 AMENDMENTS

16-541 REQUIREMENTS

Whenever the public necessity, safety, general welfare or good zoning practice justifies such action, and after consideration and recommendation by the City Planning Commission as provided herein, the City Council may change zone district boundaries, use groups or the regulations established by this ordinance after public hearing for which public notice is given as provided in section 16-546. A copy of each proposed regulation, restriction, or boundary shall be filed with the City Auditor. No regulation, restriction, or boundary shall become effective until after a public hearing thereon at which parties in interest and citizens shall have an opportunity to be heard. Notice of said hearing shall be published once a week for two (2) successive weeks prior to the time set for said hearing in the official newspaper of the City. Such notice shall contain the following items:

1. The time and place of the hearing.

2. A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.

3. A description of the nature, scope, and purpose of the proposed regulation, restriction, or boundary.

4. A statement of the times at which it will be available to the public for inspection and copying at the office of the City Auditor.

Upon establishment of any regulation, restriction, or boundary hereunder the City Council shall file a certified copy thereof with the City Auditor and shall cause notice of the same to be published in the official newspaper of the City. Said notice shall describe the nature, scope, and purpose of the regulation, restriction, or boundary, shall state the times at which it will be available to the public for inspection and copying at the office of the City Auditor.

Source: NDCC 40-47-04

16-542 INITIATION OF CHANGE

A proposed change of zone district boundaries or regulations may be initiated by the City Council, City Planning Commission, or by application of one (1) or more of the owners of property within the area requested to be changed.

16-543 CONSIDERATION

Every three (3) months or at the discretion of the Zoning Officer, the City Planning Commission will set a public meeting to consider requested changes or amendments to the zoning ordinance or zoning map pursuant to the provisions of this section. The rezoning process as specified herein for newly annexed areas or amendments to the test proposed by the City itself may be undertaken at any time.

16-544 SITE PLAN AND SCHEDULE

All requests for changes in the zoning map shall be accompanied by the following:

.1 Intentions

A complete written statement giving reason and intentions for the planned future use of the area proposed for amendment.

.2 Site Plan

A site plan, drawn to scale, showing existing and proposed structures, uses, open spaces, facilities for parking and loading, and arrangements for pedestrian and vehicular circulation of the area proposed for amendment and all abutting properties with their use and zoning district defined.

.3 Proposed Time Schedule

A proposed time schedule for beginning and completion of development.

16-545 FEES AND EXPENSES

All requests for changes int he zoning ordinance or map, except those initiated by the City Council or City Planning Commission, shall be accompanied by a deposit of Fifty Dollars ($50.00) which shall be used to defray the expenses of administrative preparation for consideration of the request.

16-546 AMENDMENTS TO OR REPEALS OF ZONING REGULATIONS - PROTEST – REQUIRED VOTE FOR PASSAGE

Regulations, restrictions, and boundaries may be amended, supplemented, changed, modified, or repealed from time to time. If a protest against a change, supplement, modification, amendment, or repeal is signed by the owners of twenty percent (20%) or more:

1. Of the area of the lots included in such proposed change; or

2. Of the area adjacent, extending one hundred fifty (150) feet from the area to be changed, excluding the width of streets, the amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the City Council. The provisions of section 16-541 relating to public hearings, official notice, and publication of regulations, restrictions, and boundaries shall apply equally to all changes or amendments

provided in this section; provided, that protests in writing must be filed with the City Auditor prior to the time set for the hearing.

Source: NDCC 40-47-05

16-547 CITY PLANNING COMMISSION - APPOINTMENT - DUTIES - PRELIMINARY AND FINAL REPORT

The City Council shall appoint a commission, to be know as the City Planning Commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. In addition to the members appointed by the City, the City Planning Commission shall include two (2) persons residing outside the corporate limits of the City. Such persons shall be appointed by the Board or Boards of County Commissioners of the county or counties within which such zoning authority is to be exercised and shall reside within the territorial limits of the zoning regulation authority exercised by the City, if such persons are available and will serve on the City Planning Commission. Of the member of the Commission appointed by a Board or Boards of County Commissioners pursuant to this section, the first member appointed shall hole office for five (5) years and the second member appointed shall hold office for three (3) years. Thereafter, the members shall be appointed for terms of five (5) years. Such Commission shall make a preliminary report and hold public hearings thereon before submitting its final report. The City Council shall not hold its public hearings or take action until it has received the final report of the City Planning Commission. The City Planning Commission shall be appointed as the Zoning Commission pursuant to NDCC 40-47-06.

Source: NDCC 40-47-06

ANALYSIS AND INDEX TO SECTIONS

ARTICLE 6.ESTABLISHMENT OF DISTRICTS AND BOUNDARIES

Section 16-600 Establishment of Districts
16-610 Boundaries
16-620 Interpretation of District Boundaries

ARTICLE 6. ESTABLISHMENT OF DISTRICTS AND BOUNDARIES

16-600 ESTABLISHMENT OF DISTRICTS

For the purpose of this ordinance, the City is hereby divided into eleven (11) types of districts:

Residence	FP-A	Agricultural
Residence	R-1a	Single-Family/Agri.
Residence	R-1b	Single-Family
Residence	R-2	Two-Family
Residence	R-3	Multiple-Family
Res/Business	RB-4	Neighborhood
Business	B-1	Central
Business	B-2	Heavy
Business	B-3	Highway
Industrial	I-1	Light
Industrial	I-2	Heavy
Industrial	I-3	Special

Source: Ord #352

16-610 BOUNDARIES

Said districts are bounded and defined as shown on a map entitle "Zoning District Map, Wahpeton, North Dakota, 1986, as amended" which accompanies and which, with all explanatory matter thereon, is hereby made a part of this ordinance.

16-620 INTERPRETATION OF DISTRICT BOUNDARIES

.1 Unless otherwise provided, zone district boundaries shall be on the municipal corporate lines, section lines, lot lines, natural boundary lines, or on the centerlines of highways, streets, alleys, railroad right-of-ways, or such lines extended. In cases where such lines are not used, the zone district line shall be as determined by using the scale of the official zoning district map.

.2 Disputes concerning the exact location of any zoning district boundary line shall be decided by the Board of Adjustment according to the intent of this ordinance.

.3 Where a boundary line follows a stream, such boundary shall be deemed to be the centerline of said stream. For any lake, pond, reservoir, river, or other body of water, the regulations of the most restrictive adjacent district in which they are located shall apply.

.4 Where a boundary line is shown as approximately parallel to a street, highway, stream, or railroad line, such boundary shall be construed as being parallel thereto and at such distance from the centerline thereof as is indicated on the zoning map.

.5 Where a district boundary line divides a lot which was held in single ownership, and a matter of record, at the time the boundary line was established, the use regulations applicable to the least restricted district shall extend over the portion of the lot in the more restricted district, a distance of not more than thirty (30) feet beyond the district boundary line.

.6 Whenever any street, alley, or other public way is vacated and in the manner authorized by law, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation, in all areas included in the vacation, shall be then subject to all regulations of the extended districts.

ANALYSIS AND INDEX TO SECTIONS

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ARTICLE 7. RESIDENTIAL DISTRICTS

16-700 RESIDENCE R-1a SINGLE-FAMILY

16-701 PERMITTED USES

.1 Single-Family dwelling.

.2 Churches and similar places of worship.

.3 Public, parochial schools or general instruction.

.4 Public libraries, museums, parks, playgrounds, and similar community facilities.

.5 Governmental administration and services such as office, firehouse, police, first aid, civil defense and like uses; however, this section shall not be interpreted to permit such uses as warehousing indoor and outdoor storage of vehicles, road building equipment and supplies.

.6 Accessory uses incidental to any of the foregoing permitted uses.

16-702 SPECIAL EXCEPTIONS

As authorized by the Board of Adjustment:

.1 Agriculture as a living, provided there is no display of products other than in growth visible from the street.

.2 Public utility substations or pumping stations, upon a showing that such structure is essential to serve the immediate neighborhood, that it cannot be located in any other type of district, and that it is housed in buildings that harmonize with the character of the neighborhood and has adequate screening and landscaping and meets all other standards of the ordinance.

.3 Customary incidental home occupation which is carried on as an accessory use by one or more members of the family residing on the premises, and (1) which shall be carried on wholly within a completely enclosed building, and (2) in the activity, not more than one-half (½) of the floor area of any one (1) floor or basement shall be used, and (3) in the conduct of said activity not more than one (1) person outside the family shall be employed, and (4) such customary home occupation must be in keeping with the character of the neighborhood in which located and must not materially depreciate property values in the immediate area. Such use must also satisfy the regulations prescribed in Article 11, with regarding to off-street parking, height limitations, signs and fences.

.4 Swimming pool not operated for profit, meeting recognized construction and safety standards and all other requirements of this ordinance.

.5 Private schools of general instruction, whether or not operated for profit.

.6 Nonmunicipal libraries, museums, art galleries and community centers, whether or not operated for profit; and noncommercial clubs, lodges, or fraternal organizations.

.7 Hospitals, provided that the local health officer shall first certify that in the proposed location such use will not have a detrimental effect on the health of the surrounding neighborhood and further provided that a nurse's home as an accessory use is permitted only on the same lot as the hospital.

.8 Removable roadside stands for the sale of farm products produced on the premises, provided, however, that any such stand shall be situated not less than forty (40) feet from the street right-of-way line or lot line and shall have a minimum of four (4) off-street parking spaces. Such stands shall be removed during seasons when products are not being offered for sale.

.9 Definitions

A. Child Day Care Center: Care for eleven (11) or more children receiving care, maintenance and supervision for twenty-four (24) hours or less per day.

Staff to Child Ratio:

Age	Ratio
Under 2	1:3
Over 2	1:6

B. Residential Group Day Care Home: Care for seven (7) but not more than eleven (11) children receiving care, maintenance and supervision by other than their parent(s) or legal guardian(s) for twenty-four (24) hours per day or less (generally within a dwelling unit). The staff to child ratio shall be 1:6 for children two and older, and 1:3 for children under the age of two.

Source: Ordinance No. 754

C. Residential Family Child Day Care Home: Care for six (6) or less children receiving care, maintenance and supervision by other than their parent(s) or legal guardian(s) for twenty-four (24) hours per day or less (generally within a dwelling unit). The staff to child ratio shall be 1:6 for children two and older, and 1:3 for children under the age of two.

Source: Ordinance No. 754

The providers own children shall not be counted in determining the number of children being cared in a facility.

.10 Requirements

A. A child day care center shall comply with all of the following requirements.

1. A Special Use Permit shall be required for operation.

2. A Certificate of Occupancy shall be obtained from the building inspection.

3. All child day care centers shall be inspected by the building inspector, health department, fire department, and Richland County Social Services prior to issuance of a Special Use Permit and Certificate of Occupancy.

4. The premises shall meet the requirements of section 9-5-3 of the NFPA Life Safety Code, 1976 Edition.

5. All habitable rooms used for day care purposes shall have a window for natural lighting equal to not less than eight (8) percent of the gross floor area. No day care center shall be located in a room whose floor is more than six (6) feet below finished grade.

6. The health and sanitation requirements shall include the following:

a. Food preparation shall be carried on in a kitchen in a sanitary manner with proper equipment and cleaning facilities appropriate to the number of children in care.
b. A specific area shall be designated for diapering.
c. The sleeping area should provide an individual bed, cot, or mat for each child, with clean linen and bedding.
d. Do child with a contagious disease or above normal temperature shall be allowed to remain at the center.
e. Sanitary toilet and lavatory facilities must be provided.
f. Cleaning of the premises and equipment shall be performed as needed to protect the health of the children and staff.
g. Exterior building openings, when necessary during seasonal insect periods, are screened, or have approved means of insect exclusion.
h. The storage, collection, and disposal of garbage is conducted so as to control nuisance conditions, rodent and fly problems.
i. All rooms shall be adequately ventilated, and all rooms, corridors, halls, stairs and porches shall be adequately lighted.

7. Safety requirements shall include the following:

a. Stairs, walkways, ramps and porches shall be maintained free from accumulation of water, ice, or snow and shall have a nonslip surfacing. Open stairways shall have a gate or latchable door.
b. Play areas and play equipment shall be maintained in a reasonably safe condition and supervised by properly trained personnel, under standards to be developed by the state licensing authority.
c. First-aid kits shall be located at a convenient place as may be appropriate. In child day care centers one staff member shall have received certified first-aid training.
d. Premises are free from accumulation of refuse, dilapidated structures, vermin, other health and safety hazards or "attractive nuisances".
e. Furniture, equipment, and toys shall be appropriate to the ages of the children, and sturdily constructed without sharp edges, and present minimal hazards to children.
f. Telephone shall be installed on premises.

8. A group day care home shall comply with all of the following requirements:

a. A Certificate of Occupancy shall be obtained from the building inspector.
b. Group day care centers shall be inspected by the building inspector, the fire department, and Richland County Social Services. Inspectors by the health department may be requested by the building inspector.
c. The premises shall meet the requirements of section 9-5-4 of the NFPA Life Safety Code, 1976 Edition.
d. Natural lighting requirements shall be a window area of not less than eight (8) percent of total floor.
e. Health and sanitation standards shall be the same as those indicated above.
f. Safety requirements shall be the same as those indicated above.

9. A family child day care home shall comply with all of the following requirements:

a. A Certificate of Occupancy shall be issued upon request of the applicant, the fire department, or Richland County Social Services.
b. Participation in the bi-annual fire inspection by the fire department shall be mandatory.
c. The premises shall meet the requirements of section 9-5-5 of the NFPA Life Safety Code, 1976 Edition.
d. Natural lighting requirements shall be the same as for group day care homes.
e. Health and sanitation standards shall be the same as for group day care homes.
f. Safety requirements shall be the same as for group day care homes.

10. Child day care centers may not be located closer than six hundred (600) feet apart, exclusive of public right-of-way.

.11 <u>Inspection and Permits</u>:

A. All group day care homes or facilities and day care centers where care is provided to seven (7) or more children other than the provider's own children, shall obtain and occupancy permit from the city building inspector's office and shall be required to meet the NFPA Life Safety Code, 1976 Edition, and be inspected by the city fire inspector. This permit will be available on a voluntary basis for family day care homes where care is provided to fewer than seven (7) children. The Occupancy Permit fee of ten dollars ($10.00) is a one-time fee per location.

B. Any family day care home may be required to comply with the recommendations of the city fire inspector, city building inspector or city health department should the safety or sanitation of the home appear to be questionable by the social service board of North Dakota licensing agency.

16-703 AREA REGULATIONS

.1 Lot Area and Width

A lot area of not less than twenty thousand (20,000) square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than one hundred and twenty (120) feet.

.2 Front Yard

There shall be a front yard on each street on which a lot abuts, which yard shall be not less than fifty (50) feet in depth.

.3 Side Yard

There shall be two (2) side yards on each lot, neither of which shall be less than twenty (20) feet in depth.

.4 Rear Yard

There shall be a rear yard on each lot, which yard shall not be less than fifty (50) feet.

16-704 SUPPLEMENTARY REGULATIONS

See regulations prescribed in Article 11.

16-710 RESIDENCE R-1B SINGLE-FAMILY

16-711 PERMITTED USES

.1 All uses allowed by right in Residence R-1a district except that there shall be no raising or pasturing of livestock, poultry or other commercial domestic animals or birds.

.2 Boarding house, provided that not more than four (4) such boarders shall be permitted without special exception by the Board of Adjustment

.3 Public utility substations or pumping stations.

.4 Private schools or general instruction and day nurseries.

.5 Accessory uses customarily incidental to any of the foregoing permitted uses.

16-712 SPECIAL EXCEPTIONS

As authorized by the Board of Adjustment.

.1 All uses allowed by special exception in the resident R-1A district, except roadside stands and agriculture as a living.

.2 Vocational or trade schools, whether or not operated for profit.

.3 Retirement or nursing home.

.4 Two-family dwelling.

16-713 AREA REGULATIONS

.1 Lot Area and Width

A lot area of not less than twelve thousand (12,000) square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than eighty (80) feet.

.2 Front Yard

There shall be a front yard on each street on which a lot abuts, which yard shall be not less than thirty-five (35) feet in depth.

.3 Side Yard

There shall be two (2) side yards on each lot, neither of which shall be less than eight (8) feet in depth.

.4 Rear Yard

There shall be a rear yard on each lot, which yard shall not be less than thirty (30) feet.

16-714 SUPPLEMENTARY REGULATIONS

See regulations prescribed in Article 11.

16-715 RESIDENCE R-1c SINGLE FAMILY

16-716 PERMITTED USES

.1 Single Family dwelling, maximum main floor finished living space of 1,100 S.F.

.2 Parks or playgrounds

16-717 SPECIAL EXCEPTIONS

.1 Churches or similar places of worship.

.2 Child day care center home as required in 16-702.

.3 Two-family dwelling.

.4 Single-family dwelling, maximum main floor finished living space of 1,300 square feet, ranch-style single family dwelling only.

Source: Ord #792

16-718 AREA REGULATIONS

.1 Lot Area and Width
A lot area of not less than 5,000 S.F. per family shall be provided for every building erected. Each lot shall have a building line frontage of not less than 50 feet.

.2 Front Yard
There shall be a front yard on each street on which a lot abuts, which yard shall be not less than 25 feet in depth.

.3 Side Yard
There shall be two side yards for each lot, neither of which shall be less than six feet in depth, as measured from the foundation wall.

.4 Rear Yard
There shall be a rear yard on each lot, such rear yard shall be not less than 20 feet in depth.

16-719 SUPPLEMENTARY REGULATIONS

See regulations prescribed in Article 11, Section 16-1100.

Source: Ord #772

16-720 RESIDENCE R-2 TWO-FAMILY

16-721 PERMITTED USES

.1 All uses allowed by right in the residence R-1b district.
.2 Two-family dwellings.

16-722 SPECIAL EXCEPTIONS

As authorized by the Board of Adjustment.

.1 All uses allowed by special exception in the residence R-1b district.
.2 Boarding house.
.3 Multiple-family dwelling.
.4 a) A lot area less than 8,400 square feet not to be less than 5,000 square feet for a single family residency;
b) A lot area less than 10,000 square feet not to be less than 6,000 square feet for a duplex.
.5 Building frontage of less than 70 feet, to not less than 40 feet.

16-723 AREA REGULATIONS

.1 Lot Area and Width

.11 Single-family structures. A lot area of not less than eight thousand four hundred (8,400) square feet per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than seventy (70) feet.

.12 Two-family and multiple-family dwellings. A lot area of not less than ten thousand (10,000) square feet per two-family dwelling unites and a maximum of twelve (12) dwelling units per acre with a minimum frontage of one hundred (100) feet of building line frontage for multiple-family dwelling units.

.2 Front Yard
There shall be a front yard on each street on which a lot abuts, which yard shall be not less than twenty-five (25) feet in depth, which shall apply to all plats approved by the City Council after March 15, 1947.

Source: Ord #379, Ord. # 723

.3 Side Yard
There shall be two (2) side yards on each lot, neither of which shall be less than seven (7) feet in depth.
The side yard for all plats approved by the City Council before May 15, 1947, shall be minimum of five (5) feet.

Source: Ord #501

.4 Rear Yard
There shall be a rear yard on each lot, which yard shall not be less than twenty-five (25) feet in depth.

16-724 SUPPLEMENTARY REGULATIONS

See regulations prescribed in Article 11.

16-730 RESIDENCE R-3 MULTIPLE-FAMILY

16-731 PERMITTED USES

.1 All uses allowed by right in the residence R-2 district.

.2 Multiple-family dwellings.

16-732 SPECIAL EXCEPTIONS

As authorized by the Board of Adjustment.

.1 All uses allowed by special exception in residence R-2 district.

.2 Conversion into two-family and multiple-family dwellings in accordance with section 440.

.3 Mobile home park and single mobile home.

16-733 AREA REGULATIONS

.1 Lot Area and Width

A lot area of not less than six thousand (6,000) square feet per family shall be provided for every single-family dwelling hereafter erected or used in whole or in part as a dwelling. Each lot shall have a building line frontage of not less than fifty (50) feet. For multi-unit dwellings, that shall be a maximum of less than twenty-four (24) dwelling units per acre and ten (10) feet of building line frontage must be added for each dwelling unit up to one hundred fifty (150) feet maximum.

.2 Additions

For two-family dwellings, two thousand four hundred (2,400) square feet of area and twenty (20) feet of building line frontage must be added for each additional dwelling unit.

.3 Front Yard

There shall be a front yard on each street on which a lot abuts, which yard shall be not less than twenty-five (25) feet in depth which shall apply to all plats approved by the City Council after March 15, 1947. Section 723.21 shall apply to plats approved before March 15, 1947.

.4 Side Yard

There shall be two (2) side yards on each lot, neither of which shall be less than six (6) feet in depth with a minimum aggregate of sixteen (16) feet.

.5 Rear Yard

There shall be a rear yard on each lot, which yard shall not be less than twenty (20) feet in depth.

16-734 AREA REGULATIONS FOR MOBILE HOME PARKS

.1 Lot Area and Width

There shall be a lot area of not less than three thousand (3,000) square feet per mobile home. Each lot shall have a building line frontage of not less than thirty (30) feet.

.2 Front Yard

There shall be a front yard on each street on which a lot abuts, which yard shall be not less than twenty (20) feet in depth.

.3 Side Yard

There shall be two (2) side yards on each lot, neither of which shall be less than five (5) feet in depth with a minimum aggregate of fifteen (15) feet. Side yards adjacent to any other residential district shall not be less than twenty (20) feet.

.4 Rear Yard

There shall be a rear yard on each lot, which yard shall not be less than fifteen (15) feet in depth. No building shall be within thirty (30) feet of any rear lot line which abuts any other residential district.

16-735 SUPPLEMENTARY REGULATIONS

See regulations prescribed in Article 11.

16-736 ESTABLISHING TOWNHOUSE ZONING

.1 Permitted Uses

(a) One detached single-family dwelling unit per lot, in accordance with the R-3 district.

(b) Row Houses or Townhouses. Attached single-family dwellings in groups of not more than six (6) units or less than three (3) units.

.2 Density

The maximum allowable density per acre shall be stipulated in each zoning district. Density for Townhouses shall be no more than sixteen (16) units per net acre. (This may be increased by the Planning Commission upon request).

.3 Lot Area

(a) Lot and yard requirement regulations for Townhouse use. Each attached single-family dwelling hereafter erected shall conform to the following minimums.

	Interior	Interior End	Street Corner
Lot area in square feet	1,900	2,800	4,900
Lot Width	18'	26'	41'
Depth of Front Yard	25'	25'	25'
Width of Side Yard	8'	25'	
Depth of Rear Yard	25'	25'	25'

.4 Height Regulations

The maximum height of any principal building shall be thirty-five (35) feet.

.5 Safety Provision

Townhouses shall have wall separations between each dwelling unit of at least a two-hour fire-rated wall which shall extend from the footing to and through the roof at least thirty (30) inches except as may be allowed by Chapter 5 of the City Building Code pertaining to area separation walls.

.6 Roof and Setback Lines

No more than two (2) consecutive townhouse units or row houses shall have the same roof line and no more than two (2) consecutive units shall have the same setback from the street.

.7 Floor Area

Minimum floor area per unit of eight hundred fifty (850) square feet per unit. Minimum floor area for single story units of seven hundred twenty-five (725) square feet per unit.

.8 Public Utility

Each unit shall have separate sewer and water service lines.

.9 Lots

Each unit shall be located on a separate building lot that is separately recordable.

.10 Access

All units shall have adequate access to a public street by means of an interior drive.

.11 Access to Rear Yard

The required rear yard to each townhouse or row dwelling shall have an unobstructed access with a public walkway at least four (4) feet wide extending to an alley or street.

.12 Off-Street Parking

Off-street parking spaces shall be provided for each dwelling unit in compliance with Section 1100.7 hereof.

.13 Homeowners Association

Whenever possible, common open space shall be contiguous and shall be linked to any open space surrounding the development. Common open space shall be protected by covenants running with the land, which shall be drafted to the satisfaction of the City Attorney. The covenants shall require that the Homeowner's Association be held responsible for the maintenance of the common open space, the accessory buildings and the exterior of the townhouse units. A copy of the covenant shall be kept on file in the office of the Secretary of the Planning Commission.

.14 Accessory Uses

(a) Home occupations in accordance with Section 300.26.

(b) Maintenance, management or community recreation buildings incidental to the development.

(c) Off-street parking as regulated by Section 100.7.

(d) Renting of rooms for not more than two (2) roomers per dwelling unit.

(e) Signs as permitted under Section 1131.1.

.15 Special Uses

Multiple-dwellings, subject to the appropriate provisions of the R-3 zoning district, provided that the density does not exceed sixteen (16) units per acre.

Source: Ord #475

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ARTICLE 8. BUSINESS DISTRICTS

16-800 BUSINESS RB-4 NEIGHBORHOOD

16-801 PERMITTED USES

.1 Any use allowed in the residence R-3 district provided that such use conforms to the area and use requirements of that district.

.2 Any local retail business or service establishment which supplies commodities or performs the following services primarily for residents of the surrounding neighborhood: grocery store, meat market, delicatessen, drug store, barber and beauty shops.

.3 Business or professional office; medical or dental clinic.

.4 Any accessory use or a use of the same general character as the above.

.5 Parking lot as a principal use.

16-802 AREA REGULATIONS

.1 Lot Area and Width

The minimum lot area shall be five thousand (5,000) square feet for each commercial area. The minimum lot width shall be fifty (50) feet.

.2 Front Yard

The building line to establish a front yard for all buildings and structures shall conform with that required by the most restrictive adjacent use.

.3 Side Yard

There shall be a side yard adjacent to any residential district of not less than twenty (20) feet.

.4 Rear Yard

No building shall be within thirty (30) feet of the rear lot line.

16-803 SUPPLEMENTARY REGULATIONS

See regulations prescribed in Article 11.

16-810 BUSINESS B-1 CENTRAL

16-811 PERMITTED USES

.1 Retail or service store or shop.

.2 Personal service shop or agency such as tailor, dressmaking, beauty, barber or shoe repair shop.

.3 Medical or dental clinic or funeral home.

.4 Business, professional and governmental office.

.5 Hotels, apartment, 2nd floor or above.

.6 Eating and drinking establishments, except those offering in-car services.

.7 Theaters, except those offering in-car services.

.8 Public transportation passenger facilities.

.9 Telephone exchanges.

.10 Accessory uses incidental to any of the foregoing uses.

.11 Parking lot as a principal use.

.12 Assembling and packaging, freight handling, light manufacturing, storage and warehousing and similar operations with the approval and subject to the conditions of the City Council.

Source: Ord #624

16-812 AREA REGULATIONS

.1 All buildings and incidental uses on lots adjacent to a residential district shall be located to provide a twenty (20) foot side yard on the side abutting the residential district. When adjacent to other than residential district, no side yard is required; however, where side yards are provided for such a building, each such side yard shall be not less than six (6) feet in width.

The minimum lot area shall be five thousand (5,000) square feet for each commercial area. The minimum lot width shall be fifty (50) feet.

.2 Front Yard

No front yard shall be required.

.3 Rear Yard

No rear yard shall be required.

16-813 SUPPLEMENTARY REGULATIONS

See regulations prescribed in Article XI.

16-820 BUSINESS B-2 HEAVY

16-821 PERMITTED USES

.1 Any use allowed in business B-1 district.

.2 Automobile sales.

.3 Apartments - 2nd floor only.

.4 Wholesale business and related warehousing and storage, provided that all inventories located on the premises are stored within a completely enclosed structure.

.5 Auto laundries, provided that their operative machinery is within an enclosed structure and adequate drainage is provided.

.6 Grocery supermarket.

.7 Furniture sales.

.8 Other similar uses requiring open storage or off-street parking and loading areas.

Source: Ordinance No. 723

16-822 SPECIAL EXCEPTIONS

As authorized by the Board of Adjustment.

.1 Two-family dwellings.

.2 Multiple-family dwellings.

.3 Apartments - 1st floor.

.4 Any accessory uses incidental to the foregoing special exceptions.

16-823 AREA REGULATIONS

.1 Lot Area and Width

A lot area of not less than fifteen thousand (15,000) square feet shall be provided for every building hereafter erected or used. Each lot shall have a building line frontage of not less than one hundred (100) feet.

.2 All buildings and incidental uses on lots adjacent to a residential district shall be located to provide a forty (40) foot side yard on the side abutting the residential district.

.3 Front Yard

There shall be a front yard on each street which a lot abuts, which yard shall not be less than twenty-five (25) feet in depth.

.4 Rear Yard

There shall be a rear yard on each lot, which yard shall be not less than twenty (20) feet in depth.

16-824 SUPPLEMENTARY REGULATIONS

See regulations prescribed in Article 11.

16-830 BUSINESS B-3 HIGHWAY

16-831 PERMITTED USES

.1 Any use allowed in business B-2 district.
.2 Service stations.
.3 Motels.
.4 Restaurants.
.5 Other similar uses which are highway oriented and dependant upon transient trade.
.6 Parking lot as a principal use.

16-832 SPECIAL EXCEPTIONS

As authorized by the Board of Adjustment.

.1 Outdoor amusements, such as drive-in theaters, amusement parks, bowling alleys, skating rinks, and commercial recreation areas.
.2 Furniture sales.
.3 Automobile sales.
.4 Boat sales.
.5 Camping trailer and mobile home sales.
.6 Auto laundries, provided that their operative machinery is within an enclosed structure and adequate drainage is provided.
.7 Accessory uses incidental to the foregoing special exceptions.

16-833 AREA REGULATIONS

.1 Lot Area and Width

There shall be a lot area of not less than forty thousand (40,000) square feet per lot. Each lot shall have a building line frontage of not less than two hundred (200) feet.

.2 Front Yard

There shall be a front yard on each street which a lot abuts, which yard shall be not less than fifty (50) feet in depth.

.3 Side Yard

There shall be two (2) side yards on each lot, neither of which shall be less than twenty-five (25) feet in depth. Side yards adjacent to any other residential district shall be not less than thirty-five (35) feet.

.4 Rear Yard

There shall be a rear yard on each lot, which yard shall not be less than thirty (30) feet in depth. No building shall be within forty (40) feet of any rear lot line which abuts any other residential district.

16-834 SUPPLEMENTARY REGULATIONS

See regulations prescribed in Article 11.

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ARTICLE 9. INDUSTRIAL DISTRICTS

16-900 GENERAL USE PROVISIONS

16-901 NONINDUSTRIAL USES

In industrial districts, no building may hereafter be used in whole or in part for any of the following purposes:

.1 Residential uses or any dwelling use including hotels and motels.

.2 Retail stores, service shop, theater or other place of commercial recreation or amusement, restaurant or tavern.

.3 School, church, hospital, sanitarium, correctional institution or other institutional use.

.4 Cemetery.

16-902 PROHIBITED INDUSTRIAL USES

.1 Acid manufacture, or storage except on limited scale as an accessory to a permitted industry and under conditions specified by the zoning Board of Adjustment.

.2 Slaughter house and stock yard.

.3 Manufacture of fertilizers.

.4 Garbage, waster materials, offal, dead animal, or refuse incineration or storage.

.5 Manufacture or storage of gun powder, fireworks, or other explosives.

16-903 REQUIRED YARDS

.1 Front Yards

No building shall be constructed within twenty (20) feet of the front lot line in the I-1 district and forty (40) feet in the I-2 district.

.2 Side Yards

On lots adjacent to a residential district, all buildings and incidental areas shall be located so as to provided a minimum side yard of fifty (50) feet on the side adjacent to the residential district. All other side yards shall be a minimum of twenty (20) feet.

.3 Rear Yards

No building shall be constructed within twenty (20) feet of the rear lot line.

16-904 OFF-STREET PARKING AND LOADING REQUIREMENTS

Off-street parking and loading facilities shall be provided in accordance with Article XI, Supplementary Regulations, Sections 1100 and 1110.

16-905 BUILDING HEIGHT AND SIGN REGULATIONS

See regulations prescribed in Article XI, Supplementary Regulations, Sections 1120 and 1130, respectively.

16-910 INDUSTRIAL I-1 DISTRICT

16-911 PERMITTED USES

.1 Assembling and packaging, freight handling, light manufacturing, storage and warehousing and similar operations.

.2 Filling Station (service station).

16-912 USES ALLOWED BY SPECIAL EXCEPTION BY THE BOARD OF ADJUSTMENT

.1 Gasoline, oil or alcohol storage above ground in excess of five hundred (500) gallons and other similar industrial uses not listed above.

16-920 INDUSTRIAL I-2 DISTRICT

16-921 PERMITTED USES

.1 Any use permitted in industrial i-1 district.

.2 Manufacturing, fabricating and processing, provided that the proposed use will not constitute a fire hazard or emit objectionable smoke, noise, vibration, odor or dust.

16-930 INDUSTRIAL I-3 DISTRICT

16-931 PERMITTED USES

.1 Any use permitted in Industrial I-1 district.

.2 Slaughterhouse and meat processing.

.3 Temporary storage of animal and slaughtering waster materials, within the limits set by the board of adjustment, not withstanding provisions of section 16-902.

Source: Ord. #352

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ARTICLE 10.1 EXTRATERRITORIAL ZONING DISTRICTS, ETZ-1

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ARTICLE 10. AGRICULTURAL DISTRICTS

16-1010 AGRICULTURAL DISTRICTS

16-1011 GENERAL USE PROVISIONS

All uses except farm residences generally associated and identified with Agriculture including, but not limited to, the following: cultivation of the soil and production of crops and the raising of livestock except swine.

16-1012 PERMITTED USES

.1 Agricultural purposes such as crop production, raising of livestock except swine which purposes do not require a farm residence.

.2 Public parks, playgrounds, private recreation, shooting range, campgrounds.

.3 Dog pounds

.4 Land Fills with the approval of the City Council

.5 Sewage Lagoons

16-1013 SPECIAL EXCEPTIONS

As authorized by the board of adjustment.

.1 Open storage of materials.

.2 Raising of swine

.3 Billboards

.4 Feed lots

.5 Fertilizer manufacture and storage

.6 Single Family Residence

Source: Ord #629

16-1014 AREA REGULATIONS

.1 There are no minimum area requirements except as required by this chapter or other chapters of these ordinances.

Source: Ord #562

"ARTICLE 10.1 EXTRATERRITORIAL ZONING DISTRICTS, ETZ-1"

16-10.1-1 EXTRATERRITORIAL ZONING DISTRICTS

16-10.1-2 PERMITTED USES

.1 All uses allowed by right in Residence R-1a District
.2 Home occupation as allowed by right and under the conditions imposed by Section 16-702.3.
.3 Daycare Centers
.4 Agriculture as a living, limited to cultivation of soil and production of crops.

16-10.1-3SPECIAL EXCEPTIONS

As authorized by the Planning Commission.

.1 Public Utilities, substations, or pumping stations, upon showing that such structure is essential to serve the immediate neighborhood, that it cannot be located in any other type of district and that it is housed in building that harmonize with the character of the neighborhood and has adequate screening and landscaping and meets all of the other standards of the Ordinance.

.2 Customary incidental home occupation which is carried on as an accessory use by one or more members of the family residing on the premises, and (1) which shall be carried on wholly within a completely enclosed building, and (2) in the activity, not more than the floor area of any one floor or basement shall be used then permitted by the Planning Commission, and (3) in the conduct of said activity not more than the number of persons permitted by the Planning Commission in the special use permit from outside the family shall be employed, and (4) such customary home occupation must be in keeping with the character of the neighborhood in which located and must not material depreciate the property values in the immediate area. Such use must also satisfy the regulations described in Article XI with regard to off-street parking, height limitations, signs and fences, in the immediate area, and (5) No noise, vibration, smoke, dust, odors, heat or glare shall be produced which is detrimental to the residential character of the zoning district in which it is located.

.3 Repair shops with inside storage only.

.4 Mobile homes as residences.

.5 Raising of livestock, including kennels, but excluding any breed or species of swine of any age.

.6 Two-Family and Multi-Family Housing as defined in Article VII.

.7 All of the special exceptions in this classification shall be subject to all of the terms and conditions as determined and established by the Planning Commission, which is to tailor such conditions as closely as possible to the existing Ordinances for the type of district permitting the use allowed hereunder by special exception and such other conditions, included but not limited to setting a termination date for the special use, restricting the working hours of a home occupation, setting the number of livestock permitted on the premises, and all other terms and conditions as the Planning Commission

deems fit. All such terms and conditions are to be made a part of the Special Use Permit.

16-10.1-4 AREA REGULATIONS

.1 Lot Area. A lot area shall not be less than 1 acre per family shall be provided for every building hereafter erected or used in whole or in part as a dwelling.

.2 Front Yard. There shall be a front yard on each street on which a lot abuts, which yard shall be not less than 50 feet in depth.

.3 Side Yard. There shall be two side yards on each lot, neither which shall be less than 10 feet in depth.

.4 Rear Yard. There shall be a rear yard on each lot, which yard shall not be less than 50 feet.

.5 The area regulations for special exceptions shall be not less than those for permitted uses and as further conditioned by the Planning Commission.

16-10.1-5 PARKING

.1 Parking requirements shall be as provided for in the supplemental regulations set forth in Article XI.

Source: Ordinance 747

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ARTICLE 11. SUPPLEMENTARY REGULATIONS

16-1100 OFF-STREET PARKING

In conjunction with any principal building hereafter erected or any use of land hereafter established, there shall be provided on the same lot therewith sufficient parking spaces to meet the minimum requirements specified herein with the exceptions of those uses occurring in the B-1 central business district zone.

.1 Auditorium, assembly halls, dance halls, theaters, gymnasiums, and skating rinks: one space for each four seats or bench seating capacity.

.2 Automatic car wash: ten spaces for each washing bay. Five spaces for do-it-yourself car wash:

.3 Boarding, rooming or lodging house: one space for each sleeping room

.4 Bowling alleys: four spaces per each lane.

.5 Church: one space for each five seats int eh main seating area.

.6 Community center, library, museum or art gallery: ten spaces plus one additional space for each three hundred (300) square feet of floor area in excess of two thousand (2,000) square feet.

.7 Dwellings

a. One and two-family dwellings: one space for each dwelling unit.

b. Multiple dwellings and apartments: two spaces for each dwelling unit.

.8 Fraternity or sorority: one space for each bed or one space for each student and advisor maintaining overnight accommodations.

.9 Home occupation: one space per dwelling unit plus three spaces for each two hundred (200) feet of floor area devoted to said home occupation.

.10 Hospital, sanitarium, home for the aged, nursing home or similar institution: one space for each three beds, plus one for each two employees.

.11 Hotel: one space for each three sleeping rooms or suites, plus one space for each two hundred (200) square feet in commercial floor area contained therein.

.12 Industrial and/or manufacturing: one space for each two employees on the maximum working shift, plus space to accommodate all trucks and other vehicles use in connection therewith.

.13 Motel, tourist home or cabin court: one space for each sleeping room or unit.

.14 Offices, professional agencies, banks, medical or dental clinics: three spaces plus one additional parking space for each four hundred (400) square feet of floor area over one thousand (1,000) square feet.

.15 Private club or lodge: one space for every two hundred (200) square feet of building area.

.16 Restaurant, night club, cafe or similar recreation or amusement establishment: one space for each one hundred (100) square feet of floor area.

.17 Retail store establishment: one space for each two hundred (200) square feet of floor area.

.18 Personal service establishment: one space for each four hundred (400) square feet of floor area.

16-1101 APPLICATION OF PARKING REQUIREMENTS

.1 The parking space requirement for a use not specifically mentioned herein shall be the same as required for use of a similar nature.

.2 Whenever a building erected or established after the effective date of the original ordinance is enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of ten percent or more in the number of existing spaces, such spaces shall be provided on the basis of expansion or change.

.3 Whenever a building existing prior to the effective date of the original ordinance is enlarged to the extent of fifty percent or more in floor area, said building or use shall then and thereafter comply with the parking requirements set forth herein.

.4 All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by change or enlargement or use, or where such spaces are provided collectively or used jointly, by two or more buildings or establishment of the required spaces may be located not to exceed four hundred (400) feet therefrom.

.5 Not more than fifty percent of the parking spaces required for:

a. Theaters, bowling alleys, dance halls, night clubs or cafes, and up to one hundred percent of the parking spaces required for a church or school auditorium may be provided and used jointly by:

b. Banks, offices, retail stores, repair shops, service establishments, and other similar uses not normally open, used or operated during the same hours as those listed in a. above.

.6 Front yard Parking

No off-street parking space shall be permitted in the required minimum front yard of any residential district.

.7 Off-street parking spaces provided on other than same property as the use is located shall be permitted only in such district permitting parking as a use. Such separate parking spaces shall be maintained as long as the principal building or uses are maintained.

16-1102 ACCESS DRIVES

.1 In business districts, no parking space or access thereto, except entrance or exit drives as limited in this section, shall be within five (5) feet of a street or lot line. Entrance or exit drives connecting the parking area and the street shall be permitted within the five (5) foot strip required above, provided:

.2 Such drives shall not exceed fifteen (15) feet in total aggregate width for each fifty (50) feet of street line abutting such lot, but in no case exceeding forty feet in total aggregate width for each street line upon which a lot abuts.

.3 Such drives shall have at least sixty (60) feet of unobstructed vision in both directions along the street unto which the drive enters measured from the centerline of the drive at the point where it enters the street, and the centerline of such drive shall be at least sixty (60) feet from the centerline of any street intersecting the street onto which the drive enters.

.4 Such drives shall have on each side a triangular area formed by the intersection of the driveway line, the street line and a straight line joining said lines at points thirty (30) feet distant from their point of intersection. Within such triangular area, no parking or loading or unloading shall be permitted, nor shall there be any obstruction to traffic visibility.

.5 In industrial districts, no parking space or access thereto, except entrance or exit drives as limited in this section, shall be within five (5) feet of any lot line. Entrance or exit drives connecting the parking and the street shall be permitted within the five (5) foot strip required above, provided these drives meet the requirements as specified in Section 1102., .2, .3, and .4.

16-1110 OFF-STREET LOADING

Off-street loading and unloading space with proper access from a street or alley, and with at least fourteen (14) feet of vertical clearance shall be provided, either within or outside the building to adequately serve the use on the lot. All off-street loading and unloading spaces shall have an all-weather surface to provide safe and convenient access and use during all seasons.

16-1120 HEIGHT LIMITATIONS

In residence districts, no building shall exceed thirty-five (35) feet in height, provided that such height limits may be exceeded by one (1) foot for each foot by which the width of each side

yard is increased beyond minimum side yard requirements, up to a maximum of fifty (50) feet. In commercial and industrial districts, no building shall exceed eighty (80) feet in height, provided that such height limits may be exceeded when authorized by the Board of Adjustment. Structures supporting utility facilities are exempted from the provisions of this section.

Residential buildings over two (2) stories in height shall have a sideyard setback of one foot plus the height of the building from the finish grade to the peak of the roof. No other building shall be constructed in the sideyard setbacks.

Source: Ord. #709

16-1130 SIGNS

All signs shall conform to the following requirements within three (3) years of the adoption of this Ordinance.

16-1131 RESIDENCE SIGNS

.1 Signs are not permitted in any residential district, except as used with "Home Occupation", public or semi-public uses, or existing business or commercial buildings being solely so used, in which case they shall conform to this section. This section shall not apply to any well maintained signs in current state of good repair in district zoned Residential-3 which are either painted onto a building or solidly affixed thereto, however, any such sign shall be limited in size so that it does not extend in any direction beyond the boundaries of the building side on which it is painted or affixed.

.2 Except as otherwise provided, home occupation or any other signs in any residence district or in connection with any residential building in any other district shall not exceed one (1) square foot in area.

.3 Any announcement sign of a club, public or semi-public building, or business or commercial building being used at the time of the adoption of this ordinance solely for business or commercial purposes shall be non-illuminated, not more than twelve (12) square feet in area, shall refer only to the premises which it occupies and shall be submitted for approval by the City Building Official as to color, shape, size, location and height, to ensure conformity with the surrounding area.

.4 All signs that exceed one (1) square foot in area shall be placed off of the City right-of-way and before placement thereof plans therefor shall be submitted to the City Building Official for his approval as to size, shape, color and proposed location and height to ensure conformity with the surrounding area. Provided, that any sign shall be not more than twelve (12) square feet in area. A majority of the Wahpeton City Council may grant permission to place signs in excess of one (1) square foot in area in the City right-of-way for the public benefit, (i.e. crime watch signs etc.).

.5 Any aggrieved party may appeal any decision made by the City Building Official pursuant to Section 16-1131 to the Board of Adjustment in the manner and pursuant to the procedures as set forth in Article 5 of Chapter 15 of the Revised Ordinances of the city of Wahpeton.

Source: Ord. #641, Ord. #664, Ord. #728

16-1132 BUSINESS SIGNS

.1 In Business Districts

Signs any part of which project out from the building must be at least eight (8) feet above grade and may extend a maximum of eight (8) feet provided that they do not extend further than a point two (2) feet in back of the curb face.

.2 Moving, flashing, rotating, illuminated signs or colored lights that may be confused with traffic lights and therefore be potentially hazardous, are not permitted.

.3 Free standing commercial or industrial signs placed on a vacant lot which do not otherwise conform to these regulations may be permitted when authorized as a special exception by the zoning Board of Adjustment.

16-1133 REAL ESTATE SIGNS

In all districts real estate signs which are not more than six (6) square feet in area and are located a distance of at least one-half the depth of the required front yard behind the front lot line may advertise the sale, rental or lease of only the premise on which such signs are maintained. Not more than two (2) such signs shall be permitted per hundred feet of lot frontage. Special signs and entrance treatments to major subdivision areas may be permitted in excess of the other requirements of this paragraph, provided they are in keeping with the character of the area and shall require approval by the planning commission.

16-1134 INDUSTRIAL SIGNS

In industrial districts industrial signs, billboards or advertising structures shall be permitted subject to the following conditions:

.1 No sign may extend over the public right-of-way more than six (6) feet or closer than five (5) feet to the curb face unless the bottom point of such sign is at least fourteen (14) feet above the top of the curb. In no case shall any projecting sign extend beyond the face of the curb.

.2 If the sign is illuminated, it shall not be of the flashing, beacon-type, and if such illuminated sign faces a residential zone district or a residential use in any zone district, it shall be located at least one hundred (100) feet therefrom measured perpendicular to the face of the sign.

16-1140 FENCES

16-1141 REGULATIONS

Fences or walls not exceeding thirty (30) inches in height may be erected on any part of a lot in any "R" residential zone district except as further regulated on corner lots, between the front lot line and the front building line for structures, and on any other part of the lost may be erected to a height not exceeding six (6) feet. The height of such walls or fences shall be determined by measurement from the ground level at the lowest grade level within three (3) feet on either side of such fences or walls. Any fence or wall more than six (6) feet in height shall be considered a structure. If an "R" residential lot faces into a "B" business or an "I" industrial zone district, the height of the fence or wall in front of the building line for structure may be four (4) feet high.

16-1142 CORNER LOTS

On corner lots, that part of a backyard fence or wall which extends to the side property line may be five (5) feet high.

16-1150 SERVICE STATIONS

In any district where permitted, a service station shall be subject to the following regulations:

.1 The area for use by motor vehicles, except access drives thereto, as well as any structure, shall not encroach on any required yard area.

.2 No fuel delivery pump shall be located within twenty (20) feet from any side lot line nor within thirty-five (35) feet of any right-of-way line and no fuel pump shall be located within fifty (50) feet of the side or rear lot line which lies next to a residence.

.3 All major repair work shall be done within a completely enclosed building.

16-1160 MOTELS AND MOTOR LODGES

16-1161 DEVELOPMENT STANDARDS

.1 Minimum Lot Area

The minimum lot area shall be one (1) acre and the access and egress shall be located not closer than thirty (30) feet to the side lot lines. The set-back of any structure shall be fifty (50) feet from the front lot line on the street on which the property fronts.

.2 Yard Requirements

A minimum of twenty-five (25) feet shall be provided for both side yards and a thirty (30) foot rear year shall be provided.

.3 Lot Area Per Unit

A minimum of one thousand (1,000) square feet shall be required for each bedroom unit on the ground floor and five hundred (500) square feet for each unit above the first floor level.

.4 Parking, Height and Sign Regulations

See sections 1100, 1120, and 1130 of this article.

16-1170 DESIGNED SHOPPING CENTER GENERAL DESCRIPTION AND PURPOSE

This type of development is designed to provide for the appropriate development of a modern, well-designed, integrated retail shopping center. The district is established as a district which the principal use of land is for commercial and service uses to serve surrounding trade area and in which traffic and parking congestion can be reduced to a minimum in order to preserve residential values and promote the general welfare of the surrounding area. Among other things, the shopping center shall comprise (1) a group or groups or integrated buildings within which retail trade and related service activities shall wholly be conducted, (2) convenient, safe and adequate vehicular and pedestrian accessways, and (3) safe and adequate off-street parking and loading facilities.

Consistent with the general purposes of this ordinance, the specific intent of this article is (1) to encourage the construction of, and continued use of, land for neighborhood commercial and service purposes, (2) to prohibit residential and industrial use of the land, and any other use which would substantially interfere with the development and continuation of commercial structures and activities int he district, (3) to discourage any use which, because of its character, would interfere with the use of the land in the district as a shopping and service center for surrounding residential districts, (4) to assure the safety and convenience of traffic movement, both within the shopping center included in the plan in relation to access streets, and (5) to assure a harmonious and beneficial relationship between he shopping center and the contiguous land and adjacent neighborhoods.

16-1171 PROCEDURAL REQUIREMENTS

.1 The city council, following review and recommendation by the city planning commission, may authorize as a n amendment to the zoning map, the designation of an area as a shopping center district for the location of an integrated business center, subject to the regulations of this article and any other pertinent provisions of the zoning ordinance. The total area to be developed for commercial purposes and to be included int he proposed amendment shall be not less than five (5) acres in size, and shall adjoin at least one major road.

.2 Application Requirements

The application for permit shall be accompanied by the following information:

.21 A plan for the integrated development of the total area to be included in the shopping center which shall be drawn to scale and shall include, among other things:

.211 The location boundaries, dimensions, and ownership of the land to be included in the shopping center district.

.212 The location, use and ground area of each proposed building and existing structures.

.213 The location, dimensions, arrangement, and designation of all open spaces, yard, accessways, entrances, exits, off-street parking facilities, loading and unloading facilities, pedestrian ways, and buffer strips.

.214 The design of buffer areas and screening devices to be maintained, including the arrangement of all areas devoted to planting, lawns, tees, or similar purposes.

.22 A description of the provisions made for sewage and waste disposal, water supply and storm water drainage, including a suitable contour map of the area.

.23 Information sufficient to demonstrate that satisfactory arrangements will be made to facilitate traffic movement to the highways adjoining the shopping center and to assure proper circulation within the center. These arrangements may include provisions for necessary signalization, channelization, turn lanes, right-turn run-off lanes, added highway width, adequate warning signs, and adequate storage area and distribution facilities within the center to prevent back-up of vehicles on public streets.

.24 An economic study or marketing analysis sufficient to indicate the general economic feasibility of the proposed shopping center.

.25 Sufficient data, in all instances, required by the city council and the planning commission to judge the effectiveness of the design and the character of the entire business center, its compliance with the requirements of this article, and to consider properly such things as its relationship to surrounding areas, anticipated traffic, public health, safety, and welfare.

Although portions of the project may be planned for completion in successive stages, a complete plot plan for the entire project shall be submitted to and approved by the city council prior to the issuance of zoning permits and the beginning of any construction.

16-1172 USE REGULATIONS

A building or combination of buildings may be erected or used, and the lot area may be used or occupied, for any of the following purposes and no other, provided that: (1) in no case shall dwelling, apartment, or other residential use be permitted, except for living quarters for watchmen or caretakers, and (b) in no case shall any processing activity be permitted unless such processing is located not less than twenty-five (25) feet from the front of the building and is effectively screened from the front of the building and is effectively screened from the front portion of the building by a wall or partition.

.1 Store for retail purposes only, including retail outlet or showroom for uses permitted in this district, provided that no goods shall be displayed on the exterior of the premises.

.2 Restaurant or tea room.

.3 Professional, business, administrative, finance, insurance and governmental offices.

.4 Bank.

.5 Personal service shops, dealing directly with customers: beauty parlor, barber shop, clothes cleaning or pressing agency (not to include cleaning and dyeing plant); shoe repair shop, dressmaking, millinery, automatic self-service laundry, or similar shop.

.6 Indoor theater, radio, and television studios.

.7 Assembly hall or community building; indoor recreational establishment; library, child day center; municipal use.

.8 Bakery, pastry, candy, confectionery, ice cream, or custom shop, provided that all products are sold at retail on the premises.

.9 General servicing or repair shop, such as: watch or clock repair, radio or television repair, or home appliance repair.

.10 Manufacturing display room, or retail outlet.

.11 Frozen food locker, for storage only.

.12 passenger station, electric substation, telephone and telegraph office.

.13 Accessory use customarily incidental to any of the above uses.

.14 Motor vehicle service station and any use of the same general character as any of the above permitted uses, when authorized as a special exception by the board of adjustment, provided that such use shall be permitted subject to such reasonable restrictions as the board may determine.

.15 Signs when erected and maintained in accordance with provisions of section XI supplementary regulations.

16-1173 DESIGN AND AREA REQUIREMENTS

.1 The proposed development shall be constructed in accordance with and overall plan, shall be designed as a single architectural scheme with appropriate landscaping, and shall provide initially for the construction of either a minimum of eight thousand (8,000) square feet of ground floor area; or a minimum of six (6) of the above permitted uses.

.2 The total site size shall be not less than five (5) acres.

.3 All buildings shall be arranged in a group or in groups, and the distance at the closest point between any two buildings, groups of attached buildings, shall be not less than fifteen (15) feet.

.4 No building shall exceed thirty-five (35) feet in height.

.5 No building, or permanent structure other than a permitted freestanding sign, shall be erected within seventy-five (75) feet of a major road, or within fifty (50) feet of any other street or property line.

.6 No more than twenty (20) percent of the lot area shall be occupied by buildings.

.7 Not less than three (3) square feet of automobile parking space, exclusive of driveways and maneuvering areas and with suitable access shall be provided for each square foot of floor area devoted t selling and patron use.

.8 Parking, loading, or service areas used by motor vehicles shall be located entirely within the lot lines of the shopping center, shall be physically separated from public streets by a buffer strip or other effective and suitable barrier against unchanneled motor vehicle access or egress, and shall have not more than two (2) accessways to any on public street, unless unusual circumstances demonstrate the need for additional access points. All such areas shall be arranged to facilitate proper and safe internal circulation and shall be paved with dust-free all-weather surface.

.9 All accessways to a public street or highway shall be located at least two hundred (200) feet from the intersection of any street lines, and shall be designed in a manner conducive to safe ingress and egress. Where practicable, exits shall be located on a major rather than a minor street.

.10 Areas provided for loading and unloading of delivery trucks and other vehicles and for the servicing of shops by refuse collection, fuel, and other service vehicles shall be adequate in size, and shall be so arranged that they may be used without blockage, or interference with the use of accessways or automobile parking facilities.

.11 Along each side or rear property line which adjoins existing residences or a residence district, a buffer planting strip shall be provided which shall be not less than thirty (30) feet in width, and on which shall be placed shrubbery, trees, or other suitable plantings sufficient to constitute an effective visual screen. Along each street line bounding the district, a twenty (20) foot buffer strip shall be provided, suitably landscaped except for necessary sidewalks and accessways. Nothing herein provided shall prohibit the erection of a suitable fence or wall on the required buffer area.

.12 All parking, loading, access and service areas shall be adequately illuminated at night. Such lighting, including sign lighting, shall be arranged so as to protect the highway and adjoining property from direct glare or hazardous interference of any kind. All utility lines servicing the area shall be placed underground.

.13 The proposed shopping center shall be served by public water and sanitary sewer facilities if available within a reasonable distance to the site.

.14 The city council may prescribe more restrictive conditions, or any further reasonable conditions deemed appropriate with respect to the suitability of the shopping center in the neighborhood. Adequate guarantee shall be given prior to approval of the plan, to assure that the minimum conditions enumerated in this section are, or will be, fully complied with.

.15 Pedestrian safety islands shall be required at the end of alternate parking bays if such bays are more than two hundred (200) feet in length. Such islands shall be landscaped and designed in such a manner as to provide a safe area for pedestrians to wait prior to crossing vehicular traffic lanes. Each safety island shall be at least three hundred (300) square feet in area.

16-1174 TIME LIMIT ON CONSTRUCTION PERMIT

Permits issued pursuant to this article shall automatically expire one (1) year from the date of issuance thereof unless construction other than excavation has commenced within such one (1) year period.

16-1180 DESIGNED RESIDENTIAL SUBDIVISION

In the case of a designed residential subdivision or group housing of two or more buildings to be constructed on a plot of ground, not subdivided into the customary streets and lots, and which will not be so subdivided or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this ordinance to the individual building units in such group housing, the application of the term of this ordinance may be varied by the board of adjustment in a manner which will be in harmony with the character of the neighborhood; however, in no case shall the board of adjustment authorize a use prohibited in the district in which the housing is to be located, or a smaller area per dwelling unit than the minimum required in such district, or a greater height that the requirements of this ordinance permit in such a district.

16-1190 CHILD CARE

16-1191 DEFINITIONS

.1 Child Day Care Center: As defined by Chapter 75-03-10 of the North Dakota Administrative Rules now in effect and as hereafter amended.

.2 Preschool Educational Facilities: As defined by Chapter 75-03-11 of the North Dakota Administrative Rules now in effect and as hereafter amended

.3 Residential Family Child Day Care Home: As defined by Chapter 75-03-08 of the North Dakota Administrative Rules now in effect and as hereafter amended.

.4 Residential Group Child Care Home: As defined by Chapter 75-03-09 of the North Dakota Administrative Rules now in effect and as hereafter amended.

.5 Registered Child Care Provider: Means an occupied residence in which early childhood services are provided for no more than five (5) children at any one time and may also be referred to as self certified.

.6 School Age Child Care Center: As defined by Chapter 75-03-11.1 of the North Dakota Administrative Rules now in effect and as hereafter amended.

16-1192 ADOPTION OF REQUIREMENTS

1. A Child Day Care Center, Preschool Educational Facilities and/or School Age Child Care Center shall comply with all of the following requirements:

a. A Special Use Permit shall be required for operation.

b. A Certificate of Occupancy shall be obtained from the Building Official, who shall inspect each such building. This Certificate of Occupancy is on a one-time fee per location per operator basis for a fee as established by Resolution adopted by the City Council.

2. A Residential Family Child Day Care Home, Residential Group Child Care Home or Registered Child Care Provider shall comply with all of the following additional requirements:

a A Certificate of Occupancy shall be obtained from the Building Official, who shall inspect each such building. This Certificate of Occupancy is on a one-time fee per location per operator basis for a fee as established by Resolution by the City Council.

b Any of the types of Child Care providers in this section which provide services for eight (8) or more children shall obtain a Special Use Permit.

3. Any Certificate of Occupancy and/or Special Use Permit granted under these Ordinances shall be to the property and licensed operator only and are non-transferable to any other site or person.

4. The Building Official may, in his discretion, call for further inspection by the City Fire Inspector, the County Health Department or County Social Service Office if the safety or sanitation of the home appears to be questionable prior to the issuance of the Certificate of Occupancy.

16-1193 CLASSIFICATIONS TO WHICH APPLIED

The provisions of this Section shall apply to all zoning classifications provided for in this Chapter. Child Day Care Centers, Preschool Educational Facilities and School Age Child Care Centers are permitted uses in any District; Residential Family Child Day Care Homes, Residential Group Child Care Homes and Registered Child Care Providers are permitted uses in any residentially zoned area.

16-1194 GRANDFATHER CLAUSE

All Child Day Care Centers, Preschool Educational Facilities, School Age Child Care Centers, Residential Family Child Day Care Homes, Residential Group Child Care Homes and Registered Child Care Providers which are licensed by the State of North Dakota and/or Richland County Social Services at the date of enactment of this Ordinance are hereby grandfathered in so far as being required to obtain a Special Use Permit.

Source: Ordinance #846

ANALYSIS AND INDEX TO SECTIONS

ARTICLE 12. MASTER PLAN FOR CITY OF WAHPETON

Section 16-1201 Adoption of Master Plan for City of Wahpeton
16-1202 Definitions
16-1203 Effect and Purpose of Master Plan
16-1204 Amendment of Master Plan
16-1205 Permission to Construct When Plan Adopted – Disapproval of Permission – Overruling – Failure to Act on Submission
16-1206 City Council May Add to or Change Master Plan - Notice

ARTICLE 12. MASTER PLAN

16-1201 ADOPTION OF MASTER PLAN FOR CITY OF WAHPETON

The City Council of the City of Wahpeton hereby adopts that master plan of the City of Wahpeton, North Dakota, as outlined by D. K. Rippel, Planning Consultant of Ames, Iowa, in the final detail report dated June 1969, together with the accompanying maps, plats, charts and descriptive matter included within and attached to said report and all amendments thereto, as from time to time may be made whether denominated changes, extensions, repeals, modifications or otherwise.

The secretary of the Planning Commission and the city Auditor, is hereby directed to record on the map, plan and descriptive matter that constitutes the mater plan, his signature; and that he attach to the master plan a certified copy of this article.

The City Auditor, for the City of Wahpeton, is hereby directed to file for record immediately with the Register of Deeds of Richland County a certificate showing that the city of Wahpeton has established an official master plan.

Source: Ord. #338

16-1202 DEFINITIONS

In this article, unless the context or subject matter otherwise requires:

1. "Street" includes streets, highways, avenues, boulevards, parkways, roads, lanes, walks, alleys, viaducts, subways, tunnels bridges, public easements and rights of way, and other ways.

2. "Subdivision" means the division of a tract or parcel of land into lots for the purpose, whether immediate or future, of sale or of building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or from such lots, and the creation of new or enlarged parks, playgrounds, plazas, or open spaces.

Source: 40-48-01-NDCC

16-1203 EFFECT AND PURPOSE OF MASTER PLAN

The master plan shall be final and conclusive with respect to the location and width of streets, ways, plazas, open spaces, and public easements, and the location of parks and playgrounds, and the establishment of public rights in lands shown thereon. The official master plan is declared to be established to conserve and promote the public health, safety, and general welfare of the City of Wahpeton.

Source: 40-48-02 NDCC

16-1204 AMENDMENT OF MASTER PLAN

Amendment of the master plan shall be accomplished as provided in sections 26-107 and 26-108 of the revised ordinances of the City of Wahpeton.

16-1205 PERMISSION TO CONSTRUCT WHEN PLAN ADOPTED - DISAPPROVAL OFPERMISSION-OVERRULING-FAILURE TO ACT ON SUBMISSION

No street, square, park, or other public way, ground, or open space, or public building or structure shall be constructed or authorized in the area shown on the master plan until the location, character, and extent thereof shall have been submitted to and approved by the planning commission. In case of disapproval, thereof, the commission shall communicate its reasons to the City Council, which may overrule such disapproval by a recorded vote of not less than two-thirds of its entire membership. If the public way, ground, space, building, or structure is one the construction, financing, or authorization of which does not fall within the province of the City Council, the submission to the planning commission shall be by the board, commission, or body having such jurisdiction, and the planning commission's disapproval may be overruled by said board, commission, or body by a vote of not less than two-thirds of its membership. The failure of the commission to act upon such submission within sixty days from and after the date of the official submission to the commission shall be deemed to be an approval.

Source: 40-48-12 NDCC

16-1206 CITY COUNCIL MAY ADD TO OR CHANGE MASTER PLAN - NOTICE

Whenever, the City Council may deem it for the public interest, it may change or add to the official master plan by laying out new streets, improvements, or conveniences mentioned in this chapter or by widening, enlarging, closing, or abandoning existing streets, improvements, or conveniences. At least ten days' notice of a public hearing on any proposed action with reference to such change in the official master plan shall be published in the official newspaper of the municipality. Before any such addition or change is made, the matter shall be referred to the planning commission for report hereon as provided in section 26-108. Such additions and changes, when adopted by an ordinance of the City Council shall become a part of the official master plan of the City and shall be deemed to be final and conclusive with respect to all matters shown thereon. The layout, widening, enlarging, closing, or abandoning of streets, plazas, open spaces, and parks or playground by the city under provisions of the laws of this state other than those contained in this chapter shall be deemed to be a change or addition to the official master plan and shall be subject to all the provisions of this article.

Source: 40-48-16 NDCC

ANALYSIS AND INDEX TO SECTIONS

ARTICLE 14. AIRPORT DISTRICT

Section

16-1400 Airport AV-1 and AV-2 Airport Land Use
16-1401 Permitted Uses
16-1402 Special Exceptions
16-1403 Prohibited Airport Uses
16-1404 Area Regulation

ARTICLE 14. AIRPORT DISTRICT

16-1400 AIRPORT AV-1 AND AV-2 AIRPORT LAND USE

16-1401 PERMITTED USES

A. AV-1

.1 Runways, landing strips, taxiways
.2 Buffer zones
.3 Agricultural
.4 Airway facilities and equipment

B. AV-2

.1 Aircraft maintenance facilities whether or not operated for profit
.2 Aircraft fueling and washing (out doors)
.3 Public transportation passenger facilities
.4 Agricultural aircraft operating facilities
.5 Aircraft storage facilities whether or not operated for profit
.6 Business and professional offices related to the aircraft or travel industry
.7 Retail or service store or shop related to the aircraft industry
.8 Museums, parks, playgrounds and similar community facilities
.9 Governmental administration and services such as: weather station, control tower for air traffic, offices, firehouse, security, police, first aid and civil defense
.10 Parking lot as a principal use
.11 Automobile rental facilities and related services
.12 Public utility substations or pumping stations
.13 Assembling and packaging, freight handling, light manufacturing, storage and warehouse and similar operations related to airport uses
.14 Accessory uses incidental to any of the foregoing airport permitted use.
.15 Aircraft wholesale business and related warehousing and storage, provided all inventories located on the premises are stored within a completely enclosed structure
.16 Airway facilities and equipment
.17 Buffer zones between runways, landing strips, taxiways and other uses

16-1402 SPECIAL EXCEPTIONS

As authorized by the Board of Adjustment:

.1 Non-municipal museums whether or not operated for profit; and noncommercial clubs and organizations.
.2 Vocational or trade schools, whether or not operated for profit.
.3 Hotels, motels and other accommodations for the traveling public.
.4 Eating and drinking establishments, except those offering in-car services.
.5 Gasoline and oil storage above ground in excess of five hundred gallons.
.6 Manufacturing, fabricating and processing, provided that the proposed use will not constitute a fire hazard or emit objectionable smoke, noise, vibration, odor or dust.
.7 Agriculture as a living, provided there is no dwelling or display of products other than in growth visible from the street.
.8 Other aircraft related uses not listed above.
.9 Single family dwelling units.
.10 Any accessory uses incidental to the foregoing special exceptions.

16-1403 PROHIBITED AIRPORT USES

.1 Church, hospital, sanitarium, correctional institution or other similar institutional uses.

.2 Cemetery.

.3 Slaughter house or stock yard.

.4 Manufacture or storage of acid, gun powder, fireworks or other explosives.

.5 Landfill and/or dump grounds.

.6 Sewage treatment plants.

16-1404 AREA REGULATIONS

.1 Lot Area and Width.

(a) A lot area of not less than 20,000 sq. ft. for commercial operations and not less than 3,000 sq. ft. for private hangar; shall be provided for every building hereafter erected

(b) Each lot shall have a building line frontage of not less than 200' for commercial lots and not less than 60' for private lots

.2 Front Yard.

(a) No front yard shall be required.

.3 Side Yard.

(a) Seven feet.

.4 Rear Yard.

(a) No rear yard shall be required.

Source: Ord #632