



CITY OF MANDAN PLANNING AND ZONING COMMISSION STAFF MEMORANDUM

To: Planning & Zoning Commissioners

From: Robert Decker, Principal Planner

Meeting Date: July 25, 2016

Subject: Proposed Ordinance No. 1242 related to residential zoning districts

The current code has two single family zoning districts, R7 and R3.2. R7 allows standalone single family structures and R3.2 allows zero lot line single family structures commonly referred to as twin homes. The proposed ordinance modifies the standards for the two existing zones and adds two new zones, R15 and R4. R15 is a large lot zone where the minimum lot size is 15,000 square feet. R4 is a small lot zone with a minimum lot size of 4,000 square feet.

Major changes between the current standards and this proposed ordinance are:

- Uses are now divided into three categories, primary, secondary and conditional.
 - Primary uses are permitted.
 - Secondary uses are permitted if there is a primary use.
 - Conditional uses must be approved by the Planning and Zoning Commission, and in some cases the city commission, for a specific site with requirements tailored for that site.
- Front yard setback distance was set based on street type or speed limit. The higher the speed, the deeper the setback.
- Side yard setbacks were changed to a set distance rather than a percentage of lot width to remove computational uncertainty.
- A minimum setback for a garage door was added to account for the increasing length of pickup trucks and SUV's that has resulted in vehicles being parked across the sidewalk.
- Church was restructured by adding a religion group to Sec. 105-1-4 in order to allow for greater detail of what is included and not included in the category.

- R15 allows for single family structures on a minimum 15,000 square foot lot with a minimum habitable space of 4,000 square feet. Conditional uses are limited. Currently there are many lots that have been created in this size range that are zoned R7. If the lot in an R7 district is greater than 14,000 square feet it can be split if the split lots will meet all the other requirements. Splitting the lot allows for a lesser structure than the rest of the neighborhood. By specifying a greater minimum lot size, the opportunity to split the lot is removed and the character of the neighborhood is maintained.
- For R7, the permitted uses have been limited to a single family residential structure. The rest of the currently permitted uses were made conditional. This protects the residential character of the neighborhood by making any of these other uses that are now permitted anywhere in an R7 district site specific. An accessory dwelling unit was added as a conditional use.
- R4 was created to allow a standalone single family structure on a minimum 4,000 square foot lot. This is basically a twin home lot size with two side yards instead of one. Accessory dwelling units are a permitted secondary use in this zone.
- R3.2 was modified to require that each half of the structure be on a separate lot from the beginning. The two-family permitted use was removed. Lot splitting either after the subdivision is approved or after the structure is built creates problems with the possible need to cut a new street to add utility services and the need to divide up already imposed property assessments. A standalone single family structure would be allowed on no more than 10% of the lots in the zoning district in order to accommodate some variety in the subdivision and allow for an odd number of lots.
- Requirements were added to R7 and R3.2 for lot splits in existing subdivisions that require the installation of additional potable water and sanitary sewer taps.
- Floor area ratio (FAR) was changed to lot coverage to make the meaning clearer and limit the computational errors that have occurred in the past since certain portions of a structure are not included in the calculation of FAR. Percentages for total lot coverage and primary structure coverage are listed since people tend to add sheds and other accessory structures after the primary structure is built and this gives leeway for those later additions.
- On-site parking requirements have been adjusted based on the minimum lot size for the zoning district. The larger the minimum lot size, the greater the minimum number of parking spaces required.
- A description of how building height is measured was added for clarification. Measurement for a primary structure is along the front building line to allow for a sloped lot.

Changes to other zones listed in Article 3 will be submitted for consideration at a later date.

ORDINANCE NO. 1242

An Ordinance to Amend and Re-enact Section 105-1-4 and Article 3 to Chapter 105 of the Mandan Municipal Code related to residential zoning districts

WHEREAS, The current code has two single family zoning districts, and

WHEREAS, There is a need to update the requirements for those districts, and

WHEREAS, There is a need to add two additional single family zoning districts.

NOW, THEREFORE, BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, as follows:

Section 1. The following is added to Section 105-1-4:

- (f) ***Religion group.*** A use in the religion group is an activity in support of the practice or teaching of a religion.
- (1) Conduct of worship services.
 - (2) Teaching of a religion or a religious practice.
 - (3) Social events associated with the practice or teaching of a religion.
 - (4) General education restricted to members of the religious group offering the educational services.
 - (5) General education not restricted to people who are members of the religious group offering the educational services is an activity that is part of the education group and must be a permitted use within the zone in which the building is located.
 - (6) Feeding or shelter offered to members of the religious group offering the services.
 - (7) Feeding or shelter offered on an ongoing basis to anyone in the community are not religion group activates and if offered in a religion group building must be either allowed as a permitted use within the zoning district in which the building is located or approved as a conditional use within the zoning district in which the building is located. Use of a religion group building during a natural disaster or community emergency is not restricted.

- (8) The sale of new or used items to the general public by a religious group or persons affiliated with a religious group is a commercial activity and if offered in a religion group building must be a permitted commercial use within the zoning district in which the building is located.

Section 2. Article 3, Chapter 105 is amended to read.

ARTICLE 3. - ZONING DISTRICT REGULATIONS

Sec. 105-3-1. – Applicability of standards. Lots that were platted and recorded prior to August 1, 2016 that do not fully conform to the standards contained in this article are buildable lots and these standards shall be adjusted as necessary at the discretion of the city engineer to allow development on those lots.

Sec. 105-3-2. – Reserved.

Sec. 105-3-3. – Reserved.

Sec. 105-3-4. – R15 Residential District.

In any R15 residential district, the following regulations shall apply:

- (1) **General description.** The purpose of this district is to provide an opportunity to construct single family housing on large lots that are protected from being further divided.
- (2) **Primary uses.** The following uses are permitted:
 - a. Single family residence with a minimum habitable space of 4,000 square feet.
- (3) **Secondary uses.** There are no permitted secondary uses in this district.
- (4) **Conditional uses.** These uses are permitted on a specific site only after review and approval by the planning and zoning commission. Conditional uses are limited to 5% of the total land area within the district.
 - a. Up to 4 unit bed and breakfast.
 - b. Public recreation group.
 - c. Utility service group.
 - d. Religion group.
- (5) **Setbacks.**

- a. The minimum front yard setback for an arterial roadway or a roadway posted with a speed limit between 45 miles per hour (MPH) and 50 MPH is 50 feet. The minimum front yard setback for a collector street or a roadway posted at between 35 MPH and 40 MPH is 45 feet. The minimum front yard setback for a local street or a roadway posted at between 25 MPH and 30 MPH is 40 feet.
 - b. For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is 12 feet.
 - c. The minimum rear yard setback is 50 feet.
 - d. Any portion of a structure containing a garage door facing a public street must be set back at least 25 feet. Any portion of a structure containing a garage door facing an alley or an access easement must be set back at least 10 feet.
- (6) **Lot coverage.** The lot coverage for all structures shall not exceed 40% with the primary structure not exceeding 30%.
 - (7) **Lot area.** The minimum lot area shall be 15,000 square feet.
 - (8) **Lot width at front wall of primary structure.** Each lot shall have a width of not less than 70 feet, measured along the front building line.
 - (9) **Building height limits.** Height of a primary structure is measured along the front wall of the structure from finished grade. Height of accessory structures is measured along the perimeter of the structure from finished grade. Primary structure building height shall be limited to 45 feet or 3.5 stories. Accessory structures shall be limited to 35 feet or 2.5 stories.
 - (10) **Parking.** At least 5 parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 22 feet long.

Sec. 105-3-5. - R7 Residential District.

In any R7 Residential District, the following regulations shall apply:

- (1) **General description.** The purpose of the R7 Residential District is to provide an opportunity to construct single-family dwellings in an area where few other uses are permitted.
- (2) **Primary uses.** The following uses are permitted:

- a. Single-family dwelling.
- (3) **Secondary uses.** There are no secondary uses permitted in this district.
- (4) **Conditional uses.** These uses are permitted on a specific site only after review and approval by the planning and zoning commission. Conditional uses are limited to 10% of the total land area within the district.
- a. Public recreation group.
 - b. Utility service group.
 - c. Religion group.
 - d. Accessory dwelling unit. An accessory dwelling unit is limited to an efficiency or one bedroom apartment located in the primary structure or an accessory structure and requires at least one additional parking space.
- (5) **Setbacks.**
- a. The minimum front yard setback for an arterial roadway or a roadway posted with a speed limit between 45 miles per hour (MPH) and 50 MPH is 50 feet. The minimum front yard setback for a collector street or a roadway posted at between 35 MPH and 40 MPH is 35 feet. The minimum front yard setback for a local street or a roadway posted at between 25 MPH and 30 MPH is 20 feet.
 - b. For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is 6 feet.
 - c. The minimum rear yard setback is 25 feet.
 - d. Any portion of a structure containing a garage door facing a public street must be set back at least 25 feet. Any portion of a structure containing a garage door facing an alley or an access easement must be set back at least 10 feet
- (6) **Lot coverage.** The lot coverage for all structures shall not exceed 40% with the primary structure not exceeding 30%.
- (7) **Lot area.** The minimum lot area shall be 7,000 square feet.
- (8) **Lot width at front wall of primary structure.** Each lot shall have a width of not less than 50 feet, measured along the front building line.

- (9) ***Building height limits.*** Height of a primary structure is measured along the front wall of the structure from finished grade. Height of accessory structures is measured along the perimeter of the structure from finished grade. Primary structure building height shall be limited to 35 feet or 2.5 stories. Accessory structures shall be limited to 25 feet or 2 stories.
- (10) ***Parking.*** At least 4 parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 22 feet long.
- (11) ***Criteria for splitting previously platted lots.*** These requirements apply to lots in existing subdivisions that are replatted to create additional lots.
- a. Where only a single sanitary sewer tap has been provided to the area where two lots are created, a Y and two-way cleanouts shall be installed on the sanitary sewer tap and a joint maintenance agreement recorded for the shared portion of the sanitary sewer tap. The language contained in the joint maintenance agreement shall be reviewed and approved by the city prior to recording.
 - b. Where only a single potable water tap has been provided to the area where two lots are created, a second potable water tap shall be provided.
 1. If the waterline to which the tap is to be made is not under pavement, the new potable water tap shall be installed by boring and jacking under any pavement between the location of the waterline and the lot requiring service.
 2. If the waterline to which the new tap is to be made is under pavement and the pavement is less than 5 years old, a pavement patch measuring at least 25 feet wide by the full extent of each lane between the property and the waterline must be made once the new tap has been installed.
 3. Standard width trenching and patching may be employed wherever the pavement is older than 5 years.
 4. A pavement patch shall be warranted for two years.
 - c. The city engineer may modify these requirements on a case by case basis.

Sec. 105-3-6. – R4 Residential District.

In any R4 Residential District, the following regulations shall apply:

- (1) **General description.** The purpose of this district is to provide an opportunity to construct single family dwelling units on reduced size lots and allow a second limited size rental unit.
- (2) **Primary uses.** The following uses are permitted:
 - a. Single family residence.
- (3) **Secondary uses.**
 - a. Accessory dwelling unit. An accessory dwelling unit is limited to an efficiency or one bedroom apartment located in the primary structure or an accessory structure and requires at least one additional parking space.
- (4) **Conditional uses.** These uses are permitted on a specific site only after review and approval by the planning and zoning commission. Conditional uses are limited to 10% of the total land area within the district.
 - a. Public recreation group.
 - b. Utility service group.
 - c. Religion group.
- (5) **Setbacks.**
 - a. The minimum front yard setback for an arterial roadway or a roadway posted with a speed limit between 45 miles per hour (MPH) and 50 MPH is 50 feet. The minimum front yard setback for a collector street or a roadway posted at between 35 MPH and 40 MPH is 30 feet. The minimum front yard setback for a local street or a roadway posted at between 25 MPH and 30 MPH is 10 feet.
 - b. For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is 5 feet.
 - c. The minimum rear yard setback is 15 feet.
 - d. Any portion of a structure containing a garage door facing a public street must be set back at least 25 feet. Any portion of a structure containing a garage door facing an alley or an access easement must be set back at least 10 feet
- (6) **Lot coverage.** The lot coverage for all structures shall not exceed 50% with the primary structure not exceeding 40%.

- (7) **Lot area.** The minimum lot area shall be 4,000 square feet.
- (8) **Lot width at front wall of primary structure.** Each lot shall have a width of not less than 35 feet, measured along the front building line.
- (9) **Building height limits.** Height of a primary structure is measured along the front wall of the structure from finished grade. Height of accessory structures is measured along the perimeter of the structure from finished grade. Primary structure building height shall be limited to 40 feet or 3 stories. Accessory structures shall be limited to 25 feet or 2 stories.
- (10) **Parking.** At least 3 parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 22 feet long.

Sec. 105-3-7. - R3.2 Residential District.

In any R3.2 Residential District, the following regulations shall apply:

- (1) **General description.** The purpose of this district is to provide an opportunity to construct single family dwelling units on reduced size lots in a zero lot line configuration resulting in structures containing two dwelling units commonly called twin homes.
- (2) **Primary uses.** The following uses are permitted:
 - a. Zero lot line single-family dwelling.
- (3) **Secondary uses.**
 - a. Single-family structures located on no more than 10% of the lots in the district.
- (4) **Conditional uses.** These uses are permitted on a specific site only after review and approval by the planning and zoning commission. Conditional uses are limited to 10% of the total land area within the district.
 - a. Public recreation group.
 - b. Utility service group.
 - c. Religion group.
- (5) **Setbacks.**

- a. The minimum front yard setback for an arterial roadway or a roadway posted with a speed limit between 45 miles per hour (MPH) and 50 MPH is 50 feet. The minimum front yard setback for a collector street or a roadway posted at between 35 MPH and 40 MPH is 25 feet. The minimum front yard setback for a local street or a roadway posted at between 25 MPH and 30 MPH is 8 feet.
 - b. For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is 5 feet.
 - c. The minimum rear yard setback is 12 feet.
 - d. Any portion of a structure containing a garage door facing a public street must be set back at least 25 feet. Any portion of a structure containing a garage door facing an alley or an access easement must be set back at least 10 feet
- (6) **Lot coverage.** The lot coverage for all structures shall not exceed 50% with the primary structure not exceeding 40%.
- (7) **Lot area.** The minimum lot area shall be 3,200 square feet.
- (8) **Lot width at front wall of primary structure.** Each lot shall have a width of not less than 32 feet measured along the front building line.
- (9) **Building height limits.** Height of a primary structure is measured along the front wall of the structure from finished grade. Height of accessory structures is measured along the perimeter of the structure from finished grade. Primary structure building height shall be limited to 35 feet or 2.5 stories. Accessory structures shall be limited to 25 feet or 2 stories.
- (10) **Parking.** At least 3 parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 22 feet long.
- (11) **Criteria for splitting previously platted lots.** These requirements apply to lots in existing subdivisions that are replatted to create additional lots.
- a. Where only a single sanitary sewer tap has been provided to the area where two lots are created, a Y and two-way cleanouts shall be installed on the sanitary sewer tap and a joint maintenance agreement recorded for the shared portion of the sanitary sewer tap. The language contained in the joint maintenance agreement shall be reviewed and approved by the city prior to recording.

- b. Where only a single potable water tap has been provided to the area where two lots are created, a second potable water tap shall be provided.
 - 1. If the waterline to which the tap is to be made is not under pavement, the new potable water tap shall be installed by boring and jacking under any pavement between the location of the waterline and the lot requiring service.
 - 2. If the waterline to which the new tap is to be made is under pavement and the pavement is less than 5 years old, a pavement patch measuring at least 25 feet wide by the full extent of each lane between the property and the waterline must be made once the new tap has been installed.
 - 3. Standard width trenching and patching may be employed wherever the pavement is older than 5 years.
 - 4. A pavement patch shall be warranted for two years.
- c. The city engineer may modify these requirements on a case by case basis.

Sec. 105-3-3 through Sec. 105-3-12 are renumbered Sec. 105-3-8 through Sec. 105-3-17.

Section 3. Section 105-1-4 and Article 3, Chapter 105 are re-enacted as presented.

Tim Helbling, President
Board of City Commissioners

Attest:

Jim Neubauer,
City Administrator

First Consideration:

Second Consideration and Final Passage:

Publication Date:



CITY OF MANDAN PLANNING AND ZONING COMMISSION STAFF MEMORANDUM

To: Planning & Zoning Commissioners

From: Robert Decker, Principal Planner

Meeting Date: July 25, 2016

Subject: Proposed Ordinance No. 1242 related to residential zoning districts

The current code has two single family zoning districts, R7 and R3.2. R7 allows standalone single family structures and R3.2 allows zero lot line single family structures commonly referred to as twin homes. The proposed ordinance modifies the standards for the two existing zones and adds two new zones, R15 and R4. R15 is a large lot zone where the minimum lot size is 15,000 square feet. R4 is a small lot zone with a minimum lot size of 4,000 square feet.

Major changes between the current standards and this proposed ordinance are:

- Uses are now divided into three categories, primary, secondary and conditional.
 - Primary uses are permitted.
 - Secondary uses are permitted if there is a primary use.
 - Conditional uses must be approved by the Planning and Zoning Commission, and in some cases the city commission, for a specific site with requirements tailored for that site.
- Front yard setback distance was set based on street type or speed limit. The higher the speed, the deeper the setback.
- Side yard setbacks were changed to a set distance rather than a percentage of lot width to remove computational uncertainty.
- A minimum setback for a garage door was added to account for the increasing length of pickup trucks and SUV's that has resulted in vehicles being parked across the sidewalk.
- Church was restructured by adding a religion group to Sec. 105-1-4 in order to allow for greater detail of what is included and not included in the category.

- R15 allows for single family structures on a minimum 15,000 square foot lot with a minimum habitable space of 4,000 square feet. Conditional uses are limited. Currently there are many lots that have been created in this size range that are zoned R7. If the lot in an R7 district is greater than 14,000 square feet it can be split if the split lots will meet all the other requirements. Splitting the lot allows for a lesser structure than the rest of the neighborhood. By specifying a greater minimum lot size, the opportunity to split the lot is removed and the character of the neighborhood is maintained.
- For R7, the permitted uses have been limited to a single family residential structure. The rest of the currently permitted uses were made conditional. This protects the residential character of the neighborhood by making any of these other uses that are now permitted anywhere in an R7 district site specific. An accessory dwelling unit was added as a conditional use.
- R4 was created to allow a standalone single family structure on a minimum 4,000 square foot lot. This is basically a twin home lot size with two side yards instead of one. Accessory dwelling units are a permitted secondary use in this zone.
- R3.2 was modified to require that each half of the structure be on a separate lot from the beginning. The two-family permitted use was removed. Lot splitting either after the subdivision is approved or after the structure is built creates problems with the possible need to cut a new street to add utility services and the need to divide up already imposed property assessments. A standalone single family structure would be allowed on no more than 10% of the lots in the zoning district in order to accommodate some variety in the subdivision and allow for an odd number of lots.
- Requirements were added to R7 and R3.2 for lot splits in existing subdivisions that require the installation of additional potable water and sanitary sewer taps.
- Floor area ratio (FAR) was changed to lot coverage to make the meaning clearer and limit the computational errors that have occurred in the past since certain portions of a structure are not included in the calculation of FAR. Percentages for total lot coverage and primary structure coverage are listed since people tend to add sheds and other accessory structures after the primary structure is built and this gives leeway for those later additions.
- On-site parking requirements have been adjusted based on the minimum lot size for the zoning district. The larger the minimum lot size, the greater the minimum number of parking spaces required.
- A description of how building height is measured was added for clarification. Measurement for a primary structure is along the front building line to allow for a sloped lot.

Changes to other zones listed in Article 3 will be submitted for consideration at a later date.

ORDINANCE NO. 1242

An Ordinance to Amend and Re-enact Section 105-1-4 and Article 3 to Chapter 105 of the Mandan Municipal Code related to residential zoning districts

WHEREAS, The current code has two single family zoning districts, and

WHEREAS, There is a need to update the requirements for those districts, and

WHEREAS, There is a need to add two additional single family zoning districts.

NOW, THEREFORE, BE IT ORDAINED by the Board of City Commissioners of the City of Mandan, Morton County, North Dakota, as follows:

Section 1. The following is added to Section 105-1-4:

- (r) Religion group. A use in the religion group is an activity in support of the practice or teaching of a religion.
 - (1) Conduct of worship services.
 - (2) Teaching of a religion or a religious practice.
 - (3) Social events associated with the practice or teaching of a religion.
 - (4) General education restricted to members of the religious group offering the educational services.
 - (5) General education not restricted to people who are members of the religious group offering the educational services is an activity that is part of the education group and must be a permitted use within the zone in which the building is located.
 - (6) Feeding or shelter offered to members of the religious group offering the services.
 - (7) Feeding or shelter offered on an ongoing basis to anyone in the community are not religion group activates and if offered in a religion group building must be either allowed as a permitted use within the zoning district in which the building is located or approved as a conditional use within the zoning district in which the building is located. Use of a religion group building during a natural disaster or community emergency is not restricted.

- (8) The sale of new or used items to the general public by a religious group or persons affiliated with a religious group is a commercial activity and if offered in a religion group building must be a permitted commercial use within the zoning district in which the building is located.

Section 2. Article 3, Chapter 105 is amended to read.

ARTICLE 3. - ZONING DISTRICT REGULATIONS

Sec. 105-3-1. – Applicability of standards. Lots that were platted and recorded prior to August 1, 2016 that do not fully conform to the standards contained in this article are buildable lots and these standards shall be adjusted as necessary at the discretion of the city engineer to allow development on those lots.

Sec. 105-3-2. – Reserved.

Sec. 105-3-3. – Reserved.

Sec. 105-3-4. – R15 Residential District.

In any R15 residential district, the following regulations shall apply:

- (1) **General description.** The purpose of this district is to provide an opportunity to construct single family housing on large lots that are protected from being further divided.
- (2) **Primary uses.** The following uses are permitted:
- a. Single family residence with a minimum habitable space of 4,000 square feet.
- (3) **Secondary uses.** There are no permitted secondary uses in this district.
- (4) **Conditional uses.** These uses are permitted on a specific site only after review and approval by the planning and zoning commission. Conditional uses are limited to 5% of the total land area within the district.
- a. Up to 4 unit bed and breakfast.
 - b. Public recreation group.
 - c. Utility service group.
 - d. Religion group.
- (5) **Setbacks.**

- a. The minimum front yard setback for an arterial roadway or a roadway posted with a speed limit between 45 miles per hour (MPH) and 50 MPH is 50 feet. The minimum front yard setback for a collector street or a roadway posted at between 35 MPH and 40 MPH is 45 feet. The minimum front yard setback for a local street or a roadway posted at between 25 MPH and 30 MPH is 40 feet.
 - b. For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is 12 feet.
 - c. The minimum rear yard setback is 50 feet.
 - d. Any portion of a structure containing a garage door facing a public street must be set back at least 25 feet. Any portion of a structure containing a garage door facing an alley or an access easement must be set back at least 10 feet.
- (6) **Lot coverage.** The lot coverage for all structures shall not exceed 40% with the primary structure not exceeding 30%.
- (7) **Lot area.** The minimum lot area shall be 15,000 square feet.
- (8) **Lot width at front wall of primary structure.** Each lot shall have a width of not less than 70 feet, measured along the front building line.
- (9) **Building height limits.** Height of a primary structure is measured along the front wall of the structure from finished grade. Height of accessory structures is measured along the perimeter of the structure from finished grade. Primary structure building height shall be limited to 45 feet or 3.5 stories. Accessory structures shall be limited to 35 feet or 2.5 stories.
- (10) **Parking.** At least 5 parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 22 feet long.

Sec. 105-3-15. - R7 Residential District.

In any R7 Residential District, the following regulations shall apply:

- (1) **General description.** The purpose of the R7 Residential District is to provide an opportunity to construct established as a district in which the principal use of land is for single-family dwellings in an area where few other uses are permitted. For the R7 Residential District, in promoting the general purposes of this chapter, the specific intent of this section is:

- a. ~~To encourage the construction of, and the continued use of, the land for single-family dwellings.~~
- b. ~~To prohibit commercial and industrial use of the land and to prohibit any other use that would substantially interfere with development or continuation of single-family dwellings in the district.~~
- c. ~~To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this chapter.~~
- d. ~~To discourage any use that would generate traffic on minor streets, other than normal traffic to serve residences on those streets.~~
- e. ~~To discourage any use which, because of its character or size, would create requirements and costs for public services, such as police and fire protection, water supply and sewage, substantially in excess of such requirements and costs if the district was developed solely for single-family dwellings.~~

(2) Primary uses permitted. The following uses are permitted:

- a. Single-family dwelling.
- b. ~~Educational group.~~
- c. ~~Church.~~
- d. ~~Utility service group.~~
- e. ~~Public recreation group.~~
- f. ~~Manufactured home.~~

(3) Secondary uses. There are no secondary uses permitted in this district. ~~Density. The maximum allowable density is 5.0 families per net acre.~~

(4) Conditional uses. These uses are permitted on a specific site only after review and approval by the planning and zoning commission. Conditional uses are limited to 10% of the total land area within the district.

- a. Public recreation group.
- b. Utility service group.
- c. Religion group.
- d. Accessory dwelling unit. An accessory dwelling unit is limited to an efficiency or one bedroom apartment located in the primary structure or an accessory structure and requires at least one additional parking space.

(5) Setbacks.

- a. The minimum front yard setback for an arterial roadway or a roadway posted with a speed limit between 45 miles per hour (MPH) and 50 MPH is 50 feet. The minimum front yard setback for a collector street or a roadway posted at between 35 MPH and 40 MPH is 35 feet. The minimum front yard setback for a local street or a roadway posted at between 25 MPH and 30 MPH is 20 feet.
 - b. For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is 6 feet.
 - c. The minimum rear yard setback is 25 feet.
 - d. Any portion of a structure containing a garage door facing a public street must be set back at least 25 feet. Any portion of a structure containing a garage door facing an alley or an access easement must be set back at least 10 feet
- (6) **Lot coverage.** The lot coverage for all structures shall not exceed 40% with the primary structure not exceeding 30%.
- (47) **Lot area.** Each single-family dwelling hereafter erected, together with its accessory buildings, shall be located on a lot having an area of not less than The minimum lot area shall be 7,000 square feet.
- ~~Any other permitted building or structure, together with its accessory buildings, shall be located on a lot having an area of not less than 7,000 square feet; provided, however, that on a record lot having an area of less than 7,000 square feet, but not less than 5,000 square feet corresponding to a record lot shown on a plat or deed recorded prior to the adoption of the ordinance from which this section is derived, a single-family dwelling and accessory buildings may be erected.~~
- (58) **Lot width at front wall of primary structure.** Each lot shall have a width of not less than 60-50 feet, measured along the front building line; provided, however, that on a record lot having a width of less than 60 feet at the front building line, and corresponding to a record lot shown on a plat or deed recorded prior to the adoption of the ordinance from which this section is derived, the minimum lot width measured along the front building line may be reduced to not less than 50 feet.
- (6) ~~Floor area ratio. The floor area ratio of the principal building and all accessory buildings shall not exceed 0.30 for single-story buildings, nor shall it exceed 0.40 for buildings of more than one story. The ground area occupied by the principal and accessory buildings shall not exceed 30 percent of the total area of the lot. In computing floor area ratio and ground coverage, 200 square feet shall be added to~~

the actual area of the buildings for each car space required by this chapter if such space is not furnished within a building.

- (7) ~~Front yard. Each lot shall have a front yard not less than 25 feet in depth.~~
- (8) ~~Side yards. Each lot shall have two side yards, one on each side of the principal building. The sum of the widths of the two side yards shall be not less than 20 percent of the average width of the lot. On any lot having an average width of 60 feet or less, each side yard shall be not less than ten percent of the width of the lot, and in no case shall a side yard be less than five feet in width. On any lot having an average width greater than 60 feet, neither side yard shall be less than six feet in width. In no event shall any side yard be less than the requirements set forth in this subsection, provided that in computing the side yard width on any lot 60 feet or more in width, the first two feet of any overhang for eaves shall not be counted, and in computing the side yard width on any lot less than 60 feet in width, the first one foot of any overhang for eaves shall not be counted.~~
- (9) **Rear yard. Each lot shall have a rear yard not less than 20 feet in depth.**
- (10) **Building hHeight limits.** Height of a primary structure is measured along the front wall of the structure from finished grade. Height of accessory structures is measured along the perimeter of the structure from finished grade. Primary structure building height shall be limited to 35 feet or 2.5 stories. Accessory structures shall be limited to 25 feet or 2 stories. No single-family dwelling shall exceed 2.5 stories, nor shall it exceed 35 feet in height. No principal building for any other permitted use shall exceed four stories, nor shall it exceed 50 feet in height. For each foot or fraction thereof that a building exceeds 35 feet in height, there shall be added four feet to the minimum width of each side yard, two feet to the minimum depth of the front yard and two feet to the minimum depth of the rear yard required by this section. No accessory building shall exceed two stories, nor shall it exceed 25 feet in height.
- (10) **Parking.** At least 4 parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 22 feet long.
- (11) **Criteria for splitting previously platted lots.** These requirements apply to lots in existing subdivisions that are replatted to create additional lots.
- a. Where only a single sanitary sewer tap has been provided to the area where two lots are created, a Y and two-way cleanouts shall be installed on the sanitary sewer tap and a joint maintenance agreement recorded for the shared portion of the sanitary sewer tap. The language contained in the joint maintenance agreement shall be reviewed and approved by the city prior to recording.

- b. Where only a single potable water tap has been provided to the area where two lots are created, a second potable water tap shall be provided.
 - 1. If the waterline to which the tap is to be made is not under pavement, the new potable water tap shall be installed by boring and jacking under any pavement between the location of the waterline and the lot requiring service.
 - 2. If the waterline to which the new tap is to be made is under pavement and the pavement is less than 5 years old, a pavement patch measuring at least 25 feet wide by the full extent of each lane between the property and the waterline must be made once the new tap has been installed.
 - 3. Standard width trenching and patching may be employed wherever the pavement is older than 5 years.
 - 4. A pavement patch shall be warranted for two years.
- c. The city engineer may modify these requirements on a case by case basis.

Sec. 105-3-6. – R4 Residential District.

In any R4 Residential District, the following regulations shall apply:

- (1) **General description.** The purpose of this district is to provide an opportunity to construct single family dwelling units on reduced size lots and allow a second limited size rental unit.
- (2) **Primary uses.** The following uses are permitted:
 - a. Single family residence.
- (3) **Secondary uses.**
 - a. Accessory dwelling unit. An accessory dwelling unit is limited to an efficiency or one bedroom apartment located in the primary structure or an accessory structure and requires at least one additional parking space.
- (4) **Conditional uses.** These uses are permitted on a specific site only after review and approval by the planning and zoning commission. Conditional uses are limited to 10% of the total land area within the district.
 - a. Public recreation group.

b. Utility service group.

c. Religion group.

(5) **Setbacks.**

a. The minimum front yard setback for an arterial roadway or a roadway posted with a speed limit between 45 miles per hour (MPH) and 50 MPH is 50 feet. The minimum front yard setback for a collector street or a roadway posted at between 35 MPH and 40 MPH is 30 feet. The minimum front yard setback for a local street or a roadway posted at between 25 MPH and 30 MPH is 10 feet.

b. For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is 5 feet.

c. The minimum rear yard setback is 15 feet.

d. Any portion of a structure containing a garage door facing a public street must be set back at least 25 feet. Any portion of a structure containing a garage door facing an alley or an access easement must be set back at least 10 feet

(6) **Lot coverage.** The lot coverage for all structures shall not exceed 50% with the primary structure not exceeding 40%.

(7) **Lot area.** The minimum lot area shall be 4,000 square feet.

(8) **Lot width at front wall of primary structure.** Each lot shall have a width of not less than 35 feet, measured along the front building line.

(9) **Building height limits.** Height of a primary structure is measured along the front wall of the structure from finished grade. Height of accessory structures is measured along the perimeter of the structure from finished grade. Primary structure building height shall be limited to 40 feet or 3 stories. Accessory structures shall be limited to 25 feet or 2 stories.

(10) **Parking.** At least 3 parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 22 feet long.

Sec. 105-3-27. - R3.2 Residential District.

In any R3.2 Residential District, the following regulations shall apply:

(1) ***General description.*** The purpose of this district is to provide an opportunity to construct single family dwelling units on reduced size lots in a zero lot line configuration resulting in structures containing two dwelling units commonly called twin homes. The R3.2 Residential District is established as a district in which the principal use of land is for single-family and two-family dwellings. For the R3.2 Residential District, in promoting the general purposes of this chapter, the specific intent of this section is:

- a. ~~— To encourage the construction of, and the continued use of, the land for single-family and two-family dwellings.~~
- b. ~~— To prohibit commercial and industrial use of the land and to prohibit any other use that would substantially interfere with development or continuation of single-family or two-family dwellings in the district.~~
- c. ~~— To encourage the discontinuance of existing uses that would not be permitted as new uses under the provisions of this chapter.~~
- d. ~~— To discourage any use that would generate traffic on minor streets, other than normal traffic to serve residences on those streets.~~
- e. ~~— To discourage any use which, because of its character or size, would create requirements and costs for public services, such as police and fire protection, water supply and sewage, substantially in excess of such requirements and costs if the district was developed solely for single-family and two-family dwellings.~~

(2) ***Primary uUses permitted.*** The following uses are permitted:

- a. Zero lot line Singlesingle-family dwelling.
- b. ~~— Two-family dwelling.~~
- c. ~~— Educational group.~~
- d. ~~— Church.~~
- e. ~~— Utility service group.~~
- f. ~~— Public recreation group.~~
- g. ~~— Health medical group.~~
- h. ~~— Bed and breakfast facility located in a single-family dwelling, provided that the owner of the dwelling is the holder of a current bed and breakfast facility license for not to exceed four lodging units issued pursuant to the provisions of N.D.C.C. ch. 23-09.1 and that the owner provides one off-street vehicle parking space for each such unit and one off-street parking space for the owner/operator of such facility, and provided, further, that only one sign, not exceeding four square feet in size, advertising such facility, may be placed on the premises.~~
- i. ~~— Manufactured home.~~

(3) **Secondary uses.**

a. Single-family structures located on no more than 10% of the lots in the district.

(4) **Conditional uses.** These uses are permitted on a specific site only after review and approval by the planning and zoning commission. Conditional uses are limited to 10% of the total land area within the district.

a. Public recreation group.

b. Utility service group.

c. Religion group.

(5) **Setbacks.**

a. The minimum front yard setback for an arterial roadway or a roadway posted with a speed limit between 45 miles per hour (MPH) and 50 MPH is 50 feet. The minimum front yard setback for a collector street or a roadway posted at between 35 MPH and 40 MPH is 25 feet. The minimum front yard setback for a local street or a roadway posted at between 25 MPH and 30 MPH is 8 feet.

b. For a side yard that fronts on a public right-of-way, the minimum setback is the same as the front yard. For all other situations the minimum side yard setback is 5 feet.

c. The minimum rear yard setback is 12 feet.

d. Any portion of a structure containing a garage door facing a public street must be set back at least 25 feet. Any portion of a structure containing a garage door facing an alley or an access easement must be set back at least 10 feet

(6) **Lot coverage.** The lot coverage for all structures shall not exceed 50% with the primary structure not exceeding 40%.

(7) **Lot area.** The minimum lot area shall be 3,200 square feet.

~~(3) — Density. The maximum allowable density is 12.0 families per net acre.~~

~~(4) — Lot area. Each single-family dwelling and each two-family dwelling hereafter erected, together with accessory buildings, shall be located on a lot having an area of not less than 7,000 square feet. Any other permitted building or structure, together with its accessory buildings, shall be located on a lot having an area of~~

not less than 7,000 square feet; provided, however, that on a record lot having an area of less than 7,000 square feet, but not less than 3,250 square feet, corresponding to a record lot shown on a plat or deed recorded prior to the adoption of the ordinance from which this section is derived, a single-family dwelling and accessory building may be erected; provided, further, however, that if a building designed for efficiency apartment units, having not more than one-bedroom units, intended to house not more than two persons per dwelling unit, not exceeding the floor area ratio provided in subsection (6) of this section and meeting all other provisions of this section and the provisions of the city code relating to the minimum standards governing the condition and maintenance of dwelling units, a building containing not more than four such efficiency dwelling units may be erected on a lot having not less than 7,000 square feet in area.

- (58) ***Lot width at front wall of primary structure.*** Each lot shall have a width of not less than ~~60~~³² feet measured along the front building line; ~~provided, however, that on a record lot having a width of less than 60 feet at the front building line and corresponding to a record lot shown on a plat or deed recorded prior to the adoption of the ordinance from which this section is derived, the minimum lot width measured along the front building line may be reduced to no less than 25 feet.~~
- (6) — ~~Floor area ratio. The floor area ratio of the principal building and all accessory buildings shall not exceed 0.35 for single-story buildings, nor shall it exceed 0.45 for buildings of more than one story. The ground area occupied by the principal and accessory buildings shall not exceed 35 percent of the total area of the lot. In computing floor area ratio and ground coverage, 200 square feet shall be added to the actual area of the building for each car space required by this chapter, if such space is not furnished within a building.~~
- (7) — ~~Front yard. Each lot shall have a front yard not less than 25 feet in depth.~~
- (8) — ~~Side yards. Each lot shall have two side yards, one on each side of the principal building. The sum of the widths of the two side yards shall be not less than 20 percent of the average width of the lot. On any lot having an average width of 60 feet or less, each side yard shall be not less than ten percent of the width of the lot, and in no case shall a side yard be less than five feet in width. On any lot having an average width greater than 60 feet, neither side yard shall be less than six feet in width. In no event shall any side yard be less than the requirements set forth in this subsection, provided that in computing the side yard width on any lot 60 or more feet in width, the first two feet of any overhang for eaves shall not be counted, and in computing the side yard width on any lot less than 60 feet in width, the first one foot of any overhang for eaves shall not be counted.~~
- (9) **Rear yard. Each lot shall have a rear yard not less than 20 feet in depth.**

- ~~(10)~~ **Building hHeight limits.** Height of a primary structure is measured along the front wall of the structure from finished grade. Height of accessory structures is measured along the perimeter of the structure from finished grade. Primary structure building height shall be limited to 35 feet or 2.5 stories. Accessory structures shall be limited to 25 feet or 2 stories. Single-family dwellings and two-family dwellings shall not exceed 2.5 stories, nor shall they exceed 35 feet in height. No principal building for any other permitted use shall exceed four stories, nor shall it exceed 50 feet in height. For each one foot or fraction thereof that a building exceeds 35 feet in height, there shall be added four feet to the minimum width of each side yard, two feet to the minimum depth of front yard and two feet to the minimum depth of rear yard required by this section. No accessory building shall exceed two stories, nor shall it exceed 25 feet in height.
- ~~(11)~~ **Exception.** Notwithstanding the limitations imposed by any other provision of this chapter, upon due application by the owner and the recommendation thereof by the planning and zoning commission, the board may permit the subdivision of an existing lot and approve the replat thereof to show the lot line along the centerline of the common wall of a duplex and the renumbering of the lot upon which such two-family dwelling unit is being or has been constructed so as to permit separate ownership of the subdivided lot, subject to the following conditions:**Parking.** At least 3 parking spaces shall be provided per lot. This includes garage spaces and exterior spaces measuring at least 22 feet long.
- ~~(11)~~ **Criteria for splitting previously platted lots.** These requirements apply to lots in existing subdivisions that are replatted to create additional lots.
- ~~a.~~ Where only a single sanitary sewer tap has been provided to the area where two lots are created, a Y and two-way cleanouts shall be installed on the sanitary sewer tap and a joint maintenance agreement recorded for the shared portion of the sanitary sewer tap. The language contained in the joint maintenance agreement shall be reviewed and approved by the city prior to recording.
 - ~~b.~~ Where only a single potable water tap has been provided to the area where two lots are created, a second potable water tap shall be provided.
 - ~~1.~~ If the waterline to which the tap is to be made is not under pavement, the new potable water tap shall be installed by boring and jacking under any pavement between the location of the waterline and the lot requiring service.
 - ~~2.~~ If the waterline to which the new tap is to be made is under pavement and the pavement is less than 5 years old, a pavement patch measuring at least 25 feet wide by the full extent of each lane between the property and the waterline must be made once the new tap has been installed.

3. Standard width trenching and patching may be employed wherever the pavement is older than 5 years.

4. A pavement patch shall be warranted for two years.

c. The city engineer may modify these requirements on a case by case basis

Sec. 105-3-3 through Sec. 105-3-12 are renumbered Sec. 105-3-8 through Sec. 105-3-17.

Section 3. Section 105-1-4 and Article 3, Chapter 105 are re-enacted as presented.

Tim Helbling, President
Board of City Commissioners

Attest:

Jim Neubauer,
City Administrator

First Consideration:

Second Consideration and Final Passage:

Publication Date:

