

Bottineau Municipal Code Revised

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Chapter Six

Zoning - Land use Planning

ARTICLE 1 - Definitions

6.0101 Definitions

For the purpose of this title, certain terms and words are defined in this chapter; words used in the present tense shall include the future; words used in the singular number shall include the plural number, and the plural the singular; the word "building" shall include the word "structure"; and the word "lot" shall include the word "plot," and the word "shall" is mandatory and not directory.

1. Accessory building or use: "Accessory building or use" means a subordinate building or use which is located on the same lot on which the main building or use is situated, and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.

2. Acreage: "Acreage" means any tract or parcel of land which has not been subdivided and platted.

3. Alley: "Alley" means a public thoroughfare, not less than twenty (20) feet wide, and not more than forty (40) feet in width, which affords only a secondary means of access to abutting property.

4. Apartment: "Apartment" means a room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.

5. Automobile repair: "Automobile repair" means general repair, engine rebuilding or reconditioned of motor vehicles; collision service, such as body, frame or fender straightening and repair; overall painting of motor vehicles.

6. Automobile service station: "Automobile service station" means a place where gasoline stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of automobiles, are retailed directly to the public on premises, and including minor accessories and services for automobiles, but not including automobile repairs and rebuilding. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of a public garage, the premises shall be classified as a public garage.

7. Auto wrecking or junkyard: "Auto wrecking or junkyard" means any place where two or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storage of such motor vehicles or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging and scavenging of any other goods, articles or merchandise.

8. Basement: "Basement" means a story partly or wholly underground. Where more than one-half of its height is above the average level of the adjoining ground, a basement shall be counted as a story for purpose of height measured.

9. Billboard: "Billboard" means any structure or portion thereof upon which are signs or advertisements used on an outdoor display. This definition does not include any bulletin boards used to display official court or public office notices, or signs advertising the sale or lease of the premises on which the sign is located.

10. Boarding house: "Boarding house" means a building other than a hotel or restaurant, where meals are provided for compensation for four or more persons, but not exceeding twelve (12) persons.

11. Building: "Building" means any structure having a roof supported by columns or walls, and designed or intended for the shelter, support, enclosure or protection of persons, animals or chattels.

12. Building area: "Building area" means the building area of a lot; i.e., the space remaining after the minimum open space requirements of this title have been complied with.

13. Building height: "Building height" means the vertical distances measured from the sidewalk level or its equivalent established grade opposition the middle of the front of the building to the highest point of the roof in the case of a flat roof; to the deck line of a mansard roof; and mean height level between eaves and ridge of a gable, hip or gambrel roof; provided that where buildings are set back from the street line, the height of the building may be measured from the average elevation of the finished lot grade at the front for the building.

14. Building line: "Building line" means for the purpose of this title the building line is the same as a front yard setback line.

15. Carport: "Carport" means structure attached or made a part of the main structure, and which is open to the weather on at least two sides, intended for the use of sheltering not more than two motor driven vehicles.

16. Conditional uses: "Conditional uses" means the following uses of land or structures, or both, may be permitted within any "use district," subject to the provisions of Chapter 6.0704:

- A. Helicopter land field or heliport;
- B. Areas for the dumping or disposal of trash or garbage;
- C. Bus terminals, railroad passenger station, or any other transportation terminal facilities;
- D. Churches and accessory buildings used for religious teaching;
- E. Extraction of gravel, sand or other raw materials;
- F. Golf course, public or private;
- G. Hospitals or sanitariums;
- H. Institutions for the care of the insane or feeble-minded;
- I. Municipal or privately owned recreation building or community center;
- J. Nursery schools, day nurseries, and child care centers, provided there is a minimum of one hundred square feet of outdoor play area for each child to be cared for, and that the play area is fenced and screened with planting from any adjoining lot in any "R" district;
- K. Police station, fire stations, or place for storage of municipal equipment;
- L. Parking area, public;
- M. Public administration building, auditorium, gymnasium or any other publicly owned structure;
- N. Public or Private Park or Playground;
- O. Public utility facilities, i.e., filtration plant or pumping station, heat or power plant, transformer station and other similar facilities;

- P. Radio and television antenna towers, commercial;
 - Q. Railroad right-of-way;
 - R. Schools, public or private;
 - S. Telephone exchange.
17. Court: "Court" means an open unoccupied space, other than a yard, on the same lot with a building and bounded on two or more sides by such a building.
18. Curb grade: "Curb grade" means the established elevation of the curb in front of the building measured at the center of such front. Where no curb grade has been established, this City shall establish such curb level or its equivalent for the purpose of this title.
19. District: "District" means a section or sections of the incorporated area of the City for which the regulations and provisions governing the use of building and land are uniform for each class of use permitted therein.
20. Dwelling: "Dwelling" means a building or portion thereof, but not an automobile house trailer, designed exclusively for residential occupancy, including one-family, two-family and multiple dwellings, but not including hotels, and boarding and lodging houses.
21. Dwelling unit: "Dwelling unit" means one or more rooms in a dwelling or apartment hotel designed primarily for occupancy by one family for living or sleeping purposes.
22. Dwelling, one family: "One family dwelling" means a detached building designed exclusively for occupancy by one family.
23. Dwelling, two-family: "Two-family dwelling" means a building designed exclusively for occupancy by two families living independently of each other.
24. Dwelling, multiple: "Multiple dwelling" means a building or portion thereof designed for occupancy by three or more families living independently of each other.
25. Dwelling, row: "Row dwelling" means a row of three or more attached one-family dwellings, not more than two and one-half stories in height, nor more than two rooms deep.
26. Family: "Family" means an individual or two or more persons related by blood or marriage, or group of not more than five persons (excluding servants) who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.
27. Frontage: "Frontage" means all property on one side of a street between two intersecting streets, or natural barriers.
28. Garage, private: "Private garage" means an accessory building for the storage of not more than three motor-driven vehicles, or which not more than one shall be a commercial vehicle of not more than two ton capacity.
29. Garage, public: "Public garage" means a building other than a private garage, used for the care, repair, or equipment of automobiles, or where such vehicles are parked or stored for remuneration, hire or sale within the structure.
30. Guesthouse: "Guesthouse" means a structure for human habitation, containing one or more rooms with bath and toilet facilities, but not including a kitchen or facilities which would provide a complete housekeeping unit.

31. Home occupation: "Home occupation" means any use customarily conducted entirely within the dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling and provide that no article is sold or offered for sale except such as may be produced on the premises by members of the immediate family. Clinics, doctors, hospitals, dress shops, millinery shops, tearooms, tourist homes, animal hospitals, kennels, among others, shall not be deemed to be home occupations.

32. Hospital or sanitarium: "Hospital or sanitarium" means an institution open to the public, in which sick patients or injured persons are given medical or surgical care; or for the care of contagious diseases or incurable patients.

33. Institution: "Institution" means a building occupied by a nonprofit corporation or a nonprofit establishment for public or semipublic use.

34. Kennel: "Kennel" means any lot or premises on which four or more dogs, at least four months of age, are kept.

35. Laboratory: "Laboratory" means a place devoted to experimental study such as testing and analyzing. Manufacturing of products is not to be permitted within this definition.

36. Loading space: "Loading space" means an off-street space or berth on the same lot with a building, or contiguous to a group of buildings, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

37. Lodging house: "Lodging house" means a building with not more than five guest rooms where lodging is provided for compensation pursuant to previous arrangement, but not open to the public or transients.

38. Lot: "Lot" means a parcel of land occupied or suitable for occupancy by one main building or use, with accessory buildings, including the open spaces required by this title, and having its principal frontage upon a public street or highway.

39. Lot, corner: "Corner lot" means a lot situated at the intersection of two or more streets.

40. Lot frontage: "Lot frontage" means the front of a lot shall be that boundary of a lot along a public street; and for a corner lot the front shall be the shorter lot boundary along a street.

41. Lot, interior: "Interior lot" means a lot other than a corner lot.

42. Lot, reversed corner: "Reversed corner lot" means a corner lot, the rear of which sits upon the side of another lot whether across an alley or not.

43. Lot width: "Lot width" means the horizontal distance between the side lot lines measured at right angles to the lot depth at a point midway between the front and rear lot lines.

44. Lot depth: "Lot depth" means the horizontal distance between the front and rear lot lines measured in the mean direction on the side lot lines.

45. Nonconforming use: "Nonconforming use" means any building, structure or land lawfully occupied by a use or lawfully situated at the time of the passage of this title or amendments thereto, which does not conform after the passage of this title or amendments thereto with the regulations of this title.

46. Nursing home or rest home: "Nursing home or rest home" means a private hospital for the care of children or the aged or infirmed, or a place of rest for those suffering bodily disorders, but not including facilities for the treatment of sickness or injuries, or for surgical care.

47. Parking area, private: "Private parking area" means any open area for the parking of privately owned automobiles and not for public use.

48. Parking area, public: "Public parking area" means an open area, other than street, used for the temporary parking of more than four automobiles and available for public use whether free, for compensation or as an accommodation for clients or customers.

49. Parking space: "Parking space" means an area, enclosed in the main building, in an accessory building, or unenclosed, sufficient in size to store one standard automobile, which has adequate access to a public street or a lay and permitting satisfactory ingress and egress of an automobile.

50. Porch: "Porch" means a roofed entrance to a building, projecting out from the wall or walls of the main structure and commonly opens to the weather in part.

51. Signs, outdoor advertising: "Outdoor advertising signs: means any card, cloth, paper, metal, painted, glass, wooden, plaster, stone or other sign of any kind or character whatsoever, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure, or thing whatsoever. The term "placed" as used in the definition of "outdoor advertising sign" and "outdoor advertising structure" shall include erecting, constructing, posting, painting, tacking, mailing, gluing, sticking, carving, or other fastening, affixing or making visible in any manner whatsoever.

52. Story: "Story" means that portion of a building including 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. Any portion of a story exceeding fourteen feet in height shall be considered as an additional story for each fourteen feet or fraction thereof.

53. Structure: "Structure" means anything constructed or erected, which required location on the ground or attached to something having location on the ground.

54. Structural alterations: "Structural alterations" means any change which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

55. Terrace, open: "Open terrace" means a level and rather narrow plain, or platform, which for purposes of this title is located adjacent to one or more faces of the main structure, and which is constructed not more than four feet in height above the average level of the adjoining ground.

56. Tourist court: "Tourist court" means a group of attached or detached buildings containing individual sleeping or living units, designed for or used temporarily by automobile tourists or transients, with garage attached or parking space conveniently located to each unit, including auto courts, motels, or motor lodges.

57. Tourist home: "Tourist home" means a dwelling in which overnight accommodations are provided or offered for transient guests.

58. Trailer, automobile: "Automobile trailer" means a vehicle without motive power, designed to accommodate more than one family living in an automobile house trailer.

59. Use: "Use" means the purpose for which land or a building thereon is designed, arranged or intended, or for which it is occupied or maintained, let or leased.

60. Yard: "Yard" means an open space on the same lot with a main building, unoccupied and unobstructed from the ground upward, except as otherwise provided in this title.

61. Yard, front: "Front yard" means a yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building.

62. Yard, rear: "Rear yard" means a yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the principal building.

63. Yard, side: "Side yard" means that part of the yard lying between the main building and a side lot line, and extending from the required front yard (or from the front lot line if there is no required front yard) to the required rear yard.

ARTICLE 2 - Establishment of Districts

6.0201 Purpose and Authorization

The purposes of this section are:

- A. For the purpose of dividing the City into zones, or districts, restricting and regulating therein the location, buildings, structures, and land for trade, erection, construction, reconstruction, alteration and use of buildings, industry, residence and other specified uses;
- B. To regulate the intensity of the use of lot areas, and to regulate and determine the area of open spaces surrounding such buildings;
- C. To establish building lines and the location of buildings designed for specified industrial, business, residential and other uses within such areas;
- D. To fix standards to which buildings or structures shall conform therein;
- E. To prohibit uses, buildings or structures incompatible with the character of such districts, respectively, to prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed hereunder;
- F. To limit parking and loading and unloading of vehicles;
- G. Providing for the gradual elimination of nonconforming uses of land, building and structures;
- H. Prescribing penalties for the violation of the title;
- I. To lessen congestion in the streets;
- J. To secure safety from fire, panic and other dangers;
- K. To provide adequate light and value of land and buildings throughout the City;
- L. To promote the public health, safety, and general welfare.

This title is being adopted pursuant to Title 40 of the North Dakota Century Code and the conditions contained therein shall be controlling unless altered or changed by this title where such alterations and changes are authorized by law.

6.0202 Maps and Boundaries

The boundaries of designated districts are shown upon the map made a part of this title, which map is designated as the zoning map of the City. The zoning map made a part of this title and on file in the office of the City Auditor and all notations, references and other information shown thereon are a part of this title and have the same force and effect as if the zoning map, all such notations, references, and other information shown thereon were fully set forth or described herein.

6.0203 Annexation: The following land shall be annexed to the City of Bottineau, North Dakota.

1. That Wold's First Addition is hereby annexed to the City of Bottineau, North Dakota.

That said Addition is more particularly described as follows:

Beginning at the Northeast corner of Block 1, Freeman's First Addition to the City of Bottineau, North Dakota; thence East along the extended South property line of Tenth Street a distance of 100 feet; thence South along a line parallel to the East property line of said Freeman's First Addition, a distance of 435 feet to a point on the North Right-of-way line of North Dakota State Highway no. 5; thence West along said Highway Right-of-way line a distance of 275 feet to the Southeast corner of Kersten's Second Addition to the City of Bottineau; thence North along the East property line of said Kersten's Second Addition a distance of 55 feet to the Southwest corner of said Freeman's First Addition; thence East along the South property line of said Freeman's First Addition a distance of 175 feet; thence North along the East property line of said Freeman's First Addition a distance of 380 feet to the point of beginning. Said tract contains 1.22 acres, more or less.

That said property is hereby annexed as B-2 District under the zoning laws of the City of Bottineau

2. That Wold's Second Addition is hereby annexed to the City of Bottineau, North Dakota.

That said Addition is more particularly described as follows:

Beginning at the Southeast corner of Wold's First Addition to the City of Bottineau being on the North Right-of-way line of N.D. Highway No. 5; thence North along the East line of said Wold's First Addition a distance of 435 feet, thence West a distance of 30 feet, thence North a distance of 70 feet to the Southwest corner of Annexation Plat "F" to the City of Bottineau, thence East a distance of 420 feet, thence South a distance of 505 feet, thence West a distance of 390 feet to the point of beginning. Said described tract contains 4.60 acres more or less.

That said property is hereby annexed as B-2 District under the zoning laws of the City of Bottineau

3. That Gagner's First Addition is hereby annexed to the City of Bottineau, North Dakota.

That said Addition is more particularly described as follows:

Gagner's First Addition to the City of Bottineau, North Dakota lying in Government Lot 1 and Government Lot 2 of Section 31, 162-75 and more particularly described as follows: Beginning at a point 33.0 feet South of the NW corner of Section 31, 162-75, thence North 90°00' E parallel to the North line of said Section 31 a distance of 810.7 feet, thence S 00°00' E a distance of 650.0 feet, thence S 90°00' W a distance of 205.7 feet, thence S 00°00' E a distance of 860.0 feet, thence N 90°00' W a distance of 205.0 feet, thence N 00°00' W a distance of 60.0 feet, thence N 90°00' W a distance of 127.3 feet, thence N 32° 25' W a distance of 167.6 feet, thence N 03°01' E a distance of 306.9 feet, thence N 06°00' East a distance of 201.1 feet, thence N 11°40' E a distance of 123.6 feet, thence N 29°47' E a distance of 60.3 feet, thence N 82°03' W a distance of 277.6 feet to a point on the West line of said Section 31, thence N 00°00' E a distance of 64.6 feet, thence N 90°00' E a distance 230.0 feet thence N 00°00' E a distance of 200.0 feet, thence N 90°00' W a

distance of 230.0 feet, thence N 00°00' E a distance of 325.7 feet to the point of beginning, said described tract contains 18.31 acres, more or less;

And also including a tract lying in the NE¼ of Section 36, 162-76, described as follows: Beginning at a point 568.0 feet South of the NE corner of Section 36, 162-76, thence S 00°00' W a distance of 50.0 feet, thence S 88°42' W a distance of 350.1 feet, thence N 00°00' W a distance of 50.0 feet, thence N 88°42' E a distance of 350.1 feet, to the point of beginning, said described tract contains 0.40 acres, more or less.

Blocks 1 and 2 are hereby annexed as B-2 District under the Zoning Laws of the City of Bottineau, North Dakota.

4. That the following described property shall be annexed to the corporate limits of the City of Bottineau, North Dakota and is more particularly described as follows:

Beginning at a point which is 10 feet South and 20 feet East of the Southeast corner of Lot 12 of Block 3 of Kersten's Second Addition to the City of Bottineau, North Dakota at which point of beginning is also 204.975 feet South and 170.0 feet East of the Northwest corner of the SE¼ of Section 30, 162-75; then 497.32 feet North, then 470 feet East, then 557.32 feet South, then 245 feet West, then North 60 feet, then West 225 feet to the point of beginning, said parcel being in the SW¼SE¼ of Section 30, 162-75 and containing 5.76 acres, more or less.

5. That the following described territory, adjacent to the North City Limit Line to Bottineau, North Dakota, be and the same hereby is incorporated into the City of Bottineau:

That portion of the SE¼ of Section 24, Township 162 N, Range 76 W, described as follows: Beginning at a point on the South Section line, 780 feet West of Southeast corner of said Section 24; thence North, at a right angle, 183 feet; thence West, at a right angle, to the Northeasterly right of way limit line of the Great Northern Railway; thence Southeasterly, along said right of way limit line, to the South Section line; thence East, along the South Section line, to the point of beginning.

6. That Freeman's First Addition is hereby annexed to the City of Bottineau, North Dakota.

That said Addition is more particularly described as follows:

Beginning at the Northeast corner of Block 5, Kersten's 2nd Addition to the City of Bottineau, North Dakota; thence due East along the South property line of Tenth Street a distance of 175.0 feet; thence due South along a line 175 feet East of, and parallel to, the East line of said Block 5 a distance of 380 feet; thence due West a distance of 175 feet to the Southeast corner of said Block 5; thence due North along the East line of said Block 5 a distance of 380 feet to the point of beginning. Said tract contains 1.53 acres, more or less.

That said property is hereby annexed as R-4 District under the zoning laws of the City of Bottineau.

7. That Kersten's Fourth Addition to the City of Bottineau is hereby annexed to the City of Bottineau, North Dakota

That said Addition is more particularly described as follows:

Beginning at a point 1,087.32 feet North and 170 feet East of the Southwest corner of the SE¼, Section 30, 162-75, said point being the Northwest corner of Kersten's Third Addition to the City of Bottineau, thence N 0°00' W a distance of 1,369.95 feet, thence N 90°00' E a distance of 470 feet, thence S 0°00' E a distance of 160 feet, thence N 90°00' E a distance of 420 feet, thence S 0°00' E a distance of 1,047.49 feet, thence S 90°00' W a distance of 70 feet to the Northeast corner of the Annexation Plat "F" (City Park), thence S 90°00' W a distance of 350 feet to the Northwest

corner of said Annexation Plat "F", thence S 0°00' E a distance of 162.46 feet to a point on the West line of said Annexation Plat "F", thence S 90°00' W a distance of 470 feet to the point of beginning. Said described tract contains 24.88 acres, more or less.

That said property is hereby annexed as R-1, District under the zoning laws of the City of Bottineau.

8. That Kersten's Fifth Addition is hereby annexed to the City of Bottineau, North Dakota.

That said Addition is more particularly described as follows:

Real estate lying in the SE¼ of Section 30, 162-75 described as follows: Beginning at a point 50 feet North of the Northwest corner of Lot 4, Block 5, Kersten's Fourth Addition to the City of Bottineau; thence North 0°00' West a distance of 150 feet, thence North 90°00' East a distance of 350 feet; thence South 0°00' East, a distance of 150 feet; thence North 90°00' West a distance of 350 feet to the point of beginning, said tract contains 1.21 acres, more or less.

That said property is hereby annexed as R-4 District under the zoning laws of the City of Bottineau, North Dakota.

9. That there is hereby annexed to said City Kersten's Sixth Addition to the City of Bottineau, North Dakota, as the same is platted.

There is hereby affixed to said Kersten's Sixth Addition the following zoning:

- A. R-1 Block 1; Lots 1 through 7 of Block 3
- B. R-4 Block 2; Lots 8 and 9 of Block 3
- C. Park Area Block 4
- D. B-2 Block 5

10. That "The Preserve" is hereby annexed to the City of Bottineau, North Dakota. That said addition is more particularly described on the attached map.

That Lots 1 through 16 will be zoned as an R-4 District under the zoning laws of the City of Bottineau North Dakota.

That Lots 17 through 24 will be zoned as an R-3 District under the zoning laws of the City of Bottineau North Dakota.

6.0204 Re-zoning: That the following described tract of land is hereby re-zoned.

1. That the following described tract of land is hereby re-zoned as COMMERCIAL from AGRICULTURE AND RESIDENTIAL under the zoning laws of the City of Bottineau, North Dakota and that said tract of land is more particularly described as follows: OUTLOT 6 (SIX) of N½ NE¼ Section 35, TOWNSHIP 162N, Range 76W.

2. That Lots 1 through 8 of Block 2, Kersten's Second Addition to the City of Bottineau, be re-zoned from R-1 to R-4 in accordance with the Bottineau Municipal Code.

3. That the following described tract of land is hereby re-zoned as an R-4 District under the zoning laws of the City of Bottineau, North Dakota and that said tract is more particularly described as follows:

A portion of Block 8 of Hynes Plat of SE¼SW¼ of Section 30, 162-75 and a portion of Hills Plat of SE¼SW¼ of Section 30, 162-75, described as follows:

Beginning at the NW corner of Lot 1, Block C of Hynes Plat, thence South along the West line of Block C, 343.9' to the SW corner of Lot 13, Block C, Hynes Plat, thence 150' East along the South line of said Lot 13 to the SE corner of Lot 13, thence due South 71.40' thence due West to a point on the West line of Hills Plat, thence N 26° 35' W along the West line of Hills Plat to the NW corner of Hills Plat, thence S 63° 25' W 201.0', thence N 27° 11' W 133.8', thence N 05° 00' W 148.8', thence N 34° 35' W 65.0', thence N 45° 00' E to the center of Oak Creek, thence in a Northeasterly direction along the meandering centerline of said Creek to a point 36.0' due West of the point of beginning, thence due East 36.0' to the point of beginning; also the South 15' of Lot 11 and all of Lots 12 and 13 of Block C of Hynes Plat.

6.0205 Exclusion: That the following property be disconnected and excluded from the City Limits of the City of Bottineau.

1. Beginning at the Southwest corner of Newberger's Addition to South Bottineau, now Bottineau, North Dakota; then West 85 feet, then North 108.5 feet, then East 85 feet, then South 108.5 feet to the point of beginning being .21 acres more or less in the NE¼ of Section 36, 162-76.

2. Beginning at the Southwest corner of Newberger's Addition to South Bottineau, now Bottineau, North Dakota; then West 85 feet, then North 108.5 feet, then East 85 feet, then South 108.5 feet to the point of beginning, being .21 acres more or less in the NE¼ of Section 36, 162-76.

ARTICLE 3 - Application of Regulations

6.0301 Application of Regulations

Except as provided in this chapter:

1. Conformity of Buildings and Land. No building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.

2. Conformity of Buildings. No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.

3. Conformity of Open Spaces. No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

ARTICLE 4 - Use Districts

6.0401 Use Districts

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

- Agricultural or ½ Mile Zoning
- R-1 One-Family District
- R-2 One-Family District
- R-3 Two-Family District
- R-4 Multiple-Family District
- R-4.5 Multiple-Family District
- B-1 Neighborhood Business District

B-2 Central Business District
M Manufacturing District
Trailer Court
Manufactured Homes

6.0402 Agricultural or ½ Mile Zoning

Pursuant to Section 40-47-01.1 of the North Dakota Century code, the City of Bottineau does hereby extend the application of its zoning regulations to all of the unincorporated territory located within one-half mile of the City limits of the City of Bottineau in all directions and does hereby create such zone which shall be known as “AGRICULTURAL DISTRICT”: with the following rules and regulations:

1. District Regulations: In the Agricultural District no building or land shall be used and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one of the uses listed in Section B below.

2. Permitted Uses:

A. General farming activities including grazing and raising of farm animals provided that such uses are maintained in connection with their farming operation where 50% or more of the operator’s income is derived from farming.

This shall not include or permit feed lots, swine farming or concentrated confinement of farm animals; the spreading, accumulation, feeding or use of garbage in any form on the surface of the land; or any activity within 300 feet of the dwelling District where such activity is noxious or offensive by reason of dust, odor or noise.

B. Single-family dwelling on a tract of land one acre or larger.

C. Churches and similar places of worship and parish houses.

D. Golf course and other open land recreational use, except miniature golf courses, driving tees or other intensive commercial uses such as automobile race track or amusement park.

E. Greenhouses, nurseries and garden centers.

F. Institutions of higher learning, including dormitory accommodations when located on the same tract as the educational buildings.

G. Public and semi-public parks, playgrounds, campgrounds, fishing preserves or other recreational area and community buildings owned and operated by a public agency or nonprofit organizations.

H. Public or parochial elementary, junior high and high schools, or private schools with equivalent curriculum.

I. Stands for sale of agricultural products or commodities raised on the premises.

J. Customary accessory uses and structures located on the same tract with the principal use, including barns, sheds, tennis courts, swimming pools, private garages, garden houses, barbecue ovens, fireplaces and similar uses.

K. Temporary structures incidental to construction work, but only for the period of such work. Basements and cellars may not be occupied for residential purposes until the building is completed.

- L. The renting of not to exceed two sleeping rooms with a total occupancy of not to exceed three persons for whom board may be furnished but with the prohibition of separate culinary accommodations for such tenants.
- M. Utility lines and facilities necessary for public service and including, refuse disposal area conducted under a land fill or sanitary fill method, public and semi-public storage and repair facilities, sewage disposal, water supply and treatment facilities, dams and power plants.
- N. The following uses may be allowed by special use permit when submitted, reviewed and approved by the City of Bottineau Planning Commission, and under such conditions as the Commission may impose.
 - I. Any public building erected or land used by any department of the City, County, State or Federal Government.
 - II. Airport or heliport.
 - III. Cemetery or crematory.
 - IV. Nursing homes, rest homes, convalescent homes, and home for the aged on a tract of land three acres or larger.
 - V. Radio, television, navigation or military control station, transmitter or tower.
 - VI. Animal hospital or kennel.
 - VII. Wrecking, salvage or junk yard, providing the storage yard is completely enclosed with six-foot solid fence or wall and located not less than 300 feet from a residential district zone and subject to the following:
 - a. The operation shall be conducted completely within the enclosed area. The fence or wall shall be so maintained by the proprietor as to insure maximum safety to the public and preserve the general welfare of the area. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other material within the yard.
 - b. No junk shall be loaded, or unloaded or otherwise placed, either temporarily or permanently, outside the enclosing fence or wall or within public right-of-way.
 - c. Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Department and in accordance with State requirements. Said burning, when permitted, shall be done during daylight hours only.
 - d. Meat processing plant.
 - e. The nonfarm hatching and raising of poultry and fowl, the raising of rabbits, bees, and the like, and the keeping of domestic animals except pigs, as an incidental use; however, animals shall not be kept for commercial purposes.

3. Bottineau zoning Regulations: It is the intent of these Regulations to provide for agricultural activities in those areas adjacent to the City, and historically utilized for agricultural purposes until such time as the maintenance of these areas is no longer deemed conceivable or necessary. Wherever applicable, the zoning ordinances of the City of Bottineau shall apply to the permitted uses in this area.

6.0403 R-1 - One-Family District

1. Permitted uses:

- A. One family dwellings;
- B. Home occupations as provided in this title;
- C. Truck gardening and other horticultural uses where no building is involved, and when not operated for profit;
- D. Conditional uses; subject to the provisions of Chapter 6.0703;
- E. Temporary buildings and uses for construction purposes for a period not to exceed one year;
- F. Accessory buildings, provided they shall be located as required in Chapter 6.0601;
- G. One sign on each lot not exceeding twelve square feet in area, appertaining to the lease or sale of the building or premises on which the sign is located;
- H. Automobile parking space to be provided as required in Chapter 6.0502.

2. Height: No building shall be erected or enlarged to exceed a height of one and one-half stories, nor shall it exceed twenty-four feet in height.

3. Areas: No building shall be erected or enlarged unless the following yards and lot areas are provided and maintained in connection with such building structure or enlargement.

4. Front yard: Each lot upon which a dwelling is constructed shall have a front yard of not less than thirty-five feet. Where lots comprising forty percent or more of the frontage between two intersecting streets are developed with buildings having front yards with a variation of not more than fifteen feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage. In no case shall a front yard of more than fifty feet be required.

5. Side yard: On interior lots there shall be a side yard on each side of a main building of not less than 7.5 feet.

On corner lots the side yard requirement shall be the same as for interior lots, except that there shall be maintained a side yard of not less than 10 feet on the side adjacent to the street which intersects the street upon which the building or structure maintains frontage, and except in the case of a reversed corner lot, there shall be maintained a set back from the side street of not less than 50% of the front yard required on the lots in the rear of such corner lots, but such set back need not exceed 15 feet. No accessory building on said reversed corner lots shall project beyond the front yard required on the adjacent lot to the rear, nor be located nearer than 7.5 feet to the side lot line of said adjacent lot.

6. Rear yard: There shall be a rear yard having an average depth of not less than twenty-five feet.

7. Lot coverage: Not more than thirty-five percent of the area of a lot may be covered by main buildings, structures or accessory buildings.

8. Lot area: Every dwelling hereafter erected or structurally altered shall be on a lot having an area of not less than seven thousand square feet, and a width at the established building line of not less than fifty feet, provided, however, that where a lot having less area and width, but which is a single tract and the title thereof has been recorded before the passage of the ordinance, that tract may be improved with

a single-family dwelling providing all yards and open spaces are within seventy-five percent of those required by the terms of this title, and provided further, the total lot area is not less than five thousand square feet.

9. Accessory buildings: Accessory buildings shall not encroach upon the front yard. They may encroach upon the side yards provided no buildings are closer to the lot lines than three feet and ten feet or more from the rear side of a dwelling house. Provided, further, that on a corner lot, accessory buildings shall not encroach upon the front or side yards adjacent to the abutting streets.

10. Dwelling standards: Every one story dwelling hereafter erected in any "R-1" district, shall have a total ground floor area of not less than nine hundred sixty square feet measured from the outside of the exterior walls, including utility rooms, but excluding cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are "roughed in" and are to be completed within a reasonable time may be considered in computing such ground floor areas.

Every dwelling or more than one story hereafter erected in any "R-1" district shall have a total floor area, measured from the outside of the exterior walls, of not less than twelve hundred square feet, including utility rooms, but excluding cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are "roughed in" and are to be completed within a reasonable time may be considered in computing such ground floor areas.

6.0404 R-2 - One-Family District

1. Permitted use: Permitted use are any use permitted in the R-1 one-family district.

2. Height: No building shall be erected or enlarged to exceed a height of two stories, nor shall it exceed thirty-two feet in height.

3. Areas: No building shall be erected nor shall any existing structure be enlarged or altered unless the following yards and lot areas are provided and maintained in connection with such building, structure, or enlargement.

4. Front yard: Each lot upon which a dwelling is constructed shall have a front yard of not less than twenty-five feet. Where lots comprising forty percent or more of the frontage between two intersecting streets are developed with buildings having front yards with a variation of not more than fifteen feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage. In no case shall a front yard of more than fifty feet be required.

5. Side yard: The same regulations shall apply as required in the R-1 district.

6. Rear yard: The same regulations shall apply as required in the R-1 district.

7. Lot coverage: The same regulations shall apply as required in the R-1 district.

8. Lot area: Every dwelling hereafter erected or structurally altered shall be on a lot having an area of not less than six thousand square feet and width at the established building line of not less than fifty feet, provided, however, that where a lot having less area and width, but which is a single tract and the title thereof has been recorded before the passage of this title, the tract may be improved with a single family dwelling provided all yards and open spaces are within seventy-five percent of those required by the terms of this section, and provided further, that the total lot area is not less than four thousand square feet.

9. Accessory buildings: The same regulations shall apply as required in the R-1 district.

10. Dwelling standards: Every one story dwelling hereafter erected in any R-2 district, shall have a total ground floor area of not less than seven hundred twenty square feet measured from the outside

of the exterior walls, including utility rooms, but excluding cellars, basements, open porches, garages, and other spaces that are not used frequently or during extended periods for living, eating or sleeping purposes, except that rooms intended for such purposes which are "roughed in" and are to be completed within a reasonable time may be considered in computing such ground floor areas.

Every dwelling of more than one story hereafter erected in any R-2 district shall have a total floor area, measured from the outside of the exterior walls, of not less than eleven hundred sixty square feet, including utility rooms, but excluding cellars, basements, open porches, garages, and other living, eating or sleeping purposes, except that rooms intended for such purposes which are "roughed in" and are to be completed within a reasonable time may be considered in computing such ground floor areas.

6.0405 R-3 - Two-Family District

1. Permitted uses: Permitted uses are:
 - A. Any use permitted in the R-2 district;
 - B. Two-family dwelling structures.
2. Height: No building shall be erected or enlarged to exceed a height of three stories, nor shall it exceed thirty-five feet in height.
3. Areas: No building shall be erected nor shall any existing structure be enlarged or altered unless the following yards and lot areas are provided and maintained in connection with such building, structure or enlargement.
 4. Front yard: The same regulations shall apply as required in the R-2 district.
 5. Side yard: The same regulations shall apply as required in the R-2 district.
 6. Rear yard: The same regulations shall apply as required in the R-2 district.
 7. Lot coverage: The same regulations shall apply as required in the R-2 district.
 8. Lot area: Every dwelling hereafter erected or structurally altered to accommodate two family dwelling units shall be on a lot having a width at the established building line of not less than sixty feet, and an area per dwelling unit of not less than thirty-seven hundred fifty square feet. One family dwellings may be erected or structurally altered on lots having an area of not less than five thousand square feet and a width at the established building line of not less than fifty feet.
9. Accessory buildings: The same regulations shall apply as required in the R-2 district.
10. Dwelling standards: Each family dwelling unit in two family structures hereafter erected, converted or reconstructed in any R-3 district shall have a total ground floor area of not less than six hundred fifty square feet, measured from the outside of the exterior walls, including utility rooms but excluding cellars, basements, open porches, garages and other spaces that are not used frequently or during extended periods for living, sleeping or eating purposes, except that rooms intended for such purpose which are "roughed in" and are to be completed within a reasonable time may be considered in computing such ground floor areas.

Every dwelling of more than one story hereafter erected, converted, or reconstructed in any R-3 district, shall have a total floor area, measured from the outside of the exterior walls, of not less than eight hundred fifty square feet, including utility rooms, but excluding cellars, basements, open porches, garages, and other spaces that are not used frequently or during extended periods of living, sleeping or eating purposes, except that rooms intended for such purposes which are "roughed in" and are to be completed within a reasonable time may be considered in computing such ground floor areas.

6.0406 R-4 Multiple-Family District

1. Permitted uses: Permitted uses are:
 - A. Any uses permitted in the R-3 district;
 - B. Row dwellings containing three or more family units;
 - C. Multiple dwellings and apartments;
 - D. Boarding or lodging houses;
 - E. Nursing or rest homes;
 - F. Clubs, lodges, or fraternal organizations, when not operated for profit.
2. Height: No building or structure nor the enlargement of any building or structure shall be hereafter erected or maintained unless the following yards and lot areas are provided and maintained in connection with such structure or enlargement.
3. Areas: No building or structure nor the enlargement of any building or structure shall be hereafter erected or maintained unless the following yards and lot areas are provided and maintain in connection with such structure or enlargement.
4. Front yard: There shall be a front yard of not less than twenty feet.
5. Side yard: On interior lots there shall be side yard on each side of a main building of not less than five feet, and a combined total of side yards of not less than fifteen feet. On corner lots the side yard on the intersecting street side shall not be less than ten feet, except in the case of a reversed corner lot, where there shall be a side yard on the street side of the corner lot of not less than fifty percent of the front yard required in the lots in the rear of such corner lot. No accessory building on said reversed corner lot shall project beyond the front yard line required on the key lot in the rear, nor be located nearer than five feet to the side lot line of such key lot.
6. Rear yard: There shall be a rear yard of not less than twenty-five feet for interior lots nor less than fifteen feet for corner lots.
7. Lot coverage: Not more than thirty-five percent of the area of a lot may be covered by buildings or structures.
8. Lot area: Every building hereafter erected or structurally altered as a multiple dwelling, apartment or row dwelling of more than two dwelling units shall provide a lot area per dwelling unit of not less than fifteen hundred square feet. No building hereafter erected or structurally altered in the R-4 district shall have a total lot area of less than six thousand square feet, nor a lot width of less than sixty feet, except that one family dwellings may be erected or structurally altered on lots having an area of not less than four thousand square feet, and a width at the established building line of not less than forty feet.
9. Courts: No inner court or courts completely surrounded on all sides by a building shall be permitted. Outer courts are permitted, provided the depth of the court is no greater than the width of the court.
10. Accessory buildings: The same regulations shall apply as required in the R-3 district.

11. Dwelling standards: All multiple family dwelling units hereafter erected, converted or reconstructed shall contain not less than three hundred square feet of usable floor area per unit, exclusive of basements, cellars, unfinished attics, open porches, and garages.

6.0407 R-4.5 Multiple-Family District

1. Permitted uses:

- A. Any uses permitted in the R-4 district;
- B. Row dwelling containing three or more family units;
- C. Multiple dwellings or apartments.

2. Height: No buildings shall hereafter be erected or structurally altered to exceed one and one half stories nor shall it exceed twenty four feet in height.

3. Areas: No building or structure nor the enlargement of any building or structure shall be hereafter erected or maintained unless the following yards and lot areas are provided and maintained in connection with such structure or enlargement.

4. Front yard: There shall be a front yard of not less than twenty feet.

5. Side yard: On interior lots there shall be a side yard on each side of a main building of not less than five feet, and a combined total of side yards of not less than fifteen feet. On corner lots the side yard on the intersecting side shall not be less than ten feet, except in the case of a reversed corner lot, where there shall be a side yard on the street side of the corner lot of not less than fifty percent of the front yard required in the lots in the rear of such corner lot shall project beyond the front yard line required on the key lot in the rear, nor be located nearer than five feet to the side lot line of such key lot.

6. Rear yard: There shall be a rear yard of not less than twenty-five feet for interior lots nor less than fifteen feet for corner lots.

7. Lot coverage: Not more than thirty-five percent of the area of a lot may be covered by buildings or structures.

8. Lot area: Every building hereafter erected or structurally altered as a multiple dwelling, apartment or row dwelling of more than two dwelling units shall provide a lot area per dwelling unit of not less than fifteen hundred square feet. No building hereafter erected or structurally altered in the R-4.5 district shall have a total lot area of less than six thousand square feet, family dwellings may be erected or structurally altered on lots having an area of not less than four thousand square feet, and a width at the established building line of not less than forty feet.

9. Courts: No inner court or courts completely surrounded on all sides by a building shall be permitted. Outer courts are permitted, provided the depth of the court is no greater than the width of the court.

10. Accessory buildings: The same regulations shall apply as required in the R-4 district.

11. Dwelling standards: All multiple family dwelling units hereafter erected, converted or reconstructed shall contain not less than three hundred square feet of usable floor area per unit, exclusive of basements, cellars, unfinished attics, open porches, and garages.

6.0408 "B-1" Neighborhood Business District

1. Permitted uses: Permitted uses are:
 - A. Apartments, provided they are located above the first floor and above a business use permitted in this district;
 - B. Automobile service stations;
 - C. Banks;
 - D. Bakeries, where all goods are sold on the premises at retail;
 - E. Barbershops and beauty parlors;
 - F. Business, music, dance or commercial schools;
 - G. Book or stationery stores;
 - H. Drugstores;
 - I. Florist shops and greenhouses for retail trade only;
 - J. Grocer, fruit or vegetable store;
 - K. Launderettes and laundromats;
 - L. Meat market or poultry store, if no slaughter or stripping is involved;
 - M. Motel;
 - N. Offices;
 - O. Pet shop or animal hospitals when conducted wholly within the enclosed building;
 - P. Photographers or artists' studies;
 - Q. Professional or service offices;
 - R. Radio and television sales and service;
 - S. Restaurant;
 - T. Retail stores and services, but expressly excluding those uses listed in districts B-2 and M;
 - U. Shoe repair shops;
 - V. Signs relating only to the name and use of the store or premises; such signs shall be attached to the building with no portion of the sign projecting more than one foot from the structure, and if illuminated, shall not be of the flashing or intermittent type; in no case shall the sign project above the roof line;
 - W. Tailor and dressmaking shops;
 - X. Telephone exchange building;

- Y. Temporary building incidental only to construction of a permitted use;
 - Z. Tourist home;
 - AA. Undertaking establishments;
 - BB. Uses customarily incidental to any of the above uses and accessory buildings when located on the same lot; all business or service of aforesaid stores, shops or businesses shall be conducted wholly within a completely enclosed building, except for automobile parking and off-street loading areas, and sale of automobile fuel and lubricants.
2. Height: No building shall be erected or enlarged to exceed a height of two and one-half stories nor shall it exceed thirty-five feet in height.
 3. Areas: No building or structure nor the enlargement of any building or structure shall be hereafter erected or maintained unless the following yards and lot areas are provided and maintained in connection with such building, structure or enlargement.
 4. Front setback: All new structures permitted in this district shall be set back from the front street line a distance not less than twenty feet.
 5. Side yard: Where a lot is used for any of the purposes permitted in this district and is located at the intersection of two or more streets, and where an "R" district adjoins the rear of said lot, the side yard on the side of the lot adjacent to the street shall not be less than ten feet in width, except that the buildable width of the lot shall not be reduced to less than twenty feet. In all other cases a side yard is not required except on the side of a lot adjoining a dwelling district, in which case there shall be a side yard of not less than five feet.
 6. Rear yard: There shall be a rear yard having a depth of not less than fifteen feet when abutting upon a public alley and not less than twenty feet when no dedicated alley or public way exist at the rear of the lot.
 7. Lot area: The same regulations as apply in the R-4 district shall apply to dwelling units erected or structurally altered in this district.

6.0409 "B-2" Central Business District

1. Permitted uses. Permitted uses are:
 - A. Any of the uses permitted in the B-1 district;
 - B. Agricultural implement sales and service conducted wholly within a completely enclosed building;
 - C. Air conditioning and heating sales and services;
 - D. Auction rooms;
 - E. Auditoriums;
 - F. Automobile sales and service shop conducted wholly within a completely enclosed building and as one integrated business operation, but not including automobile painting, upholstering, rebuilding, or body and fender work;
 - G. Battery and tire service stations;

- H. Beverage distributors, but not including bottling plants;
- I. Billiard and poolrooms;
- J. Bowling alleys;
- K. Bookbinding;
- L. Catering establishments;
- M. Dance halls;
- N. Department, furniture and home appliance stores;
- O. Dressmaking establishments;
- P. Employment agencies;
- Q. Expressing, baggage, and transfer delivery services;
- R. Garages, public, for storage of private passenger automobiles, but not including repair services;
- S. Hand laundries;
- T. Hotels;
- U. Laboratories;
- V. Laundry employing facilities for not more than one thousand pounds of dry goods per day;
- W. Painting and decorating shops;
- X. Plumbing, heating and roofing supply and work shop;
- Y. Printing, publishing and issuing of newspapers, periodicals, books and other reading matter;
- Z. Printing shops;
- AA. Radio broadcasting station;
- BB. Recreation places;
- CC. Signs, outdoor advertising;
- DD. Tailor shops;
- EE. Taverns, or retails sale of alcoholic liquors, subject to the regulations of other adopted ordinances of the City of Bottineau;
- FF. Taxi service stations;
- GG. Telegraph service stations;

- HH. Theaters, indoor (not including outdoor theaters);
- II. Trailer sales when conducted within a building;
- JJ. Wholesale establishments, excluding a building the principal use of which is for a storage warehouse;
- KK. Manufacturing or processing which is clearly incidental to retail use is permitted. Such manufacturing or processing is limited to that which employs not more than ten persons in the manufacturing or processing.

2. Conditional uses: Automobiles or trailers (new or used) offered for sale may be stored in the open on the rear half of the lot, or lots, the front portion of which is occupied by a structure containing automobile or trailer show rooms, and where no part of the open storage area is within fifty feet of any street line. Used care sale lots, independent of automobile sales rooms and service conducted within a building, are not permitted.

3. Height: No building or structure shall be erected or structurally altered to exceed a height of three stories nor shall it exceed forty-five feet in height.

4. Areas: No front/rear, or side yards shall be required except that when a building or a group of buildings abuts upon a residential district, a yard shall be provided on the side of the lots abutting the residential district, said yard having a width of not less than 10 feet.

6.0410 "M" Manufacturing District

- 1. Permitted uses. Permitted uses are:
 - A. Artificial limb manufacture;
 - B. Automobile painting, upholstering, repairing, reconditioning, and body and fender work when done within the confines of a structure;
 - C. Bakeries, wholesale;
 - D. Beverage bottling and distributing stations;
 - E. Blacksmith shop;
 - F. Box manufacture;
 - G. Broom manufacture;
 - H. Building equipment, building materials, lumber, coal, sand and gravel yards, and yards for contracting equipment, maintenance or operating equipment of public agencies, or public utilities, or materials or equipment of similar nature;
 - I. Bus line shops and garages;
 - J. Canvas goods fabrication;
 - K. Carpet and rug cleaners;
 - L. Carting, express hauling or storage yards;
 - M. Cement block manufacture, when done wholly within a building;

- N. Chick hatcheries;
- O. Cleaning and dyeing establishments;
- P. Clothing and dress manufacture;
- Q. Creameries;
- R. Drapery and bedding manufacture;
- S. Electrical appliance and electronic instrument assembly;
- T. Food processing and dehydrating for human consumption, but not including the processing of sauerkraut, fish products, gelatin, sausage casings from animal products, starch, dextrine, glucose, sugar, vinegar, yeast, and the rendering or refining of fats and oils;
- U. Furniture manufacture and upholstering;
- V. Grain elevators;
- W. Greenhouses, wholesale growers;
- X. Heating and sheet metal fabrications;
- Y. Ice cream and ice manufacture;
- Z. Laundries, more than one hundred pounds daily capacity;
- AA. Laboratories for scientific experiments;
- BB. Machine shops and metal products manufacture, when not equipped with heavy punch presses, drop forges, screw machines, riveting machines, or any other equipment which may create vibrations or noise disturbing to adjacent property occupants;
- CC. Plastic product manufacture, but not including the processing of the raw materials;
- DD. Printing, binding and publishing of periodicals, books and reading matter;
- EE. Printing of tags, forms, calendars and other products for commercial use;
- FF. Public utility electric substations and distribution centers, gas regulation centers and underground gas holder stations;
- GG. Storage of household goods;
- HH. Storage and sale of automobiles, trailers, farm implements and equipment, and other similar equipment on an open lot;
- II. Storage and warehouses;
- JJ. Storage of flammable liquids, fats or oil in tanks, each of fifty thousand gallons or less capacity, but only after the location and protective measures have been approved by local governing officials;

- KK. Stone, marble and granite grinding and cutting;
- LL. Telephone exchange;
- MM. Tool and die shops;
- NN. Truck or bus storage yard, but not including truck terminals;
- OO. Upholstering;
- PP. Window shade manufacture;
- QQ. The manufacture of cosmetics and pharmaceuticals;
- RR. The manufacture, compounding, assembling or treatment of articles of merchandise from the following previously prepared materials: bond, cellophane, canvas, cloth, cork, feathers, felt, fibers, furs, glass, hair, horn, tanned leather, paper, plastic, precious or semiprecious metals or stones, shell, textiles, wood (excluding planning mills) and yarns;
- SS. The manufacture of pottery and figurines or any other ceramic products using only previously pulverized clay and kilns fired only by electricity or gas;
- TT. Any other manufacturing establishment that can be operated without creating objectionable noise, odor, dust, smoke, gas, fumes, or vapor, and that is a use compatible with the use and occupancy of adjoining properties.

2. Height: No building or structure shall be erected or structurally altered to exceed a height of two stories nor shall it exceed thirty-five feet in height except as provided in Chapter 6.0501.

3. Areas: The maximum ground area occupied by all buildings shall be not more than sixty percent of the area of the lot or tract on which a building permit has been issued.

4. Front yard: There shall be a front yard having a depth of not less than fifty feet wherein there shall be no structure of any kind, open storage of materials, or equipment, or the parking of vehicles.

5. Side yard: There shall be a minimum side yard of not less than fifteen feet on both sides of the building or buildings, but where the property is adjacent to an "R" district, there shall be a side yard of not less than twenty-five feet on the side nearest to the residential lots. The parking of private automobiles may be permitted within the side yard areas, but not closer than five feet to any lot zoned for residential use.

6. Rear yard: A rear yard is not required except where a lot abuts upon an "R" district, in which case there shall be a rear yard of not less than thirty feet, and no storage of materials or equipment, or the parking of automobiles shall take place within the ten feet closest to any residential lot or lots.

6.0411 Manufactured Homes

1. Single Family Dwelling: A single family dwelling shall be a 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). All single family dwellings shall be considered a taxes as real property, as provided by law. Each single family dwelling shall have a minimum overall front width of twenty-four (24) feet, a minimum overall depth of twenty (20) feet, and a minimum ceiling height of seven (7) feet, six (6) inches.

2. **Manufactured Home:** A factory built structure, which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device, allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with the Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280) which became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development.

3. **Mobile Home:** A transportable, factory built, home, designed to be used as a year-round residential dwelling and built prior to enactment of the Federal Manufactured Home Construction and Safety Standards Act of 1874 (24 CFR 3280) which became effective June 15, 1976. A mobile or portable structure constructed to be towed on its own chassis, connected to utilities and used for year-round living. It can consist of one or more unit that can be telescoped when towed, or two or more units separately towable, but designed to be joined into one integral unit.

6.0412 Mobile Home (Manufactured Home) Parks and Prefabricated Housing

1. Mobile Home Parks established prior to January 1, 2010:
 - A. The minimum lot area of premises used or occupied by each mobile home shall be two thousand square feet, clearly defined on the ground by stakes, posts or other markers. The depth of each trailer lot shall be at least thirty feet more than the length of the trailer parked thereon;
 - B. No mobile home shall be placed within fifteen feet of any other mobile home, nor within five feet of the right-of-way line of City thoroughfare. Exterior additions must be fifteen feet from any other mobile home;
 - C. Underground utility, including water, sewer, electricity and telephone, shall be provided to each lot in the park;
 - D. The minimum land or driveway upon which each individual mobile home fronts shall be twenty feet in width surfaced with a dust-proof all-weather surface, and giving an unobstructed access to a public street or highway. There shall be no parking on driveways or lanes unless they are thirty-five feet wide;
2. Mobile Home Parks established after January 2, 2010:
 - A. Manufactured home parks shall contain a minimum of ninety thousand (90,000) square feet of land and contain a maximum of seven (7) mobile homes per gross acre;
 - B. A minimum of ten (10) percent of the gross area of the project shall be devoted to parks and playgrounds;
 - C. Each manufactured home shall be placed within a lot at least fifty (50) feet wide, one hundred (100) feet in depth and with a minimum area of 5,000 square feet;
 - D. Each unit shall have a minimum front setback of twenty (20) feet, a minimum rear setback of twenty (20) feet and a minimum side setback of fifteen (15) feet. Permitted encroachments on setback space include carports, outdoor terraces or patios without roofs or walls, and encroachments may project eight (8) feet into any setback space. No unit shall be located closer than thirty (30) feet to any other unit;
 - E. Underground utility, including water, sewer, gas, electricity and telephone, shall be provided to each lot in the park;

- F. All lots and streets in the park shall be accessible at all times to emergency vehicles and streets shall be so designed as to permit a minimum number of ingress and egress points to control traffic movement from the park;
- G. Where the park is served by private streets, those streets shall conform to the design standards recommended by the City and streets and parking areas shall be surfaced for all weather travel;
- H. Each manufactured home shall be placed upon a stand which shall be surfaced in the same manner as herein required for streets, and which stand shall also provide a satisfactory method of anchoring mobile home tie-downs;
- I. All units in the park shall be served with public sewer and water supply approved by the North Dakota State Department of Health;
- J. The entire manufactured home park shall be landscaped, excluding hard-surfaced areas;
- K. Application for the establishment of a manufactured home park shall include a plot plan as to location and legal description and which plan shall set forth the forgoing requirements in detail;
- L. There shall be two off-street parking spaces per unit.

ARTICLE 5 - Area Districts

6.0501 General Provisions

1. Streets, alleys and railroad rights-of-way: All streets, alleys, and railroad rights-of-way, if not otherwise specifically designated shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, or railroad rights-of-way. Where the centerline of a street or alley serves as a district boundary the zoning of such street or alley, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

2. Height regulations: No building or structure shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit herein established for the district in which the building is located except that penthouses or roof structures for the housing or elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, smokewalls, radio and television aerials or antennas, wireless masts, water tanks, or similar structures may be erected above the limits herein prescribed. No such structure may be erected to exceed by more than twenty-five feet the height limits of the district in which it is located except that aerials or antennas designed to aid home television reception may be erected to a height not to exceed sixty feet from the ground level, provided the aerial or antenna is attached to the building or erected in the rear yard area.

3. Number of dwelling on a lot: Every building hereafter erected or structurally altered to provide dwelling units shall be located on a lot as herein defined and in no case shall there be more than one such building on one lot unless otherwise provided in this title.

4. Undersized lot: Any separate tract the title of which was of record at the time of the adoption of this title, that does not meet the requirements of this title for yards, courts, or other areas of open space may be utilized for single residence purpose provided the requirements for such yard or court (or lot) area, width, depth, or open space is within seventy-five percent of that required by the terms of this provision is to permit utilization of recorded lots which lack adequate width or depth as long as reasonable living standards can be provided.

5. Easement: No building shall be constructed or erected upon a lot, or parcel of land, which does not abut upon a public street or permanent easement of access to a public street, which easement shall have a minimum width of twenty-five feet unless an easement of lesser width was of record prior to the adoption of this amended title.

6. Visibility of traffic: No wall, fence, or shrubbery shall be erected, maintained or planted on any lot which unreasonable obstructs or interferes with traffic visibility on a curve or at any street intersection.

7. Dwelling in manufacturing district: A dwelling shall not be erected in the manufacturing district, however the sleeping quarters of a watchman or caretaker are permitted.

8. Structures in addition to a residence: No residential structure shall be erected upon the rear of a lot or upon a lot with another dwelling; except that in a two story garage with living quarters upon the second floor, such quarters may be occupied by a servant (and his family) of the family occupying the main structure. There may also be constructed a guest house (without kitchen) or rooms for guests within an accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the main structure and not for permanent occupancy by others as a housekeeping unit.

9. Buildings under construction: Nothing in this title shall be deemed to require any change in the plans, construction or designated use of any building upon which actual construction or designated use of any building upon which actual construction was lawfully begun prior to the adoption of this title and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within two years from the date of passage and publication of this title.

10. Public open spaces: An area indicated on the official "zoning map" as a public park or recreation area, public utility area, cemetery, public school site, or semipublic open space, shall not be used for any other purpose, and when the use of the area is discontinued, it shall automatically be zoned "R-1" one family district, until otherwise zoned.

11. Annexations: Any area annexed to the City shall, upon such annexation, be automatically zoned "R-1" one family district, until otherwise zoned.

12. Reserved areas: An area indicated on the official "zoning map" as "reserved for essential services" shall be reserved exclusively for public water mains, public sewage lines, and public utility and other essential services, and no structure shall be erected or placed therein, nor shall other use be made thereof, which will prevent or interfere with the installation or maintenance of any public water mains, public sewage lines, and public utility and other essential services, in, upon, across, or under such areas.

6.0502 Off-Street Parking and Loading

1. Off-street parking spaces: For the purpose of this chapter, one hundred and eighty square feet of lot or floor area, which has a means of ingress and egress from an alley or street, shall be deemed parking space for one vehicle. Such space shall not occupy any part of any required front yard, but where open may be included as part of a required open space for side or rear yard. On corner or through lots, parking space may not be included as part of required yards lying adjacent to either street. Such parking spaces and access driveways, required in residential districts, when used in compliance with the provisions of this title, shall be paved or otherwise surfaced with an all-weather, dust-proof material. That part of the driveway connecting from the curb line to the property line shall be paved with concrete or asphalted materials.

2. Off-street parking areas - Specifications: Parking areas serving nonresidential uses of property shall be hard surface and graded so as to drain off all surface water to storm sewer inlets. When such parking areas or lots abut upon adjacent residential properties, there shall be provided a wall or solid screen planting of appropriate shrubs to a height of not less than four feet, along the entire boundary, common to both the residential and parking areas. Lights used to illuminate such parking lots shall be so

arranged as to reflect lighting away from the adjoining premises in the residential district. Such parking spaces shall be reserved for the sole use of the occupants of the building or lots, their customers, and the visitors thereto. Churches, theaters, stadiums, auditoriums, and other places of assembly may make arrangements for joint use of parking spaces as hereinafter specified.

3. Districts--Exceptions: In a district, except as noted below, every building built, or structurally altered, enlarged or increased in capacity, and every land use initiated subsequent to the adoption of this section shall be provide with minimum off-street parking facilities as follows:

- A. One and two family dwellings and multiple family dwellings: One parking space for each dwelling unit;
- B. Hotels, rooming houses, clubs and fraternal homes: One parking space for each two guest sleeping rooms;
- C. Hospitals: One parking space for each three hospital beds;
- D. Tourist homes: One parking space for each transient sleeping room offered for tourist accommodation in addition to parking spaces required for permanent residents of the building;
- E. Tourist courts and motels: One parking space for each lodging unit;
- F. Churches, auditoriums, gymnasiums, stadiums, theaters and other places of public or private assembly with fixed seats: One parking space for each five seats or bench seating spaces, based upon maximum seating capacity.

4. Off-street parking--Joint use: For the purpose of this type of use, parking spaces already provided to most off-street parking requirements for stores, office buildings and industrial establishments, or off-street parking facilities provided by the municipality, lying within three hundred feet of the place of public assembly as measured along the lines of public access, and that are not normally in use between the hours of six-thirty p.m. and midnight, and are made available for other parking, may be used to meet up to seventy-five percent of the total requirements of parking space for places of public assembly:

- A. Dance halls, bowling alleys and private clubs: One parking space for each two hundred square feet of floor area, to be provided on the premises or within three hundred feet of the entrance;
- B. Restaurants: Restaurants or establishments whose primary use is to serve meals and refreshments to patrons shall provide one parking space for each one hundred square feet of floor space in the building;
- C. Wholesale and distributing establishment including telephone exchanges: One parking space for each three employees;
- D. Manufacturing establishments: One parking space for each five employees, based on the greatest number of employees at work at one time, to be provided on the premises or at another off-street location within one thousand feet of the main entrance.

5. Change in use or capacity of building: Parking space required under this chapter may be reduced at a time when the capacity or use of a building is changed in such a manner that a new use or capacity would require less space than before the change. Such reduction may not be below the standards set forth in the chapter. Loading or unloading areas shall not be considered as parking areas. The joint use of parking facilities may be permitted in cases where major parking demands occur on different days of the week or during different hours, provided (1) that parking spaces will be available for each use in accordance with the above standards, and (2) that the owners agree in writing that any subsequent sale or

division of the property or change in use thereof will not interfere with the joint use of the parking facilities.

6. Plan to accompany building permit: A plan of parking facilities shall accompany each application for a building permit or certificate of compliance. The completion of the improvements for parking according to such plan shall be a requisite for the validity of the permit or certificate.

The City Council may authorize a special permit to allow a parking lot in a residence zone for the purpose of meeting the requirements of this section, subject to the following limitations:

- A. Public notice must be given and a public hearing held by the board of adjustment on the request for a special permit in the same manner in which said notice is given and such hearing is held on a request for a variance;
- B. Notice must be given by registered mail to all owners of property lying within three hundred feet of the land for which the special permit is sought; and
- C. A special permit shall not be granted unless the application shows and warrants that in the proposed development of the parking area, that front and side yards will be met and maintained.

7. Off-street loading facilities: On the same lot with every building or part thereof erected hereafter to be used for other than exclusive dwelling purposes, or as an accessory use for dwelling purposes, there shall be provided on the lot, adequate space for motor vehicles in order to avoid undue interference with the public use of streets or alleys. Such space, unless otherwise adequately provided for, shall include a ten foot by twenty-five foot loading space, within fifteen feet height clearance, and one such space shall be provided for each twenty thousand square feet or fraction thereof of floor or lot area used for other than residence purposes.

ARTICLE 6 - Yard Regulations

6.0601 Additive Provisions

1. Accessory buildings: Accessory buildings, except as otherwise permitted in this title, shall be subject to the following regulations:

- A. Where an accessory building is structurally attached to a main building, it shall be subject to, and must conform to all regulations of this title applicable to the main building;
- B. An accessory building may not be located nearer than five feet to any interior lot line and not nearer than five feet to the rear lot line;
- C. No detached accessory building shall be located closer than ten feet of any main building;
- D. An accessory building shall not be erected prior to the establishment or construction of the principal use building.

2. Signs: Any publicly displayed sign, symbol or notice on any premises to advertise the business there transacted, or name of person or firm conducting that business on the premises or directing to some other locale, shall be regulated as follows:

- A. In an "R" district, the following signs shall be permitted:
 - I. For each dwelling unit, one name plate not exceeding one square foot in area, indicating name of occupant;

- II. For a structure other than a dwelling unit, one identification sign not exceeding ten square feet, except a church bulletin board which shall not exceed eighteen square feet;
 - III. For purpose of orientation, directional signs when established by City, not exceeding two square feet.
 - IV. Billboards are not allowed in any "R" District.
- B. In a "B" or "M" district, the following signs shall be permitted:
- I. Any sign to be attached to a building which pertains to a use conducted within the main building may not extend not more than six feet out from a wall of the building, and may not project not more than four feet above the roof line;
 - II. Only one sign per face of a building for each business occupying that building;
 - III. Any person placing a free standing sign must obtain a building permit prior to placement;
 - IV. Directional signs permitted as in an "R" district.

6.0602 Nonconforming Uses

1. Generally: The lawful use of land or buildings existing at the time of the adoption of this title may continue although such use does not conform to the regulations specified by this title for the district in which such land or building is located, subject to the following conditions and specifications.

2. Land use: A nonconforming use of land (outside of a building) shall be made to conform to the provisions of this title within a period of two years after adoption of this title.

3. Abandonment: Any nonconforming use of land or building which has ceased by discontinuance or abandonment for a period of one year shall there after conform to the provisions of this title.

4. Destruction or damage: Any nonconforming building which has been destroyed or damaged by fire, explosion, act of God, or by a public enemy to the extent of sixty percent or more of its assessed valuation, shall thereafter conform to the provisions of this title. Where more than forty percent of the assessed value of the building remains after such damage, such structure may be restored to the same nonconforming use as existed before such damage.

5. Movement: No nonconforming use of a building may be moved to any other part or parcel of land upon which same was conducted at the time of the adoption of the title.

6. Alterations: No nonconforming building shall be enlarged or structurally altered except to make it a conforming building. A nonconforming use of a building existing at the time of the adoption of this title may be extended throughout the building provided no structural alterations; except those required by ordinance or law are made therein, and provided approval is granted by the City Council.

7. Change in use: The use of a nonconforming building may be changed only to a use of like or similar character, or to a use conforming to the district in which the property is located.

8. Signs and billboards: Any nonconforming signs or billboards shall be removed within a period of two years from the adoption of this title.

9. Amendments: the foregoing provisions shall also apply to nonconforming uses in districts hereafter changed by amendment to this title.

6.0603 Community Unit Plans

1. Authorization: The City Council may, by ordinance and after a public hearing and a recommendation by the planning commission held and made in the manner provided by law for amendments to this title, authorize, in any residential district, the location and development of a planned residential development of single or multiple family dwellings, or both, on not less than five acres of land, and provided:

- A. The plan is consistent with the intent and purpose of this title to promote health, safety, morals, and general welfare;
- B. The buildings shall be used for single family dwellings, two family dwellings or multiple family dwellings, and the usual accessory uses such as garages, storage space or project activities;
- C. Adequate open spaces are provided between buildings to create an appearance and character of development suitable for the district in which the improvement is to be located;
- D. Off-street parking facilities to be provided to meet all requirements of Chapter 6.0502.

ARTICLE 7 - Enforcement

6.0701 Enforcing Officer

1. Designated: The planning commission of the City Council are designated as the officers to be responsible for enforcing this title. The commission shall have the power and shall exercise the function prescribed by the state law and by terms of all ordinances now in force or hereafter passed. A majority of the commission shall be sufficient to act.

6.0702 Permits

1. Building permit: No building or structure shall hereafter be erected or structurally altered until a building permit shall be issued by the planning commission of the City Council stating that the building or structure, and use of land comply with the regulations of this title and all building and health laws and ordinances.

2. All applications for building permits shall be accompanied by a plat, drawn to scale, showing the actual dimensions of the lot or lots to be build upon, the size of the building or structure to be erected or structurally altered, its location on the lot or lots and such other information as may be necessary to provide for the enforcement of these regulations. A record of such applications and plats shall be kept in the office of the City Auditor.

3. No building shall be constructed, and no permit shall be issued for any building, on any premises not served by a sewer unless the area of the lot on which such building is to be erected complies with the ordinances relative to septic tanks as to size and condition of soil.

4. Use permit: No change shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now or hereafter occupied, without a use permit having first been issued by the planning commission. No such use permit shall be issued to make such change unless it is in conformity with the provisions of this title or amendments thereto hereafter duly enacted.

5. Continuation of existing uses: Nothing in this chapter shall prevent the continuance of the present occupancy or lawful use of any existing building, except as may be necessary for the safety of life and property, and except as provided in Chapter 6.0602(4).

6.0703 Conditional Uses

1. Application: Applications for conditional uses, as defined in this title, shall be considered at a meeting before the City Council. The City Council shall make its findings of fact and recommendations within thirty days after the meeting.

The City Council may require such restrictions upon the height and bulk of any structure so approved for conditional use as may be reasonable under the particular circumstances, provided that such restrictions shall not be more restrictive than the requirements established for the district in which such structure is proposed to be located.

2. Purpose and conflict: In interpreting and applying the provisions of this title, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare. It is not intended by this title to interfere with, abrogate, annul or repeal any ordinance, rules, regulations, previously adopted, and not in conflict with any of the provisions of this title or which shall be adopted, pursuant to law, relating to the use of buildings or premises, nor is it intended by this title to interfere with abrogate, or annul any easements, covenants, or other agreements between parties, except that where this title imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger open spaces than are imposed or required by such other ordinances or such easements, covenants or other agreements, the provisions of this title shall control.

3. Fees: Authority to establish: Fees pertaining to petitions for zoning amendments, use permits, certificates of compliance, variations, and for appeals to the board of adjustment, shall be established by action of the Council from time to time. Such fees shall be paid to the City Auditor, who shall give a receipt therefore.

6.0704 Violations

1. Penalty for violations: It shall be unlawful to use or occupy any building, structure or premises in violation of the terms of this title. Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provision of this title shall be fined not less than twenty-five dollars nor more than one hundred dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

6.0705 Enforcement

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

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
2. To restrain, correct or abate such violation;
3. To present the occupancy of the building, structure or land; or

4. To prevent any illegal act, conduct, business or use in or about such premises.

5. A violation of any provision of this article or a violation of or refusal or failure to comply with any regulation, order, requirement, decision of determination made under authority conferred by this article shall be punishable as provided in the chapter entitled "Ordinances," or as provided in this chapter specifically.

6.0706 Appeals

1. Board of adjustment established: There is hereby established a board of adjustment. The board shall consist of five members appointed as provided by the North Dakota Century Code, Title 40.

A. The board of adjustment shall select one member as its chairman and another to serve as vice chairman, each for a term of one year and subject to reelection. The chairman, or in absence, the vice chairman, may administer oaths and compel the attendance of witnesses.

B. The board shall also select one member as a secretary to keep minutes and maintain the records of the board of adjustment.

2. Board of adjustment--Meetings: All meetings of the board of adjustment and all hearings shall be open to the public. Meetings shall be held at the call of the chairman and at such other times as the board may determine. Meetings may be called at the request of three members of the board. The board shall keep minutes of its proceedings showing the vote of each member upon every question decided by it, or if any member is absent or fails to vote, indicating such act. Statement of the facts found by the board shall be included in the minutes of each case heard or considered by it. The reason for recommending or denying an exception as herein provided shall also appear in the minutes. In every instance, a statement of the facts upon which such recommendations are based shall appear in the minutes. The board shall adopt its own rules of procedure. The minutes of the board shall be open to public examination at reasonable hours. Expenses incurred by the board of adjustment are to be itemized and shall be borne by the City.

3. Board of adjustment--Jurisdiction: The board shall hear and decide appeals from any order, requirement, decision, or determination, made by the administrative officials charged with the enforcement of this title.

A. The board of adjustment shall have no authority to authorize change in the use of any parcel of property or structure.

B. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of the officers from whom an appeal is taken or to decide in favor of the applicant any provisions of this title.

4. Appeals and review: Any person aggrieved by a ruling of the planning commission respecting the interpretation of this title or any officer, department, board or bureau of the City affected by a ruling of the committee concerning the interpretation of this title, may take an appeal to the board of adjustment. Such appeal shall be taken within such time as shall be prescribed by the board of adjustment by general rules adopted by it, by filing with the board of adjustment a notice of appeal, specifying the grounds thereof, together with such plats and exhibits as required by the board of adjustment. The committee shall forthwith transmit to the board all the papers constituting the record upon which the action appealed was taken.

5. Stay of proceedings: The appeal shall stay all proceedings and furtherance of the action appealed from, unless the ordinance and planning committee certifies to the board of adjustment after the notice of appeal has been filed with them that by reason of facts stated in the certificate a stay would, in their opinion, cause imminent peril to life or property. In that case the proceedings shall not be stayed

otherwise then by a restraining order which may be granted by the board of adjustment or by Court of record on application, with notice to the planning commission, and all due causes shown.

- A. The board of adjustment shall fix a reasonable time and place for the hearing of appeals and shall give notice thereof to the persons appealing and to the offices from whom the appeal is taken. It shall hear and decide the appeal within a reasonable time. At the hearing, parties of interest may appear in person or by agent or attorney.
- B. The board of adjustment may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

6. Variations: The City Council, by resolution, may authorize in the manner provided by law variations from the provisions of this title where there are practical difficulties or particular hardships in the way of carrying out the strict letter of any of the provisions of this title relating to the use, construction or alteration of building or structures or the use of land.

7. Rules governing variations: No variation shall be allowed:

- A. To permit a nonconforming use which will materially interfere with the use of adjoining premises in conformity with the regulations applicable to the use district in which it is located;
- B. To permit a nonconforming use in any residence district, excepting that when there are two or more similar nonconforming uses in the same block, a variation may be allowed (1) to alter or remodel a family residence so as to provide for two dwelling units therein; (2) to erect a two family dwelling in a one family district; and (3) to erect, reconstruct, alter or remodel a building in a two family district for an apartment house;
- C. To permit a nonconforming manufacturing district use in a business district, (1) unless it is an extension of a permitted nonconforming use by enlarging a building or erecting additional buildings as part of one establishment upon a lot or lots adjoining a lot on which such nonconforming use exists; or (2) unless a separate tract, the title of which was of record on the effective date of this title is divided by a district boundary line, but such variation shall be limited to the use permitted in the adjoining district and shall not be extended more than twenty-five (25) feet beyond the district boundary lines.

ARTICLE 8 - Amendments

6.0801 Amendments

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

2. Report by City Planning Commission - Public Hearing. The governing body shall require a report from the City planning commission on a proposed amendment before taking final action thereon. The City planning commission shall thereupon make a tentative report and hold a public hearing thereon with notice the same required for a public hearing by the governing body, before submitting its final report. Such final report shall be submitted within ninety (90) days after the time of referral of the proposed amendments to the City planning commission unless the governing body is agreeable to an extension of time.

3. Action by Governing Body - Public Hearing. After the receipt of the required final report on any amendment from the City planning commission or in the event of the failure of the City planning commission to so report within ninety (90) days following the time of referral of the proposed amendment to the City planning commission, the governing body shall hold a public hearing, after which the proposed amendment may be passed. Not less than fifteen (15) days notice of the time and place of holding such public hearing shall first be published in the official newspaper. A hearing shall be granted to any person interested, and the time and place specified.

4. Vote after Protest. If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of twenty percent (20%) or more:

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

B. Of those immediately adjacent in the rear thereof extending 150 feet therefrom; or

C. Of those directly opposite thereto extending 150 feet from the street frontage of such opposite lots.

5. The amendment shall not become effective except by the favorable vote of three-fourth (3/4) of all the members of the governing body.

ARTICLE 9 – Small Wind Energy System

6.0901 Small Wind Energy Systems: This section is intended to provide reasonable standards for the use of a Small Wind Energy System (SWES) which would allow electrical power consumers to supplement or replace their use of utility-provided electrical power without creating negative impacts to adjacent properties or the public.

6.0902 Definitions: The following definitions represent the meanings of terms as they are used in these regulations:

Small Wind Energy System (SWES): A wind turbine of less than 25 kilowatts maximum output capacity and all appurtenant structures and equipment.

6.0903 For the Purposes of This Section: A SWES is defined as a wind turbine of less than 25 kilowatts maximum output capacity and all appurtenant structures and equipment. A SWES is incidental and accessory to a permitted principal use located on the same lot or parcel of land. A SWES is intended to produce electricity primarily for on-site consumption but excess electrical power may be transferred to a utility company power supply grid pursuant to utility company interconnection agreements.

6.0904 Special Uses: In order to carry out the purposes of this title, the board of City Council finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent occurrence, effect on surrounding area, or other reasons, be reviewed by the City planning and zoning commission and building inspector prior to the granting of a building permit and that the City planning and zoning commission and building inspector are hereby given limited discretionary powers relating to the granting of such permit.

6.0905 Permanent Uses (Planning Commission Approval): The City planning and zoning commission is authorized to grant special use permits for the following uses:

1. A SWES may be permitted in any zoning district subject to approval of a special use permit by the Bottineau Planning and Zoning Commission. A special use permit may be revoked at any time if the SWES is found to be in violation of any of the rules of this or other sections of the Bottineau Municipal Code or in violation of any of the conditions imposed by the Bottineau Planning and Zoning Commission in granting the special use permit.

6.0906 The Minimum Building Setback Distance: Shall be 150% of the height of the structure.

1. The setback distance is the horizontal distance from the center of the supporting structure to the nearest property line or to the nearest overhead utility easement or underground petroleum product pipeline easement; and

2. The height of the structure is the vertical distance from the ground surface to the highest point of a rotor blade when in an upright position.

6.0907 The Bottom of The Rotor Blade Sweep: Shall be no closer than 35 feet above the ground surface. Blades may not extend over parking areas, driveways, or sidewalks.

6.0908 Sound Produced by A SWES: Shall not exceed the following limits at the property line:

<u>Zoning District</u>	<u>Day</u>	<u>Night</u>
Residential: R-1, R-2, R-3, R-4, R-4.5	55	45
Business: B-1, B-2	55	45
Manufacturing: M	55	45
Agricultural or ½ Mile Zoning	55	45

1. Sound pressure level limits are measured in dB (A) as specified in the latest edition of the American National Standards Institute specifications.

2. Sound is measured at the property line of any receiving property.

3. Day is defined as the time period from 7:00 a.m. to 10:00 p.m. Night is defined as the time period from 10:00 p.m. to 7:00 a.m.

6.0909 Additional Rules Regarding SWES's:

1. Sound Measurements: Following approval and installation of a SWES, the building inspector shall require the owner/operator of the SWES to engage a certified technician to perform sound measurements at the closest property line to determine and report ambient and operating decibel levels.

2. Braking Controls: A SWES shall be equipped with both automatic and manual braking controls to prevent uncontrolled rotation and to limit the rotation speed to the design limits of the SWES.

3. Insurance: The owner/operator of a SWES must provide proof of liability insurance at the time of application.

4. Shadow Flicker: Shadow flicker shall not negatively impact any adjacent properties.

5. Electronic Interference: The SWES shall not cause electronic or electromagnetic interference with signal receptions or transmissions beyond the boundaries of the property upon which the SWES is located.

6. Monopole Requirement: Within the corporate boundary of the City of Bottineau, as well as within the City, wind turbines are required to be mounted on monopole structures without guy wires.

7. Roof-mounted SWES: A roof mounted SWES is not allowed on residential structures.

8. Color: To minimize off-site visibility to the greatest extent possible, the color of a structure shall be a neutral white or light gray and the surface finish shall be non-reflective.

9. Lighting: The use of flood lights, laser lights, strobe lights, searchlights, beacons and similar lighting is prohibited unless required by the FAA.

10. Signs: No signs are allowed on SWES structures except for safety or warning signs which are limited to three square feet in area.

11. Climbing Apparatus: No climbing apparatus shall be located within 12 feet of the ground on any structure. All structures shall be designed to prevent climbing by unauthorized persons.

12. Removal of Defunct Systems: Facilities shall be well maintained in an operational condition that poses no potential safety hazard.

A. If a SWES remains nonfunctional for a continuous period of one year, the system shall constitute a public nuisance and shall be removed.

B. The owner shall remove a defunct system at the owner's expense.

C. Removal includes the entire structure and related appurtenances including any foundation and transmission system.

13. Building Permit Required: Prior to installing a SWES, the applicant shall obtain a building permit from the Bottineau City Auditor.

14. Compliance with Airport Zoning: A SWES must comply with Airport zoning rules.

6.0910 An Application for A Use Permit: For the placement of a SWES shall include the following:

1. Scaled and dimensioned site plan drawing showing features of the property and adjacent land within 300 feet of the subject parcel, including but not limited to:

A. Location and height of the SWES;

B. Property boundaries;

C. Distances from a SWES to closest points on adjacent property boundaries;

D. Location and dimensions of structures;

E. Zoning districts of all adjacent properties;

F. Owners of all adjacent properties;

G. Locations, dimensions and descriptions of utility easements;

H. Location of overhead utility lines;

I. Location of underground petroleum pipelines; and

J. Distances from the SWES to the closest points on utility easements.

2. Written information from the manufacturer on the proposed SWES starting the following:

A. Compliance with noise standards established by Section 6.0908;

B. Compliance with electronic interference standards established by Section 6.0908(5);

- C. Evidence that the proposed SWES model has an operational history of at least one year; and
 - D. Shadow flicker properties.
3. Unless certified by the manufacturer as not causing shadow flicker in the proposed installation, a shadow flicker model and map showing:
- A. Shadow flicker map coverage area of 1,000 feet from a SWES; and
 - B. Shadow flicker model representing locations affected, intensity, and duration.
4. Copy of letter of compliance of the proposed SWES with airport zoning from the Bottineau Municipal Airport.
5. Copies of letters of compliance of the proposed SWES from the following:
- A. Federal Aviation Administration;
 - B. United States Fish and Wildlife Service; and
 - C. The local electrical utility company serving the subject property.

6.0911 An Application for A Building Permit: For the placement of a SWES must include:

- 1. A copy of the special use permit, with the site plan, as approved by the City Planning and Zoning Commission and City Council;
- 2. Dimensioned engineering drawings of the structure including the tower, base, and footings;
- 3. Line drawing of the electrical components in sufficient detail to allow for a determination that the manner of installation will meet compliance with the electrical code; and
- 4. Documentation certifying that the SWES will meet structural loading requirements for a 90 M.P.H. sustained wind. Wind load certification shall be prepared by a professional structural engineer registered in the State of North Dakota.

6.0912 Severability:

If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

6.0913 Penalty:

Construction and installation of a SWES in violation of any requirements of this ordinance shall result in a fine of up to five hundred dollars (\$500.00) per day. Each day a SWES is not in compliance with the requirements of this ordinance shall constitute a separate offense.

ARTICLE 10 – Crew Camp Housing

6.1001 Definition

1. "Crew housing facilities" means one or more lodging units or skid units, ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis, which are not real property, as defined in Section 57-02-04 NDCC, and are not mobile homes, as defined in Section 57-55-01 NDCC. A group of crew housing facilities that are connected physically or by common ownership may be treated as a single crew housing facility for purposes of imposition of crew housing permit fees imposed under this chapter.

2. "Crew housing permit" means a right granted by a City to locate crew housing facilities on property within the jurisdiction of the City under this chapter and to enjoy attendant services and facilities provided by the City.

3. "Skid unit" means a structure or group of structures, either single or multisectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis.

6.1002 Crew Housing Special Use Permit

Any person desiring to operate a crew housing facility shall first apply for a special use permit, as provided herein. Upon receipt of the completed application, the Bottineau City Council shall have the obligation to (1) judge whether the person applying for the permit, and any owner, operator, or vendor associated with the applicant, is experienced and able to operate a crew camp in the best interests of the City of Bottineau and its citizens; and (2) judge whether the physical location and land sought to be used for a crew housing facility is appropriate for the use intended. Any crew housing facility shall require a special use permit, and shall not be allowed in any zoning designation with the City of Bottineau or its extra-territorial zoning jurisdiction without such special use permit. Such special use permit shall be valid for a maximum period of five years from the date of final approval by the Bottineau City Council. Any person granted a special use permit for a crew housing facility shall have the option to apply for an extension of the special use permit for an additional five years period. Any extension for the special use permit shall be at the sole discretion of the Bottineau City Council.

6.1003 Crew Housing Permit Fees

The City shall impose an annual crew housing permit fee, the amount of which shall be determined on the basis of the value of services and facilities provided to the crew housing facility by the City and incorporated into the City's fee schedule.

6.1004 Minimum Design Standards

All crew housing facilities permitted under this Article shall meet the following minimum design standards:

1. Provide all ordinary urban services, to include municipal water, municipal wastewater, and urban roads.
2. Annexation of all real property containing the crew housing facility into City limits.
3. Provide adequate parking for any and all crew housing facility residents.
4. Provide for adequate fire suppression.
5. Provide for adequate access to emergency vehicles.
6. Provide for adequate security of the crew camp facility.
7. Meet all design standards required by any building code, fire code, subdivision code, or zoning code adopted by the City of Bottineau.

8. The Bottineau City Council may further require a minimum lot size or minimum acreage for the crew housing facility.

9. The Bottineau City Council may further require the land on which the crew housing facility is located to be platted as a subdivision.

10. The Bottineau City Council may further require any condition or restriction that in the judgment of the Board is reasonable and necessary for the crew housing facility.

6.1005 Application for Special Use Permit

The application for a special use permit for crew housing facility shall be signed by the owner of the crew housing facility, as well as by the owner of the land on which the crew housing facility is to be located. The application shall include the following information:

1. A complete statement of the type of business contemplated.
2. Consent to a background investigation of the owner of the crew housing facility.
3. Identify any vendors who are expected to provide services at the crew housing facility.
4. The applicant's history of residency, employment, and business ownership for five years prior to the date of the application. If the applicant is a partnership, this information shall be furnished for all the partners; and, if a corporation, whether such corporation is a subsidiary of any corporation, and, if so, the name of the parent corporation, the purposes for which the corporation was incorporated and the names and addresses of all stockholders holding more than five percent of the capital stock of such corporation.
5. Whether the applicant has ever engaged in the business of owning or operating a crew housing facility before; and, if so, the dates and locations of such ownership or operation.
6. Whether during the five (5) years preceding the date of the application, the applicant has ever been convicted of a violation of any law of the United States or of any state; and, if so, the dates, names of places and courts in which such convictions were obtained.
7. Whether the applicant has any agreement, understanding or intention to have any agreement or understanding with any person to obtain for any other person or to transfer to any other person the license obtained or to use the license for any other purpose other than the specific use of the applicant; and, if so, the names and addresses of such persons and the conditions of such agreements.
8. A description of the temporary housing units.
9. A description of how the proposed units are to be set and/or anchored to the ground.
10. A statement that roads to be constructed within the facility will meet City specifications.
11. A copy of the applicant's deed and/or lease to the real property on which the crew housing facility would be located.
12. A copy of plot plans, drawn to scale, showing the location of housing units, additional structures, setbacks, utilities, drainage, parking, ingress, egress, screens, buffers, and fencing.
13. A copy of the facility's house rules and regulations.
14. A copy of the facility's on-site security plan.

15. A copy of the facility's on-site emergency management plan, to include contingencies for fire, tornado, and other natural disaster.

16. Any additional information deemed necessary by the City Engineer, Planning and Zoning Commission, or Bottineau City Council.

6.1006 Grant of Special Use Permit

Any application for a special use permit as provided under this Article shall be denied to any applicant who, in the discretion of the Bottineau City Council, is a person of questionable character or for any other cause which would, in the opinion of the Council, render either the applicant or the premises to be licensed, improper or unfit for a crew housing facility, or which would, in the Council's judgment, make the granting of the permit contrary to the best interests of the City and its citizens. In granting any special use permit under this Article, the Bottineau City Council shall have the authority to limit the number of living units or total number of persons to be housed in such units within the crew housing facility. The Bottineau City Council shall further have the authority to limit the total acreage or land area that may be used for the crew housing facility.

6.1007 Revocation of Permit

The Bottineau City Council may review the status of any permit issued pursuant to this Article, and take appropriate action to suspend or revoke the same, as provided herein:

1. Suspension and Revocation for Cause. Any permit issued pursuant to this Article may be revoked or suspended for cause by the Bottineau City Council for cause, which cause may include, among other grounds, the following:

- A. When the applicant is adjudged bankrupt;
- B. When the applicant has made any false statement or statements in an application for the issuance of such permit;
- C. When the applicant, or in the case of a corporation or other entity, the manager of a licensee has been convicted of a violation of any felony crime under the laws of the United States or of any state;
- D. When the business of the applicant at the location permitted has been conducted in violation of the health or sanitary regulations of the City or of the State;
- E. When in the judgment of the Bottineau City Council, the applicant has conducted his business or permitted his business to be conducted in a disorderly manner or in a manner that is dangerous or detrimental to the public welfare and morals; and
- F. When the applicant, or an agent or employee of the applicant, violates any term or condition of the permit or any provision of this Article.

2. Notice – public hearing. Sanctions or penalties under this section may not be invoked without a public hearing if requested by the applicant. Upon written notification to the applicant by the City Auditor that a penalty is being sought under this section, the applicant may notify the City Auditor's office within ten (10) days of the date of such written notification and request a hearing on the proposed penalty. Failure to notify the City Auditor within ten (10) days of the date of such written notification will be deemed acceptance of the penalty without hearing. A hearing shall be set before the Bottineau City Council specifying the time and place of the hearing, and shall be mailed to the applicant. A record of any hearing shall be made by electronic recording device.

If, upon such hearing, it appears to a majority of the Bottineau City Council that sufficient cause exists for the penalty sanctions, the Bottineau City Council shall make its order in accordance with the provisions of this Article.

3. No Refunds on Revocation or Suspension. When any permit is revoked or suspended for any reason, no portion of the permit fee shall be returned to the applicant.

6.1008 Prohibited Housing Types

Recreational vehicles, campers, and mobile homes are prohibited units within a crew housing facility.

6.1009 Prohibited Activities

No animals are allowed on the premises of a crew housing facility. No parking shall be allowed between units. The site is to be maintained free of garbage and junk. The operator of the crew housing facility shall be responsible for establishing and enforcing any restrictions related to possession or use of alcohol on the crew housing facility premises.

6.1010 Posting of Reclamation Bond

Prior to the start of any construction on the crew housing facility, or any occupancy thereof, the applicant shall post with the City of Bottineau a valid reclamation bond in an amount to be determined by the City Council based upon the City Superintendent's estimate of the costs to return the property to its original condition, permanent improvements excepted, following termination of the use of the property for a crews housing facility.

6.1011 Conditions – Reporting Requirements

The Bottineau City Council may attach any conditions or reporting requirements to the grant of the special use permit that it deems necessary and prudent.

ARTICLE 11 – Storage Containers

6.1101 Definitions

1. For the purposes of this Ordinance, Storage Containers mean a pre-manufactured container generally used for the purpose of storage. No wheels or under carriage may be attached to the storage container.

6.1102 Areas permitted

1. Storage Containers may be placed only in the areas of Bottineau zoned as “M” Manufacturing Districts, according to the following conditions:

- A. Storage Containers may be located only in the rear portion of a lot or lots. Storage Containers may not encroach upon the front or side yards of lots, and may not encroach on designated parking areas.
- B. Only one Storage Container allowed for each business or entity owning a lot or lots in the “M” Manufacturing District. Storage Containers may not be attached or affixed to another structure. Storage Containers may not be stacked on top of another container or structure, nor may storage containers be placed end to end.

- C. Storage Containers must be maintained and kept visually pleasing. Storage Containers must match the appearance of any principal structure or structures behind which they may be located, and any lettering or advertising on such storage container must be removed prior to placement.
- D. The height of a storage container allowed by this ordinance may not exceed twelve (12) feet.
- E. The width of a storage container allowed by this ordinance may not exceed eight and one-half (8 ½) feet.
- F. The length of a storage container allowed by this ordinance may not exceed fifty three (53) feet, and may not encroach upon the side yard.
- G. As far as set back regulations from lot lines, the provisions of Chapter 6.0601(1) (B), (C) & (D) shall apply equally to the storage containers contemplated and allowed by this ordinance.

6.1103 Areas permitted during temporary construction

1. Storage Containers may also be placed temporarily during construction projects on construction sites only in areas of Bottineau zoned as “B-1” Neighborhood Business Districts, “B-2” Central Business Districts & “M” Manufacturing Districts. These temporary Storage Containers must be removed immediately upon completion of the construction project.