

## TITLE IV

### PLANNING AND ZONING

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CHAPTER 4-01

GENERAL PROVISIONS

CHAPTERS:

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4-0101. **GENERAL DEFINITIONS.**

1. Title. This Ordinance shall be known, cited and referred to as the "Harwood City Land Use Ordinance." It and all subsequent amendments to it may be referred to in this document as "this Ordinance".
2. Authority. This Ordinance is enacted pursuant to authority granted in North Dakota Century Code Chapters 40-47, 40-48, and 40-50.1; and all subsequent Laws or amended Laws as provided for in the North Dakota Century Code.
3. Jurisdiction. This Ordinance shall be effective throughout the City's land use jurisdiction. The City's land use jurisdiction shall include all areas within its corporate boundaries as well as any area which is or shall subsequent to the adoption of this ordinance be described by City ordinance as a part of the City's extraterritorial subdivision or zoning jurisdiction.
4. Severability. Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared invalid by any court of competent jurisdiction in a valid judgment or decree, such invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance.

5. Repeal. All other ordinances or parts of ordinances of the City of Harwood, North Dakota, inconsistent or in conflict with this ordinance, to the extent of inconsistency or conflict only, are hereby repealed.
6. Purpose. The purpose of this Ordinance is to: (1) protect the health, safety, morals, comfort, and general welfare of City of Harwood residents; (2) conserve, protect, and manage the use of natural resources within the Harwood land use jurisdiction; (3) promote well-managed and staged development of residential, commercial, recreational, public, and other areas; and (4) exercise any or all of the powers granted to the City of Harwood under state law.
7. Effective Date. This Ordinance and all subsequent amendments to it shall be effective upon appropriate passage by the City of Harwood's governing body.
8. Interpretation The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:
  - A. The singular number includes the plural and the plural the singular.
  - B. The present tense includes the past and future tenses, and the future the present.
  - C. The word "shall" is mandatory, and the word "may" is permissive.
  - D. The masculine gender includes the feminine and neuter genders.
  - E. If no set definition is given in the Ordinance, the City's governing body shall interpret and define any word or section of the Ordinance after obtaining advice from the City Planning Commission. Any definition constructed, defined, and interpreted by the City's governing body shall be added to the definitions included in this ordinance, in order to assist consistent future application of the ordinance.
  - F. All measured distances expressed in feet shall be to the nearest tenth of a foot.
  - G. In event of conflicting provisions, the more restrictive provisions shall apply.
  - H. The provisions of this land use ordinance are to be interpreted as the minimum requirements necessary within the City of Harwood's land use jurisdiction. No building or structure may be erected, moved, converted, enlarged, reconstructed or altered , and no land use may occur except in accordance with all of the regulations established by this land use ordinance.

4-0102. **LIST OF DEFINITIONS.** The following words and terms, whenever they occur in this Ordinance are defined as follows:

1. Accessory Use or Accessory Structure. A use or structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as a garage or tool shed.
2. Agriculture. The use of land for agriculture purposes, including necessary buildings and structures which shall be used for agricultural including, but not limited to, farming, dairying, pasturage, horticulture, floriculture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.
3. Amendment. Any change, revision, or modification of the text of this ordinance or the zoning district map.
4. Animal Feeding Operation or Feedlot. The care and keeping of livestock or other animals which has been defined as an animal feeding operation by the North Dakota Century Code and the North Dakota Department of Health.
5. Auditor's Lot. A lot of record which was established and classified by the Cass County Auditor.
6. 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.
7. 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."
8. Block. A segment of the City bounded by right-of-ways, intersecting streets and/or railroads.
9. Buildable Area. The portion of a lot remaining after required yards have been provided.
10. Building. Any structure which has a footprint greater than 144 square feet.
11. Building Footprint. The area established by the perimeter of a building's anchor or contact points with the ground.
12. Certificate of Compliance. A certificate stating compliance with the provisions of this ordinance.
13. Child Care Center. Any facility 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 eight or more children

present, including sons, daughters, related children, and others as determined by the Department of Human Services, or a facility, other than an occupied private residence, which services fewer than eight children.

14. 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, soybeans, 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.
15. 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 use is made in the zoning district regulations.
16. Condominium. Individual ownership of a unit in a multiple dwelling structure or area.
17. 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.
18. Dwelling. A building or portion of a building occupied exclusively as living quarters for one or more families. This does not include mobile recreational vehicles.
19. 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 CFR 3280) which became effective June 15, 1976, promulgated by the United States Department of Housing and Urban Development.

20. 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.
21. Dwelling, Modular. A manufactured dwelling which is not a mobile home dwelling in accordance with these regulations, and which meets the following criteria:
- (a) is not constructed on a pier foundation;
  - (b) is constructed on a permanent foundation which provides a basement or crawl space which complies with the Uniform Building Code and the City's Building Code;
  - (c) has a minimum front width of 24 feet and a minimum depth of 20 feet;
  - (d) has a predominantly double-pitched roof with a minimum vertical rise of 4 inches for every 12 inches of horizontal run and a minimum eave projection and roof overhang of 10 inches on at least two sides. Gutters shall be counted in calculating roof overhang;
  - (e) uses siding and roofing materials customarily used on site-built homes with in the City;
  - (f) has a minimum gross floor area of 960 square feet;
  - (g) has a minimum ceiling height of 8 feet, unless otherwise allowed by UBC; and
  - (h) does not have a permanent hitch.
22. Dwelling, Multi-Family. Any building designed to be occupied by more than one housekeeping unit.
23. Dwelling, Single Family (One Family). See "Residence, Single Family."
24. Dwelling, Two-Family. A detached residential building containing two dwelling units, designed for occupancy by not more than two families.
25. 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. This does not include vehicles designed for camping or other forms of temporary occupancy.

26. 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 Harwood.
27. Extraterritorial Zoning Jurisdiction. Unincorporated lands outside the city limits of Harwood over which the City has the zoning authority.
28. Family. One or more persons living together as members of a single housekeeping unit, related by blood or marriage, or a group of not more than five persons who need not be related by blood or marriage living together in a dwelling unit.
29. 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, except that the term includes a residence providing early childhood services to two additional school-age children during the two hours immediately before and after the school day and all day, except Saturday and Sunday, when school is not in session during the official school year.
30. Feedlot. A confined area or structure used for feeding, breeding, or holding livestock, including poultry, horses, cattle, swine, goats, sheep, or other animals of domestic husbandry, for eventual sale in which animal waste may accumulate, but not including barns, pens, or other structures.

Source: Sec. 1, Ord. 2007-2 (2007).

31. 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.
32. Grade. The horizontal elevation of the finished surface of the ground, paving or sidewalk adjacent to a building line.
33. Group Home. Any community residential facility, foster home, family care facility, or other similar home for developmentally disabled persons.
34. Height, Building. The vertical distance from the established grade to the highest point of the coping of a flat roof, to the decline of a mansard roof, or to the average height between eaves and ridge for a gable, hip shed, or gambrel roof. Where a

building is located on a slope, height shall be measured from the average grade level adjacent to the building.

35. Home Occupation. An activity secondary to the primary function of a dwelling unit which does not involve any exterior storage, does not require off-street parking, not including vehicles exceeding 1 ton, and controlled by noise ordinance. Exception: Daycare limited to 7 children or less with fenced yard.
36. 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.
37. 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.
38. Land Use Jurisdiction. The land area within the municipal boundaries and in extraterritorial areas over which the City of Harwood has established zoning or subdivision controls by ordinance.
39. 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.
40. 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.
41. Lot. Any separately described parcel of land which has a separate legal description as defined by metes and bounds, plat, or auditor's lot. It does not include a parcel which is an easement.
42. Lot Area. The horizontal area within the lot lines of the lot.
43. Lot, Corner. A lot of which at least two adjacent sides abut for their full lengths upon a street, provided that the interior angle at the intersection of such two sides is less than 135 degrees.
44. Lot Coverage. The ratio of the area of the lot covered by building footprints and/or paved surfaces to the total lot area, expressed as a percentage of total lot covered.
45. Lot Depth. The mean horizontal distance between the front and rear lot lines.
46. 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.

47. Lot, Double Frontage. A lot having a frontage of two intersecting streets, as distinguished from a corner lot.
48. Lot Interior. A lot other than a corner lot.
49. Lot of Record. A lot which has been recorded at the Cass County Recorder's office as of the effective date of this ordinance.
50. Lot Width. The mean horizontal distance across the lot between side lot lines at the building line measured at right angles to the depth.
51. Mobile Home. A mobile home is a detached residential unit designed for transportation arriving complete and ready for occupancy at the site where it is to be occupied except for connections to utilities. A recreational travel trailer is not to be considered a mobile home.
52. Mobile Home Park. Any site, or tract of land under single ownership, upon which are located two or more mobile homes used for residential purposes either free of charge or for a fee. A mobile home park shall include any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.
53. Moved Structure. Any structure that is moved onto a site within the City's land use jurisdiction.
54. Non-Conforming Lot. Any lot existing at the time of the adoption or amendment of this ordinance which does not conform to the provisions of this ordinance.
55. Non-Conforming Use. See Use, Non-conforming.
56. Open Grazing. Except as is covered by the definition of a Feedlot, Open Grazing includes the use of land for the grazing, holding, pasturing, sorting, watering, milking, breeding, riding, or otherwise raising, producing, or keeping livestock (including but not limited to poultry, swine, beef and dairy cattle, horses, sheep, goats, and other animals of domestic husbandry).

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

57. Open Space. A privately-owned area on the grounds of a premises outside of any Principal Building or parking area, that is set aside and intended for the outdoor enjoyment of occupants or visitors to the property, and which may but is not required to include such pedestrian-oriented improvements as landscaping, sidewalks, walkway paths, gazebos, bikeways, active recreation facilities or play equipment, and benches, and which may further include no more than 20% of its area in water bodies or other areas inappropriate for pedestrian use.
58. Parcel. Any area of contiguous land which can be uniquely described.

59. 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.
60. Planted Buffer Strip. Planted trees 12 feet at center.
61. 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.
62. Residence, Single 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 2180) 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, 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 Inspector. 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 Inspector. A basement is required for all single family dwellings with a minimum footage of 900 square feet to 1500 square feet. A garage is required for all single-family dwellings.
63. Retirement. 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 and at least Fifty-five (55) years of age.
64. Salvage Yard. Any land or building used for the storage, sale, or dismantling of vehicles, and salvage materials of any kind.
65. Setback. The minimum horizontal distance between a building and the lot line.

66. Sign. Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge, or insignia of any government or governmental agency.
67. Story. That portion of a building included between the upper and 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 underfloor space is 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.
68. Street or Road. Any public way set aside as a permanent right-of-way for vehicular or pedestrian access.
69. Street Line. The right-of-way line of a street.
70. Story. That part of a building or structure between any floor and the floor next above, and if there is no floor above, then the ceiling above. A basement is a story if its ceiling is four and one half feet (4½) or more above the level from which the height of the building or structure is measured.
71. Structural Alteration. Any change in the supporting members of a building including but not limited to bearing walls, load bearing partitions, columns, beams, or gliders, or any substantial change in the roof or in the exterior walls.
72. Structure. Anything constructed, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, but not including fences.
73. 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.
74. Townhouse. A single-family dwelling unit occupying its own lot but attached to one or more other units by a common wall or walls.
75. Trailer Home Parks. A parcel of land which meets the Mobile Home Park District standards for a mobile home park.
76. 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.
77. Use. Any purpose for which a building, structure, or tract of land may be designed, arranged, intended, maintained, or occupied.

78. Use, Accessory (Structure). A use of a structure subordinate to the principal use of building on the same lot and serving a purpose customarily incidental thereto.
79. Use, Conditional. Any building, structure, and use designated as a conditional use in the zoning district regulations which would not generally be appropriate or without restriction throughout the zoning district but which, if controlled, would promote the health, safety or general welfare.
80. Use, Non-Conforming. A building, structure or premises lawfully occupied at the time of the enactment of these regulations that does not conform with the provisions of the regulations for the district in which it is located; also, such use resulting from changes in zoning districts or in textual provisions made hereafter.
81. Use, Permitted. Any building, structure, or use which complies with the applicable regulations of this Ordinance governing Permitted Uses in the zoning district in which such building, structure or use is located.
82. Use, Principal. The main or primary purpose of which a building, other structure, and/or lot is designed, arranged, or intended, or for which they may be used, occupied, or maintained under this Ordinance. The use of any other building, other structure and/or land on the same lot and incidental or supplementary thereto and permitted under this Ordinance shall be considered an accessory use.
83. Variance. A modification of the literal provisions of this Ordinance which the Board of Adjustment is permitted to grant when strict enforcement of said provisions would cause undue hardship owing to circumstances unique to the individual property on which the variance is sought.
84. 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, 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.
85. Yard, Front. An open space extending the full width of a lot between a building and the front lot line. The depth shall be the shortest distance, measured horizontally, between any part of a building and the front lot line.
86. 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.
87. Yard, Rear. An open space extending the full width of a lot between a building and the rear lot line. The depth shall be the shortest distance, measured horizontally, between any part of a building and the rear lot line.

88. Yard, Side. An open space extending from the front yard to the rear yard between a building and the side lot line. The depth shall be the shortest distance, measured horizontally, between any part of a building and the nearest side lot line.
89. 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.
90. Zoning Lot. A lot or contiguous lots under common ownership and located within a single zoning district which for purposes of determining conformity to zoning provisions of this ordinance may be considered a single lot of record.

4-0103. **JURISDICTION**. These regulations shall apply in all incorporated parts of Harwood, North Dakota, and within its one (1) mile extraterritorial jurisdiction unless the one (1) mile is reduced due to the proximity of another incorporated municipality.

4-0104. **COMPLIANCE**. No land shall be used and no building or structure shall be repaired or built unless in conformance with these regulations.

4-0105. **INTERPRETATION**. In interpreting and administering this ordinance, the provisions shall be held to be the minimum requirements, unless otherwise specified. Where this ordinance imposes a greater restriction than existing law, the provisions of this ordinance shall govern.

4-0106. **LOT OF RECORD**. A parcel of land on which a dwelling unit exists at the time of the adoption of this ordinance. Such legal lots may be rebuilt upon if existing dwelling units are removed or destroyed.

4-0107. **RESIDENTIAL DEVELOPMENT**.

1. No lot shall contain more than one principal residential building.
2. No dwelling unit shall be built on a lot that does not abut a dedicated public street.
3. No residential building shall exceed a height of 35 feet, including apartments, sleeping rooms, and residences located above commercial, service and trade establishments.
4. Accessory structures shall not exceed a height of 35 feet, including apartments, sleeping rooms, and residences located above commercial, service and trade establishments.

5. Solar energy systems are exempted from lot coverage requirements in all zoning districts.
6. No person shall, within the limits of the City, erect, construct, or maintain any fence or enclosure on any premises or piece or parcel of ground with what is known as barbed wire or with any other fencing material that is not aesthetically appropriate considering the neighboring properties. No fence, wall, hedge or shrub planting shall in any event be more than six (6) feet in height in any rear yard, side yard, or front yard.

4-0108. **SEWER AND WATER REGULATIONS.** To protect the public health, control water pollution, and reduce nuisance and odor, all new developments within the City of Harwood shall be connected to municipal sewer and water systems, unless permission is otherwise granted by the Planning & Zoning Commission and the City Council. Any installation of sewer or water lines shall be in accordance with the provisions of Chapter 4-04 of Chapter IV of these ordinances.

SECTION 4-0109. **SIGHT DISTANCE AT INTERSECTIONS.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them a points 25 feet from the intersection of the street lines. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained in sufficient height to prevent obstruction of such sight lines.

SECTION 4-0110. **LOT OF RECORD.** Any parcel of land on which a dwelling unit exists at the time of adoption of this ordinance shall constitute a legal lot. Should a dwelling unit existing on a legal lot be removed or destroyed, the lot may be rebuilt upon. Setback and side yard requirements should be adhered to where possible.

SECTION 4-0111. **FENCES, WALLS AND HEDGES.** Fences, walls and hedges may be permitted on a lot abutting an intersection in any required yard, or along the edges of any yard, provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be over 2½ feet in height.

SECTION 4-0112. **EASEMENT.** Any residential or commercial development abutting Interstate 29 or its right-of-way shall have a 10-foot easement granted to the city for a border of trees to be planted. This planting shall be at the developer's expense and subject to approval by the Harwood City Council.

SECTION 4-0113. **BUILDING PERMIT.**

1. Prior to construction, reconstruction, structural alteration or change of use of a structure, accessory structure, or lot, a building permit shall be obtained from the administrative official on a form provided, certifying that the proposed use or structure complies with all of the provisions of this ordinance. Accessory uses which are clearly incidental to a permitted use within a zoning district shall not require a permit. The failure to obtain a building permit prior to construction shall result in an administrative fine as set by resolution of the City Council.

2. All applications for building permits shall be accompanied by plans drawn to scale, showing the exact dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of any proposed or existing structures; existing and proposed use of any structures; layout and number of spaces for off-street parking and loading; and other such information as may be necessary to determine compliance with this ordinance. One copy of the plans and permit shall be returned to the applicant to the administrative official, after which such copy is marked with approved or disapproved and attested to by an official signature on such copy. One copy of the plans and permit, similarly marked, shall be retained by the administrative official.
3. Building permits issued on the basis of plans or applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and specifications and does not include any other use, arrangement, or construction. Any arrangement, or violation of this ordinance and punishable in accordance with the provisions thereof.
  - (4) All building permits issued shall expire if work or construction authorized is not commenced within one hundred twenty (120) days of issuance, or if construction or work is suspended or abandoned for a period of one hundred twenty (120) days at any time after work is commenced unless an extension of time is applied for and received prior to the original expiration date.

#### **SECTION 4-0114. CERTIFICATE OF COMPLIANCE.**

1. A certificate of compliance is required to determine conformity with the specifications of the building permit before any structure or building may be occupied. The certificate of compliance is issued by the Administrative Official upon completion of an onsite inspection after work specified in the building permit has been completed.
2. Reasons for refusal to issue a certificate of compliance must be stated by the Administrative Official in writing within fifteen days after the request of the applicant for the certificate.

#### **SECTION 4-0115. REGULATION OF LOCATION AND SIZE OF CULVERTS AND REGULATION OF DRAINAGE.**

1. To protect the public health and safety and to control drainage of water and reduce nuisance and odor, all new development within the City of Harwood shall conform to requirements made by the City Council relating to drainage of water and location and size of culverts. Said regulation shall pertain to new construction as well as reconstruction and any proposed changes in present drainage.
2. Grades of ditches and other drainage and location and sizing of culverts may be included on any building permit, and construction pursuant to the building permit must conform with such drainage information placed on the building permit.

SECTION 4-0116. **FEE SCHEDULE.** The City Council may, by resolution, set an application fee schedule for conditional use permits, zoning amendments, variances, and other zoning applications.

SECTION 4-0117. **BUILDING PERMIT VIOLATIONS, REMEDIES AND ENFORCEMENT.**

1. All of the following represent violations of Section 4-0113 or Section 4-0114 and of law and will be subject to the remedies and penalties provided in this Ordinance, the Ordinances of the City of Harwood and state law.
  - a. It is a violation to engage in any subdividing, development, use, construction, remodeling or other activity of any nature without obtaining all permits, approvals, certificates and other forms of authorization required by this Ordinance.
  - b. It is a violation to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permits, approval, certificate or other form of authorization required in order to engage in such activity.
  - c. It is a violation to violate, by act or omission, any term, condition, or qualification imposed by a decision-making body upon a required permit, certificate, or other form of authorization.
  - d. It is a violation to continue any of the violations specified in this section. Each day that a violation continues will be considered a separate offense.
2. The City of Harwood has the following remedies and enforcement powers for violations of Section 4-0113 or Section 4-0114 of this Ordinance.
  - a. **Withhold Permits.** The City may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements thereon upon which there is an uncorrected violation of this Ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by a decision-making body. Instead of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected. This enforcement provision applies regardless of whether the current owner or applicant is responsible for the violation in question. The City may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned by a person who owns, developed or otherwise caused an uncorrected violation of a provision of this Ordinance or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by a decision-making body. This provision applies regardless of whether the property for which the permit or other approval is sought is the property in violation.

- b. Revoke Permits. A permit may be revoked when the Administrative Official determines that:
  - (i) There is departure from the plans, specifications, or conditions as required under terms of the permit;
  - (ii) The plans, specifications, or conditions were obtained by false representation or were issued by mistake; or
  - (iii) Any of the provisions of this Ordinance are being violated.
- c. Stop Work. With or without revoking permits, the City may stop work on any building or structure, on any land on which there is an uncorrected violation of this Ordinance or of a permit or other form of authorization issued hereunder, in accordance with its power to stop work under the building code.
- d. Revoke Plan or Other Approval. When a violation of this Ordinance involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, the City Council may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected) and after a public hearing, revoke the plan or other approval or condition its continuance on strict compliance, the provision of security or such other conditions as the City Council may reasonably impose.
- e. Injunctive Relief. The City may seek an injunction or other equitable relief in court to stop any violation of this Ordinance or of a permit, certificate or other form of authorization granted hereunder.
- f. Abatement. The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.
- g. Penalties. The penalty for a violation under this Section is governed by the penalty provisions of the Ordinances of the City of Harwood, and the City may also seek such criminal and civil penalties provided by North Dakota law.
- h. Other Remedies. The City will have such other remedies as are and as may be from time to time provided by North Dakota law and Ordinances for the City of Harwood for the violation of zoning, subdivision, or related provisions.
- i. Remedies Cumulative. The remedies and enforcement powers established in this Section are cumulative.

Source: Ord. 2014-18, Sec. 1 (2014)

CHAPTER 4-02

ZONING DISTRICT REGULATIONS

SECTIONS:

- 4-0201. Establishment of Districts.
- 4-0202. Official Zoning Map.
- 4-0203. Regulations for "A" Districts (Agricultural Use Districts).
- 4-0204. Regulations for "R-1" Districts (Single Family Dwelling Districts).
- 4-0205. Regulations for "R-2" Districts (One and Two Family Dwelling Districts).
- 4-0206. Regulations for "R-3" Districts (Multiple Dwelling Districts).
- 4-0207. Regulations for "R-4" Districts (Mobile Home Park Districts).
- 4-0208. Regulations for "C-1" Districts (Light Commercial Districts).
- 4-0209. Regulations for "C-2" Districts (General Commercial Districts).
- 4-0210. Regulations for "I-1" Districts (Light Industrial Districts).
- 4-0211. Regulations for "I-2" Districts (Heavy Industrial Districts).
- 4-0212. Regulations for "R-1E" Districts (Rural Estate Districts).

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SECTION 4-0201. **ESTABLISHMENT OF DISTRICTS.** For purposes of this ordinance, the following classes of zoning districts are hereby established within the City of Harwood:

- (1) A: Agricultural Use Districts
- (2) R-1: Single Family Dwelling Districts
- (3) R-2: One and Two Family Dwelling Districts
- (4) R-3: Multiple Dwelling Districts
- (5) R-4: Mobile Home Park Districts
- (6) C-1: Light Commercial Districts
- (7) C-2: General Commercial Districts
- (8) I-1: Light Industrial Districts
- (9) R-1E: Rural Estate District

SECTION 4-0202. **OFFICIAL ZONING MAP.**

- (1) Adoption of Official Zoning Map. The boundaries of the districts set forth in Section 1 are shown upon the official zoning map, which, together with all explanatory matter thereon, is hereby incorporated into the terms of this ordinance

by reference. The official zoning map shall be located in the office of the City Auditor and shall be the final authority as to the current zoning status of land located within the corporate limits of the City of Harwood and all area within the extra-territorial jurisdiction of the City as provided and limited by Section 40-47-01.1 of the NDCC.

- (2) 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:
  - (a) Boundaries indicated as appropriately following the center lines of railroad lines, highways, streets, alleys, easements, or waterways shall be construed to follow such center lines;
  - (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
  - (c) Boundaries indicated as approximately following city limits shall be construed as following such city limits;
  - (d) In subdivided property and where a district boundary divides a lot or parcel of property, the location of any such boundary, unless the same is indicated by dimensions shown on the official zoning map, shall be determined by use of the scale appearing on such map.
  - (e) The Board of Adjustment shall, upon application or upon its own motion, determine the location of boundaries in cases where uncertainty exists.
- (3) Applicability of District Regulations. Except as may be otherwise provided herein:
  - (a) No structure shall hereafter be erected, reconstructed, structurally altered, enlarged, added to or moved, nor shall any structure or land be used for any purpose other than for a use permitted herein for the district in which such structure or land is located.
  - (b) No structure shall hereafter be erected, reconstructed, structurally altered, enlarged, or moved so as to exceed the building height limit established herein for the district in which such structure is located.
  - (c) No lot shall be so reduced or diminished nor shall any structure be so enlarged or moved as to reduce or diminish the yards, lot area or open space required herein in the district where located.
  - (d) No yard or other open space required herein for any building shall be considered as providing a yard or open space for any other building, and no yard or open space on an adjoining lot or parcel of property shall be considered as providing a yard or open space on a lot whereon a building is to be erected.

- (e) Every building hereafter erected shall be located on a lot, as defined herein, and in no case shall there be more than one main building on one lot except as may be otherwise provided herein.
- (f) Every building containing one or more dwelling units or guest rooms shall be erected on a lot at least one line of which abuts for not less than twenty-five feet along a public street or along a permanent, unobstructed easement of access to the lot from a public street.

**SECTION 4-0203. REGULATIONS FOR “A” DISTRICTS (AGRICULTURAL USE DISTRICTS).** In “A” Districts the following regulations shall apply, except as otherwise provided herein:

- (1) Uses Permitted:
  - (a) Crop and tree farming, truck gardening, plant nurseries, or non-commercial greenhouses.
  - (b) Single-family dwellings.
  - (c) Accessory buildings used in connection with single-family dwellings or in connection with farming operations.
- (2) Building Height Limits: Two and one-half stories, but not exceeding thirty-five feet in height.
- (3) Lot Area Required: Not less than ten acres for each single-family dwelling unit.
- (4) Open Grazing, subject to the following:
  - (a) No more than three animals per acre are allowed upon any parcel of land; and
  - (b) A maximum of eight animals is allowed for any one parcel of land, regardless of the total acreage of that parcel.

Source: Sec. 3, Ord. 2007-2 (2007).

- (5) Conditionally Permitted Uses: The following uses may be permitted in the “A” District subject to the conditions hereafter imposed for each use and subject further to review and approval of the City:
  - (a) Feedlots, subject to the following conditions:
    - (1) The feedlot shall have a minimum setback of one-half mile from any residential areas.

- (2) The feedlot operator shall provide the City with a plan indicating how animal waste will be controlled, contained and managed.
  - (3) The feedlot operator shall obtain all necessary North Dakota Department of Health permits, in addition to any county or township permits.
- (b) Confined animal feeding operations, subject to the following conditions:
- (1) The operation is an existing confined animal feeding operation and is seeking to expand.
  - (2) The operation shall have a minimum setback of one-half mile from any residential areas.
  - (3) The operation shall provide the City with a plan indicating how animal waste will be controlled, contained and managed.
  - (4) The operation shall obtain all necessary North Dakota Department of Health permits, in addition to any county or township permits.

Source: Sec. 4, Ord. 2007-2 (2007).

**SECTION 4-0204. REGULATIONS FOR “R-1” DISTRICTS (SINGLE FAMILY DWELLING DISTRICTS).** In “R-1” Districts the following regulations shall apply, except as otherwise provided herein:

- (1) **Statement of Intent:** The provisions of the R-1 District are intended to apply to neighborhoods with low density, wherein certain educational, religious, recreational and other activities compatible with residential development are permitted.
- (2) **Permitted Uses:**
  - (a) Single-family detached dwellings.
  - (b) Publicly owned and operated parks, playgrounds, and recreational facilities.
  - (c) Schools and churches.
  - (d) Essential services and public buildings.
  - (e) State-licensed group homes serving eight or fewer developmentally disabled persons.
  - (f) Accessory buildings, provided that they shall be operated as required by Subsection 2 of the Supplementary District Regulations of this Ordinance.

- (g) Home occupations, provided that they shall be operated as required by Subsection 8 of the Supplementary District Regulations of this Ordinance.
  - (h) Family Child Care home.
- (3) Conditionally Permitted uses: The following uses may be permitted in the R-1 District subject to the conditions hereinafter imposed for each use and subject further to review and approval by the City Council.
- (a) Child Care Facilities licensed by the State Department of Human Services
  - (b) Private Non-Commercial recreational or cultural faculties; 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 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.
- (4) Retirement, 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 provided 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.
- (5) Yard Requirements for the R-1 District.
- (a) Front yard: Not less than thirty feet.
  - (b) Rear yard: Not less than thirty feet.

- (c) Side yard: Not less than ten feet or twelve percent of the lot width, whichever is less.
- (d) Lot Width: Not less than seventy feet.
- (e) Lot Area: Not less than ten thousand square feet for a single-family dwelling and twelve thousand square feet for a two-family dwelling.
- (f) Lot Coverage: Not more than twenty-five percent of the area of the lot shall be covered by the main buildings and all accessory buildings and the total ground area covered by accessory buildings shall be equal to or less than the ground floor area of the main building or buildings.

Source: Ord. 2011-13, Sec. 2 (2012)

- (6) Parking Requirements: Two off-street spaces for each single family dwelling and four parking spaces for each two-family dwelling. For institutional establishments or places of assembly, one parking space shall be required for every four seats, or beds, or one parking space for every three employees on the maximum shift.

**SECTION 4-0205. REGULATIONS FOR “R-2” DISTRICTS (ONE AND TWO FAMILY DWELLING DISTRICTS.)**

- (1) Statement of Intent. The provisions of the R-2 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.
- (2) Permitted Uses.
  - (a) Any use permitted in the R-1 District.
  - (b) Two-family dwellings, including condominiums and two-unit townhouses.
  - (c) State-licensed group homes serving eight or fewer developmentally disabled persons.
- (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 of the City Council.
  - (a) Any conditional use permitted in the R-1 District.
  - (b) Medical and/or Dental Clinics, subject to the following conditions:
    - 1. 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.

2. 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.
- (c) Offices for architects, engineers, attorneys, real estate sales persons or similar professional persons, subject to the following:
1. The office shall only be established in a building which was in existence at the time of the effective date of this ordinance.
  2. There shall not be more than one business per structure.
  3. Delivery areas shall be obscured from all residential view with a wall six (6) feet in height.
- (d) Multiple dwelling structures containing from three to twelve units, subject to the following:
1. The building shall conform to the yard requirements set forth for R-1 Districts.
  2. The site for the building shall have at least one property line which adjoins, either directly or across the alley, an R-2, R-3, or a Commercial District.
- (e) 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.
- (f) 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 in 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 town homes may be permitted in conformance with the yard requirements set forth in this Ordinance.
  - (c) Building Height Limits. Two and one-half stories, but not exceeding thirty-five feet in height.
- (5) Yard requirements for R-2 Districts:
- (a) Front yard: Not less than thirty feet.
  - (b) Rear yard: Not less than thirty feet.
  - (c) Side yard: Not less than ten feet or twelve percent of the lot width, whichever is less.
  - (d) Lot Width: Not less than seventy feet.
  - (e) Lot Area: Not less than twelve thousand square feet.
  - (f) Lot Coverage: Not more than fifty percent of the area of the lot shall be covered by the main buildings and all accessory buildings and the total ground area covered by accessory buildings shall be equal to or less than the ground floor area of the main building or buildings.
- (6) Parking Requirements. Two off-street spaces for each single-family dwelling and for each unit in two-family dwellings.

**SECTION 4-0206. REGULATIONS FOR “R-3” DISTRICTS (MULTIPLE DWELLING DISTRICTS).**

- (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.
- (2) Permitted Uses.
  - (a) Any use permitted in the R-2 Districts.
  - (b) Multiple dwellings containing more than eight units, including condominiums and townhouses.
- (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 Council as required in this Ordinance.

- (a) Any conditional use permitted in the R-2 District.
  - (b) Convenience Establishments, as defined by this Ordinance, and subject to the following conditions:
    - 1. 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.
    - 2. 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 exists.
    - 3. 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.
    - 4. 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.
- (3) Building Height Limits. Three and one-half stories or forty-five feet, whichever is less, and as follows:
- (a) 1,600 square feet for each dwelling unit plus 200 square feet for each bedroom, with a minimum permitted lot area of 8,000 square feet.

Efficiency units shall be considered one-bedroom units for the purpose of lot computation.

- (b) 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.
  - (c) 12% of the lot width, with a maximum of 12 feet.
  - (d) For main building and all accessory buildings.
  - (e) 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.
  - (f) 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.
  - (g) 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.
  - (h) 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.
- (4) Yard Requirements (except as outlined above).
- (a) Front yard: Not less than twenty feet.
  - (b) Rear yard: Not less than thirty-five feet.
  - (c) Side yard: Not less than twelve feet.
- (5) Lot Requirements:
- (a) Lot Width: Not less than one hundred feet.
  - (b) Lot Depth: Not less than one hundred seventy-five feet, except that such requirement shall not apply to lots platted prior to the effective date of this ordinance.
  - (c) Lot Coverage: Not more than fifty percent of the area of the lot shall be covered by the main building and all accessory buildings and the total

ground area covered by accessory buildings shall be equal to or less than the ground floor area of the main building or buildings.

- (d) Lot Area: Not less than six thousand square feet for each dwelling or dwelling group having four dwelling units or less, with a maximum allowable units per building to be eight. Apartment buildings housing more than four families shall have a lot area of not less than eight thousand five hundred square feet and the minimum lot area per dwelling unit shall not be less than the following:
  - 1. Efficiency one-room apartment: One thousand one hundred square feet.
  - 2. One bedroom apartment: One thousand five hundred square feet.
  - 3. Two bedroom apartment: One thousand seven hundred square feet.
  - 4. Three or more bedroom apartment: One thousand eight hundred square feet.
- (e) The maximum number of apartment units per acre shall be twenty-four.
- (6) Parking Requirement: Two off-street spaces for each single-family dwelling and two off-street spaces for each unit in a multiple family dwelling.

**SECTION 4-0207. REGULATIONS FOR “R-4” DISTRICTS (MOBILE HOME PARK DISTRICTS).** In “R-4” Districts the following regulations shall apply, except as otherwise provided herein:

- (1) Uses permitted: Mobile home parks complying with requirements hereinafter stated.
- (2) Requirements:
  - (a) The minimum area of the tract shall be eight acres,
  - (b) The number of spaces completed and ready for occupancy before the first occupancy shall be twenty-five.
  - (c) The minimum length of residential occupancy shall be thirty days.
  - (d) The minimum lot size shall be six thousand square feet with a minimum width of fifty feet. Each lot shall be used for parking not more than one mobile home unit. The mobile home stand and mobile home unit in the expanded position shall not cover more than fifty percent of the mobile home lot including all pertinent enclosed structures.

- (e) The minimum set back required for all mobile home stands or units shall be not less than thirty and not more than forty feet from the front lot line. No mobile home stand or unit shall be closer than ten feet from the side lot lines and there shall be a minimum of fifteen feet between units. The minimum side yard required shall be the larger of ten percent of the lot width or five feet. The minimum rear yard required shall be not less than twenty percent of the lot depth.
- (f) Each sight shall abut on and have access to a street. This street shall be a minimum of twenty-six feet in width.
- (g) Each mobile home stand or unit shall be provided with an off-street paved or graveled parking space large enough to accommodate a minimum of two cars. Such paved or graveled area shall have minimum dimensions of 20' x 20' and shall be located behind the property line on dedicated streets.
- (h) All pavement shall be constructed in accordance with the specifications of the City Engineer for flexible pavement in mobile home parks or subdivisions.
- (i) All drainage structures shall be in strict compliance with the subdivision regulations of the City.
- (j) All mobile home parks or subdivisions shall be provided with buried electrical service facilities. No overhead facility shall be permitted.
- (k) All mobile home parks or subdivisions shall be provided with buried telephone service facilities. No overhead distribution systems shall be permitted.
- (l) Fuel shall be distributed to mobile home units or stands by an underground piping system. If not available, cooking gas cylinders shall be permitted up to one hundred pound class. No outside fuel storage tanks shall be permitted except for storage units as are required for the operation of the distribution system.
- (m) All convenience establishments of a commercial nature, including stores, coin-operated laundries and dry cleaning establishments, laundry and dry cleaning agencies, and beauty and barber shops, may be permitted in mobile home parks subject to the following:
  - 1. Such establishments in the parking spaces primarily related to their operations shall not occupy more than ten percent of the area of the park, shall be located, designed and intended to serve frequent trade or service needs of persons residing in the park, and shall present no visible existence of their commercial character from any portion of any residential district outside the park.

- (n) All improvements of the land, including buildings, and all appurtenances thereto, shall conform to all applicable laws, ordinances and regulations. The minimum standards established herein shall not be construed as lowering the standards established by deed restrictions and covenants running with the land, other laws, ordinances or regulations.
- (o) All mobile homes shall be placed on foundations and skirted.

**SECTION 4-0208. REGULATIONS FOR “C-1” DISTRICTS (LIGHT COMMERCIAL DISTRICTS).** In “C-1” Districts the following regulations shall apply, except as otherwise provided herein:

- (1) Uses permitted:
  - (a) Neighborhood retail sales and service uses such as: art shops, artists and professional studios, beauty parlors, clothing stores, drugstores, grocery stores or supermarkets, hardware stores, household appliances and fixture repair shops, meat markets, branch post offices, storage garages, self-service laundries and dry cleaning shops or laundries having not more than 3,000 square feet of floor area.
  - (b) Shops for the following similar occupations: barber, cabinetmaker, electrician, jewelers, watchmaker, locksmith, optician, painter, plumber, shoemaker, tailor.
  - (c) Business and professional offices.
  - (d) Bakeries, cafes, ice cream shops, and restraints which prepare food stuffs for onsite retail sale only, including licensed food and beer and food and beverage establishments.
  - (e) Automobile parking lots.
  - (f) Advertising signs appurtenant to the use of property in which said signs are displayed.
  - (g) Advertising signs or outdoor advertising for which a permit has been issued pursuant to the provisions of Section 4-0902 of the City’s ordinances.
- (2) Conditional uses: The following uses may be permitted as a special use upon approval of the planning commission and the City Council. Application for such permission shall be made in accordance with this ordinance relating to special use permits:
  - (a) Multi-family dwelling units.
  - (b) Sleeping rooms, apartments or owner-occupied dwellings located within commercial businesses or service establishments provided that the

residential use is secondary to the main commercial use of the building and occupies fifty percent or less of the total floor area.

- (c) Amusements and recreational facilities.
- (d) Funeral homes.
- (3) Building Height Limits: Three and one-half stories or forty-five feet, whichever is less.
- (4) Yard Requirements: None.
- (5) Lot Requirements: None.
- (6) Additional Requirements: A buffer strip consisting of trees, other plantings or fences, creating a visual screen of a minimum of eight feet in height, shall be provided when a commercial use abuts any residential district and said buffer strip shall run the entire length of the boundary between the two uses.

**SECTION 4-0209. REGULATIONS FOR “C-2” DISTRICTS (GENERAL COMMERCIAL DISTRICTS).** In “C-2” Districts the following regulations shall apply, except as otherwise provided herein:

- (1) Uses permitted:
  - (a) Uses permitted in “C-1” Districts.
  - (b) Automobile parking structures.
  - (c) Automobile display and sales rooms and lots.
  - (d) Automobile service stations and car washing facilities.
  - (e) Trailer camps.
  - (f) Theaters and assembly halls, but not including outdoor theaters.
  - (g) Bus, taxi and truck yards.
  - (h) Hotels and motels.
  - (i) Pedestrian malls, covered or open.
  - (j) Public or semi-public utilities.
  - (k) Radio and television broadcasting stations and transmitters and microwave radio relay stations.

- (1) Other retail or wholesale sale or service uses which are similar in character to those enumerated above, and which will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare, and will not impair the use, enjoyment or value of any property.
- (2) Conditional uses: The following uses may be permitted as conditional uses upon the approval of the planning and zoning commission and City Council. Application for such permission shall be made in accordance with this ordinance relating to conditional use permits:
  - (a) Storage facilities for building materials such as lumber, steel, concrete blocks or pipe.
  - (b) Sleeping rooms, apartments or owner-occupied dwellings located within commercial businesses or service establishments provided that the residential use is secondary to the main commercial use of the building and occupies 50% or less of the total floor area.
  - (c) Wholesale businesses.
  - (d) Storage buildings and warehouses.
- (3) Building Height Limits: Three and one-half stories or forty-five feet, whichever is less.
- (4) Yard Requirements: None.
- (5) Lot Requirements: None.
- (6) Additional Requirements: A buffer strip consisting of trees, other plantings or fences, creating a visual screen of a minimum of eight feet in height, shall be provided when a commercial use abuts any residential district and said buffer strip shall run the entire length of the boundary between the two uses.

**SECTION 4-0210. REGULATIONS FOR "I-1" DISTRICTS (LIGHT INDUSTRIAL DISTRICTS).** In "I-1" Districts, the following regulations shall apply, except as otherwise provided herein:

- (1) Intent. This district is intended to include lands suited by topography and other natural conditions for light industrial development, including light manufacturing, processing, storage, wholesaling, and distribution operations, and other processes and operations which do not require large numbers of workers; do not generate heavy truck traffic, do not emit significant amounts of noise, smoke, dust or glare; and do not require large volumes of public water or sewer. Limited commercial use is allowed in this district to serve the uses for which the district is primarily intended. Sewer, water, fire protection, and other essential services shall be provided either by public utilities or approved private means.

- (2) Minimum Dimensional Requirements. The minimum area for Industrial Districts shall be 10 acres. Industrial Districts of less than 10 acres are allowed provided they abut another Industrial District and the combined acreage of the districts is 10 acres or more. Different Industrial Districts such as Light Industrial, Heavy Industrial, and Industrial Park Districts may abut each other; however, the districts and uses therein must remain separate.
- (3) Permitted Principal Uses and Structures. The following uses shall be permitted:
- (a) Small business machine sales, repair and service shops, auto supply stores, carpenter and cabinet shops, and household appliance repair shops.
  - (b) Furniture and home furnishing stores, hardware stores, household appliance stores, interior decorating shops.
  - (c) Plumbing shops, sheet metal shops, roofing shops, mini-storage buildings.
  - (d) Airports, railroads, essential public utilities, and public service installations.
  - (e) Animal hospitals or veterinary clinics.
  - (f) Radio or television transmitting stations, vocational or training schools.
  - (g) Underground oil and gas storage facilities, as approved by the City Engineer and Fire Chief.
  - (h) Storage of flammable liquids above grade, and wholesale, subject to Uniform Fire Code regulations.
  - (i) Storage of liquefied gases, subject to Uniform Fire Code regulations.
  - (j) Light manufacturing industries consisting of the processing and treatment of goods and foodstuffs, except alcohol or alcoholic beverages, fish, meat products, vinegar and yeast.
  - (k) Farm implement dealerships.
  - (l) Automobile, airplane and other assembly plants.
  - (m) Building material yards, contractor yards, and lumber yards.
  - (n) Other wholesale, light manufacturing, construction, or service uses which are similar in character to those enumerated above; and will not be dangerous or otherwise detrimental to persons residing or working in the vicinity thereof, or to the public welfare; and will not impair the use, enjoyment, or value of any property. The area shall not be used as a junk yard, defined as "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."

- (4) Permitted Accessory Uses and Structures. Uses and structures which are customarily accessory and clearly incidental to permitted uses and structures shall be permitted, including solar energy systems
- (5) Conditional Uses. The temporary storage of hazardous materials, subject to Uniform Fire Code, shall be considered as a conditional use.
- (6) Special Permit Uses. None.
- (7) Minimum Lot Requirements.
  - (a) Front yard - None, except for along any streets there shall be a front yard of not less than 25 feet.
  - (b) Side and rear yard - None.
- (8) Minimum yard requirements. None.
- (9) Maximum Lot Coverage by Buildings. None.
- (10) Minimum Floor Area. None.
- (11) Maximum Height of Buildings. The maximum height of any building shall be 100 feet.
- (12) Sign Limitations.
  - (a) Freestanding signs may be erected not exceeding 45 feet in height as a permitted use and 100 feet in height as a conditional use. The sign face shall not exceed 1 square foot per 1 foot of street frontage where the sign is to be placed, up to a maximum of 75 square feet; but in any event, 32 square feet is permitted. The maximum total area of all sign faces shall be six times the maximum permitted size per sign face.
  - (b) Wall signs may be erected with a sign face not exceeding the larger of 20 percent of the facade to which it is attached or 60 square feet up to a maximum of 200 square feet. The sign shall not exceed above the top of the wall or facade to which it is attached.
  - (c) Projecting signs may be erected in place of freestanding signs and with a sign face of not more than 50 square feet. The maximum total area of all the sign faces shall be 100 square feet. The sign shall not extend above the top of the wall or facade to which it is attached.

- (d) Roof signs may be erected in place of freestanding signs and not exceeding the district height restrictions or 20 feet above the top of the roof, whichever is less. The sign face shall not exceed 1 square foot per 1 foot of street frontage up to a maximum of 50 square feet; but in any event, 32 square feet is permitted. The maximum total area of all sign faces shall be two times the maximum permitted size per sign face.
  - (e) Marquee signs may be erected with sign faces up to an additional 100 percent in area beyond that permitted for freestanding signs, provided the sign faces of other signs which may be permitted are reduced. The increase in area permitted the marquee sign shall be equal to the reduction in area of other permitted signs.
- (13) Off Street Parking Requirements. Required off-street parking shall be provided in such a manner that vehicles do not encroach on a public right-of-way.
- (14) Other Requirements. A buffer zone is required where any Light Industrial District abuts a Residential District. Buffer zones shall be determined by the Planning & Zoning Commission shall be a maximum of 30 feet in depth from the property line of a lot zoned Residential or from a street right-of-way which separates the Light Industrial District from a Residential District. The buffer zone shall be used for tree plantings, hedges, walls, fences, or similar devices as required by the Planning & Zoning Commission, and grass shall be planted and maintained in all buffer zones.

**SECTION 4-0211. REGULATIONS FOR “I-2” DISTRICTS (HEAVY INDUSTRIAL DISTRICTS).** In “I-2” Districts the following regulations shall apply, except as otherwise provided herein:

- (1) Uses permitted:
- (a) Uses permitted in “I-1” districts, except multi-family dwellings.
  - (b) Grain elevators, mill and processing facilities.
  - (c) Manufacturing and food processing.
  - (d) Concrete mixing and manufacturing of concrete products.
  - (e) Foundries.
  - (f) Petroleum products storage facilities.
  - (g) Pelleting plants.
  - (h) Other industrial uses which are not objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise, or which impose hazard to health

or property. Adult entertainment centers complying with subsection (6) of this section.

- (i) Other industrial uses which are not objectionable by reason of emission of odor, dust, smoke, gas, vibration or noise, or which impose hazard to health or property.
- (2) Building Height Limits: None.
- (3) Yard Requirements: All industrial uses shall be set back at a minimum of one hundred feet from any residential property line.
- (4) Lot Requirements: None.
- (5) Additional Requirements: A buffer zone is required where any Light Industrial District abuts a Residential District. Buffer zones shall be determined by the Planning & Zoning Commission shall be a maximum of 30 feet in depth from the property line of a lot zoned Residential or from a street right-of-way which separates the Light Industrial District from a Residential District. The buffer zone shall be used for tree plantings, hedges, walls, fences, or similar devices as required by the Planning & Zoning Commission, and grass shall be planted and maintained in all buffer zones.
- (6) Adult Entertainment Centers. Adult Entertainment Centers, as herein defined, shall be permitted in "I-2" Districts provided that their location shall be limited according to the provisions of this subsection:
  - (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 image 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 Entertainment Center.
      - a. An adult bookstore; or

- b. An adult cinema; or,
  - c. An adult live performance theater.
4. Adult Live Performance Theater: An enclosed building used on regular basis for presenting live performances by singers, musicians, dancers, comedians, models, or any similar type of entertainers, which live performances are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons.
5. Specified Anatomical Areas:
- a. Less than completely and opaquely covered:
    - (i) Human genitals, pubic region;
    - (ii) Buttocks;
    - (iii) 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 stimulation 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 in “I-2” Districts and in no other district, and then only if the adult entertainment center meets the following conditions:
- 1. The adult entertainment center is located no closer than 1250 feet from any pre-existing church, school, or property zoned “R-1”, “R-2”, “R-3”, or “R-4”.
  - 2. The center displays no signs visible from the exterior of the center, except for signs identifying the center as an adult entertainment center.
  - 3. No materials depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of the center.

4. 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.

**SECTION 4-0212. REGULATIONS FOR "R-1E" DISTRICTS (RURAL ESTATE DISTRICTS).**

- (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 most likely would be done through the established rural water and sewer districts. Lots of ten (10) or more acres in size, though primarily intended for rural residential purposes, would be allowed under the agricultural district as a conditional use.
- (2) **MINIMUM DIMENSIONAL REQUIREMENTS.** The minimum area for this district shall be ten (10) acres.
- (3) **PERMITTED USES.**
  - (a) Single-family detached dwellings.
  - (b) Schools and churches.
  - (c) State-licensed group homes serving six (6) or fewer developmentally disabled persons.
  - (d) Publicly-owned and operated parks, playgrounds, and recreational facilities.
  - (e) Essential services and public buildings.
  - (f) Accessory buildings, provided that they shall be located as required in Chapter 4-03, Section 2 of this ordinance.
  - (g) Home occupations, provided they shall be operated as required in Chapter 4-03, Section 8 of this ordinance.

- (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 Council.
- (a) Child care facilities licensed by the State Department of Human Services.
  - (b) 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.
  - (c) Retirement, 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 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.
    - 2. No building shall be closer than forty (40) feet from any property line.
  - (d) Farm animals.
  - (e) Accessory buildings greater than 1,000 square feet.

(5) YARD REQUIREMENTS.

	<u>One-Family</u>	<u>Accessory Buildings</u>	<u>Other Buildings</u>
a. Lot Area Minimum (sq ft)	43,560		
b. Lot Width Minimum (ft)	120		
c. Lot Depth Minimum (ft)	200		
d. Front Yard Minimum (ft)(1)	30	30	30
e. Rear Yard Minimum (ft)	30	30	30
f. Side Yard Minimum (ft)	10(2)	10(2)	10
g. Maximum Lot Coverage (3)	15%		
h. Maximum Height (ft)	35	35	(4)

(1) Front yard setbacks from existing or future streets shall be sixty-five (65) feet from the centerline of the street for local streets, seventy (70) feet for collector or minor arterial streets and ninety (90) feet for primary arterial streets.

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

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

(4) 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) OTHER APPLICABLE REGULATIONS.

Chapter 4-03. Supplementary District 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.

CHAPTER 4-03

SUPPLEMENTARY DISTRICT REGULATIONS.

SECTIONS:

- 4-0301. General Fencing and Screening Requirements.
- 4-0302. Accessory Building and Use Provisions.
- 4-0303. Exceptions.
- 4-0304. Erection of More Than One Principal Structure on a Lot.
- 4-0305. Structures to Have Access.
- 4-0306. Currently Licensed Motorized Vehicle and Equipment Parking in Residential District.
- 4-0307. Parking and/or Storage of Certain Vehicles and Materials.
- 4-0308. Provisions of Home Occupations.
- 4-0309. Wireless Telecommunications.

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**SECTION 4-0301. 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 split rail or chain link without slats, which permit direct vision through at least 75% of the fence surface area shall be allowed a height of four (4) feet along the sides or front edge of any front yard.

- (3) **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.

**SECTION 4-0302. 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 a ten (10) foot high sidewall. The pitch on said accessory building must have the same pitch as the roof on the main structure. The height of the accessory building must not exceed the height of the main structure. The height on any garage door of any accessory structure must not exceed ten (10) feet.

Source: Ord. 2021-31, Sec. 1

- (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 five (5) 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 or 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 rear lot line and five (5) 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.

Source: Ord. 2019-29, Sec. 1

- (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 in the city limits shall exceed a maximum of 1,500 square feet, except accessory buildings greater than 1,500 square feet are a conditional use in the Rural Estate District.

Source: Ord. 2011-13, Sec. 1 (2012)

- (6) All swimming pools as defined by this ordinance shall be regulated as follows:
- (a) A permit shall be required for all swimming pools with a capacity of five thousand (5,000) gallons and/or two feet (2') or more of depth. Each application for a permit to construct or erect a swimming pool shall be accompanied by plans of sufficient detail to show:
    - 1. The proposed location and its relationship to the other principal buildings on the lot.
    - 2. The size of the pool.
    - 3. Fencing and other fixtures existing on the lot, including utility location and trees.
    - 4. The location, size and types of equipment to be used in connection with the pool, including but not limited to filter unit, pump, fencing and the pool itself.
    - 5. That the requirements contained in subsection b below will be satisfied.
  - (b) All below ground pools for which a permit is required and granted 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 of sufficient density as to curtail access. If fences are employed, they shall 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 fencing 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 fence posts shall be decay or corrosion resistant and shall be set in concrete bases or other suitable protection. The opening between the bottom of the fence and the ground or other surfaces shall not be more than four inches (4").
  - (c) All above ground pools shall be provided with safeguards to prevent children from gaining uncontrolled access.

**SECTION 4-0303. EXCEPTIONS.**

- (1) 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:

- (a) Accessory structures, as governed by Section 2 of Chapter 4-03, are permitted in rear yards.
  - (b) 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.
  - (c) Walks, steps for negotiating ground slopes, retaining walls, hedges and natural growth, fences, paved terraces and paved areas.
  - (d) 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.
  - (e) Uncovered porches, and steps to building entrances may not extend more than five (5) feet into any required front yard or required rear yard and not more than three (3) feet into any required side yard or court.
  - (f) Open work fire balconies and fire escapes may extend not more than three (3) feet into a required yard or court.
  - (g) Chimneys and flues may extend not more than two (2) feet into a required yard or court.
- (2) 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.

**SECTION 4-0304. 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.

**SECTION 4-0305. 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.

**SECTION 4-0306. CURRENTLY LICENSED MOTORIZED VEHICLE AND EQUIPMENT PARKING IN RESIDENTIAL DISTRICTS.**

- (1) Purpose: To 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.
- (2) For the purposes of this ordinance, the following definitions apply:
  - (a) 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 and recreational equipment.
  - (b) Improved Parking Surface. Shall consist of a durable surface to include concrete, asphalt or gravel. Grass or dirt shall not constitute a durable surface.
  - (c) Residential Districts. Shall include the zoning districts specified as R-1; R-2; and R-3.
  - (d) Summer Parking/Storage. Shall include the period between April 15th to October 15th.
  - (e) Winter Parking/Storage - Shall include the period between October 15th to April 15th.
- (3) Currently licensed vehicle or equipment parking on residential lots may be parked in the following-described areas:
  - (a) Garage/Carport. Parking or storage may occur entirely within a garage or carport.
  - (b) Required Rear Yard. Parking or storage may occur 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.
  - (c) Required Side Yard. Parking or storage may occur within the required side yard provided that a 3' setback be maintained from the side lot line. This requirement may be waived 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 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. However, under no circumstance shall vehicle or equipment parking occur within 8' of the sidewalk or, where no sidewalk exists, 8' from the front lot line.

- (d) Required Front Yard. Currently licensed vehicles and equipment may be parked during any period on an improved parking surface. 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. 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 an 8' setback from the sidewalk or, where no sidewalk exists, an 8' setback from the front property line. Under no circumstances shall vehicle or equipment parking block the public right-of-way.
- (e) 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. 2020-30, Sec. 1 (2021)

**SECTION 4-0307. PARKING AND/OR STORAGE OF CERTAIN VEHICLES AND MATERIALS.** Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings. No lot in any residential district shall be used for the outdoor 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.

**SECTION 4-0308. 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.
- (6) No home occupation shall be permitted that creates the need for parking which frequently infringes upon the on-street parking in the neighborhood.
- (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.

#### SECTION 4-0309. **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 omnidirectional 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 of 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.
  - 5. Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed within the Agricultural, Light Commercial, General Commercial and Light Industrial Districts, subject to review and approval as conditional uses.
  - 6. Towers supporting commercial antennas and conforming to all applicable provisions of this ordinance are allowed within the 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 unforeseen 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 Council 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 Chapter 4-03, Section 9(3).
    - 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 Chapter 4-03, Section 1(3) of this ordinance.
- (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 Council. 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, 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.

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.

- (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 Harwood.
- (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.

CHAPTER 4-04

EXTRATERRITORIAL PROVISIONS

SECTIONS:

- 4-0401. General Purpose.
- 4-0402. Subdivision Review.
- 4-0403. Building Permits.
- 4-0404. Residential Development.
- 4-0405. Commercial/Industrial Development.
- 4-0406. Individual and Private Group Sewer and Water Facility Design.
- 4-0407. Street Design and Access.
- 4-0408. Street Maintenance.

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SECTION 4-0401. **GENERAL PURPOSE.** The City of Harwood shall exercise its authority over extraterritorial subdivisions for the purposes of:

- (1) Promoting compact urban development.
- (2) Preventing urban sprawl.
- (3) Preserving prime agricultural farmland.
- (4) Controlling public service costs.
- (5) Maintaining open space.
- (6) Promoting harmonious development.

SECTION 4-0402. **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.

SECTION 4-0403. **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 the ordinances of the City of Harwood.

SECTION 4-0404. **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:

- (1) One acre for non-farm single family lots.
- (2) 100 foot lot width at building setback line.
- (3) Setbacks consistent with pertinent provisions of the Zoning Ordinance.
- (4) 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.

**SECTION 4-0405. COMMERCIAL/INDUSTRIAL DEVELOPMENT.** Where connection to the municipal or a rural central water and sewer system is not feasible, the following standards shall apply:

- (1) Minimum lot sizes shall be five (5) acres for industrial and three (3) acres for commercial development.
- (2) Off-street parking as required by the Zoning Ordinance.
- (3) Yard and landscape requirements shall be as required within the city limits.

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.

**SECTION 4-0406. INDIVIDUAL AND PRIVATE GROUP SEWER AND WATER FACILITY DESIGN.**

- (1) **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 Council.
- (2) **LOT REQUIREMENTS.** Lot requirements shall be as stated within these extraterritorial provisions.
- (3) **SYSTEM DESIGN.** Each facility shall be designed and constructed to City Engineering standards and in accordance with these regulations.
- (4) **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.

**SECTION 4-0407. 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.

**SECTION 4-0408. STREET MAINTENANCE.** The applicant shall submit to the Planning Commission a statement indicating who will be responsible for street maintenance and snow removal.

CHAPTER 4-05

SUBDIVISION IMPROVEMENT GUARANTEES

SECTIONS:

- 4-0501. Completion of Improvements.
- 4-0502. Improvements Installed by Developer.
- 4-0503. Creation of Improvement District by City.
- 4-0504. Combination of Improvement District and Improvements Installed by Developer.

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SECTION 4-0501. **COMPLETION OF IMPROVEMENTS.** Upon final approval of any subdivision plat, the subdivider or developer shall petition the City Council for the purpose of installing the required public improvements. The subdivider or developer shall petition the City Council to install public improvements in one of the following three ways:

- (1) The subdivider or developer installs all the required public improvements at their own cost.
- (2) The City creates an improvement district in order to assess the improvement costs against benefitted properties.
- (3) 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.

SECTION 4-0502. **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 Council 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 to deposit with the City a cashiers check in the amount as required by the City Council.

SECTION 4-0503. **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 Council approves this request, the following procedure shall be followed:

- (1) Subdivider or developer shall sign an "Agreement to Create Improvement District" as furnished by the City Attorney. This agreement requires the furnishing of a cashiers check, in the amount as required by the City Council.

- (2) Subdivider or developer shall sign an "Improvement District Escrow Agreement," as furnished by the City Attorney.

**SECTION 4-0504. 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 Council approves these requests, the following procedure shall be followed:

- (1) Subdivider or developer shall sign an "Agreement Authorizing Improvement by Developer," as provided by the City Attorney, and to deposit with the City a cashiers check in the amount as required by the City Council.
- (2) Subdivider or developer shall sign an "Agreement to Create Improvement District" and an "Improvement District Escrow Agreement," as furnished by the City Attorney.

CHAPTER 4-06

GENERAL ADMINISTRATIVE PROVISIONS

SECTIONS:

- 4-0601. Purpose.
- 4-0602. Short Title.
- 4-0603. Jurisdiction.
- 4-0604. Severability.
- 4-0605. Provisions of Ordinance Declared to be Minimum Requirements.
- 4-0606. Repeal of Conflicting Ordinances.

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SECTION 4-0601. **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.

SECTION 4-0602. **SHORT TITLE.** This Ordinance shall be known and may be cited and referred to as "The Zoning Ordinance of the City of Harwood, North Dakota," to the same effect as if the full title were stated.

SECTION 4-0603. **JURISDICTION.** The provisions of this Ordinance shall apply within the corporate limits and the extraterritorial zoning jurisdiction of the City of Harwood, North Dakota, as now and hereafter fixed and as established on the map entitled, "The Official Zoning Map of the City of Harwood, North Dakota," as the same may be amended.

SECTION 4-0604. **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.

SECTION 4-0605. **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.

SECTION 4-0606. **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.

CHAPTER 4-07

ADMINISTRATION AND ENFORCEMENT

Sections:

- 4-0701. Administration and Enforcement.
- 4-0702. Amendments to the Ordinance.
- 4-0703. Fees.

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SECTION 4-0701. **ADMINISTRATION AND ENFORCEMENT.** The administration and enforcement of this ordinance is hereby vested in the Administration Official and the Zoning Board of Adjustment of Harwood, North Dakota.

(1) Administrative Official:

(a) Authority and Duties:

1. Issue all building permits and certificates of compliance; issues conditional use permits upon approval of Zoning Board of Adjustment;
2. Conduct inspections of buildings for compliance with zoning ordinances and other applicable codes or ordinances;
3. Maintain records of the regulations and permits;
4. Report the following to the Zoning Board of Adjustment:
  - a) All complaints stemming from this zoning ordinance;
  - b) Zoning violations;
  - c) Applications for conditional use permits; and
  - d) Applications for variances.
5. Shall investigate violations, violation complaints, and report them to the City Attorney for appropriate action.

(2) Zoning Board of Adjustment: Zoning Board of Adjustment shall consist of five members appointed from the City Council and the Planning and Zoning Commission.

(a) Authorities and Duties:

1. Authorize conditional use permits;
  - a) Procedure for application and issuance of a conditional use permit shall be as follows:
    - 1) An application for a conditional use permit shall be submitted to the Administrative Official.
    - 2) The Administrative Official shall report the application to the Zoning Board of Adjustment.
    - 3) Every application for a conditional user permit shall include a plot plan showing:
      - a. Legal description of the land to be used;
      - b. Location of all structure and all existing and proposed improvements , including curb-cut access, off-street parking, and other such facilities;
      - c. Building setbacks from all property lines;
      - d. Location and type of planting, screening or walls;
      - e. A timing schedule indicating the start and completion dates of the development;
      - f. Names and addresses of adjacent property owners;
      - g. Any additional information that the Zoning Board of Adjustment deems necessary.
    - 4) Within fifteen (15) days of the filing of the application for a conditional use permit, the Zoning Board of Adjustment shall notify in writing adjacent property owners of the proposed conditional use and/or shall consider their comments and shall set a public hearing.
    - 5) If a hearing is requested, it shall be held within sixty (60) days of the filing date of the application.
    - 6) The Administrative Official shall prepare a written statement for the Zoning Board of Adjustment specifying the manner in which the proposed

conditional use complies with the provisions governing conditional uses. No application for a conditional use permit shall be granted unless the Zoning Board of Adjustment shall find all of the following conditions present:

- a. The conditional use shall not be detrimental to or endanger public health, safety, or general welfare; shall be in harmony with the general purpose of these regulations and shall be appropriate according to number, location, and relationship to surrounding uses;
- b. The conditional use shall not substantially impair or diminish the value and enjoyment of other property in the area;
- c. The conditional use shall not impede the normal and orderly development of the surrounding property.
- d. Adequate utilities, access roads, drainage or other necessary site improvements have been or are being provided.
- e. Adequate measures shall be taken to provide entrance to and exit from the property without adverse effects on neighboring properties and traffic congestion in public streets.
- f. The conditional use shall conform to all applicable regulations of the district in which it is located.

7) Within fifteen (15) days of the Board of Adjustment's decision, they shall notify the applicant in writing citing the reasons for approval or disapproval.

2. Hear and decide variances from the terms of this ordinance that will not be contrary to the public interest, where the literal enforcement of this ordinance will result in practical difficulty or unnecessary hardship to the property owner. The procedure for application and review shall be as follows:

- a) An application for a variance shall be submitted to the Administrative Official.

- b) The Administrative Official shall report the application to the Zoning Board of Adjustment.
- c) Every application for a variance shall include the following:
  - 1) Legal description of the property;
  - 2) The reason for the variance request, including a description of the property that prevents its reasonable use under the terms of this ordinance;
  - 3) The type of variance requested, along with the desired specifications of same;
  - 4) An explanation of whether the hardship is unique to the applicant's property or of a general nature characteristic of other properties;
  - 5) Names and addresses of adjacent property owners;
  - 6) Any other information that the Zoning Board of Adjustment deems necessary.
- d) Within fifteen (15) days of the filing of the application, the Board shall notify the adjacent property owners in writing and may hold a public hearing.
- e) The Board shall base its findings on evidence presented to it and the following conditions before it may approve a request for a variance:
  - 1) The particular surroundings or the topographic conditions of the property would result in undue hardship.
  - 2) The variance request is not based on a desire for economic or other gains.
  - 3) The alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.
  - 4) The variance shall not be detrimental to the public welfare or injurious to other properties in the area.
  - 5) The variance shall not be contrary to the interest and purpose of this ordinance.

- f) Within thirty (30) days of the filing of the application for variance, the Zoning Board of Adjustment shall notify the applicant in writing citing the reasons for approval or disapproval.
3. Hear appeals of any person, firm or organization aggrieved by a decision or ruling of the Administrative Official. The Board shall transmit to the City Council all records on which its decisions are based.
    - a) Procedures for Appeals:
      - 1) An aggrieved person shall file a petition for a hearing to the zoning Board of Adjustment within thirty (30) days of a decision by the Administrative Official.
      - 2) At the same time, the appeal shall be presented in writing to the Zoning Board of Adjustment and shall specify the grounds for the appeal.
      - 3) The hearing shall be held within a reasonable time after the filing of the petition.
      - 4) Within fifteen (15) days after the hearing, the Zoning Board of Adjustment shall take action and send its decision, by registered mail, to the aggrieved person.
  4. Publish notice of all hearings once a week for two successive weeks prior to the date established for the hearing in the official newspaper of the City.
  5. Interpret district boundaries on the zoning map.

4-0702. **AMENDMENTS TO THE ORDINANCE.** The City Council may from time to time on its own motion or on petition or recommendations by the Planning and Zoning Commission amend, supplement, or repeal provisions of this ordinance.

(1) Procedures for Amendment:

- (a) Applications for amendments shall be filed with the Administrative Official.
- (b) The Administrative Official shall notify the Planning and Zoning Commission of the proposed amendment.
- (c) If the zoning map is proposed to be changed, the Planning and Zoning Commission shall notify, by registered mail, all property owners fronting

on or within 150 feet of the property in question at least 15 days prior to the public hearing.

- (d) The application shall be presented to the public at an official public hearing conducted by the Planning and Zoning Commission. Notice of the hearing shall be published in the official City newspaper once a week for two successive weeks prior to the date established for the hearing. A notice may also be placed in a conspicuous location in the post office.
  - (e) Following the hearing, the Planning and Zoning Commission shall submit its recommendations concerning the proposed amendment to the City Council.
  - (f) The City Council shall hold a public hearing on the proposed amendment within thirty (30) days of receipt of recommendations from the Planning and Zoning Commission. Notice of the hearing shall be published in the official City newspaper once a week for two successive weeks prior to the date established for the hearing.
  - (g) Following the hearing, the City Council shall approve or disapprove the proposed amendment.
- (2) Protests to Amendments:
- (a) If a protest against an amendment is signed by the owners of 20 percent or more:
    - 1. Of the area of the lots included in such proposed change; or
    - 2. Of the area adjacent, extending 150 feet (excluding streets) from the property to be changed, the amendment shall not become effective except by a favorable vote of at least three-fourths (3/4) of the members of the City Council.

4-0703. **FEES.** For the purpose of administering this ordinance, fees may be established by the City Council.

CHAPTER 4-08

VIOLATIONS, REMEDIES, COMPLAINTS AND PENALTIES.

Sections:

- 4-0801. Public Nuisance Per Se.
- 4-0802. Complaints Regarding Violations.
- 4-0803. Enforcement.
- 4-0804. Penalties for Violation.
- 4-0805. Responsible Party.

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4-0801. **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 Harwood, and is not a nonconforming structure or use, is hereby declared to be a public nuisance per se.

4-0802. **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.

4-0803. **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 Harwood 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 out in the notice, the administrative official should refer the matter to the City Attorney. The City Attorney may commence criminal proceedings in the Municipal Court and/or commence civil proceedings to enjoin or abate the violation.

4-0804. **PENALTIES FOR VIOLATION.** Any person violating any section of this chapter 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.

4-0805. **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.

CHAPTER 4-09

OUTDOOR ADVERTISING

SECTIONS:

- 4-0901. Definitions.
- 4-0902. Permit Required.
- 4-0903. Prohibition.
- 4-0904. Exemptions.
- 4-0905. Bond Required.
- 4-0906. Annual License Fee.
- 4-0907. Identification of Manufacturer, Fabricator, or Erector.
- 4-0908. Violations.

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4-0901. **DEFINITIONS.**

1. “Erect” shall mean to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish.
2. “Maintain” shall mean to exist.
3. “Outdoor Advertising” shall mean a sign, display, or device of any kind or character, including statuary, erected or maintained, for outdoor advertising purposes, upon which any poster, bill, printing, painting, or other advertisement of any kind whatsoever may be placed for advertising purposes and shall include but not be limited to any card, cloth, paper, metal, painted, or wooden sign of any character placed for outdoor advertising purposes, on or affixed to the ground or any tree, wall, bush, rock, fence, building, structure, or thing, either privately or publicly owned. The terms “sign, display, or device” comprehend all forms of outdoor advertising, and the use of one such term in this chapter includes all forms of outdoor advertising.

4-0902. **PERMIT REQUIRED.**

1. No person, firm or corporation shall erect, maintain or display any form of outdoor advertising within the City limits of the City of Harwood or within the boundaries of its extraterritorial jurisdiction without having first obtained an outdoor advertising permit from the City Council.
2. Application for an outdoor advertising permit shall be made in writing and shall state or show in detail the nature of the proposed outdoor advertising and the materials to be used in erecting and displaying the advertising.
3. Each application for an outdoor advertising permit shall be accompanied by a fee in such amount as may be adopted by resolution of the City Council.

4. Upon receipt of an application for an outdoor advertising permit, the City Council may consider such application at a special meeting or at its next regular meeting. Additional information concerning the proposed outdoor advertising shall be supplied to the City Council upon request.
5. The City Council may issue an outdoor advertising permit if it determines that the proposed outdoor advertising will not be injurious to the public health, safety, morals, comfort, convenience, and general welfare. In making such determination, the City Council shall consider the following factors:
  - a. The zoning classification of the proposed site;
  - b. The City's plans for orderly growth and development in the proposed area;
  - c. The size, nature and materials to be used in the outdoor advertising;
  - d. Whether the character of the neighborhood in which the proposed site is located would be maintained despite the outdoor advertising;
  - e. Public safety and traffic matters;
  - f. The effect on property values in the area surrounding the proposed site;
  - g. The need for additional outdoor advertising within the City;
  - h. Any other matters it deems relevant.

In addition, the City Council may impose such restrictions or conditions upon the outdoor advertising or the materials used in erecting or displaying the outdoor advertising as it deems necessary and proper.

6. The City Council shall make its reasons for the issuance, denial or conditional issuance of an outdoor advertising permit part of the official record of its proceedings.
7. Any permit issued hereunder shall expire within 60 days from the date of issuance unless the outdoor advertising authorized therein shall have commenced within that period of time.
8. In addition to the permit required herein, a building permit shall also be obtained for the construction, reconstruction, structural alteration or erection of any outdoor advertising.

4-0903. **PROHIBITION.** Notwithstanding the above, no outdoor advertising shall be erected or maintained in any R-1, R-2, R-3 and R-4 zoning districts or within 500 feet of any such zoning district boundary line.

4-0904. **EXEMPTIONS.** The following forms of outdoor advertising shall be exempt from the provisions of this chapter:

1. Official signs and notices and directional signs and notices that do not advertise goods or services.
2. Signs advertising the sale or lease of property upon which they are located.
3. Signs specifically advertising activities conducted, services rendered, goods sold, stored, produced, or the name of the enterprise on the property upon which they are located; provided, however, that this exemption shall apply only to signs not exceeding 15 square feet in surface area.
4. Signs calling attention to the location of buried utility lines;
5. Official highway signs within interstate rights-of-way giving specific information for the traveling public; and
6. Signs specifically authorized by other sections of these ordinances.

4-0905. **BOND REQUIRED.** In addition to the permits required hereunder, every person, firm or corporation engaging in the erection or maintenance of any outdoor advertising shall give a bond in the sum of \$3,000, with good and sufficient sureties, to be approved by the City Auditor and City Attorney of the City of Harwood, conditioned, among other things, that said party will indemnify and hold harmless the City of Harwood, and any person, for a period of two years after the erection of any outdoor advertising, from any and all charges, costs, expenses, judgments, or damages caused by reason of any negligence on the part of said party or any servant or employee of said party, or by the use of any insufficient or insecure support attachments, or by improper, unsuitable, or unskilled workmanship in the erection or maintenance of any outdoor advertising.

4-0906. **ANNUAL LICENSE FEE.** In addition to the permits and bond required hereunder, every person, firm or corporation engaging in the erection or maintenance of any outdoor advertising shall pay an annual license fee in such amount as may be established by resolution of the City Council from time to time.

4-0907. **IDENTIFICATION OF MANUFACTURER, FABRICATOR, OR ERECTOR.** Every piece of outdoor advertising erected or maintained in the City of Harwood shall be clearly marked by some permanent means and in a location on said outdoor advertising which is readily visible. Said marking shall state the name and address of the manufacturer, fabricator and installer or erector of such sign.

4-0908. **VIOLATIONS.**

1. In the case of any violation of this ordinance, the building inspector shall issue any appropriate order to prevent the unlawful erection or maintenance of any outdoor advertising or to restrain, correct or abate any existing outdoor advertising in violation of this ordinance. In the event the offending party does not comply with the building inspector's order within seven days, each day thereafter that the

violation is allowed to continue shall constitute a new and separate violation punishable hereunder.

2. Every person, firm or corporation violating this ordinance shall, upon conviction thereof, be punished by a fine not to exceed \$500, or by imprisonment not to exceed 30 days, or by both such fine and imprisonment, in the discretion of the court. The court shall have power to suspend said sentence and to revoke the suspension thereof.
3. The owner, lessor, lessee or tenant of any land, building or structure on which any outdoor advertising is erected or maintained and any builder, contractor, agent or other person who commits, participates in, assists in or maintains any violations of this ordinance may be found guilty of a separate offense and suffer the same penalties as provided herein.