TITLE IV.

PLANNING - ZONING

CHAPTERS:

4-01. Planning Commission - Zoning Commission.
4-02. Comprehensive Plan.
4-03. **Reserved for Future Use.**
4-04. Subdivision Regulations.

ZONING REGULATIONS

4-100. General Provisions.
4-200. Definitions.
4-300. Establishment of Districts and Official Zoning Map.
4-400. Regulations.
4-500. Administration and Enforcement.

CHAPTER 4-01

PLANNING COMMISSION - ZONING COMMISSION

SECTIONS:

4-0101. Planning Commission: Creation.
4-0102. Planning Commission: Members Appointed.
4-0103. Planning Commission: Term of Office.
4-0104. Planning Commission: Confirmation of Appointments by City Commission.
4-0105. Planning Commission: Powers and Compensation.
4-0106. Zoning Commission.
4-0107. Extraterritorial Planning and Zoning Authority.

4-0101. PLANNING COMMISSION: CREATION. Pursuant to Chapter 40-48 of the North Dakota Century Code and all previously existing ordinances of the City of West Fargo, there shall be a body known as the Planning Commission of the City of West Fargo. The creation of said commission is hereby confirmed and ratified.

4-0102. PLANNING COMMISSION: MEMBERS APPOINTED. The Planning Commission shall consist of eight (8) members, who shall be appointed as hereinafter provided. In addition to the appointed members, the President of the Board of City Commissioners, the City Engineer and the City Attorney shall act as ex-officio members of said Planning Commission.

Source: Ord. 924, Sec. 1 (2012)

4-0103. PLANNING COMMISSION: TERM OF OFFICE. The ex-officio members of the Planning Commission shall serve during and for their respective terms for which they are elected or appointed, the President of the Board of City Commissioners shall appoint five (5) members of the Planning Commission, which appointments shall be confirmed as hereinafter provided, The members appointed by the President of the Board of City Commissioners shall be a resident of the City of West Fargo. The terms of the members of the Planning Commission appointed by the President of the Board of City Commissioners shall be as provided by the laws of the State of North Dakota. The Board of County Commissioners of Cass County shall appoint three members of the Planning Commission, who shall reside outside of the corporate limits of the City of West Fargo, Cass County, North Dakota, but who shall reside within four miles of the corporate limits of the City of West Fargo, Cass County, North Dakota, in any direction, and if such persons are available and will serve on the Planning Commission, they should reside within the area within which the City exercises its extraterritorial zoning jurisdiction. Of the members of the commission appointed by the Board of County Commissioners of Cass County, North Dakota, the first member appointed shall hold office

for five (5) years, the second member appointed shall hold office for three (3) years, and thereafter, the members shall be appointed for terms of five (5) years.

Source: Ord. 924, Sec. 2 (2012)

4-0104. PLANNING COMMISSION: CONFIRMATION OF APPOINTMENTS BY CITY COMMISSION. The President of the Board of City Commissioners shall submit to the Board of City Commissioners at the next regular meeting after making such appointments, the names of the persons appointed and the length of their term. The Board of City Commissioners shall, by a majority vote, confirm or reject such appointments. If such appointments are rejected, the President of the Board of City Commissioners shall make other appointments, which appointments shall be approved or rejected in like manner.

4-0105. PLANNING COMMISSION: POWERS AND COMPENSATION. The Planning Commission shall have such powers and shall perform such duties as may now or hereinafter be provided by law including the power under the authority of Section 40-48-18 of the North Dakota Century Code to extend the application of the City's subdivision regulations to all land located within the corporate limits of the City and all land located within the extraterritorial authority of the City as set forth in Section 4-0107.

Source: Ord. 414, Sec. 1 (1991)

4-0106. ZONING COMMISSION. The Planning Commission shall also serve as the Zoning Commission of the City to hold hearings, make reports and recommendations as to the boundaries of the various original districts and appropriate regulations to be enforced therein, and for changes in or supplements thereto. The Zoning Commission shall have such powers and shall perform such duties as may now or hereafter be provided by law including but not limited to the exercise of territorial authority of zoning regulations extending to all land located within the corporate limits of the City and all land located within the extraterritorial authority of the City as set forth in Section 4-0107.

4-0107. EXTRATERRITORIAL PLANNING AND ZONING AUTHORITY. The City of West Fargo pursuant to the authority set out in Sections 40-48-18 and 40-47-01.1 of the North Dakota Century Code, does hereby extend its planning and zoning regulation authority to those extraterritorial areas set forth on the map entitled "The official zoning map of the City of West Fargo," dated July 16, 2018. The boundaries of the extraterritorial planning and zoning authority of the City of West Fargo, North Dakota, shall not automatically change as a result of annexation of new land into the City, or by amendments to state law which would permit the City to extend its extraterritorial jurisdiction a greater distance from its city limits. The City may, in its discretion, extend the extraterritorial planning and zoning authority of the City of West Fargo and the planning commission by amending the Official Map to

take in additional territory that, pursuant to state law, may come under the planning and zoning authority of the City.

Source: Ord. 414, Sec. 5 (1991); Ord. 655, Sec. 1 (2002); Ord. 795, Sec. 2 (2007); Ord. 1031, Sec. 2 (2015); Ord. 1125, Sec. 1 (2018)

CHAPTER 4-02

COMPREHENSIVE PLAN

SECTIONS:

4-0201. Declaration of Purpose.
4-0202. Adoption of Official Comprehensive Plan.
4-0203. Copy on File with City Auditor.
4-0204. RESERVED FOR FUTURE USE. (Repealed by Ordinance No. 1125)

4-0201. DECLARATION OF PURPOSE. The purpose of this chapter in establishing an official Comprehensive Plan is to accomplish a coordinated, adjusted and harmonious development of the City of West Fargo and its environs, and generally to conserve and promote the public health, safety and general welfare of the municipality.

4-0202. ADOPTION OF OFFICIAL COMPREHENSIVE PLAN. The West Fargo Comprehensive Plan shall consist of the 2018 Comprehensive Plan ALSO REFERRED TO AS "West Fargo 2.0" adopted by the city Commission on July 16, 2018.

Source: Ord. 584, Sec. 1 (2000); Ord. 813, Sec. 1 (2007); Ord. 1118, Sec. 1 (2018); Ord. 1125, Sec. 2 (2018)

4-0203. COPY ON FILE WITH CITY AUDITOR. A copy of the Comprehensive Plan of the City of West Fargo shall be kept on file at all times with the City Auditor.

CHAPTER 4-03

RESERVED FOR FUTURE USE

CHAPTER 4-04

SUBDIVISION REGULATIONS

SECTIONS:

4-0401. Introductory Provisions.
4-0402. Definitions.
4-0403. General Provisions
4-0404. Subdivision Application Procedure and Approval Process.
4-0405. Document Specification Requirements.
4-0406. Subdivision Design and Improvement Standards.
4-0407. Public Sites and Uses.
4-0408. Extraterritorial Provisions.
4-0409. Subdivision Improvement Agreements. (Ord. 860, Sec. 1 [2010])

4-0401. INTRODUCTORY PROVISIONS.

Subsections:

4-0401.1. Title.
4-0401.2. Purpose.
4-0401.3. Legal Authority.
4-0401.4. Provisions of Ordinance Declared to be Minimum Requirements.
4-0401.5. Severability.
4-0401.6. Amendments to Regulations.
4-0401.7. Conditions Imposed Upon Subdivision Plats.
4-0401.7. Penalties for Violation. (Ord. 748, Sec. 2 - 2005)

4-0401.1. TITLE. These regulations shall be known, cited, and referred to as "The Subdivision Regulations of the City of West Fargo, North Dakota."

4-0401.2. PURPOSE. lt is the purpose of these regulations:

A. To provide for the proper arrangements of streets in relation to other existing and planned streets and to City Plans; and

B. To provide for adequate and convenient open spaces for traffic, utilities, access of emergency vehicle apparatus, recreation, light, and air, for the avoidance of congestion of population, and for easements for building setback lines or for public utility lines; and

C. To establish reasonable standards, designs, and procedures for land subdivisions in order to further beneficial planning of the City and to insure proper legal descriptions of land; and

D. To insure that adequate public facilities and necessary public improvements are available and will have sufficient capacity to serve the subdivision; and

E. To encourage the wise use and management of natural resources throughout the municipality in order to preserve the integrity, stability, and beauty of the City and the value of its land; and

F. To prohibit land subdivision of such character where the land cannot be used safely for building purposes without danger to health or peril from fire, flood, or other menace; and

G. To promote and protect the provisions of public health, safety, and general welfare; and

H. To complement and enforce the provisions contained in the Zoning Ordinance, City Plans, and building and housing codes; and

I. To promote energy conservation and the use of renewable energy resources through energy efficient land use patterns, solar energy use, and other energy efficient techniques.

4-0401.3. LEGAL AUTHORITY.

A. The City of West Fargo shall have jurisdiction over the subdivision of land (as defined herein) within the limits established by Section 4-0107.

B. Land shall not be subdivided within the jurisdiction of the City of West Fargo until:

(1) The subdivider or his agent has complied with the stated procedures required under these regulations necessary to review such land subdivision.

(2) The subdivider or his agent has established that the land to be subdivided and subsequently developed will be in compliance with the Zoning Regulations of the City of West Fargo.

(3) The subdivider or his agent obtains approval of the preliminary and final plat by the Planning Commission and the City Commission of West Fargo. The approved plat shall then be recorded with the County Register of Deeds.

Source: Ord. 414, Sec. 3 (1991)

4-0401.4. PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS. The provisions of these regulations shall be held to be the minimum requirements adopted for the promotion of public health, safety and general welfare. Whenever the requirements of these regulations are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances of the State of North Dakota or City of West Fargo, the most restrictive or that which imposes the higher standards, shall govern.

4-0401.5. SEVERABILITY. If any section, provision, or portion of this ordinance is adjudged invalid by any court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

4-0401.6. AMENDMENTS TO REGULATIONS. For the purpose of providing for the public health, safety, and general welfare, the City of West Fargo may from time to time amend the provisions imposed by these subdivision regulations. Public hearings on all proposed amendments shall be held by the Planning and Zoning Commission and City Commission in accordance with the procedures contained herein and state law.

Source: Ord. 748, Sec. 1 (2005)

4-0401.7. CONDITIONS IMPOSED UPON SUBDIVISION PLATS. Subdivision regulations and the attachment of reasonable conditions to land subdivisions are valid exercises of the police power delegated by the State of North Dakota to the City of West Fargo. The developer or subdivider has the duty of compliance with the conditions laid down by the planning or City Commission.

4-0401.8. PENALTIES FOR VIOLATION. Any owner, or agent of any owner, of land located within an subdivision who transfers, sells, any such land by reference, to or exhibition of a plat of a subdivision, or by any other use thereof, before such plat has been approved by the Planning and Zoning Commission and governing body and recorded as approved in the office of the appropriate County Recorder, shall forfeit and pay a penalty as provided by Section 40-48-23 of the North Dakota Century Code (One Hundred Dollars [$100.00] for each lot or parcel transferred or sold or agreed or negotiated to be sold). The description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the remedies provided in this section. The municipality may enjoin such transfer, sale or agreement by an action for injunction, or it may recover the penalty by civil action.

Source: Ord. 748, Sec. 2 (2005)

4-0402. DEFINITIONS.

Subsections:

4-0402.1. General Usage.
4-0402.2. Definitions.

4-0402.1. GENERAL USAGE.

A. Words within these regulations shall be used, interpreted, and defined as presented in this chapter.

B. The word "City" shall mean the City of West Fargo, North Dakota.

C. The word "shall" is mandatory and the words "may" or "should" are permissive.

D. The words "subdivider," "developer," "applicant," "person," and "owner" include an individual, a corporation, an unincorporated association, a partnership, or other legal entities.

E. Anything not specifically included in a definition is automatically excluded.

F. ln the event of conflicting provisions in the meanings of any words in these regulations, the most restrictive or that which imposes a higher standard shall govern.

G. Any definition not found in these regulations, and found in the Zoning Ordinance Definitions, shall have the same meaning as defined in the Zoning Ordinance.

4-0402.2. DEFINITIONS.

Abutting - To physically touch or border upon; or to share a common property line. Also ADJACENT LAND.

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

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

Source: Ord. 808, Sec. 1 (2007)

Applicant - The person(s) submitting the application for subdivision.

Application to Subdivide - The application form and all documents and exhibits required of an applicant by the Planning Commission for subdivision review purposes.

Area Sketch Plan - A rough map of a proposed subdivision and its adjacent land area of sufficient accuracy to be used for the purpose of discussion and classification. See Figure 5, page 22.

Block - A unit of land bounded by streets or by a combination of streets and public lands, railroad right-of-way, water-ways or any other barrier to the continuity of development. See Figure 3, page 8.

Buffer Strip - Land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances. Also SCREENING. See Figure 1.

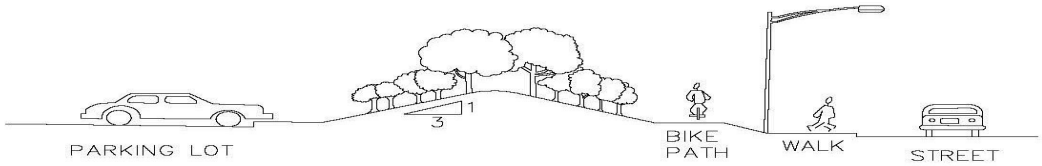


FIGURE 1. BUFFER STRIP

Building Line - That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected or placed. Also SETBACK LINE. See Figure 2.

Building Permit - Written permission issued by the Building Inspector for the construction, repair, alteration or addition to a structure.

Central Sewerage System - A community sewer system including collection and treatment facilities established to serve a new subdivision in the extraterritorial area.

Central Water System - A private water company formed to serve a new development in the extraterritorial area including water treatment and distribution facilities.

City Commission - The City Commission of the City of West Fargo.

Collector - See STREET, COLLECTOR.

Cul-de-sac - See STREET, CUL-DE-SAC.

Dead-End - See STREET, DEAD-END.

Developer - The person proposing to develop the land either as the owner or as an agent of such owner.

Drainage Plan - The plan of the subdivision showing the direction of surface water runoff and the removal of surface water or groundwater by drains, grading, runoff controls, or other means.

Dwelling Unit - One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Easement - A grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or entity.

Excavate - Removal of soil, rock, or organic substances from land for building purposes.

Grading - Any stripping, cutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.

Final plat - See PLAT, FINAL.

Improvement, Public - Any street, tree, sidewalk, lot improvement or other facility for which a governmental unit may ultimately assume responsibility for maintenance and operation.

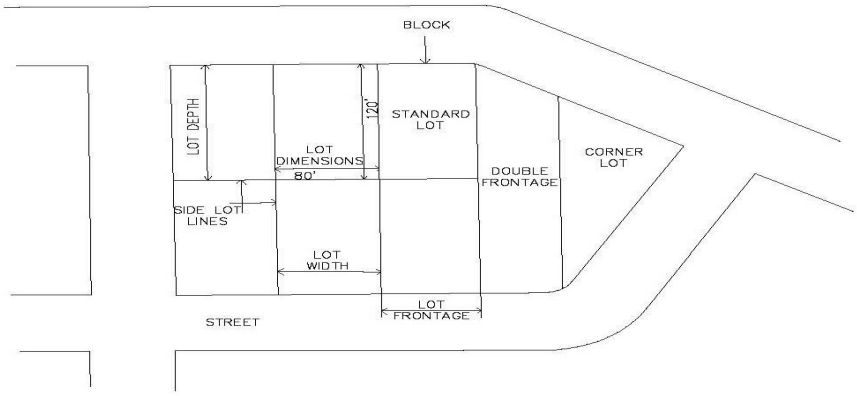
Individual Sewage Disposal System - A privately owned and maintained system for the disposal of sanitary sewage in the ground, which is so designed, constructed, and approved as to treat sewage in a manner that will retain most of the settable solids in a septic tank and discharge the liquid portion to an adequate disposal field.

Land Use - A description of how land is occupied or utilized.

Local Street - See STREET, LOCAL.

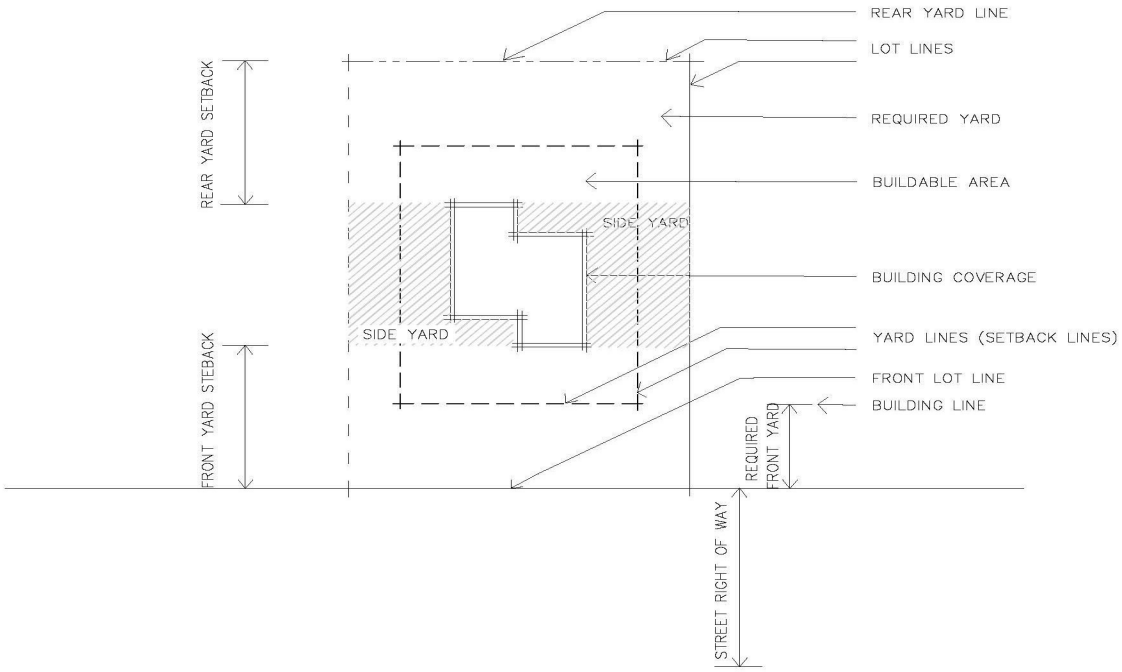
Lot - A designated parcel, tract or area of land established by plat, subdivision, or as otherwise permitted by law, to be used, developed or built upon as a unit. See Figure 3.

FIGURE 3. **LOTS AND BLOCKS**



Lot Dimensions - The measurement of a lot expressed in feet to include yard setbacks, lot width and depth and other features necessary to insure lot and building compliance with the Zoning Ordinance. See Figure 2.

FIGURE 2. **LOT DIMENSIONS**



Lot, Double Frontage - A lot, other than a corner lot, which fronts upon two streets. See Figure 3.

Metes and Bounds - A method of describing the boundaries of land by directions and distances from a known point of reference.

Minor Subdivision - See SUBDIVISION, MINOR.

Major Subdivision - See SUBDIVISION, MAJOR.

Official Map - A legally adopted map that shows the proposed location and width of proposed streets, highways, public facilities, public areas, and drainage right-of-ways, including subdivision plats approved by the City Commission and the subsequent filing of such approved plats.

Official Plans - Any adopted document approved by the City Commission, including any amendments or additions thereof, detailing the future course of development for the City.

Placement of Mail Box Plan - A plan setting out the placement of mail boxes either individually or as combined units to serve the property in the plat.

Source: Ord. 712, Sec. 2 (2004)

Planning Commission - The Planning and Zoning Commission of the City of West Fargo.

Plat - A map of a subdivision showing the boundaries, dimensions, and locations of individual properties and streets which has been approved by the City of West Fargo and recorded with the Cass County Register of Deeds.

SOURCE: Ord. 501, Sec. 1 (1996).

Plat, Preliminary - A preliminary map indicating the proposed layout of the subdivision which is presented to the Planning Commission for consideration and preliminary approval.

Plat, Final - The final map of subdivision which is presented to the City Commission for final approval.

Primary Arterial - See STREETS, PRIMARY ARTERIAL.

Restrictive Covenant - A restriction on the use of land usually set forth in the deed.

Resubdivision - A change in an approved and recorded subdivision plat, but not including conveyances made so as to combine existing lots by deed or other instrument.

Right-of-Way - A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied or occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, sanitary sewers and other similar uses. See Figure 2.

Setback Line - See BUILDING LINE.

Site Plan - The development plan of the subdivision showing the existing and proposed conditions on the lots including: streets, lots, means of ingress and egress, landscaping,

sidewalks, buildings, lot and building dimensions, screening devices; any other information that reasonably may be required in order that an informed decision can be made by the Planning Commission. See Figure 6.

Solar Access - A property owner's right to have the sunlight shine on his land.

Street - An open way for vehicles and pedestrians constructed for the use of the public.

Street, Collector - A street which collects traffic from local streets and connects with minor and primary arterials. See Figure 4.

Street, Cul-de-sac - A street with a single common ingress and egress and with a turnaround at the end. See Figure 4.

Street, Dead End - A street with a single common ingress and egress. See Figure 4.

Street, Half - A public street where only half the required right-of-way width is shown on the subdivision plat.

Street, Local - A street designed to provide vehicular access to abutting property and to discourage through traffic. See Figure 4.

Street, Loop - A local street which has its only ingress and egress at two points of the same collector street. See Figure 4.

Street, Minor Arterial - A street with signals at important intersections and stop signs on the side streets, and which collects and distributes traffic to and from collector streets. See Figure 4.

Street, Primary Arterial - A major street intended to move through traffic to and from major facilities and also distributes traffic to and from minor arterials. Primary arterials shall also include routes which carry traffic between communities or which provides ingress into egress out of communities. See Figure 4.

Street, Service - A street running parallel to a primary arterial and servicing abutting property. See Figure 4.

Subdivider - Any person having an interest in land that is the subject of an application for subdivision. See APPLICANT.

Subdivision - The division of a lot, tract, or parcel of land into two or more lots, tracts, or parcels for the purpose, whether immediate or future, of sale or of building development, and any plat or plan which includes the creating of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or

from such lots, and the creation of new or enlarged parks, playgrounds, plazas, or open spaces.

Source: Ord. 501, Sec. 1 (1996).

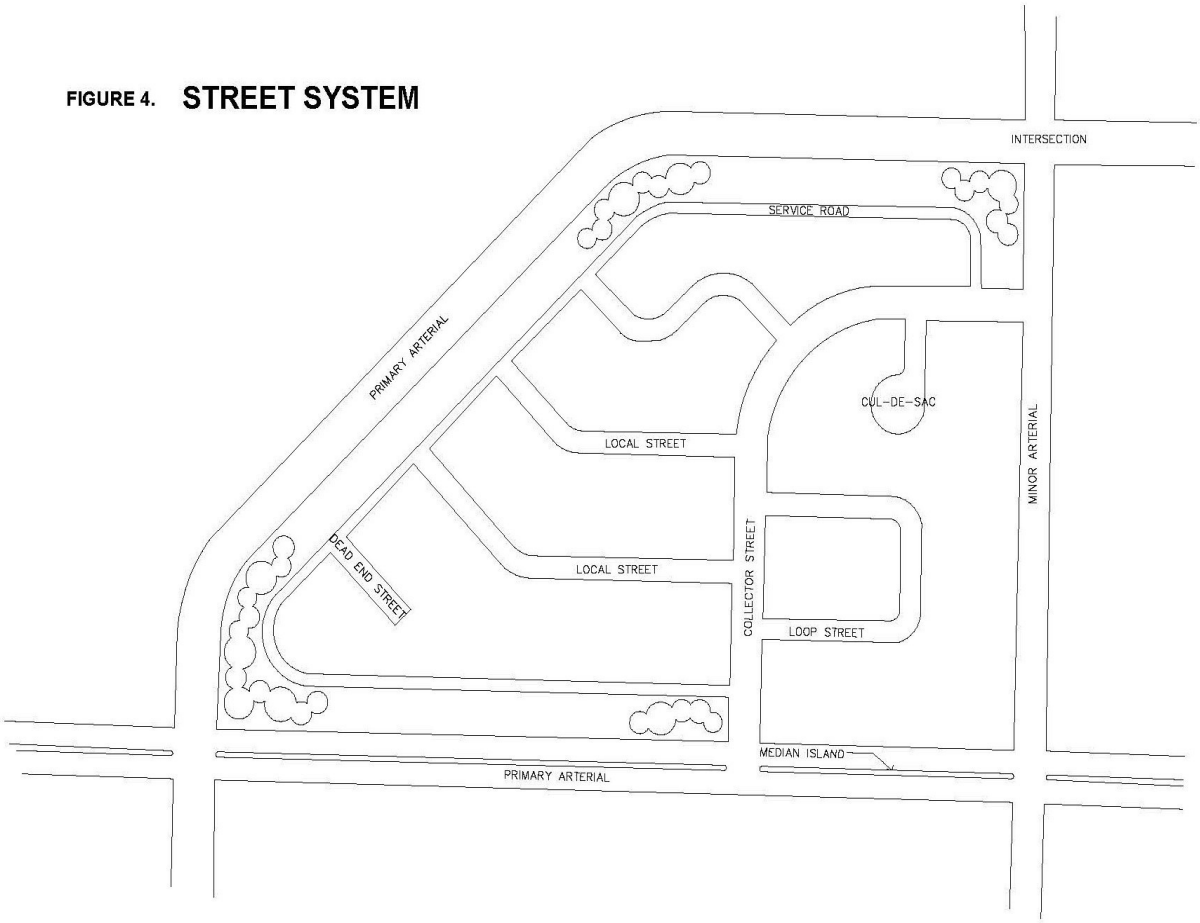
Subdivision, Major - Any subdivision not classified as a minor subdivision.

Subdivision, Minor - A subdivision of land that does not include any of the following: (1) six or more single family lots; (2) high density residential; commercial, or industrial lots; (3) a planned unit development; (4) a new street; (5) possible adverse effects on adjoining property; and (6) conflicts with any provisions of official city maps, plans, the Zoning Ordinance, or these regulations.

Variance - Permission to depart from the literal requirements of these regulations.

Zoning Ordinance - The Zoning Ordinance of the City of West Fargo.

FIGURE 4. STREET SYSTEM



4-0403. GENERAL PROVISIONS.

Subsections:

4-0403.1. Transfer of Lots and Splitting of Land.
4-0403.2. Variances.
4-0403.3. Resubdivision of Land.
4-0403.4. Schedule of Fees, Charges and Expenses.
4-0403.5. Retracement Plats.

4-0403.1. TRANSFER OF LOTS AND SPLITTING OF LAND.

A. LAND SPLITS. Land splits, by deed or otherwise, shall be required to have subdivision review and shall be in conformance with the provisions stated in these regulations. No building permit shall be issued on land divided or split other than in conformity with the provisions of this chapter. Exceptions to subdivision review for transfers of property are only as follows:

1. A division of land which may be ordered or approved court or affected by testamentary or intestate provisions;

2. A division of land for use as right-of-way for municipal public facilities which do not involve any new streets or easements of access;

3. A division of land made to correct errors in prior divisions pursuant to Chapter 40-50.1, N.D.C.C.;

4. A division of land into lots, tracts, or parcels of ten (10) acres or more in size for the purpose of agricultural use which does not involve any new streets or easements.

5. A division of land into lots, tracts, parcels in which one lot, tract, or parcel has existing a single family residential district dwelling and the other lot(s), tract(s), or parcel(s) is/are also exempt by the previous stated exemptions.

B. SIMPLE LOT SPLITS. Simple lot splits may be exempt from the platting provisions provided in this chapter provided the following conditions are met:

1. The lot split does not contain more than two (2) lots; and

2. The two lots created are not more than ½ acre in size each for lots located within the City limits; and

3. There is no proposed or perceived need of public improvements as a result of the split. The lot split does not occur in general proximity to an area organized by metes and bounds description and/or where there is a perceived need to create an organized development pattern through platting; and

4. That any platted lot be split only once under the terms of this provision; and

5. That the lot split is not part of a continuing scheme of lot splitting for a particular area; and

6. That the lot split does not violate any provision of the Zoning Ordinance, Official City Plans, or any other state or local ordinance; and

7. That the lot split does not adversely affect public health, safety or welfare.

Source: Ord. 501, Sec. 2 (1996).

C. PROCEDURE FOR SIMPLE LOT SPLIT. An application for a simple lot split shall be submitted to the City Planner on forms as provided. The City Planner and Auditor shall review such application and determine if all requirements to grant the lot split have been met. If concurred approval is given, the City Planner shall then schedule a review before the Planning Commission following written notice to property owners within one hundred fifty (150) feet, excluding streets, of the application. The Planning Commission may approve, conditionally approve, or deny said simple lot split. If approval is granted, the Planning Commission Chairperson, City Auditor, and City Planner shall authorize such approval by signing a certificate which shall subsequently be given to the applicant. There shall be a right to appeal to the Planning Commission if the City Planner and Auditor shall not give their approval.

D. APPLICATION FEE. The application for a simple lot split shall be submitted to the City Planner along with the fee set by the City Commission. If the City Planner and Auditor do not approve the lot split so that the matter is not sent to the Planning Commission, the fee shall be refunded.

E. TRANSFER OF LOTS. No owner, or agent of any owner, shall transfer, sell, or agree to sell any land, using the legal description in a proposed plat, before such plat has been approved by the Planning and Zoning Commission and City Commission and recorded with the Cass County Register of Deeds, or using the legal description of a

split lot before such lot split has been approved by the Planning and Zoning Commission.

4-0403.2. VARIANCES.

A. GENERAL. Where the subdivider proves that extraordinary hardship would result from the strict interpretation of this ordinance, the Planning Commission may grant a variance from these regulations. The Planning Commission shall not approve variances unless it can be shown by the subdivider that the following conditions apply:

(1) The conditions upon which the variance is based are unique to the property and are not applicable generally to other property in the same district.

(2) Because of the particular physical surrounding of the property, a particular hardship to the owner would result, as opposed to mere inconvenience, if the strict letter of these regulations were carried out.

(3) The granting of the variance would not harm the surrounding neighborhood in any way and would be beneficial to public health, safety, and welfare.

(4) The variance is consistent with the proper development of the area.

B. CONDITIONS. ln approving variances, the Planning Commission may add conditions to approval in order to secure the objectives of these regulations.

C. PROCEDURE. An application for variance shall be submitted to the City Planner by the subdivider on forms as provided. Upon receipt of the completed application, and any other information as requested, the City Planner shall schedule review before the Planning Commission. The Planning Commission may approve, conditionally approve, or deny said variance.

4-0403.3. RESUBDIVISION OF LAND.

A. PROCEDURE. For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line, or vacates any portion of said plat, such parcel shall follow the same procedures, rules, and regulations as an original subdivision plat.

B. FUTURE RESUBDIVISION OF LAND. Where a resubdivision request has been made and the plat shows one or more lots

containing more than twice the minimum lot size required in the Zoning Ordinance, and there are indications that such lots will eventually be resubdivided into smaller building sites, the Planning Commission may require that:

(1) The lots allow for a future opening of streets and the ultimate extension of adjacent streets.

(2) Easements providing for the future opening and extension of the street be made a requirement of final replat approval.

C. BUILDING PERMITS. Building permits in resubdivisions shall not be issued until the final plat has been approved by the City and recorded with the County Register of Deeds. However, if a person seeks a building permit for a parcel of land which could be properly granted under existing regulations and which could also be granted under the proposed replat, then a permit may be granted prior to Planning Commission approval of the replat. The building permit shall be issued under the existing lot description rather the proposed lot description.

4-0403.4. Schedule of Fees, Charges and Expenses. The City Commission shall establish a schedule of fees, charges and expenses and a collection procedure for plats, replats and other matters pertaining to Chapter 4-04 of the Revised Ordinances of the City of West Fargo. A schedule of fees shall be on file in the office of the West Fargo City Auditor, and may be altered or amended by the City Commission by resolution. Until all applicable fees, charges and expenses have been paid in full, no final action shall be taken.

4-0403.5. Retracement Plats.

A. RETRACEMENT PLATS REQUIRED FOR UNDEVELOPED PARCELS. Any undeveloped parcels which have not been previously platted and are located within the City limits of the City of West Fargo shall be required to file a Retracement Plat prior to receiving a building permit for development. Retracement Plats are defined as plats of existing metes and bounds parcels which have been of record with the Cass County Register of Deeds since before December 2, 1985, therefore are not considered subdivisions under the West Fargo Subdivision Ordinance and are not subject to all the Subdivision requirements.

The purpose of Retracement Plats is to provide clear legal descriptions with an associated subdivision plat title and accurate parcel size information.

B. PROCEDURE. The procedure for review and approval of Retracement Plats is as follows:

1. Plats shall be prepared in accordance to N.D.C.C. platting requirements and Section 4-0405.4 of the Code of City Ordinances, Subdivision Regulations of the City of West Fargo, and shall denote any existing right-of-ways or easements.

2. The City Planning Department shall review the plat and shall forward copies to appropriate departments for their review and comments.

3. The City Planning and Zoning Commission shall review the plat and forward their recommendation to the City Commission. No public hearing shall be required.

4. The City Commission shall give consideration to the plat at their next regular meeting.

5. Upon City Commission approval the plat shall be signed and recorded with the Cass County Register of deeds.

C. PARTIALLY OR FULLY DEVELOPED PARCELS. Property owners with partially or fully developed parcels are encouraged to file retracement plats with the City to provide clear legal descriptions with an associated subdivision plat title and accurate parcel size information. This will provide for a cleaner abstract and will allow the City to better manage property information. The same procedure for approval as in Section 4-0403.5B shall be followed.

D. COMBINING OF PREVIOUSLY PLATTED LOTS. Property owners wishing to combine properties which have been previously platted for the purpose of building across lot lines and/or increasing lot area to address district requirements may submit a retracement plat following the above procedures; provide the following conditions are met:

1. No additional right-of-way is required or being established.

2. There is no proposed or perceived need of public improvements as a result of the combining of platted lots

3. Lots to be combined are contiguous and under common ownership.

Source: Ord. 501, Sec. 3 (1996); Ord. 1049, Sec. 1 (2015).

4-0404. SUBDIVISION APPLICATION PROCEDURE AND APPROVAL PROCESS.

Subsections:

4-0404.1. General Classification and Procedure.
4-0404.2. Official Submission Date and Public Hearing Notification.
4-0404.3. Public Hearing Requirements.
4-0404.4. Preapplication Conference.
4-0404.5. Area Sketch Plan.
4-0404.6. Site Plan.
4-0404.7. Final Plat Review (Minor Subdivisions)
4-0404.8. Preliminary Plat Review (Major Subdivisions)
4-0404.9. Final Plat Review by City Commission.

4-0404.1. General Classification and Procedure. For every land subdivision request, the subdivider or his agent shall make application to the City planner and secure approval of such application by the Planning Commission and the City Commission prior to subdivision plat recording. ln order to secure approval of a subdivision request, the request shall be classified by the City Planner and reviewed in its entirety according to the following procedures and classifications:

A. MINOR SUBDIVISIONS. Includes subdivisions containing five single-family residential lots or less. Three steps are required for approval:

(1) Preapplication Conference
(2) Site Plan
(3) Final Plat

B. MAJOR SUBDIVISIONS. Includes all other subdivisions. Five steps are required for approval:

(1) Preapplication Conference
(2) Area Sketch Plan
(3) Site Plan
(4) Preliminary Plat
(5) Final Plat

Where warranting circumstances exist, the City Planner may add or relieve the applicant of certain submission requirements.

4-0404.2. Official Submission Date and Public Hearing Notification. The subdividing owner, or his authorized agent, shall take application to subdivide and to pay the required fee to the City Planner at least three (3) weeks prior to any public hearing held before the Planning Commission. Failure to meet this timetable shall be grounds to withhold public hearing notification. At least five days before a public hearing, notice of the time and place of such hearing shall be sent by certified mail to the

person(s) whose name(s) will appear on the final plat application. A subdivision plat is considered to be officially submitted when first reviewed by the Planning Commission.

Source: Ord. 916, Sec. 1 (2012)

4-0404.3. Public Hearing Requirements. A public hearing shall be held before the Planning and Zoning Commission after notice of the time and place thereof has been published in the City's official newspaper for two (2) consecutive weeks prior to the date of the public hearing. Before a public hearing can be scheduled, the subdivider or his agent shall submit the following data to the City Planner:

A. County Tax Statement for the parcel(s) being platted.

B. Area sketch plan (two (2) paper copies and one (1) digital copy), when necessary.

C. Site Plan (two (2) paper copies and one (1) digital copy).

D. Three (3) paper copies of preliminary plat for major subdivisions and one (1) digital copy; three (3) paper copies of Final Plat for minor subdivisions and one digital copy.

Source: Ord. 916, Sec. 2 (2012)

4-0404.4. Preapplication Conference. Prior to the preparation of any plan or plat, the subdivider or his agent shall meet with the City Planner and discuss:

A. General Plan of Development.

B. Subdivision Approval Process.

C. Timetable and Submission Requirements.

D. Zoning Requirements.

E. Subdivision Requirements.

F. City Plans and Policies.

G. Placement of Mail Box Plan. (Source: Ord. 712, Sec. 3 (2004))

At this time, a subdivision fee shall be filed and a subdivision application shall be recorded.

4-0404.5. Area Sketch Plan. For Major Subdivisions, an area sketch plan shall be prepared by the applicant and submitted to the City Planner prior to preliminary plat preparation. Two (2) paper copies and one (1) digital copy of this plan shall be submitted. The area sketch plan will be reviewed by City Staff and comments shall be forwarded to the Planning Commission. The

Planning Commission shall review this plan to determine the proposed subdivision's compatibility with adjacent land uses and with future development of the surrounding area (See Figure 5 in Section 4-0405).

Source: Ord. 916, Sec. 3 (2012)

4-0404.6. Site Plan. For all subdivisions, a site plan shall be prepared by the applicant and submitted to the City Planner prior to plat review by the Planning Commission. For major subdivision requests, this plan shall be submitted with the submission of the area sketch plan. Upon receipt of the site plan, the City Planner will receive comments on said plan from appropriate city departments. The City Planner will then forward these comments to the applicant in order to be incorporated onto the Preliminary or Final Plat. Two (2) paper copies and one (1) digital copy of the site plan shall be submitted to the City Planner for review (See Figure 6 in Section 4-0405).

Source: Ord. 916, Sec. 4 (2012).

4-0404.7. Final Plat Review (Minor Subdivisions). Final Plat review for minor subdivisions shall follow the same procedures and rules for approval as for Preliminary Plats for major subdivisions. Three (3) paper copies and one (1) digital copy of the Final Plat shall be submitted to the City Planner. The mylar print shall be submitted following Planning Commission and City Commission reviews of the Final Plat in order to include the conditions that may be attached to Planning Commission and City Commission approvals.

Source: Ord. 916, Sec. 5 (2012).

4-0404.8. Preliminary Plat Review (Major Subdivisions).

A. GENERAL. Following the successful completion of all submission requirements, Three (3) paper copies and one (1) digital copy of the Preliminary Plat shall be submitted to the City Planner. The City Planner shall schedule a public hearing and distribute copies of the plat to appropriate agencies for comment. The Preliminary Plat must be submitted at least three (3) weeks prior to any public hearing on the plat.

B. PLANNING COMMISSION REVIEW. After the public hearing, the Planning Commission shall have thirty (30) days to approve, conditionally approve, or deny the preliminary plat. The applicant may waive the requirement that the Commission act within thirty (30) days and may consent to an extension of such period. Following the Commission's decision, the subdivider will be notified of its action.

C. APPROVAL OR CONDITIONAL APPROVAL. Conditional approval or unconditional approval of the Preliminary Plat shall not constitute approval of the Final Plat. Rather, it shall be deemed an expression of approval of the layout submitted on the Preliminary Plat and shall serve as a

guide to the preparation of the Final Plat. All conditions stated upon approval must be completed or included on the Final Plat prior to Final Plat review by either the Planning Commission or the City Commission.

D. GRADING OF SITE PRIOR TO FINAL PLAT APPROVAL. Following major or minor plat approval by the Planning Commission, the developer may request approval from the Planning Commission to excavate and grade site. Upon consultation and approval from the City Engineer, the Planning Commission may grant the developer permission to commence site preparation to the grades and elevations as required and approved by the Engineer. However, under no circumstances shall this approval be grounds for the premature issuance of a building permit nor shall it constitute grounds for automatic approval of the Final Plat by the City Commission.

Source: Ord. 916, Sec. 6 (2012)

4-0404.9. Final Plat Review by City Commission.

A. GENERAL. The subdivider or his agent shall submit three (3) paper copies, one (1) digital copy, and 1 mylar print of the Final Plat to the City Planner within one (1) Year of Preliminary Subdivision Plat approval by the Planning Commission. Should this time limit expire, Planning Commission approval will be considered void unless for good cause an extension is requested in writing by the subdivider and granted by the Planning Commission. Final Plats shall include all data as required by these regulations.

B. CONDITIONS. All Final Plats shall comply in all respects with these regulations and the conditions given to said plat for approval by the Planning Commission. If the attached conditions are not met, a second review by the Planning Commission shall occur. If it can be determined that the preliminary approval is in conformance with the stipulated conditions and these regulations, secondary review by the Planning Commission shall be waived by the City Planner. Recommendation for approval shall then be sent to the City Commission for their consideration.

C. CITY COMMISSION REVIEW. Prior to putting application on the City Commission Agenda, the following items shall be submitted to the City Planner at least one (1) week prior to the City Commission meeting:

(1) Certification that there are no delinquent special assessments and/or taxes on subject property.

(2) A current title opinion.

(3) A Vacation of Plat Certificate, if necessary.

(4) Developer Subdivision Improvement Agreement.

(5) Park Dedication Agreement.

(6) Final Plat Document Signed by Developer.

Should Final Plat be approved, the City Auditor and Mayor shall execute the Plat. The subdivider or his agent shall provide the City with the necessary mylars and copies of the plat required for recording. The plat shall then be recorded with the Cass County Register of Deeds. Should recording not take place within six (6) months of City Commission approval, that approval will be considered null and void.

Source: Ord. 916, Sec. 7 (2012)

4-0405. DOCUMENT SPECIFICATION REQUIREMENTS.

(Source: Ord. 916, Sec. 8 (2012))

Subsections:

4-0405.1. Area Sketch Plan.
4-0405.2. Site Plan.
4-0405.3. Preliminary Plat.
4-0405.4. Final Plat Data Requirements.

4-0405.1. Area Sketch Plan. For all major subdivision requests, an area sketch plan shall be submitted by the applicant to the City Planner prior to Preliminary Plat preparation. The plan shall be of appropriate scale necessary to cover sufficient adjoining territory to indicate clearly significant features that will have a bearing upon the future development of the subdivision. The plan shall be an ink sketch, drawn to approximate scale, and shall include the following minimum specifications. (See Figure 5):

A. Name of applicant; name of subdivision.

B. North point, approximate scale and date.

C. Name and patterns of proposed streets.

D. Proposed boundary lines for subdivision.

E. Written description of land uses within proposed subdivision.

F. Approximate area of tract to be subdivided.

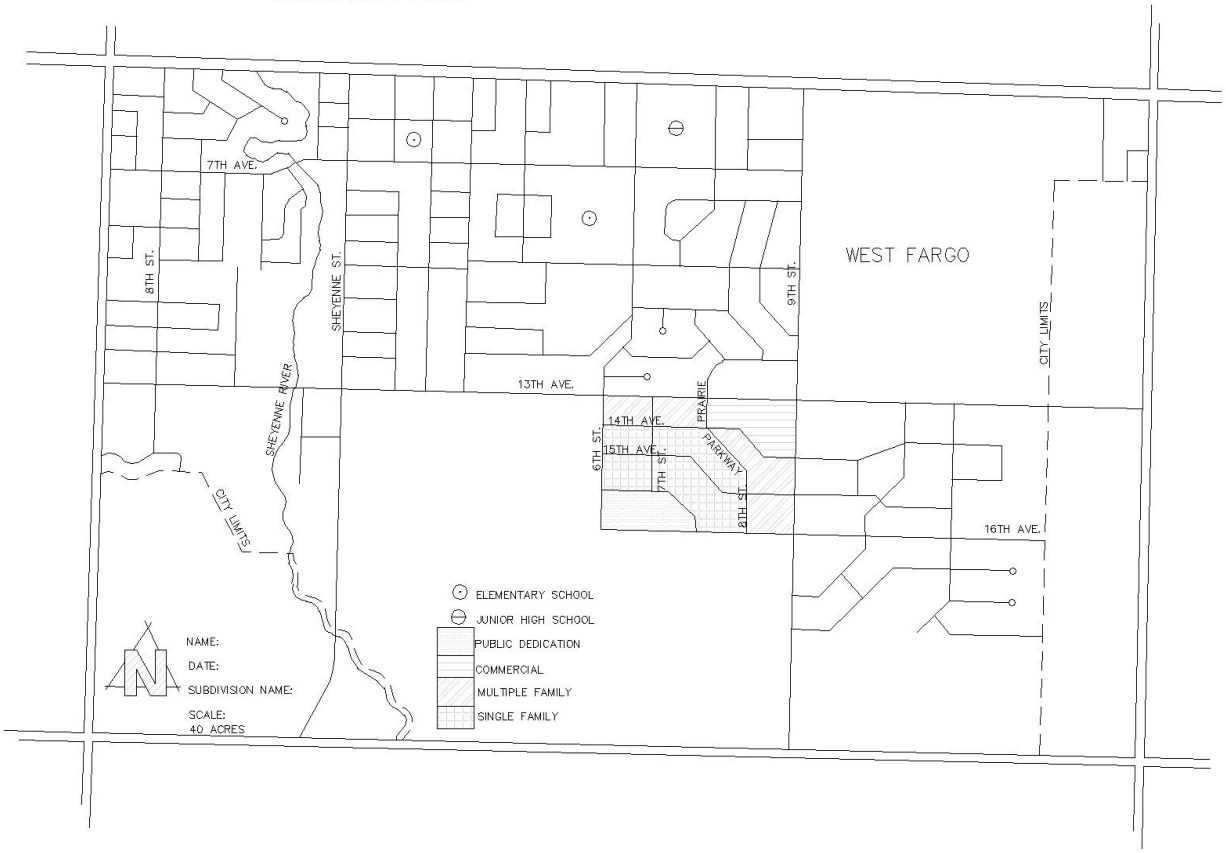
G. Approximate location and size of public land dedication, if any.

H. Surrounding land areas to include name and configurations of adjacent subdivisions, existing street names and patterns, and other significant land features such as highways, schools, parks, river or drains, and pedestrian/bikeways.

I. Where the subdivider owns property or has option to buy property adjacent to that which is being proposed for subdivision, the general written planned land uses so as to show the possible relationship between the proposed subdivision and the future subdivision.

J. Two (2) copies submitted to the City Planner on paper not less than 11" x 17" in size, as well as one (1) digital copy in a digital format specified by staff.

FIGURE 5. **AREA SKETCH PLAN**



4-0405.2. <u>Site Plan Requirements</u>. (See Figure 6):

A. Name of applicant; name of subdivision.

B. Shall be drawn in ink at a scale of 1" = 100'.

C. North point and date.

D. Proposed boundary and lot lines within subdivision to include approximate dimensions of all proposed and existing lots.

E. Existing and proposed street names to include street right-of-way widths.

F. Means of ingress and egress to lots.

G. Existing and proposed building on each lot to include all yard setback distances.

H. Approximate square footage of each building.

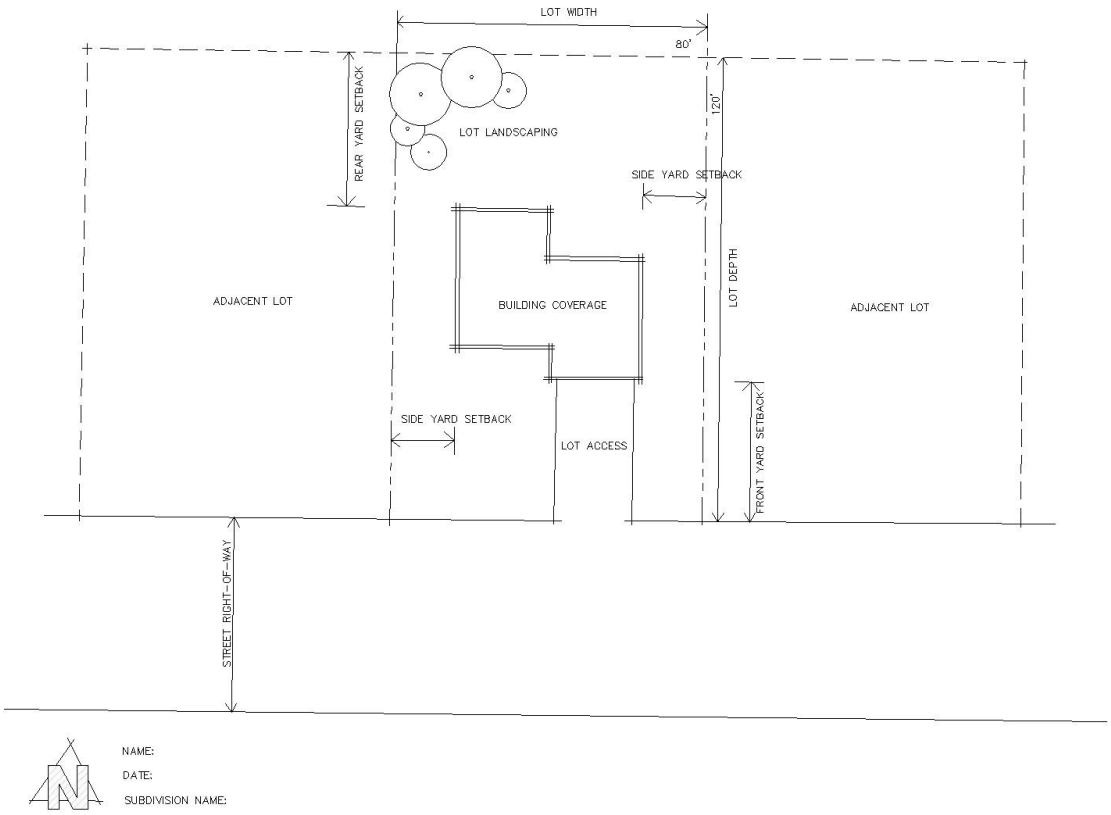
I. Existing and proposed landscaping/screening locations.

J. Existing and proposed location of sidewalks and pedestrian/bikeways, if any.

K. Provisions for off-street parking, snow storage, and garbage removal.

L. Two (2) copies submitted to City Planner on paper not less than 11" x 17" in size, as well as one (1) digital copy in a digital format specified by staff.

FIGURE 6. SITE PLAN



4-0405.3. Preliminary Plat Requirements.

A. Shall be drawn by a registered land surveyor at a minimum scale of 1" = 100 feet.

B. Three (3) paper copies of preliminary plat submitted to City Planner, as well as one (1) digital copy in a digital format specified by staff.

C. Proposed name of subdivision and legal description of the land covered by the plat.

D. Date of preparation, scale, north point, name of subdivider, and name of preparer.

E. Boundary lines of subdivision to include bearings and distances.

F. The names and adjacent lines of any adjoining platted lands shall be dotted on the plat together with the names of adjoining streets.

G. The location, width, and names of existing streets, alleys, or private roadways.

H. The location, width, and names of proposed streets, or private roadways.

I. Approximate radii of all curves and lengths of tangents.

J. The purpose and width of any easement.

K. The length and width of all lots and blocks together with the progressive numbering of said lots and blocks.

L. The mean sea level elevation shall be shown as numerical figures should any portion of the plat lie within designated 100 year flood plain.

M. The location, dimensions, and area of all property proposed to be set aside as a requirement of public land dedication.

The following information shall be submitted separately from the Preliminary Plat. The City Planner may waive any one of these requirements when applicable.

N. The grading and drainage plan for all streets and lots. These plans shall be submitted to the City Engineer for approval prior to Preliminary Plat review.

O. One copy of any existing or proposed restrictive covenants.

P. The Placement of Mail Box Plan.

Q. Landscape Plan for tree plantings for boulevard areas and buffer areas along major streets and/or streets within zoning corridor overlay districts.

NOTE: The lack of information under any item specified or erroneous information supplied by the applicant, shall be cause for disapproval of the Preliminary Plat.

4-0405.4. Final Plat Data Requirements. Source: Ord. 1045, Sec. 2 (2015)

A. Shall be drawn by a registered land surveyor on a mylar print at a minimum scale of 1" = 100 feet.

B. The original plat print and three (3) paper copies shall be submitted to the City Planner, as well as one (1) digital copy in a digital format specified by staff.

C. The name and legal description of the land covered by the plat.

D. Date of preparation, scale, and north point.

E. Name and signature of all owners of the land covered by the plat.

F. Name and signature of the registered land surveyor.

G. Other endorsements shall include signature spaces for the City Engineer, Planning Commission Chairman, City Attorney, the Mayor and the City Auditor. All signatures shall be notarized.

H. An accurate description of the property described in metes and bounds as shown on the preliminary plat.

I. Notations for all monuments.

J. 100 year flood elevation, when applicable.

K. Exact boundary lines of subdivision to include bearings and distances.

L. The names and adjacent lines of any adjoining platted lands shall be dotted on the plat together with the names of adjoining streets.

M. Location, purpose, and exact width of all easements.

N. The exact length of all lots and blocks together with the progressive numbering of said lots and blocks.

O. The names and exact right-of-way widths of existing and proposed streets, alleys, or private roadways.

4-0406. SUBDIVISION DESIGN AND IMPROVEMENT STANDARDS.

Subsections:

4-0406.1. General Information.
4-0406.2. Blocks and Lots.
4-0406.3. Streets.
4-0406.4. Sidewalks.
4-0406.5. Utility and Street Improvements.

4-0406.1. General Information.

A. CONFORMANCE TO APPLICABLE RULES AND REGULATIONS. In addition to the requirements stated herein, all subdivision plats shall comply with the following laws and regulations:

(1) All applicable provisions of the North Dakota Century Code.

(2) The City of West Fargo's Zoning Ordinance, official city plans and policies, building and housing codes, floodproofing code, and all other applicable laws of the appropriate jurisdiction.

(3) The applicable requirements of these regulations and any rules of the Health Department and/or appropriate state agencies.

(4) The rules of the State Highway Department if the subdivision or any lot abuts a State Highway or connecting street.

(5) The standards and regulations adopted by the City Engineer and all boards of the City of West Fargo.

(6) Plat approval may be withheld if a subdivision is not in accordance with the above rules and regulations and other requirements stated within these regulations.

B. PLATS STRADDLING MUNICIPAL BOUNDARIES. Whenever a proposed subdivision requires access from outside the municipality, there shall be assurance from the developer that access is legally established and assurance from the City Engineer that the access road is adequately improved. Lot lines shall not straddle municipal boundaries.

C. MONUMENTS. Permanent reference monuments shall be placed within each subdivision as approved by a registered land surveyor and shall:

(1) Be placed at all block corners, lot corners, and control points.

(2) Block and control point monuments shall be iron pins set in concrete and each lot corner monument shall be iron pins set in the ground. The type and placement of each monument shall be consistent with City Engineering guidelines.

D. SUBDIVISION NAMES. Subdivision names shall not duplicate or be likely confused with existing subdivision names. The Planning Commission shall have final authority to designate the name of the subdivision at the preliminary plat level.

4-0406.2. Blocks and Lots.

A. BLOCKS. In general, the length, width, and shape of blocks shall be such as is appropriate for the locality, the development, or to meet existing street intersections.

(1) Width. Blocks shall have sufficient width as to provide two tiers of lots of the depth required by the Zoning Ordinance. Exceptions to this requirement may be made for blocks abutting primary arterials, parks, railways, or other significant land features.

(2) Length and Shape. The length and shape of blocks shall be such as is appropriate for the locality and type of development contemplated, with emphasis on safe and convenient pedestrian and traffic circulation. Blocks shall generally not exceed 1,200 feet in length nor be shorter than 600 feet in length.

(3) Cross Easements. A ten (10) foot drainage easement shall be provided along the center of all blocks. When deemed necessary, a ten (10) foot pedestrian/bikeway easement may be required near the middle of the block by the Planning Commission in order to obtain convenient circulation to schools, parks, or other areas.

B. LOTS.

(1) General. Lots shall be arranged as such that there will be no foreseeable difficulties in securing a building permit due to topography, access, safety, or non-compliance with applicable regulations.

(2) Access. All lots shall have access from an improved public or private street. All lots shall have paved driveway access to include provisions for emergency and service vehicle access as shown on the required site plan.

(3) Double Frontage Lots. Double frontage lots shall be discouraged except as a measure to provide a buffer from arterial roadways or to overcome specific disadvantages of topography or land use.

Where lots abut a primary arterial street, the Planning Commission may require access to such lots from a service or local street necessitating the creation of double frontage lots (Figure 11). Where this provision is in effect, landscaping, as approved by the Planning Commission, shall be provided by a strip of land nearest the primary arterial.

(4) Dimensions. Lot dimensions shall comply with the minimum requirements of the Zoning Ordinance.

C. SIDE LOT LINES. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule would allow greater solar access opportunities. ln this case, side lot lines shall be encouraged to run due north and due south regardless of the resulting angle of incidence with the street lines (Figure 7). Within these lots, building orientation shall have the long axis east/west with a maximum 10° variation to the northwest or a 25° variation to the southwest (Figure 7).

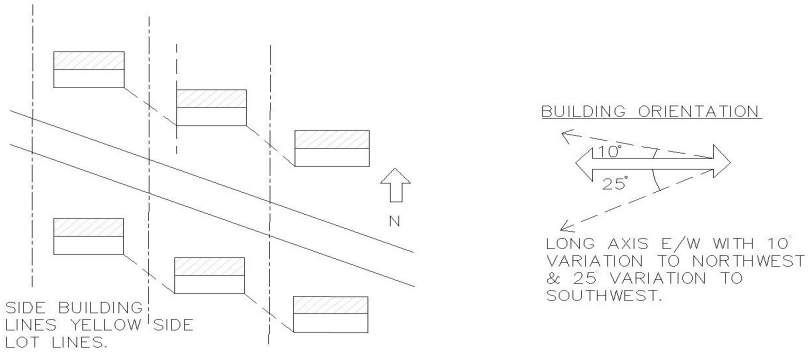


FIGURE 7. **SIDE LOT LINES**

D. LOT DRAINAGE. Lots shall be graded so as to provide positive drainage away from all buildings and shall be coordinated with the general drainage pattern for the area. For all subdivision requests, a drainage plan shall be submitted to the City Engineer, by the subdivider, and subsequently approved by the engineer, prior to Planning Commission review of the Preliminary plat.

4-0406.3. Streets.

A. FRONTAGE ON IMPROVED ROADS. all proposed subdivisions shall have frontage on and access from an existing improved street shown on the Official City Map. If no such street is shown on the map, access and frontage must be shown on an existing recorded plat and must be suitably improved in accordance with applicable city, township, county, or state specifications.

B. GRADING PLAN. Streets shall be graded and improved to the specifications and approval of the City Engineer.

C. STREET IMPROVEMENTS. Public street improvements shall conform to all construction standards and specifications as adopted by the City and the City Engineer and shall be incorporated into the construction plans submitted by the developer to the engineer. Subdivision landscape plans for major streets and/or streets identified within zoning corridor overlay districts shall be incorporated within the construction plans for plantings within the street right-of-way, unless otherwise provided for.

Source: Ord. 916, Sec. 9 (2012)

D. STREET WIDTH. In order to provide streets of suitable width necessary to safely accommodate existing and proposed traffic and to avoid undue hardships to adjoining properties, the following street widths are hereby required (street classifications may be as indicated on City Plans or as determined by the Planning Commission):

(*Chart on following page*)

DEVELOPMENT DENSITY

STREET CLASSIFICATION	RESIDENTIAL Low to Medium	RESIDENTIAL High	NON-RESIDENTIAL Commercial/Industrial
Minimum Right-of-way Width (in feet)[1]			
Local Street	62	66	80
Collector Street	80	80	100
Minor Arterial and/or Mile-line Streets[2]	120-150	120-150	120-150
Primary Arterial	As approved by City Commission.		

[1]An additional ten (10) feet of right-of-way may be required to accommodate planned pedestrian/bikeway facilities.
[2]City Commission may consider adjustments pursuant to Comprehensive Plan and Planning and Zoning Commission Recommendations; In extraterritorial areas, consideration will be given to County right-of-way standards.

STREET CLASSIFICATION	RESIDENTIAL Low to Medium	RESIDENTIAL High	NON-RESIDENTIAL Commercial/Industrial
Minimum Pavement Width (in feet)[1]			
Local Street	28[2]	32[2]	40
Collector Street	36	40	48
Minor Arterial	40	48	52
Primary Arterial	As approved by City.		

[1]Measured Curb to Curb. Curbs shall be concrete vertical unless otherwise approved by the City Engineer.

[2]Streets with no parking may have a pavement width of 22 feet. Streets with parking on one side shall maintain a pavement width of 28-32 feet.

Source: Ord. 748, Sec. 3 (2005); Ord. 809, Sec. 1 (2007); Ord. 1049, Sec. 3 (2015)

E. STREET LAYOUT.

(1) General. All streets shall be generally aligned with the existing system of streets and with the proposed system of streets as detailed in City Plans. Where possible, streets shall be encouraged

to run generally in a east/west pattern in order to increase the potentials for energy conservation.

(2) Local Streets. Local streets shall be designed to discourage through traffic and encourage neighborhood concepts and safety. Curvilinear, cul-de-sacs, looped shaped or other similar type streets shall be encouraged.

F. CUL-DE-SAC STREETS. The minimum street right-of-way for streets entering a cul-de-sac in a residential area is 62 feet with a minimum pavement width of 28 feet (see Figure 8). The cul-de-sac shall have a minimum right-of-way radius of 60 feet with a minimum pavement radius of 50 feet. Cul-de-sac streets are limited in length because of the City's emphasis on safe and convenient emergency vehicle access to abutting properties. For those cul-de-sacs measuring over 500 feet in length from the center of the adjoining road to the center of the cul-de-sac, comments shall be requested on such length from the Police, Fire and Ambulance Service Departments prior to Planning Commission approval of the Preliminary Plat.

Source: Ord 916, Sec. 10 (2012)

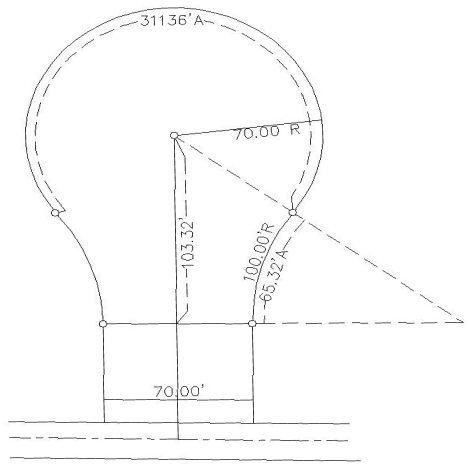


FIGURE 8. **CUL-DE-SAC**

G. DEAD-END STREETS.

(1) If a street must dead-end temporarily, a street right-of-way line shall extend to the property line to allow future continuation of such street. A temporary turnaround shall be provided in accordance with the design standards of the City Engineer.

(2) For a permanent dead-end street, its terminus shall not be closer than fifty (50) feet from the subdivision boundary line. Easements for utilities, pedestrians, drainage, or bicycles may be required by the Planning Commission past the terminus of such street. A cul-de-sac turnaround shall be provided in accordance with the standards of these regulations.

H. STREET GRADES.

Maximum	Minimum
5%	.4%

I. HALF STREETS. Perimeter half streets shall be prohibited except where it is practical to require the dedication of the other half when the adjoining property is subdivided or rezoned, in which case half streets may be permitted. The probable length of time elapsing before dedication of the remainder shall be considered in this decision.

J. INTERSECTIONS.

(1) Angle. Streets should normally intersect at 90 degrees. If deviation is unavoidable, the angle of the intersection should not be less than 75 degrees (Figure 9).

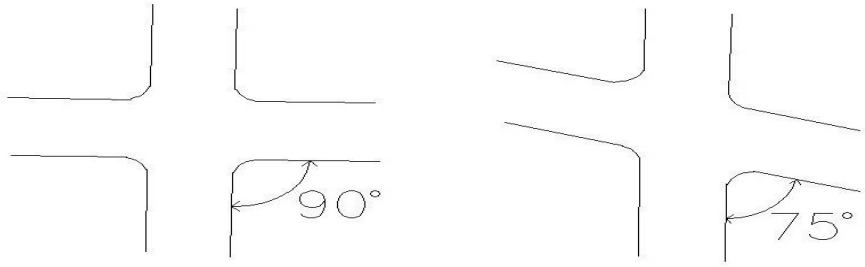


FIGURE 9. **INTERSECTION ANGLES**

(2) Jogs. Proposed streets shall, where possible, be located opposite each other. When unavoidable, there shall not be less than 150 feet of center line offset between street jogs (Figure 10).

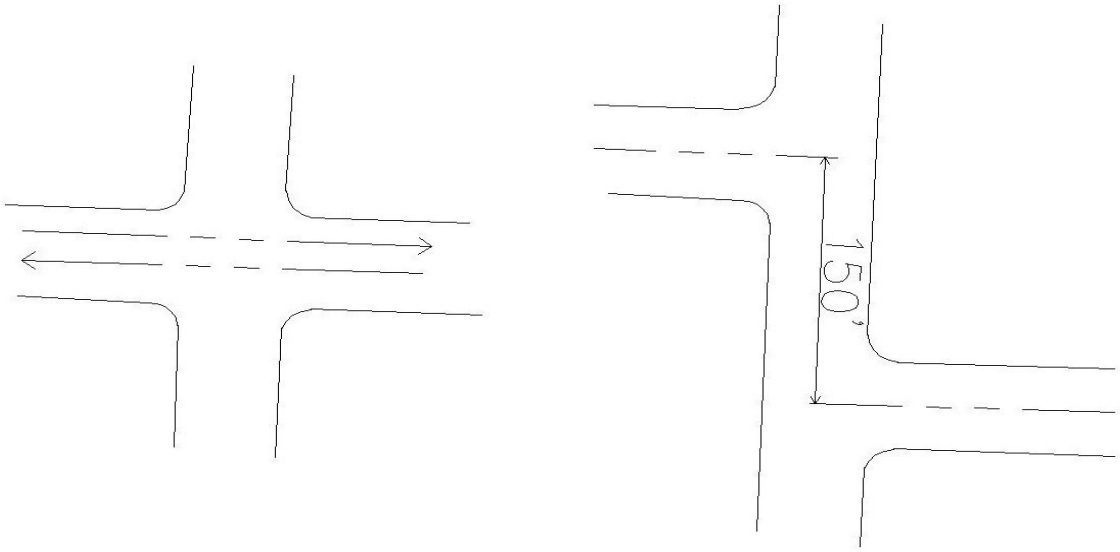


FIGURE 10. INTERSECTION JOGS

(3) Curb Radius. Minimum curb radius at the intersection of two local streets shall be twenty (20) feet. Intersections involving collector or arterial streets shall have a minimum curb radius of thirty (30) feet. Curb radius shall be measured at the curb line.

(4) Access Management Standards for Major Streets. A connection to an arterial or collector street or roadway is defined as either a driveway or intersection with any other street or roadway. Arterial and collector streets and roadways are identified in the City's Comprehensive Plan, are considered limited access facilities within the City limits and extraterritorial limits and shall be developed according to the following connection standards:

a. Spacing of connections to designated arterial or collector streets and roadways in less developed areas is 1,320 feet with a minimum spacing of 660 feet.

b. Spacing of connections to designated arterial streets and roadways in developing areas is 660 feet with a minimum spacing of 330 feet.

c. Spacing of connections to collector streets and roadways in developing areas is 300 feet with a minimum spacing of 150 feet.

(5) Lot Corner Visibility. To provide adequate sight distance and to avoid traffic accidents, all visually impeding materials shall be removed or cut in accordance with Section 4-441 of the Zoning Ordinance or according to sight distance standards as provided in the Manual on Uniform Traffic Control Devices (MUTCD), whichever is greater.

(6) Individual Lot Access. Direct lot access shall be a minimum distance from the intersecting curb line of any street. Distances, driveway widths, and construction standards shall be in accordance with Chapter Two of the Municipal Code and shall govern accesses within the City Limits and within the City's extraterritorial area.

Source: Ord. 748, Sec. 4 (2005)

K. ARTERIAL STREET ACCESS CONTROLS. In order to prevent points of conflict and potential accident locations, the following access controls may be required by the Planning Commission whenever a proposed subdivision borders or contains an arterial roadway (Figure 11).

(1) Double Frontage Lots. Lots designed so that the rear yard faces the arterial street and the front yard faces a parallel local street. Buffering and screening shall be provided by dedicating a buffer strip of land nearest the arterial street or establishing a buffer easement. The buffer strip or easement may be up to 30 feet in width, include possible berms of 4-6 feet in height, and screening with solid fencing, coniferous trees or both. Easements shall be in addition to the normal required lot depths and shall be included in the lot area owned and maintained by the lot owner or development association.

Source: Ord. 748, Sec. 5 (2005)

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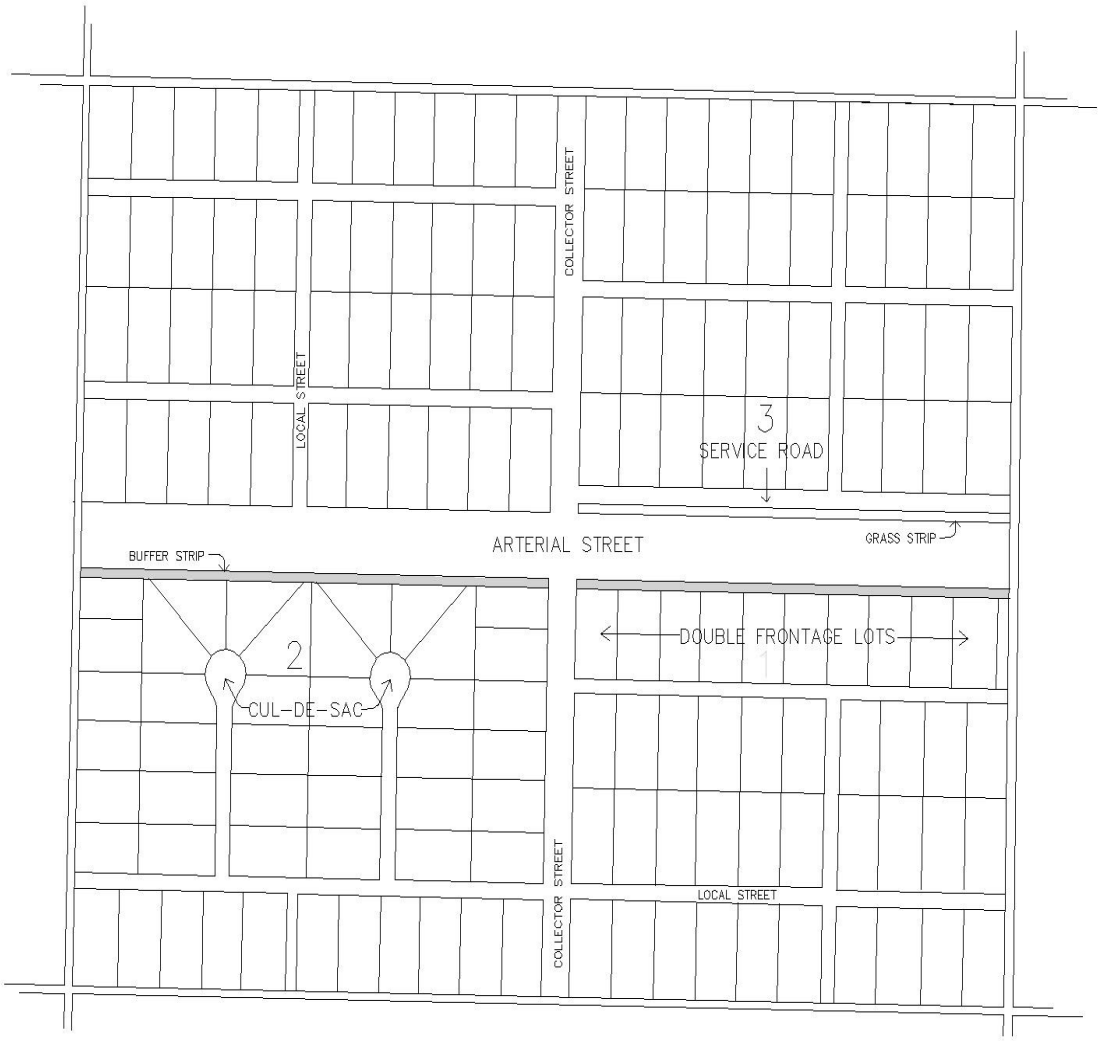
FIGURE 11. **ARTERIAL STREET ACCESS CONTROLS**



(2) Cul-de-Sac. Development of a series of cul-de-sacs or loop shaped streets entered from the parallel local street, with the rear yard of the terminal lots backing onto the arterial street. Buffering and screening shall be provided by dedicating a buffer strip of land nearest the arterial street or establishing a buffer easement, and providing berms and screening as defined under double frontage lots.

(3) Service Road. A service road which is separated from the arterial street by a planting or grass

strip and having access to the arterial at suitable points as determined by the Planning Commission.

Source: Ord. 748, Sec. 5 (2005)

L. RAILROAD, HIGHWAY AND RIVER BANK CONTROLS. Whenever a subdivision borders or contains a railroad, or a highway, or a river the following controls shall be in effect:

(1) Access points must be approved by the appropriate jurisdictional authority.

(2) Residential development along arterial streets may be required to establish a buffer easement up to 30 feet in width, possible berms of 4-6 feet, and screening with solid fencing, coniferous trees or both. Residential development along I-94 shall be required to establish a buffer easement of 100 feet in width, berms elevated six feet above the elevation of the driving lanes on I-94 and screening with coniferous trees. Areas along on/off ramps shall have a buffer easement of 30 feet in width and more flexibility in berming and screening. Easements shall be in addition to the normal required lot depths and shall be included in the lot area owned and maintained by the lot owner or development association.

(3) Developments adjacent to the Sheyenne River shall be required to establish a 100 foot building control line from the riverbank. The building control line shall be the minimum setback line for any primary and accessory structures requiring permits, parking lots, fill and other development activities which may cause increased riverbank destabilization.

Source: Ord. 748, Sec. 6 (2005)

M. STREET NAMES. Street names shall not duplicate or likely to be confused with existing street names. Whenever possible, streets shall be numbered in accordance with the progressive numbering system of the City. The Planning Commission shall have final authority to designate the street name, after consultations with the appropriate authorities, at the preliminary plat level.

N. STREET DEDICATION. All proposed streets shown on the plat shall be offered for dedication as a public street. The Planning Commission may require a subdivider to dedicate at his expense areas for widening or realigning existing narrow roads located within the subdivision. Land reserved in this manner does not satisfy or

substitute for any of the requirements stated in the Zoning Ordinance or these regulations.

O. ALLEYS. In subdivisions where alleys are proposed to provide for vehicular service areas to back or side of properties to accommodate off-street loading, unloading, parking and residential garage access, alleys shall not be less than twenty (20) feet wide for residential alleys and not less than twenty-five (25) feet for commercial or industrial alleys. Dead-end alleys are prohibited, except that this requirement may be waived where an adequate turn-around for emergency and municipal service vehicles is provided. Alleys are not intended to take the place of streets, and parking on alleys is not allowed. The City Engineer and Public Works Director shall review proposed alleys for drainage, municipal services and design considerations. Where possible, utility services shall be provided in alleys and alleys shall be paved.

Source: Ord. 808, Sec. 2 (2007)

4-0406.4. Sidewalks.

A. LOCATION AND DESIGN. Sidewalks shall be included in the non-pavement right-of-way of all roads as determined by the City Engineer and as approved by the City Commission. Sidewalks shall be constructed to City standards found in Chapter Two of the Municipal Code.

B. PEDESTRIAN EASEMENT. When deemed necessary, a ten (10) foot pedestrian easement may be required near the middle of the block by the Planning Commission in order to obtain convenient circulation to schools, parks, and other areas.

C. PEDESTRIAN, BIKEWAY, OR MULTI-USE FACILITIES. Pedestrian linkages between neighborhoods and along Collector/Arterial street corridors is promoted by the City to provide a more walkable community. When deemed necessary, additional rights-of-way shall be dedicated, or easements provided to accommodate pedestrian, bikeway, or multi-use facilities within or along the external boundaries of the proposed development. Plans for facilities along Collector/Arterial Corridors should be provided for within the City's Comprehensive Plan or Fargo Moorhead Metropolitan Council of Government's Bicycle and Pedestrian Plan.

Source: Ord. 353, Sec. 2 (1985); Ord. 458, Sec. 7 (2005); Ord. 916, Sec. 11 (2012);

4-0406.5. UTILITY, STREET AND OTHER IMPROVEMENTS.

A. GENERAL. Utility, pedestrian/bikeways and street improvements shall be fully provided in each subdivision in accordance with these regulations, the City Engineer's utility and street improvement design standards, and applicable city ordinances.

B. APPROVAL OF PLANS. In order to assure that adequate public improvements are available and will have sufficient capacity to serve the proposed subdivision, plans for streets, pedestrian/bikeways, drainage, sewerage, and water facilities will be submitted to the City Engineer, and subsequently approved by the Engineer, prior to Final Plat approval by the City Commission.

C. PUBLIC SEWER CONNECTION. It shall be the policy of the City to discourage individual sewer systems within the corporate limits of the City where it would be practical to connect with the public sewer system.

D. MANDATORY CONNECTION TO PUBLIC SEWER SYSTEM. If a public sanitary sewer is accessible and a sanitary sewer is placed in a street or other type roadway abutting upon property, the owner of that property shall be required to connect to said sewer for the purpose of disposing of waste. Mandatory connection shall also be in effect for those properties within 200 feet of the public sewer system in accordance with Section 9-0313 of the Revised Ordinance of 1978 of the City of West Fargo. No individual sewage disposal systems shall exist within these limits.

E. INDIVIDUAL SEWAGE SYSTEMS. Where connection to public sewerage system is not required, individual sewage disposal systems may exist. Minimum lot area shall conform with the requirements of Section 4-0408 of this ordinance. All such systems shall have soil map data and seepage fields inspected and approved by the County Health Sanitarian and the City Engineer prior to Final Plat approval by the City Commission.

F. DRAINAGE AND GRADING PLANS. A subdivision drainage plan shall be reviewed and approved for each subdivision which establishes the proposed finish grades for the development. When lots are developed, the finished grades should be according to the approved drainage plan. Developers, contractors and property owners are responsible for maintaining undeveloped lots according to City standards.

Source: Ord. 916, Sec. 12 (2012)

4-0407. PUBLIC SITES AND USES.

Source: Ord. 605, Sec. 1 (2000)

Subsections:

4-0407.1. Subdivision Exactions.
4-0407.2. Private Open Space/Parks.
4-0407.3. Plan to Provide for Public Use.
4-0407.4. Preservation of Natural Features and Amenities.

4-0407.1 Subdivision Exactions. Because new development within the City and its extraterritorial area increases population and/or demand upon public services, it shall be required that the owner or developer (subdivider) of every subdivision or resubdivision of property dedicate land for parks, playgrounds, public open space, public trails, municipal facilities, park facilities and/or pay a fee in accordance with those regulations for the purpose of providing the above-mentioned public uses and facilities for existing and future residents of the community. Subdivisions or resubdivions of properties which are partially or fully developed will only be required to provide for dedication on the undeveloped portion of the property being platted into lot(s).

Source: Ord. 748, Sec. 8 (2005)

A. APPLICATION. The provisions of this requirement shall apply to all of residential, commercial, industrial and other subdivisions and shall include replats where land dedication and/or cash-in lieu of dedication fees have not been previously provided. Where landowners previously have dedicated land in advance of development, the City Commission will determine if a dedication will be required and what an equitable amount would be.

B. PROCEDURE. The subdivider of property shall submit with the application for subdivision or resubdivision a letter from the Park District indicating their recommendation for land dedication or cash-in-lieu of land dedication. When the subdivider has not provided a letter of recommendation from the Park District, the application will be considered incomplete. The City will then notify the Park District and provide information on the proposed subdivision. The Park District will be given thirty (30) days to review the subdivision information and provide recommendations, whereupon the application will be considered complete and the City will proceed with platting procedures.

The Planning and Zoning Commission will consider the Park District recommendations in addition to public uses and facilities identified within the Comprehensive Plan and other City plans when formulating their recommendation to the City Commission. The City Commission will have final authority to determine whether land dedication or cash-in-lieu of land dedication will be accepted.

C. LAND DEDICATION. The amount of land required to be dedicated by the subdivider pursuant to this ordinance, shall be based upon the type of development and shall be a percentage of the gross area of all property to be subdivided as follows:

Residential Subdivision - 10%
Commercial Subdivision - 5%
Industrial Subdivision - 5%
Other Subdivision - 10%

Where no proposed use is given for lots within the proposed subdivision, the City will base the required dedication on the future land use as shown in the Comprehensive Plan. The land area conveyed or dedicated to the City will not be used in calculating density requirements of the Comprehensive Plan and Zoning Ordinance.

D. LAND SUITABILITY. Land to be dedicated shall be reasonably suitable for its intended use and shall be at a location convenient to the people to be served. In evaluating the adequacy of proposed land dedications, the City shall consider factors including size, shape, topography, geology, hydrology, tree cover, access and location. Land will not be accepted as meeting the required dedication if it is encumbered with major utility easements, storm drains or retention areas, wetlands or other features which make the property difficult to utilize for parks or other desired municipal or park facilities. The City may consider land for parks or open space that is located in the vicinity of areas for storm water retention, major drains, or wetlands or other natural features provided the dedication will further the interests of the City or Park District, as well as the City's Comprehensive Plan. The City Commission will make the final decision whether land will be accepted for dedication.

E. TIMING AND MAINTENANCE. Prior to final plat approval by the City Commission, the subdivider shall denote on the plat the designated park or open space land, or shall tender a deed of the dedicated land to the public entity that is to receive the land. If the plat is not approved, the deed shall be returned to the subdivider. The transfer of the deed is only final upon final approval of plat. The public entity that receives the dedicated land shall be required to maintain such land.

F. FEE IN LIEU OF LAND DEDICATION. When it is determined that park dedication is not desirable due to location, size or other suitability factors, the City shall require, in lieu of land dedication, a cash dedication equal to a percentage of the fair market value of the property. Such percentage is based on the requirements identified above. For the purposes of this section, fair

market value shall be determined at the time of final plat approval in accordance with the following:

1. The City may establish by resolution of the City Commission annually the acceptable value for residential, commercial and industrial designated land for consideration as the fair market value; or

2. The developer may submit a copy of the purchase agreement and/or other pertinent information for which the City will take into account any and all concessions made and any improvements to said property to arrive upon an agreed upon fair market value at the time of approval of plat; or

3. The fair market value may be based upon a current appraisal submitted to the City by the subdivider at the subdivider's expense. The appraisal shall be made by appraisers who are certified or licensed through the State of North Dakota.

4. If the City disputes such appraisal, the City may, at the subdivider's expense, obtain an appraisal of the property by a qualified real estate appraiser, which appraisal shall be conclusive evidence of the fair market value of the land.

Source: Ord. 1049, Sec. 4 (2015)

G. COMBINED LAND AND CASH DEDICATIONS. The City may elect to receive a combination of cash and land as part of parkland dedication requirements. In such cases, the percentage of land dedicated shall reduce the required fee percentage by an equal amount.

H. PAYMENT TIMING AND PROCEDURES. The subdivider shall make payment to the City upon approval of the final plat. Funds received by the City shall be placed in a public improvement fund and in the discretion of the City Commission be used to benefit the residents of the community. Any public facilities constructed or improved with these funds shall be located in the general neighborhood if benefitting that subdivision, or elsewhere in the community if benefitting the community as a whole.

4-0407.2. Private Open Space/Parks. Where private open space for park and recreation purposes is provided in a proposed subdivision, such areas may be used for credit, at the discretion of the City Commission, against the requirement of dedication for park and recreation purposes, provided the City Commission finds it in the public interest to do so. Generally, however, land dedications for private parks will be discouraged.

4-0407.3. Plan to Provide for Public Use. Wherever a tract to be subdivided includes area for school, or other public use,

such as streets, which are indicated on official City plans or any portion thereof, such space may be required for reservation by the Planning Commission. If so required, the Planning Commission shall give the public agency involved sixty (60) days to express its interest in the proposed subdivision in connection with the use of the public site. Should interest be expressed by the public agency involved, that agency shall have an additional sixty (60) days within which to arrange for the acquisition of the public site under consideration. If no interest is shown within the first sixty (60) days, the developer may proceed with development of the parcel in question.

4-0407.4. Preservation of Natural Features and Amenities.

A. General. Existing and proposed features which would add value to land, enhance traffic corridors, or benefit the City as a whole, shall be preserved and/or included in the design of subdivisions.

B. Boulevard Trees. Boulevard trees shall be planted in accordance with Section 4-532 of the Revised Ordinance of 1990 of the City of West Fargo as amended. No building permits for residential property or property abutting 13th Avenue East may be issued unless in accordance with that ordinance. Boulevard areas not included within the above-mentioned ordinance shall have a landscaping plan approved as part of the subdivision process and have provisions made for payment. The installation of the trees provided for within the landscaping plan shall then be installed when the abutting property is developed.

Source: Ord. 1122, Sec. 1 (2018)

4-0408. EXTRATERRITORIAL PROVISIONS.

Subsections:

4-0408.1. General Purpose.
4-0408.2. Subdivision Review.
4-0408.3. Building Permits.
4-0408.4. Residential Development.
4-0408.5. Commercial/Industrial Development.
4-0408.6. Individual and Private Group Sewer and Water Facility Design.
4-0408.7. Street Design and Access.
4-0408.8. Street Maintenance.

4-0408.1. General Purpose. The City of West Fargo shall exercise its authority over extraterritorial subdivisions for the purposes of:

A. Promoting compact urban development.

B. Preventing urban sprawl.

C. Preserving prime agricultural farmland.

D. Controlling public service costs.

E. Maintaining open space.

F. Promoting harmonious development.

4-0408.2. Subdivision Review. In addition to the requirements stated herein, comments shall be gained from the Cass County Planning Commission and the applicable township board prior to preliminary review before the Planning Commission.

4-0408.3. Building Permits. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official pursuant to Chapter 7 of the ordinances of the City of West Fargo.

4-0408.4. Residential Development. Where connection to the municipal or a rural central water and sewer system would be anticipated within a ten (10) year period, residential subdivisions shall be encouraged to connect to such system. For those developments connecting to such system, lot and yard requirements shall be as required for the particular use within the Zoning Ordinance.

Where no municipal and rural central water and sewer system can feasibly exist, the following minimum standards shall apply:

A. One acre for non-farm single family lots.

B. 100 foot lot width at building setback line.

C. Setbacks consistent with pertinent provisions of the Zoning Ordinance.

D. For every dwelling unit over one per lot, an additional 10,000 square feet of lot area shall be required in addition to the initial one acre lot size.

4-0408.5. Commercial/Industrial Development. Where connection to the municipal or a rural central water and sewer system is not feasible, as described in Section 4-0406.5 and 4-0408.4 hereof, the following standards shall apply:

A. Minimum lot sizes shall be five (5) acres for industrial and three (3) acres for commercial development.

B. Off-street parking as required by the Zoning Ordinance.

C. Yard and landscape requirements shall be as required in the Corridor Overlay (C.O.) District within the Zoning Ordinance.

Should municipal or rural central water and sewer connection be available, yard, lot, and design standards shall be as required for the particular use in the Zoning Ordinance.

4-0408.6. Individual and Private Group Sewer and Water Facility Design.

A. GENERAL. Where connection to the municipal or a rural central water and sewer system is not feasible, as determined by the City Engineer and Planning Commission, individual or private group sewer and water facilities may be permitted. Such facilities shall conform with all applicable state codes and provisions and shall be approved by the Cass County Engineer and City Engineer prior to Final Plat approval by the City Commission.

B. LOT REQUIREMENTS. Lot requirements shall be as stated within these extraterritorial provisions.

C. SYSTEM DESIGN. Each facility shall be designed and constructed to City Engineering standards and in accordance with these regulations.

D. SOIL MAP DATA. For all sewerage systems, soil map data shall be presented and approved by the Cass County Sanitarian and thereupon presented to the Planning Commission indicating that all proposed lots are adequate for individual or private group disposal systems.

4-0408.7. Street Design and Access. Streets shall normally be designed and constructed in accordance with these regulations and City Engineer standards. For all section line roads, minimum dedicated right-of-way shall be 100 feet. Access upon federal, state, county, and township roads shall be subject to the approval

of the State Highway Department, appropriate township board, County Engineer, City Engineer, and Planning Commission.

4-0408.8. Street Maintenance. The applicant shall submit to the Planning Commission a statement indicating who will be responsible for street maintenance and snow removal.

4-0409. SUBDIVISION IMPROVEMENT AGREEMENTS.

Source: Ord. 860, Sec. 1 (2010)

Subsections:

4-0409.1. Completion of Improvements.
4-0409.2. Improvements Installed by Developer.
4-0409.3. Creation of Improvement District by City.
4-0409.4. Combination of Improvement District and Improvements Installed by Developer.

4-0409.1. Completion of Improvements. Upon final approval of any subdivision plat, the subdivider or developer may petition the City Commission for the purpose of installing the required public improvements. The subdivider or developer may petition the City Commission to install public improvements in one of the following three ways:

A. The subdivider or developer installs all the required public improvements at their own cost.

B. The City creates an improvement district in order to assess the improvement costs against benefitted properties.

C. Part of the improvement costs are borne by the subdivider or developer and the City creates an improvement district in order to assess the remaining improvement costs against benefitting properties.

In any event, all improvements shall be installed in accordance with these regulations and the City Engineer's guidelines.

4-0409.2. Improvements to be Installed by Developer. Should the developer or subdivider request to install all required public improvements at their own cost, and the City Commission provides approval to this request, the developer shall be required to sign an Agreement Authorizing Improvements by Developer, as provided by the City's Attorney and approved by the City Commission which sets out the required security to be furnished by the developer.

4-0409.3. Creation of Improvement District by City. Should the developer or subdivider request to have the City create an improvement district in order for the public utilities to be installed, and the City Commission approves this request, the following procedure shall be followed:

A. Subdivider or developer shall sign an Improvement District Agreement as furnished by the City Attorney and approved by the City Commission, which sets out the required security to be furnished by the developer.

4-0409.4. Combination of Improvement District and Improvements to be Installed by Developer. Should the developer or

subdivider request to have the City create an improvement district for the installation of part of the improvements and also request to install the remaining improvements, and the City Commission approves these requests, the following procedure shall be followed:

A. Subdivider or developer shall sign an Agreement Authorizing Improvement by Developer, as provided by the City Attorney and approved by the City Commission.

B. Subdivider or developer shall sign an Improvement District Agreement as furnished by the City Attorney and approved by the City Commission.

CHAPTER 4-100.

GENERAL PROVISIONS

SECTIONS:

4-110. Purpose.
4-120. Short Title.
4-130. Jurisdication.
4-140. Severability.
4-150. Provisions of Ordinance Declared to be Minimum Requirements.
4-160. Repeal of Conflicting Ordinances.
4-170. Effective Date.

4-110. PURPOSE. The purpose of this Ordinance is to conserve and stabilize the value of property; to provide adequate open space for light and air; to secure safety from fire, panic and other dangers; to prevent undue concentration of population; to lessen congestion on streets, roads and highways; to facilitate adequate provisions for utilities and facilities such as transportation, water, sewerage, schools, parks and other public requirements; and to promote health, safety, morals, and general welfare.

4-120. SHORT TITLE. This Ordinance shall be known and may be cited and referred to as "The Zoning Ordinance of the City of West Fargo, North Dakota," to the same effect as if the full title were stated.

4-130. JURISDICTION. The provisions of this Ordinance shall apply within the corporate limits and the extraterritorial zoning jurisdiction of the City of West Fargo, North Dakota, as now and hereafter fixed and as established on the map entitled, "The Official Zoning Map of the City of West Fargo, North Dakota," as the same may be amended pursuant to Section 4-0107.

Source: Ord. 414, Sec. 4 (1991).

4-140. SEVERABILITY. If any section, provision or portion of this Ordinance is adjudged invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

4-150. PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS. In this interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

4-160. REPEAL OF CONFLICTING ORDINANCES. All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with the provisions of this Ordinance, are hereby repealed to the extent necessary to give this Ordinance full force and effect.

4-170. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after the date of its final passage and publication.

CHAPTER 4-200.

DEFINITIONS

For the purpose of this ordinance, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word "shall" is mandatory, the word "may" is permissive.

The words "used" or "occupied" include the words "intended," "designed," or "arranged to be used or occupied."

The word "lot" includes the words "plot" or "parcel."

ACCESSORY USE OR STRUCTURE: A use structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, to include privately-owned, fenced swimming pools, and satellite dishes.

AUTO BODY WORK: Major automotive repair including, but not limited to, the straightening of frame, sanding, puttying and painting activities, and other activities which involve changes to the frame or exterior of a vehicle, except for automobile (van) conversion.

AUTOMOBILE (VAN) CONVERSION: Where changes are made to the exterior or interior of an automobile or van for the purpose of sale. Such changes may include cutting holes for windows or redoing the interior; however, such changes would not include activities as defined in "Auto Body Work."

BEHAVIORAL HEALTH CARE FACILITY: A building or portion of a building, whether private profit or non-profit, or institutional, principally engaged in providing services for inpatient and outpatient services for treatment of victims of drug addition, psychiatric, psychological, or other behavioral health condition where care may be provided on a short-term or long-term basis whose operators are licensed by the State of North Dakota or by Chapter 10-13 of the Revised Ordinances of 1990 of the City of West Fargo, but not to include hospitals.

Source: Ord. 1049, Sec. 5 (2015)

BUILDABLE AREA: The portion of a lot remaining after required yards have been provided.

CHILD CARE CENTER: Any facility which is licensed as a child care center by the Department of Human Services to provide early childhood services to 13 or more children.

Source: Ord. 571, Sec. 1 (1999); Ord. 1049, Sec. 5 (2015).

CHILD CARE HOME: Any provider occupied single family dwelling (home) which is licensed as a "group child care home" or "group child care facility" by the Department of Human Services to provide early childhood services on a regular basis, and which facility has between eight (8) and twelve (12) children present, excluding the children of the childcare provider, as determined by the Department of Human Services.

Source: Ord. 1049, Sec. 5 (2015)

COMMERCIAL AGRICULTURE: The use of land for the growing and/or production of field crops, livestock, and livestock products for the production of income including but not limited to the following:

a. field crops, including: barley, soy beans, corn, hay, oats, potatoes, rye, wheat, sunflowers, and sugar beets.

b. livestock, including: dairy and beef cattle, goats, horses, sheep, hogs, poultry, game birds, and other animals including dogs, ponies, and rabbits.

c. livestock products, including: milk, butter, cheese, eggs, meat, fur, and honey.

CONDITIONAL USE: A use which is not appropriate generally or without restriction throughout a zoning district, but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses are allowed in a zoning district as a conditional use if specific provision for such uses is made in the zoning district regulations.

CONDOMINIUM: Individual ownership of a unit in a multiple dwelling structure.

CONVENIENCE ESTABLISHMENTS: Small establishments designed and intended to serve the daily or frequent trade or service needs of immediately surrounding medium to high density population. Such establishments include groceries, coin-operated laundry and dry-cleaning agencies, tailoring and dressmaking shops, beauty shops, barber shops, and the like. Specifically excluded are filling stations and repair garages, drive-in eating and drinking establishments, and liquor establishments.

DWELLING, 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 CRF 3280) which became effective June 15,

1976, promulgated by the United States Department of Housing and Urban Development.

Source: Ord. 527, Sec. 1 (1997)

DWELLING, MOBILE HOME: A factory built structure, transportable in one or more sections, which in the traveling mode is eight body feet (8') or more in width or forty body feet (40') or more in length, or when placed on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a year-round dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein 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.

Source: Ord. 527, Sec. 1 (1997)

DWELLING, MULTIPLE: A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided. Condominiums and three or more unit townhouses are considered Multiple Dwellings for the purposes of this ordinance.

Source: Ord. 1049, Sec. 5 (2015)

DWELLING, SINGLE FAMILY (ONE-FAMILY): A structure containing only one dwelling unit designed to be located on a permanent foundation as required by state and/or local requirements and, if site built, constructed in accordance with the provisions of the applicable State and City Codes governing construction or, if manufactured off site, constructed in accordance with either the City code governing construction or the HUD Manufactured Home Construction and Safety Standards Act of 1974 (24 CFR 3280) which became effective June 15, 1976. All single-family dwellings shall be considered and taxed as real property, as provided by law. Each single-family dwelling shall have a minimum overall front width of twenty-two feet (22'), except in the Manufactured Housing District, minimum overall depth of twenty-two feet (22'), except in the Manufactured Housing District, and a minimum main floor living space square footage of 900 square feet for a one-story structure for all districts in which a single-family structure is allowed. The design, location and appearance of the single-family structure must be compatible with existing dwellings in the area. The roof on all single-family dwellings shall be pitched with a minimum vertical rise of four inches (4") for each twelve inches (12") of horizontal run except in the Manufactured Housing District and shall consist of shingles or other nonreflective roof material customarily used for conventional dwellings and be approved by the Building Administrator. The exterior material on all single-family dwellings shall be of a color, material and scale customarily used on existing dwellings within the general area and shall extend to the ground, except that when a solid concrete or masonry perimeter

foundation is used, the exterior covering material need not extend below the top of the foundation. The exterior material of the dwelling shall be approved by the Building Administrator.

Source: Ord. 527, Sec. 1 (1997)

DWELLING, TWIN HOME: A single-family dwelling attached to one other single-family dwelling by a common vertical wall, and each dwelling located on a separate lot.

Source: Ord. 1049, Sec. 5 (2015)

DWELLING, TWO-FAMILY: A detached residential building containing two dwelling units, designed for occupancy by not more than two families.

DWELLING UNIT: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

ESSENTIAL SERVICES: The erection, construction, alteration, or maintenance by public utilities or municipal departments or commissions of underground or overhead telephone, gas, electrical, steam, communication, or water transmission, distribution, collection, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith for the furnishing of adequate service by such public utilities or municipal departments or commissions to the residents of West Fargo.

EXTRATERRITORIAL ZONING JURISDICTION: Unincorporated lands outside the city limits of West Fargo over which the City has the zoning authority.

FAMILY: One or more persons related by blood or marriage or a group of not more than 5 persons who need not be related by blood or marriage living together in a dwelling units.

FAMILY CHILD CARE HOME: An occupied private residence in which early childhood services are provided for no more than seven children at any one time, excluding the children of the childcare provider, as determined by the Department of Human Services.

Source: Ord. 571, Sec. 1 (1999); Ord. 1049, Sec. 5 (2015).

FARM ANIMALS: Animals generally raised on a farm which are either pastured or kept in pens, including but not limited to beef or dairy animals, horses, mules, sheep, goats, swine, llamas, ostrich and poultry. All animals except poultry are counted individually, whereas poultry are counted in groups of five as one animal unit.

Source: Ord. 748, Sec. 9 (2005)

FEEDLOT: A confined area or structure used for feeding, breeding, or holding livestock for eventual sale in which animal waste may accumulate but not including barns, pens, or other structures used in a dairy farm operation.

FLOOR AREA, GROSS: The total area of all floors of a building as measured to the outside surfaces of exterior walls and including halls, stairways, elevator shafts, attached garages, porches, and balconies.

GRADE: The average elevation of the finished ground at the exterior walls of the main building.

GROUP HOME: Any community residential facility, foster home, family care facility, or other similar home for developmentally disabled persons.

HEIGHT, BUILDING. The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to a point midway between elevation of the eaves and elevation of the ridge, for gable, hip and gambrel roof.

Source: Ord. 1049, Sec. 5 (2015)

HOME OCCUPATION: An accessory use of a dwelling unit for gainful employment involving the manufacture, provision, or sale of goods and/or services, excluding child care home as provided for in this ordinance.

Source: Ord. 1049, Sec. 5 (2015)

JUNK YARD: Any area used for the storage, keeping or abandonment of junk, including scrap metals, or other scrap materials or goods, or used for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

KENNEL: Any place in or at which any number of dogs are kept for the purpose of sale or in connection with boarding, care, or breeding, for which any fee is charged.

LANDFILL: A site where garbage, junk, building materials, demolition materials, trash, rubbish, or hazardous waste is placed in the ground for disposal or for fill purposes. A landfill shall not include dumping of materials covered by a permit under Chapter 15-0311 of the Revised Ordinances of 1990 of the City of West Fargo.

Source: Ord. 455, Sec. 1 (1993)

LOADING SPACE: A space or berth on the sale 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.

LOT: A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

a. A single lot of record.

b. A portion of a lot of record.

c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

d. A parcel described by metes and bounds, provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

LOT CORNER: A lot abutting upon two or more intercepting or intersecting streets, where the interior angle of the intersection or interception does not exceed one hundred thirty-five (135) degrees.

LOT COVERAGE: The amount of land covered or permitted to be covered by principal buildings, accessory buildings, and required parking spaces. When including other impervious surface areas such as driveways, parking areas which are not required or other areas, the total lot coverage may not exceed seventy (70) percent for single family and two-family lots, or seventy-five (75) percent for townhomes and multiple dwelling lots. Lot coverage percentages shall apply to front yards independently and to the entire lot in aggregate.

Source: Ord. 748, Sec. 9 (2005)

LOT DEPTH: The mean horizontal distance between the front lot line and the rear lot line, or the distance between the midpoint of the front lot line and the midpoint of the rear lot line.

LOT FRONTAGE: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage and shall be provided as indicated under YARDS in this section.

LOT, DOUBLE FRONTAGE: A lot having a frontage of two nonintersecting streets, as distinguished from a corner lot.

LOT, INTERIOR: A lot other than a corner lot.

LOT OF RECORD: A lot which is part of a subdivision recorded in the Office of the Cass County Register of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded, prior to the effective date of this Ordinance.

LOT WIDTH: The distance as measured by a straight line, between side lot lines at the points of intersection with the building line.

NONCONFORMITIES: Lots, structures, uses of land and structures, and characteristics of uses, which are prohibited under the terms of this ordinance, but were lawful at the date of this Ordinance's enactment.

PARKING SPACE, OFF-STREET: A space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

PRIVATE NONCOMMERCIAL RECREATIONAL OR CULTURAL FACILITY: A facility catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes which are not conducted primarily for gain; provided that any vending stands, merchandising, or commercial activities are conducted only as required for the membership of such club.

PROVISIONAL PERMITTED USES: A use which is generally held as appropriate and would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare throughout a zoning district when certain provisions as stated are met to minimize the use’s affects on neighboring properties.

Source: Ord. 783, Sec. 1 (2006)

RETIREMENT COMMUNITIES OR ELDERLY HOUSING PROJECTS: A multiple residential structure or structures designed exclusively for use by elderly or retired persons. To fulfill this requirement at least one occupant of each unit must be retired or at least Fifty-five (55) years of age.

SALVAGE YARD: A place where waste, discarded or salvaged materials are brought, sold, exchanged, baled, packed, disassembled or handled; including auto wrecking yards, house wrecking yards, used material yards; but not including pawn shops, antique shops, purchase or storage of used furniture and household equipment, or the placing of used cars in operable condition.

SETBACK: The required distance between every structure and the front lot line, as prescribed in the district regulations of this Ordinance.

SIGNS: See Section 4-460 of this Ordinance for all definitions relating to signs.

STORY: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six (6)

feet above grade as defined herein for more than fifty percent (50%) of the total perimeter or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar or unused under-floor space shall be considered as a story.

STREET LINE: The right-of-way line of a street.

STRUCTURE: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

SWIMMING POOL: A structure designed to be used for swimming which has a capacity of one thousand (1,000) gallons or more or which has a depth of over twenty-four (24) inches.

Source: Ord. 501, Sec. 4 (1996).

TEMPORARY USE: The use of land for a fixed period of time with the intent to discontinue such use upon the expiration of permitted time period.

Source: Ord. 916, Sec. 13 (2012)

TEMPORARY STRUCTURE: A structure without any foundation or footings and does not require a temporary building permit. Such building is constructed with the understanding that it will be removed when the permitted time has expired.

Source: Ord. 916, Sec. 13 (2012)

TRAVEL TRAILER: A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

TOWNHOUSE: A single-family dwelling unit occupying its own lot but attached to one or more other units by a common wall or walls.

VARIANCE: A relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this Ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

YARD: An open space, other than a court, on the same lot with a building, unoccupied and unobstructed by any portion of a structure from 30 inches above the general ground level of the graded lot upward. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

YARD, FRONT: A yard extending across the front of a lot between the side lot lines and extending from the front lot line to the front of the principal building or any projections thereof. The Front Yard shall be facing a public street. In the case of corner lots where two or more sides of a lot front on a street, the property owner shall determine which side shall be the front for the purpose of establishing setback requirements. In any required front yard, no fence or wall shall be permitted which materially impeded vision across such yard above the height of 30 inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights or 30 inches and 10 feet.

DEPTH OF REQUIRED FRONT YARDS SHALL BE MEASURED: At right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

YARD, REAR: A yard extending across the rear of a lot, measured between the side lot lines, and being the minimum horizontal distance between the rear lot line and the rear of the principal building including any projections. On interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

YARD, SIDE: A yard extending from the front yard to the rear yard and being the space between the side lot line and the side of the main building including any projections.

YARD, SPECIAL: A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the administrative official shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

The diagram (Figure 1) on the following page illustrates location and methods of measuring yards on rectangular and non-rectangular lots.

Source: Ord. 435, Sec. 1 (1992).

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NON-RECTANGULAR LOTS

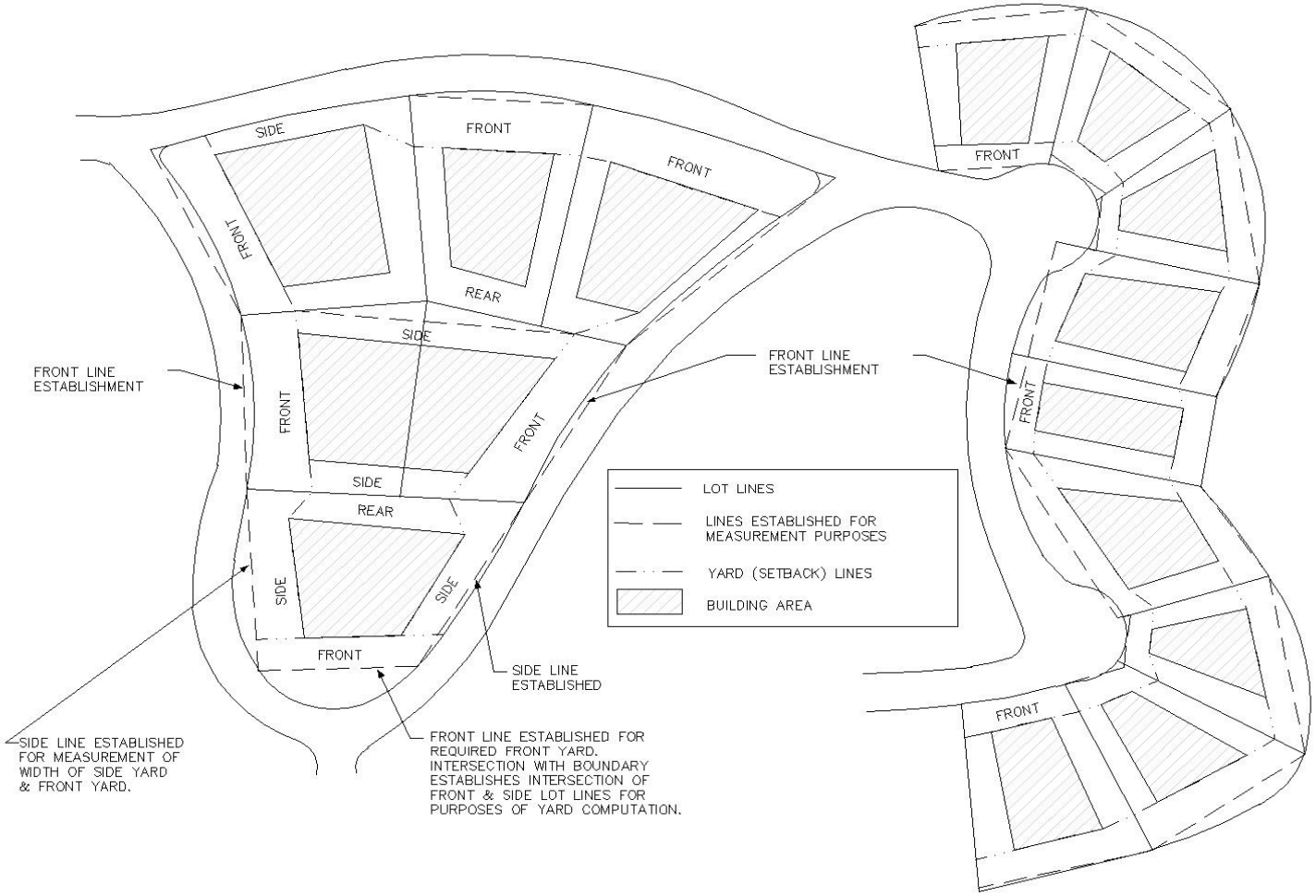

FIGURE 1

CHAPTER 4-300.

ESTABLISHMENTS OF DISTRICTS AND OFFICIAL ZONING MAP PROVISIONS.

Sections:

4-301. Establishment of Districts as Shown on Official Zoning Map.
4-302. Replacement of Official Zoning Map.
4-303. Rules for Interpretation of District Boundaries.

4-301. ESTABLISHMENT OF DISTRICTS AS SHOWN ON OFFICIAL ZONING MAP. The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 4-300 of Ordinance 332 of the City of West Fargo, North Dakota," together with the date of adoption of this Ordinance.

If, in accordance with the provisions of this Ordinance and Chapter 40-47 of the North Dakota Century Code, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Commission certifying such changes. No amendment to this Ordinance which involves matter portrayed on the Official Zoning Map shall become effective until such change has been made on said map and the amending ordinance duly published.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this ordinance and punishable as provided under Section 4-570.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the Office of the City Auditor shall be the final authority as to the current zoning status of land and water areas, buildings, and structures in the City.

(The amendment of this section involves the amendment to the Official Zoning Map)

4-302. REPLACEMENT OF THE OFFICIAL ZONING MAP. In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the City Commission may by resolution or ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the President of the Board of City Commissioners attested by the City Auditor, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map adopted as part of Ordinance No. 1149 on January 20, 2020, supersedes and replaces the Official Zoning Map adopted July 16, 2018, as part of Ordinance 1031 of the City of West Fargo, North Dakota, and all previously adopted zoning maps." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Source: Ord. 565, Sec. 2 (1999); Ord. 717, Sec. 2 (2004); Ord. 795, Sec. 2 (2007); Ord. 1031, Sec. 1 (2015); Ord. 1125, Sec. 4 (2018); Ord. 1149, Sec. 1 (2020)

4-303. RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

(2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(3) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

(4) Boundaries indicated as approximately following city limits shall be construed as following such city limits;

(5) Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

(6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(7) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections (1) through (7) above, the Board of Adjustment shall interpret the district boundaries;

(8) Where a zoning district boundary line divides a lot which was in single ownership at the time of passage of this Ordinance, the Board of Adjustment may permit, as a permitted conditional use, the extension of the regulations for either portion of the lot not to exceed fifty (50) feet beyond the zoning district line into the remaining portion of the lot.

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

CHAPTER 4-400

REGULATIONS

SECTIONS:

4-410. Application of Regulations.
4-420. District Regulations: General.
4-430. "R-1E" Rural Estate District
4-431 -
4-439. District Regulations: Special.
4-440. Supplementary District Regulations.
4-450. Off-Street Parking and Loading Requirements.
4-460. Sign Regulations.
4-470. Nonconforming Lots, Uses of Land, Structures, and Uses of Structures.

4-410. APPLICATION OF REGULATIONS.

Subsections:

4-411. Zoning Affects Every Building and Use.
4-412. Open Space, or Off-Street parking or Loading Space.
4-413. Yard and Lot Reduction Prohibited.
4-414. Zoning Upon Annexation.

4-411. ZONING AFFECTS EVERY BUILDING AND USE. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all of the zoning regulations herein specified for the district in which it is located. No building or other structure shall hereafter be erected or altered:

(1) to exceed the height or bulk;

(2) to accommodate or house a greater number of facilities;

(3) to occupy a greater percentage of lot area;

(4) to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this Ordinance.

4-412. OPEN SPACE, OR OFF-STREET PARKING OR LOADING SPACE. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as

part of a yard, open space, or off-street parking or loading space similarly required for any other building.

4-413. YARD AND LOT REDUCTION PROHIBITED. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

4-414. ZONING UPON ANNEXATION. All territory which may hereafter be annexed to the City shall be considered to be zoned A-Agricultural District unless otherwise classified.

4-420 - 4-439. DISTRICT REGULATIONS: GENERAL.

Subsections:

4-421. "A" Agricultural District Regulations.
4-421.1. Statement of Intent.
4-421.2. Permitted Uses.
4-421.3. Conditionally Permitted Uses.
4-421.4. Yard Requirements.

4-421-A. “R-R” Rural Residential District.
4-421-A.1. Statement of Intent
4-421-A.2. Minimum Dimensional Requirements.
4-421-A.3. Permitted Uses.
4-421-A.4. Conditionally Permitted Uses.
4-421-A.5. Yard Requirements.
4-421-A.5. Other Applicable Regulations.

4-421-B. “R-1E” Rural Estate District.
4-421-B.1. Statement of Intent.
4-421-B.2. Minimum Dimensional Requirements.
4-421-B.3. Permitted Uses.
4-421-B.4. Conditionally Permitted Uses.
4-421-B.5. Yard Requirements.
4-421-B.6. Other Applicable Regulations.

4-421-C. “R-L1A” Large Lot Single-Family Dwelling
4-421-C.1. Statement of Intent.
4-421-C.2. Permitted Uses.
4-421-C.3. Conditionally Permitted Uses.
4-421-C.4. Yard Requirements.
4-421-C.5. Other Applicable Regulations.

4-422. "R-1A" Single-Family Dwelling District.
4-422.1. Statement of Intent.
4-422.2. Permitted Uses.
4-422.3. Conditionally Permitted Uses.
4-422.4. Yard Requirements for the R-1A District.
4-422.5. Other Applicable Regulations.

4-422-A. “R-1B” Special Single-Family Dwelling District.

4-422-A.1. Statement of Intent.
4-422-A.2. Permitted Uses.
4-422-A.2.A. Provisional Permitted Users.
4-422-A.3. Conditionally Permitted Uses.
4-422-A.4. Yard Requirements for the R-1B District.
4-422-A.5. Other Applicable Regulations.

4-423. "R-1" One and Two-Family Dwelling District.
4-423.1. Statement of Intent.
4-423.2. Permitted Uses.
4-423.3. Conditionally Permitted Uses.
4-423.4. Yard Requirements for the R-1 District.
4-423.5. Other Applicable Regulations.

4-423-A. “R-1S” Special One and Two-Family Dwelling District.
(Source: Ord. 808, Sec. 3 [2007])

4-423-A.1. Statement of Intent.
4-423-A.2. Permitted Uses.
4-423-A.2.A Provisional Permitted Users.
4-423-A.3. Conditionally Permitted Uses.
4-423-A.4. Yard Requirements for the R-1S District.
4-423-A.5. Other Applicable Regulations.

4-423-B. “R-1SM” Mixed One and Two-Family Dwelling District.
(Source: Ord. 866, Sec. 1 [2010])

4-423-B.1. Statement of Intent.
4-423-B.2. Permitted Uses.
4-423-B.2.A Provisional Permitted Users.
4-423-B.3. Conditionally Permitted Uses.
4-423-B.4. Yard Requirements for the R-1SM District.
4-423-B.5. Other Applicable Regulations.

4-424. "R-2" Limited Multiple Dwelling District.
4-424.1. Statement of Intent.
4-424.2. Permitted Uses.
4-424.3. Conditionally Permitted Uses.
4-424.4. Yard Requirements for the R-2 District.
4-424.5. Other Applicable Regulations.

4-425. "R-3" Multiple Dwelling District.
4-425.1. Statement of Intent.
4-425.2. Permitted Uses.
4-425.3. Conditionally Permitted Uses.
4-425.4. Yard Requirements for the R-3 District.
4-425.5. Other Applicable Regulations.

4-426. "R-4" Mobile Home District.
4-426.1. Statement of Intent.
4-426.2. Permitted Uses.
4-426.3. Applicable Regulations.
4-426.4. Dimensional Requirements.
4-426.5. Other Applicable Regulations.

4-426-A. R-5: Mobile Home (Manufactured Home) Subdivision District.

4-427. "C" Light Commercial District.
4-427.1. Statement of Intent.
4-427.2. Permitted Uses.
4-427.3. Conditionally Permitted Uses.
4-427.4. Yard Requirements for the C District.
4-427.5. Other Applicable Regulations.

4-427-A. ”C-OP” Commercial Office Park District

4-427-A.1. Statement of Intent.
4-427-A.2. Permitted Uses.
4-427-A.3. Conditionally Permitted Uses.
4-427-A.4. Site Development Standards.
4-427-A.5. Other Applicable Regulations.

4-428. "HC" District or Heavy Commercial District.
(Source: Ord. 1045, Sec. 1 & 2 [2015])
4-428.1. Statement of Intent.
4-428.2. Permitted Uses.
4-428.2A. Conditionally Permitted Uses.
4-428.3. Yard Requirements for the HC District.
4-428.4. Other Applicable Regulations.

4-428-A. “LI” District or Light Industrial District.
(Source: Ord. 1045, Sec. 3 [2015])

4-428-A.1. Statement of Intent.
4-428-A.2. Permitted Uses.
4-428-A.3. Conditionally Permitted Uses.
4-428-A.4. Yard Requirements for the LI District.
4-428-A.5. Other Applicable Regulations.

4-429. "M" District or Heavy Industrial District.
4-429.1. Statement of Intent.
4-429.2. Permitted Uses.
4-429.2A. Conditionally Permitted Uses.
4-429.3. Prohibited Uses.
4-429.4. Yard Requirements.
4-429.5. Other Applicable Regulations.
4-429.6. Adult Entertainment Centers -- Location Restricted.

4-431. "CO" District or Corridor Overlay District.
4-431.1. Statement of Intent.
4-431.2. Permitted Uses.
4-431.3. Conditionally Permitted Uses.
4-431.4. Yard Requirements for the CO District.
4-431.5. Lot Design Standards.
4-431.6. Other Applicable Regulations.

4-431-A. “CO-I” Interstate Corridor Overlay District

4-431-A.1. Statement of Intent.
4-431-A.2. Permitted Uses.
4-431-A.3. Conditionally Permitted Uses.
4-431-A.4. Plan Review and Approval.
4-431-A.5. Site Development Standards.

4-431-B. “CO-R” Redevelopment Corridor Overlay District.

4-431-B.1. Statement of Intent.
4-431-B.2. Permitted Uses.

4-431-B.3. Conditionally Permitted Uses.
4-431-B.4. Yard Requirements for the CO-R District.
4-431-B.5. Lot Design Standards.
4-431-B.6. Other Applicable Regulations.

4-431-C. "CO-SR" District or Sheyenne River Corridor Overlay District. (Source: Ord. 916, Sec. 65 (2012))

4-431-C.1. Statement of Intent.
4-431-C.2. Building Control Line and Use Restrictions.
4-431-C.3. Relaxation of Use Restrictions.
4-431-C.4. Existing Nonconforming Uses and Structures.
4-431-C.5. Landscape Standards.

4-432. "PUD" District for Planned Unite Development Project.
4-432.1. Statement of Intent.
4-432.2. Permitted Uses.
4-432.3. Who May Apply -- Ownership Requirements.
4-432.4. Minimum Areas Generally Required.
4-432.5. Coordination with Subdivision Regulations.
4-432.6. Administrative Procedure.

4-433. "P" District or Public Facilities District
4-433.1. Statement of Intent.
4-433.2. Permitted Uses.
4-433.3. Conditionally Permitted Uses.
4-433.4. Yard Requirements.

4-434. "DMU" DOWNTOWN MIXED USE DISTRICT
Source: Ord. 1148, Sec. 3 (2020)
4-434.1. Statement of Intent.
4-434.2. Uses.
4-434.3. Site Design Standards.
4-434.4. Lot Design Standards.

4-435. "EMU" ENTERTAINMENT MIXED USE DISTRICT
Source: Ord. 1148, Sec. 4 (2020)
4-435.1. Statement of Intent.
4-435.2. Uses.
4-435.3. Site Design Standards.
4-435.4. Lot Design Standards.

4-436. RESERVED FOR FUTURE USE.

4-437. RESERVED FOR FUTURE USE.

4-438. RESERVED FOR FUTURE USE.

4-439. RESERVED FOR FUTURE USE.

4-421. "A" DISTRICT OR AGRICULTURAL DISTRICT.

Source: Ord. 748, Sec. 10 (2005)

4-421.1. Statement of Intent. The provisions of the "A" District are intended to establish and preserve areas for agricultural uses, wherein certain recreational, residential, and public activities which do not significantly change the natural character of the land are permitted.

4-421.2. Permitted Uses.

1. Commercial agriculture and horticulture as defined by this Ordinance, to exclude feedlots and poultry facilities.

2. Farm buildings and accessory structures.

3. Single family dwellings which are accessory to farming operations and which are located on farmsteads in existence at the time this Ordinance is passed.

4. Forestry, grazing, and gardening.

5. Essential services.

6. Home occupations.

7. Historic sites as designated by the City of West Fargo or the State Historical Society of North Dakota.

8. Public parks and recreational facilities, wildlife and game management area and refuges.

9. Municipal utility structures and uses for the provision of municipal utilities and services.

10. Public utility and service structures (non-municipal), which are located and constructed at such places and in such manner that they will not disrupt the operation of any one farm and will not interfere with the conduct of agriculture by limiting or interfering with the access to fields or the effectiveness and efficiency of the farmer and farm equipment including crop-spraying aircraft.

4-421.3. Conditionally Permitted Uses. Any conditional use located in this district shall be sited on a separately platted parcel in accordance with the subdivision regulations of the City of West Fargo, and the use shall not be one to which the noise, odor, dust, or chemical residues of commercial agriculture or horticulture might result in creation or establishment of a nuisance or trespass. The following conditional uses maybe located in the A District subject to the provisions and requirements hereinafter imposed for each use and subject further to review and approval by the City as required by Section 4-550 of this Ordinance:

1. Agricultural service establishments primarily engaged in performing agricultural, animal husbandry, or horticultural services on a fee or contract basis including, but not limited to hay-baling and threshing; horticultural services; crop dusting; grain cleaning and drying; harvesting and plowing; milling and storage or grain; veterinary services; boarding and training of horses; and roadside stands for the sale of agricultural produce grown on the site.

    a. An agricultural service establishment shall be incidental and necessary to the conduct of agriculture within the district.

    b. All agricultural service establishments shall be located at least 100 feet from any driveway affecting access to a farm dwelling or field and at least 500 feet from any single-family dwelling.

    c. All agricultural service establishments shall be screened on the perimeter of the establishment by a solid fence, wall, or natural vegetation not less than six feet in height.

2. Churches, religious institutions and places of worship, cemeteries, airports, fairgrounds, archery ranges, gun clubs, schools, local government buildings and facilities, and government-owned facilities for the maintenance of roads and highways when necessary to serve the immediate vicinity.

3. Non-farm single-family residential dwellings may be permitted on lots or parcels of land for which a deed has been recorded in the office of the Cass County Register of Deeds upon or prior to September 3, 2018, or a lot or parcel of land that would have been a lot of record if the document conveying the lot had been recorded on the date of its execution, provided they meet all applicable standards and requirements of this Ordinance and all other applicable city, township, and county regulations and ordinances, subject to the following:

    a. The property shall be platted in accordance with the subdivision regulations of the City of West Fargo.

    b. Each lot developed shall contain no more than one (1) single-family home.

    c. Each lot developed shall be a minimum of one acre in area. A larger plot size may be required by the City if necessary for the safe operation of individual wells and septic systems.

d. The driveway serving the property shall meet City access standards.

e. All non-farm residential buildings shall be set back a minimum of 300 feet from the nearest farm building.

4. Above ground petroleum storage tanks. Such above ground petroleum storage tanks are prohibited in all other districts other than the A and M Districts.

5. Non-farm Single-family residential dwellings and accessory structures on lots created or platted after September 3, 2018, under the following conditions:

a. The property is platted in accordance with the subdivision regulations of the City of West Fargo.

b. The property is developed at a minimum of one (1) acre in area with a larger plot size required by the City if necessary for the safe operation of individual wells and septic systems.

c. The property is less than forty (40) acres in size, the property has a deed restriction recorded against it and the surrounding quarter-quarter section of land or legal lot of record to prohibit further development of non-farm single family residential dwellings. The deed restriction shall be in a form as approved by the City Planner, City Attorney, and President of the Board of City Commissioners and will terminate/release only at the time of rezoning, or accompanied by an area plan, annexation by the City of West Fargo, or release of the property from the zoning authority of the City of West Fargo.

6. Landscaping businesses, greenhouses, and plant nurseries.

7. Temporary or permanent industrial wood burners, including air curtain destructors, subject to the following conditions:

a. For a permanent site, the site is fenced with a sight obscuring fence and screened if necessary to keep materials out of sight.

b. The site is located a minimum of 2,640 feet from any residential or neighboring business structure.

c. The waste wood products may not be stored on the site for more than two (2) months. For a permanent site, all waste wood products on site must be disposed of within a two (2) month period. At the time the site is completely cleared, another two-month cycle of storage may begin. An extension to

the two-month period may be granted by the Fire Chief during the high fire risk times when burning is not allowed.

d. The use has received State Health Department and local Fire Department approval.

e. A permit for a temporary site may not exceed sixty (60) days, and only two (2) temporary permits may be granted for the same site in any year. The 60-day period may be extended by the Fire Chief if during that period burning is not allowed because of high risk conditions.

f. Other conditions as deemed necessary.

8. Animal kennels and shelters.

Source: Ord. 916, Sec. 14 (2012); Ord. 1126, Sec. 1 (2018)

4-421.4. Yard Requirements.

a.	Minimum Lot Size:	- Commercial/agricultural and horticulture uses - none; - Single family dwellings on lots of record - 1 acre; - Single family dwellings on newly created lots - 40 acres - Other uses - 10 acres
b.	Minimum Lot Width	300 feet
c.	Minimum Lot Depth	300 feet
d.	Minimum Side Yard[1]	20 feet
e.	Minimum Rear Yard	50 feet
f.	Minimum Front Yard[2]:	- Local: 120' from centerline or 40' from the established right-of-way, whichever is greater. - Collector: 150' from centerline or 75' from the established right-of-way, whichever is greater. - Arterial: 150' from centerline or 75' from the established right-of-way, whichever is greater.
g.	Maximum Height	For farm uses - none; for non-farm uses - 35 feet

(1) Side yard setback for street side of corner lots shall be the same as required for front yards.

(2) Whichever requires the greater setback.

4-421-A. "R-R" DISTRICT OR RURAL RESIDENTIAL DISTRICT.

Source: Ord. 748, Sec. 11 (2005)

4-421-A.1. STATEMENT OF INTENT. The provisions of the "R-R", Rural Residential District is to provide area for the development of single family homes on large lots outside of the urban service area (area which is intended to be served with municipal services within a ten-year period). This district may be applied to areas designated as Rural Residential or Agricultural Preservation on the Land Use Plan of the City's Comprehensive Plan. These areas are not protected by the Sheyenne Diversion project except for existing subdivisions, so on-site flood protection is required in conjunction with most development. Cluster residential development is encouraged in order to more easily provide for flood protection of structures, while preserving more open space.

4-421-A.2. MINIMUM DIMENSIONAL REQUIREMENTS. The minimum area for this district shall be fifteen (15) acres for areas designated as Rural Residential on the City's Land Use Plan and forty (40) acres for areas designated as Agricultural Preservation on the Plan.

4-421-A.3. PERMITTED USES.

1. Single family detached dwellings.

2. State-licensed group homes serving six (6) or fewer developmentally disabled persons.

3. Publicly owned and operated parks, playgrounds, and recreational facilities.

4. Essential services and public buildings.

5. Home child care facilities serving up to a maximum of seven (7) children.

6. Churches, religious institutions and places of worship.

Source: Ord. 916, Sec. 15 (2012)

4-421-A.3-A. PROVISIONAL PERMITTED USES. The following uses may be permitted in the R-R District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Planning Office:

1. Child care home facilities in single family homes with up to twelve (12) children, excluding the children of the child care provider, subject to the following provisions:

    a. The use of the dwelling unit for the child care facility shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

b. The rear yard shall be fenced with a solid fence. In the event that an existing fence is in place which is not a solid fence, the Planning Office may allow the existing fence to continue until such time that there is a complaint from an adjoining property owner. Upon receiving a complaint, the fence shall be changed to a solid fence.

c. The children shall be dropped off and picked up in the driveway only.

d. Adequate off-street parking shall be provided for the principal use, and child care facility including space(s) for dropping off children and employees.

e. The hours of operation are limited to 6:00 a.m. to 10:00 p.m.

Source: Ord. 783, Sec. 8 (2006); Ord. 1049, Sec. 6 (2015)

4-421-A.4 CONDITIONALLY PERMITTED USES. The following uses may be permitted in the "R-R" District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this ordinance.

1. Private noncommercial recreational or cultural facilities, subject to the following conditions:

   a. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare, either existing or proposed, and the site shall be so planned so as to provide all ingress and egress directly onto or from said major thoroughfare.

   b. Front, side and rear yards shall be at least sixty (60) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.

2. Accessory buildings greater than 1,600 square feet, provided they are in character with the development patterns of the subdivision.

3. Clustered Rural Subdivisions, provided that:

   a. The proposed area is unlikely to be served by City utilities within the next ten (10) years, as determined by the City Commission.

   b. The Subdivision is designed to provide for resubdivision at such time that City utilities become available.

   c. Lot sizes of less than five acres require provision for common sanitary waste treatment, such as common septic drainfields or other designs approved by the City Engineer and Cass County Health Department.

   d. In clustered rural subdivisions, individual building lot sizes may be reduced to 15,000 square feet with remaining lot area and subdivision area requirements set aside as conservation areas which may be utilized in the future for urban development patterns.

   e. Streets shall be improved, but may be built to a rural design standard, subject to proper drainage control.

   f. The subdivision shall include covenants attached to each building lot, requiring house construction, which will accommodate convenient connection to future City utilities.

   g. At least fifty percent (50%) of the land in the subdivision shall remain as open space to be used for agricultural crop production, recreation, or scenic conservation. Ownership of the open space shall be in common among the building lot owners.

   h. The developer shall enter into a development contract with the City regulating the development process and each of the standards applicable to future residents of the subdivision.

4. Farm animals, provided the lots in the subdivision/development have a minimum of two acres. The number of animals allowed is one animal for the first two acres, plus one additional animal for each additional acre of lot area. Each lot may be reviewed individually or the subdivision or lots being rezoned may be reviewed as part of the rezoning or conditional use application.

Source: Ord. 1049, Sec. 7 (2015)

4-421-A.5. YARD REQUIREMENTS.

	One-Family	Accessory Buildings	Other Buildings
Lot Area Minimum (sq ft)	2.5 acres[1]		
Lot Width Minimum (ft)	150		
Lot Depth Minimum (ft)	200		
Front Yard Minimum (ft)[2]	40	40	40
Rear Yard Minimum (ft)	30	30	30
Side Yard Minimum (ft)[3]	20	20	20
Maximum Lot Coverage [4]	15%		
Maximum Height (ft)	35	35	[5]
Net Density	1 unit per 3 acres[6]		

(1) Subdivisions within areas designated as Agricultural Preservation according to the Land Use Plan shall have a minimum lot size of 10 acres. Clustered rural subdivisions may have reduced lot sizes as provided for above.

(2) Front yard setbacks from existing or future streets shall be forty (40) feet from the road (street) right-of-way line, or the following, whichever is greater: Seventy-five (75) feet from the centerline of the street for local streets, ninety (90) feet for collector or minor arterial streets and one hundred fifteen (115) feet for primary arterial streets.

(3) On corner lots, a side yard facing a public way shall be a minimum of thirty (30) feet.

(4) For any main building and all accessory buildings.

(5) For any building over thirty-five (35) feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

(6) The net density for subdivisions within areas designated as Agricultural Preservation according to the Land Use Plan shall be no greater than one unit per ten (10) acres.

4-421-A.6. OTHER APPLICABLE REGULATIONS.

Section 4-440 Supplementary District Regulations
Section 4-450 Off-Street Parking and Loading Requirements
Section 4-460 Sign Regulations

Any subdivision which is submitted, shall have an accompanying area development plan showing how development could occur on each lot at a density suitable for a single-family residential district should the area ever be served by municipal sanitary sewer and/or water. Also, an area plan shall be submitted showing the sewer and water system(s) or septic tanks/drain fields and well placement(s) with approval by the County Sanitarian.

4-421-B. "R-1E" DISTRICT OR RURAL ESTATE DISTRICT.

Source: Ord. 748, Sec. 11 (2005)

4-421-B.1. STATEMENT OF INTENT. This district is intended to provide low-density, limited-growth residential areas. It is designed to accommodate residential development opportunities for those who desire low-density or estate living and are willing to live in more remote locations such as in the City's extraterritorial jurisdiction, and to assume the costs of providing many of their own services and amenities. In some of these areas municipal services may never be provided because the City must concentrate its limited resources in areas where more intense future development is logical. The low density allowed in this district is needed to preserve and support the existing public infrastructure. Other areas, however, may start as rural residential in character and later be annexed into the City, which requires forethought on the part of City and developer on lot and street layout to provide for further splitting of lots. The low densities permitted in this district generally permit on-site water supply and waste disposal systems, though in some cases soil conditions may require community type systems. This may be done through rural water and sewer districts.

4-421-B.2. MINIMUM DIMENSIONAL REQUIREMENTS. The minimum area for this district shall be ten (10) acres.

4-421-B.3. PERMITTED USES.

1. Single-family detached dwellings.

2. Schools, churches, religious institutions and places of worship.

3. State-licensed group homes serving six (6) or fewer developmentally disabled persons.

4. Publicly-owned and operated parks, playgrounds, and recreational facilities.

5. Essential services and public buildings.

6. Accessory buildings, provided that they shall be located as required in Section 4-442 of this ordinance.

7. Home occupations, provided they shall be operated as required in Section 4-448 of this ordinance.

8. Home child care facilities serving up to a maximum of seven (7) children.

Source: Ord. 916, Sec. 16 (2012)

4-421-B.3.A. PROVISIONAL PERMITTED USES. Any provisional permitted use allowed in the “R-R” District, subject to the same provisions.

Source: Ord. 783, Sec. 9 (2006)

4-421-B.4. CONDITIONALLY PERMITTED USES. The following uses may be permitted in the R-1E District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City as required by Section 4-550 of this ordinance.

1. Private non-commercial recreational or cultural facilities, subject to the following conditions:

    a. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare, either existing or proposed, and the site shall be so planned so as to provide all ingress and egress directly onto or from said major thoroughfare.

    b. Front, side and rear yards shall be at least sixty (60) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.

2. Retirement, Assisted Living, Basic Care, Nursing or Convalescent Homes: Not to exceed a height of two (2) stories, when the following conditions are met:

    a. The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one (1) bed in the convalescent home there shall be provided not less than one thousand five hundred (1,500) square feet of open space. The one thousand five hundred (1,500) square feet of land area per bed shall provide for landscape setting, off-street parking, service drives, loading space, yard requirements and space required for accessory uses. The one thousand five hundred (1,500) square feet requirement is over and above the building area.

    b. No building shall be closer than forty (40) feet from any property line.

    c. The majority of residents are age fifty-five (55) and older and there is a minimum of one full time equivalent employee per every six residents.

    d. The services of a licensed registered nurse are available to all residents.

e. The applicant provides the city planner with a detailed plan showing the activities and personnel that will be available to residents of the facility.

4. Farm animals, provided the lots in the subdivision/development have a minimum of two acres. The number of animals allowed is one animal for the first two acres, plus one additional animal for each additional acre of lot area.

5. Accessory buildings greater than 1,000 square feet provided they are in character with the development patterns of the subdivision.

6. Clustered Rural Subdivisions, provided that:

   a. The proposed area is unlikely to be served by City utilities within the next ten (10) years, as determined by the City Commission.

   b. The Subdivision is designed to provide for resubdivision at such time that City utilities become available.

   c. Lot sizes of less than five acres require provision for common sanitary waste treatment, such as common septic drainfields or other designs approved by the City Engineer.

   d. In clustered rural subdivisions, individual building lot sizes may be reduced to 15,000 square feet, with remaining lot area and subdivision area requirements set aside as conservation areas which may be utilized in the future for urban development patterns.

   e. Streets shall be paved, but may be built to a rural design standard, subject to proper drainage control.

   f. The subdivision shall include covenants attached to each building lot, requiring house construction, which will accommodate convenient connection to future City utilities.

   g. At least fifty percent (50%) of the land in the subdivision shall remain as open space to be used for agricultural crop production, recreation, or scenic conservation. Ownership of the open space shall be in common among the building lot owners.

   h. The developer shall enter into a development contract with the City regulating the development

process and each of the standards applicable to future residents of the subdivision.

Source: Ord. 1049, Sec. 8 (2015)

4-421-B.5. YARD REQUIREMENTS.

		One-Family	Accessory Buildings	Other Buildings
1.	Lot Area Minimum (sq ft)	43,560[1]		
2.	Lot Width Minimum (ft)	120		
3.	Lot Depth Minimum (ft)	200		
4.	Front Yard Minimum (ft)[2]	30	30	30
5.	Rear Yard Minimum (ft)	30	30	30
6.	Side Yard Minimum (ft)	10[3]	10[3]	10
7.	Maximum Lot Coverage [4]	15%		
8.	Maximum Height (ft)	35	20	[5]
9.	Net Density	1 unit per acre.		

(1) Clustered rural subdivisions may have reduced lot sizes as provided for in section 4-421-B.4

(2) Front yard setbacks from existing or future streets shall be thirty (30) feet from the roadway (street) right-of-way line, or the following, whichever is greater: seventy-five (75) feet from the centerline of the street for local streets, ninety (90) feet for collector or minor arterial streets and one hundred fifteen (115) feet for primary arterial streets.

(3) On corner lots, a side yard facing a public way shall be a minimum of thirty (30) feet.

(4) For any main building and all accessory buildings.

(5) For any building over thirty-five (35) feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

4-421-B.6. OTHER APPLICABLE REGULATIONS.

Section 4-440 Supplementary District Regulations
Section 4-450 Off-Street Parking and Loading Requirements
Section 4-460 Sign Regulations

Any subdivision which is submitted shall have an accompanying area development plan showing how development could occur on each lot at a density suitable for a single-family residential district should the area ever be annexed into the City.

Area Plan showing sewer and water system or septic tank/drainfield and well placement with approval by County Sanitarian.

4-421-C. "R-L1A" DISTRICT OR LARGE LOT SINGLE-FAMILY DWELLING DISTRICT.

Source: Ord. 748, Sec. 11 (2005)

4-421-C.1. Statement of Intent. The provisions of the R-L1A District are intended to apply to residential neighborhoods with very low density and nearly exclusively single family dwellings on larger urban lots.

4-421-C.2. Permitted Uses.

1. Single-family detached dwellings.

2. Publicly owned and operated parks, playgrounds, and recreational facilities.

3. Essential services and public buildings.

4. State-licensed group homes serving six or fewer developmentally disabled persons.

5. Accessory buildings, provided that they shall be located as required in Section 4-442 of this Ordinance.

6. Home occupations, provided that they shall be operated as required in Section 4-448 of this Ordinance.

7. Family Child Care Home.

4-421-C.2.A. Provisional Permitted Uses. Any provisional permitted use allowed in the "R-1E" District, subject to the same provisions.

Source: Ord. 783, Sec. 10 (2006)

4-421-C.3. Conditionally Permitted Uses: The following uses may be permitted in the R-L1A District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City as required by Section 4-550 of this Ordinance.

1. Schools, churches, religious institutions and places of worship subject to the following conditions:

   a. The site is located with frontage on, and has access to, a collector or arterial street and does not require the use of a local street for access or parking.

   b. All principal and accessory uses maintain setbacks which are double those otherwise applying within this district.

c. Parking areas are screened from neighboring residential areas by a landscape planting providing year-round screening at least four feet in height.

d. Site and building lighting is designed to minimize illumination of adjoining property, and the light sources are hooded to avoid direct view by neighboring residential areas.

Source: Ord. 783, Sec. 4 (2006); Ord. 916, Sec. 17 (2012); Source: Ord. 1049, Sec. 9 (2015)

4.421-C.4. Yard Requirements for the R-L1A District.

		One-Family	Accessory Buildings	Other Buildings
1.	Lot Area Minimum (ft^2)	10,000		
2.	Lot Width Minimum (ft)	75		
3.	Lot Depth Minimum (ft)	120		
4.	Front Yard Minimum (ft)	25	25	25
5.	Rear Yard Minimum (ft)	30	3	30
6.	Side Yard Minimum (ft)	6 (1)	3 (1)	10 (1)
7.	Maximum Lot Coverage (2)	30%		20%
8.	Maximum Height (ft)	30	15	25 (3)
9.	Minimum Green Area (4)	30%		30%

(1) On corner lots, a side yard facing a public way shall be a minimum of 12 feet, except when a driveway to a garage is located in said side yard, in which case, the side yard shall be a minimum of 20 feet. An accessory building or use which includes a driveway on the street side shall maintain the same setback requirements as required for the principal use.

(2) For any main building and all accessory buildings. Impervious surface areas shall be limited to a maximum of 70%.

(3) For any building over 30 feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

(4) Green area coverage shall apply to the front yard, independently, and to the entire parcel in aggregate.

Source: Ord. 916, Sec. 18 (2012)

4.421-C.5. Other Applicable Regulations:

Section 4-440 Supplementary District Regulations
Section 4-450 Off-Street Parking and Loading Requirements
Section 4-460 Sign Regulations

4-422. "R-1A" DISTRICT OR SINGLE-FAMILY DWELLING DISTRICT.

4-422.1. Statement of Intent. The provisions of the R-1A District are intended to apply to neighborhoods with low density, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.

4-422.2. Permitted Uses.

1. Single-family detached dwellings.

2. Publicly owned and operated parks, playgrounds, and recreational facilities.

3. Schools, churches, religious institutions and places of worship.

4. Essential services and public buildings.

5. State-licensed group homes serving six or fewer developmentally disabled persons.

6. Accessory buildings, provided that they shall be located as required in Section 4-442 of this Ordinance.

7. Home occupations, provided that they shall be operated as required in Section 4-448 of this Ordinance.

8. Family Child Care Home.

Source: Ord. 571, Sec. 2 (1999); Ord. 916, Sec. 19 (2012).

4-422.2.A. Provisional Permitted Uses. Any provisional permitted use allowed in the "R-L1A" District, subject to the same provisions.

Source: Ord. 783, Sec. 11 (2006)

4-422.3. Conditionally Permitted Uses: The following uses may be permitted in the R-1A District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this Ordinance.

1. Pre-School Facilities and Child Care Centers licensed by the State Department of Human Services, not within homes, but intended for repurposed schools and churches or redevelopment.

2. Private Non-Commercial recreational or cultural facilities; subject to the following conditions:

   a. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare, either existing or

proposed, and the site shall be so planned so as to provide all ingress and egress directly onto or from said major thoroughfare.

b. Front, side and rear yards shall be at least sixty (60) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a health condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.

3. Retirement, Assisted Living, Basic Care, Nursing, or Convalescent Homes: Not to exceed a height of two (2) stories, when the following conditions are met:

a. The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one (1) bed in the convalescent home there shall be provided not less than fifteen hundred (1,500) square feet of open space. The 1,500 square feet of land area per bed shall provide for landscaped setting, off-street parking, service drives, loading space, yard requirements and space required for accessory uses. The 1,500 square feet requirement is over and above the building area.

b. No building shall be closer than forty (40) feet from any property line.

c. The majority of residents are age fifty-five (55) and older and there is a minimum of one full time equivalent employee per every six residents.

d. The services of a licensed registered nurse are available to all residents.

e. The applicant provides the city planner with a detailed plan showing the activities and personnel that will be available to residents of the facility.

4. Senior centers and senior programming facilities.

Source: Ord. 998, Sec. 1 (2014); Ord. 1049, Sec. 10 (2015)

4.422.4. Yard Requirements for the R-1A District.

	One-Family	Accessory Buildings	Other Buildings
a. Lot Area Minimum (ft^2)	6,000		
b. Lot Width Minimum (ft)	60		

c.	Lot Depth Minimum (ft)	100		
d.	Front Yard Minimum (ft)	25	25	25
e.	Rear Yard Minimum (ft)	30	3	30
f.	Side Yard Minimum (ft)	6[1]	3[1]	10
g.	Maximum Lot Coverage [2]	30%		
h.	Maximum Height (ft)	30	15	[3]
i.	Minimum Green Area[4]	30%		30%

[1] On corner lots, a side yard facing a public way shall be a minimum of 12 feet, except when a driveway to a garage is located in said side yard, in which case, the side yard shall be a minimum of 20 feet, except for lots of 50 feet or less, in which case the minimum setback for the garage shall be 18 feet. In this case, the house may be 12 feet, but garage must be a minimum of 20 feet on lots greater in width than 50 feet, or 18 feet on lots 50 feet or less in width.

[2] For any main building and all accessory buildings. Impervious surface areas shall be limited to a maximum of 70%.

[3] For any building over 35 feet in height, required yards shall be increased by one (1) feet for every two (2) feet of building height over the limit.

[4] Green area coverage shall apply to the front yard independently and to the entire parcel in aggregate.

Source: Ord. 435, Sec. 2 (1992); Ord. 916, Sec. 20 (2012).

4.422.5. <u>Other Applicable Regulations</u>:

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-422-A. "R-1B" DISTRICT OR SPECIAL SINGLE-FAMILY DWELLING DISTRICT.

Source: Ord. 809, Sec. 1 (2007)

4-422-A.1. Statement of Intent. The provisions of the R-1B District are intended to apply to more traditional neighborhoods with low density, which provides for reduced front yards and higher design standards to accentuate the residential dwelling appeal and de-accentuate the attached garages, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.

4-422-A.2. Permitted Uses.

1. Single-family detached dwellings.

2. Publicly owned and operated parks, playgrounds, and recreational facilities.

3. Schools, churches, religious institutions and places of worship.

4. Essential services and public buildings.

5. State-licensed group homes serving six or fewer developmentally disabled persons.

6. Accessory buildings, provided that they shall be located as required in Section 4-442 of this Ordinance.

7. Home occupations, provided that they shall be operated as required in Section 4-448 of this Ordinance.

8. Family Child Care Home.

Source: Ord. 916, Sec. 21 (2012)

4-422-A.2.A. Provisional Permitted Uses: Any provisional permitted use allowed in the "R-1A" District, subject to the same provisions.

Source: Ord. 916, Sec. 62 (2012)

4-422-A.3. Conditionally Permitted Uses: The following uses may be permitted in the R-1B District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this Ordinance.

1. Child Care Centers licensed by the State Department of Human Services not within homes, but intended for repurposed schools and churches or redevelopment.

2. Private Non-Commercial recreational or cultural facilities; subject to the following conditions:

a. The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare, either existing or proposed, and the site shall be so planned so as to provide all ingress and egress directly onto or from said major thoroughfare.

b. Front, side and rear yards shall be at least sixty (60) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a health condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.

3. Retirement, Assisted Living, Basic Care, Nursing, or Convalescent Homes: Not to exceed a height of two (2) stories, when the following conditions are met:

a. The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one (1) bed in the convalescent home there shall be provided not less than fifteen hundred (1,500) square feet of open space. The 1,500 square feet of land area per bed shall provide for landscaped setting, off-street parking, service drives, loading space, yard requirements and space required for accessory uses. The 1,500 square feet requirement is over and above the building area.

b. No building shall be closer than forty (40) feet from any property line.

c. The majority of residents are age fifty-five (55) and older and there is a minimum of one full time equivalent employee per every six residents.

d. The services of a licensed registered nurse are available to all residents.

e. The applicant provides the city planner with a detailed plan showing the activities and personnel that will be available to residents of the facility.

4. Townhouse or condominium structures containing three or four units, subject to the following conditions:

a. The site for the building shall have at least one property line adjoining, either directly or across

an alley or street, an R-2, R-3 or Commercial District.

b. The building shall conform to the yard requirements set fort for multiple units in Section 4-424.4 of this ordinance, except for lot area, which shall be a minimum of 9,000 square feet for three-unit buildings and 11,000 square feet for four-unit buildings. Three or four unit townhouses may be permitted in conformance with the yard requirements set for townhouses in Section 4-424.4 of this ordinance.

Source: Ord. 1049, Sec. 10 (2015)

4.422-A.4. Yard Requirements for the R-1B District.

		One-Family	Accessory Buildings	Other Buildings
a.	Lot Area Minimum (ft^2)	6,000		
b.	Lot Width Minimum (ft)	60		
c.	Lot Depth Minimum (ft)	100		
d.	Front Yard Minimum (ft)	20[1]	N/A	25
e.	Rear Yard Minimum (ft)	25	3	30
f.	Side Yard Minimum (ft)	5[1]	3[2]	10
g.	Maximum Lot Coverage[3]	35%		
h.	Maximum Height (ft)	30	15	[4]
i.	Minimum Green Area[5]	30%		30%

(1) Garages shall be setback a minimum of 25 feet from the front property line. Garages are limited to 50% of the front building width

(2) On corner lots, a side yard facing a public way shall be a minimum of 12 feet, except when a driveway to a garage is located in said side yard, in which case, the side yard shall be a minimum of 20 feet.

(3) For any main building and all accessory buildings. Impervious surface areas shall be limited to a maximum of 70%.

(4) For any building over 35 feet in height, required yards shall be increased by one (1) feet for every two (2) feet of building height over the limit.

(5) Green area coverage shall apply to the front yard independently and to the entire parcel in aggregate.

Source: Ord. 916, Sec. 22 (2012)

4.422-A.5. Other Applicable Regulations:

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-423. "R-1" DISTRICT OR ONE AND TWO-FAMILY DWELLING DISTRICT.

4-423.1. Statement of Intent. The provisions of the R-1 District are intended to apply to neighborhoods of low to medium density, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.

4-423.2. Permitted Uses.

1. Any use permitted in the R-1A District.

2. Two-family dwellings, including condominiums and two-unit townhouses.

3. State-licensed group homes serving eight or fewer developmentally disabled persons.

4-423.2.A. Provisional Permitted Uses. Any provisional permitted use allowed in the "R-1A" District, subject to the same provisions.

Source: Ord. 783, Sec. 12 (2006); Ord. 916, Sec. 23 (2012).

4-423.3. Conditionally Permitted Uses. The following uses may be permitted in the R-l District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this Ordinance:

1. Any conditional use permitted in the R-lA District.

2. Mortuary or Funeral Home, subject to the following conditions:

   a. The minimum lot area shall be twenty-five thousand (25,000) square feet and so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.

   b. The site shall be so located as to have at least one (1) property line abutting,a major thoroughfare, either existing or proposed, and all ingress and egress for the site shall be directly onto said major thoroughfare, or a marginal access service drive thereof.

   c. Points of ingress and egress for the site shall be so laid out as to minimize possible conflicts

between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.

d. No building shall be closer than fifty (50) feet to the property line.

e. Loading and unloading areas used by ambulances, hearses or other such service vehicles shall be obscured from all residential view with a wall six (6) feet in height.

3. Medical and/or Dental Clinics, subject to the following conditions:

a. No such establishment shall be permitted closer than 1,000 feet to the boundary of any district where medical or dental clinics are allowed by right, nor shall any clinic be located within 1,000 feet of any active clinic supplying the same needs for the general area involved. Measurement of distance indicated shall be along usual routes of pedestrian travel.

b. The site shall be so located as to have at least one (1) property line abutting a major thoroughfare, either existing or proposed, and all ingress and egress for the site shall be directly onto said major thoroughfare, or a marginal access.

4. Multiple dwelling structures containing three or four units, subject to the following conditions:

a. The site for the building shall have at least one property line adjoining, either directly or across an alley, an R-2, R-3, or Commercial District.

b. The building shall conform to the yard requirements set forth for multiple units in Section 4-424.4 of this Ordinance, except for lot area, which shall be a minimum of 9,000 ft^2 for three unit buildings and 11,000 ft^2 for four unit buildings. Three or four unit townhomes may be permitted in conformance with the yard requirements set forth for townhouses in Section 4-424.4 of this Ordinance.

4-423.4. Yard Requirements for the R-1 District.

	One-Family	Two-Family	Twin Home/ Townhomes	Accessory Buildings	Other Buildings
a. Lot Area Minimum (ft^2)	5,000	7,000	3,500		
b. Lot Width Minimum (ft)	50	70	35		
c. Lot Depth Minimum (ft)	100	100	100		
d. Front Yard Minimum (ft)	25	25	25	25	25
e. Rear Yard Minimum (ft)	30	30	30	3	30
f. Side Yard Minimum (ft)	5[1]	7[1]	7[1]	3[1]	10
g. Maximum Lot Coverage [2]	30%	30%	30%		
h. Maximum Height (ft)	30	30	30	15	[3]
i. Minimum Green Area[4]	30%	30%	30%		30%

[1] On corner lots, a side yard facing a public way shall be a minimum of 12 feet, except when the driveway to a garage is located in said side yard, in which case the side yard shall be a minimum of 20 feet, except for lots of 50 feet or less, in which case the minimum setback for the garage shall be 18 feet. In this case, the house may be 12 feet, but garage must be a minimum of 20 feet on lots greater in width than 50 feet, or 18 feet on lots 50 feet or less in width.

[2] For main building and all accessory buildings. Impervious surface areas shall be limited to a maximum of 70%.

[3] For any building over 35 feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

[4] Green area coverage shall apply to the front yard independently and to the entire parcel in aggregate.

Source: Ord. 435, Sec. 3 (1992); Ord. 916, Sec. 24 (2012), Ord. 1049, Sec. 12, (2015).

4.423.5. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-423-A. "R-1S" DISTRICT OR SPECIAL ONE AND TWO-FAMILY DWELLING DISTRICT.

4-423-A.1. Statement of Intent. The provisions of the R-1S District are intended to apply to neighborhoods of medium density, which promote the use of smaller lots to lower subdivision costs, use of alleys for accessing garages to create more curb appeal for structures, and reduced front yards to develop more neighbor-friendly developments, and wherein certain educational, religious, recreational and other activities compatible with residential development are permitted. Developers are encouraged to plat varied lot sizes to provide for more opportunity, in housing unit design.

4-423-A.2. Permitted Uses.

1. Any use permitted in the R-1 District.

2. Two-family dwellings, including condominiums and two-unit townhouses.

3. State-licensed group homes serving eight or fewer developmentally disabled persons.

4-423-A.2.A. Provisional Permitted Uses: Any provisional permitted use allowed in the "R-1" District, subject to the same provisions.

Source: Ord. 916, Sec. 63 (2012)

4-423-A.3. Conditionally Permitted Uses. The following uses may be permitted in the R-1S District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this Ordinance:

1. Any conditional use permitted in the R-l District.

2. Mortuary or Funeral Home, subject to the following conditions:

   a. The minimum lot area shall be twenty-five thousand (25,000) square feet and so arranged that adequate assembly area is provided off-street for vehicles to be used in a funeral procession. This assembly area shall be provided in addition to any required off-street parking area.

   b. The site shall be so located as to have at least one (1) property line abutting, a major thoroughfare, either existing or proposed, and all ingress and egress for the site shall be directly onto said major thoroughfare, or a marginal access service drive thereof.

c. Points of ingress and egress for the site shall be so laid out as to minimize possible conflicts between traffic on adjacent major thoroughfares and funeral processions or visitors entering or leaving the site.

d. No building shall be closer than fifty (50) feet to the property line.

e. Loading and unloading areas used by ambulances, hearses or other such service vehicles shall be obscured from all residential view with a wall six (6) feet in height.

3. Medical and/or Dental Clinics, subject to the following conditions:

a. No such establishment shall be permitted closer than 1,000 feet to the boundary of any district where medical or dental clinics are allowed by right, nor shall any clinic be located within 1,000 feet of any active clinic supplying the same needs for the general area involved. Measurement of distance indicated shall be along usual routes of pedestrian travel.

b. The site shall be so located as to have at least one (1) property line abutting a major thoroughfare, either existing or proposed, and all ingress and egress for the site shall be directly onto said major thoroughfare, or a marginal access.

4. Multiple dwelling structures containing three or four units, subject to the following conditions:

a. The site for the building shall have at least one property line adjoining, either directly or across an alley, an R-2, R-3, or Commercial District.

b. The building shall conform to the yard requirements set forth for multiple units in Section 4-424.4 of this Ordinance, except for lot area, which shall be a minimum of 9,000 ft^2 for three unit buildings and 11,000 ft^2 for four unit buildings. Three or four unit townhomes may be permitted in conformance with the yard requirements set forth for townhouses in Section 4-424.4 of this Ordinance.

4-423-A.4. Yard Requirements for the R-1S District.

		One-Family	Two-Family	Twin Home/ Townhomes	Accessory Buildings	Other Buildings
a.	Lot Area Minimum (ft^2)	4,000	6,000	3,000		
b.	Lot Width Minimum (ft)	40	60	30		
c.	Lot Depth Minimum (ft)	100	100	100		
d.	Front Yard Minimum (ft)[1]	15	15	15	N/A	15
e.	Rear Yard Minimum (ft)	20	20	20	20	20
f.	Side Yard Minimum (ft)	5[2]	6[2]	6[2]	3[2][3]	10
g.	Maximum Lot Coverage[4]	45%	45%	45%		
h.	Maximum Height (ft)	30	30	30	15	[5]
i.	Minimum Green Area[6]	30%	30%	30%		30%

(1) Uncovered porches, uncovered steps to building entrances, uncovered patio decks and uncovered balconies may extend up to five (5) feet into any front yard

(2) On corner lots, a side yard facing a public way shall be a minimum of 12 feet.

(3) All garages (attached or detached) shall be located in rear yards and driveway access shall be from alleys.

(4) For main building and all accessory buildings.

(5) For any building over 35 feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

(6) Green area coverage shall apply to the front yard independently and to the entire parcel in aggregate.

Source: Ord. 916, Sec. 25 (2012); Ord. 1094, Sec. 13 (2015)

4-423-A.5. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-423-B. "R-1SM" DISTRICT OR MIXED ONE AND TWO-FAMILY DWELLING DISTRICT. (Source: Ord. 866, Sec. 1 [2010])

4-423-B.1. Statement of Intent. The provisions of the R-1SM District are intended to apply to compact medium density neighborhoods which promote single family ownership to modest-sized lots to reduce the initial and long term costs of land and infrastructure, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted. The District is intended to provide a mix in lot sizes to encourage a mix in starter homes with medium-priced homes along the same street. The variety of housing types and character found in mixed-income neighborhoods will add to the neighborhood's appeal.

4-423-B.2. Permitted Uses.

1. Any use permitted in the R-1S District.

2. Two-family dwellings, including condominiums and two-unit townhouses.

3. State-licensed group homes serving eight or fewer developmentally disabled persons.

4-423-B.2.A. Provisional Permitted Uses: Any provisional permitted use allowed in the "R-1S" District, subject to the same provisions.

Source: Ord. 916, Sec. 64 (2012)

4-423-B.3. Conditionally Permitted Uses. The following uses may be permitted in the R-1SM District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this Ordinance:

1. Any conditional use permitted in the R-lS District.

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4-423-B.4. Yard Requirements for the R-1SM District.

		One-Family	Two-Family	Twin Home/ Townhomes	Accessory Buildings	Other Buildings
a.	Lot Area Minimum (ft^2)	3,600	6,000	3,000		
b.	Lot Width Minimum (ft)	36	60	30		
c.	Lot Depth Minimum (ft)	100	100	100		
d.	Front Yard Minimum (ft)[1]	20	20	20	N/A	20
e.	Rear Yard Minimum (ft)	20	20	20	3	20
f.	Side Yard Minimum (ft)	4[2]	5[2]	5[2]	3[2][3]	10
g.	Maximum Lot Coverage[4]	45%	45%	45%		
h.	Impervious Surface Area[5]	70%	70%	70%		70%
i.	Maximum Height (ft)	35	35	35	15	[6]
j.	Minimum Green Area[7]	30%	30%	30%		30%

(1) Lots shall be designed at the time of platting such that the lot widths vary between 36-60 feet within the subdivision. Lots on each block shall vary in width with no more than 30 percent of the lots and with no more than two lots side by side between the widths of 36-40 feet. At least 20 percent of the lots on each block shall be between 50-60 feet in width. Corner lots shall be a minimum of 40 feet in width with garage oriented to the interior side so that a minimum of 20 feet of distance can be achieved between the driveway and the property line nearest to the intersection. uncovered porches, uncovered steps to building entrances, uncovered patio decks and uncovered balconies may extend up to five (5) feet into any front yard

(2) Uncovered porches, uncovered steps to building entrances, uncovered patio decks and uncovered balconies may extend up to five (5) feet into any front yard.

(3) On corner lots, a side yard facing a public way shall be a minimum of 12 feet.

(4) For main building and all accessory buildings.

(5) Impervious surface areas apply to front yards independently and to the entire lot in aggregate.

(6) For any building over 35 feet in height, required yards shall be increased by one (1) feet for every two (2) feet of building height over the limit.

(7) Green area coverage shall apply to the front yard independently and to the entire parcel in aggregate.

Source: Ord. 916, Sec. 26 (2012); Ord. 1049, Sec. 14 (2015)

4-423-B.5. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-424. "R-2" DISTRICT OR LIMITED MULTIPLE DWELLING DISTRICT.

4-424.1. Statement of Intent. The provisions of the R-2 District are intended to apply to neighborhoods of medium density wherein a variety of housing types and certain educational, religious, recreational and other activities compatible with residential development are permitted.

4-424.2. Permitted Uses.

1. Any use permitted in the R-lSM District.
2. Multiple dwellings containing no more than 8 units, including townhouse structures and condominiums.

Source: Ord. 916, Sec. 27 (2012).

4-424.2.A. Provisional Permitted Uses. Any provisional permitted use allowed in the "R-1SM" District subject to the same provisions.

Source: Ord. 783, Sec. 13 (2006); Ord. 916, Sec. 28 (2012)

4-424.3. Conditionally Permitted Uses. The following uses may be permitted in the R-2 District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this Ordinance:

1. Any conditional use permitted in the R-l District.
2. Offices for architects, engineers, attorneys, real estate sales persons or similar professional persons, subject to the following:
    a. The office shall only be established in a building which was in existence at the time of the effective date of this Ordinance.
    b. There shall not be more than one business per structure.
3. Medical Hospitals, subject to the following conditions:
    a. All such hospitals shall be developed only on sites consisting of at least ten (10) acres in area.
    b. The proposed site shall have at least one property line abutting a major thoroughfare, existing or proposed. All ingress and egress to the off-street parking area, for guests, employees, staff, as well as any other uses of the facilities, shall be directly from a major thoroughfare.
    c. The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least one hundred (100) feet for front, rear and side yards for all two (2) story structures. For every story above two (2), the minimum yard

distance shall be increased by at least twenty (20) feet.

d. Ambulance and delivery areas shall be obscured from all residential view with a wall six (6) feet in height.

4. Multiple dwelling structures containing from nine to twelve units, subject to the following:

a. The building shall conform to the yard requirements set forth in Section 4-424.4 of this Ordinance.

b. The site for the building shall have at least one property line which adjoins, either directly or across an alley, a commercial or an R-3 District.

5. State-licensed group homes serving at least eight but no more than twelve developmentally disabled persons.

6. Social Service uses such as drug treatment shelter, homeless shelters and shelters for victims of domestic abuse in structures with up to twelve (12) rooms or units.

Source: Ord. 703, Sec. 1 (2004); Ord. 916, Sec. 29 (2012).

4-424.4. Yard Requirements for the R-2 District.

		One-Family	Two-Family (Duplex or Twin Home) on Lots Created Prior to 1970	Two-Family (Duplex or Twin Home) on Lots Created in 1970 or Thereafter	Townhomes (3 or More Units)
a.	Lot Area Minimum (ft^2)	5,000	6,000[6]	6,000[6]	3,000
b.	Lot Width Minimum (ft)	50	50[7]	60[8]	24
c.	Lot Depth Minimum (ft)	100	100	100	100
d.	Front Yard Minimum (ft)	25	25	25	25
e.	Rear Yard Minimum (ft)	30	30	30	30
f.	Side Yard Minimum (ft)	5[2]	6[2]	6[2]	8 end[2] 0 int
g.	Maximum Lot Coverage[4]	30%	40%	35%	40%
h.	Maximum Height (ft)	30	30	30	35[5]
i.	Minimum Green Area[9]	30%	30%	30%	25%

		Multiple Dwellings	Accessory Buildings	Other Bldgs
a.	Lot Area Minimum (ft^2)	(1)		
b.	Lot Width Minimum (ft)			
c.	Lot Depth Minimum (ft)			
d.	Front Yard Minimum (ft)	25	25	25
e.	Rear Yard Minimum (ft)	30	3	30
f.	Side Yard Minimum (ft)	(3)(2)	3(2)	10
g.	Maximum Lot Coverage(4)	40%		
h.	Maximum Height (ft)	35(5)	15	(5)
i.	Minimum Green Area(9)	25%		30%

(1) 1,800 ft^2 for each dwelling unit plus 200 ft^2 for each bedroom, with a minimum permitted lot area of 8,000 ft^2. Efficiency units shall be considered one-bedroom units for the purpose of lot computation.

(2) On corner lots, a side yard facing a public way shall be a minimum of 12 feet, except when the driveway to a garage is located in said side yard, in which case the side yard shall be a minimum of 20 feet, except for lots of 50 feet or less, in which case the minimum for the garage shall be 18 feet. In this case, the house may be 12 feet, but garage must be a minimum of 20 feet on lots greater in width than 50 feet, or 18 feet on lots 50 feet or less in width.

(3) 12% of the lot width, with a maximum of 12 feet, except that when multiple family structures with multiple floors are located adjacent to one and two-family properties, the minimum setback from the one and two-family property for the principal structure shall be increased by 20 feet for each additional floor above the ground floor.

(4) For main building and all accessory buildings. Impervious surface areas shall be limited to a maximum of 75%.

(5) For every building over 35 feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

(6) A duplex which consists of 2 units on one lot is required to have a minimum lot area of 6,000 square feet. A twin home which consists of 2 units side by side with a common party wall is required to have a minimum lot area of 3,000 square feet for each unit.

(7) A duplex is required to have a minimum lot width of 50 feet, whereas a twin home is required to have a minimum lot width of 25 feet for each unit.

(8) A duplex is required to have a minimum lot width of 60 feet, whereas a twin home is required to have a minimum lot width of 30 feet for each unit.

(9) Green area coverage shall apply to the front yard independently and to the entire parcel in aggregate.

Source: Ord. 435, Sec. 4 (1992); Ord. 501, Sec. 5 (1996); Ord. 916, Sec. 30 (2012).

4-424.5. Other Applicable Regulations:

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-425. "R-3" DISTRICT OR MULTIPLE DWELLING DISTRICT.

4-425.1. Statement of Intent. The provisions of the R-3 District are intended to apply to neighborhoods of medium to high density wherein a variety of housing types and certain educational, religious, recreational, and other activities compatible with residential development are permitted.

4-425.2. Permitted Uses.

1. Any use permitted in the R-2 District.

2. Multiple dwellings containing more than 8 units, including condominiums and townhouses.

3. Social Service uses such as drug treatment shelters, homeless shelters and shelters for victims of domestic abuse.

Source: Ord. 916, Sec. 31 (2012).

4-425.2.A. Provisional Permitted Uses. Any provisional permitted use allowed in the "R-2" District subject to the same provisions.

Source: Ord. 783, Sec. 14 (2006); Ord. 916, Sec. 32 (2012)

4-425.3. Conditionally Permitted Uses. The following uses may be permitted in the R-3 District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this Ordinance:

1. Any conditional use permitted in the R-2 District.

2. Convenience Establishments, as defined by this Ordinance, and subject to the following conditions:

   a. No such establishment shall be permitted closer than 1,000 feet to the boundary of any district where similar facilities are generally permitted, nor shall any new establishment of a specific kind be located within 1,000 feet of an active establishment of the same nature found suitable for supplying the same needs for the general area involved. Measurement of distances indicated shall be along usual routes of pedestrian travel.

   b. Strong preference shall be given to location of complementary additions in the immediate vicinity of existing convenience establishments of other types in patterns which facilitate easy pedestrian circulation from the surrounding area and from one establishment to another, and to arrangements which encourage joint use of parking areas and automotive entrances and exits.

c. In the environment in which convenience establishments are intended to be permitted, it is the intent of this Ordinance that no such establishment or group of establishments shall be of such size or character as to create the impression of general commercial development. Therefore, in addition to other limitations designed to achieve these ends, no individual retail convenience establishment shall have a gross floor area exceeding 5,000 square feet.

d. A front yard 20 feet in depth shall be provided, and where the lot adjoins a street on more than one side, a yard 20 feet in depth shall be provided adjacent to all streets. Side yards shall be 10 feet in width adjacent to residential lots, but where the side of the lot is adjacent to a lot on which another convenience establishment is located, or is being constructed, or is definitely to be constructed, no side yard need be provided if the structures involved are to have a common or party wall, or are to have no space between their walls. If there is to be space between the walls of adjacent structures housing convenience establishments or their accessory uses, such space shall be at least five feet in width. Rear yards shall be 25 feet in depth.

4-425.4. Yard Requirements for the R-3 District.

		One-Family	Two-Family (Duplex or Twin Home) on Lots Created Prior to 1970	Two-Family (Duplex or Twin Home) on Lots Created in 1970 or Thereafter	Townhomes (3 or More Units)
a.	Lot Area Minimum (ft^2)	5,000	6,000[6]	6,000[6]	3,000
b.	Lot Width Minimum (ft)	50	50[7]	60[8]	24
c.	Lot Depth Minimum (ft)	100	100	100	100
d.	Front Yard Minimum (ft)	25	25	25	25
e.	Rear Yard Minimum (ft)	30	30	30	30
f.	Side Yard Minimum (ft)	5[2]	6[2]	6[2]	8 end[2] 0 int
g.	Maximum Lot Coverage[4]	30%	40%	35%	40%
h.	Maximum Height (ft)	30	30	30	35[5]
i.	Minimum Green Area[9]	30%	30%	30%	25%

		Multiple Dwellings	Accessory Buildings	Other Bldgs
a.	Lot Area Minimum (ft^2)	(1)		
b.	Lot Width Minimum (ft)			
c.	Lot Depth Minimum (ft)			
d.	Front Yard Minimum (ft)	25	25	25
e.	Rear Yard Minimum (ft)	25	3	30
f.	Side Yard Minimum (ft)	(3)(2)	3(2)	10
g.	Maximum Lot Coverage(4)	40%		
h.	Maximum Height (ft)	35(5)	15	(5)
i.	Minimum Green Area(9)	25%		25%

(1) 1,600 ft^2 for each dwelling unit plus 200 ft^2 for each bedroom, with a minimum permitted lot area of 8,000 ft^2. Efficiency units shall be considered one-bedroom units for the purpose of lot computation.

(2) On corner lots, a side yard facing a public way shall be a minimum of 12 feet, except when the driveway to a garage is located in said side yard, in which case the side yard shall be a minimum of 20 feet, except for lots of 50 feet or less, in which case the minimum setback for the garage shall be 18 feet. In this case, the house may be 12 feet, but garage must be a minimum of 20 feet on lots greater in width than 50 feet, or 18 feet on lots 50 feet or less in width.

(3) 12% of the lot width, with a maximum of 12 feet, except that when multiple family structures with multiple floors are located adjacent to one and two-family properties, the minimum setback from the one and two-family property for the principal structure shall be increased by 20 feet for each additional floor above the ground floor.

(4) For main building and all accessory buildings. Impervious surface areas shall be limited to a maximum of 75%.

(5) For every building over 35 feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

(6) A duplex which consists of 2 units on one lot is required to have a minimum lot area of 6,000 square feet. A twin home which consists of 2 units side by side with a common party wall is required to have a minimum lot area of 3,000 square feet for each unit.

(7) A duplex is required to have a minimum lot width of 50 feet, whereas a twin home is required to have a minimum lot width of 25 feet for each unit.

(8) A duplex is required to have a minimum lot width of 60 feet, whereas a twin home is required to have a minimum lot width of 30 feet for each unit.

(9) Green area coverage shall apply to the front yard independently and to the entire parcel in aggregate.

Source: Ord. 435, Sec. 5 (1992); Ord. 501, Sec. 6 (1996); Ord. 916, Sec. 33 (2012)

4-425.5. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-426. "R-4" DISTRICT OR MOBILE HOME DISTRICT.

4-426.1. Statement of Intent. It is the purpose of the R-4 District to establish areas within the City of West Fargo for mobile homes in mobile home parks not subdivided into individual lots, in an appropriate, safe, sanitary, and attractive environment.

4-426.2. Permitted Uses.

1. Mobile homes with a minimum floor area, excluding attached garage, of 650 square feet.

2. Parks and playgrounds.

3. Management offices, repair shops, and storage areas; sanitary facilities; indoor recreation areas; and convenience establishments subject to the following restrictions: Such establishments, together with their parking areas, shall not occupy more than ten (10) percent of the area of the park, shall be located, designed and intended to serve frequent trade or service needs only of persons residing in the park, and shall present no visible evidence of their commercial character to any portion of any residential district outside the park.

4. Essential services.

5. Entryways not to exceed 8 feet by 10 feet (8'x 10').

6. Accessory storage sheds and garages.

Source: Ord. 501, Sec. 7 (1996); Ord 527, Sec. 2 (1997).

4-426.3. Applicable Regulations. See Title XVI of the Ordinances of the City of West Fargo, North Dakota, for regulations concerning the establishment, operation, and maintenance of mobile home parks.

4-426.4. Dimensional Requirements. See Title XVI of the Ordinances of the City of West Fargo, North Dakota.

4-426.5. Other Applicable Regulations.

A. Section 4-440 Supplementary District Regulations
B. Section 4-450 Off-Street Parking and Loading Requirements
C. Section 4-460 Sign Regulations
D. Accessory storage sheds and garages greater in size than 8’ x 10’ shall be required to obtain a building permit.

Source: Ord. 527, Sec. 3 (1997)

4-426-A. R-5: MOBILE HOME (MANUFACTURED HOME) SUBDIVISION DISTRICT.

1. Statement of Intent. This district is intended primarily for manufactured home subdivisions allowing manufactured homes as single-family dwellings. Lots and manufactured homes would be in common ownership as in other residential districts.

   It is intended that such manufactured home developments shall be so located, designed, and improved as to provide a desirable residential environment, protection from potentially adverse neighboring influences, protection for adjacent residential properties, access for vehicular traffic without traversing minor streets in adjoining residential neighborhoods, and accessibility equivalent to that for other forms of permitted residential development to public facilities, places of employment, and facilities for meeting commercial and service needs.

   Certain structures and uses required to serve governmental, educational, religious, recreational, and other needs of residential areas are allowed in this district as permitted or conditional uses subject to restrictions intended to preserve and protect the residential character of the district.

Source: Ord. 527, Sec. 4 (1997)

2. Permitted Uses and Structures. The following shall be permitted:

   A. Family child care home.

   B. Single-family detached dwellings, including manufactured homes.

   C. Publicly owned and operated parks, playgrounds, and recreational facilities.

   D. Schools, churches, religious institutions and places of worship.

   E. Essential services and public buildings.

   F. State-licensed group homes serving six or fewer developmentally disabled persons.

   G. Accessory buildings, provided that they shall be located as required in Section 4-422 of this ordinance.

   H. Home occupations, provided that they shall be operated as required in Section 4-448 of this ordinance.

Source: Ord. 527, Sec. 4 (1997); Ord. 783, Sec. 6 (2006); Ord. 916, Sec. 34 (2012)

2-A. Provisional Permitted Uses. The following uses may be permitted in the R-5 district subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Planning Office:

1. Child care home facilities in single family homes with up to twelve (12) children, excluding the children of the child care provider, subject to the following provisions:

   a. The use of the dwelling unit for the child care facility shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

   b. The rear yard shall be fenced with a solid fence. In the event that an existing fence is in place which is not a solid fence, the Planning Office may allow the existing fence to continue until such time that there is a complaint from an adjoining property owner. Upon receiving a complaint, the fence shall be changed to a solid fence.

   c. The children shall be dropped off and picked up in the driveway only.

   d. Adequate off-street parking shall be provided for the principal use, and child care facility including space(s) for dropping off children and employees.

   e. The hours of operation are limited to 6:00 a.m. to 10:00 p.m.

   Source: Ord. 783, Sec. 15 (2006); Ord. 1049, Sec. 15 (2015)

3. Conditionally Permitted Uses. The following uses may be permitted in the R-5 District, subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this ordinance.

   A. Private non-commercial recreational or cultural facilities; subject to the following conditions:

      (1) The proposed site for any of the uses permitted herein which would attract persons from, or are intended to serve, areas beyond the immediate neighborhood shall have at least one property line abutting a major thoroughfare, either existing or proposed, and the site shall be so planned so as to provide all ingress and egress directly onto or from said major thoroughfare.

      (2) Front, side and rear yards shall be at least sixty (60) feet wide, and shall be landscaped in trees, shrubs, and grass. All such landscaping shall be maintained in a healthy

condition. There shall be no parking or structures permitted in these yards, except required entrance drives and those walls used to obscure the use from abutting residential districts.

B. Retirement, Assisted Living, Basic Care, nursing or convalescent homes: Not to exceed a height of two (2) stories, when the following conditions are met:

(1) The site shall be so developed as to create a land-to-building ratio on the lot or parcel whereby for each one (1) bed in the convalescent home there shall be provided not less than fifteen hundred (1,500) square feet of open space. The 1,500 square feet of land area per bed shall provide for landscaped setting, off-street parking, service drives, loading space, yard requirements and space required for accessory uses. The 1,500 square feet requirement is over and above the building area.

(2) No building shall be closer than forty (40) feet from any property line.

(3) The majority of residents are age fifty-five (55) and older and there is a minimum of one full time equivalent employee per every six residents.

(4) The services of a licensed registered nurse are available to all residents.

(5) The applicant provides the city planner with a detailed plan showing the activities and personnel that will be available to residents of the facility.

Source: Ord. 1049, Sec. 16 (2015)

4. Yard Requirements for the R-5 District:

		One Family	Accessory Buildings	Other Buildings
A.	Lot area minimum (ft^2)	6,000		
B.	Lot width minimum (ft)	60		
C.	Lot depth minimum (ft)	130		
D.	Front yard minimum (ft)	20 (1)	(20)	20
E.	Rear yard minimum (ft)	10	3	10
F.	Side yard minimum (ft)	5 (2)	3 (2)	10

G. Maximum lot coverage [3] 30%

H. Maximum height (ft)[4] 30 15

(1) On lots to which the CO-SR district regulations apply, a minimum setback is not required, except when a driveway to a garage is located in said front yard, in which case the portion of the building with the driveway shall be a minimum of 20 feet.

(2) On corner lots, a side yard facing a public way shall be a minimum of 12 feet, except when a driveway to a garage is located in said side yard, in which case, the side yard shall be a minimum of 20 feet.

(3) For any main building and all accessory buildings.

(4) For any building over 35 feet in height, required yards shall be increased by one (1) foot for every two (2) feet of building height over the limit.

Source: Ord. 1144, Sec. 1 (2019)

5. Other Applicable Regulations:

A. All manufactured homes must meet at minimum the Manufactured Home Construction and Safety Standards Act provisions as adopted by the Department of Housing and Urban Development (HUD) in 1974 (24 CRF 3280) which became effective June 15, 1976, and bear a date plate certifying that it was built in compliance with said Act.

B. No manufactured home may be built, constructed, or otherwise assembled or placed without the owner thereof having obtained a building permit from the office of the building administrator for which a fee shall be calculated in the same manner for which other fees are calculated within the City of West Fargo.

C. Foundation and Skirting Requirements - All manufactured homes shall be placed on permanent foundations which are protected from frost and meet HUD, FHA, and manufacturer's foundation specifications, or other foundations which are approved by the Building Administrator. Foundation skirting around the perimeter of the manufactured home shall consist of material made from concrete or masonry products, or an approved material by the Building Inspector that is consistent in appearance and quality with products used in the area and

which color and texture will be consistent with surrounding structures.

Source: Ord. 530, Sec. 2 (1997).

D. All manufactured homes shall have a roof with a pitch of not less than a two and one-half inch (2½") vertical rise for each twelve inches (12") of horizontal run and consisting of shingles or other material customarily used for conventional dwellings and approved by the Building Administrator.

E. The minimum floor area for a manufactured home in this district shall be 900 square feet.

F. The requirements as herein stated for this district shall be deemed as the minimum standards. Nothing in these requirements shall be deemed to supersede any valid restrictive covenants of record.

G. Section 4-440 Supplementary District Regulations

H. Section 4-450 Off-Street Parking and Loading Regulations

I. Section 4-460 Sign Regulations

Source: Ord. 527, Sec. 5 (1997).

4-427. "C" DISTRICT OR LIGHT COMMERCIAL DISTRICT.

4-427.1. Statement of Intent: The provisions of the C District are intended to provide areas of commercial establishments to which the public requires direct and frequent access, but which are not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any other nuisance factor other than the incidental noise of the congregation of people and passenger vehicles.

4-427.2. Permitted Uses.

1. Retail businesses, such as general merchandise, food, liquor, hardware, furniture, and apparel stores; eating and drinking establishments; and drugstores.

2. Business services, such as banks, and other financial institutions, and professional offices.

3. Commercial and professional office buildings, single or multi-tenant.

4. Personal services, such as barber and beauty shops, photographic studios, laundromats and dry cleaning establishments.

5. Entertainment, social or recreational businesses, such as bowling alleys, health clubs, theaters (excluding drive-ins), night clubs, private clubs and lodges.

6. Repair services, such as radio shops, appliance shops, upholstery shops and shoe repair shops.

7. Cultural and educational facilities, such as trade schools, museums, business colleges, and adult education centers.

8. Schools, churches, religious institutions and places of worship.

9. Public/semi-public facilities, such as armories, parks, police and fire stations; telephone exchange buildings, and civic centers.

10. Medical and dental facilities such as clinics, hospitals, nursing, basic care or convalescent homes, not including Behavioral Health Care Facility.

11. Veterinary clinics without overnight facilities.

12. Hotels and motels.

13. Public transportation depots.

14. Greenhouses and plant nurseries.

15. Automobile service stations and automobile repair shops, where motor vehicle fuels and minor automotive accessories are sold at retail and/or services for automobiles are performed, but not to include body work, straightening of body parts, painting, welding, storage of automobiles not in operating condition, outdoor storage of vehicle parts, or other work involving noise, glare, fumes, smoke, or other nuisance characteristics.

16. Parking lots.

17. On-premise signs.

18. Essential services.

19. Child Care Facility, Child Care Center and Family Child Care Home in an existing residential building or in a non residential building.

20. Social Service uses such as homeless shelters, shelters for victims of domestic abuse, and facilities to feed the homeless and indigent.

21. Other: Uses not listed but similar to the permitted uses above and consistent with the stated purpose of this district.

Source: Ord. 456, Sec. 1 (1993); Ord. 571, Sec. 3 (1999); Ord. 916, Sec. 35 (2012); Ord. 1049, Sec. 17 (2015).

4-427.3. Conditionally Permitted Uses. The following use may be permitted in the C District subject to the conditions hereinafter imposed and subject further to review and approval by the City Commission as required by Section 4-550 of this Ordinance:

1. Apartments above commercial establishments; subject to the following conditions:

   a. Any apartment shall be provided with off-street parking the same as for multiple dwellings.

   b. Any apartment shall be provided with private access.

2. Assisted living facilities when the following conditions are met:

   a. The majority of residents are age fifty-five (55) and older and there is a minimum of one full time equivalent employee per every six residents.

   b. The services of a licensed registered nurse are available to all residents.

   c. The applicant provides the city planner with a detailed plan showing the activities and personnel that will be available to residents of the facility.

3. Automobile conversion and sales, sale of trucks, recreational vehicles and motor vehicle equipment, and motor vehicle equipment rental.

4. Multiple dwellings, including condominiums.

5. Above-ground class 1 and class 2 liquid storage tanks. Provided that in addition to the requirements of Section 4-550 that the following requirements are met:

   a. Maximum size of tank may not exceed 500 gallons.

   b. The use of the tank is limited to service of vehicles of owner or tenants of property upon which the tank is located.

   c. Operation of the tank is done only by owner or tenants or their employees.

   d. Plans for the tank, pump and other dispensing equipment must be approved by the State Fire Marshall and Chief of the West Fargo Volunteer Fire Department prior to conditional use application being considered by the City.

   e. That the tank complies with all State Fire Code requirements.

   f. That only one above ground tank may be permitted at any one site.

   In granting the conditional use permit, the City may designate the location of the tank or a distance that the tank must be from other properties.

6. Veterinary clinics with indoor overnight boarding facilities.

7. Behavioral Health Care Facility conforming to the following conditions:

   a. Must be licensed by the City of West Fargo pursuant to Chapter 10-13 of the Revised Ordinances of 1990 of the City of West Fargo.

   b. Prepare and file with the West Fargo Police Department a public relations plan, contact information for local facility personnel and a full and complete description of all prescription drugs being distributed at the facility.

   c. The maximum number of patients to be served at the location of the facility shall not exceed fifty 50 persons per day.

   d. The use shall not be combined with a single family detached, manufacturing, or industrial use.

e. The proposed location shall have sufficient access to public transportation facilities.

Source: Ord. 858, Sec. 1 (2010); Ord. 1049, Sec. 18 (2015)

4-427.4. Yard Requirements for the C District.

1. Commercial Uses:

   Yards: None required except where a lot in the C District abuts a side yard in any residential district, in which case, there shall be provided on the commercial lot, the same side yard as would be required in the residential district.

2. Multiple Residential Uses: Shall conform to the area and yard requirements of the R-3 District. Lot coverage shall not exceed 50% of the lot.

Source: Ord. 456, Sec. 3 (1993).

4-427.5. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations
Section 4-450 Off-Street Parking and Loading Requirements
Section 4-460 Sign Regulations

4-427-A. "C-OP" DISTRICT OR COMMERCIAL OFFICE PARK DISTRICT

Source: Ord. 748, Sec. 13 (2005)

4-427-A.1. STATEMENT OF INTENT. This district is intended to provide for the development of office, office showroom, and office warehouse buildings in an area of high quality site development standards, amenities, and building materials. This district would be particularly well situated in areas of high visibility and include support uses which meet the level of development quality, benefit from the visibility and access to traffic, and create an aesthetically attractive impression on surrounding areas and roadways. It is the intent of this district that building architecture and site development provide the primary means of exposure and communication, and that reliance on signs is minimized. Businesses which require more signage or building construction which is out of character with the district are not appropriate.

4-427-A.2. PERMITTED USES.

1. Commercial and professional office buildings, single or multi tenant.

2. Business services, such as banks, and other financial institutions, and professional offices.

3. Cultural and educational facilities.

4. Churches and Schools.

5. Public/Semi-public facilities.

6. Medical and dental facilities such as clinics, hospitals, nursing, basic care or convalescent homes, not including Behavioral Health Care Facility.

Source: Ord. 1049, Sec. 19 (2015); Ord. 1139, Sec. 1 (2019)

4-427-A.3. CONDITIONALLY PERMITTED USES. The following uses may be permitted in the "C-OP" District subject to the conditions hereinafter imposed and subject further to review and approval by the City as required by Section 4-550 of this ordinance:

1. Office combined with showrooms, in which products are provided for viewing and display to retail or wholesale buyers, provided that in such building, office space comprises of no less than forty percent (40%) of the gross floor space of the building, but not outdoor display.

2. Office combined with warehouse, in which products are stored for use, repackaging, display, and shipping, but not assembly, manufacturing, or fabrication, provided that in such building, office space comprises no less than forty percent (40%) of the gross floor space of the building, but not outdoor storage.

3. Full service restaurants, provided that where such restaurant is integral to another principal building, such as an office or hotel, parking supply is calculated to accommodate the mix of uses.

4. Hotels and motels.

5. Assisted living facilities when the following conditions are met:

   a. The majority of residents are age fifty-five (55) and older and there is a minimum of one full time equivalent employee per every six residents.

   b. The services of a licensed registered nurse are available to all residents.

   c. The applicant provides the city planner with a detailed plan showing the activities and personnel that will be available to residents of the facility.

Source: Ord. 977, Sec. 1 (2013); Ord. 1049, Sec 20 (2015); Ord. 1139, Sec. 2 (2019)

4-427-A.4. SITE DEVELOPMENT STANDARDS. The following standards shall apply to all uses in the C-OP District, in addition to other provisions found elsewhere in this ordinance. Where these regulations conflict with other general provisions, these regulations shall be deemed to apply.

1. <u>Yard Requirements.</u>

   a. Front Yard: 60 feet from front property line.

   b. Side Yard: 10 feet from the side property line.

   c. Rear Yard: 35 feet from rear property line.

   d. Parking: 15 feet from front property line, 5 feet from all other property lines.

2. Building Construction:

   a. A higher construction standard is required in the Commercial Office Park District. Any exposed metal or fiberglass on all buildings shall be limited to no more than thirty (30) percent of any wall which fronts on a public street, provided that it is coordinated into the architectural design. Truck parking or loading shall be screened with materials of the principal building and other screenings, so that such uses are not directly visible from the Interstate or any public street.

      (1) Additions, Alterations, and Accessory Buildings. All subsequent additions, exterior alterations and accessory buildings,

constructed after the erection of an original building or buildings shall be of the same materials as those used in the original building and shall be designed in a manner conforming to the original architectural concept and general appearance. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion program.

(2) Appearance. Garages, accessory structures, screened walls and exposed areas of retaining walls shall be of a similar type, quality and appearance as the principal structure. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion program.

3. Landscaping Requirements.

a. On all property within the C-OP District, no less than 25% of the property shall be landscaped with trees, shrubs, grass, and other cultured plantings. The number of trees to be planted shall be no less than the total number of feet of the length of the lot perimeter divided by 50 feet.

b. Within parking lots, one landscaped island of at least 150 square feet shall be provided for every twenty parking spaces.

c. Ponds for the management of storm water shall not count toward the minimum landscaped standard.

4. Signage Requirements.

a. One monument-style sign is permitted for each building. Pylon or pole signs are not permitted, except by conditional use. Such sign, if found not to detract from the intent and character of the C-OP District, may be allowed, provided that it shall be limited to a maximum of one hundred fifty (150) square feet in area and thirty-five (35) feet in height.

b. In addition to the monument sign, one wall-mounted sign is permitted for each public street frontage of the parcel. No individual sign may exceed eighty (80) square feet in area.

c. Sign construction and illumination. Signs may be illuminated by external flood lights, or internally. No flashing, blinking, or motion lighting of any kind is permissible.

4-427-A.5. OTHER APPLICABLE REGULATIONS

Section 4-440 Supplementary District Regulations
Section 4-450 Off-Street Parking and Loading Requirements
Section 4-460 Sign Regulations

4-428. "HC" DISTRICT OR HEAVY COMMERCIAL DISTRICT.

(Source: Ord. 1045, Sec. 2 [2015])

4-428.1. Statement of Intent. The provisions of the HC District are intended to provide areas for commercial establishments which rely on frequent access and are somewhat dependent on commercial uses nearby, have limited outdoor storage, require close access to major thoroughfares, accommodate primarily automotive-oriented customers, generate moderate truck traffic, and have characteristics which make the uses generally compatible when located next to uses in the C District or neighboring industrial uses in the LI District.

4-428.2. Permitted Uses. Source: Ord. 1078, Sec. 3 (2017)

1. General commercial uses, such as full-service gas stations, eating and drinking establishments, sales of new and used motor vehicles, motor vehicle rental, sale of construction equipment, farm implements, mobile homes, and recreational vehicles, and sale of lumber and other building materials.

2. Commercial and professional office buildings, single or multi-tenant.

3. Repair and service of automobiles and trucks.

4. Plant nurseries and greenhouses.

5. Veterinary clinics with overnight boarding facilities

6. Hotels and motels.

7. Social Service uses such as homeless shelters, shelters for victims of domestic abuse, and facilities to feed the homeless and indigent.

8. Parking lots.

9. Child Care Facility and Child Care Center.

10. Religious Institutions.

11. Public Buildings and Essential Services.

12. Indoor Personal Training Facilities.

13. Other: Uses not listed but similar to the permitted uses above and consistent with the stated purpose of this district.

4-428.3. Conditionally Permitted Uses.

1. Plumbing and heating shops, sheet metal shops, roofing shops.

2. Wholesale distribution facilities

3. Contract construction services.

4. Mini-storage facilities.

5. General warehousing and storage, not to include auto wrecking, junk or other salvage storage.

6. Light manufacturing, including manufacturing or assembly of small parts, apparel and other finished products from fabrics, leather, etc., wood products, computer products, and printing.

7. Off-premise signs, subject to the following:

   a. No two off-premise signs may be placed less than 250 feet part.

   b. The off-premise sign is not located within a "CO": corridor Overlay District or a "CO-I": Interstate Corridor Overlay District.

8. Above-ground class 1 and class 2 liquid storage tanks under the same conditions set forth in Section 4-427.3(4), except that in regard to class 2 liquids, the maximum size of the tank be changed to 5,000 gallons, and one class 1 and one class 2 above-ground tank may be allowed.

9. Above-ground propane fuel tanks, subject to no more than one 1,200 container capacity (water gallons), as well as placement and screening to ensure both aesthetic and public safety purposes.

4-428.4. Yard Requirements for the HC District. None required except where a lot in the HC District abuts a yard in any residential district, in which case there shall be a side yard the same as would be required in the residential district.

4-428.5. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-428.3. Yard Requirements for the CM District. None required except where a lot in the CM district abuts yard in any residential district, in which case, there shall be a side yard the same as would be required in the residential district.

4-428.4. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-428-A. "LI" DISTRICT OR LIGHT INDUSTRIAL DISTRICT.

(Source: Ord. 1045, Sec. 3 [2015])

4-428-A.1. Statement of Intent. The provisions of the LI District are intended to provide areas for commercial establishments that are relatively independent from adjacent commercial uses for spin-off business, use extensive outdoor storage or warehousing, require close access to major thoroughfares, accommodate automotive and truck-oriented customers, generate truck traffic, or have similar characteristics which make them incompatible uses in the C and HC Districts and more appropriate as neighbors of industrial uses; and to establish, preserve, in a location and manner which benefits the City, industrial and related uses which are relatively free from objectionable influences and therefore are of a nature that they will not adversely affect surrounding areas.

4-428-A.2. Permitted Uses.

1. Light manufacturing and similar-type industrial operations which are consistent with the purposes of this district.

2. Plumbing and heating shops, sheet metal shops, roofing shops.

3. Wholesale distribution facilities.

4. Contract construction services.

5. Recreational uses which, by their nature, require large land areas to buffer them from adjoining uses, such as racetracks, drive-in movie theaters or fairgrounds.

6. Animal kennels and shelters.

7. General warehousing and storage, not to include auto wrecking, junk or other salvage storage.

8. Motor freight or other trucking facilities, truck stops and truck repair services.

9. Off-premise signs.

10. Above-ground class 1 and class 2 liquid storage tanks under the same conditions set forth in Section 4-427.3(4), except that in regard to class 2 liquids, the maximum size of the tank be changed to 5,000 gallons, and one class 1 and one class 2 above-ground tank may be allowed.

11. Above-ground propane fuel tanks, subject to no more than one 2,000 container capacity (water gallons), as well as placement and screening to ensure both aesthetic and public safety purposes.

12. Landscaping services and tree nurseries without stockpiling. Display storage or storage of materials may

occur provided it shall be less than six (6') feet in height, with the exceptions of trees or monuments, and be screened from neighboring properties and public streets.

13. Parking lots.

14. Other: Uses not listed but similar to the permitted uses above and consistent with the stated purpose of this district.

Source: Ord. 1049, Sec. 21 (2015)

4-428-A.3. Conditionally Permitted Uses.

Source: Ord. 1078, Sec. 1 (2017)

1. Grain elevators, seed cleaning, feed mixing and grinding plants.

2. Above-ground class 1 and 2 liquid storage tanks with a maximum tank size of 20,000 gallons and overall capacity of 200,000 gallons; and propane fuel tanks subject to no more than 30,000 container capacity (water gallons), subject to the following:

   a. A minimum distance of 75 feet is maintained from property lines, as well as placement and screening to ensure both aesthetic and public safety purposes.

   b. The use is reviewed and approved by the Fire Department for quantities and separation from other lots of record and buildings.

3. Eating and drinking establishments, and commercial and professional office buildings, single or multi-tenant, subject to the following:

   a. The facilities have adequate separation from uses which may be injurious to health or pose life safety risks.

4. Indoor Personal Training Facilities, provided the facility has adequate separation from uses which may be injurious to health or pose life safety risk.

5. Compassion centers as described further in Section 4-429.8.

Source: Ord. 1102, Sec. 2 (2017)

4-428-A.4. Yard Requirements for the LI District. None required except where a lot in the LI District abuts a yard in any residential district, in which case there shall be a side yard the same as would be required in the residential district.

4-428-A.5. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-429. "M" DISTRICT OR HEAVY INDUSTRIAL DISTRICT.
(Source: Ord. 1045, Sec. 4 [2015])

4-429.1. Statement of Intent. The provisions of the M District are intended to establish and preserve areas for necessary industrial and related uses which due to their size and/or nature of operation, may have a significant impact on the environmental and social well-being of the City and therefore require isolation from many other kinds of land uses.

4-429.2. Permitted Uses.

1. Industrial uses allowed in the LI District as permitted uses.

2. Manufacturing and similar type industrial operations consistent with the purposes of this district.

3. Grain elevators and feed mixing and grinding plants.

4. Accessory uses clearly incidental to the principal use.

5. Off-premise signs.

6. Adult entertainment centers complying with Section 4-429.6 of the Revised Ordinances of the City of West Fargo.

7. Other: Uses not listed but similar to the permitted uses above and consistent with the stated purpose of this district.

Source: Ord. 1049, Sec. 22 (2015)

4-429.3. Conditionally Permitted Uses. The following uses may be permitted to the M District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Commission as required by Section 4-550 of this ordinance dealing with conditional use permits:

1. Above ground class 1 and class 2 liquid storage tanks.

2. Wrecking and salvage yards when completely enclosed within a solid fence.

3. Stockyards.

4. Petroleum refining or storage.

5. Fertilizer manufacture.

6. Acid manufacture.

7. Cement, lime or gypsum manufacture.

8. Stockpiling of sand, gravel or fill dirt and any other materials.

9. Child Care Facility or Child Care Center which is connected to a business and is limited to handling children of employees of that business.

10. Landfills (but only outside of the limits of the City of West Fargo and within the City's extra-territorial jurisdiction as provided in section 4-130 of these ordinances).

11. Animal slaughter or rendering (but only outside of the limits of the City of West Fargo and within the City's extra-territorial jurisdiction as provided in Section 4-130 of these ordinances).

12. Temporary or permanent industrial wood burners, including air curtain destructors, subject to the following conditions:

    a. For a permanent site, the site must be fenced with a sight obscuring fence and screened if necessary to keep materials out of sight.

    b. The site is located a minimum of 2,640 feet from any residential or neighboring business structure.

    c. The waste wood products may not be stored on a permanent or temporary site for more than two (2) months. For a permanent site, all waste wood products on site must be disposed of within a two (2) month period. At the time the site is completely cleared, another two-month cycle of storage may begin. An extension to the two-month period may be granted by the Fire Chief during the high fire risk times when burning is not allowed.

    d. The use has received State Health Department and local Fire Department approval.

    e. A permit for a temporary site may not exceed sixty (60) days, and only two (2) temporary permits may be granted for the same site in any year. The 60-day period may be extended by the Fire Chief if during that period burning is not allowed because of high risk conditions.

    f. Other conditions as deemed necessary.

13. Indoor Personal Training Facilities, provided the facility has adequate separation from uses which may be injurious to health or pose life safety risk.

    Source: Ord. 1078, Sec. 2 (2017)

14. Compassion centers as described further in Section 4-429.8.

    Source: Ord. 1102, Sec. 3 (2017)

4-429.4. <u>Prohibited Uses</u>.

1. Residential: dwellings, dwelling units, and residences of any type, including hotels and motels.

2. Institutional: schools, retirement, nursing, or convalescent homes.

3. Landfills (within the city limits of the City of West Fargo).

4. Animal slaughter or rendering (within the city limits of the City of West Fargo).

4-429.5. Yard Requirements. None.

4-429.6. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations

Section 4-450 Off-Street Parking and Loading Requirements

Section 4-460 Sign Regulations

4-429.7. Adult Entertainment Centers--Location Restricted. The location of adult entertainment centers, as hereinafter defined, shall be limited as hereinafter provided:

A. DEFINITIONS.

1. Adult Bookstore: An enclosed building having as a substantial or significant portion of its stock in trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

2. Adult Cinema: An enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons therein in return for the payment of a consideration, irrespective of the number of patrons who may be able to view the presentation at one time.

3. Adult Live Performance Theater: An enclosed building used on a regular basis for presenting live performances by singers, musicians, dancers, comedians, models, or any similar type of entertainers, whichlive performances are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons.

4. Adult Entertainment Center: An adult bookstore or adult cinema, or adult live performance theater.

5. Specified Anatomical Areas:

   a. Less than completely and opaquely covered:

      (1) Human genitals, pubic region;

      (2) Buttock;

      (3) Female breast below a point immediately above the top of the areola; and

   b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

6. Specified Sexual Activities:

   a. Human genitals in a state of sexual stimulations or arousal;

   b. Acts of human masturbation, sexual intercourse, or sodomy;

   c. Fondling of human genitals, pubic region, buttock or female breast.

B. LOCATION: Notwithstanding anything in this zoning Ordinance to the contrary, an adult entertainment center shall be permitted only in the M District and in no other district, and then only if the center meets the following conditions:

1. The center is located no closer than 1250 feet from any pre-existing church, school, or property zoned R-lA, R-l, R-2, R-3, or R-4 in any jurisdiction.

2. The center excludes from its premises those persons less than 18 years of age.

3. The center displays no signs visible from the exterior of the center, except for signs identifying the center as an adult bookstore, adult cinema or adult live performance theater.

4. No materials depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of the center.

5. The business premises of the center which are generally open to its patrons are open equally at the same time without charge to members of the city police force who may wish to enter thereon provided the entry is in the course of the discharge of the policeman's duties.

4-429.8. Compassion Centers-Location Restricted. The location of compassion centers, as hereinafter defined, shall be limited as hereinafter provided:

A. DEFINITIONS.

1. Compassion center: a medical marijuana manufacturing facility or dispensary.

2. Dispensary: an entity registered by the North Dakota State Department of Health as a compassion center authorized to dispense usable marijuana to a registered qualifying patient and a registered designated caregiver.

3. Manufacturing facility: an entity registered by the North Dakota State Department of Health as a compassion center authorized to produce and process and to sell usable marijuana to a dispensary.

B. LOCATION: Notwithstanding anything in this Zoning Ordinance to the contrary, a compassion center shall be permitted only in the LI District and M District, no other district shall be permitted, and then only if the compassion center meets the following conditions:

1. The compassion center is located no closer than one thousand two hundred fifty feet (1,250') from any pre-existing school, daycare facility, or any property zoned residential.

2. The business premises of the compassion center which are generally open to its patrons are open equally at the same time to members of the City police department and the City health officer who may wish to enter thereon provided the entry is in the course of the discharge of police duties and health inspection duties.

Source: Ord. 1102, Sec. 6 (2017)

4-431. "CO" DISTRICT OR CORRIDOR OVERLAY DISTRICT.

4-431.1. Statement of Intent. The provisions of the CO District are intended to promote orderly development and safe, attractive and desirable spatial patterns and locations for urban and suburban land uses adjacent to the Cass County 17/Sheyenne Street, 32nd Avenue, 40th Avenue, 52nd Avenue, 9th Street East, Veteran's Boulevard and 13th Avenue corridors. Full regard is given for the importance of these corridors as major growth areas for West Fargo and as landscaped gateways to the City. In some areas of the district as identified in the Yard Requirements and Lot Design Standards, full regard is given to the context of the street and adjacent land uses for their urban appeal, which would include such things as streetscape, lighting, and other amenities that encourage interaction beyond vehicular traffic. The CO District shall extend along Cass County 17 (Sheyenne Street) from 13th Avenue East to 52nd Avenue and from 12th Avenue North to 40th Avenue North, 52nd Avenue from Cass County 17 to the west, 40th Avenue, 32nd Avenue, Veteran's Boulevard, 9th Street East from Interstate 94 to 13th Avenue, and 13th Avenue from Sheyenne Street to the east City limits hereinafter referenced to as "the designated streets," and be a depth of six hundred (600) feet on each side of the centerline of Cass County 17 (Sheyenne Street), 32nd Avenue, 40th Avenue, 52nd Avenue, 9th Street East, Veteran's Boulevard, and 13th Avenue.

Source: Ord. 1049, Sec. 24 (2015); Ord. 1111, Sec. 1 (2018)

4-431.2. Permitted Uses. All uses permitted in any underlying district as designated on the City Zoning Map.

4-431.3. Conditionally Permitted Uses. Any use conditionally permitted in any underlying district as designated on the City Zoning Map and subject to the specific provisions relating to each use.

4-431.4. Yard Requirements for the CO District.
(Source: Ord. 1111, Sec. 1 [2018])

1. Side Yard Minimum. For commercially zoned lots, the minimum side yard shall be 10 feet. Residentially zoned property in the Corridor Overlay District shall maintain the side yard required in the underlying Residential District.

2. Rear Yard Minimum. For commercially zoned lots abutting the designated streets, the minimum rear yard shall be 20 feet. For commercially zoned lots not abutting the designated streets, the minimum rear yard shall be 10 feet. Residentially zoned property in the CO District shall maintain the same rear yard as required in the underlying residential district.

3. Front Yard Minimum. For the purpose of this ordinance, all front yards for properties abutting the designated streets shall be facing those streets. All front yards abutting a designated arterial or collector roadway, as approved by the City Commission, shall be considered facing that roadway. A minimum front yard depth of

45 feet shall be required for all properties abutting the designated street rights-of-way, with the exception of Sheyenne Street between Interstate 94 and 40th Avenue, 32nd Avenue west of Sheyenne Street and 13th Avenue East where all development shall be subject to site and building plan review by the Planning and Zoning Commission and City Commission. Minimum front yard depths for commercially zoned property not abutting the designated streets shall be 15 feet, except where frontage is on a designated arterial or collector roadway, as approved by the City Commission, where the minimum front yard depth shall be 30 feet. Depths for residentially zoned property not abutting the designated streets shall be the same as required for the underlying Residential Zoning District. For corner properties abutting the designated streets and an arterial or collector roadway, the secondary front yard which does not face the designated streets shall have a minimum front yard depth of 30 feet.

4. Lot Coverage. For commercial uses, lot coverage by buildings shall not exceed 40%; for residential uses, lot coverage shall be the same as in the underlying district.

4-431.5. Lot Design Standards.

1. Open Space Landscaping:

a. All yard areas not covered by buildings, sidewalks or paved parking areas shall be landscaped. A minimum of 10% of the lot area shall be landscaped.

b. For properties abutting the designated streets, with the exception of Sheyenne Street between Interstate 94 and 40th Avenue, 32nd Avenue west of Sheyenne Street and 13th Avenue East where all development shall be subject to site and building plan review by the Planning and Zoning Commission and City Commission, a minimum of 20 feet of landscaped open space shall be required to separate parking areas or access drives and front lot lines. For properties not abutting the designated streets or an arterial or collector roadway, a minimum of 5 feet of landscaped open space shall be required to separate parking areas or access drives and front lot lines. For properties abutting a designated collector or arterial roadway, as approved by the City Commission, a minimum of 10 feet of landscaped open space shall be required to separate parking areas or access drives and front lot lines.

Source: Ord. 1111, Sec. 2 (2018)

c. A minimum of 5 feet of landscaped open space shall be required to separate parking areas from side and

rear lot lines and a minimum of 5 feet of open space shall be required to separate parking areas and building setback lines.

d. A minimum of 3 feet of landscaped open space shall be required to separate access driveways and side or rear lot lines unless said driveway is used as a common access to two adjacent properties.

e. Ponds for management of storm water shall not count toward the minimum landscaped standard.

2. Building Construction:

a. A higher construction standard is required in the Corridor Overlay District. In areas of the Corridor Overlay District, which is zoned Light Commercial, any exposed metal or fiberglass on all buildings shall be limited to no more than thirty (30) percent of any wall which fronts on a public street, provided that it is coordinated into the architectural design. Seventy percent (70%) of any wall (facade area) which fronts on a public street shall be constructed of glass, brick, wood, stone, architectural concrete cast in place or precast concrete panels, or, as approved by the Commission(s), other integrated materials per the architectural design. In areas of the Corridor Overlay District which are also zoned Heavy Commercial/Light Industrial District and Heavy Industrial District, all buildings constructed of curtain wall panels of finished steel, aluminum or fiberglass shall be required to be faced with brick, wood, stone, architectural concrete cast in place or pre-cast concrete panels on all wall surfaces with frontage on a public street. The required wall surface treatment may allow a maximum of seventy (70) percent of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design.

(1) Additions, Alterations, and Accessory Buildings. All subsequent additions, exterior alterations and accessory buildings, constructed after the erection of an original building or buildings shall be of the same materials as those used in the original building and shall be designed in a manner conforming to the original architectural concept and general appearance. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion program.

(2) Appearance. Garages, accessory structures, screened walls and exposed areas of retaining walls shall be of a similar type, quality and appearance as the principal structure. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion program.

3. Boulevard/Front Yard Plantings: The planting must be in conformance to any applicable major street corridor landscape plan developed as part of a subdivision, Planned Unit Development, or other site development plan adopted by the City. Each tree shall be at least 1½ inches in caliper and all tree species shall be as recommended by the City Forester.

Source: Ord. 1111, Sec. 3 (2018)

4. Curbs Required: All buildings and walkways bordering any parking areas shall be curbed.

5. Refuse Collection Areas and Outdoor Storage Areas: All refuse collection and outdoor storage areas shall only be permitted in rear yards and shall be visually screened from adjoining properties or streets.

6. Parking Areas:

   a. All parking areas shall be paved to provide a durable and dust-free surface.

   b. Light poles located within parking area perimeters shall be surrounded by curbed islands with a minimum distance of 4 feet from the center line of the light pole to the curb, or protected by an elevated concrete pedestal at least 3 feet in height and 2 feet in diameter.

   c. Light poles located outside of paved parking areas shall be located a minimum of 4 feet from the curbed edge of the parking area, or protected by an elevated concrete pedestal of not less than 3 feet in height and 2 feet in diameter.

7. Fences: Fences along the Corridor Overlay District are not allowed within the required front yard along the designated streets of the development, except when a fence is an essential component of the development and is either approved as part of a Planned Unit Development for the development or as a conditional use. Special regard is given in residential areas for double frontage lots where the house faces a local street and the intended rear yard faces the designated street. Fences should be decorative and/or provide for added landscape treatments to meet the intent of the CO District and may be required

to be set back to accomplish the intended effect. Once a fencing scheme has been approved, accessory buildings may be permitted, subject to the Supplementary District Regulations for accessory buildings and uses.

Source: Ord. 916, Sec. 38 (2012)

4-431.6. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations
Section 4-450 Off-Street Parking and Loading Requirements
Section 4-460 Sign Regulations

Source: Ord. 675, Sec. 1 (2003)

4-431-A. "CO-I" DISTRICT OR INTERSTATE CORRIDOR OVERLAY DISTRICT

Source: Ord. 748, Sec. 14 (2005)

4-431-A.1. Statement of Intent. The provisions of the "CO-I" District are intended to promote orderly development and safe, attractive and desirable spatial patterns and locations for urban land uses adjacent to the Interstate 94 Corridor. Full regard is given for the importance of this corridor as a major growth area for West Fargo and as a highly visible gateway through the City. The "CO-I" District shall extend along the entire I-94 section within the City Limits and Extraterritorial Area and shall be an approximate depth of 600 feet on each side of the interstate right-of-way.

4-431-A.2. Permitted Uses. All uses permitted in any underlying district as designated on the City Zoning Map.

4-431-A.3. Conditionally Permitted Uses. Any use conditionally permitted in any underlying district as designated on the City Zoning Map and subject to the specific provisions relating to each use.

4-431-A.4. Plan Review and Approval. All development shall be subject to site and building plan review and approval by the Planning and Zoning Commission and City Commission.

4-431-A.5. Site Development Standards.

1. Yard Setbacks. Structures adjacent to I-94 shall be set back a minimum of 100 feet from the interstate right-of-way for single and two-family uses. Principal structures for multiple family uses shall be set back a minimum of 100 feet from the interstate right-of-way with accessory structures set back a minimum of 50 feet. All other structures shall maintain a minimum setback of 50 feet from the interstate right-of-way, except for structures adjacent to interstate on and off-ramps, which shall maintain a minimum setback of 30 feet. All other yard setbacks shall be according to requirements of the underlying district.

2. Lot Coverage. For commercial and other non-residential uses, lot coverage by buildings shall not exceed 40%; for residential uses, lot coverage shall be the same as in the underlying district.

3. Open Space Landscaping and Buffers.

   a. All yards adjacent to I-94 shall be landscaped open space. At least one tree shall be installed along the Interstate frontage for every 50 feet of interstate frontage. Trees may be grouped to create the desired effect. All yard areas not covered by buildings, sidewalks or paved parking areas shall be landscaped. A minimum of 10% of the

lot area shall be landscaped. In addition to landscaped open space requirements along I-94, properties shall comply with the Open Landscaping requirements found in Section 4-431.5. pertaining to front, side and rear yards.

b. Residential properties shall be buffered to minimize noise impacts from interstate traffic. Berming and vegetative buffers shall be created prior to development. For single family and two family uses berms shall be developed within an easement no less than 100 feet deep along I-94 and 30 feet deep along the on/off ramps and have a slope no greater than 3:1. Berms shall be required to be elevated six feet above the elevation of the driving lanes on I-94 with a lower elevation and more flexibility in design along the on/off ramps. The berms shall also have several rows of coniferous trees (evergreens) planted to provide year-round vegetative buffering. Berm easements should be placed so that there is minimal affect on utility easements. For multiple family residential uses, more flexibility is allowed in the design of berms and vegetative buffers.

4. Building Construction:

a. A higher construction standard is required in the Interstate Corridor Overlay District. In areas of the Interstate Corridor Overlay District, which are zoned Light Commercial, Commercial Office Park, or Planned Unit Development and intended for light commercial uses, any exposed metal or fiberglass on all buildings shall be limited to no more than thirty (30) percent of any wall which fronts on a public street, provided that it is coordinated into the architectural design. Seventy percent (70%) of any wall (facade area) which fronts on a public street shall be constructed of glass, brick, wood, stone, architectural concrete cast in place or precast concrete panels, or, as approved by the Commission(s), other integrated materials per the architectural design. In areas of the Interstate Corridor Overlay District which are also zoned Heavy Commercial/Light Industrial, Heavy Industrial, or Planned Unit Development and intended for heavy commercial and industrial uses all buildings constructed of curtain wall panels of finished steel, aluminum or fiberglass shall be required to be faced with brick, wood, stone, architectural concrete cast in place or pre-cast concrete panels on all wall surfaces with frontage on a public street. The required wall surface treatment may allow a maximum of seventy (70) percent of the metal or fiberglass wall to remain

exposed if it is coordinated into the architectural design.

(1) Additions, Alterations, and Accessory Buildings. All subsequent additions, exterior alterations and accessory buildings, constructed after the erection of an original building or buildings shall be of the same materials as those used in the original building and shall be designed in a manner conforming to the original architectural concept and general appearance. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion program.

(2) Appearance. Garages, accessory structures, screened walls and exposed areas of retaining walls shall be of a similar type, quality and appearance as the principal structure. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion program.

5. Outdoor Displays, Storage, Truck Parking or Loading. All outdoor displays, storage, truck parking or loading shall be located to the side or rear of the building and screened with materials of the principal building and other screening, so that such uses are not directly visible from the Interstate and other public streets. Outdoor display areas shall be identified on the site plan and be subject to site and building plan review and approval. Display areas shall be established in such a manner as not to detract from the desired affects of the Interstate Corridor Overlay District.

Source: Ord. 916, Sec. 39 (2012)

4-431-B. "CO-R" DISTRICT OR REDEVELOPMENT CORRIDOR OVERLAY DISTRICT

Source: Ord. 748, Sec. 14 (2005)

4-431-B.1. Statement of Intent. The provisions of the "CO-R" District are intended to promote orderly development and redevelopment and safe, attractive and desirable spatial patterns and locations for urban land uses adjacent to major street corridors, with full regard for the importance of these corridors as major growth areas for West Fargo and as gateways to the City. The "CO-R" District shall extend along the entire length of Main Avenue, 12th Avenue North, 8th Street West, Sheyenne Street north of 13th Avenue, Center Street, 9th Street East north of 13th Avenue and 45th Street. The depth of the "CO-R" District shall be generally the depth of the lots fronting on each side of the above described roadways.

4-431-B.2. Permitted Uses. All uses permitted in any underlying district as designated on the City Zoning Map.

4-431-B.3. Conditionally Permitted Uses. Any use conditionally permitted in any underlying district as designated on the City Zoning Map and subject to the specific criteria relating to each use.

4-431-B.4. Yard Requirements for the CO-R District.

1. Side Yard Minimum. For commercial and industrial zoned lots, the minimum side yard shall be 5 feet except on a corner lot a side yard facing a public way shall be 10 feet. Side yards may be reduced as a conditional use, particularly where it is intended to join buildings on narrow lots established in the downtown area. Residentially zoned property in the Corridor Overlay District shall maintain the side yard required in the underlying residential district.

2. Rear Yard Minimum. For commercially and industrially zoned lots in the "CO-R" District, the minimum rear yard shall be 10 feet. Residentially zoned property in the "CO-R" District shall maintain the same rear yard as required in the underlying residential district.

3. Front Yard Minimum. For commercially zoned property in the "CO-R" District, properties shall maintain a minimum front yard setback from any public street of 10 feet. Industrial properties shall maintain a front yard setback of 20 feet and side yard setback of 10 feet from a public street. Residentially zoned lots shall maintain a minimum front yard of 40 feet along the designated street. Double frontage lots shall provide a setback for the opposite front yard on the local street as required by the underlying district.

4. Lot Coverage. For commercial uses, lot coverage by buildings shall not exceed 65%; for industrial uses, lot coverage by buildings shall not exceed 85%; for residential uses, lot coverage shall be the same as in the underlying district.

4-431-B.5. Lot Design Standards.

4-431-B.5. Lot Design Standards.

1. Open Space Landscaping:

   A. All yard areas not covered by buildings, sidewalks or paved parking areas (or fenced storage yards in industrial districts) shall be landscaped with grass, trees and other landscaping as approved by the City.

   B. All required front yards and secondary front yards (side yards on corner lots fronting on a public street) shall be landscaped as open space.

   C. A minimum of 5 feet of landscaped open space shall be required to separate parking areas from side and rear lot lines and a minimum of 5 feet of open space shall be required to separate parking areas and building setback.

   D. A minimum of 3 feet of landscaped open space shall be required to separate access driveways and side or rear lot lines, unless side driveway is used as a common access to two adjacent properties.

   E. Ponds for management of storm water shall not count toward the minimum landscaped standard.

2. Building Construction: A higher construction standard is required in the Redevelopment Corridor Overlay District. In areas of the Redevelopment Corridor Overlay District, which is zoned Light Commercial, any exposed metal or fiberglass on all fronting buildings shall be limited to no more than thirty (30) percent of any wall which fronts on a public street, provided that it is coordinated into the architectural design. Seventy percent (70%) of any wall (facade area) which fronts on a public street shall be constructed of glass, brick, wood, stone, architectural concrete cast in place or precast concrete panels, or, as approved by the Commission(s), other integrated materials per the architectural design. In areas of the Redevelopment Corridor Overlay District which are also zoned Heavy Commercial/Light Industrial District and Heavy Industrial District, all fronting buildings constructed of curtain wall panels of finished steel, aluminum or fiberglass shall be required to be faced with brick, wood, stone, architectural concrete

cast in place or pre-cast concrete panels on all wall surfaces with frontage on a public street. The required wall surface treatment may allow a maximum of seventy (70) percent of the metal or fiberglass wall to remain exposed if it is coordinated into the architectural design. Truck loading dock areas shall be to the side or rear of the building so that they do not face a public street. Where this is not possible, special approval shall be required by the Planning and Zoning Commission and City Commission, and screening of the truck loading dock shall be considered.

(1) Additions, Alterations, and Accessory Buildings. Buildings which are expanded or remodeled on the public street sides, or buildings which are expanded or remodeled by 25% of the building value shall conform to the building standards established above.

(2) Appearance. Garages, accessory structures, screened walls and exposed areas of retaining walls shall be of a similar type, quality and appearance as the principal structure. These provisions shall not prevent the upgrading of the quality of materials used in a remodeling or expansion program.

3. Refuse Collection Areas and Outdoor Storage Areas: All refuse collection and outdoor storage areas shall only be permitted in side or rear yards and shall be visually screen from adjoining properties or streets.

4. Parking Areas:

A. All Parking areas shall be paved with asphalt or concrete to provide a durable and dust-free surface. Existing buildings which are remodeled or expanded by 25% of the building value shall upgrade unpaved parking areas to a paved condition with asphalt or concrete.

B. Light poles located within parking area perimeters within front yards shall be surrounded by curbed islands with a minimum distance of 4 feet from the center line of the light pole to the curb, or protected by an elevated concrete pedestal at least 3 feet in height and 2 feet in diameter.

C. Light poles located outside of paved parking areas shall be located a minimum of 4 feet from the curbed edge of the parking area, or protected by an elevated concrete pedestal of not less than 3 feet in height and 2 feet in diameter.

5. Fences: Fences along the Redevelopment Corridor Overlay District are not allowed within the required front yard,

except when a fence is an essential component of the development and is either approved as part of a Planned Unit Development for the development or as a conditional use.

Source: Ord. 916, Sec. 40 (2012)

4-431-B.6. Other Applicable Regulations.

Section 4-440 Supplementary District Regulations
Section 4-450 Off-Street Parking and Loading Requirements
Section 4-460 Sign Regulations

4-431-C. "CO-SR" DISTRICT OR SHEYENNE RIVER CORRIDOR OVERLAY DISTRICT

4-431-C.1. Statement of Intent. The provisions of the "CO-SR" District are intended to promote orderly, safe and desirable development patterns along the Sheyenne River where unstable soil conditions exist. The "CO-SR" Districts shall extend along the entire Sheyenne River Corridor and shall be approximately 100 feet from the established river bank.

4-431-C.2. Building Control Line and Use Restrictions. The City hereby establishes a building control line along the Sheyenne River within the Corporate limits of the City of West Fargo and within the Extraterritorial Jurisdiction limits of the City. The building control line shall be 100 feet from the established riverbank as determined by the City Engineer. The building control line shall be the minimum setback line for any primary and accessory structures requiring permits, parking lots, fill and other development activities which may cause increased riverbank destabilization.

4-431-C.3. Relaxation of Use Restrictions. Where it can be demonstrated through a soils analysis that soils are stable within the building control area, the City Commission may consider reducing the required minimum setback by variance. The soils analysis shall be conducted by a qualified professional engineer and demonstrate that the soils can accommodate the type of structure, parking lot or other use without sustaining future damage. No use may be closer than fifty (50) feet from the established riverbank.

4-431-C.4. Existing Nonconforming Uses and Structures. Existing nonconforming uses and structures shall not be expanded unless in conformity with the provisions of the "CO-SR" District. Where required setbacks cannot be achieved, relaxation of setbacks may be pursued according to Section 4-431-C.3. Nonconformities are subject to Section 4-470.

4-431-C.5. Landscape Standards. Properties within the "CO-SR" District shall follow the landscape standards established in Section 4-449-A.

Source: Ord. 916, Sec. 65 (2012)

4-431-D. REPEALED BY ORDINANCE NO. 1148 (Sec. 1, 2020)

4-431-E. REPEALED BY ORDINANCE NO. 1148 (Sec. 2, 2020)

4-432. "PUD" DISTRICT FOR PLANNED UNIT DEVELOPMENT DISTRICT

4-432.1. Statement of Intent. The provisions of the PUD District are established to provide comprehensive procedures and standards designed to allow greater flexibility, uniqueness, innovative design and energy conservation in the development or redevelopment of areas of the community by developing adjacent to, or by incorporating within a mixture of densities/intensities or use types. The benefits of the PUD are intended to be significant as to warrant modifications of the standards required under other district regulations. These provisions are further intended to promote conservation and more efficient use of land, higher standards of site and building design and the preservation and enhancement of desirable site characteristics such as natural topography, scenic features and open spaces. It is also intended that these provisions will give the developer reasonable assurance of ultimate approval before expending complete design monies while providing City officials with assurances that the project will retain the character envisioned at the time of concurrence.

Source: Ord. 476, Sec. 1 (1994).

4-432.2. Permitted Uses. Any use which is permitted by this ordinance within the residential, commercial or industrial districts shall be considered as potentially allowable within a PUD District.

Source: Ord. 476, Sec. 2 (1994).

4-432.3. Who May Apply--Ownership Requirements. An application for approval of a PUD shall be filed in the name(s) of the recorded owner(s) of property included in the development. However, the application may be filed by holder(s) of an equitable interest in such property. Before approval of a plan can be obtained, the applicant must show evidence of full ownership interest in the land (legal title or the execution of a binding sales agreement). The entire project must be in single ownership by the time the final development plan can be approved.

4-432.4. Minimum Areas Generally Required. The tract of land for which a PUD project is proposed shall be a minimum of 2 acres. Areas of less than 2 acres may qualify as a PUD project if the applicant can show that the waiving of this requirement is in the public interest and that at least one of the following conditions is met:

a. Unusual physical features of the site or the surrounding neighborhood are such that development under a different zoning district would not conserve the unique physical features of the site or would not allow functional or environmental compatibility with the surrounding neighborhood.

b. The site is adjacent to an area which has been developed under the provisions of a Planned Unit Development

District and will contribute to the amenity and functionality of the neighborhood.

c. The site is part of an urban redevelopment and/or spot renewal program, provided it does not conflict with the nature of the surrounding neighborhood.

4-432.5. Coordination with Subdivision Regulations. It is the intent of this article that subdivision review be carried out simultaneously with the review of a Planned Unit Development and that the development plans submitted under this article be submitted in a form which will satisfy the requirements of the subdivision control regulations for preliminary and final plats.

4-432.6. Administrative Procedure. Administrative approval is to be obtained for a PUD project at two stages: (1) the Planning and Zoning Commission is to review and give preliminary approval to a Concept Development Plan for the total area of the proposed PUD District; and, (2) final approval is to be given to a Detailed Development Plan by the Planning and Zoning Commission and the City Commission for the total site development or for sub-areas of the proposed PUD District. Prior to these two steps, the prospective applicant should submit to the Planning and Zoning Commission and its staff, preliminary plans and sketches and basic site information for consideration and advise as to the relation of the proposal to general development objectives to be attained in the area and as to the policies of the Commission with reference thereto.

A. Preliminary Approval of a Planned Unit Development Project

1. The proponents of a PUD project shall submit a Concept Development Plan to the Planning and Zoning Commission.

2. The Concept Development Plan shall consist of the following:

a. A legal description of the property.

b. A statement describing the general character of the intended development.

c. An accurate map of the project area showing the proposed site and its proposed land uses, and the adjacent properties and their present urban or projected land uses.

d. The pattern of proposed land uses including the shape, size and arrangement of proposed use areas, density, and environmental character.

e. The pattern of public and/or private streets.

f. Proposed open space and public sites.

g. Preliminary number, size and concept of the proposed structures within each area.

h. An outline for the anticipated schedule and sequence of development in terms of sub-areas for the total PUD District.

i. Preliminary Subdivision plat.

3. Referral and Hearing

a. On receipt of the application and the Concept Development Plan, the Planning Commission and its staff shall study the proposal to determine conformity with the City's Comprehensive Plan and the above requirements. This shall be done at the first regularly scheduled meeting of the Planning Commission.

b. In reviewing the plan, the Planning Commission shall determine if the proposed development is consistent with the intended purposes of the PUD District, with the Comprehensive Plan, and with the overall development of the City of West Fargo. The design may provide for the modification of yards, setbacks, and height requirements, but the density, intensity of use, and lot coverage requirements for residential developments for the district as a whole shall not be reduced below that required in the R-3 District.

c. The Planning Commission will hold a public hearing on the Concept Development Plan, after notification of the surrounding property owners, and will notify the applicant of its decision to approve, approve with modifications, or disapprove the plan.

d. Approval of the rezoning and the related Concept Development Plan shall establish the basic right to use the area in conformity with the plan as approved, and shall be recorded as an integral component of the district regulations, but such plan is conditioned upon approval of a Detailed Development Plan, and shall not make permissible any of the uses as proposed until a Detailed Development Plan is submitted and approved for all or a portion of the Concept Development Plan.

B. Final Approval of a Planned Unit Development Project

1. In order to secure final approval and designation as a PUD District for a proposed site, the applicant will submit to the City Planning Commission a Detailed Development Plan of any or all of the agreed to site sub-areas.

2. The Detailed Development Plan for any or all PUD District shall consist of the following:

   a. A final subdivision plat including lot lines, easements, public rights-of-way, etc.

   b. A map of the site illustrating the following:

      (1) Size, location and arrangement of buildings including building spacing, setbacks, yards, etc.

      (2) Parking areas, private and public streets, sidewalks, and other transportation facilities.

      (3) Landscaping, screening and final ground contours,

      (4) Common open spaces and/or recreation areas.

      (5) Sewer, water, and other utility lines.

   c. Where applicable, a written statement outlining the ownership and maintenance responsibility of the common open spaces and recreation areas and documentation of this responsibility.

   d. A written agreement with the City of West Fargo providing that should the improvements set forth in the illustration above fail to be completed within 18 months after the initiation of construction, as provided for in Subsection 5 below, then and in that event the City of West Fargo shall be authorized to provide for the installation of said improvements. The installation of said improvements shall be paid for by utilization of the special assessment process, for such cases made, and the developer so involved shall, as a part of the agreement waive any rights s/he might otherwise have to protest said special assessments.

3. The proponents of the PUD project shall secure the final approval for the designated section of the PUD area from the Planning Commission and the City Commission.

4. Upon approval of the Planning Commission and the City Commission, the Detailed Development Plan is attached to and is part of the ordinance establishing the zoning designation of the land. The Detailed Development Plan is the document on which building permits and other City development approvals are issued. The City Building Inspectorate is not authorized to issue permits for improvements which are not indicated on the approved plan.

5. Construction of the PUD shall be started within 2 years from the effective date of approval of the plan by the City Commission. Failure to begin the development within 2 years shall automatically void the development plan and another detailed development plan must be submitted and approved prior to any development of the property.

C. Establishing Zoning in Advance of Development Plans: Circumstances may arise where the planned development may be proposed in phases over a longer period of time, or the development consists of multiple properties which may be owned separately or may be sold to another party prior to development. In such an event, the proponent(s) of a PUD may seek to rezone the property initially to PUD with the consideration of the Detailed Development Plan at a later date according to the following procedures.

1. The proponents of a PUD development shall initially submit a Concept Development Plan to the Planning and Zoning Commission as outlined previously.

2. The Planning and Zoning Commission shall hold a hearing on the proposed Concept Development Plan after notification of the surrounding property owner, and will notify the applicant of its decision to approve, approve with modifications, or disapprove the plan. Following a public hearing before and consideration by the Planning and Zoning Commission, the Commission shall submit in writing its recommendations on the proposed zoning ordinance amendment, supplement, change or modification to the City Commission within sixty (60) days after receipt thereof. Said recommendations shall include approval, disapproval or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the

Comprehensive Plan. Said recommendations shall be of an advisory nature only.

3. After receipt of the recommendation on any zoning ordinance amendment from the Planning and Zoning Commission, or in any event of the failure of the Planning and Zoning Commission to so report, within ninety (90) days from the time of referral of the proposed amendment to the Planning and Zoning Commission, the Board of City Commissioners shall hold a public hearing, after which the proposed amendment may be passed. If a protest against a change, supplement, modification, amendment, or repeal is signed by the owners of twenty per cent or more:

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

   b. Of the area adjacent, extending one hundred fifty feet (45.72 meters) from the area to be changed, excluding the width of streets or other public right-of-way, the amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Commission. All protests must be filed with the City Auditor, in writing, prior to the time set for the hearing.

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

4. PUD Amendment: Prior to any building permit for development within the PUD, the proponent of a project shall submit to the Planning and Zoning Commission an application and Detailed Development Plans for the property as outlined previously, which will be considered a PUD Amendment. The Planning and Zoning Commission shall hold a hearing on the proposed PUD Amendment after notification of the surrounding property owners, and will notify the applicant of its decision to approve, approve with modifications, or disapprove the plan. The PUD Amendment shall be reviewed for consistency with the Comprehensive Plan and for compatibility

with characteristics of other uses within the designated PUD area and other uses in the adjoining areas. Following a public hearing before and consideration by the Planning and Zoning Commission, the Commission shall submit in writing its recommendations on the proposed PUD Amendment to the City Commission. Said recommendations shall include approval, disapproval or other suggestions and the reasons thereof, and a discussion of the effect of the PUD Amendment on the Comprehensive Plan. Said recommendations shall be of an advisory nature only.

5. After receipt of the recommendation from the Planning and Zoning Commission, the City Commission shall review the Detailed Development Plan for the PUD Amendment and approve, approve with modifications or conditions, or deny the request. The Detailed Development Plan is attached to and is part of the Zoning designation of the property. The Detailed Development Plan is the document on which building permits and other City development approvals are issued. The City Building Inspector is not authorized to issue permits for improvements which are not indicated on the approved plan.

6. A written agreement as outlined previously shall be signed, which includes terms and conditions for the development and provides for installation of improvements as outlined previously.

D. Amendments: Any change in the Detailed Development Plan shall first be submitted for approval to the City Planning Commission, and if, in the opinion of the Planning Commission, such change constitutes substantial alteration of the original plan, especially with regards to a change in land use or an increase in development density or intensity, the procedure provided in Sections C.4-C.6 above shall be required.

Source: Ord, 916, Sec. 41 (2012)

4-433. "P" DISTRICT OR PUBLIC FACILITIES DISTRICT.

4-433.1. Statement of Intent. The P District is established to promote the development, maintenance, use and identification of land and structures owned by the City, West Fargo Park District or West Fargo School District.

4-433.2. Permitted Uses.

1. City owned facilities, including city hall, libraries and other municipal buildings and open space.

2. Park District owned facilities, including parks, open space, golf courses, and other publicly owned athletic or recreational facilities.

3. School District owned facilities, including schools, and athletic fields or stadiums.

4. Essential services.

5. Accessory uses and activities customarily incidental to and found with the permitted uses set forth above.

4-433.3. Conditionally Permitted Uses.

1. Off Site Signs. In granting such a conditional use the City may impose height and other size requirements, as well as other requirements deemed necessary by the City to have such signs fit into the area in which they are proposed to be established.

4-433.4. Yard Requirements. None, except if the property abuts another zoning district, buildings and other structures must be set back at a minimum the same distance as is required in the abutting district.

Source: Ord. 595, Sec. 1 (2000).

4-434. "DMU" DOWNTOWN MIXED USE DISTRICT.

Source: Ord. 1148, Sec. 3 (2020)

4-434.1. Statement of Intent. The intent of the DMU District is to provide elements which promote the principles of good planning and design as outlined in West Fargo 2.0. The elements are walkability, connectivity, mixed-use, scale, intensity and hidden parking. New development, redevelopment, or the reuse of existing land and buildings should be encouraged to better meet the local goal of achieving more walkable and bikeable corridors and a better connected village core. Additional growth and development within this connected village core is most desirable due to the presence of existing infrastructure and proximity of services. New development and redevelopment within this district should be in mixed-use buildings which will create and/or contribute to the character of a district that supports the City's goal of providing a cultural core of the community that creates a place residents come to gather and a place that is exciting to visit. New development and redevelopment should encourage civic pride, social and economic activity, and provide for a neighborhood that exemplifies the identity of West Fargo.

4-434.2. Uses. All uses are permitted in the DMU District, except the following uses, as defined in Section 4-200, which are not considered consistent with the intent of the district due to the inability to provide compatibility with the variety of traditional uses found within the district:

1. Adult Entertainment Center

2. Behavioral Health Care Facility

3. Heavy Industrial Uses

4-434.3 Site Design Standards.

1. Building Orientation.

   A. All portions of buildings which front along a public or approved private street must be oriented to provide for an inviting entrance or public view.

   B. A zero foot setback is required along public or approved private streets.

      i. Deviation from the zero foot setback may be allowed in instances where additional useable space is proposed such as dining areas, public art installation or plaza space, driving aisles, or other such uses.

ii. Any proposed deviation will require approval by the City Commission upon recommendation of the Director of Planning and Zoning.

iii. Deviation also may be required in instances where adequate right of way does not provide for the design requirements for mobility or on-street parking needs as determined by the City Commission at the recommendation of the City Engineer and Director of Planning and Zoning.

4-434.4. Lot Design Standards.

1. Parking Areas.

A. Parking lots are required to be designed to share access with adjoining properties to avoid unnecessary additional access and open space which is difficult to maintain or provides no benefit to the district.

B. Maximum parking allowed for a use may not exceed the parking minimum requirements found within Section 4-450: Off Street Parking and Loading Regulations.

C. Parking lots are required to be hidden with first priority to be placed out of sight of a public or approved private street.

D. On-street parking is encouraged where possible and is to be designed at the discretion of the City Engineer and Director of Planning and Zoning and approved by the City Commission.

E. Where parking lots front a public or approved private street, a minimum 5 foot decorative buffer is required to include pedestrian friendly areas that also include plantings which hide the parking area such as shown in the exhibit below.

2. Building Construction.

A. A minimum of seventy percent of all ground floor façade which fronts a public or approved private street is required to consist of windows or glass doors.

B. New construction is required to be a minimum of two stories.

C. The remaining ground floor façade is required to consist of durable materials.

D. Residential lap-siding and corrugated metals or fiberglass siding are not allowed. Architectural panels of varying materials may be deemed acceptable upon review by the Planning and Zoning Commission and City Commission provided they are deemed to fit within the character of the district.

E. Utilities associated with private and/or public facilities as well as rooftop or tenant spaces are required to be screened in a manner consistent with the intent of the district.

3. Signage.

A. Where a building is meeting the required zero front setback line, an encroachment of a wall sign or protruding wall sign at the ground level floor with a safe clearance may occur with appropriate approval of an encroachment agreement with the City as approved by the City Commission.

B. Off-premise signage within the district is allowed as a conditional use following the provisions set forth in Section 4-550 of City Ordinances. Signage within the district should take into account the characteristics of its surrounding area and the intent and context of a downtown environment. The Commission should deliberate such items as size, intensity of light or color, and motion to avoid nuisance factors to the public and neighboring uses.

4. Streetscape. The following provides a guide for improvements to a public or approved private street within the Downtown Mixed Use District. Improvements within City right of way are to be designed at the discretion of the City Engineer and Director of Planning and Zoning and approved by the City Commission. Any permanent encroachments into City right of way will require review and approval by the City Commission.

The Frontage Zone functions as an extension of the adjacent building, whether it is for signage or retailers to display products. This zone should encourage the businesses to use this portion of the boulevard as a part of the downtown experience. This Zone will be a consistent 2 feet wide offset from the private property line.

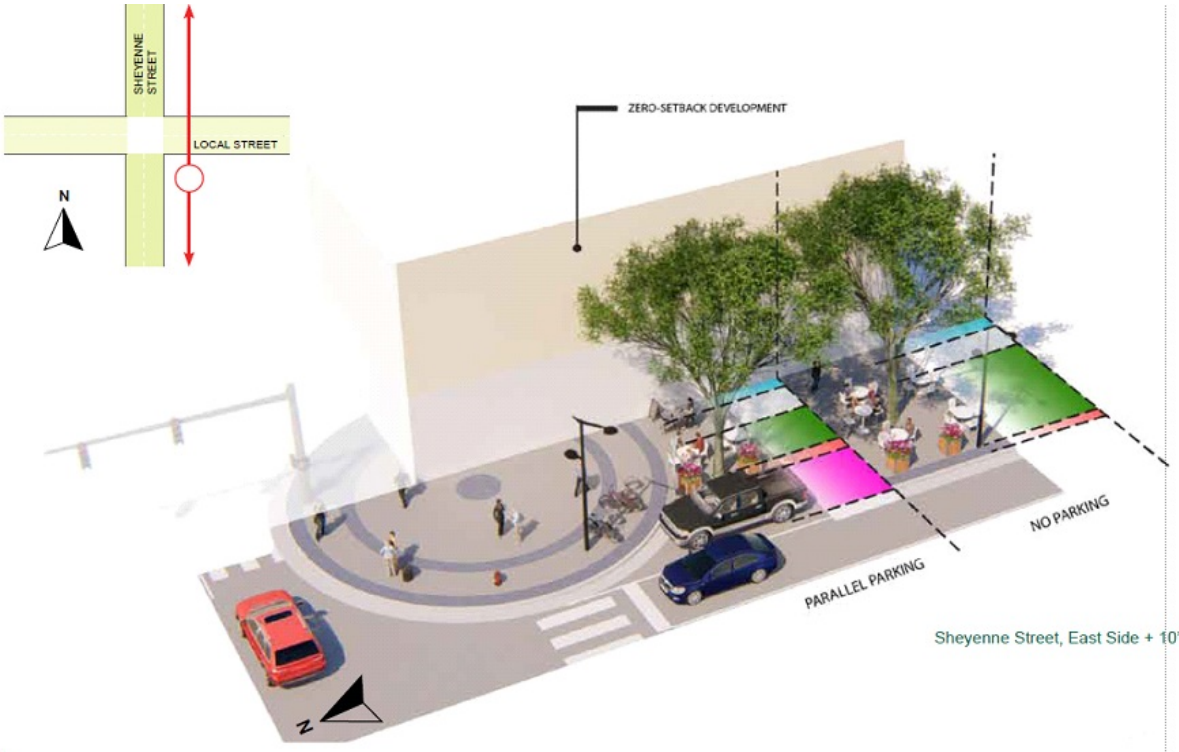
The Pedestrian Zone provides an unobstructed public path that is dedicated for pedestrians. This zone will ensure a safe and comfortable walking experience and should always be 6 feet wide which will allow for comfortable two-way travel for users.

The Flex Zone is defined as the section of the streetscape between the curb line and the Pedestrian Zone where street furnishings occur. This Zone will vary as the parking zone changes to accommodate the chang-

The Safety Zone is defined as the space immediately next to the Pedestrian Zone or Flex Zone which separates the boulevard from the Parking Zone or roadway. This zone will always be 2 feet wide.

The Identifier Zone functions as a cultural canvas of West Fargo. Each area should be unique showcasing different aspects of cultural and historical aspects of the city.

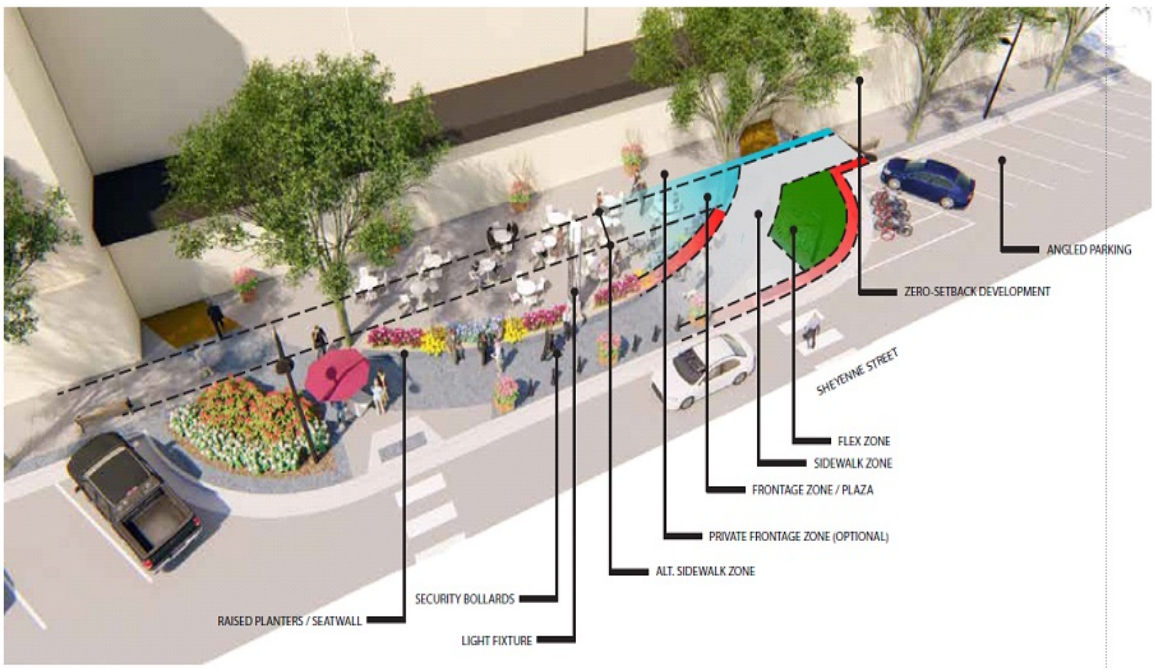
Branding Zone creates continuity along the corridor by providing a consistent aesthetic feel, providing wayfinding and city amenities unique to the downtown zoning district.



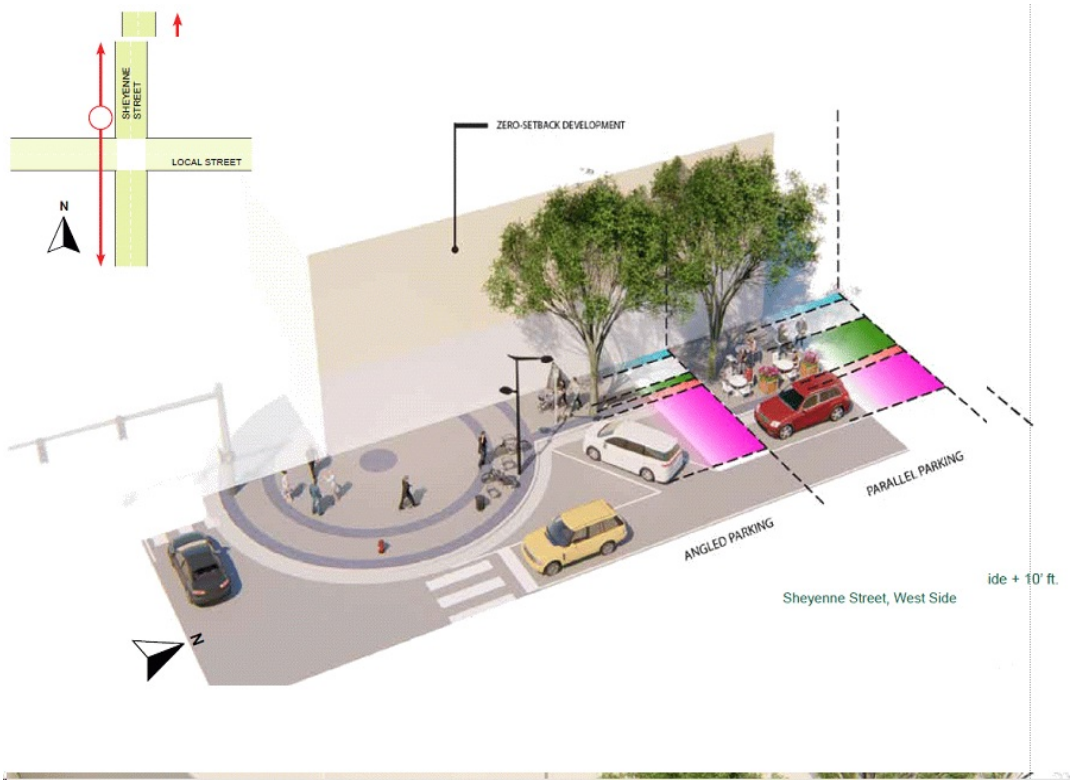
Sheyenne Street, East Side + 10' ft.

ZONE	WIDTH	USE
Frontage*	2'	• Retail signage • Planted pots • Retail displays • Seating • Private furnishings
Pedestrian	6'	• Path of pedestrian travel clear of obstructions
Flex*	Width varies as any remaining space in the sidewalk would be dedicated to this zone.	• Trees and landscaping • Outdoor cafes, seating, and retail displays • Streetscape furnishings • Public utilities
Safety	2'	• Outer perimeter of sidewalk delineated by unique pattern not used in any other zone • Clear of obstructions that impede field of view
Identifier †	15' Radius	• Public art • Surface material mosaics • Cultural representation of community, each being unique
Branding †	11'	• Wayfinding • Corridor specific amenities • City branding • Gateway

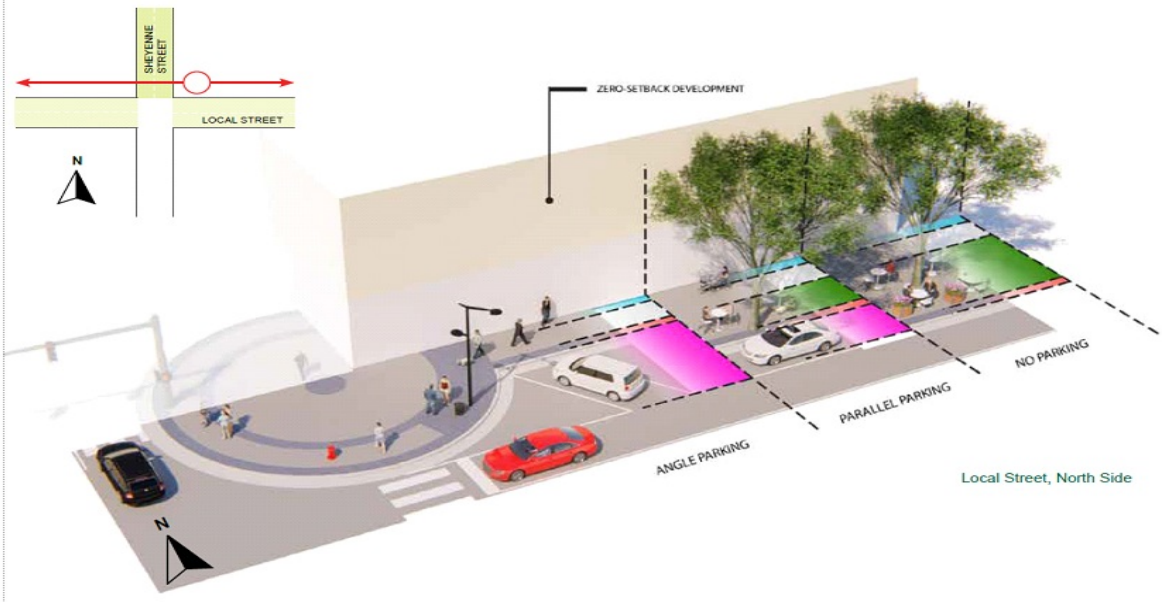
* Zone may not be used in all scenarios
† Zone is only in Sheyenne Street bulb-outs



Midblock Crossing Scenario


SHEYENNE STREET
LOCAL STREET
N
ZERO-SETBACK DEVELOPMENT
PARALLEL PARKING
ANGLED PARKING
ide + 10' ft.
Sheyenne Street, West Side
N

SHEYENNE STREET
LOCAL STREET
N
ZERO-SETBACK DEVELOPMENT
NO PARKING
PARALLEL PARKING
Local Street, South Side


SHEYENNE STREET
LOCAL STREET
N
ZERO-SETBACK DEVELOPMENT
NO PARKING
PARALLEL PARKING
ANGLE PARKING
Local Street, North Side
N

4-435. "EMU" ENTERTAINMENT MIXED USE DISTRICT.

Source: Ord. 1148, Sec. 4 (2020)

4-435.1. Statement of Intent. The intent of the EMU District is to provide elements which promote the principles of good planning and design as outlined in West Fargo 2.0. The elements are walkability, connectivity, mixed-use, scale, intensity and hidden parking.

New development, redevelopment, or the reuse of existing land and buildings should be encouraged to better meet the local goal of achieving more walkable and bikeable corridors and a better connected village core. New development and redevelopment within this district should be in mixed-use buildings which will create and/or contribute to the overall vibrancy of a district that supports entertainment and employment activity twenty-four hours a day and seven days a week. Nuisance issues typically considered to be a disruption to a private resident in a strictly residential or office district may be less of a concern in favor of options which promote activity and entertainment to the general public at the discretion of the City Commission in consideration of laws which govern such matters.

The Entertainment Mixed Use District should have adequate measures of separation or buffering from traditional residential or other low intensity neighborhoods to ensure compatibility of intensity is protected for both the district and its neighbors.

4-435.2. Uses. All uses are permitted in the EMU District except the following uses, as defined in Section 4-200, as they are not considered consistent with the intent of the district due to the inability to provide compatibility with the variety of traditional uses found within the district:

1. Adult Entertainment Center

2. Behavioral Health Care Facility

3. Heavy Industrial Uses

4-435.3. Site Design Standards.

1. Building Orientation

   A. All portions of building which front along a public or approved private street shall be oriented to provide for an inviting entrance or public view.

   B. A zero foot setback is required along public or approved private streets.

i. Deviation from the zero foot setback may be allowed in instances where additional useable space is proposed such as dining areas, public art installation or plaza space, driving aisles, or other such uses.

ii. Any deviation proposed will require approval by the City Commission upon recommendation of the Director of Planning and Zoning.

iii. Deviation also may be required in instances where adequate right of way does not provide for the design requirements for mobility or on-street parking needs as determined by the City Commission at the recommendation of the City Engineer and Director of Planning and Zoning.

4-435.4. LOT DESIGN STANDARDS.

1. <u>Parking Areas</u>

A. Parking lots are required to be designed to share acces access with adjoining properties to avoid unnecessary additional access and open space which is difficult to maintain or provides no benefit to the district.

B. Maximum parking allowed for a use may not exceed the parking minimum requirements found within Section 4-450: Off Street Parking and Loading Regulations.

C. Parking lots are required to be hidden with first priority to be placed out of sight of a public or approved private street.

D. On-street parking is encouraged where possible and is to be designed at the discretion of the City Engineer and Director of Planning and Zoning and approved by the City Commission.

E. Where parking lots front a public or approved private street, a minimum 5 foot decorative buffer is required to include pedestrian friendly areas that also include plantings which hide the parking area such as shown in the exhibit below.

2. Building Construction.

   A. A minimum of seventy percent of all ground floor façade which fronts a public or approved private street is required to consist of windows or glass doors.

   B. The remaining ground floor façade is required to consist of durable materials.

   C. Residential lap-siding and corrugated metals or fiberglass siding are not allowed. Architectural panels of varying materials may be deemed acceptable upon review by the Planning and Zoning Commission and City Commission provided they are deemed to fit within the character of the district.

3. Signage.

   A. Where a building is meeting the required zero front setback line, an encroachment of a wall sign or protruding wall sign at the ground level floor with a safe clearance may occur with appropriate approval of an encroachment agreement with the City as approved by the City Commission.

   B. Off-premise signage within the district is allowed as a conditional use following the provisions set forth in Section 4-550 of City Ordinances. Signage within the district should take into account the characteristics of its surrounding area and the intent and context of a vibrant entertainment environment. The Commission should consider such items as size, intensity of light or color, and motion to avoid nuisance factors to the public and neighboring uses.

4-440. SUPPLEMENTARY DISTRICT REGULATIONS.

Subsections:

4-441. General Fencing and Screening Requirements.
4-442. Accessory Building and Use Provisions.
4-443.
4-444. Erection of More Than One Principal Structure on a Lot.
4-445. Structures to Have Access.
4-446. Currently Licensed Motorized Vehicle and Equipment Parking in Residential District.
4-447. Parking and/or Storage of Certain Vehicles and Materials.
4-448. Provisions of Home Occupations.
4-449. Wireless Telecommunications.
4-449-A. Landscaping Standard.
4-449-B. Wind Energy Systems Standards. (Source: Ord, 916, Sec. 69 (2012))

4-441. GENERAL FENCING AND SCREENING REQUIREMENTS.

1. DEFINITION OF FENCE. An artificially constructed structure of any material or combination of material erected to enclose or screen areas of land.

2. GENERAL FENCING AND SCREENING REQUIREMENTS FOR RESIDENTIAL AREAS. In any residential district, fences, hedges, and plantings may be permitted in the buildable area and in any required yard, or along the edge of any yard, provided that no fence or hedge along the sides or front edge of any required front yard shall be over two and one-half (2½) feet in height, except on through lots or double frontage lots where one of the front yards is intended to serve as the rear yard and is consistent with the other lots on the block, a fence or hedge may be up to six (6) feet in height. All fencing and screening shall meet visibility requirements for intersections by not impeding vision between a height of two and one-half (2½) feet and ten (10) feet within thirty (30) feet from the intersecting curb lines, or within twenty (20) feet from the intersecting property lines if there is no curb. Coordinated fencing schemes for the block are strongly encouraged, and if possible developed during the subdivision process. No fence or hedge within any buildable area or along any side or rear lot line shall be over six (6) feet in height.

   Open fences such as a split rail or chain link without slats, which permit direct vision through at least 50% of the fence surface area shall be allowed a height of four (4) feet along the sides or front edge of any front yard.

Source: Ord. 916, Sec. 42 (2012)

2. REQUIRED FENCING AND SCREENING. Where any business, industrial users, or multiple-family buildings of four (4) or more units (i.e., structure, parking or storage) abuts property zoned for residential use, that business, industry, or multiple-family building shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, industry, or multiple-family building of four (4) or more units is across the street from a residential zone, but not on that side of a business, industry, or multiple-family building considered to be the front yard. Provided, however, that the provisions of this section will not apply where a multiple-family building abuts a property also zoned for multiple-family use. All fencing and screening specifically required by this section shall meet visibility requirements for intersections and other requirements as stated herein, and shall consist of either a fence or green belt planting strip. A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a solid screening effect six (6) feet in height for multiple-family uses and at least six (6) feet in height for business and industrial uses. A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide substantial visual screening to a minimum height of six (6) feet. Earth mounding and berms may be used but shall not be used to achieve more than three (3) feet of the required screen, unless otherwise provided for by the City (i.e., PUD requirements).

4. CONSTRUCTION STANDARDS. No fence, hedge, or plantings shall be constructed or maintained with electrified barbed wire, or other spiked materials which may pose injurious to public health and safety. Posts and other supporting structures used in the construction of fences shall be faced inward toward the property being fenced.

5. PRIVATE RECREATIONAL FENCES. Private recreational fences shall conform to the provisions attached to residential fences. Swimming pool fences shall be six (6) feet in height.

6. PUBLIC FENCES. Fences used in connection with public facilities and public recreational uses shall have a maximum height of ten (10) feet in any yard and be of the open fence variety. Residential construction standards shall apply to all public fences.

7. NON-RESIDENTIAL FENCES. Fences in light commercial areas shall conform to the provisions of residential fences. Fences in industrial or agricultural districts shall conform to the provisions attached to residential fences

except where the Building Administrator determines it would be in the public welfare to add to fence height or to add security materials onto the fence. In such cases, fences shall not exceed ten (10) feet in height.

8. TEMPORARY FENCES. Temporary fences needed to enclose sites, such as construction sites, do not require fencing permits.

SOURCE: Ord. 530, Sec. 6 (1997).

4-441.1. BUILDING CONSTRUCTION STANDARDS. Principal and accessory buildings constructed within the planning and jurisdictional limits of the City shall be according to the following standards:

1. No visible galvanized or unfinished steel, galvalum or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as corten steel, nor any corrugated materials shall be permitted in any zoning district, except in association with farming activities, or if located in an industrial zone not identified within Corridor Overlay, Interstate Corridor Overlay, or Redevelopment Corridor Overlay districts and approved for use by the Planning and Zoning Commission.

2. Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to insure that they will not adversely impact the property values of the abutting properties or adversely impact the public health, safety, and general welfare.

3. Exterior building finishes shall consist of materials comparable in grade and quality to the following:

   a. Brick.

   b. Natural Stone.

   c. Decorative concrete block, except for single and two-family residential uses.

   d. Cast in place concrete or precast concrete panels, except for single and two-family residential uses.

   e. Wood, provided the surfaces are finished for exterior use and wood of proven exterior durability is used, such as cedar, redwood, cypress.

   f. Curtain wall panels of steel, fiberglass and aluminum (nonstructural, no-load bearing), provided

such panels are factory fabricated and finished with a durable nonfade surface and their fasteners are of a corrosion resistant design, except for single and two-family residential uses.

g. Glass curtain wall panels, except for single and two-family residential uses.

h. Stucco.

i. Horizontal vinyl and steel.

j. Other materials as approved by the City Commission and maintained by the City Building Official.

Source: Ord. 675, Sec. 2 (2003); Ord. 916, Sec. 43 (2012).

4-442. ACCESSORY BUILDING AND USE PROVISIONS. Accessory buildings and uses, except as otherwise permitted in this Ordinance, shall be subject to the following regulations:

1. An accessory building or use which is structurally attached to a main building, shall be subject to, and must conform to, all regulations of this Ordinance applicable to the main building.

2. No detached accessory building or use in any residential district shall exceed one story or 15 feet in height.

3. No detached accessory building or use shall be erected in any required yard, except a rear yard, nor shall it be located closer than three (3) feet to any side or rear lot line, subject to the following exceptions:

   a. Where the rear lot line is coterminous with any alley right-of-way, the accessory building or use shall not be closer than one (1) foot to such a rear lot line except when a garage is entered from an alley at right angles, it shall not be nearer than ten (10) feet to the rear lot line.

   b. On corner lots, an accessory building or use, including driveways on the street side, shall maintain the same side yard setback required for the main building, except for garages accessing a public street, which shall maintain a setback of 18 feet for lots of 50 feet or less and 20 feet for lots greater in width than 50 feet.

   c. In no instance shall an accessory building or use be located within a dedicated easement right-of-way.

d. On through lots or double frontage lots where one of the front yards is intended to serve as the rear yard and is consistent with the other lots on the block, detached accessory buildings may be erected within twelve (12) feet of the intended real lot line and three (3) feet of the side lot line.

e. Accessory buildings for townhouses may be constructed up to the interior lot line following the principal building scheme.

4. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced.

5. No accessory building in a residential district shall exceed 1,000 square feet, except in the Rural Residential District where accessory buildings up to 1,600 square feet are allowed. Accessory buildings greater than 1,000 square feet in the Rural Estate District and 1,600 square feet in the Rural Residential District are allowed as a conditional use.

6. All swimming pools as defined by this ordinance shall be regulated as follows:

a. All swimming pools shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure, or any combination thereof (collectively "barrier") of sufficient density as to curtail access. All barriers must be at least six feet (6') in height. Fences shall be of a noncorrosive material and shall be constructed so as to be not easily climbable. All barrier openings or points of entry into the pool enclosure shall be equipped with gates or doors. All gates or doors to swimming pools shall be equipped with self-closing and self-latching devices placed at a sufficient height so as to be inaccessible to all small children. All barrier supports shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection. The opening between the bottom of the barrier and the ground or other surfaces shall not be more than four inches (4").

Source: Ord. 501, Sec. 11 (1996); Ord. 916, Sec. 44, (2012); Ord. 1137, Sec. 3 (2019)

4-443.

A. Exceptions to Yard and Height Requirements.

Yard Encroachments: Every part of a yard or court shall be open and unobstructed by any building or structure, from its lowest point upward, except as follows:

(1) Accessory structures, as governed by Section 4-442 are permitted in rear yards.

(2) Awnings, balconies, sills, cornices, buttresses, and eaves may project not more than five (5) feet over or half the distance of the required side yard, whichever is less.

(3) Walks, steps for negotiating ground slopes, retaining walls, hedges and natural growth, fences, paved terraces and paved areas.

(4) Structures used ornamentally or for gardening or for private recreation purposes, and structures for essential services, all accessory to and customarily incidental to the principal use, are permitted in yards and courts, provided that a side yard strip three (3) feet in width adjoining the side line of the lot shall be unobstructed by any structure or feature, except a fence or retaining wall.

(5) Uncovered porches, uncovered steps to building entrances, uncovered patio decks and uncovered balconies may extend up to ten (10) feet into any required front or rear yard and up to three (3) feet into any required side yard.

(6) Open work fire balconies, fire escapes, and fire escape windows may extend not more than three (3) feet into a required yard or court, except that a minimum setback of three feet (3') to any side lot line must be maintained.

(7) Chimneys and flues may extend not more than two (2) feet into a required yard or court.

Source: Ord. 1049, Sec. 28 (2015)

B. Exceptions to Height Regulations: The height limitations contained in the district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, solar energy collectors and equipment used for the mounting or operation of such

collectors, or other appurtenances usually required to be placed above roof level and not intended for human occupancy. Although exempted from structural height limitations, these structures should not significantly impair solar access of buildings or solar collector locations.

C. Exception to Front Yard Depth Standard: In areas previously approved as Planned Unit Development Districts and currently governed by R-1A through R-3 zoning district regulations, a special front yard depth may be established in accordance with the following standards:

(1) Where the majority of lots on the same side of the street between two intersecting streets are developed with buildings, and (a) these buildings are set back from the front yard line less than is required under current zoning ordinances, or (b) there is an existing driveway which establishes a clear intention that an addition or garage to the existing building was intended to be constructed with less than the currently required front yard setback, then the Building Inspector may waive the required front yard depth and substitute a special front yard depth which keeps with the existing and prevailing pattern of lot development. Under no circumstances shall this special front yard depth be less than 20'. Those developments which have gained substandard front yard depths through the granting of Zoning Ordinance variances shall not be used in determining the prevailing front yard setback pattern along any specified block.

4-444. ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT. In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Ordinance shall be met for each structure as though it were on an individual lot.

4-445. STRUCTURES TO HAVE ACCESS. Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

4-446. CURRENTLY LICENSED MOTORIZED VEHICLE AND EQUIPMENT PARKING IN RESIDENTIAL DISTRICTS.

A. Purpose: To prohibit the parking or storage of certain vehicles and equipment and prevent the extended storage of those vehicles and equipment which (due to general factors of nuisance) affects the well functioning and

character of a residential neighborhood and the community.

B. For the purposes of this ordinance, the following definitions apply:

1. Currently Licensed Motorized vehicle or Equipment. Any motorized vehicle or equipment which is licensed and operable for the current year in which it is inspected by the City. This includes passenger vehicles with a cargo capacity rating of one ton or less and recreational equipment.

2. Improved Parking Surface. Shall consist of a durable surface to include concrete or bituminous, or gravel only where the existing driveway has not been improved to concrete or asphalt. Grass or dirt shall not constitute a durable surface.

3. Residential Districts. Shall include the zoning districts specified as R-1E, R-L1A, R-lA; R-1B; R-1; R-1S; R-1SM; R-2; R-3; and R-5.

4. Summer Parking/Storage. Shall include the period between April 15th to October 15th.

5. Winter Parking/Storage - Shall include the period between October 15th to April 15th.

C. Currently licensed vehicle or equipment parking on residential lots may be parked in the following-described areas:

1. Garage/Carport. Parking or storage may occur entirely within a garage or carport.

2. Required Rear Yard. Parking or storage may occur on an improved parking surface within the required rear yard provided that a 3' setback be maintained for rear or side lot lines. This requirement may be waived where written agreement authorizing this waiver is made between the subject property and those neighbors whose property physically touch the subject property. This agreement shall thereupon be presented to the City Planner for recording. The 3' setback requirement may also be waived should a 6' privacy fence or equivalent landscaped screened area exist between vehicle/equipment parking and the lot line.

3. Required Side Yard. Parking or storage may occur on an improved parking surface within the required side yard provided that a 12-foot setback is

maintained on the street side of a corner lot and a 3-foot setback is maintained from the side lot line on interior lot lines. This requirement may be waived along interior lot lines where written agreement authorizing this waiver is made between abutting neighbors to either side of the subject property and thereupon presented to the City Planner for recording. This requirement may also be waived should a 6' privacy fence or equivalent landscaped screened area exist between vehicle/equipment parking and the required side yard lot line.

Vehicles or equipment over 25' in length shall be parked behind the nearest portion of a building to the street unless written authorization is given by the neighbors in accordance with the process as described above. Should this authorization be given and recorded, these vehicles and equipment may extend no more than 25' past the nearest portion of a building to a street and be parked on an improved parking surface. However, under no circumstance shall vehicle or equipment parking occur within 3' of the sidewalk or, where no sidewalk exists, 1' from the front lot line. For vehicles and equipment over 25’ in length, summer parking/storage shall occur for a time not to exceed a total of 11 days in any 14 day period. Winter parking for these vehicles and equipment shall occur for a time not to exceed 72 hours in any seven (7) day period.

4. Required Front Yard. Currently licensed vehicles and equipment 25' or under in length may be parked during any period on an improved parking surface. For vehicles and equipment over 25' in length, summer parking/storage shall occur on an improved parking surface for a time not to exceed a total of 11 days in any fourteen (14) day period. For vehicle and equipment over 25' in length, winter parking/storage shall occur on an improved parking surface and for a time not to exceed 72 hours in any seven (7) day period. All vehicles and equipment shall maintain a 3' setback from the sidewalk or, where no sidewalk exists, a 1' setback from the front property line. Under no circumstances shall vehicle or equipment parking block the public right-of-way.

5. No such vehicle or equipment shall be used for living, sleeping or housekeeping purposes when

parked or stored on a residential lot, or in any location not approved for such use.

SOURCE: Ord. 458, Sec. 15 (2005); Ord. 916, Sec. 45 (2012)

4-447. PARKING AND/OR STORAGE OF CERTAIN VEHICLES, EQUIPMENT AND MATERIALS.

1. Commercial and Industrial Districts. Outside storage of equipment, materials and inventory as part of a principal commercial or industrial use shall be subject to the district use provisions. All outside storage shall conform to the following provisions:

   a. The area occupied is not within a required front or required street side yard, except for vehicle and equipment sales display areas.

   b. Unless otherwise approved as a conditional use, the storage area with all equipment, materials, and inventory is completely screened from the motoring public by fence or landscaping as provided for in Section 4-449.A.

   c. Display and storage areas generally shall be improved to allow for good drainage, dust control and provide for neat appearance. Grassed areas may be utilized if there is good drainage, dust can be controlled and the grassed surface can be maintained for neat appearance.

   d. The storage area does not encroach upon required parking space, required loading space, or snow storage area for the use.

   e. Storage boxes, crates or other units utilized for the purpose of storage and protecting materials from the weather are considered outdoor storage. Such units are allowed in Commercial areas, except within the "CO" District or Corridor Overlay District, provided they do not exceed six (6) feet in height, are located in a side or rear yard, and are fully screened from view from any public street according to the screening provisions found in Section 4-441.3. In industrial areas, these storage units are not limited by height; however, must be located in a side or rear yard and be fully screened from any public street.

   f. All new commercial and industrial uses shall comply with the above procedures and standards. For the purposes of public health, safety and aesthetic

appeal to the community, any outside storage existing upon the effective date of this Section, shall be brought into compliance within twelve (12) months of written notification by certified mail to the property owner.

Source: Ord. 748, Sec. 16 (2005); Ord. 1049, Sec. 29 (2015); Ord. 1137, Sec. 4, (2019)

4-448. PROVISIONS OF HOME OCCUPATIONS. Home occupations, as defined by this Ordinance, shall be subject to the following standards:

1. No person other than members of the family residing on the premises shall be engaged in such occupations.

2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the main floor area of the dwelling unit shall be permanently set aside to be used in the conduct of the home occupation.

3. There shall be no change to the outside appearance of the premises that would reflect the presence of a home occupation other than one sign, not to exceed one square foot, non-illuminated, and mounted flat against the wall of the principal building.

4. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance detectable to the normal senses off the lot or in a neighboring dwelling unit. In the case of electrical interference, no equipment shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

5. For uses within the dwelling unit, the entrance to the space devoted to such occupation shall be within the dwelling unit, or designed such that it is not noticeable from the public street.

6. All parking associated with the principal use and the home occupation shall be accommodated on site. Parking spaces exceeding the required spaces for the principal use shall be included within the lot coverage for the property. The lot coverage for the property cannot exceed that allowed by the district in which the use is located.

7. The home occupation must be conducted entirely within a building.

8. There shall be no exterior storage of equipment or materials used in the occupation.

9. Certain types of uses are not viewed as customary home occupations and are therefore prohibited within residential zoning districts. Such prohibited uses include the following:

   a. Vehicle and large equipment repair, including any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chainsaws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to automobiles and their parts. Such uses may be considered as a conditional use in the Rural Residential District.

   b. Dispatch centers where employees come to the site to be dispatched to other locations.

   c. Mortuaries.

   d. Animal care or boarding facilities including kennels, stables and all other types of animal boarding and care facilities. Such uses may be considered as a conditional use within the Rural Estate and Rural Residential District.

10. As a conditional use, the City may consider a home occupation use adding one nonresident employee, or may consider uses which have customers coming to the site. Any home occupation in existence prior to the adoption of this ordinance which would require a conditional use permit to operate, shall be required to obtain a conditional use permit once the City has received a complaint. The City may place any conditions on the home occupation as deemed necessary to insure that it will not be a detriment to the character and livability of the surrounding neighborhood.

11. Any home occupation in existence prior to the adoption of this ordinance which would not be allowed by this ordinance must either comply with the provisions of this ordinance or cease to operate on the premises within a period of twenty-four (24) months of written notification by certified mail.

Source: Ord. 748, Sec. 17 (2005)

4-449. WIRELESS TELECOMMUNICATIONS.

1. Purpose. In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, these regulations are necessary to facilitate provision of wireless telecommunications services to the residents and businesses of the City, minimize adverse visual effects of towers through careful design and siting standards, avoid potential damage to adjacent properties from structural failure through structural standards and setback requirements, and maximize the use of existing and approved structures and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

2. Definition.

   a. ANTENNA. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

   b. COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES. Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

   c. TOWER. Any ground or roof-mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

3. Towers in Residential and Other Zoning Districts.

   a. Towers supporting amateur radio antennas and conforming to all applicable provisions of this ordinance are allowed only in the rear yard of residentially zoned property.

   b. Towers supporting commercial antennas and conforming to all applicable provisions of this

ordinance are allowed only upon the following residential zoned property:

(1) Tower sites, subject to review and approval by the City Commission.

(2) Church sites, when camouflaged as steeples, bell towers, or other architecturally compatible structures; subject to review and approval as conditional uses.

(3) Park sites, when compatible with the nature or the park and subject to review and approval as conditional uses.

(4) Government, school, and utility sites, subject to review and approval as conditional uses.

c. Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed within the Agricultural, Light Commercial,, and Heavy Commercial/Light Industrial Districts, subject to review and approval as conditional uses.

d. Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed within the Heavy Industrial District as a permitted use, provided the property does not abut an Agricultural, Light Commercial, or any Residential District. Otherwise, these towers would be considered conditional uses.

4. Co-Location Requirement. All commercial wireless telecommunication towers erected, constructed, or located within the City must comply with the following requirements:

a. A proposal for a new commercial wireless telecommunications tower must not be approved unless the applicant proves that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a reasonable search radius of the proposed tower due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified professional engineer, and the

existing or approved tower cannot be reinforced or modified to accommodate planned or equivalent equipment at a reasonable cost.

(2) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified professional engineer and the interference cannot be prevented as a reasonable cost.

(3) Existing or approved towers and building within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified professional engineer.

(4) Other unforseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

b. Any proposed commercial telecommunications tower must be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least one additional user.

5. Tower Construction Requirements. All towers erected or constructed must be designed by a registered engineer.

6. Tower and Antenna Design Requirements. Proposed or modified towers and antennas must meet the following design requirements:

a. Towers and antennas must be designed to blend into the surrounding environment through the use of color, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.

b. Commercial wireless telecommunication towers must be a monopole design unless the City Commission determines that an alternative design would better blend into the surrounding environment or the applicant provides evidence to the City that an alternative design is necessary to successfully engage in commercial telecommunication services.

7. Tower Setbacks. Towers must conform with each of the following minimum setback requirements:

a. Towers must meet the setbacks of the underlying zoning district and may not encroach upon any easement.

b. Towers must be set back from the public right-of-way a minimum distance equal to one half of the height of the tower including all antennas and attachments.

c. Towers may not be located between a principal structure and a public street within a front or side yard, with the following exceptions:

(1) In Industrial Zoning Districts, towers may be placed within a side yard abutting a public street, provided that the street is not along the perimeter of the district.

(2) On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street.

d. A tower's setback may be reduced or its location in relation to a public street adjusted, at the sole discretion of the City Commission, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure or if the applicant provides evidence that a setback reduction is necessary to successfully engage in commercial telecommunication services.

8. Tower Height. All proposed towers must meet the following height limitations:

a. The height of towers will be determined by measuring the vertical distance from the tower's center point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure and the tower must meet the height restrictions.

b. Towers must conform to the following height restrictions:

(1) In all residential zoning districts, the maximum height of any tower, including antennas and other attachments, will be the

maximum height restriction for primary structures within that zoning district, unless otherwise provided for in Section 4-449.3(b).

(2) In all non-residential zoning districts, the maximum height of any tower, including all antennas and other attachments, must not exceed one foot for each two feet the tower is set back from a residential zoning district or a maximum height of 150 feet, whichever is less, unless the applicant provides evidence to the City that the proposed tower height is technically necessary to successfully engage in commercial telecommunication services.

(3) All towers must meet these maximum height restrictions of this section, unless located upon public buildings and utility structures, church sanctuaries, steeples and bell towers.

9. Tower Lighting. Towers must not be illuminated by artificial means and not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

10. Signs and Advertising. The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

11. Screening. All towers and structures accessory to the tower must be screened in accordance with Section 4-449.A of this ordinance.

Source: Ord. 1049, Sec. 30 (2015)

12. Abandoned or Unused Towers or Portions of Towers. All abandoned or unused towers and associated facilities must be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the City Commission. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the City and the costs of removal assessed against the property.

13. Antennas Mounted on Roofs, Walls, and Existing Towers. The placement of commercial wireless telecommunication antennas on roofs, walls, and existing towers may be

approved by resolution of the City Commission without a public hearing, provided the antennas meet the requirements of this ordinance. Requests under this section must be accompanied by a final site plan and building plan and a report prepared by a qualified professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method for affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment must be indicated. Completed information shall be provided to the City, which will then be placed on the City Commission agenda. Applicants will be informed of incomplete applications within thirty (30) days. The City Commission may require additional information when considering an application.

Private wireless telecommunications antennas, such as satellite dishes and other similar antennas, are permitted accessory uses in all residential districts to a maximum height of 15 feet and may not be located in a required front or side yard setback; except for private wireless telecommunications antennas less than 30 inches in diameter which may be located within a required front or side yard setback if mounted upon a residential structure.

Source: Ord, 916, Sec. 47 (2012)

14. Interference with Public Safety Telecommunications. No new or existing telecommunications service may interfere with public safety telecommunications. Before the introduction of new service or changes in frequencies or maximum signal output, telecommunication providers must notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

15. Towers and Antennas Upon Public Right-of-Way and Public Property. With the exception of the necessary electric and telephone service and connection lines approved by the City, no part of any antenna or tower nor any lines, cable, equipment, or wires or braces in connection with either may at any time extend across or over any part of the public right-of-way, public street, highway, sidewalk, or property line without a lease approved by the City of West Fargo in accordance with the City's "Policy Statement Regarding Wireless Telecommunication Antennas and Towers."

16. Additional Submittal Requirements.

a. In addition to the information required elsewhere in this ordinance, development applications for towers must include the following supplemental information:

(1) Descriptions of the tower height and design, including a cross-section and elevation.

(2) Documentation of the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas.

(3) Descriptions of the tower's capacity, including the number and type of antennas that can be accommodated.

(4) Documentation regarding what steps the applicant will take to avoid interference with established public safety telecommunications.

(5) Other information necessary to evaluate the request.

b. For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successor to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use.

c. Before the issuance of a conditional use permit, the following supplemental information must be submitted:

(1) Proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and

(2) A report from a qualified professional engineer with demonstrates the tower's compliance with the aforementioned structural and electrical standards.

Source: Ord. 530, Sec. 7 (1997).

4-449-A. LANDSCAPING STANDARD.

1. Purpose: The preservation of existing trees and vegetation, as well as the planting of new trees and vegetation, can significantly add to the quality of the

physical environment of the community. The regulations outlined herein are designed to provide for the health, safety and welfare of the residents of the City of West Fargo. Landscaping Plan can provide the following benefits to the community:

a. Help reduce the cities impact on the environment.

b. Enhances green space within the city.

c. Helps provide shade and wind breaks to reduce extreme weather.

d. Reduces the hazards of flooding and aid in the control of erosion and storm water runoff. Trees can help in the stabilization of soil and replenish groundwater supplies.

e. Provides buffers and screens against noise, air pollution, and unsightly and incompatible land uses.

f. Absorb carbon dioxide and supply oxygen in our atmosphere, which is an essential ecological function in the preservation of human and animal life. Trees can provide a haven for birds which, in turn, assist in the control of insects.

g. Help aid in energy conservation.

2. Definitions: The following definitions are intended to provide a common interpretation of terms in order to avoid confusion and insure that the Standards are utilized in a uniform manner.

AESTHETICALLY PLEASING: in a pleasing manner or beautiful, indicated when someone does not necessarily have an interest or bias towards something but can still accept that it is still acceptable to look at.

APPROVED PLANT LIST: A list of plants that is approved by the City Forester and the City of West Fargo to plant within the city limits.

BACKFILL: Soil that is returned to a planting hole after a plant’s roots have been positioned.

BERMS: Graded mounds of earth used to create a screen, buffer or a landscape design element.

BIOSWALE: Are landscape elements designed to remove silt and pollution from surface runoff water. They consist of a swale drainage course with gently sloped sides (less than six percent) and filled with vegetation, compost and/or riprap. Water flows throw this path, along with the wide and shallow ditch, while doing so the bioswale is designed to maximize the time water spends in the swale, which aids the trapping and filtering of pollutants and silt.

BUFFER YARD: Landscaping that is used to obstruct the view of an adjacent property.

BOULEVARD: An area located in front of a property facing a city street or public right of way.

CALIPER: A way of measurement for trees around the trunk of the tree, in other words by, measuring the outer circumference or perimeter of a tree trunk.

CITY FORESTER: Forester an employee of the city and is responsible for the promotion of the health and sustainability of the urban forest within the municipal limits of the City of West Fargo and providing public education as to the benefits and best use of the urban forest and the maintenance or such forest.

DECIDUOUS SHADE TREE: A tree that sheds all its leaves every year at a certain season.

DECORATIVE BLOCK: Generally refers to non-standard, masonry, building block. The face of the block is typically textured and contains a non-standard finish or shape.

DRIPLINE: is the area directly located under the outer circumference of the tree’s branches.

DROUGHT-TOLERANT PLANT: A plant that can survive with minimum supplemental water.

EVERGREEN TREE: A tree, either broad leaf or conifer, which maintains at least a portion of its leaves or needles throughout the year.

FIFTEEN (15) GALLON TREE: Tree measuring a minimum of six (6) feet in height, four (4) feet in spread and one and one-quarter (1 1/4) inch trunk caliper measured at six (6) inches above the soil line.

FINISHED ELEVATION: The elevation/grade which re-establishes the finished grade after all site improvements are completed.

GARDEN PLANTS: The practice of growing plants. Ornamental plants are normally rown for their overall appearance such as flowers, or plants that are grown for consumption (such as but not limited to: vegetables, fruits, herbs, and leaf vegetables) or for medicinal use, which eventually die after one growing season.

GROUND COVER: Plants grown for their low spreading capabilities for the protection of soils, to prevent growth of weeds and for aesthetic purposes.

HATRACKING: is a type of pruning where most of the canopy is removed from a tree, leaving mostly branch stubs. Hatracking initiates decay in the trunk and main branches and attracts wood boring insects. Never top a tree or allow anyone to top one of your trees. Hatracking is equivalent to butchering a tree.

HARDSCAPE: Elements of the landscape constructed from non-living materials such as concrete, boulders, brick, blacktop and lumber.

IRRIGATION SYSTEM: The combination of elements such as automatic controllers, meter, pressure vacuum breakers, pipes, valves, emitters, bubblers, spray heads, tubing and other materials designed for the purpose of transporting water to landscaping.

LANDSCAPING: The combination of elements such as trees, shrubs, ground covers, vines, and other organic material that are for the express purpose of creating an attractive and pleasing environment. Plazas, patios, art, and decorative courtyards may also be considered landscape elements.

MEANDERING SIDEWALK: A sidewalk with windings or turns in a circuitous pattern.

NATIVE PLANTS: Plants that are naturally meant to be in this area.

NON-POROUS MATERIALS: A material that does not allow the movement of water and air to pass through it.

OVERHEAD SPRAY HEADS: An irrigation method that delivers water to the landscape in a spray or stream-like manner from above-ground spray heads (including pop-ups, impulse

sprinklers, rotors, micro-misters, etc., but does not include bubblers).

PERENNIAL: A non-woody plant that lasts for more than two growing seasons.

POROUS/PERMEABLE MATERIAL: A material that does allow the movement of water and air to pass through it.

PUBLIC RIGHT OF WAY (ROW): The strip of land over which facilities such as highways, railroads, or power lines are built. The customary or legal right of a person, vessel, or vehicle to pass in front of another.

RIP-RAP: Hardscape materials that provide erosion protection along a drainage way (i.e. large boulders).

ROCK MULCH: A non-soluble protective covering which includes rock, gravel, decomposed granite, or crushed rock applied to the soil surface to reduce weed growth, reduce evaporation of moisture from the soil surface, maintain even temperature around plant roots, and slow erosion.

RUNOFF: Irrigation water that is not absorbed by the soil to which it is applied and which flows onto other areas. Runoff may result from water that is applied at too great a rate (application rate exceeds infiltration rate) or where a severe slope exists.

SOIL: All unconsolidated mineral and organic material of whatever origin that overlies bedrock and can be readily excavated.

SOIL AMENDMENTS: Organic and inorganic material added to soils to improve texture, nutrients, moisture holding capacity, and infiltration rates.

STEM WALL: A wall usually less than two (2) feet in height, used to divert or direct storm water flows within an area specified by the Department of Public Works.

SWALES: A depression in grade to control and direct the flow of surface water.

TOPSOIL: The top layer of native soil that is usually better for plant growth than what is beneath it. The term is also used to describe good soil imported for landscaping.

TURF: Any grassy area maintained by frequent mowing, fertilization and watering used for lawn and playing fields.

TWENTY-FOUR (24) INCH BOX TREES: Trees measuring a minimum of eight (8) feet in height, and six (6) feet in spread with a two (2) inch trunk caliper measured at six (6) inches above the soil line.

XERISCAPING: Xeriscaping is a creative method of landscaping that emphasizes water conservation. This is accomplished by following sound horticultural and landscaping practices, such as planning and design, soil improvements, limited turf areas, use of mulches, use of low water demand plants, efficient irrigation, and appropriate maintenance. When combined, these practices will produce an attractive, efficient, sustainable landscaping arrangement for residential, commercial and industrial situations.

3. General Goals and Objectives for Landscape Standards:

   a. Clearly define spaces, articulate use areas, and unify site elements through use of landscape materials:

      (1) Create a distinction of natural planting areas and implemented landscaping.

      (2) Use consistent site features such as signs and benches.

   b. Provide clear wayfinding as appropriate for facilities and properties:

      (1) Create a strong entry.

      (2) Provide clear direction to primary building entries.

      (3) Enhance circulation corridors with trees and plant materials.

   c. Support a safe and clear circulation system(s):

      (1) Provide appropriate sidewalk and roadway width as described in the Site Design Standards.

      (2) Improve visibility, safety, and aesthetics as appropriate for facilities.

d. Use sustainable landscaping practices:

(1) Limit and control erosion throughout site.

(2) Minimize use of non-sustainable fertilizers, herbicides, and pesticides

(3) Use plant material to reduce adverse climatic conditions such as heat, wind, and precipitation.

(4) Guide future development toward sustainable and environmentally sound design through use of native and locally available plant material, reclaimed water irrigation, and other practices.

(5) Feature native plant material.

(6) Reinforce a natural context of the site by simulation a natural type of planting.

(7) Consider xeriscaping approaches where natural, low maintenance plant material would be desired (i.e. exterior fringes of plant site).

4. Applicability: The requirements of this division apply to all development within the City. All street boulevards are required to have boulevard trees unless the City Forester deems otherwise. Single family, twin home and two family residential and industrial properties are not required to meet proposed plant units for each lot, though they are encouraged to do so; however, all multiple family properties, commercial properties and properties within any overlay district are required to adhere to the plant unit chart standards. All properties which require green areas (grassed) or landscaped open space, shall have the appropriate landscaping completed prior to the issuance of a certificate of occupancy. A temporary certificate of occupancy may be issued when weather and/or seasonal conditions do not allow the installation of landscaping with a schedule for completion as may be approved by the City Planner.

Source: Ord. 1049, Sec. 31 (2015)

5. Plant Standards:

A. General Standards:

(1) Acceptable trees include, but are not limited to; those identified as suitable for the

intended use in the "Approved Plant List." Acceptable vegetative ground cover consists of shrubs and ground cover including grass and native prairie grass.

(2) Species of trees shall not be planted if the roots cause damage to public works, the branches are subject to a high incidence of breakage, and the fruit is considered a nuisance or high maintenance, as determined by the City Forester.

(3) All trees shall be planted in good condition. All plant materials to be installed shall be nursery grown and root pruned stock free of insects, disease, and defects.

(4) The developer shall plant, or install, as appropriate grass, tree grates, porous pavers, or similar pervious surfaces, which shall extend to twice the initial drip line of the newly planted tree. Minimum tree grate size shall be five square feet.

B. Approved Plant List: The City shall maintain a Plant List identifying plants compatible with local soils and climatic conditions including salt tolerance, sun and heat exposure, and mean low temperature. All required landscape plants must be selected from the Plant List. Plant material shall be selected that is best suited to withstand the soil and physical growing conditions on the project site. Plant species that are freeze and drought tolerant are preferred. Protection and preservation of native species and natural areas is encouraged.

6. <u>Landscaping Material</u>:

A. Where landscaping and associated landscape plans are required, the landscaping materials shall consist of the following:

(1) Walls and Fences: Walls shall be constructed of natural stone, brick or other appropriate aesthetically pleasing decorative materials. Chain link fencing will be permitted only if covered with plant material or otherwise screened.

a. Retaining: Retaining walls exceeding four (4) feet in height, including stage walls

which cumulatively exceed four (4) feet in height, must be constructed in accordance with plans prepared by a registered engineer or landscape architect of brick, concrete or natural stone. Artificial material may be approved if appropriate. A building permit is required.

Source: Ord. 1049, Sec. 32 (2015)

(2) Earth Berms: Earth berms shall be physical barriers, which block or screen the view similar to a hedge, fence, or wall. Mounds shall be constructed with proper and adequate plant material to prevent erosion. A difference in elevation between areas requiring screening does not constitute an existing earth mound, and shall not be considered as fulfilling any screening requirement.

(3) Plants: All plant materials shall be living plants; artificial plants are prohibited. Plants to be selected from the approved plants list, following this division or as approved by City Forester. Plant materials shall meet the following requirements:

(a) Deciduous Trees: Shall be species having an average crown spread of greater than fifteen (15) feet and having trunk(s) which can be maintained with over five (5) feet of clear wood in areas which have visibility requirements, except at vehicular use area intersections where an eight-foot clear wood requirement will control. Trees having an average mature spread of crown less than fifteen (15) feet may be substituted by grouping of the same so as to create the equivalent of a fifteen-foot crown spread. A minimum of ten (10) feet overall height or minimum caliper (trunk diameter, measured six (6) inches above ground for trees up to four (4) inches caliper) of at least two and one-half (2 ½) inches immediately after planting shall be required. Trees of species whose roots are known to cause damage to public roadways or other public works shall not be placed closer than fifteen (15) feet to such public works,

unless the tree root system is completely contained within a barrier for which the minimum interior containing dimensions shall be five (5) feet square and five (5) feet deep and for which the construction requirements shall be four (4) inches thick, reinforced concrete.

(b) Evergreen Trees: Evergreen trees shall be a minimum of six (6) feet high with a minimum caliper of one and one-half (1 ½) inches when planted.

(c) Shrubs and Hedges: Deciduous shrubs shall be at least two (2) feet in average height when planted, and shall conform to the opacity and other requirements within four (4) years after planting. Evergreen shrubs shall be at least two (2) feet in average height and two (2) feet in diameter.

(d) Vines: Vines shall be at least twelve (12) inches high at planting, and are generally used in conjunction with walls or fences.

(e) Grass or Ground Cover: Grass shall be planted in species normally grown as permanent lawns, and may be sodded, plugged, sprigged, or seeded; except in swales or other areas subject to erosion, where solid sod, erosion reducing net, or suitable mulch shall be used, nurse-grass seed shall be sown for immediate protection until complete coverage otherwise is achieved. Grass sod shall be clean and free of weeds and noxious pests or diseases. Ground cover such as organic material shall be planted in such a manner as to present a finished appearance and seventy-five (75) percent of complete coverage after two (2) complete growing seasons, with a minimum of fifteen (15) inches on center. In certain cases, ground cover also may consist of rocks, pebbles, sand and similar materials if approved by the city.

7. Material Specifications:

A. Minimum Number of Trees Required: A property owner should have a variety of trees on their property. This will allow the trees to be less prone to disease and have a healthy life. It is suggested that as many different tree species be placed on the site as possible but a minimum number of a variety of tree species shall be provided in accordance with the following table:

Number of Trees	**Number of Species**
1 - 3	1
4 - 6	2
7 - 9	3
10 - 12	4
13 - 15	5
16 - 18	6
19 - 21	7
22 - 24	8
25 +	9

B. Plant Units: Residential and industrial districts are encouraged to follow the number of plant units for each lot as described below. All multiple family residential, commercial and overlay Zoning districts must have a minimum number of plant units on each lot. These standard plant units are (4) units for every thousand (1,000) square feet of a lot. Only the plants on the owner's property will be counted towards required total plant units. Garden plants will not count toward the plant units. Below, is the equation of the plant units per square footage and the plant units chart:

(See Chart on Following Page)

$$\frac{\text{(Square Footage of Lot)}}{1000} \times 4 = \text{Plant Units}$$

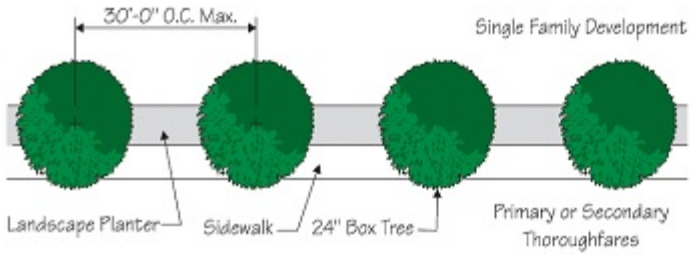
PLANT UNITS CHART		
Large, Mature Deciduous Tree	1.5 to 3-inch - > 30 foot mature height	10
Large, Mature Evergreen Tree	5 to 6 foot height - > 30 foot mature height	10
Small, Mature Deciduous Tree (Max. of 20% of plant units)	1.5 to 3-inch caliper - 12 to 30 foot mature height	7
Small, Mature Evergreen Tree (Max. of 20% of plant units)	3 to 4 foot height - 12 to 30 foot mature height	7
Mature Shrub	2 gallon	5
Perennial Plants	2 gallon	3

C. Onsite Retention: If an area where a wetland, bioswale, rain garden, or native prairie grass is designated for onsite retention, the square footage of that area will be excluded from the total lot area prior to calculation of plant units.

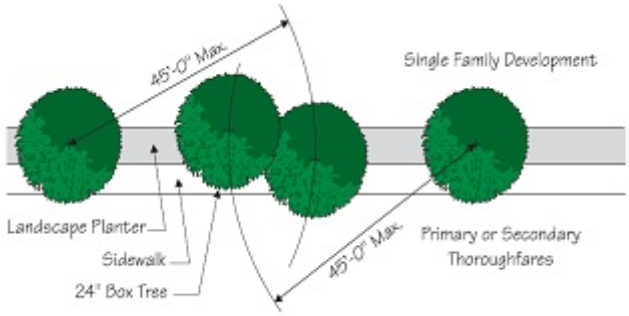
8. Boulevard and Street Vegetation:

A. Tree Layouts: Tree layouts (plans) shall be coordinated with existing corridor planting plans, subdivision street landscape plans, and other established landscape plans to provide the desired effect as determined by this standard and the City Forester. It is required by the City to have at least one (1) tree on all street boulevards every thirty (30) feet, unless the City Forester determines otherwise. Trees shall be planted twelve (12) feet from driveways and alleyways. The spacing shall be at least twenty-five (25) feet from existing trees. On corner lots, the trees shall be planted forty (40) feet from the point of intersection of the curbs. The City Forester or City Planner shall have final approval of the location of the tree and have the right to approve variances from the above requirements where conditions necessitate. Recommended tree layouts are as follows:

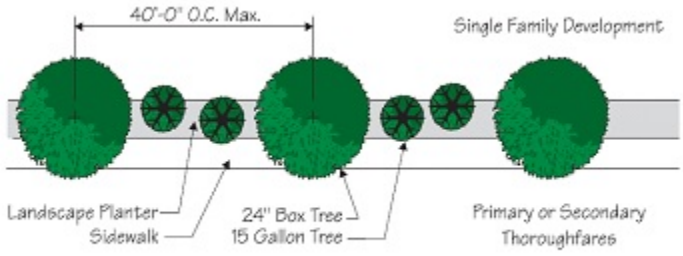
(1) Alternative 1: Spacing of trees shall not exceed thirty (30) feet on center.



(2) Alternative 2: Clustering of trees is allowed if: the total number of trees exceeds the minimum number of trees required by at least one (1) tree; the spacing between any two (2) trees does not exceed forty-five (45) feet; and at least three (3) trees are located within a forty five (45) feet radius.



(3) Alternative 3: The minimum number of trees required is one (1) 24 inch box deciduous or evergreen tree for every forty (40) linear feet of planter plus one (1) extra 24 inch box tree. In addition, two (2) 15 gallon deciduous or evergreen trees shall be required for every forty (40) linear feet of planter, and will be located between the 24 inch box trees. The spacing of the 24 inch box trees shall not exceed forty (40) feet on center. The 15 gallon trees can be either regularly spaced or grouped in between the 24 inch trees.



B. Size Requirements: No tree measuring less than 1 1/4" in diameter of trunk one foot above ground may be planted on the City Boulevard. The lowest branch shall not be over 9 ½ feet from the ground. The Tree must be a single stem trunk and have a straight vertical line.

9. Buffer Yards:

A. Purpose: The purpose of buffer yards is to limit the view and reduce the noise between abutting incompatible uses, and to ease the transition from one zoning district to another. Buffer yards are intended to provide a physical integration of uses, which promote the public health, welfare and safety by:

(1) Preventing visual pollution;

(2) Preventing the overcrowding of land;

(3) Preventing the undue congregation of people and vehicles; and

(4) Promoting the peaceful enjoyment of property within the City of West Fargo.

B. When Required:

(1) A buffer yard shall be required of any lot in any zoning district when the lot in that district abuts a zoning district of lower intensity.

(2) When a public right-of-way separates zones of different intensities, the following criteria shall apply, regardless of whether the zoning line is on one side or the other or the center of the public right-of-way:

(a) If the public right-of-way is an alley, a buffer yard with screening shall be provided.

(b) If the public right-of-way is a local or collector street, a buffer yard with screening shall be provided on any side or rear of the higher intensity use which abuts the right-of-way as per the table below, or according to approved subdivision landscaping plans or corridor

overlay district plans; however the buffer yard shall not be required on the front of the higher intensity use where the front abuts the public right-of-way.

(c) If the public right-of-way is an arterial street or highway, no buffer yard or screening shall be required for the portion of the higher intensity use abutting the public right-of-way.

(3) When single and two-family uses are located on Arterial streets and Interstate 94.

(4) When a site plan is submitted to modify or expand an existing building or site improvements, or accommodate a change in land use, buffer yard and screening requirements shall only be applied to those portions of the site that are directly affected by the proposed improvements, or change in land use, as determined by the City Planner.

C. General Standards:

(1) Buffer yards shall contain vegetative and/or architectural screening that achieves the purpose of the buffer yard, and which meets the requirements for screening, Buffer Yards Screening and Zoning Standards Table, below.

(2) The maximum slope of any buffer yard shall be 2H: 1V where H is the horizontal distance and V is the vertical distance. Additional width shall be added to any portion of any buffer yard which exceeds this slope such that the minimum buffer yard width is met by land less steep than 2H: 1V.

(3) The buffer yard shall be located entirely within the higher intensity zoning district and abutting the zoning district line or adjacent right-of-way if such right-of-way separates the lot from the zoning district line. However, the buffer yard may be placed in the lower intensity zoning district or partially within both zoning districts if both sides of the zoning district line and entire buffer yard width are within common ownership and a permanent easement is provided over any

portion of the buffer yard not within the higher intensity zoning district.

(4) A driveway required to serve the principal structure on the site may exist in the buffer yard. This driveway shall run substantially perpendicular to the buffer yard.

(5) Buffer yards shall be maintained in a natural condition free of structures, loading or storage areas, parking, roads, or driveways except as provided for in (4) above.

(6) Buffer yards required by this standard shall be applied equally to all similarly situated properties. Modifications to these standards may be granted in writing by the City Planner, if the City Planner finds any of the following circumstances exist on the proposed building site, or surrounding properties:

(a) Natural land characteristics such as topography or existing vegetation on the proposed building site would achieve the same intent of this section.

(b) Innovative landscaping or architectural design is employed on the building site to achieve an equivalent screening or buffering effect.

(c) The required screening and landscaping would be ineffective at maturity due to the proposed topography of the site, and or the location of the improvements on the site.

(d) The topography of adjacent and surrounding sites is such as to render required screening ineffective at maturity.

(7) When the acreage of a site is significantly larger than the area proposed for physical improvements or active usage, buffer yards shall be reserved as required by this section. However, to achieve the intent of this section, the City Planner may require an alternative location and design for required screening and plantings.

(8) When property lines abut an adjacent jurisdiction, the City Planner shall determine the specific screening and buffering requirements along that property line after consideration of the zoning designation and or land use of the adjacent property. Requirements shall not exceed those that would be required for similarly situated/zoned property within the City.

(9) Dimensions: Buffer yard dimensions and screening requirements shall be provided as detailed in the table below:

Buffer Yards, Screening, and Zoning Standards Table

BUFFER YARDS	ARCHITECTURAL	VEGETATIVE
A	4' Screen 10' Buffer Yard Small Evergreen Trees Alternated with Deciduous Trees	20' Buffer Yard Small Evergreen Trees, Alternated with Deciduous Trees, and One Row Evergreen or Other Shrubs
B	6' Screen 15' Buffer Yard Small Evergreen Trees Alternated with Deciduous Trees	30' Buffer Yard Small Evergreen Trees, Alternated with Deciduous Trees, and One Row of Evergreen or Other Shrubs
C	6' Screen 25' Buffer Yard Large and Small Evergreens Alternated with Deciduous Trees	50' Buffer Yard Large Evergreen Trees, Alternated with Deciduous Trees, Small Evergreen Trees, and One Row of Evergreen or Other Shrubs
D	8' Screen 30' Buffer Yard Large Deciduous Trees Alternated with Large Evergreen Trees	60' Buffer Yard Large Evergreen Trees, Alternated with Deciduous Trees, Small Evergreen Trees, and One Row of Evergreen or other Shrubs

Abutted Existing District					
Developers or Selected District	R1, R-1A, R-1B, R-1E, R-L1A, R-R	R-2, R-3, R-4, R-5	A	C, C-OP, CM, P	M
R1, R-1A, R-1B, R-1E, R-L1A, R-R	N/A	A	B	C	D
R-2, R-3, R-4, R-5	A	N/A	A	B	C
A	B	A	N/A	A	B
C, C-OP, CM, P	C	B	A	N/A	A
M	D	C	B	A	N/A

Source: Ord. 1049, Sec. 33 (2015)

10. Screening:

A. When Required:

(1) Screening shall be provided within a buffer yard to ease the transition of one land use or activity to another, to achieve the purposes of the buffer yard. Screening may be accomplished through architectural or vegetative materials.

(2) Screening shall be provided, in addition to the requirements listed below, for:

(a) All articles or materials being stored, maintained, repaired, processed, erected, fabricated, dismantled, or salvaged, such that the activity is not visible from surrounding properties or roads.

(b) Refuse storage and loading areas such that these activities are not visible from surrounding properties or roads.

(c) Rooftop and ground level mechanical equipment such that it is not visible from surrounding properties or roads.

(d) All trash dumpsters or containers used for recycling shall be screened on three sides with architectural screening supplemented by plantings. Screening shall be based upon the standards below and subject to the approval of the City Planner:

1) Four-foot tall architectural screening is acceptable when household style trash containers are used in place of dumpsters;

2) The requirement for supplemental plantings may be waived by the City Planner in cases where dumpsters or containers are added to an existing development. In determining whether to grant a waiver, the City Planner shall be guided by these standards: proximity of the facility to residential structures; efficacy of screening to mitigate any adverse effect of the use; and benefit of the screening relative to its cost.

3) When a site plan is submitted to modify or expand an existing building or site improvements, or accommodate a change in land use, screening requirements shall only be applied to those portions of the site that are directly affected by the proposed improvements, or change in land use, as determined by the City Planner.

4) Screening for single family and two-family uses along Arterial streets shall follow type "B" buffer yards. Screening for single family and two-family uses along Interstate 94 shall follow type "D" buffer yards. Screening for multiple family uses along Interstate 94 shall follow type "B" buffer yards.

B. General Standards:

(1) Screening shall be continuous and in place at the time of occupancy. If vehicular or pedestrian access through the screen is necessary, the screening function shall be preserved, and approved by the City Planner.

(2) Requirements: Screening may be architectural or vegetative, per the requirements below:

(a) Visual Impact: Required screening for any visual impact may be achieved with fences, walls, earth berms, hedges or other landscape materials. All walls and fences shall be architecturally harmonious with the principal building. The use of chain link fences equipped with slats is prohibited. Earth berms shall not exceed a slope of 3:1 unless provided with landscaping designed to minimize maintenance. The screen shall be designed to provide effective visual barrier during all seasons.

Source: Ord. 1049, Sec. 34 (2015)

(b) Hight: Architectural screening shall be at least four feet in height, and shall be supplemented with plantings.

(c) Health: Vegetative material shall be alive and in good health.

(d) Small Coniferous Trees: shall be at least 4 feet in height at planting and allowed to grow to at least 6 feet in height. Large evergreen trees shall be at least 6 feet in height at planting and allowed to grow at least 10 feet in height. All required evergreen vegetation shall be maintained in good condition.

(e) Deciduous Trees: shall be at least 1" caliper 10" to 12" in height. They shall be supplemental and not deemed to be adequate screening in themselves.

(f) Plants: Acceptable vegetative plantings include any tree listing in the "Approved Plant List" for screening purposes.

C. Screening design and development shall be compatible with the existing and proposed land use and the development character of the surrounding land and structures.

D. Screening shall be of sufficient density and diversity to achieve the intent of this section. However, at the time of planting, the spacing of trees shall not exceed twelve (12) feet on center, and the planting pattern shall be staggered. Shrubbery shall be more closely spaced. Specific exceptions to this requirement may be granted by the City Planner to encourage quality and creativity of design where the intent of this section is met.

E. Existing vegetation within buffer yards shall be considered as a substitute for otherwise required landscaping or screening, if in the opinion of the City Planner, the type, size, and density of the existing vegetation complies with the standards and intent of this section.

F. When a proposed buffer yard has a variation in elevation of greater than 10 vertical feet at any point, the required screening or landscaping within the yard shall be placed to maximize the effectiveness of the screening or landscaping, as determined by the City Planner.

G. Trees planted to meet any of the screening requirements may also be used to meet any other landscaping requirement within this standard.

H. Screening required by this Section shall be applied equally to all similarly situated properties. Modifications to these standards may be granted in writing by the City Planner if the City Planner finds any of the following circumstances exist on the proposed building site, or surrounding properties:

(1) Natural land characteristics such as topography or existing vegetation on the proposed building site would achieve the same intent of this section.

(2) Innovative landscaping or architectural design is employed on the building site to achieve an equivalent screening or buffering effect.

(3) The required screening and landscaping would be ineffective at maturity due to the proposed topography of the site, and or the location of the improvements on the site.

(4) The topography of adjacent and surrounding sites is such as to render required screening ineffective at maturity.

11. River Buffer: A healthy and properly watershed buffer zone shall stabilize the shoreline or stream bank, provide erosion control benefits, provide a source of organic matter for aquatic organisms, capture nutrients, reduce flood peak flows, and provide water temperature controls.

A. River District is hereby created to celebrate, conserve, promote, and manage those areas on such as the Sheyenne River within the corporate limits of the City of West Fargo. These watershed buffer standards will ensure that new development is compatible with and enhances the unique river resources. It is the intent of these standards to promote economic revitalization throughout the river valleys while providing for an opportunity for enjoyment of the river by a maximum number of citizens, neighbors, and guests. The goals of the River District are to:

(1) Promote the protection and improvement of the Sheyenne River as water resources;

(2) Promote responsible development that will result minimal stormwater runoff, soil erosion, river bank destabilization, grading, and flood damage;

(3) Promote the preservation of a vegetative river resource corridor between the top of the river bank and new development to protect property from flooding and to enhance water quality;

(4) Encourage the planting of specific riparian landscaping that will aid in controlling erosion, improving water quality, reducing stormwater runoff, enhancing fish and wildlife habitats, and protecting visual quality;

(5) Promote the protection of existing natural areas, wetlands, and habitats, especially bluffs along the rivers;

(6) Encourage the establishment of vegetative buffer yards between incompatible land uses to lessen negative impacts;

(7) Encourage the conservation, protection, and promotion of the district's natural, cultural, and historic resources to enhance its value as a significant amenity to West Fargo's citizens, neighbors, and tourists;

(8) Promote improvements to existing infrastructure and the coordination of all new utility improvements;

B. Conditional Uses: Any use that’s not natural to the Sheyenne River and is manmade, is subject to a conditional use permit and the use in the River District must be approved by the City Planner.

C. General Standards: The following standards shall be required for uses in the River District.

(1) River District: The River District is any area that is a one hundred (100) feet from the Sheyenne River bank.

(2) Landscaping/Buffering Standards: Landscaping and/or buffering shall be provided as required. Tree species suitable for a river environment shall be specified in the “Approved Tree List” for required landscaping and buffering in the River District. In areas experiencing natural stream bank erosion, planting of riparian vegetation shall be the required stabilization measure.

(3) Parking Standards: Parking lots shall be allowed if approved by a conditional use permit if the parking lot doesn’t harm the river but not recommended in the River District. No parking shall be permitted in any setback more than fifty (50) feet or less from the river. Uses in the River District shall be permitted a 20 percent reduction in required parking. Shared parking arrangements and common parking areas are encouraged.

(4) Design Standards: The Design of the River District is to be a natural look. It shall include native plantings and native trees to

this area. The speculative grading of land within the River District is prohibited. Natural slopes in excess of 45 degrees shall not be graded, and the existing vegetation shall not be removed. Buffers or shorelines shall have bands or strips with permanent vegetation that run adjacent to the river. The purpose of a buffer is to provide a protective barrier or cushion between activities occurring on the upland side of the buffer and the river.

(5) Construction: All new or expanded operations/ construction located within or near the River District must take all precautions not to harm the river by polluting, increasing erosion, or littering.

(6) Storage: Outdoor storage of materials is prohibited in the river district.

(7) Walking Trail: The development of a pedestrian trail/greenway along the rivers is encouraged within the River District. Land owners are encouraged to dedicate/grant a dry land right-of-way or easement within the river resource yard.

12. <u>Open Space Landscaping</u>:

A. Undeveloped Areas: All undeveloped areas of the site, excluding protected wetlands, river districts, and tree preservation areas, shall be seeded or sodded. Seeding includes native prairie grass. In addition, an appropriate mix of trees and other plant material shall be provided to create an aesthetically pleasing site. Native plantings and xeriscaping is recommended but not limited to.

B. Undeveloped Areas Next to Public ROW: Where undeveloped or open areas of a site are located adjacent to public right-of-way, the plan shall provide for over-story boulevard trees. A minimum of one (1) tree for every thirty (30) feet of frontage is required. The City Planner may approve alternatives if it meets the intent of the ordinance.

13. <u>Parking Lot Landscaping Standards</u>:

A. Perimeter areas: When parking lot perimeters, including driveways and drive aisles, are not entirely screened visually by an intervening building or structure or land mass from any abutting right-of-way, there shall be provided landscaping designed to buffer direct views of cars and hard surface areas. The landscaping must break up expanses of hard surface areas, help to visually define boulevards and soften direct views of parking areas and provide for reforestation with overstory tree from the approved tree species list identified for parking or other species as approved by City Forester or City Planner.

1. Perimeter Dimensions: The perimeter of the parking lot will consist of an area ten (10) feet to the outside of the parking lot area in all directions where otherwise green space would be. Within this ten (10) foot dimension the following shall apply:

(a) A six(6) foot minimum dimension to all trees from edge of pavement so that this would provide space to where vehicles overhang;

(b) A four (4) foot minimum dimension to all trees where vehicles to not overhang; and

(c) A four (4) foot minimum dimension for perennials and shrubs.

B. Interior Landscaping Any open vehicular use areas containing more than six thousand (6,000) square feet of area, or twenty (20) or more vehicular parking spaces, shall provide interior landscaping in accordance with this division in addition to "perimeter" landscaping. Interior landscaping may be peninsular or island types. Landscaped area shall include all parking lot and drive islands and perimeter vegetative landscaping or green space. Required setback areas shall be excluded. There may not be more than twenty (20) continuous parking spaces (40 back to back) in a continual row without providing an island or peninsular landscaping.

C. Curbing: Concrete curbing is encouraged to protect landscaped areas unless the area is implemented to be a rain garden or bioswale.

D. Soil: All landscaping areas shall have the proper soil preparation to ensure the viability of the vegetation to survive. The landscaping plan shall provide specifications for proper soil preparation.

Source: Ord. 1049, Sec. 35 (2015)

14. Landscape Aesthetics and Design Criteria: Landscaping plans shall provide for an appropriate mix of plantings around the exterior footprint of all buildings. The intent of this section is to improve the appearance of the structures and, where necessary, break up large unadorned building elevations. These plantings are not intended to obscure views of the building or accessory signage.

A. Aesthetics: Landscape areas shall be designed with an emphasis on aesthetic appeal, function, safety, appropriateness to site conditions, and water conservation. The grouping of plants with similar water requirements is encouraged.

B. Xeriscaping: Xeriscaping is recommended throughout all landscapes.

C. Utility Lines: Where overhead utility lines are located above landscape, small ornamental trees that do not exceed the growth of fifteen (15) feet shall be substituted instead of large shade tree that will have to be trimmed after tree has matured.

D. Lawn Grass: Grass may be sodded, plugged, sprigged, or seeded, except that solid sod shall be used in swales or other areas subject to erosion. Slopes steeper than 10:1 shall be sodded. However, if natural prairie grass, cattails, or reeds are being implemented proper erosion control practices shall be engaged.

E. Mulch: All trees, shrubbery, ground cover, and vine planting beds shall be mulched with standard mulch materials such as shredded cypress bark, pine bark chips, pine straw, or decorative stone to prevent invasion of other plant species and weeds, to absorb and retain moisture for the benefit of the plants, to prevent erosion, to enrich the soil, to provide protection from maintenance equipment, and to present a neat and orderly appearance of the landscaped area.

15. Existing Trees and Landscapes:

A. Existing Tree Requirements: Where the site contains existing trees, a special effort shall be made to preserve them in accordance with the following requirements:

(1) Protect: Trees in a healthy condition shall be protected and preserved.

(2) Removing Trees: Removal of unhealthy or diseased trees is mandatory, however removal of healthy trees of a height of six feet or more shall be done only with approval of the City Forester. Tree replacement may be required.

(3) Construction: Trees to be preserved shall be protected during construction operations by the use of barricades or fencing large enough to include everything inside the outer edge or drip line of the tree and conspicuous enough to be seen easily by operators of trucks and heavy equipment.

(4) Grading: No grade changes shall be made around existing trees without approval of the City Forester. Retaining walls shall be used when changing existing grades around specimen trees.

(5) Roots: Tree roots shall be protected and preserved where possible. Tunneling shall be used to avoid damaging roots where construction in the immediate area is necessary. No trenching of tree roots within twenty feet of the trunk shall be performed without approval of the City Forester.

(6) Chemicals: Chemical poisoning and run-off from petroleum products, lime and mortar, fertilizers , pesticides, soil sterilants , or the washing of equipment designed to apply these materials shall be prohibited, within the dripline of trees to be preserved.

(7) Tree Rows: Agricultural tree rows (wind breaks) shall not be removed unless authorized by the City Forester or the City Council. These trees are not only an important part of the City’s quality, but are needed to help

control extreme winds and weather. Adequate measures shall be taken to mitigate any danger to the preservation or health of the tree rows. If agricultural tree rows (wind breaks) cannot be preserved, based upon the discretion from the City Forester stating that the trees are no longer in a healthy condition, the trees may be removed. Tree rows authorized for removal shall be replaced and/or additional landscape enhancement shall be provided as approved by the City Planner.

B. Wooded Areas:

(1) Wooded areas with mature trees are to be preserved, at the applicants option may be included to meet all or part of the canopy requirements, provided the site plan identifies such trees and the trees meet the standards of size, health, placement, etc. set out in this section. The City Forester shall evaluate use of existing trees to ensure they have adequate health and strength to allow such use.

(2) Existing trees in wooded areas designated to be included as part of these requirements should be protected during construction by fencing placed at a distance in feet equal to or greater than one and a half (1 ½) times the diameter of the tree in inches at the height of four (4) feet.

16. <u>Installation</u>:

A. Materials: All materials installed shall conform to the approved landscape plans. If any changes of materials are desired, amended plans must be submitted and approved before installation.

B. Curb Cuts and Driveway: Curb cuts and driveway aprons which are abandoned shall be removed and replaced with standard curbing and sod.

C. Construction: During installation of landscaping, grassed areas off-site or within the public rights-of-way which have been disturbed by construction activity shall be cleaned of all debris, regraded to the proper elevations, and resodded or reseeded. Any preserved vegetation areas that have been damaged or removed shall be

replanted and refurbished to restore the area as much as possible to its original condition.

Source: Ord. 1049, Sec. 36 (2015)

17. Maintenance:

A. Duty to Trim Trees: It shall be the duty of all persons, whether owners or tenants, to keep the shade trees along the public streets and avenues adjoining such property trimmed in such a manner that such trees shall not interfere with travel on said streets, avenues, and sidewalks.

B. Responsible: The property owner and tenant shall be jointly and severally responsible for maintenance of all required landscape, irrigation, and hardscape improvements as originally approved. This maintenance requirement shall carry with the land and shall be the responsibility of any subsequent owners and tenants of the property. It is the responsibility of the owner to notify any subsequent owners of the property of this responsibility.

C. Improvements: Landscape areas and site improvements shall be maintained in good condition for a healthy, neat, and orderly appearance and shall be kept free from weeds and debris. All plant materials shall be maintained in a healthy and vigorous condition through proper irrigation, fertilization, pruning, weeding, mowing, and other standard horticultural practices so as to grow to their normal shape, color, and height, and to fulfill the required functions of screening, shading, buffering, and aesthetic appeal set forth by the City. The hatracking of trees is prohibited. All dead plants shall be replaced. All damaged plants including lawn grass shall be replaced or restored. Mulch shall be at the proper coverage and depth.

D. Hardscapes: Pavement, curbing, wheel stops, and other hardscape improvements shall be sound and in place. If it is determined by maintenance inspections that such curbs are insufficient to prevent vehicular encroachment, then installation of bollards or similar devices substantial enough to prohibit encroachment may be required. Any such fixtures shall be architecturally consistent with other site fixtures and structures for materials and colors.

E. Violations: The City shall notify the property owner and tenant in writing of any maintenance violations. Upon notification of a maintenance violation, the property owner, tenant, or authorized agent shall correct the violation within 30 days. Where immediate attention and care may restore damaged plants, the owner or tenant shall submit a treatment narrative and schedule prepared by a registered landscape architect or a local nursery professional. If the treatment plan and procedures fail to restore the plants to vigorous growth to meet their normal growth habit and the original design intent within 90 days, then the plants must be replaced.

18. Replacement:

A. Tree Replacement Requirements:

(1) City Policy: It is the policy of the City to preserve natural woodland areas throughout the city and with respect to specific site development to retain as far as practical, substantial tree stands which can be incorporated into the overall landscape plan.

(2) Tree Health: The owner, tenant, and their respective agents shall be held jointly and severally responsible to maintain their property and landscaping in a condition presenting a healthy, neat and orderly appearance and free from refuse and debris. Plants and ground cover which are required by an approved site or landscape plan and which have died shall be replaced within three (3) months of notifications by the city. However, the Zoning Administrator may extend the time for compliance up to nine (9) months in order to allow for seasonal or weather conditions.

(3) Clear Cutting: No clear cutting of woodland areas shall be permitted except if approved by the City Planning Department or City Forester.

(4) Removed Trees: Any trees on the site which are a caliper of five (5) inches or more at a height of five (5) feet above the ground, or ornamental trees over twelve (12) feet in height which are to be removed during site development should be moved elsewhere on site or replaced with a new tree.

19. Plan Submission and Approval: The property owner or developer may be required to prepare a landscape plan drawn by a registered landscape architect or other professional acceptable to the city if deemed necessary by the City Planner. The city shall apply the following standards (but not limited too) in reviewing the landscape plans and shall contain these contents following:

    A. Plot plan: drawn to an easily readable scale, showing and labeling by name and dimensions, all existing and proposed property lines, easements, buildings, and other structures, vehicular use areas (including parking stalls, driveways, service areas, square footage), water outlets and landscape material (including botanical name and common name, installation size, on-center planting dimensions where applicable, and quantities for all plants used).

    B. Elevations: Typical elevations and/or cross sections may be required in any landscape plan.

    C. Context of Plans: Title block with the pertinent names and addresses (property owner, person drawing plan, and person installing landscape material), scale date, north arrow (generally orient plan so that north is to top of plan), and zoning district.

    D. Existing Landscape Material: shall be shown on the required plan and any material in satisfactory condition may be used to satisfy this article in whole or in part.

Source: Ord. 1049, Sec. 37 (2015)

20. Approved Plant List:

    A. The list of approved boulevard trees and other species as approved by the City Forester.

Source: Ord. 916, Sec. 68 (2012); Ord. 976, Sec. 3 (2013)

4-449-B. WIND ENERGY SYSTEMS STANDARDS.

1. Purpose. These Regulations have been adopted for the following purposes:

   A. To provide for large scale development and production of wind generated electricity in the City of West Fargo and to promote the public health, safety, morals, and general welfare of the community.

   B. To acknowledge that these facilities are clearly visible and cannot be hidden from view, however, design consideration shall include minimizing the degradation of the visual character of the area.

   C. To promote the supply of wind energy in support of North Dakota's goal of increasing energy production from renewable energy sources.

2. Definitions.

   Abandoned: A wind energy system or project shall be considered abandoned when, once installed it fails to operate for 6 consecutive months. Exceptions may be made for catastrophic circumstances such as a natural disaster or if structure was vandalized.

   Guy Wires: Anchoring wires that connect to the tower, from the 50-90% of the tower height, to anchors located 50-90% of the tower height in a horizontal distance from the base.

   Federal Aviation Administration: (FAA) is an agency of the United States Department of Transportation with authority to regulate and oversee all aspects of civil aviation in the U.S.

   Large Wind Energy System (LWES): All equipment, machinery, and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines that has means a wind energy system that:

   - Is used to generate electricity;
   - Has a nameplate capacity of 51 kilowatts or more; and
   - Has a total height of 101 feet or more.

Lattice: an interwoven open-mesh frame made by crisscrossing strips of wood, metal, or plastic to form a pattern

Owner: shall mean the individual or entity that intends to own and operate the wind energy system in accordance with this ordinance.

Rated Nameplate Capacity: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a "nameplate" on the equipment rated in Watts (W) or British Thermal Units (BTUs). Due to the nature of wind energy systems, Watts will be used as the standard unit in this ordinance.

Rotor diameter: means the cross sectional dimension of the circle swept by the rotating blades.

Shadow Flicker: When wind turbine blades are in motion the rotating blades cast shadows upon stationary objects. Shadow flicker only appears under very specific conditions and does not occur simply because the sun is shining and the blades are in motion.

Small Wind Energy System (SWES): All equipment, machinery, and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, storage equipment, electrical collection and supply equipment, transformers, service and access roads, and one or more wind turbines that has means a wind energy system that:

- Is used to generate electricity;
- Has a nameplate capacity of 50 kilowatts or more; and
- Has a total height of 100 feet or more.

Conditional Use Permit: A permit provided by the land-use authority for nonconforming wind energy systems (e.g., a wind energy system that does not meet the criteria for energy wind systems set forth by this ordinance).

Tower: means the monopole, poles, lattice, freestanding, or guyed structure that supports a wind energy system.

Tower Height: means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point. The height of a wind turbine measured from natural grade to the tip of the rotor blade at its highest point.

Wind Energy System (WES): means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

Wind generator: means blades and associated mechanical and electrical conversion components mounted on top of the tower.

Zoning: Ordinances and bylaws adopted by the city to regulate the use of land, buildings, and structures to the full extent of the independent constitutional powers of the city to protect the health, safety, and general welfare of their present and future inhabitants.

3. Small Wind Energy Systems. (SWES)

A. Height. The height of small wind energy systems shall not exceed 100 feet without prior approval from the Conditional Use Permit.

B. Setbacks. The minimum property setback will be required of the total tower height (tower height + ½ the rotor diameter) plus an additional 10%. Small Wind Energy Systems (SWES) shall be set back at a distance equal to 110% of the tower height of the system from all overhead utility lines, fuel tanks, and public roads or public right-of-ways. The base of the SWES must be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height.

(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.
(2) The tower height of the SWES (tower height + ½ the rotor diameter) may not exceed the distance of the base to the adjacent property.

C. Minimum Blade Height. The minimum height of the lowest extent of a turbine blade shall be 25 feet above the ground.

(1) Height will be measured in feet.

(2) Blades may not extend over parking areas, driveways, roads, sidewalks, rivers, streams, wetlands, conservation areas, scenic, or historic sites.

(3) The height of the ground clearance is measured at the lowest point of the arc of the blades to the highest point of the ground located directly below the blade.

4. Large Wind Energy Systems. (LWES)

A. Height. The height of large wind energy systems shall not exceed 100 feet without prior approval from the Conditional Use Permit.

B. Setbacks. The minimum property setback will be required of the total tower height (tower height + ½ the rotor diameter) plus an additional 10%. Large Wind Energy Systems (LWES) shall be set back at a distance equal to 110% of the tower height of the system from all overhead utility lines, fuel tanks, and public roads or public right-of-ways. The base of the LWES must be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail right-of-ways;

(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.

(2) The tower height of the LWES (tower height + ½ the rotor diameter) may not exceed the distance of the base to the adjacent property. Unless, it is approved by the adjacent property owner.

(3) The minimum abutting property building setback distance shall be 110% of the tower height on any adjacent building properties that have occupancy or inhabited.

C. Setback Waivers. The city is designated to approve the permit, shall consider an exception to the

minimum setbacks required if the following criteria are met:

(1) A signed agreement of consent from abutting property owner(s), and

(2) Any public right-of-ways and power lines are not impacted by the location.

D. Minimum Blade Height. The minimum height of the lowest extent of a turbine blade shall be 30 feet above the ground.

E. Shadow Flicker. Shadow flicker shall not negatively impact any adjacent properties. Unless it is tolerable from adjacent property owners.

5. <u>All Wind Energy Systems</u>

A. Districts. Wind Energy Systems (WES) shall be permitted in all non-residential districts subject to the regulations. Any WES purposed in CO-I: Interstate Corridor Overlay District must be approved as a conditional use. WES shall be prohibited in the CO: Corridor Overlay District.

B. Penalties. Any person who fails to comply with any provision of this ordinance or a building permit issued pursuant to this ordinance shall be subject to enforcement and penalties as stipulated in 4-573 and 4-574 of the zoning code.

C. Administration and Enforcement.

(1) This ordinance shall be administered by the city or other official as designated.

(2) The city may enter any property for which a building permit has been issued under this ordinance to conduct an inspection to determine whether the conditions stated in the permit have been met.

(2) The city may issue orders to abate any violation of this ordinance.

(3) The city may issue a citation for any violation of this ordinance.

(4) The city may refer any violation of this ordinance to legal counsel for enforcement.

D. Installation. No WES shall be installed until the owner(s) has notified the utility and power company. Once the Utility and Power Company has been informed of the customer's intent to install an interconnected customer-owned generator, and meet the requirements of the Utility or Power Company, they may proceed with the installation. Off-grid systems shall be exempt from this requirement. Construction of the WES are to follow the Construction and use to be as provided in application plans and permits, regulations stated in 4-534 of the Zoning Code.

E. Access. All access doors, climbing apparatuses, or access ways to towers, structures, and electrical equipment shall remain locked and inaccessible by the public.

F. Sound. The WES and associated equipment shall comply with the existing noise or sound ordinance. Sound produced by a WES shall not exceed the following limits at the property line:

Zoning District	Day-Night
Commercial:	50-45
Industrial:	65-60

(1) Sound pressure level limits are measured in dB (decibels). Sound is measured at the property line of any receiving property.

(2) 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.

(3) Following approval and installation of a WES, the city official may require the owner/operator of the WES to engage a certified technician to perform sound measurements at the closest property line to determine and report ambient and operating decibel levels.

G. Violations. It is unlawful for any person to construct, install, or operate a WES that is not in compliance with this ordinance or with any condition contained in a building permit issued pursuant to this ordinance. Any WES installed prior to the adoption of this ordinance are exempt.

Any violation of a WES shall be enforced and prosecuted by the city.

H. Braking System. All WES shall be equipped with automatic or manual braking controls to prevent uncontrolled rotation and to limit the rotation speed to the design limits of the WES.

I. Guy Wires. Guy Wires are required for any WES that has a freestanding lattice towers. Guy Wires also may be required to be installed after completion of the WES if the city feels necessary.

J. Color and Finish. The WES shall be a neutral color that blends with the environment and complies with FAA standards. Gray, beige, and white are recommended. 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.

K. Lighting. WES shall be lighted as required by the FAA. Spotlights are prohibited unless required by the FAA. Lighting of the WES beyond FAA standards shall be directed downward and limited to that required for safety and operational purposes.

L. Signage and Advertising. Signs and advertising shall be restricted to reasonable identification of the manufacturer, operator of the WES and utility, and safety signs. No sign that is visible from any public street shall be permitted on the generator, tower, building or other structure associated with a WES other than the manufacturers or installer's identification and appropriate warning sign.

M. Roof Mounted. A roof-mounted WES is allowed on structures as long as the object doesn't exceed height restrictions and is located in a safe position on the roof of the structure that's approved by the City Building Inspector. Also, the owner(s) must install the WES according to manufacturer's guideline.

N. WES Understanding for Approval. The Owner(s) of the WES must understand and sign the Wind Energy Systems Understanding for Approval in order to be eligible for a Building Permit.

O. Interference. The WES shall not cause power quality issues including but not limited to electromagnetic

interference, radio frequency interference, harmonics, common mode noise, electronic or electromagnetic interference with signal receptions or transmissions beyond the boundaries of the property upon which the WES is located.

P. Code Compliance. A WES including tower shall comply with all the current applicable state construction and electrical codes, and the National Electrical Code.

Q. Insurance. Insurance is required for any WES. Owner must have written approval that the WES is properly insured by a licensed insurance company.

R. Building Permit. All WES shall require a building permit prior to installation. If WES is 100 feet or taller, the applicant shall obtain conditional use permit approval by the city prior to installation. Building permits are to follow the building permit regulations stated in 4-530 of the Zoning Code.

S. Expiration. If expiration of building permit(s), owner of WES must comply with the expiration building permit regulations stated in 4-533 of the Zoning Code. A permit issued pursuant to this ordinance shall expire if:

(1) The WES is not installed and functioning within 24-months from the date the permit is issued; or,

(2) The WES is abandoned, out of service, or otherwise unused for a continuous 6-month period.

T. Utility notification and interconnection. WES that connects to the electric utility shall comply with the City Inspector, the Public Service, and with the local power or utility company.

U. Removal. Removal of any non-operational, non-functional, or abandoned WES is mandatory. Facilities shall be well maintained in an operational condition that poses no potential safety hazard. Owner(s) may have to remove the WES if it serves an operational threat to the safety of the community, if the City Building Inspector deems it is necessary. Removal of a WES:

(1) If a WES remains nonfunctional for a continuous period of 6 months (months equivalent to 30 days), the system shall constitute a public nuisance and shall be removed. Public nuisances are classified by the, Public Nuisance Per Se, regulations stated in 4-571 of the Zoning Ordinance.

(2) The owner shall remove a defunct system at the owner's expense.

(3) Removal includes the entire structure and related appurtenances including any foundation and transmission systems.

6. Conditional Use Permit. Towers that are 100 ft. or taller require a conditional use permit. Conditional Use Permit shall follow the Conditional Use Permit regulations stated in 4-550 in the Zoning Ordinance. An application for a conditional use permit for the placement of a WES shall include the following:

A. Site Plan. A Site Plan drawing showing features of the property and adjacent land within 300-feet of the subject parcel, including but not limited to:

(1) Location and height of the WES

(2) Property boundaries

(3) Distances from a WES to closest points on adjacent property boundaries

(4) Location and dimensions of structures

(5) Zoning districts of all adjacent properties

(6) Owners of all adjacent properties

(7) Locations, dimensions and descriptions of utility easements

(8) Location of overhead utility lines

(9) Location of underground utility lines

(10) Distances from the WES to the closest points on utility easements.

B. Information. Written information from the manufacturer on the proposed WES stating the following:

(1) Compliance with noise standards

(2) Evidence that the proposed WES model will be operational

(3) Dimensions and energy properties.

C. Shadow Flicker. Unless stated by the manufacturer as not causing shadow flicker in the proposed installation, a shadow flicker model and map showing locations affected by the object.

D. FAA. If FAA regulations apply to the owners WES they must provide a copy of letter of compliance of the proposed WES with airport zoning from any airport within twenty miles of the proposed site.

Source: Ord. 916, Sec. 69 (2012)

4-450. OFF-STREET PARKING AND LOADING REGULATIONS.

Subsections:

4-451. Automobile Parking Space Required.
4-452. Plans and Approval Required.
4-453. Design Standards.
4-454. Required Off-Street Loading Spaces.

4-451. AUTOMOBILE PARKING SPACE REQUIRED. No building shall be erected, enlarged to the extent of increasing the floor area, or changed in use unless there is provided on the lot, space for parking of automobiles as specified below. When sufficient off-street parking cannot be provided on the same lot or a lot contiguous to the principal use because of unique circumstances, and arrangements can be made to provide off-street parking on a noncontiguous lot, such parking arrangements shall be considered by the Planning and Zoning Commission on a case-by-case basis. The Planning and Zoning Commission may grant permission to provide parking on a noncontiguous lot provided traffic or land use problems are not created, and a long-term agreement can be negotiated so the required off-street parking is maintained as long as the principal use exists.

The Planning and Zoning Commission may allow sharing of required off-street parking by two separate uses provided the normal peak parking times of the two uses do not coincide. Only the off-street parking spaces not normally used by the off-peak use shall be counted as off-street parking for the peak use. Each use shall have the total required off-street parking available during their respective periods of peak parking use. A long-term agreement shall be negotiated whereby both uses are bound to the establishment and maintenance of the shared off-street parking.

If it can be demonstrated by the property owner through market studies or other means that the required off-street parking is excessive and/or a lower parking demand is supported by the Institute of Traffic Engineers Parking Generation manual and a lesser requirement justifiable, the City Commission may reduce the number of required spaces by passage of a resolution approved by a majority of the members of the City Commission.

Parking areas shall be so designed that vehicles may enter, circulate, park and exit in a convenient and orderly fashion. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way. The minimum size of each parking stall shall be nine feet by 19 feet, exclusive of aisle width. For any parking area except for single, two-family, and 3-4 unit townhome dwellings, a suitable means of turnaround must be provided at maximum design capacity so no vehicle shall back onto public streets or alleys. Where this cannot be accomplished for parking lots of five (5) or fewer vehicles, the City may consider an alternative design as a conditional use.

Reference herein to "employee(s) on the largest shift" means the maximum number of employees employed at the facility regardless of the time period during which this occurs and regardless of whether

any such person is a full-time employee. The largest shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

The term "capacity," as used herein, means the maximum number of persons which may be accommodated by the use as determined by its design or by building or fire code regulations, whichever is greater.

Any use not specifically mentioned below shall meet the requirements for uses most clearly related as determined by the Zoning Enforcement official.

The number of off-street parking spaces which shall be required are as follows:

1. Agricultural Support Uses - One space per employee on the largest shift, plus one space per 200 square feet of gross floor area provided for customer sales and service operations.

2. Residential Uses:

    a. Single-Family - Two spaces per dwelling.

    b. Multiple Family Unites - One space per efficiency dwelling unit and two spaces per dwelling unit for one or more bedroom units or the floor area divided by 440, whichever is greater.

3. Institutional, Recreational and Special Residential Uses:

    a. Camps (Day or Youth) - One space per employee on the largest shift, plus one space per camp vehicle normally stored on the premises.

    b. Church - One space per three seats of maximum capacity.

    c. Community and Recreation Center - One space per 250 square feet of gross floor area, or one space per four patrons to the maximum capacity, plus one space per employee on the largest shift.

    d. Day or Nursery School, Child Care Facility - One space per teacher/employee on the largest shift, plus one per space per ten students for loading and unloading.

    e. Group Dwellings, Fraternity or Sorority, Boarding or Lodging Houses - One space per bedroom or sleeping room, unless it can be demonstrated that the occupants will not be driving.

    f. Libraries and Museums - One space per 350 square feet of floor area or one space per four seats to the maximum capacity, whichever is greater, plus one space per employee on the largest shift.

g. Monasteries, Convents - One space per six residents, plus one space per employee on the largest shift, plus one space per five chapel seats if the public may attend.

h. Nursing Homes - One space per six patient beds, plus one space per employee on the largest shift.

i. Schools:

(1) Elementary and Junior High - One space per teacher and staff member.

(2) Senior High - One space per teacher and staff member on the largest shift, plus one space per five students.

(3) College, Trade and Vocational - One space per staff member of the largest shift, plus one space per four students of the largest class attendance period.

j. Swimming Facility - One space per 100 square feet of gross water area, plus one space per employee on the largest shift.

k. Tennis, Racquetball, Handball Courts - Two spaces per court, plus one space per employee on the largest shift.

l. Bowling Alley - Three spaces per lane, plus one space per employee on the largest work shift.

m. Miniature Golf - One space per hole, plus one space per employee on the largest work shift.

n. Outdoor Theatre - One space per four patrons to the maximum capacity of the facility inclusive of both indoor and outdoor capacity.

o. Skating Rink, Ice or Roller - One space per 300 square feet of gross floor area.

p. Health Club - One space per 100 square feet of gross floor area, plus one space per employee on the largest shift.

q. Golf Courses - Five spaces per hole.

r. Other Commercial Recreational Uses - One space per four patrons to the maximum capacity of the facility, or one space per 250 square feet of gross floor area, whichever is more appropriate.

5. Commercial and Entertainment Uses, Except as Specifically Designated Below - One space per 250 square feet of gross floor area of customer sales and services, plus one space

per 250 square feet of storage and/or office gross floor area.

a. Banks - One space per 200 square feet gross floor area.

b. Eating and Drinking Establishments - One space per four patron seats or one space per 100 square feet of gross floor area, whichever is greater, plus one space per employee on the largest shift.

c. Fast Food Establishments:

   (1) With Seating - One space per three patron seats, plus one space per employee on the largest shift.

   (2) Without Seating - One space per 200 square feet of gross floor area, plus one space per employee on the largest shift.

d. Funeral Home - One space per four patron seats or 25 spaces per chapel unit, whichever is greater.

e. Grocery or Supermarket - One space per 200 square feet of gross floor area or customer sales and service, plus one space per 200 square feet gross floor area of storage.

f. Hospital - One space per three patient beds, plus one space per staff doctor and per employee on the largest shift.

g. Hotel or Motel - One space per room or suite, plus 50 percent of the spaces otherwise required for accessory uses, e.g. restaurants and bars.

h. Private Clubs and Lodges - Required parking spaces are to be determined by the specific uses associated with the facility.

i. Repair Services - A minimum of three spaces shall be provided for the first 2,000 square feet of gross floor area, plus one additional space for each 1,000 square feet of gross floor area thereafter, plus one space per employee on the largest shift.

j. Furniture and Home Furnishing Stores - One space per 500 square feet of customer sales, plus one space for every 1,000 square feet of storage area.

k. Self-Service Laundry - One space per three machines.

l. Assembly or Exhibition Hall, Sports Arenas, Theaters and Auditoriums - One space per five seats based on maximum capacity.

m. Taverns, Dance Halls, Night Clubs and Lounges - One space per 50 square feet of gross floor area.

n. Vehicle Sales - Six parking spaces plus one space per 500 square feet of gross floor area over 1,000 feet.

o. Vehicle Repair and Maintenance Services - One space per 400 square feet of gross floor area, plus one space per employee on the largest shift.

p. Games of Chance Operations - One space per three patron seats.

6. Offices Uses, Except as Specifically Designated Below - One space per 200 square feet of gross floor area.

a. Beauty and Barber Shops - Two spaces per operator, plus one space per employee on the largest shift.

b. Medical Offices and Clinics - Five spaces per doctor, plus one additional space per employee on the largest shift.

7. Industrial Uses, Except as Specifically Designated Below - One space per employee on the largest shift, plus one space per company vehicle regularly stored on premises.

a. Veterinary Office - Three spaces per doctor, plus one space per employee on the largest shift.

b. Adult Entertainment Center - One space per employee on the largest shift, plus one space per 150 square feet of gross floor area.

8. Nursery Uses - One space per employee on the largest shift, plus one space per 500 square feet gross floor area of inside sales or display.

9. Handicapped Parking - All parking lots must be designed to provide handicapped parking spaces according to standards established under Americans with Disabilities Act (ADA).

Source: Ord. 434, Section 1 (1992); Ord. 458, Sec. 18 (2005); Ord. 1049, Sec. 38 (2015).

4-452. PLANS AND APPROVAL REQUIRED. Plans for improved, new or expanding private driveways and off-street parking spaces, shall be prepared and submitted to the City Building Administrator and City Planner for review and approval. Before approving any private driveway or parking layout, the Building Administrator and City Planner shall satisfy themselves that the driveway and/or spaces provided are usable and meet standard design criteria. All driveways and off-street parking spaces within the City limits shall be improved with a concrete or bituminous surface except for structures which are located on public roads or alleys that are graveled. In lieu of improving all driveways and off-street

parking spaces in industrial areas, a property owner may submit a plan demonstrating that improved driveways and off-street parking spaces will, within reason, retain soils, mud or other loose materials from being carried onto public streets by vehicles or equipment, i.e., by improving with concrete or bituminous surface fifty (50) feet or more of the area on the property where access to the public street(s) is gained. In addition to providing improved driveways and parking areas, industrial areas may need to expand those areas with gravel and/or crushed concrete to avoid carrying soils, mud or other loose materials into the street(s). All required off-street parking spaces shall be clearly marked. All parking lots being hard surfaced must be designed and striped to meet the design standards according to Section 4-453.

Source: Ord. 434, Sec. 2 (1992); Ord. 458, Sec. 19 (2005); Ord. 916, Sec. 48 (2012); Ord. 976, Sec. 4 (2013); Ord. 989, Sec. 1 (2014); Ord. 1066, Sec. 1 (2016)

4-453. DESIGN STANDARDS.

1. In all residential districts, required parking spaces shall be located on the same premises as the use they serve. In other districts, they shall be located on the premises or within 300 feet distance.

2. Parking areas for one or two family dwellings shall be in the garage, in the rear or side yards, or on the driveway leading to the garage only.

3. Parking areas shall be used for automobile parking only, with no sales, dead storage, repair work, dismantling or servicing of any kind permitted.

4. All uses, excluding one and two family residences, where parking or access facilities are located within 20 feet of a one or two family property line shall be required to effectively screen their parking facility from the residential use. Screening may include a sight obscuring fence at least 5 feet in height or plantings of sufficient type, density, and height so as to provide year-round screening. Before a building permit shall be issued, the building official shall approve the screening proposal.

5. Off-street parking areas shall be improved with a durable surface, afford adequate drainage and shall have bumper guards, unless owner can establish to the satisfaction of the Building Official that such guards are not necessary.

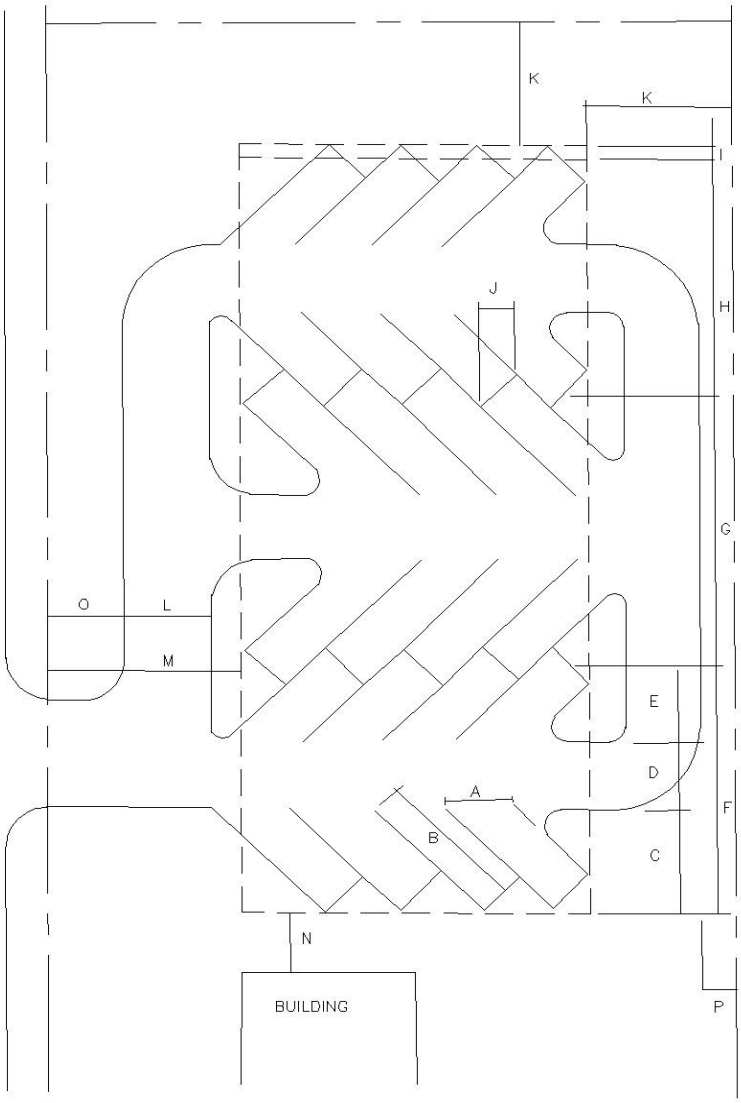
Source: Ord. 1049, Sec. 39 (2015)

PARKING LAYOUT REQUIREMENTS FOR 9 FOOT BY 18.5 FOOT STALLS AT VARIOUS ANGLES

DIMENSION	ON DIAGRAM	MINIMUM DIMENSIONS (feet) 45°	60°	75°	90°
Stall width, parallel to aisle	A	12.7	10.4	9.3	9.0
Stall length of line	B	25.0	22.0	20.0	18.5
Stall depth	C	17.5	19.0	19.5	18.5
Driving aisle width between stall lines	D	12.0	16.0	23.0	26.0
Stall depth, interlock	E	15.3	17.5	18.8	18.5
Module, edge of pavement to interlock	F	44.8	52.5	61.3	63.0
Module, interlocking	G	42.6	51.0	61.0	63.0
Module, interlock to curb face	H	42.8	50.2	58.8	60.5
Bumper overhang (typical)	I	2.0	2.3	2.5	2.5
Offset	J	6.3	2.7	0.5	0.0
Side and rear yard setback	K	Lots in Residential & C Districts Which Abut Residential Districts: 5 feet. Other Districts: None			
Cross aisle, one-way	L	14.0	14.0	14.0	14.0
Cross aisle, two-way	-	24.0	24.0	24.0	24.0
Front yard setback (Parking Lots)	M	10' in Residential Districts or for Residential Uses in "C" Districts. Other: None.			
Setback from principal building	N	Residential Districts: 10 feet. Other Districts: 5 feet			
Front lot line to drive (landscape area)	O	10' in Residential Districts or for Residential Uses in "C" Districts. Other: None.			
Side and rear lot line to drive (landscape area)	P	Residential & C Districts: 5 feet. Other Districts: None			

Source: Ord. 334, Sec. 3 (1992); Ord. 455, Sec. 7 (1993); Ord. 916, Sec. 49 (2012).

PARKING LAYOUT DIAGRAM



4-454. REQUIRED OFF-STREET LOADING SPACES. REQUIRED OFF-STREET LOADING SPACES. Commercial and industrial uses shall provide for loading areas on the property which do not affect traffic on public streets. Adequate space shall be provided on the property to allow for ingress into the property, circulation within the property and egress from the property. Loading areas shall be shown on a site plan and approved by the City Planner and Building Administrator as part of the building permit. Loading spaces required under this section shall be at least 50 feet long and 12 feet wide. Every lot used for commercial or industrial purposes and having a building or buildings with a total floor area of at

least 10,000 square feet and every lot used for office or research purposes on which there is a building or buildings having a total floor area of at least 20,000 square feet, shall be provided with an off-street loading space. An additional off-street loading space shall be required for lots used for commercial or industrial purposes where the floor area of all buildings exceeds 100,000 square feet.

Source: Ord. 458, Sec. 20 (2005)

4-460. SIGN REGULATIONS. (Source: Ord. 677, Sec. 1 [2003])

Subdivisions:

4-460.1 Objectives.
4-460.2 Conflict with Zoning Chapter.
4-460.3 Definitions.
4-460.4 Existing Signs and Nonconforming Signs.
4-460.5 Nonconforming Sign Maintenance and Repair
4-460.6 Nonconforming Uses.
4-460.7 General Sign Provisions.
4-460.8 Signs Not Requiring Permit and Prohibited Signs.
4-460.9 General District Regulations.
4-460.10 Special District Regulations.
4-460.11 Inspection.
4-460.12 Permit, Application, Variance and Commission Approval.
4-460.13 Enforcement.
4-460.14 Violation a Misdemeanor.

4-460.1. OBJECTIVES.

1. To establish standards which permit businesses a reasonable and equitable opportunity to advertise.

2. To preserve and promote civic beauty and prohibit signs which would detract from this objective because of size, shape, height, location, condition, cluttering or illumination.

3. To insure that signs to not create safety hazards.

4. To preserve and protect property values.

4-460.2. CONFLICT WITH ZONING CHAPTER. If there is a conflict between this chapter and the Zoning chapter, the Zoning chapter shall prevail.

4-460.3. DEFINITIONS. The following terms, as used in this chapter, shall have the meanings stated:

ADVERTISING SIGNS. A sign used to advertise products, goods or services not exclusively related to the premise on which the sign is located.

ADDRESS SIGN. A sign communicating only a street address.

ALTERATION. Any major alteration to a sign excluding routine maintenance, painting or change of copy.

AREA IDENTIFICATION SIGN. A freestanding sign identifying the name of a single or two-family residential subdivision

consisting of twenty (20) or more lots; a residential planned unit development; a multiple residential complex consisting of three (3) or more independent operations; a single business consisting of three (3) or more separate structures; a manufactured home court; or any integrated combination of the above. The sign shall only identify the area, complex or development and shall not, unless approved by the Commission, contain the name of individual owners or tenants. The sign may not contain advertising.

AWNING. A hood or cover projecting from the wall of a building, and which may be retracted, folded or collapsed against the face of a supporting building.

BANNER SIGN (PERMANENT). A sign constructed of canvass or other durable fabric that is enclosed within a cabinet or frame and is permanently mounted to the wall of a building.

Source: Ord. 704, Sec. 1 (2004)

BANNERS. Attention getting devices which resemble flags and are of a paper, cloth or plastic-like consistency.

BEACON. Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also any light with one or more beams that rotate or move.

BENCH SIGNS. A sign affixed to a bench such as at a bus stop.

BILLBOARD. An advertising sign.

BUILDING FACADE. That portion of the exterior elevation of a building extending from grade to the top of a parapet wall or eaves and the entire width of the building elevation.

BUSINESS SIGN. Sign identifying a business or group of businesses, either retail or wholesale, or any sign identifying a profession or used in the identification or promotion of any principal commodity or service, including entertainment, offered or sold upon the premises where the sign is located.

CAMPAIGN SIGN. A temporary sign promoting the candidacy of a person running for governmental office, or promoting an issue to be voted on at a governmental election.

CANOPY SIGN. Message or identification affixed to a canopy or marquee that provides a shelter or cover over the approach to any building entrance.

CONSTRUCTION SIGN. A sign at a construction site identifying the project or the name of the architect, engineer, contractor, financier or other involved parties.

DIRECTIONAL SIGNS. A sign erected with the address and/or name of a business, institution, church or other use or activity plus directional arrows or information on location.

DIRECTORY SIGN. An exterior informational wall sign identifying the names of businesses served by a common public entrance in a shopping center or office buildings.

FLASHING SIGN. An illuminated sign upon which the artificial light is not kept constant in terms of intensity or color when the sign is illuminated.

FREESTANDING SIGN. Self-supported sign not affixed to another structure.

HIGH IMPACT SIGN. Any high profile sign such as mobile electronic message centers or reader boards, automatically changing sign faces, vehicles and equipment with sound equipment and/or significant signage, and other high impact business and/or events promotion schemes.

Source: Ord. 702, Sec. 1 (2004)

IDENTIFICATION SIGN. A sign which identifies the business, owner, manager, resident or address of the premises where the sign is located and which contains no other material.

ILLUMINATED SIGN. Sign illuminated by an artificial light source either directed upon it or illuminated from an interior source.

INFORMATIONAL SIGN. Any sign, including gas price and menu board signs, giving information to employees, visitors or delivery vehicles, but containing no advertising or identification.

INSTITUTIONAL SIGN. A sign identifying the name and other characteristics of a public or quasi-public institution on the premises where the sign is located.

INTEGRAL SIGN. A sign carrying the name of a building, its date of erection, monumental citations, commemorative tablets and the like when carved into stone, concrete or similar material or made of bronze, aluminum or other permanent type of construction and made an integral part of the structure.

LOGO. One or more letters, symbols or signs used to represent a name or trademark of a business or other entity. A logo sign is also considered an identification sign.

MARQUEE. A canopy.

MENU BOARD. Any sign containing a food price list for restaurant customers, but containing no advertising or identification.

MONUMENT SIGN. A sign where the extent of the sign structure is attached to the ground or a foundation in the ground; and where there are no poles, braces, or other visible means of support other than attachment to the ground.

MOTION SIGN. A sign which revolves, rotates, has moving parts or gives the illusion of motion.

MULTIPLE TENANT SITE. Any property or business site that contains more than one (1) business, and each business has a separate lease.

Source: Ord. 702, Sec. 1 (2004)

NONPROFIT ORGANIZATION. A corporation formed under North Dakota Statutes, a church or community or civic group.

OFF-PREMISE SIGN. An advertising sign not related to the premises on which it is located. Source: Ord. 1157, Sec. 1 (2020)

PARAPET. A low wall which is located on a roof of a building.

PENNANT. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.

PORTABLE SIGN. Portable signs shall include, but not be limited to: Signs constructed so as to be movable, either by skids, wheels, truck, or other conveyance; any sign which does not have a permanent foundation or is other wise permanently fastened to the ground, excluding those signs defined under "High Impact Signs". When on a trailer, the removal of the wheels or undercarriage does not place the sign in another category, nor does the anchoring of the sign by means of concrete blocks, sandbags, or other types of temporary anchors.

Source: Ord. 702, Sec. 1 (2004)

PROJECTING SIGN. A sign, other than a wall sign, which is affixed to a building and perpendicular from the building wall.

PUBLIC ENTRANCE. Passage or opening which affords entry and access to the general public.

PUBLIC ENTRANCE, COMMON. A public entrance providing access for the use and benefit of two (2) or more tenants or building occupants.

READER BOARD. A sign with an electronic changing message and/or animation to create a special effect or scene. Electronically controlled time and temperature signs are included.

REAL ESTATE SIGN. A business sign placed upon property advertising that particular property for sale or rent.

ROOF LINE. The top of the coping or when the building has a pitched roof, the intersection of the outside wall with the roof.

ROOF SIGN. Sign erected, constructed or attached wholly or in part upon or over the roof of a building.

SIGN. Use of words, numerals, figures, devices or trademarks by which anything is made known such as individuals, firms, processionals, businesses, services or products and which is visible to the general public.

SIGN AREA. The area within the marginal lines of the surface of a sign, which bear the advertisement, or in the case of message, figures or symbols attached directly to a building or sign structure, that area which is included in the smallest rectangle or series of geometric figures used to circumscribe the message, figure or symbol displayed thereon.

SIGN, MAXIMUM HEIGHT OF. The vertical distance from the grade to the top of the sign.

SIGN STRUCTURE. The supports, uprights, bracing and framework for a sign, including the sign area.

STREET FRONTAGE. The proximity of a parcel of land to the streets. A corner lot has two (2) or more frontages, but may use only one side for the purpose of calculating allowable sign area. It may be the longest side.

TEMPORARY SIGN. Unless otherwise defined as a "Portable Sign" or "High Impact Sign", any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other light materials, and wood or metal signs less than twelve (12) square feet in area, which does not have a permanent foundation or is otherwise permanently fastened to the ground, and which is erected or displayed for a limited period of time shall be considered a temporary sign.

Source: Ord. 702, Sec. 1 (2004)

WALL SIGN. A sign affixed to the exterior wall of a building, and which is parallel to the building wall. A wall sign does not project more than twelve (12) inches from the surface to which it is attached, nor extend beyond the top of a parapet wall.

WALL GRAPHICS. A sign painted directly on an exterior wall.

WINDOW SIGN. A sign affixed to or inside of a window in view of the general public. This does not include merchandise on display.

4-460.4 EXISTING SIGNS AND NONCONFORMING SIGNS.

1. Except for signs determined to create a public safety hazard due to content or due to disrepair and condition, or illegally established signs, all legally established signs existing upon the effective date of this Chapter shall not be enlarged or reconstructed, but may be continued at the size and in the manner or operation existing upon such date.

2. A nonconforming sign:

   a. May not be structurally altered except to bring it into compliance with the provisions of this chapter.

   b. May not be enlarged.

   c. May not be reestablished after its removal or discontinuance.

   d. May not be repaired or otherwise restored, unless the damage is to less than fifty (50) percent of sign structure.

   e. May not be replaced, unless the sign is within an existing sign cabinet.

   f. Shall be removed if there is a change in use or business license for the property.

   g. May not be continued for more than six (6) months following the adoption of this ordinance if the sign is temporary in nature and/or not permanently mounted.

4-460.5. NONCONFORMING SIGN MAINTENANCE AND REPAIR. Nothing in this chapter shall be construed as relieving the owner or user of a legal nonconforming sign or owner of the property on which the legal nonconforming sign is located from the provisions of this chapter regarding safety, maintenance, and repair of signs; provided, however, that any repainting, cleaning and other normal maintenance or repair of the sign or sign structure shall not modify the sign structure or copy in any way, which makes it more nonconforming or the sign shall lose its legal nonconforming status.

4-460.6. NONCONFORMING USES. When the principal use of land is legally nonconforming under the Zoning Chapter, all existing or proposed signs in conjunction with that land, shall be considered conforming if they are in compliance with the sign provisions for the most restrictive zoning district in which the principal use is allowed.

4-460.7. GENERAL SIGN PROVISIONS.

1. The design and construction standards as set forth in the City's adopted building code, as may be amended, are hereby adopted.

2. The installation of electrical signs shall be subject to the State's Electrical Code. Electrical service to such sign shall be underground.

3. Signs containing noncommercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs.

4. Signs shall not create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "stop," "caution," "warning," unless the sign is intended to direct traffic on the premises. No sign may cause a nuisance because of lighting glare, focus, animation or flashing. No sign may be placed in a manner as to materially impede vision between a height of two and one-half (2½) feet and ten (10) feet above the center grades of the intersecting streets within thirty (30) feet to the point of curvature of the intersecting street curbs.

5. Signs and sign structures shall be properly maintained and kept in a safe condition. Sign or sign structures which are rotted, unsafe, deteriorated or defaced shall be repainted, repaired or replaced by the licensee, owner or agent of the building upon which the sign stands.

6. No sign shall be attached or be allowed to hang from any building until all necessary wall and roof attachments have been approved by the Building Official.

7. No signs, guys, stays or attachments shall be erected, placed or maintained on rocks, fences or trees nor interfere with any electric light, power, telephone or telegraph wires or the supports thereof.

8. The use of temporary signs such as banners, inflatable signs, tethered balloons and similar devices may be erected on the premises of an establishment for special events, provided that such signs may not be displayed for

more than thirty (30) calendar days within any four (4) month period. Violations for temporary signs must be corrected within seven (7) days of written notification. Banners may be considered permanent signs provided they are constructed of canvass or other durable fabric enclosed within a cabinet or frame which is permanently and entirely mounted on the wall of a building and comply with the sign regulations set forth herein.

Source: Ord. 704, Sec. 2 (2004)

9. Illuminated signs shall be shielded to prevent lights from being directed at oncoming traffic in such brilliance that it impairs the vision of the driver. Nor shall such signs interfere with or obscure an official traffic sign or signal. This includes indoor signs which are visible from public streets.

10. Portable and High Impact signs shall be governed by the following provisions:

    A. Portable Signs - Prior to the placement of a portable sign, a portable sign permit must be obtained from the City of West Fargo Planning Office. A portable sign permit may be granted for a period not to exceed fourteen (14) days at a time, except for municipal construction zones which impact customer access to a business or use, whereupon the Planning Director may authorize extended display periods. Upon removal of the portable sign, it must be at least fourteen (14) days before another permit may be issued at that location for the same business or use, provided that portable signage on the site does not exceed 56 days within one calendar year for the same business or use. Portable sign permits shall be issued provided the following:

        1) The portable sign is located in a Commercial (C, EMU, DMU or PUD), Industrial (HC, LI, M, or PUD), or Public Facilities (P) Zoning District.

        2) The portable sign is located upon the same parcel which the advertisement/notice is intended, unless advertising a community-wide event, as determined the Planning Director.

        3) No portable sign may exceed sixty (60) square feet in area, with the sign face not to exceed six (6) feet in height or ten feet in width, and may not exceed eight feet (8) feet in overall height.

4) No portable sign may be placed upon the public right-of-way without approval of the City Commission. Portable signs shall meet the setback requirements for freestanding signs for Corridor Overlay Districts and underlying zoning districts.

5) No portable sign placed within one hundred (100) feet of an area zoned for residential use may have blinking, flashing or fluttering lights or other illuminating devices that have a changing intensity, brightness or color.

6) No part of a portable sign may be located within the thirty (30) foot sight triangle measured from the point of curvature of the intersecting street curbs.

7) Notwithstanding any other provision of this Ordinance, no sign may be placed in a manner as to impede vision within a twenty-four (24) foot sight triangle of the intersecting curb line of a driveway, entrance, or exit. This triangle may be increased by the Planning Director when deemed necessary for traffic safety.

8) Only one portable sign may be placed upon a property or development complex site at any given time, except in the case of multiple tenant sites consisting of six (6) or more businesses/uses, where two (2) portable signs will be allowed on the parcel at any given time.

9) All portable signs must be kept in good repair and in proper state of maintenance, including, but not limited to replacing lamps, replacing or repairing the sign face, replacing trim, etc. If the Planning Director finds that a sign is not in a proper state of repair, the City may after thirty (30) days of written notification, not issue a permit for the specific sign for any location.

10) In installing or removing the portable signs, access can not be across a boulevard, sidewalk or bikepath, unless an established driveway is present and used.

B. High Impact Signs - Prior to the placement of a high impact sign, a high impact sign permit must be obtained from the City of West Fargo Planning Office. A high impact sign permit may be granted for a period not to exceed five (5) consecutive days at a given site for a business use and no more

than twenty-one (21) total days within one calendar year. High impact sign permits shall be issued providing the following:

1) The high impact sign is located in a Commercial (C, EMU, DMU or PUD), Industrial (HC, LI, M, or PUD), or Public Facilities (P) Zoning District.

2) The high impact sign is located upon the same parcel which the advertisement/notice is intended, unless advertising a community-wide event, as determined the Planning Director.

3) No high impact sign may be placed upon the public right-of-way without approval of the City Commission. Portable signs shall meet the setback requirements for freestanding signs for Corridor Overlay Districts and underlying zoning districts.

4) No high impact sign placed within one hundred (100) feet of an area zoned for residential use may have blinking, flashing or fluttering lights or other illuminating devices that have a changing intensity, brightness or color.

5) No part of a high impact sign may be located within the thirty (30) foot sight triangle measured from the point of curvature of the intersecting street curbs.

6) Notwithstanding any other provision of this Ordinance, no sign may be placed in a manner as to impede vision within a twenty-four (24) foot sight triangle of the intersecting curb line of a driveway, entrance, or exit. This triangle may be increased by the Planning Director when deemed necessary for traffic safety.

7) Only one high impact or portable sign may be on a property or business site during any given period, except that multiple tenant sites may have up to two (2) portable signs or high impact signs, or a combination thereof, during any given period, provided the content of the sign changes for each business per the regulations outlined in this section.

8) In installing or removing the high impact signs, access can not be across a boulevard, sidewalk or bikepath, unless an established driveway is present and used.

Source: Ord. 702, Sec. 2 (2004); Ord. 1157, Sec. 2 (2020)

11. No sign or sign structure shall be closer to any side lot line than a distance equal to one-half (1/2) the minimum required yard setback. Nor shall any sign project onto any public street or alley or approved private street. No sign shall be placed within any drainage or utility easement.

12. No sign or sign structure shall be erected or maintained that prevents free ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

13. A freestanding sign or sign structure constructed so that the faces are not back to back, shall not have an angle separating the faces exceeding twenty (20) degrees unless the total area of both sides added together does not exceed the maximum allowable sign area for that district.

14. Signs in residential districts and signs facing residential districts shall not be illuminated unless approved as a conditional use.

15. Except for farm buildings, at least one (1) address sign identifying the correct property number as assigned by the City shall be required on each principal building in all districts. The number shall be at least three (3) inches in height.

16. Illegal signs which are located anywhere within any portion of any public right-of-way may be confiscated without notice by any City Official or agent. These signs may be recovered by the owner upon payment of a fine as imposed by the City Commission.

17. Reader boards, off-premise, and other signs, whether electronic, digital or other, shall be reviewed by various City departments to determine if such sign may create a nuisance or traffic hazard because of lighting glare, focus, animation or flashing. Visual nuisance or traffic hazard effects may be minimized through the use of static images or message (no flashing or scrolling messages), time sequencing of images or messages, i.e., 8 second standard changes and reduced intensity in lighting. In the event that such sign is determined to potentially constitute a nuisance or traffic hazard, the sign shall be reviewed as a conditional use.

Source: Ord. 916, Sec. 50 (2012); Ord. 1049, Sec. 40 (2015)

4-460.8. SIGNS NOT REQUIRING PERMIT AND PROHIBITED SIGNS.

1. Permitted Signs. The following signs are allowed without a permit; however are included within the allowable sign area, unless otherwise indicated.

a. Public Signs. Signs of a public, noncommercial nature, including safety signs, directional signs to public facilities, trespassing signs, traffic signs, signs indicating scenic or historical points of interest, memorial plaques and the like, when erected by or on behalf of a public official or employee in the performance of official duty.

b. Identification Signs. Identification signs not exceeding one (1) square foot for single and two-family structures and sixteen (16) square feet for multiple family structures.

c. Informational Signs. Informational Signs not exceeding twenty-four (24) square feet. One informational sign shall be allowed for each business and is not included within the allowable sign area, provided it does not exceed twenty-four (24) square feet and is fastened to an existing sign structure or building, or is a menu board for a restaurant.

d. Directional Signs.

(1) On-Premise Signs. Shall not be larger than four (4) square feet. The number of signs shall not exceed four (4) unless approved by the Planning and Zoning Commission, and shall not be included within the allowable signage.

Source: Ord. 704, Sec. 3 (2004)

(2) Off-Premise Signs. Shall be limited to situations where access is confusing and traffic safety could be jeopardized or traffic could be inappropriately routed through residential streets. The size of the sign shall be approved by the City Commission and shall contain no advertising.

e. Integral Signs. Integral signs shall not be included within the allowable sign area.

f. Campaign Signs. Campaign signs not exceeding thirty-two (32) square feet for any one sign, or for all signs on any lot. The sign must contain the name and address of the person responsible for such sign, and that person is responsible for its removal.

g. Flags and Insignia. Flags and insignia of any government except when displayed in connection with commercial promotion.

h. Holiday Signs. Signs or displays which contain or depict a message pertaining to a religious, national, state or local holiday and no other matter, and which are displayed for a period not to exceed forty-five (45) days in any calendar year.

i. Construction/Development Signs. A non-illuminated construction or development sign confined to the site of the construction, alteration, repair or development. Such sign must be removed within two (2) years of the date of issuance of the first building permit on the site or when the particular project is completed, whichever is sooner, unless said sign is intended to be a permanent identification sign for the development and is approved as a conditional use. One sign shall be permitted for each street the project abuts. No sign may exceed thirty-two (32) square feet in the R-1E, R-1A, R-1, R-4 and R-5 Districts, or sixty-four (64) square feet in the A, R-2, R-3, C, EMU, DMU, HC, LI and M districts unless otherwise approved as a conditional use.

Source: Ord. 1157, Sec. 3 (2020)

j. Roadside Market Signs. Signs advertising produce grown and sold on the premises on which they are located, provided such signs shall not exceed thirty-two (32) square feet in area or be displayed for a period exceeding six (6) months of any calendar year.

k. "For Sale" and "To Rent" Signs. "For Sale" and "To Rent" signs shall be permitted subject to the following regulations:

(1) Six (6) or Less Residential Dwelling Units. The following applies to the for sale or for rent of a single family residence or where six (6) or less dwelling units (or lots for residential development) are for sale or rent: No more than one such sign per lot, except on a corner lot (2) signs, one facing each street, shall be permitted. No such signs shall exceed sixteen (16) square feet in area, or be illuminated. Each such sign must be devoted solely to the sale or rental of the property being offered and must be removed immediately upon the sale or rental of the property. Each sign must be placed only upon the property offered for sale or rent.

(2) Seven (7) or More Residential Dwelling Units. Where more than six (6) dwelling units (or

lots for residential development purposes) are offered for sale or rental by the same party, signs advertising such sale or rental may be constructed therefore in any district. There shall be permitted one sign facing each public street providing access to the property being offered. Each such sign shall not exceed twenty-four (24) square feet in area; shall be located at least one hundred (100) feet from any preexisting home; and shall be removed within one year from the date of building permit issuance, or when less than six (6) units remain for sale or rent, whichever is less. Said sign shall fully comply with the setback requirement for the zoning district in which the property is located.

(3) Industrial or Commercial Property. In the event of an industrial or commercial sale or rental of real property, there shall be permitted one sign facing each public street providing access to the property being offered. Each sign shall not exceed thirty-two (32) square feet in area for signs located within fifty (50) feet of the front property line, or sixty-four (64) square feet in area if located fifty (50) or more feet from the front property line and must be devoted solely to the sale and rental of the property being offered and must be removed immediately upon the sale or rental of the last property offered at that location. Said sign may not be located closer to the property line than fifty (50) percent of the setback required within the particular zoning district in which the property is located.

l. Rummage (Garage) Sale Signs. Rummage sale signs shall not be posted until one day before the date of the sale and shall be removed within one (1) day after the end of the sale and shall not exceed six (6) square feet. Rummage sale signs shall not be located in any public right-of-way, or on utility poles or equipment.

m. Signs relating to official local, state or federal government agencies and City entrance signs.

n. Window Signs. Window signs shall not exceed fifty (50) percent of the total glass area of the face of the building on which the window in which they are displayed and shall not be included within the allowable sign area.

o. Small Signs. Small signs which do not exceed one (1) square foot in area shall not be counted as part of the allowable sign area, provided the signs are not part of a larger sign scheme for the building or property.

p. Pennants. Pennants may be erected on the premises of an establishment in commercial and industrial zoning districts which are not in the "Corridor Overlay District. Pennant displays must be properly maintained as to not create a safety hazard, nor shall they detract from the character of adjacent properties and other property in the district. The rope, wire or string used to display the pennants must be fastened securely and remain taut.

Source: Ord. 704, Sec. 5 (2004)

2. Prohibited Signs. The following signs are prohibited:

a. Off-Premise Advertising Signs with the following exceptions:

(1) Approved signs within a commercial or industrial planned unit development, advertising businesses within the PUD.

(2) Signs as provided for in the district provisions.

b. Advertising or business signs on or attached to equipment such as semi-truck trailers or motor vehicles where signing is a principal use of the equipment on either a temporary or permanent basis. Such signs may be used for special events on site and may not be displayed for more than fourteen (14) calendar days within any four (4) month period.

Source: Ord. 702, Sec. 3 (2004)

c. Beacon, motion and flashing signs, except reader boards, time and temperature signs and barber poles.

d. Roof Signs. Except that a business sign may be placed on the fascia or marquee of a building, provided it does not extend above the highest elevation of the building, excluding chimneys.

e. Business signs which advertise an activity, business, product or service no longer produced or conducted on the premises upon which the sign is located. Where the owner or lessor of the premises

is seeking a new tenant, such signs may remain in place for not more than thirty (30) days from the date of vacancy.

f. Wall Graphics.

g. Portable signs, banners, inflatable signs, tethered balloons and similar devices except as provided in this chapter.

h. Signs which are tacked on bridges, fire hydrants, official public signs, trees, fences, utility poles or in any portion of a public right-of-way; temporary signs fastened to sign structures, parking lot light poles or other structures; and temporary signs secured by wires, stakes or weights.

i. Bench signs except by special permit of the City Commission.

j. Home occupation signs except as part of an identification sign for the residence, which does not exceed one (1) square foot in area and is mounted flush against the buildings.

k. Pennants within the "Corridor Overlay District."

Source: Ord. 704, Sec. 4 (2004)

4-460.9 GENERAL DISTRICT REGULATIONS.

1. Agricultural and Residential Districts.

a. Institutional Identification. Except as provided for as a conditional use, only one (1) sign per street frontage for the principal use, and the sign area may not exceed thirty-two (32) square feet with a maximum height of eight (8) feet for freestanding signs. There shall be fifteen (15) feet for the front yard setback and ten (10) feet for the side yard setback on a corner lot.

b. Residential Area Identification. One (1) sign for each exclusive entrance to the development not exceeding thirty-two (32) square feet, or two signs not exceeding sixteen (16) square feet each. Signs are limited to a maximum height of eight (8) feet for freestanding signs.

c. Conditional Use Identification. Only one (1) sign for a conditionally permitted use, which is the primary use of the property, unless otherwise approved as part of a public review for a

conditional use. The sign area may not exceed thirty-two (32) square feet with a maximum height of eight (8) feet for freestanding signs. Uses with more than one street frontage may be allowed an additional sign of same size and height, provided it is approved as part of the conditional use application.

d. Increase in signage. Additional signage may be considered by the City as a conditional use, subject to following the conditional use procedures established by the City.

2. "C," "EMU," "DMU," "HC," "LI" and "M" Districts.
Source: Ord. 1045, Sec. 5 (2015); Ord. 1049, Sec. 41 (2015); Ord. 1097, Sec. 1 (2017); Ord. 1157, Sec. 4 (2020)

a. Sign Allocation Plan. A sign allocation plan shall be established by the developer or property owner for multi-tenant buildings to provide for the desired allocation of signage. When buildings are expanded and/or tenants added, a revised plan shall be established. Sign allocation plans shall take into consideration the total buildable area of the property and provide for an equitable distribution of signage to tenants based on the percentage of leasable floor area for each tenant. Anchor tenants may be assigned up to ten (10) percent more signage than the distribution formula would provide for with smaller tenants receiving proportionally less. Plans shall be submitted to the City for administrative review and approval.

b. Single or Multiple Occupancy Business Signs. The total sign area for the subject property may not exceed two (2) square feet for every one (1) foot of lot frontage on a public or approved private street. On corner lots the longest frontage may be used. Signs chosen to comprise the total sign area shall be consistent with the following provisions:

(1) Freestanding. Not more than one (1) sign per 50,000 square feet of floor area; however, on corner lots two (2) freestanding signs are allowable, one (1) per frontage. Total individual business sign area may not exceed one hundred (100) square feet nor exceed a maximum height of thirty-five (35) feet. The sign area may be increased to one hundred fifty (150) square feet provided the sign is set back a minimum of twenty (20) feet from the street right-of-way in front. Multiple tenant signs on a freestanding sign structure may not exceed one hundred fifty (150) square feet, except that if a setback of twenty (20)

feet from the street right-of-way in front is provided, the total signage may be increased to two hundred (200) square feet.

a. Freestanding Signs on Main Avenue. Main Avenue is recognized as a unique, established business highway corridor with properties distanced from the main roadway travel lanes in some areas by either frontage roads or by increased boulevards with landscaping. To provide for more equitable visibility of signage, total individual business sign area may be increased subject to review as a conditional use, but not to exceed one hundred fifty (150) square feet, nor exceed a maximum height of thirty-five (35) feet without the previously stated setback requirement of twenty (20) feet from the street right-of-way if it can be determined that the existing site has adequate separation provided by either frontage road or an increased boulevard of Main Avenue. Multiple tenant signs on a freestanding sign structure may be increased subject to review as a conditional use, but not to exceed 200 square feet nor exceed a maximum height of thirty-five (35) feet without the previously stated setback requirement of twenty (20) feet from the street right-of-way if it can be determined that the existing site has adequate separation provided by either frontage road or an increased boulevard of Main Avenue.

(2) Wall, Canopy or Marquee. Not more than one sign for each ten (10) feet of lot frontage. Sign area may not exceed fifteen percent (15%) of the building facade up to a maximum of one hundred (100) square feet per sign for buildings with a setback of less than one hundred (100) feet and up to a maximum of two hundred (200) square feet per sign for buildings with a setback of one hundred (100) feet or more.

c. Modified Sign Development Plan. Parcels which are unusual in dimensions (large parcels with limited frontage) may have a modified sign development plan considered as a conditional use, particularly if the property is intended to be developed with multi-tenant building(s) and the allowable signage is very limited.

d. Off-premise signs are allowed in "HC": Heavy Commercial, "LI": Light Industrial,"M": Heavy Industrial, "DMU": Downtown Mixed Use, and "EMU": Entertainment Mixed Use Districts. No off-premise sign shall exceed seven hundred fifty (750) square feet in area, unless otherwise approved through the conditional use permit process. No two off-premise signs may be placed less than two hundred fifty (250) feet apart, unless said signs are separated by buildings or other obstructions in such a manner that only one sign is visible from the roadway at any time.

e. Projecting Signs. Where a building is meeting the required zero front setback line of a specific zoning district, an encroachment of a wall sign or protruding wall sign may occur with appropriate approval of an encroachment agreement with the City as approved by the City Commission.

3. "P" Public Facilities District. Source: Ord. 1116, Sec. 1 (2018)

a. For such facilities occupying an area of five (5) acres or more, an identification sign not larger than ninety-six (96) square feet, or two (2) signs not to exceed forty-eight (48) square feet may be permitted. Signs shall be of a wall, canopy, marquee or freestanding variety. Freestanding signs are limited to a maximum height of eight (8) feet, except that the height of a sign may be increased one (1) foot up to (10) additional feet for each two (2) feet of front yard setback provided beyond the minimum and for each four (4) feet of side yard setback provided beyond the minimum.

b. As a conditionally permitted use, off-premise signs may be allowed. The City may impose height and other size requirements, as well as other requirements deemed necessary by the City to have such signs fit into the area in which they are proposed to be established.

c. Increase in signage. Additional signage may be considered by the City as a conditional use, subject to following the conditional use procedures established by the City.

4. "PUD" Districts. In "Planned Unit Development" Districts, sign restrictions shall be based upon the individual uses and structures contained in the development. Signs shall be in compliance with the restrictions applied in the most restrictive zoning district in which the use is allowed. Signs considered to be off-premise signs must meet the requirements set forth above for on-premise signs for the most restrictive zoning district in which the use is allowed, must be limited to advertising businesses located within the same

PUD District, and the off-premise signs must be a permissive use in the PUD District.

5. "CO" District. In addition to the sign restrictions stated above, the following restrictions shall apply:

   a. In underlying Agricultural and Residential Districts, no sign shall be permitted except as may be allowed as a conditional use, in which case signage shall conform to whatever restrictions may be imposed by the City Commission in authorizing the conditional use permit; however, in no case shall the requirements be less restrictive than those set forth in the subsection below.

   b. In underlying Commercial Districts: On-Premise Signs shall be permitted according to the following provisions:

      (1) Number: In structures with multiple occupancy and individual outside entrances (retail centers), each tenant can have its own wall signs; however, a common monument or freestanding sign is intended to serve the needs of all the tenants in the structures.

      (2) Height: Freestanding signs shall conform to the following formula:

      Max. Height (ft) = Frontage on designated street/10 + Sign Setback/2

      with no freestanding sign exceeding twenty-five (25) feet in height, except that the height of a sign may be increased one (1) foot, up to ten (10) additional feet, for each two (2) feet of setback provided beyond the minimum.

      (3) Minimum Setback: There shall be fifteen (15) feet front yard sign setback for all those properties abutting the designated streets. For those properties abutting other roadways, yard sign setbacks along the roadways shall be five (5) feet.

      (4) For premises without frontage on the designated streets, the height and area of signs shall be determined by the amount of frontage on other public or approved private streets.

c. In underlying PUD District, on-premise signs shall be permitted according to the provisions of the underlying district and the provisions of this section, the most restrictive provisions prevailing. Off-premise signs in the underlying PUD District must meet the requirements set forth above for on-premise signs, must be limited to advertising businesses located within the same PUD District, and the off-premise signs must be a permissive use in the PUD District.

6. "CO-I" District. In addition to the sign restrictions stated above for underlying districts, identification or institutional wall signs may be increased in area as a conditional use to a maximum of 300 square feet in area, provided the following criteria are met:

   a. The structure on which the wall sign is mounted shall be set back a minimum of 400 feet from public street or Interstate 94 right-of-way lines.

   b. The structure is at least 100,000 square feet in area.

   c. No freestanding signs are utilized on the property.

   d. Only two wall signs are allowed, one for each of two sides.

Source: Ord. 910, Sec. 1 (2011)

4-460.10 SPECIAL DISTRICT REGULATIONS

1. Motor Fuel Stations. Signs for motor fuel stations shall be regulated by the business structure sign provisions for the zoning district in which the station is located. In addition, motor fuel stations may also display signs which identify current fuel prices and car wash facilities. Such signs shall be limited to a maximum size of twenty-four (24) square feet and a maximum height of ten (10) feet each. One fuel price sign and one car wash sign for any motor fuel station shall not be included within the allowable signage provided the size and height restrictions are met. Customer information and advertising provided on fuel dispensing units shall not be regarded as signage.

2. Additional Signage in Lieu of Freestanding Pylon Signs in the Commercial and Industrial Zoning Districts. When a commercial or industrial building elects to construct a monument style sign in lieu of a pylon sign, or where no freestanding sign is used, the maximum property sign percentage limitation for sign area may be increased five (5) percent. Monument style signs shall be a maximum of one hundred (100) square feet in area for other commercial and industrial districts, and shall be located in such a manner as to avoid conflicts with traffic visibility.

4-460.11. INSPECTION. All signs for which a permit is required shall be subject to inspection by the Zoning Administrator and Building Administrator. The Zoning Administrator or Building Administrator may order the removal of any sign that is not maintained in accordance with the maintenance provisions of this Chapter.

4-460.12. PERMIT, APPLICATION, VARIANCE AND COMMISSION APPROVAL.

1. Except as provided in Section 4-460.8 of this chapter, it is unlawful for any person to erect, construct, alter, rebuild or relocate any sign or structure until a permit has first been issued by the City.

2. Sign Application. The following information for a sign permit shall be supplied by the applicant if requested by the City.

   a. Name, address and telephone number of person making application.

   b. Name, address and telephone number of person owning sign.

   c. A site plan to scale showing the location of lot lines, building structures, parking area, existing and proposed signs and any other physical features. All signs on the property shall be shown.

   d. Plans, location and specifications and method of construction and attachment to the buildings or placement method in the ground.

   e. Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and City Code provisions.

   f. Written consent of the owner or lessee of any site on which the sign is to be erected.

   g. Any electrical permit required and issued for the sign.

   h. Such other information as the City shall require to show full compliance with this and all other laws and City Code provisions.

3. Permit Issued if Application is in Order. The Zoning Administrator and Building Administrator, upon filing of an application for a permit, shall examine such plans, specifications and other data and the premises upon which it is proposed to erect the sign. If it appears that the proposed structure is in compliance with all requirements of this chapter and all other laws and the City Code provisions, the permit shall be issued. If the work

authorized under a permit has not been completed within sixty (60) days after the date of issuance, the permit shall be null and void.

4. City Commission Approval. When this Chapter requires City Commission approval for a sign, the application shall be processed in accordance with the procedural and substantive requirements of the Zoning Chapter for a conditional use permit.

5. Variances. The City Commission may, upon application, grant a variance from the terms of this chapter. The request for a variance shall be processed in accordance with the procedural and substantive requirements of the Zoning Chapter.

6. Fees. Fees for review and process of sign permit applications and variance requests shall be imposed in accordance with the fee schedule established by Commission resolution.

7. Licenses for Portable or High Impact Signs. It shall be unlawful for any person, firm or entity to display a Portable Sign or High Impact Sign within the zoning jurisdiction of the City of West Fargo without first having obtained a license for such purpose. A license for the owner of the sign shall be approved by the City Commission annually. Said license shall terminate on December 31st of the permitting year. License fees shall be imposed in accordance with the fee schedule established by Commission resolution.

   a. Suspension or Non-renewal of License. The license granted under this section may be suspended or revoked for violation of any of the provisions of the West Fargo Sign Regulations as follows:

      1) Initial Violation - Warning. Upon a finding by the Planning Director of an initial violation of the West Fargo Sign Ordinance, a warning by written notice shall be given by the Planning Director that the licensee's license is subject to a fine and license suspension if a subsequent violations occur within a period of twelve (12) months from the date of violation of the first offense.

      2) Second Violation. Fine. Upon a finding by the Planning Director of a second violation of the West Fargo Sign Ordinance within 12 months from the first violation, a written notice shall be given to the licensee by the Planning Director and an administrative fine of $200.00 imposed. The licensee shall have a period of thirty days to make payment from the date of the notice.

3) Third Violation. License Suspension. Upon a finding by the Planning Director of a third violation of the West Fargo Sign Ordinance within 12 months from the first violation, a written notice shall be given to the licensee by the Planning Director establishing a date, time and place for a hearing before the City Commission. The purpose of the hearing is for the licensee to show cause why licensee's license shall not be suspended for a period of sixty days from the date of the Commission's order finding a third violation within 12 months of the first violation.

4) Fourth Violation - Suspension. Upon a finding by the Planning Director of a fourth violation of the West Fargo Sign Ordinance within 12 months from the first violation, a written notice shall be given to the licensee by the Planning Director establishing a date, time and place for a hearing before the City Commission. The purpose of the hearing is for the licensee to show cause why licensee's license shall not be suspended for a period of one year from the date of the Commission's order finding a fourth violation within 12 months of the first violation.

5) Once revoked, a licensee may not renew his/her license for a period of twelve months from the date of revocation.

6) Nothing in this section shall limit the authority of the City Commission to impose a fine or penalty or to revoke or to cause a forfeiture of a license.

Source: Ord. 702, Sec. 4 (2004)

4-460.13. ENFORCEMENT. This chapter shall be administered and enforced by the Zoning Administrator and Building Administrator. The Zoning Administrator and Building Administrator may institute in the name of the City appropriate actions or proceedings against a violator.

4-460.14. VIOLATION MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this chapter when that person performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provision hereof.

4-470. NONCONFORMING LOTS, USES OF LAND, STRUCTURES, AND USES OF STRUCTURES.

Subsections:

4-471. Intent.
4-472. Nonconforming Lots of Record.
4-473. Nonconforming Uses of Land (or Land with Minor Structures Only).
4-474. Nonconforming Structures.
4-475. Nonconforming Uses of Structures or of Structures and Premises in Combination.
4-476. Repairs and Maintenance.
4-477. Uses Allowed as Conditional Uses Not Nonconforming Uses.

4-471. INTENT. Within the districts established by this Ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Nonconforming uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land in combination shall not be extended or enlarged after passage of this Ordinance by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

4-472. NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted, a single-family

dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained through action of the Board of Adjustment. If two or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and if all or part of the lots do not meet the requirements established for lot width and the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Ordinance.

4-473. NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY). Where at the time of passage of this Ordinance lawful use of land exists which would not be permitted by the regulations imposed by this Ordinance, and where such use involves no individual structure with a replacement cost exceeding $1,000, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance;

2. No such nonconforming use shall be moved in while or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance;

3. If any such nonconforming use of land ceases for any reason for a period of more than 30 days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the district in which such land is located;

4. No additional structure not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

4-474. NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the

structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in any way which increases its nonconformity, but any structure or portion thereof may be altered to decrease it nonconformity.

2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to the extent of more than 50 percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

4-475. NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION. If lawful use involving individual structures with a replacement cost of $1,000 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance, that would not be allowed in the district under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No existing structure devoted to a use not permitted by this Ordinance in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located. However, accessory buildings to residential uses may be enlarged, extended, constructed, reconstructed, moved or structurally altered provided that these improvements shall meet the yard and lot coverage requirements of the residential district, or in the case of accessory buildings located in commercial or industrial districts the lot coverage may not exceed fifty percent (50%) for buildings and may not exceed seventy-five percent (75%) impervious surfaces. Setback and building height requirements for accessory buildings located in commercial or industrial districts will follow the requirement of the C: Light Commercial District.

   Source: Ord. 934, Sec. 1 (2012)

2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building;

3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a conditional use be changed to another nonconforming use provided that the City Commission, either by general rule

or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate in the district than the existing nonconforming use. In permitting such change, the City Commission may require appropriate conditions and safeguards in accord with the provisions of this Ordinance;

4. Any structure, or structures and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed;

5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six consecutive months or for 18 months during any three-year period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

6. Where nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than 50 percent of the replacement cost at the time of destruction.

Source: Ord. 501, Sec. 12 (1996).

4-476. REPAIRS AND MAINTENANCE. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, to an extent not exceeding 25 percent of the current replacement cost of the structure as the case may be, provided that the cubic content existing when it became nonconforming shall not be increased. If a nonconforming structure or portion of a structure containing a nonconforming use becomes physically unsafe of unlawful due to lack of repairs and maintenance and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located. Nothing in this Ordinance shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

4-477. USES ALLOWED AS CONDITIONAL USES NOT NONCONFORMING USES. Any use which is allowed in a specific district as a conditional use shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district.

CHAPTER 4-500.

ADMINISTRATION AND ENFORCEMENT

Sections:

4-510. Designated Administrator.
4-520. Schedule of Fees, Charges and Expenses.
4-530. Building Permits.
4-540. Amendments.
4-549. Provisional Use Permits [Source: Ord. 783, Sec. 16 (2006)]
4-550. Conditional Use Permits.
4-560. Board of Adjustment.
4-570. Violations: Remedies, Complaints and Penalties.

4-510. DESIGNATED ADMINISTRATOR. An administrative official designated by the City Commission shall administer and enforce this Ordinance. This person may be provided with the assistance of such other persons the City Commission may direct.

4-520. SCHEDULE OF FEES, CHARGES, AND EXPENSES. The City Commission shall establish a schedule of fees, charges and expenses and a collection procedure for building permits, zoning amendments, conditional use permits, appeals, and other matters pertaining to this Ordinance. The schedule of fees shall be on file in the Office of the West Fargo City Auditor, and may be altered or amended by the City Commission.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

4-530. BUILDING PERMITS.

Subsections:

4-531. Building Permits and Temporary Structure/Use Permits Required.
4-532. Application for Building Permit and Temporary Structure/User Permit, Plans Required.
5-533. Expiration of a Building Permit.
4-534. Construction and Use to be as Provided in Application, Plans and Permits.

4-531. BUILDING PERMITS AND TEMPORARY STRUCTURE/USE PERMITS REQUIRED. No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the administrative official pursuant to Chapter 5 of the ordinances of the City of West Fargo. Temporary structures and/or uses must obtain a permit from the designated administrative official(s). Temporary structures and/or uses shall include but not be limited to the following: Greenhouses; plant and produce stands; sales tents, trailers or other structures used to sell goods and services; model home sales offices; coffee huts; on-site storage tents and/or trailers to house inventory during construction or other unusual business interruptions; seasonal sales such as Christmas trees; temporary office trailers for construction sites; and certain storage containers meeting specific requirements for a limited period of time. Temporary structures and/or uses exempt from permits include the following: Fundraising events for public or nonprofit organizations; yard and garage sales lasting no longer than three days; auction sales; sale of fireworks conducted between June 25th and July 7th only; and City sponsored community events. Temporary structures or uses shall be located on property which is appropriately zoned. No permit shall be issued except in conformity with the provisions of this Chapter.

Source: Ord. 501, Sec. 13 (1996); Ord. 916, Sec. 52 (2012); Ord. 1049, Sec. 42 (2015).

4-532. APPLICATION FOR BUILDING PERMIT AND TEMPORARY STRUCTURE/USE PERMIT, PLANS REQUIRED. All applications for building permits and temporary structure/use permits shall provide the desired dates of operation of the temporary structure/use and be accompanied by plans in duplicate when required by the administrative official(s). Plans shall be drawn showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; and the location and dimensions of the proposed building(s) or alteration. The application shall include such other information as lawfully may be required by the administrative official(s), including existing or proposed building(s) or alteration(s); existing or proposed uses of the building and land; existing or proposed parking; location and type of boulevard trees and other landscaping which may be required by subdivision landscape plans

and/or Corridor Overlay District or Interstate Corridor Overlay District; the address and/or legal description of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with the City's plans and ordinances; and provide for the enforcement of this Ordinance.

The application and plans shall be submitted to the Office of the City Planner who will coordinate review of the application and plans with the appropriate City departments and agencies. Following review by City departments and agencies, the City Planner will submit the application and plans, along with any recommendations to the City Commission for consideration. The City Commission may grant a permit for a temporary structure or use for a defined period of time, provided; however, that the permit may not be for a period longer than twelve (12) months. An applicant may re-apply for a temporary structure/use permit following the same procedures as prescribed above.

One copy of the plans shall be returned to the applicant by the City Planner following City Commission consideration after s/he shall have marked such copy as either approved or disapproved along with any conditions of approval or reasons for denial, and attested to the same by his/her signature on such copy. The second copy of the plans, similarly marked, shall be retained by the administrative official. If a building permit is refused, the administrative official shall state the reasons for such refusal in writing.

In addition to the requirements set out above, a tree planting fee shall be paid to the City of West Fargo prior to building permit issuance for construction on lots. Such fee shall cover the cost of planting trees on the boulevard of the size, number and species as required according to the City's adopted Landscape Standard, approved subdivision landscape plans, Corridor Overlay District, or Interstate Corridor Overlay District. The Building Inspector or the City Planner shall notify the City Auditor of the number of trees required for each building permit.

The City Auditor shall annually obtain a bid from a nursery or other qualified person or entity for the cost of purchasing and planting trees pursuant to this section. The applicant shall pay to the City that amount which is necessary to purchase and plant trees of the number and species as required by the City. If alternative species are available for selection, the applicant may choose from those alternatives available but in no case shall more than forty (40) percent of one species be planted within a subdivision. The applicant shall then be required to pay that amount required for the variety of tree(s) selected. After construction is complete, the applicant or owner shall inform the City Auditor or his designee that the trees may be planted. The trees shall be planted as soon as possible after said notice, but in no event shall trees be planted at times or under weather conditions in which trees are not normally planted in this area.

Upon completion of construction for the project, the property owner is responsible for the lot to be graded according to the approved subdivision drainage plan. Lots shall be seeded or sodded within one year of issuance of the building permit unless otherwise approved by the City Planner.

SOURCE: Ord. 444, Sec. 1 (1992); Ord. 916, Sec. 53 (2012); Ord. 1049, Sec. 43 (2015).

4-533. EXPIRATION OF A BUILDING PERMIT. If the work authorized by any building permit is not commenced within one hundred and twenty (120) days, or if construction or work is suspended or abandoned for a period of 120 days at any time after work is commenced, said permit shall be null and void. It shall be cancelled by the administrative official and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled permit shall not proceed unless and until a new building permit has been obtained.

4-534. CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION, PLANS AND PERMITS. Building permits issued on the basis of plans and application approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and application, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be a violation of this Ordinance.

4-540. AMENDMENTS.

Subsections:

4-541. Intent.
4-542. Public Hearing Required.
4-543. Who May Initiate.
4-544. Application Required.
4-545. Review by Planning and Zoning Commission.
4-546. Action by City Commission.

4-541. INTENT. The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed or repealed by the West Fargo City Commission.

4-542. PUBLIC HEARING REQUIRED. No amendment, supplement, change or modification of this Chapter shall be made by the City Commission until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Notice of said hearing shall be published once a week for two successive weeks prior to the time set for said hearing in the official newspaper of the city. Such notice shall contain the following items:

1. The time and place of the hearing.

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

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

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

4-543. WHO MAY INITIATE. Either the Planning and Zoning Commission or the City Commission may initiate an amendment. A property owner or representative of the property owner may request a rezoning if it applies to his/her property.

4-544. APPLICATION REQUIRED. If a property owner or representative of the property owner wishes to request an amendment, s/he shall fill out an application, copies of which are available at the City Planning Office. No application for a rezoning of a particular piece of property shall be accepted more than once in any twelve (12) month period except if the prior application was withdrawn before action was taken by the City Commission, or if the Planning and Zoning Commission determines that the circumstances surrounding a previous application for a

rezoning has changed. The application shall be filed with the City Planner who shall refer the application together with his/her comments thereon to the Planning and Zoning Commission. Applications for rezoning property which has not been previously platted shall be required to plat the property in accordance with Ordinance 4-04.

Source: Ord. 501, Sec. 14 (1996).

4-545. REVIEW BY PLANNING AND ZONING COMMISSION. No amendment, supplement, change or modification of this Ordinance shall be made by the City Commission without first the consideration of each by the Planning and Zoning Commission. Following a public hearing before and consideration by the Planning and Zoning Commission, the Commission shall submit in writing its recommendations on each amendment, supplement, change or modification to the City Commission within sixty (60) days after receipt thereof. Said recommendations shall include approval, disapproval or other suggestions and the reasons thereof, and a discussion of the effect of each amendment, supplement, change or modification on the Comprehensive Plan. Said recommendation shall be of an advisory nature only.

4-546. ACTION BY CITY COMMISSION. After receipt of the recommendation on any amendment from the Zoning Commission, or in any event of the failure of the Zoning Commission to so report, within ninety (90) days from the time of referral of the proposed amendment to the Zoning Commission, the Board of City Commissioners shall hold a public hearing, after which the proposed amendment may be passed. If a protest against a change, supplement, modification, amendment, or repeal is signed by the owners of twenty per cent or more:

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

2. Of the area adjacent, extending one hundred fifty feet (45.72 meters) from the area to be changed, excluding the width of streets or other public right-of-way, the amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Commission. All protests must be filed with the City Auditor, in writing, prior to the time set for the hearing.

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

4-549. PROVISIONAL USE PERMITS.

Source: Ord. 783, Sec. 16 (2006)

Subsections:

4-549.1. Intent.
4-549.2. Who May Apply.
4-549.3. Application Required.
4-549.4. Public Notification and Administrative Review.
4-549.5. Planning and Zoning Consideration.
4-549.6. Termination of Provisional Use Permit.

4-549.1. INTENT. The provisions of this section are intended to permit certain land uses which are generally considered to be compatible with the uses permitted by right in a zoning district, and desirable to the development of the City as a whole, provided specific provisions are met to minimize the use's affects on neighboring properties. The specific provisions to be met shall be stated within the zoning district.

4-549.2. WHO MAY APPLY. A property owner or representative of the property owner may request a provisional use permit if it applies to his/her property.

4-549.3. APPLICATION REQUIRED. To request a provisional use permit, a property owner or his/her authorized representative shall fill out an application, copies of which are available in the City Planning Office, together with a site plan of the property and other pertinent information needed to complete the administrative review.

4-549.4. PUBLIC NOTIFICATION AND ADMINISTRATIVE REVIEW. The City Planning Office shall notify the property owners of any adjoining properties, as well as those properties directly across any public street in front of or on the side of the provisional use property. If no objections are received from the property owners within ten (10) days from the date notices are sent out, the Planning Office may complete the administrative review and issue the provisional use permit. The administrative review shall consist of review of the application and site plan to insure compliance with the zoning district provisions and other zoning ordinance requirements.

Source: Ord. 916, Sec. 54 (2012)

4-549.5. PLANNING AND ZONING COMMISSION CONSIDERATION. The Planning and Zoning Commission shall review the application for a provisional use permit only when requested by the applicant following City Planning Department disapproval of the application, or upon written opposition by twenty-five percent (25%) or more of the property owners of any adjoining properties, as well as those properties directly across any public street in front of or on the side of the provisional use property. The application shall be

reviewed at the next regular meeting of the Planning and Zoning Commission following notification to the applicant and property owners. The Planning and Zoning Commission shall review all pertinent information to ascertain compliance with the specific standards governing the provisional use and to determine if the provisional use has significant opposition to not approve the use.

Source: Ord. 916, Sec. 55 (2012)

4-549.6. TERMINATION OF PROVISIONAL USE PERMIT. Provisional use permits are granted to the owner of the property and shall automatically terminate upon the sale or transfer of the property. A provisional use may be revoked with due cause following a hearing by the Planning and Zoning Commission.

Source: Ord, 916, Sec. 56 (2012)

4-550. CONDITIONAL USE PERMITS.

Subsections:

4-551. Intent.
4-552. Who May Apply.
4-553. Application Required.
4-554. Public Hearing and Notification.
4-555. Planning Commission Consideration.
4-556. Report to the City Commission.
4-557. Commission Action.
4-558. Amended Conditional Use Permits.

4-551. INTENT. The provisions of this section are intended to permit certain land uses which, under special conditions and review, can be compatible with the uses permitted by right in a zoning district, and desirable to the development of the City as a whole. Only those uses identified in the zoning district regulations are eligible for a conditional use permit under the procedure described below. A conditional use permit shall not be granted unless it meets the minimum standards and requirements of the applicable zoning district where permitted.

4-552. WHO MAY APPLY. Either the Planning Commission or City Commission may initiate a conditional use permit. A property owner or representative of the property owner may request a conditional use permit if it applies to his/her property.

4-553. APPLICATION REQUIRED. To request a conditional use permit, a property owner or his/her representative shall fill out an application, copies of which are available in the City Planning Office. No application for a conditional use permit of a particular piece of property shall be accepted more than once in any twelve (12) month period. The application shall be filed with the City Planner who shall determine whether the application meets all the submission requirements within thirty (30) days and if complete shall refer the application together with his/her comments thereon to the Planning Commission. The Planning Commission may require additional information when considering an application.

Source: Ord. 916, Sec. 57 (2012)

4-554. PUBLIC HEARING AND NOTIFICATION. No conditional use permit may be issued until after it is afforded a public hearing in accordance with the regulation set forth in Section 4-542 of this Chapter. In addition to this, the owners of all property situated wholly or partly within 350 ft. of the property lines in question shall be mailed or served notice at least ten (10) days in advance of the hearing. A copy of the notice and a list of the owners and

addresses to which the notice was sent shall be attested and made part of the records of the proceedings. A failure of any property owner to receive notice or failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceedings provided a bona fide attempt has been made to comply with all notice requirements.

4-555. PLANNING COMMISSION CONSIDERATION. Provided the applicant has furnished all information as requested by the City Planning Office, the Planning Commission shall consider the application at its next meeting provided the prescribed notification requirements can be met. The Planning Commission shall arrive at a recommendation within ninety (90) days of receipt of an application which meets all submission requirements. Before making a recommendation, the Planning Commission shall review the application for a conditional use permit to ascertain compliance with the specific standards governing individual conditional uses, and that satisfactory provision and arrangement has been made concerning the following, where applicable:

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

2. Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare or odor effects of the special exception on adjoining properties and properties generally in the district.

3. Refuse and service areas, with particular reference to the items in (1) and (2) above.

4. Utilities, with reference of locations, availability, and compatibility.

5. Screening and buffering with reference to type, dimensions, and character.

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.

7. Required yards and other open space.

8. Soil conditions, as they relate to on-site sewage disposal, water supply, basement excavating, road construction and related land use.

9. General compatibility with adjacent properties and other property in the district.

Source: Ord. 916, Sec. 58 (2012)

4-556. REPORT TO THE CITY COMMISSION. The Planning Commission shall make its recommendation to the City Commission. This recommendation shall be forwarded to the Commission for consideration at the Commission's next regular meeting.

4-557. COMMISSION ACTION. The City Commission shall arrive at a decision within sixty (60) days of the meeting at which the conditional use application was first considered by the Planning Commission. When it has been determined by the City Commission that such conditional use will promote the public health, safety, and welfare, and that such proposal is in general compatibility with adjacent or nearby land uses, the zoning code, and the City's comprehensive plan, the City Commission may authorize the Zoning Administrator to issue a conditional use permit. In authorizing this permit, the City Commission may impose such conditions it deems necessary, i.e. landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, signage, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements, to fulfill the purpose and intent of this Ordinance. Any conditions imposed by the Commission shall be attached to the conditional use permit and failure to comply with any condition in a conditional use permit shall be a violation of this Ordinance.

Source: Ord. 916, Sec. 59 (2012)

4-558. AMENDED CONDITIONAL USE PERMITS. An amended conditional use permit may be applied for and administered in a manner similar to that required for a new conditional use permit. Amended conditional use permits shall include reapplications for permits that have expired or have been denied, requests for substantial changes in conditions or expansions of use, and as otherwise described in this Ordinance. Applications for conditionally permitted uses which consist of multiple structures to be developed on the property shall include a conceptual development plan showing the structures proposed. The conditional use permit is approved for the use of the property which does not require an amendment each time a structure is proposed; however, once proposed development exceeds the approved conceptual development plan or if the characteristics of use change, an amended application shall be submitted for consideration.

Source: Ord. 916, Sec. 60 (2012)

4-560. BOARD OF ADJUSTMENT.

Subsections:

4-561. Establishment.
4-562. Proceedings of the Board of Adjustment.
4-563. Appeals; Notices; Hearings.
4-564. Stay of Proceedings.
4-565. Powers and Duties.
4-566. Requirements for Variances.
4-567. Decisions of the Board of Adjustment.
4-568. Cancellation of Variance.
4-569. Appeals from the Board of Adjustment.

4-561. ESTABLISHMENT. A Board of Adjustment is hereby established, which shall consist of five members to be appointed by the City Commission, each for a term of three years.

4-562. PROCEEDINGS OF THE BOARD OF ADJUSTMENT. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board. The City Auditor shall act as secretary to the Board of Zoning Adjustment and shall keep a record of all proceedings, but shall take no other part in the Board's deliberations.

4-563. APPEALS; NOTICES; HEARINGS. Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer or bureau of the governing body of the City affected by any decision of the administrative official. Such appeals shall be taken within a reasonable time, not to exceed 60 days or such lesser period as may be provided by the rules of the Board, by filing with the administrative official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall fix a reasonable time for the hearing of appeal, give due notice to the parties in interest, and

decide the same within a reasonable time. At any hearing, any party may appear in person or by agent or attorney.

4-564. STAY OF PROCEEDINGS. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

4-565. POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

1. To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, interpretation, or determination made by the administrative official in the enforcement of this Ordinance.

2. To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

4-566. REQUIREMENTS FOR VARIANCES. A variance from the terms of this Ordinance, shall not be granted by the Board of Adjustment unless and until:

1. A written application for a variance is submitted demonstrating:

    a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same district;

    b. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

    c. That the special conditions and circumstances do not result from the actions of the applicant;

d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance.

2. The owner of the property for which a variance is sought or his/her agent and all abutting properties and properties extending one hundred and fifty (150) feet from the area, excluding streets, shall be notified at least 10 days prior to the hearing.

3. The Planning Commission shall hold a public hearing where interested parties shall have an opportunity to be heard. Notice of said hearing shall be published once a week for two successive weeks prior to the time set for said hearing in the official newspaper of the City. Following the hearing, the Planning and Zoning Commission shall forward their findings and recommendations to the Board of Adjustment.

Source: Ord. 916, Sec. 61 (2012)

4-567. DECISIONS OF THE BOARD OF ADJUSTMENT. In exercising the above mentioned powers:

1. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

2. The Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such other requirement, decision, or determination, and to that end shall have powers of the administrative official from whom the appeal is taken.

3. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

4. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

5. The Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 4-570 of this Ordinance.

6. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permitted under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

7. Variance requests for the same property shall not be heard within six (6) months of a previous request unless it can be demonstrated to the administrative official that the conditions for the variance has changed.

4-568. CANCELLATION OF VARIANCE. Unless otherwise specified by the Board of Adjustment at the time it is authorized, a variance shall expire if the applicant fails to utilize such variance within one (1) year from the date of its authorization. All variance which have been heretofore authorized and have not been utilized shall expire one (1) year from the effective date of this Ordinance unless utilized prior to such time.

4-569. APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any board, taxpayer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment may seek review by certiorari by district court of Cass County. The application for a writ of certiorari shall be made to the court within fifteen days after notice of the decision of the board, and such writ shall be returnable within twenty days after the rendition of such decision. The court may take such evidence as may be required to determine the questions presented. The supreme court, upon application filed within fifteen days after the determination of the district court, shall review the action of the district court by certiorari.

4-570. VIOLATIONS: REMEDIES, COMPLAINTS AND PENALTIES.

Subsections:

4-571. Public Nuisance Per Se.
4-572. Complaints Regarding Violations.
4-573. Enforcement.
4-574. Penalties for Violation.
4-575. Responsible Party.

4-571. PUBLIC NUISANCE PER SE. Any building or structure, or any use of premises or land which is in violation of any of the provisions of the zoning ordinances of the City of West Fargo, and is not a nonconforming structure or use, is hereby declared to be a public nuisance per se.

4-572. COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative official. S/he shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance.

4-573. ENFORCEMENT. If the administrative official shall find that any of the provisions of this Ordinance are being violated, s/he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. S/he may order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or any other action deemed relevant by the administrative official. The notice shall provide a minimum of a thirty(30) day period in which to comply with the notice. The notice shall also state that the person or entity may appeal the order of the administrative official to the West Fargo Board of Adjustment by filing a written appeal within thirty (30) days of the receipt of the notice with the City Auditor, or the administrative official who executed the original notice. If the person or entity served with the original notice does not appeal within the thirty (30) day period nor comply with the order of the administrative official within the time set our in the notice, the administrative official should refer the matter to the City Attorney. The City Attorney may commence criminal proceedings in the West Fargo Municipal Court and/or commence civil proceedings to enjoin or abate the violation.

4-574. PENALTIES FOR VIOLATION. Any person violating any section of this title shall be guilty of an infraction and shall be subject to the penalties set forth in Section 1-0211. Each day such violation continues shall be considered a separate offense.

Source: Ord. 928, Sec. 1 (2012)

4-575. RESPONSIBLE PARTY. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may be found guilty of a separate offense and suffer the penalties herein provided.