

CHAPTER X.

ZONING - PLANNING

ARTICLE 1.

Planning and Zoning Commission

10.0101 Planning Commission Created.

There is hereby created a planning commission consisting of five members to be appointed by the City's Chief Executive Officer, with the approval of the governing body. The Chief Executive Officer, the Engineer and City Attorney shall be ex-officio members thereof.

10.0102 Terms, Compensation, Meetings.

The terms of the members, their compensation, and meetings shall be as provided by Chapter 40-48 N.D.C.C.

10.0103 Ex-Officio 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.

ARTICLE 2.

Definitions

10.0201 Definitions.

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

1. "Accessory Use or Building" is a subordinate use or building customarily incident to and located on the same lot with the main use or building.
2. "Alteration" as applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
3. "Building" is a structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property, including tents, lunch wagons, dining cars, camp cars, trailers, and other roofed structure on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes. For the purposes of this definition "roof" shall include an awning or other similar covering, whether or not permanent in nature.

4. "Building Line" is the line between which and the street line or lot line no building or other structure or portion thereof, except as provided in this Code, may be erected above the grade level. The building line is considered a vertical surface intersecting the ground on such line.
5. "Dwelling" is a building designed or used as the living quarters for one or more families.
6. "Dwelling House" is a detached house designed for and occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit.
7. "Dwelling Unit" is one or more rooms provided complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping and eating.
8. "Dwelling, Multi-Family" is a dwelling or group of dwellings on one plot containing separate living units for three or more families, but which may have joint services or facilities for both.
9. "Family" is a single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic bond as distinguished from a group occupying a board house, lodging house, club, fraternity or hotel.
10. "Garage, Private" is a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
11. "Lot" is a parcel of land occupied or capable of being occupied by one building, and the accessory building or uses customarily incident to it, including such open spaces as are required by this chapter.
12. "Non-conforming Use" is a building, structure or use of land existing at the time of the enactment of this chapter, and which does not conform to the regulations of the district in which it is located.
13. "Setback Building Line" is a building line back of the street line.
14. "Structure" is anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.
15. "Use" is the purpose of which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.
16. "Yard" is an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.

17. "Yard - Front" is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.
18. "Yard - Rear" is an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.
19. "Yard - Side" is an open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a lot line.
20. "Mobile Home" shall include any complete structure used for living, sleeping, business, or storage purposes; having no foundation other than wheels, blocks, skids, jacks, horses, or skirting; and which has been or reasonably may be equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term mobile home shall include trailer home, camp car and house car. The term mobile home shall include two or more separately towed units which are bolted or otherwise fastened together to form a complete living unit.

ARTICLE 3

Establishment of Districts

10.0301 Use and Area Districts Established.

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

10.0302 Maps and Boundaries.

The boundaries of these districts are hereby established as shown on a map entitled "The zoning Map of the City of Turtle Lake" which is on file in the office of the City Auditor which map with all explanatory matter thereon shall be deemed to accompany, be, and is hereby made a part of this Chapter.

10.0303 Annexed Property.

Property which has not been included within a district and which has become a part of the City by annexation shall automatically be classified as lying and being in the R3 residential district until such classification has been changed by an amendment to the Zoning Ordinances as prescribed by law.

ARTICLE 4.

Application of Regulations

10.0401 Application of Regulations.

Except as provided in this Chapter:

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

ARTICLE 5.

Non-Conforming Uses

10.0501 Non-Conforming Uses.

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

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

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

ARTICLE 6.

Use Districts

10.0601 Use Districts.

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

- R-1 Residential Districts, Single-Famiy
- R-2 Residential Districts, Two-Family
- R-3 Residential Districts, Multi-Family
- C Commercial Districts
- MH Mobile Home Districts

10.0602 R-1 - Residential District - Single-Family.

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

1. Dwelling houses occupied by not more than one family.

2. Publicly owned and operated buildings.
3. Churches and parish houses.
4. Hospitals and Clinics.
5. Nursing and Rest Homes.
6. Homes for the Aged.
7. Playgrounds and Parks.
8. Cemeteries.

10.0603 R-2 - Residential District - Two-Family.

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

1. Dwellings houses each occupied by not more than two families.
2. All other uses permitted in a one-family district.

10.0604 R-3 - Residential District - Multi-Family.

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

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

10.0605 Accessory Uses in Residential Districts.

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

1. Professional office for a physician, clergyman, architect, engineer, attorney, or similar professional person resident in such main building.
2. Home Occupation. Customary home occupation for gain carried on in the main building or a building accessory thereto requiring only home equipment and employing no non-resident help, and no trading in merchandise is carried on.
3. Gardens.

**AN ORDINANCE AMENDING ARTICLES SEVEN, EIGHT, AND NINE, OF
CHAPTER 10 OF THE REVISED ORDINANCES OF THE CITY OF
TURTLE LAKE RELATING TO ZONING AND PLANNING.**

**BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE
CITY OF TURTLE LAKE, ND:**

ARTICLE 7.

10.0701 AREA REGULATIONS – Residential Districts

**In any use district no residence building shall hereafter be erected,
established or altered on a lot having a lot area of not less than the square
feet required as follows:**

- 1. One-family - not less than 7000 square feet.**
- 2. Two-family - not less than 10,500 square feet.**
- 3. Multi-family – not less than 14,000 square feet.**
- 4. Mobile Home District – not less than 4900 square feet.**

ARTICLE 8.

10.0801 Yard Regulations.

Front Yards:

**In all residential districts there shall be a front yard of not less than 25
feet; except in the Bicentennial Addition which shall have a front yard of not
less than 35 feet. The front yard will be measured from the curb line to the
front line of the building. If no curb is present, the front yard will be
measured from a line parallel to and 20' from the center-line of the street.**

Back Yards:

**In all residential districts there shall be a back yard of not less than 8
feet.**

Side Yards:

In all residential districts there shall be side yards of not less than 8 feet; with the exception of structures on corner lots that will have a side yard of not less than 25 feet on the side of the structure facing the street.

On commercial lots that have a shared property line with a residential lot, there shall be a side yard of not less than 8 feet on the side of the commercial lot that is adjacent to the residential lot.

10.0802 Exceptions to Yard Regulations:

In all residential districts, a new structure may be built on a block where existing structures have a front yard of less than 25 feet, with a front yard that is not less than the shortest front yard of the existing structures on that block, and facing the same street.

ARTICLE 9.

10.0901 Administrative Official

- 1. Administrative Official.** Except as otherwise provided herein, the Building Inspector shall administer and enforce the provisions of this Chapter, including the receiving of applications, the inspection of premises or buildings or structures to be moved and the issuing of building permits. No building permit shall be issued by him except where the provisions of the Chapter have been meet.
- 2. Building Permit Required.** No building or structure shall be erected, added to, moved into or within the city limits, or structurally altered until a permit therefor has been issued by the Building Inspector. All applications for such permits shall be in accordance with the requirements herein and, unless upon written order of the Board of Adjustment, no such building permit shall be used for any building or structure where said construction, addition, moving, or alteration of use thereof would be in violation of any of the provisions of this Chapter.

- a. **Matter Accompanying Application.** Upon request of the Building Inspector, there shall be submitted with applications for building permits a copy of a layout or plot drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected, the route to be taken if moving a building or structure onto a lot and such other information as may be necessary to determine and provide for the enforcement of this ordinance.
- b. **Payment of Fee.** The copy of such route and/or layout or plot plan shall be returned when approved by the Building Inspector, together with such permit to the applicant upon the payment of a fee of \$25.00 plus \$0.25/mile if the Building Inspector must travel to inspect a building or structure that the applicant wishes to move into city limits.

4. Private garages.
5. Any other accessory use customarily incident to a use authorized in a residential district.

10.0606 Commercial District.

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

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

10.0607 MH - Mobile Home District - Mobile Homes.

The following buildings and uses are permitted in the mobile home district:

1. Single-family mobile homes.
2. Public parks and playgrounds.
3. Accessory uses customarily incident to the principal use.

ARTICLE 7.

Area Districts

10.0701 Area Regulations - Residential Districts.

In any use district no residence building shall hereafter be erected, established or altered on a lot having a lot area of not less than the square feet required as follows:

1. One-family - not less than 7,500 square feet.
2. Two-family - not less than 11,250 square feet.
3. Multi-family - not less than 15,000 square feet
4. Mobile Home District - not less than 5,000 square feet.

The following are required minimum lot widths:

1. One-family - not less than 50 feet of lot width measured along the front building line.
2. Two-family - not less than 75 feet of lot width measured along the front building line.
3. Multi-family - not less than 100 feet of lot width measured along the front building line.
4. Mobile Home District - not less than 35 feet of lot width measured along the front building line.

The following are the minimum floor area ratios:

1. One-family - not over 50% of the lot area.
2. Two-family - not over 50% of the lot area.
3. Multi-family - not over 50% of the lot area.
4. Mobile Home District - not over 50% of the lot area.

ARTICLE 8.

Yard Regulations

10.0801 Yard Regulations.

In one-family districts there shall be:

1. A front yard of not less than 25 feet; except in the Bicentennial Addition which shall have a front yard of not less than 35 feet.
2. A side yard on each side of not less than 8 feet.
3. A rear yard of not less than 25 feet.

In multi-family districts there shall be:

1. A front yard of not less than 25 feet.
2. A side yard on each side of not less than 8 feet.
3. A rear yard of not less than 25 feet.

In mobile home districts there shall be:

1. A front yard of not less than 25 feet.
2. A side yard on each side of not less than 8 feet.
3. A rear yard of not less than 25 feet.

ARTICLE 9.

Enforcement

10.0901 Administrative Official.

1. Administrative Official. Except as otherwise provided herein, the Building Inspector shall administer and enforce the provisions of this Chapter, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued by him except where the provisions of this Chapter have been complied with.
2. Building Permit Required. No building or structure shall be erected, added to, or structurally altered until a permit therefor has been issued by the Building Inspector. All applications for such permits shall be in accordance with the requirements herein and, unless upon written order of the Board of Adjustment, no such building permit or certificate of occupancy shall be used for any building where said construction, addition, or alteration or use thereof would be in violation of any of the provisions of this Chapter.
 - a. Matter Accompanying Application. Upon request of the Building Inspector, there shall be submitted with applications for building permits a copy of a layout or plot drawn to scale showing the actual dimensions of the lot to be build upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinances.
 - b. Payment of Fee. The copy of such layout or plot plan shall be returned when approved by the Building Inspector together with such permit to the applicant upon the payment of a fee of \$20.00 for new construction or a \$10.00 fee for additions.

ARTICLE 10.

Board of Adjustment

10.1001 Creation of Board.

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

4. Procedure. The Board of Adjustment shall act in strict accordance with the procedure specified by law and by this Chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the City Auditor.
5. Notice and Hearing. No action of the Board shall be taken on any case until after due notice has been given to the parties and public hearing has been held.

10.1002 Amendments.

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

1. Report by City Zoning Commission - Public Hearing. The governing body shall require a report from the City Zoning Commission on a proposed amendment before taking final action thereon. The city zoning commission shall thereupon make a tentative report and hold a public hearing thereon with notice the same required for a public hearing by the governing body, before submitting its final reports. Such final report shall be submitted within 90 days after the time of referral of the proposed amendments to the city zoning commission unless the governing body is agreeable to an extension of time.
2. Action by governing body - Public Hearing. After the receipt of the required final report on any amendment from the city zoning commission, or in the event of the failure of the city zoning commission to so report within 90 days following the time of referral of the proposed amendment to the city zoning commission, the governing body shall hold a public hearing, after which the proposed amendment may be passed. Not less than 15 days' notice of the time and place of holding such public hearing shall first be published in the official newspaper. A hearing shall be granted to any person interested, and the time and place specified.
3. Vote After Protest. If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of 20 percent or more:
 - a. Of the area of the lots included in such proposed change; or

- b. Of those immediately adjacent in the rear thereof extending 150 feet therefrom; or
- c. Of those directly opposite thereto extending 150 feet from the street frontage of such opposite lots.

The amendment shall not become effective except by the favorable vote of three-fourths of all the members of the governing body.

10.1003 Enforcement.

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

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

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