

Ordinance No. _____

An Ordinance to Amend and Re-enact Portions of Subpart B Land Development and Public Services of the Code of Ordinances of the City of Mandan Related to Definitions, Planning and Zoning Commission Powers and Duties, Supplementary Provisions, Incidental Uses, Use Groups and Special uses.

Be it ordained by the Board of City Commissioners as follows:

Section 1. Chapter 101 Administration and Planning, Article 1. In General is amended to read.

Sec. 101-1-3. Definitions.

"Animal hospital or clinic" means a facility for the care and well-being of animals under the direct supervision of a licensed veterinarian; including, but not limited to, medical services, grooming, confinement or kenneling for medical purposes but excluding incinerating or cremating of animals or animal parts upon the premises.

"Dog daycare" means a facility for the daytime care and feeding of dogs.

"Kennel" means a commercial facility for the indoor boarding of pets.

"Pet" means one of the following taxonomically identified animals:

- (1) Mammalian Genus species;
 - (a) *Canis familiaris*, the domestic dog, and
 - (b) *Felis catus*, the domestic cat;
- (2) Mammalian Families;
 - (a) Leporidae, rabbits,
 - (b) Muridae, gerbils, hamsters, mice and rats, and
 - (c) Mustelidae, ferret;
- (3) Avian Orders;
 - (a) Psittaciformes, parrots, parakeets, lorries, budgerigars, and cockatiels,
 - (b) Passeriformes, canaries and finches, and
 - (c) Columbiformes, pigeons and doves;
- (4) Reptilian Groups;
 - (a) Squamata, lizards and snakes; and
 - (b) Testudine, turtles.

"Pet grooming" means a facility for the cosmetic care and maintenance, with no overnight boarding, of pets.

"Pet hospital or clinic" means a facility devoted to the medical care and associated services for the limited number of animals defined as pets as opposed to an animal hospital or clinic which treats all animals.

Section 2. Chapter 101 Administration and Planning, Article 2. Planning and Zoning Commission is amended to read.

Sec. 101-2-5. Officers; duties; election of officers.

Sec. 101-2-8. Powers and duties.

(l) *Length of approval or recommendation.* Planning and zoning commission approvals or recommendations are valid for six months. Should the applicant or the city commission fail to act on the approval or recommendation within six months, the action of the planning and zoning commission will lapse and a new application must be submitted and all applicable fees paid.

Section 3. Chapter 105 District Regulations (Zoning), Article 1. In General is amended to read.

Sec. 105-1-2. Supplementary provisions.

The regulations specified in this chapter shall be subject to the following supplementary provisions and interpretations.

- (1) *Structures excluded from height limits.* A building height limit set forth in this chapter shall not apply to belfries, chimneys, domes, flagpoles, flues, monuments, cupolas, broadcast and communication towers, spires, tanks, water towers or similar structures, or to bulkheads, elevators, water tanks or similar roof structures and mechanical appurtenances. No such structure located on a roof shall have a total area greater than 25 percent of the roof area of the building; nor shall such structure be used for any residential purpose or any commercial or industrial purpose other than a use incidental to the main use of the building. No such structure shall be located closer to the lot line than a distance greater than 110% of the height of the structure above ground level.
- (2) *Projections into yards.* Steps, stairways, terraces and un-roofed porches or decks may extend into any minimum front or rear yard not more than six feet and into any minimum side yard not more than four feet, provided, however, that the floor thereof is no higher than that of the entrance to the building. Chimneys may extend into any minimum yard not more than two feet. No such feature shall extend closer than three feet to a lot line.
- (3) *Existing front yard depth.* When the majority of lots in a block has, prior to the enactment of this chapter, been lawfully occupied with buildings having a greater front yard depth than required by these regulations, no building hereafter erected or altered shall have less front yard depth than the average depth of said existing front yards. This regulation shall apply also to the side yard, adjacent to a street, of a corner lot, but shall not be construed as to reduce the buildable width of a corner lot to less than 24 feet. No portion of any alley shall be considered a part of any yard.
- (4) *Fences and walls.* The building line and yard requirements of these regulations shall not apply to retaining walls or other walls or fences. Walls and fences must meet the following criteria:
 - a. *Fence on corner lot.* No wall or fence shall extend more than 3 feet above the top of curb within the areas identified herein in order to provide a clear sight triangle for drivers entering an intersection.
 1. For each leg of an intersection that is uncontrolled, the clear sight triangle shall begin 25 feet back from the property corner measured along the property line.
 3. For each leg of an intersection that is stop sign controlled, the clear sight triangle shall begin at a point 10 feet behind the stop sign or 20 feet from the adjoining street curb line, whichever is less, as measured from each edge of the travel lane.

4. For each leg of a traffic light controlled intersection, the clear sight triangle shall begin at a point 10 feet behind the stop bar or 15 feet from the intersecting street curb line, whichever is less, as measured from each edge of the travel lane.
- b. Retaining wall. Retaining walls greater than 4 feet in height may not be placed closer than 3 feet to a property line unless there is a recorded joint use and maintenance agreement for the properties on each side of the retaining wall. Retaining walls greater than 4 feet in height, whether monolithic or terraced, must be designed by a registered engineer.
- c. Fence height. Unless specified otherwise elsewhere in this code, fences in residential districts shall not exceed 6 feet in height and fences in other than residential districts shall not exceed 8 feet in height.
- d. Fence material. Corrugated or sheet metal shall not be used for fencing in residential districts. Wooden fences shall be constructed with treated lumber or painted. The use of barbed or razor wire is limited to security fencing around commercial, industrial, governmental or utility facilities. Use of an electrified fence is not permitted within city limits.

(5) *Accessory buildings.*

- a. Location.
 1. In multi-family, commercial, industrial and agricultural districts, location of accessory buildings shall conform to the requirements for principal buildings.
 2. In R7, R3.2, RH and RMH residential districts, accessory buildings shall be located in the rear yard and shall be not less than three feet from a rear or side lot line or less than five feet from an alley line. In the case of a corner lot, accessory buildings, other than a detached garage, shall be located along the rear half of the adjoining residential lot's side lot line. A detached garage on a corner lot must be set back 25 feet from the side street property line or a distance equal to the setback of the principal building on the adjoining residential lot, whichever distance is greater.
 3. Accessory buildings containing a garage door that faces an alley must be set back at least 10 feet from the alley in order to accommodate the turning radius of a vehicle. When the property has no existing parking spaces other than the area for the proposed accessory building or has more than one dwelling unit, the minimum setback for an accessory building containing a garage door facing the alley must be 22 feet in order to allow space for parking of a vehicle in front of the garage door.
- b. Use. Other than where zoning allows more than one dwelling unit on a lot or where a dwelling unit is permitted on a commercial or industrial zoned property, no accessory building may be used for dwelling purposes.
- c. Structures included. Any structure, whether open or closed in, that is not part of a principal building. A garage having any part of its wall in common with a dwelling or being attached to a dwelling by a breezeway or roofed passageway up to 6 feet long shall be considered a part of a principal buildings.
- d. Number. For residential lots up to 10,000 square feet, two accessory buildings are allowed. For residential lots greater than 10,000 square feet up to 20,000 square feet, three accessory buildings are allowed. For residential lots exceeding 20,000 square feet, four accessory buildings are allowed.
- e. Surface. Except for storage sheds not exceeding 120 square feet, no accessory building shall have an outer surface of corrugated or sheet metal.
- f. Timing. Construction of the principal structure must have commenced before construction of an accessory structure may proceed.

- g. Size. For R7, R3.2, RH and RMH districts, the total square footage of all accessory buildings may not exceed 10% of the lot area. For RM, CA and CB districts, the total square footage of all accessory buildings may not exceed 20% of the lot area. The total area of all structures on the lot may not exceed the maximum structure coverage established for the zone in which the lot is located.
 - h. Height. The maximum height of an accessory building is 16 feet to the midspan of the roof system or 25 feet to the peak of the roof, whichever is less. The maximum wall height is 10 feet.
 - i. Water and sewer. Any accessory building that is connected to water and sewer must have a frost protected foundation.
 - j. Pole structures. Pole structures are not permitted in R7, R3.2, RH, RM, RMH, CA and CB districts.
 - k. Portable storage containers. Portable storage containers may not be used as an accessory building on a residentially zoned property. Portable storage containers are to be counted when computing allowable lot coverage.
- (6) *Through lots.* Any building constructed on an interior lot having frontage on two streets shall be located so as to comply with the regulations governing front yards on both streets.
- (7) *Mixed uses.* Any building containing two or more dwelling units and space designed or used for commercial or industrial purposes shall comply with all requirements for multifamily dwellings in the district in which it is located; provided, also, that no such building designed or used for mixed residential and other uses shall be permitted in any district in which multifamily dwelling is not permitted.
- (8) *General regulations for manufactured and modular homes.* Manufactured and modular homes that are placed on individually owned lots must meet the following standards.
- a. The home shall have no less than 1,000 square feet of floor area except where the zone in which it is to be located has a greater minimum square footage requirement.
 - b. The home shall have no less than a 24-foot exterior width.
 - c. The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run.
 - d. The home shall have a non-reflective roofing material.
 - e. All transporting apparatus including wheels, axles, transporting lights or towing hitch must be removed.
 - f. The home shall be located and installed or built according to the same standards for foundation system, permanent utility connections and setback which would apply to a site-built, single-family dwelling on the same lot.
 - g. The design, location and appearance of the home must be in harmony with existing adjacent properties, structures and locations.
 - h. Any such home which, according to its title document, was manufactured prior to the year during which it is to be sited upon its permanent foundation shall be subject to the provisions of chapter 111, article 10 moving of vehicles.
 - i. Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(9) *Use of tents.* Tents are not permitted, except in a developed camp ground, manufactured home or travel trailer park or in the back yard of a developed residential lot with a permanent residential structure.

(10) *Use of RV as residence.* Other than in a developed mobile home or RV park, an RV or similar movable dwelling unit may not be used as a permanent dwelling unit on a lot. Temporary use for a limited time by a family member or visitor who does not pay rent is permitted. Temporary use while building a permanent structure on the property is regulated elsewhere in this code.

Sec. 105-1-3. Incidental uses.

The uses of land and buildings permitted in the several districts established by this chapter are designed by listing the principal uses permitted. In addition to such principal uses, it is the intent of this chapter and this section to permit, in each district, those uses customarily incidental to any principal use permitted in the district. Such permitted incidental uses are specifically listed as follows, and any listed use is permitted on the same lot with the principal use to which it is incidental:

(1) *Accessory uses.*

a. *Dwellings.*

1. Private garage used for the storage of non-commercial vehicles, commercial vehicles with a rated capacity less than 2.5 tons and personal property.
2. One commercial vehicle having a rated capacity of 2.5 tons or less stored in the open on the lot.
3. Private greenhouse or vegetable, fruit or flower garden from which no products are sold or offered for sale.
4. Children's playhouse and playground equipment.
5. Shed or other accessory building for storage of equipment used in grounds or building maintenance or home occupation.
6. Pets as defined in chapter 101 of this code.
7. Private swimming pool and bath house.
8. Statuary, trellises, barbecue stoves, fireplaces or similar features.

b. *Church.*

1. Parish house, together with any use accessory to a dwelling as listed in subsection (1)a of this section.
2. Religious education building.
3. Bulletin board not to exceed 20 square feet in area.

c. *Health group.*

1. Accessory buildings containing residence accommodations for staff.
2. Accessory buildings providing utility and maintenance services for the primary use.

(2) *Home occupation.*

a. *Limitations.* There is permitted, in a dwelling, an occupation incidental to the principal use as a dwelling, subject to the following limitations:

1. No person other than a member of the immediate family occupying the dwelling is employed.
2. Storage of business inventory but no stock in trade is displayed or sold upon the premises.
3. No alteration of the principal building that changes the character thereof as a dwelling.

4. No illuminated sign is used, and no sign other than one giving the name and occupation, and not more than one square foot in area, is displayed.
 5. No more area than 25 percent of the ground floor area of the primary building, whether located in the primary building or an accessory building, is devoted to the home occupation.
- b. *Customary home occupations.* The following are declared to be customary home occupations.
1. Dressmaker, seamstress or tailor.
 2. Music teacher or dance instructor.
 3. Artist, sculptor or author.
 4. Home office.
 5. Dog daycare limited to a maximum of four dogs in the dwelling at any one time, including dogs owned by the residents of the dwelling.
 6. Overnight boarding of one dog or one cat in addition to any animals owned by the residents of the dwelling.
 7. Consulting and event planning services.
 8. The letting for hire of not more than two rooms for residential purposes to not more than four persons.
 9. Pet grooming of no more than two animals at one time.
 10. Daycare up to 12 children.

Sec. 105-1-4. Use groups.

(a) *Decision matrix.* In order to carry out the purposes of this chapter, certain uses having similar characteristics are classified together as use groups. In any district in which a use group is permitted, it is the intent of this chapter to permit any particular member of that use group to locate within that district. The uses listed are examples of uses that fit the category. Not every possible use is listed. Should an application for a use that, in the opinion of the city planner, is not listed within a use group, the city planner shall evaluate the proposed use applying the criteria and following the procedure listed below.

(1) Criteria.

- a. The actual or projected characteristics of the specific use in relationship to the stated characteristics of the various use groups.
- b. The amount of site area, floor space and equipment required for the use.
- c. The frequency and type of sales activity generated by the use.
- d. The nature of the customer interaction generated by the use, i.e. on site, remote access, daily or infrequent.
- e. The number of employees required per shift for the use.
- f. The hours of operation.
- g. The building site arrangement and access requirements for the use.
- h. The types of vehicles or equipment used in association with the use.
- i. The number of vehicle trips generated by the use per day of the week over the course of a week, month and year.
- j. The means by which the use advertises itself.
- k. Whether the use is likely to be located independent of other uses on the site or established in a shared use environment.

(2) Procedure. The city planner shall issue a written opinion as to the use's appropriate designation. The city planner's decision shall be given to the applicant and posted on the city

web site. The decision may be appealed to the Commission, either by the applicant or an adjoining property owner, within 15 days of posting of the decision. If the city planner determines that the proposed use does not fit within any use group or zoning district, a request shall be forwarded to the Commission for review and recommendation as to the disposition of the request for approval of the specific use.

(b) *Group dwelling.* A group dwelling is a building used for residential purposes.

(1) Distinguishing characteristics of a group dwelling include:

- a. The occupants are normally unrelated;
- b. Separated cooking facilities are not provided for individuals or groups of individuals;
- c. Persons residing in the building are domiciled more or less permanently, in contrast to the transient characteristic of occupants of hotels, treatment facilities or bed and breakfast facilities; and
- d. Correctional facilities are not included.

(2) The following uses are examples of a group dwelling:

- a. Boardinghouse or rooming house;
- b. Convent or monastery;
- c. Fraternity or sorority house; and
- d. Group home licensed by the department of human services.

(c) *Retail group A.* A use in retail group A is one in which the principal activity is the retail sale of fresh, freshly prepared or packaged food products, merchandise and associated services conducted primarily within an enclosed building.

(1) Distinguishing characteristics of uses in retail group A include:

- a. Use is dependent to some extent on the proximity of other retail and service establishments;
- b. Merchandise is not of such nature as to require transport to the customer's premises in any vehicle larger than a pickup or small delivery truck; and
- c. No incidental manufacturing or processing is carried on in such a manner as to produce offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.

(2) The following are examples of retail group A uses:

- a. Antiques, collectibles or recycled items;
- b. Appliances and electronics rental and sales;
- c. Art, hobby or craft supplies;
- d. Camera sales and service, photo supplies or photographic studio;
- e. Jewelry, clock and watch sales, cleaning and repair;
- f. Books and other printed materials, except those regulated under article 2, chapter 12 and article 5, chapter 105 of this code;
- g. Recorded video or music for rental or sale, except those regulated under article 2, chapter 12 and article 5, chapter 105 of this code;
- h. Musical instrument rental, sale and repair;
- i. Butcher shop, retail sales bakery, delicatessen, fast food, full service restaurant, coffee shop or other eat-in or take-out food preparation establishment;
- j. Ice cream, soda fountain or candy;
- k. Department store, variety store or specialty merchandise including sporting goods or exercise equipment;
- l. Drugstore;

- m. Flowers, gifts or greeting cards;
- n. Furniture and accessories including bedding, home furnishings and office equipment;
- o. Office supplies including copying or shipping services;
- p. Groceries and household items;
- q. Hardware, tools, equipment, supplies and accessories;
- r. Auto parts, supplies, accessories and outdoor activity supplies with no servicing or repair of vehicles;
- s. Package liquor; and
- t. Pets and pet supplies with associated grooming and dog daycare services.

(d) *Retail group B.* A use in retail group B is one in which the principal activity is the sale of merchandise, vehicles or equipment.

(1) Retail group B is differentiated from Retail Group A as follows:

- a. Merchandise is generally larger;
- b. Land area required is generally larger;
- c. Merchandise is of such a nature as to require 50 percent or more of the space within the building for storage of the merchandise.
- d. Merchandise is of such a nature as to be stored or customarily displayed outside a fully enclosed structure; and
- e. The success of the activity is not dependent upon the proximity of uses in retail group A or other uses in retail group B.

(2) The following are examples of retail group B uses:

- a. Auto, truck, motor cycle, off-road, boat, construction equipment and farm implement sales, service, leasing and rental;
- b. Lumber yard and related merchandise, tools and equipment sales, including incidental mill work;
- c. Feed, grain and farm supply sales; and
- d. Trailer, RV and manufactured home sales and service.

(e) *Service group A.* A use in service group A is one in which the principal activity is providing a service with accompanying sale of merchandise, parts or supplies.

(1) Distinguishing characteristics of uses in Service Group A include:

- a. Dependent to some extent on the proximity of other retail and service establishments; and
- b. Operations are carried on in such a manner as to produce no offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located.

(2) The following are examples of service group A uses:

- a. Barber or beauty shop;
- b. In shop repair of carry in items;
- c. Dressmaker, milliner or tailor;
- d. Dry cleaning, laundry or Laundromat;
- e. Furniture repair or upholstering;
- f. Pet hospital or clinic;
- g. Pet grooming and dog daycare;
- h. Shoe and other leather goods repair;
- i. Private club, lodge hall, union headquarters; and
- k. Undertaking establishment, mortuary or funeral home.

(f) *Service group B.* A use in service group B is one in which the principal activity is providing a service with accompanying sale of merchandise, parts or supplies.

(1) Service Group B uses are differentiated from Service Group A uses as follows:

- a. Its success is not dependent upon the proximity of other retail or serviceuses;
- b. Repair or service operations are such as to produce some offensive noise, dust, odor, glare, heat or vibration perceptible or measurable from outside the building in which the use is located; and
- c. The use may be conducted around the clock.

(2) The following are examples of service group B uses:

- a. Carwash, either automatic or self-service;
- b. Auto, truck or equipment repair;
- c. Kennel;
- d. Animal hospital or clinic;
- e. Off premise advertising sign;
- f. Taxicab or bus company office with overnight vehicle parking;
- g. Commercial garage or parking lot;
- h. Self-storage units; and
- i. Mobile cleaning, repair and restoration services.

(g) *Office group.* A use in the office group is one in which the principal activity is the conduct of a commercial, governmental, financial, professional or management function.

(1) The use is generally conducted in a lobby and office type setting mostly during normal weekday business hours with customer traffic throughout the day.

(2) The following are examples of office group uses:

- a. Bank, credit union or financial services company;
- b. Commercial school including business, secretarial, dancing, music, physical culture, technical or trade;
- c. Governmental services;
- d. Insurance or real estate;
- e. Private company;
- f. Professional services;
- g. TV or radio station broadcast studio; and
- h. Utility company.

(h) *Commercial recreation group.* A use in the commercial recreation group is one in which the principal activity is the furnishing of recreation for a profit.

(1) Distinguishing characteristics of uses in the Commercial Recreation Group include:

- a. Alcoholic beverages may be offered for sale for consumption on the premises; and
- b. The activity is not operated by a governmental agency.

(2) The following are examples of commercial recreation group uses:

- a. Bowling alley;
- b. Dance hall;
- c. Pool hall, video game room or billiard parlor;
- d. Roller or ice skating rink;
- e. Sports arena;
- f. Tavern, saloon, bar; and
- g. Theater.

(i) *Wholesale group.* A use in the wholesale group is one in which the principal activity is the sale of merchandise to individuals and corporations for resale to the public.

(1) Distinguishing characteristics of uses in the Wholesale Group include:

- a. The merchandise offered for sale is stored wholly within a completely enclosed building that may be fully climate controlled for the products being stored;
- b. No unusual fire or safety hazard is caused by the storage of the product or merchandise;
- c. No live animals are housed in the facility; and
- d. No junked, wrecked automobiles, secondhand equipment, other salvaged material or dead animals are stored on the premises.

(2) The following are examples of wholesale group uses:

- a. Newspaper or magazine distribution;
- b. Food, beverage, alcohol and grocery;
- c. Drugs;
- d. Office products and supplies;
- e. Cleaning products and supplies;
- f. Electrical equipment and parts;
- g. Furniture, appliances and home furnishings;
- h. Paper or plastic products;
- i. Pumps, pipe and associated parts; and
- j. Vehicle parts and tires.

(j) *Health group.* A use in the health-medical group is one in which the principal activity is related to the care and medical treatment of human beings.

(1) Facilities include anything up to and including a full service hospital with all support functions including emergency medical transportation.

(2) The following are examples of health group uses:

- a. Hospital for human beings licensed under N.D.C.C. ch. 23-16;
- b. Medical clinic or urgent care facility;
- c. Nursing home licensed by the department of health under N.D.C.C. ch. 23-16;
- d. Basic care facility licensed by the department of health under N.D.C.C. ch. 23-09.3.
- e. Assisted living facility registered with the department of human services;
- f. Sanitarium or similar treatment facility licensed by the department of human services.

(k) *Education group.* A use in the education group is one in which the principal activity is the education of children or adults. Sports activities linked to an educational entity are included.

(1) The activity can be directed at any age group and be operated by a public, private or religious group.

(2) The following are examples of education group uses:

- a. Pre-school;
- b. College or junior college;
- c. Grade school;
- d. High school or middle school;
- e. Kindergarten;
- f. Private or parochial schools offering a curriculum substantially equivalent to that offered by public schools;
- g. Student or faculty dormitory;
- h. Stadium, gymnasium or field house;
- i. Utility or maintenance service building;

- j. Administrative building; and
- k. Athletic field.

(l) *Public recreation group.* A use in the public recreation group is one in which the principal activity is public recreation and which is carried on by a governmental agency.

- (1) The activity may be similar to a use in the commercial recreation group. Alcoholic beverages may be offered for sale for consumption on the premises.
- (2) The following are public recreation group uses:
 - a. Community center or sports complex;
 - b. Golf courses;
 - c. Museum;
 - d. Park;
 - e. Playground; and
 - f. Swimming pool.

(m) *General farming group.* A use in the general farming group is one which is customarily carried on in nonurban areas. It is the intent of this chapter to permit as an integral part of any particular use in the general farming group all customary accessory buildings for breeding and rearing poultry and livestock and for the storage of feed and farm crops. On any parcel of land lying within the territorial jurisdiction of the city for zoning regulations the conduct of any dairy, fur farming or farrowing operation, poultry hatchery, poultry farming or feeding or a riding stable shall not be conducted within 2,640 feet of any residential district or CA or CB commercial district, and the raising and feeding of any livestock and horses within 2,640 feet of any residential district or a CA or CB commercial district shall be limited to one animal per eight acres of land.

- (1) Uses in the general farming group include:
 - a. Dairy farming;
 - b. Fur farming;
 - c. Commercial greenhouse;
 - d. Livestock raising or feeding;
 - e. Farrowing operation;
 - f. Poultry hatchery;
 - g. Poultry farming or feeding; and
 - h. Riding stable.

(n) *Truck farming group.* A use in the truck farming group is an agricultural use normally found in suburban or rural areas.

- (1) Uses in the truck farming group include:
 - a. Field crop farming;
 - b. Commercial flower growing;
 - c. Fruit growing;
 - d. Tree, shrub or plant nursery;
 - e. Truck gardening;
 - f. The rearing and feeding of poultry, provided that on any parcel of land lying within the territorial jurisdiction of the city for zoning regulations the raising and feeding of poultry shall not be conducted within 660 feet of any residential district or a CA or CB commercial district.

(o) *Industrial group A.* A use in industrial group A is one involving manufacturing or the storage and sale of heavy building materials or equipment.

(1) Uses must conform to the following requirements:

- a. There is no unusual fire, explosion or safety hazard;
- b. There is no production of noise at any boundary of this district in which such use is located in excess of the average intensity of street and traffic noise at that point;
- c. There is no emission of smoke in excess of any density described as No. 1 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 2 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any 30-minute period;
- d. There is no emission of dust, dirt, or toxic or offensive odors or gas; and
- e. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

(2) Uses in industrial group A include :

- a. Manufacture, compounding, processing, packaging, treatment, or assembly of the following materials and products, but excluding the use in any operation of a punch press over 20 tons rated capacity, a drop hammer, or an automatic screw machine,
 1. Bakery goods, candy, cosmetics, dairy products, drugs, perfumes, pharmaceuticals, and food products, except fish and meat products, sauerkraut, vinegar, yeast and the rendering or refining of fats and oils,
 2. Products from the previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, precious metals or stones, fur, glass, hair, horn, leather, paper, plastics, shell, textiles, wood, excluding planing mills, and yarns,
 3. Pottery and other ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas,
 4. Electric and neon signs, outdoor advertising signs, commercial advertising structures and light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves and similar products,
 5. Musical instruments, toys, novelties and rubber and metal stamps,
 6. Blacksmith shop and machine shop,
 7. Laundry, cleaning and dyeing works and carpet and rug cleaning,
 8. Ice manufacturing plant and soft-drink bottling plant, and
 9. Assembly of electric appliances, electronic instruments and devices, including the manufacture of small parts;
- b. Experimental laboratories;
- c. The following uses, when conducted wholly within a completely enclosed building, or within an area enclosed on all sides with a solid wall, compact hedge or uniformly painted board fence, not less than six feet in height,
 1. Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the principal use, but excluding concrete mixing,
 2. Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors,
 3. Feed and fuel yard,
 4. Public utility service yard or electrical receiving or transforming station, and
 5. Pipe yard or storage, sale or rental of oil and gas well-drilling equipment.

(p) *Industrial group B.* A use in industrial group B is one involving manufacturing or the storage, sale of products and material and in which the operations create a greater degree of hazard or more annoyance than the operations of uses in industrial group A.

(1) Uses in industrial group B must conform to the following requirements:

- a. The design and the operation of the building, and design and use of the premises, fully comply with all special requirements established by this article;
- b. There is no emission of smoke in excess of a density described as No. 2 as measured by a standard Ringlemann Chart as prepared by the United States Bureau of Mines; provided, however, that smoke of a density not in excess of No. 3 on a Ringlemann Chart will be permitted for a period not in excess of four minutes in any 30-minute period;
- c. There is no emission of toxic gases or fumes; and
- d. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

(2) Uses in industrial group B include:

- a. Any use listed in industrial group A and involving the use of punch press over 20 tons rated capacity, a drop hammer, or an automatic screw machine, provided that all other requirements for industrial group B uses are complied with;
- b. Any other use listed under industrial group A which cannot comply with the requirements of an industrial group A use, provided that all requirements for an industrial group B use are complied with; and
- c. Manufacture, compounding, processing, refining and treatment of the following material and products,
 1. Acetylene,
 2. Alcohol,
 3. Asphalt,
 4. Brick, tile or terracotta,
 5. Concrete products or mixing,
 6. Electric steam power plant,
 7. Lampblack,
 8. Oilcloth or linoleum,
 9. Paint, shellac, turpentine, lacquer or varnish,
 10. Paper or pulp,
 11. Petroleum products,
 12. Plastics,
 13. Beer, whiskey or alcoholic beverages,
 14. Stove or shoe polish, and
 15. Tar or tar products;
- d. Junkyard, provided that all operations are conducted wholly within an enclosed building or within an area enclosed on all sides with a solid wall, compact evergreen hedge or uniformly painted fence, not less than six feet in height; provided, further, that there shall be no burning of wrecked automobiles or other products except within a furnace or incinerator approved by the city engineer of the city;
- e. Any of the following uses, provided that it shall be located not closer than 500 feet from any zone in which it is prohibited,
 1. Cement, lime, gypsum, or plaster of Paris manufacturing,
 2. Distillation of bones,
 3. Drop-forge industry, manufacturing of forging with power hammer,
 4. Fat rendering, except as an incidental use,

5. Fertilizer manufacturing,
 6. Garbage, offal, or dead animal reduction,
 7. Gas manufacture,
 8. Petroleum refining,
 9. Smelting of tin, copper, zinc or iron ores,
 10. Soap manufacture,
 11. Stockyards or feeding pens,
 12. Slaughter and packing of animals and meat products, and
 13. Tannery or curing or storage of raw hides;
- f. Bulk storage of petroleum and petroleum products.

(q) *Utility service group.* A use in the utility service group is one necessary for the safe or efficient operation of a telecommunications, gas, water or electric, refuse, storm sewer or sanitary sewage system for the benefit of the public.

(1) The distinguishing characteristics of utility service group uses are:

- a. The structure or use is necessary for the safe or efficient operation of the utility;
- b. The utility which the structure or use serves is one available to the general public;
- c. The design and location of the premises and structure is in full compliance with all requirements of this section and of this chapter;
- d. The use complies with all height and yard regulations for the district in which it is located;
- e. Except for electrical distribution installations, wherever the lot on which the use is located adjoins a lot in a residential district, there is planted and maintained a landscaped screen planting strip no less than five feet in width adjacent to all lot boundaries so adjoining a lot in a residential district;
- f. Proper fencing with lot entrances shall be erected at least six feet high and maintained around all installations and structures in which there is any safety hazard whatsoever for children, provided that all structures shall be so located that such safety fence shall be so placed as not to encroach on any front yard required in the district in which the use is located; and
- g. For the proper operation of the utility, it is necessary that the proposed use be located on, or within a short distance of, the site on which it is proposed to be located.

(2) The following are examples of utility service group uses:

- a. Telecommunication transmission tower;
- b. Electric transformer station;
- c. Electric transmission line;
- d. Sewage pumping station;
- e. Water pumping station;
- f. Water reservoir;
- g. Gas pressure regulator station;
- h. Solid waste recycling center;
- i. Stormwater detention facility; and
- j. Stormwater pumping station.

Sec. 105-1-5. Special uses.

(a) *Purpose.* In order to carry out the purposes of this chapter, the board of city commissioners finds it necessary to require that certain uses, because of unusual size, safety hazards, infrequent

occurrence, effect on surrounding area or other reasons, be reviewed by the planning and zoning commission prior to the board voting on whether or not to approve the use at a specific site.

(b) *Application submittal.* An application for a special use shall be submitted to the city planner. Whenever possible, applications should be submitted electronically.

(c) *General provisions.* The uses listed in this section are conditional uses that require increased investigation before considering approval.

- (1) The planning and zoning commission must conduct a public hearing on such application, notice of the time and place of which hearing has been given in a newspaper of general circulation in the city at least ten days prior to the date of such hearing.
- (2) Notices must be mailed at least ten days prior to the hearing to all property owners within 500 feet of the boundary of the proposed project.
- (3) In order to give a favorable recommendation, the planning and zoning commission must consider the following:
 - a. The proposed use is in harmony with the purpose and intent of this chapter;
 - b. The proposed use is not in conflict with the adopted comprehensive plan of the city;
 - c. The proposed use will not adversely affect the health and safety of the public and the workers and residents in the area;
 - d. The proposed use will not be detrimental to the use or development of adjacent properties or of the surrounding neighborhood; and
 - e. The proposed use meets all appropriate regulations for the district in which it will be located.
- (4) The planning and zoning commission may require the submission of additional plans, special studies or reports during review of the application.
- (5) The planning and zoning commission may recommend special requirements for the proposed use. The reasons for the special requirements must be documented.
- (6) Once the planning and zoning commission has acted, the city commission must hold a public hearing and then act to ratify the recommendation of the planning commission, modify the recommendation of the planning commission or reject the application.

(d) *Airports and heliports.* An airport may be permitted as a special use in an A Agricultural District in the extraterritorial zone and a heliport may be permitted as a special use associated with a medical facility within the zoning jurisdiction of the city, provided that:

- (1) The area is sufficient to meet the federal requirements for the class of airport or heliport proposed;
- (2) There are no existing flight obstructions, such as towers, chimneys, or other tall structures, or natural obstructions outside the boundaries of the proposed airport or heliport which would fall within the approach zone to any of the proposed runways or landing strips of the airport or heliport;
- (3) There is sufficient distance between the end of each useable landing strip and the airport boundary to satisfy the requirements of the federal aviation administration or any other appropriate authority. In cases where air rights or easements have been acquired from the owners of abutting properties, in which approach zones may fall, satisfactory evidence thereof shall be submitted with the application;
- (4) Any building, hangar or other structure shall be at least 100 feet from any street or property boundary;
- (5) Adequate space for off-street parking has been provided. A traffic study must be submitted to document the need for the number of spaces proposed; and

(6) The application for authorization of an airport or heliport shall be accompanied by plans meeting the requirements of the FAA, other regulatory agencies and the city.

(e) *Cemetery.* A cemetery, mausoleum, columbarium or crematory may be permitted in an industrial or A district as a special use, provided that:

- (1) No graves shall be located less than 100 feet distant from any property line;
- (2) There shall be a strip at least 75 feet in width adjacent to all boundaries of the cemetery landscaped and maintained as a green area;
- (3) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the ground, the green area shall include a dense evergreen hedge at least six feet in height; and
- (4) No public mausoleum, columbarium, crematory or cemetery chapel shall be erected within 200 feet of any boundary of the lot or parcel on which it is located.

(f) *Golf driving range or miniature golf course.* A golf driving range or miniature golf course may be permitted in an A or industrial district as a special use, provided that:

- (1) The area within 500 feet of all boundaries of the lot is not developed in residences to a greater density than one family per acre;
- (2) Any flood-lights used to illuminate the premises are so directed and shielded as to prevent the direct lighting area from extending beyond the property boundary;
- (3) When the area within 500 feet of the property boundary is undeveloped, any approval is limited to one year one year and must be renewed annually. If residential development exceeding a density of one dwelling unit per acre is approved within this 500 foot area, the approval for this use may be withdrawn unless all property owners within the 500 foot area sign written consents to allow the use to continue on a year to year basis.

(g) *Fire or emergency medical response.* A facility providing fire and/or emergency medical response services may be permitted in any zoning district as a special use, provided that:

- (1) Ingress and egress from the street shall be so designed and constructed as to provide safe traffic movement. A demand activated traffic control signal for emergency vehicle egress from the site may be required.
- (2) Sufficient parking shall be provided to accommodate the maximum number of personnel per shift plus at least 2 visitor spaces; and
- (3) If the use is approved, landscaping, signage and design of the building exterior shall be reviewed and approved by the Mandan Architectural Review Commission.

(h) *Day care center.* A day care center is a facility providing services to more than 12 children or any number of adults. A day care center requires a special use approval and must comply with the following criteria:

- (1) The facility must receive state approval before an occupancy permit can be issued;
- (2) For a facility catering to children, each building shall provide not less than 35 square feet of interior play area per child;
- (3) For a facility catering to children, a fenced outdoor play area of not less than 75 square feet per child shall be provided that is located no closer than ten feet to an adjoining residential lot;
- (4) For a facility catering to adults, there shall be an outdoor lawn area and covered porch offering either active recreation or passive activities for groups or individuals;

- (5) As a minimum, onsite parking shall be provided at the ratio of one space per manager and employee per shift plus one space for each 12 clients; and
- (6) Drop off and pickup of clients shall be in an area off the public street that is separate from parking spaces.

(i) *Correctional facility.* A correctional facility may be permitted in an industrial or A district as a special use, provided that:

- (1) The facility fronts on an arterial street;
- (2) There are no churches, schools or residentially developed property within 500 feet;
- (3) The primary illumination field for exterior lighting shall not extend beyond the property boundary;
- (4) No building shall be closer than 35 feet to any property line; and
- (5) As a minimum, onsite parking shall be provided at a ratio of one space for each employee per shift plus one space per four inmates.

(j) *Drug or alcohol outpatient treatment or counseling facility.* A drug or alcohol outpatient treatment or counseling facility may be permitted as a special use in a regional commercial, industrial or A district and must comply with the following criteria:

- (1) The facility fronts on an arterial street;
- (2) As a minimum, onsite parking shall be provided at a ratio of one space for each employee per shift plus one space per two clients per hour;
- (3) Hours of operation are limited to between 6:00 AM and 8:00 PM;
- (4) The facility is no closer than 1000 feet to a school, daycare facility or residentially developed property; and
- (5) The facility is no closer than 500 feet to an establishment selling alcohol.

By: _____
 President, Board of City Commissioners

Attest:

 James Neubauer, City Administrator

First Consideration: _____
 Second Consideration and Final Passage: _____