

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 ~~household-pets~~animals under the direct supervision of a licensed veterinarian; including, but not limited to, ~~medical services,~~ grooming, confinement or kenneling for medical purposes ~~and full medical services meeting the following requirements:but excluding ia.~~—Incinerating or cremating of animals or animal parts upon the premises, ~~is prohibited;~~b. — ~~Includes an on-site, porous, well-drained exercise area for pets to use that is no smaller in size and dimension than 15 feet by 25 feet which is to be kept neat and clean at all times;~~c. ~~Animal carcasses and/or animal tissues are to be frozen, sealed in waterproof containers, and either kept in a frozen state until commercial waste pickup day or removed directly from the facility to the City's waste landfill site or a licensed crematorium; andd.~~—The term "household pet" as used herein is specifically defined to include only the following taxonomically identified animals;(1) — Mammalian Genus species(a) — Canis familiaris, the domestic dog, and(b) — Fells catus, the domestic cat(2) Mammalian Families(a) Leporidae, rabbits,(b) — Cricetidae, hamsters,(c) Gerbillidae, gerbils, and(d) — Muridae, mice and rats(3) — Avian Orders(a) Psittaciformes, parrots, parakeets, lories, budgerigars, and cockatiels,(b) — Passeriformes, canaries and finches, and(c) — Columbiformes, pigeons and doves; and(4) — Reptilian Groups(a) Squamata, lizards and snakes, and(b) — Testudine, turtles.

~~"Animal hospital" means a facility for the care and well-being of animals under the direct supervision of a licensed veterinarian; including, but not limited to, grooming, confinement or kenneling for medical purposes, and full medical services.~~

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

~~"Kennel" means a commercial facility for the indoor boarding of household-pets, as defined in subsection (4) of the term "animal clinic," that includes an on-site, porous, well-drained exercise area for pets to use that is no smaller in size and dimension than 15 feet by 25 feet, which is kept neat and clean at all times.~~

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

- ~~(1) Mammalian Genus species;
 - ~~(a) Canis familiaris, the domestic dog, and~~
 - ~~(b) Fells 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, lories, 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 indoor grooming cosmetic care and maintenance, with no overnight boarding, of ~~the pets listed in subsection (4) of the definition of the term "animal clinic."~~

"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; ~~vacancies~~selection 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, radio-broadcast and communication towers, television 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 open 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. ~~and such features may extend into any minimum side yard not more than four feet; provided, however, that such feature shall not be less than two feet distant from a lot line. Fire escapes and outside open stairways may project not more than 4.5 feet into~~

~~any minimum required yard.~~ 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. ~~not over five feet in height; except that on a corner lot in any residential district shall be no fence, wall terrace, structure, shrubbery planting or other obstruction to vision having a height greater than three feet above the curb level for a distance of 25 feet from the intersection of the front and side street lines. On a corner lot in a commercial or industrial district, no portion of a building or other obstruction to vision between two and ten feet above the curb level, except a post or column, shall occupy the space by the vertical planes on the front and side street lines and on the line joining points on such street lines at distances of five feet from the intersection thereof.~~
 - 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) *Location of a*~~A~~*ccessory 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 ~~any~~ residential districts, ~~all~~ accessory buildings shall be located in the rear yard and shall be not less than ~~two-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~~the rear line of~~ which abuts a lot in a residential district having frontage on the street adjacent to the side street line of the corner lot, an accessory building shall be located at least 30 feet from the side street line and, if located less than 60 feet from the side street line, shall be at least ten feet from such rear lot line. An accessory building, or any enclosure, group, or run, or any part used for the housing, shelter, or sale of animals or fowl, shall be located at least 25 feet from any rear or side lot line and at least 50 feet from any building used for dwelling purposes on an adjoining lot.
 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~~Where a corner lot abuts a side street having no lots fronting thereon the same side of the street as such corner lot, an accessory building may be located not less than 15 feet from the side street line.~~
 - c. Structures included. Any structure, whether open or closed in, that is not part of a principal building. A ~~private~~ 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 ~~the a~~ principal buildings ~~and shall comply in all respects with the requirements of this chapter applicable to the principal building.~~
 - 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. ~~The following general regulations pertain to m~~Manufactured and modular homes that are placed on individually owned lots, and all manufactured homes 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 ~~The home shall not have~~ wheels, axles, transporting lights or ~~removal-towing apparatus~~ 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 ~~107111~~, article ~~X10~~ moving of vehicles.
- i. Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(9) ~~Use of barbed or razor wire limited.~~ The use of barbed or razor wire is limited to security fencing around commercial, industrial, governmental or utility facilities.

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 ~~article~~ 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 ~~only~~ for the storage of non-commercial motor vehicles, commercial vehicles with a rated capacity less than 2.5 tons and personal property.
- ~~2. When the storage space, together with the principal building and the space of any other accessory buildings, does not exceed the floor-area ratio coverage permitted within such zoning districts. No private garage or off-street parking space incidental to a dwelling located in a residential district may be used to store a tractor-trailer, freight-hauling vehicle or either part, nor any other commercial vehicle having a rated capacity in excess of 2.5 tons. No more than one commercial vehicle having a rated capacity of 2.5 tons or less shall be stored in the open on any the lot on which the principal use is a dwelling.~~
23. Private greenhouse or vegetable, fruit or flower garden from which no products are sold or offered for sale.
34. Children's playhouse and playground equipment.
45. Shed or other accessory building, tool room for storage of equipment used in grounds or building maintenance or home occupation, ~~but not including stable, chicken house or other buildings to house agricultural livestock.~~
5. ~~Not more than three dogs, four months of age or older.~~
6. ~~Private kennel.~~
7. ~~Customary domestic pPets as defined in chapter 101 of this code, but not including horses, poultry or agricultural livestock.~~
87. ~~Incinerator incidental to the principal use only.~~
9. ~~Private swimming pool and bath house.~~
108. Statuary, trellises, barbecue stoves, fireplaces or similar ~~ornamental or landscaping~~ 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.
4. ~~Off-street parking lot for use, without charge, of members and visitors to the church.~~

c. *Health-medical group.*

1. ~~Any use accessory to a dwelling as listed in subsection (1)a of this section.~~
2. ~~Off-street parking lot for use, without charge, of staff members or visitors.~~
3. ~~Private garage.~~
4. ~~Nun's home, nurse's quarters.~~

5. ~~Laundry incidental to hospital~~Accessory buildings containing residence accommodations for staff.
2. Accessory buildings providing utility and maintenance services for the primary use.
- d. ~~Office-bank, retail, commercial, recreation groups.~~
 1. ~~Storage of customer-, client- or operator-owned vehicles.~~
 2. ~~Storage of supplies, stock and merchandise within a fully enclosed building.~~
 3. ~~Manufacturing and repair facilities incidental to the principal use, subject to the following limitations:~~
 - (i) ~~Floor space shall not exceed 25 percent of the total floor space devoted to the principal use.~~
 - (ii) ~~No motive power other than electricity shall be used.~~
 - (iii) ~~No motor used on any machine for manufacturing and repair shall exceed one horsepower.~~
 - (iv) ~~All operation shall be conducted so that no dust, odor, smoke, noise, vibration, heat or glare created by such operation is perceptible from any boundary line of the lot on which the principal use is located.~~
- e. ~~Service groups.~~
 1. ~~Garage or parking lot for the storage of customer-, employee-, client- or operator-owned vehicles.~~

(2) *Home occupation.*

- a. ~~Dwelling~~Limitations. There is permitted, in a dwelling, any occupation ~~customarily~~ 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 ~~a the~~ dwelling is employed.
 2. ~~Storage of business inventory but Nn~~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 ~~area of one story of ground floor area of the primary building, whether located in the primary building or an accessory building,~~ is devoted to the home occupation, ~~not including rooms let to lodgers.~~
- b. *Customary home occupations.* The following are declared to be customary home occupations ~~as intended by this section.:~~
 1. Dressmaker, seamstress ~~or,~~ tailor.
 2. Music teacher ~~or dance instructor.~~
 3. Artist, sculptor ~~or author.~~
 4. ~~Author~~Home office.
 5. ~~Emergency treatment, only of patients by physicians, dentists or licensed drugless physicians~~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. ~~Emergency interview, only of clients by lawyers, architects, engineers and similar professions~~Overnight boarding of one dog or one cat in addition to any animals owned by the residents of the dwelling.
 7. ~~Minister~~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~~restricted.

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. In any district in which a use group is not listed as a permitted use, it is the intent of this chapter to prohibit each and every member of that use group from locating within that district. These use groups shall apply to all zoning districts except the DC Downtown Core and DF Downtown Fringe Districts.

(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.

(1b) Group dwelling.

~~a. *Defined.* A group dwelling is a building used for residential purposes and in which:~~

(1) Distinguishing characteristics of a group dwelling include:

- a. 1.—The occupants are normally unrelated;
- b. 2.—Separated cooking facilities are not provided for individuals or groups of individuals;
- c. 3.—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)b. *Group uses.* The following uses are declared to be examples of a group dwelling uses:~~

- a. 1.—Boardinghouse or rooming house;

- ~~b. 2.— Private club, lodge hall, union headquarters, but not including a club in which the principal activity is one normally conducted as a business.3.— Convent, or monastery;~~
- ~~c. 4.— Fraternity, or sorority house; and~~
- ~~d. 5.— Rooming house.6.— Group homes licensed by the department of human services.~~

~~c. Not group uses. The follow uses are declared to not be group dwelling uses:~~

- ~~1.— Bed and breakfast facilities.~~
- ~~2.— Correctional facilities operated by any local political subdivision, the department of corrections, or private service provider under contract with the department of corrections.~~
- ~~3.— Day care centers licensed by the department of human services.~~
- ~~4.— Treatment facilities for adults or adolescents licensed by the department of human services.~~

~~(2c) Retail group A. a.— Defined. A use in retail group A is one in which the principal activity is the sale or retail sale of fresh, freshly prepared or packaged food products, merchandise and associated services conducted primarily within an enclosed buildingmerchandise and which:~~

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

- ~~a. Use is dependent1.— Depends, to some extent, on the proximity of other retail and service establishments;~~
- ~~b. 2.— Merchandise is not of such nature as to require transport to the customer's premises in any vehicle larger than a pickup or small deliverybe customarily taken away by the customer in a truck; and~~
- ~~c. 3.— Includes nNo 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)b. Group uses. The following are examples ofuses are declared to be in retail group A uses:~~

- ~~a. 1.— Antiques, collectibles or recycled items store;~~
- ~~b. 2.— Appliances, radio, television store 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.

3. ~~Auto accessory store.~~
4. ~~Book, magazine, newspaper store.~~
5. ~~Butcher shop.~~
6. ~~Camera shop, art supply store.~~
7. ~~Candy store.~~
8. ~~Clothing, clothing accessories store.~~
9. ~~Delicatessen.~~
10. ~~Department store.~~
11. ~~Drugstore.~~
12. ~~Five and ten-cent store.~~
13. ~~Flower shop.~~
14. ~~Furniture, office equipment store.~~
15. ~~Gift shop.~~
16. ~~Grocery store.~~
17. ~~Hardware store.~~
18. ~~Hobby, toy store.~~
19. ~~Ice cream parlor.~~
20. ~~Jewelry store.~~
21. ~~Music store.~~
22. ~~Notion, variety store.~~
23. ~~Office supply, stationery store.~~
24. ~~Package liquor store.~~
25. ~~Photographic studio.~~
26. ~~Shoe store.~~
27. ~~Sporting goods store.~~
28. ~~Bakery in which nothing is baked except for retail sale on the premises.~~

(3d) *Retail group B.* ~~a. Defined.~~ A use in retail group B is one in which the principal activity is the sale ~~or retail~~ of merchandise ~~and in which one or more of the following factors is present, 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. 1. Merchandise is of such a nature as to be customarily taken away by the customer in a truck. ~~2. 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. 3. Merchandise is of such a nature as to be stored or customarily displayed outside a building fully enclosed structure; and,
- e. 4. 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) ~~b. Group uses.~~ The following ~~uses~~ are examples of declared to be in retail group B uses:

- a. 1. Auto, truck sales, motor cycle, off-road, boat, construction equipment and farm implement sales, service, leasing and rental;
- b. 2. Farm implement store, Lumber yard and related merchandise, tools and equipment sales, including incidental mill work;
- c. 3. Feed, grain and, farm supply sales store; and
- d. 4. Trailer, RV and manufactured home sales and service.

(4e) ~~Service group A. a. Defined.~~ A use in service group A is one in which the principal activity is ~~the servicing of food for consumption on the premises, personal service, household or clothing service, or the repair of small equipment and which providing a service with accompanying sale of merchandise, parts or supplies.~~

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

- ~~a. 1.— Dependents, to some extent, on the proximity of other retail and service establishments; and~~
- ~~b. 2.— 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) ~~b. Group uses.~~ The following ~~uses~~ are ~~examples of declared to be in~~ service group A ~~uses~~:

- ~~a. 1.— Barber or beauty shop;~~
- ~~b. 2.— Beauty shop.3.— In shop repair of carry in items;~~
- ~~c. Refrigerated cold storage lockers.4.— Dressmaker, milliner or tailor;~~
- ~~d. 5.— Dry cleaning, pickup agency laundry or Laundromat;~~
- ~~e. 6.— Furniture repair, or upholstery;~~
- ~~f. 7.— Laundry pickup agency.8.— Self-service laundry.9.— Milliner.10. Radio, appliance repair.11.— Restaurant.12.— Shoe repair.13.— Soda fountain.14.— Watch, jewelry, camera repair.15.— Animal Pet hospital or clinic;~~
- ~~g. 16.— Pet store.17.— Pet grooming commercial facility 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.~~

(5f) ~~Service group B. a. Defined.~~ 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.technical or vocational instruction by private organization for profit, repair and service to motor vehicles, not including a filling station, and other service uses not necessary in or appropriate to neighborhood commercial districts and for which one or more of the following factors is present:~~

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

- ~~a. 1.— Its success is not dependent upon the proximity of other retail or service retail group A uses;~~
- ~~b. 2.— 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.3.— The use is one which, if placed on a lot adjacent to a lot in an R7 or R3.2 Residential District, would create an unusual safety hazard for the lot or other lots in said residential district or would otherwise unduly depreciate the value of any lot in said residential district.~~

(2) ~~b. Group uses.~~ The following ~~uses~~ are ~~examples of declared to be in~~ service group B ~~uses~~:

- ~~a. Carwash, either automatic or self-service;1.— Auto laundry;~~
- ~~b. 2.— Auto, truck or equipment repair garage;~~
- ~~c. Kennel;~~
- ~~d. Animal hospital or clinic;~~
- ~~e. Off premise advertising sign;~~
- ~~f. Taxicab or bus company office with overnight vehicle parking;~~

- ~~g. 3.— Commercial school, including business, secretarial, dancing, music, physical culture, technical or trade school.~~
- ~~4.— Commercial garage or commercial parking lot;~~
- ~~h. Self-storage units; and~~
- ~~i. Mobile cleaning, repair and restoration services.~~

- ~~5.— Steam bath.~~
- ~~6.— Tire, battery repair.~~
- ~~7.— Undertaking establishment.~~
- ~~8.— Outdoor advertising sign.~~

~~(6g) — Office-bank group. a. — Defined.~~ A use in the office-bank group is one in which the principal activity is the conduct of a commercial, governmental, financial, professional or management activitiesfunction.

- ~~(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)b. Group uses.— The following uses are examples of declared to be in the office-bank group uses:~~
 - ~~a. 1.— Auto laundry.~~
 - ~~1.— Bank, credit union or financial services company;~~
 - ~~b. Commercial school including business, secretarial, dancing, music, physical culture, technical or trade;~~
 - ~~c. 2.— General office.~~
 - ~~3.— Governmental servicesoffice;~~
 - ~~d. 4.— Insurance or real estateoffice;~~
 - ~~e. Private company;~~
 - ~~f. 5.— Personal loan agency.~~
 - ~~6.— Professional servicesoffice;~~
 - ~~g. TV or radio station broadcast studio; and~~
 - ~~h. 7.— Real estate office.~~
 - ~~8.— Taxicab office.~~
 - ~~9.— Telephone exchange.~~
 - ~~10.— Utility companyoffice.~~

~~(7h) Commercial recreation group. a. — Defined.~~ A use in the commercial recreation group is one in which the principal activity is the furnishing of recreation for a profit, and for which one or more of the following factors is present:

- ~~(1) Distinguishing characteristics of uses in the Commercial Recreation Group include:~~
 - ~~a. 1.— Alcoholic beverages are may be offered for sale for consumption on the premises, but not including the incidental sale of alcoholic beverages at a private club classified as a group dwelling;~~ and
 - ~~b. 2.— The activity is not operated by a governmental agency.~~
- ~~(2)b. Group uses.— The following uses are examples of declared to be in the commercial recreation group uses:~~
 - ~~a. 1.— Bowling alley;~~
 - ~~b. 2.— Dance hall;~~
 - ~~c. 3.— Pool hall, video game room or billiard parlor;~~
 - ~~d. 4.— Roller or ice skating rink;~~
 - ~~e. 5.— Sports arena;~~
 - ~~f. 6.— Tavern, saloon, bar; and~~
 - ~~g. 7.— Theater.~~

~~(8i) Wholesale group. a. — Defined.~~ 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 and for which:

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

- a. ~~1.~~—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. ~~2.~~—No unusual fire or safety hazard is caused by the storage of the product or merchandise;
 - c. ~~3.~~—No live animals are ~~sold~~housed in the facility; ~~and~~
 - d. ~~4.~~—No junked ~~or~~ wrecked automobiles, secondhand equipment ~~or~~ other salvaged material or dead animals are stored ~~or sold~~ on the premises.
- (2) ~~b. Group uses.~~ The following uses are examples of declared to be in the wholesale group uses:
- a. ~~1.~~—Newspaper, ~~or~~ magazine distribution~~nf;~~
 - b. ~~2.~~—Wholesale ~~F~~food, beverage, alcohol and grocery~~;~~
 - c. ~~3.~~—Wholesale ~~D~~drug~~s;~~ sales.
 - 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.

(9j) ~~Health-medical group.~~ a. Defined. 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) ~~b. Group uses.~~ The following uses are examples of declared to be in the health-medical group uses:

- a~~1.~~ Hospital for human beings licensed under N.D.C.C. ch. 23-16~~;~~
- b~~2.~~ Medical clinic or urgent care facility;
- c~~3.~~ Nursing home licensed by the department of health under N.D.C.C. ch. 23-16~~;~~
- d~~4.~~ Basic care facility licensed by the department of health under N.D.C.C. ch. 23-09.3.
- e. ~~A and~~ assisted living facility registered with the department of human services~~;~~
- 5. ~~Orphan's home.~~ f6. Sanitarium, chiropractic hospital or hospital for unmarried mothers maintained and operated or similar by the department of human services. ~~7. T~~ treatment facility licensed by the department of human services.

(10k) ~~Education group.~~ a. Defined. A use in the education group is one in which the principal activity is the education of children or adults ~~by a public or private nonprofit agency.~~ 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) ~~b. Group uses.~~ The following uses are declared to be in the examples of education group uses:

- a~~1.~~ Pre-school;
- b. College or junior college;
- c~~2.~~ Grade school;
- d~~3.~~ High school or junior-middlehigh school;
- e~~4.~~ Kindergarten;
- f~~5.~~ Private or parochial schools offering a curriculum substantially equivalent to that offered by public schools;
- g~~6.~~ Student or faculty dormitory on college campus;

- ~~h7. Stadium, gymnasium or, field house, ~~as an accessory building on the same lot as a principal building;~~~~
- ~~8j. Power or heating plant as an accessory building and used on the same lot as a principal Utility or maintenance service building;~~
- ~~j. Administrative building; and~~
- ~~k. Athletic field.~~

~~(11l) Public recreation group. a. —Defined. 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)b. Group uses. The following uses are ~~declared to be in the~~ public recreation group uses:~~

- ~~a1. Community center or sports complex;~~
- ~~b2. Municipal ~~g~~ Golf courses;~~
- ~~c3. Public ~~m~~ Museum;~~
- ~~d4. Public park;~~
- ~~e5. Public playground; and~~
- ~~f6. Municipal ~~S~~ swimming pool.~~

~~(12m) General farming group. a. —Defined. 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. Provided that 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 ~~C~~ commercial ~~D~~ district, and the raising and feeding of any livestock and horses within 2,640 feet of any residential district or, a CA or CB ~~C~~ commercial ~~D~~ district shall be limited to one animal per eight acres of land.~~

~~(1) b. —Group uses. The following Uses are ~~declared to be~~ in the general farming group include:~~

- ~~a. 1. Dairy farming;~~
- ~~b. 2. Fur farming;~~
- ~~c. 3. Commercial greenhouse;~~
- ~~d. 4. Livestock raising or, feeding;~~
- ~~e. 5. Farrowing operation;~~
- ~~f. 6. Poultry hatchery;~~
- ~~g. 7. Poultry farming, or feeding; and~~
- ~~h. 8. Riding stable.~~

~~Provided that 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, CA or CB Commercial District, and the raising and feeding of any livestock and horses within 2,640 feet of any residential, CA or CB Commercial District shall be limited to one animal per eight acres of land.~~

~~(13n) Truck farming group. a. Defined. A use in the truck farming group is an agricultural use normally found in suburban or rural areas ~~but on which poultry and livestock rearing is prohibited except as noted in subsection (13)b of this section.~~~~

~~(1) b. —Group uses. The following uses are ~~declared to be~~ in the truck farming group include:~~

- a. ~~1.~~—Field crop farming;_z
- b. ~~2.~~—Commercial flower growing;_z
- c. ~~3.~~—Fruit growing;_z
- d. ~~4.~~—Tree, shrub or, plant nursery;_z
- e. ~~5.~~—Truck gardening;_z
- f. ~~6.~~—The rearing and feeding of poultry, provided that on any parcel of land lying within the territorial jurisdiction of the city for zoning regulations ~~in~~ the raising and feeding of poultry shall not be conducted within 660 feet of any residential district or, a CA ~~and or~~ CB ~~C~~Commercial District.

(14o) *Industrial group A. a.—Defined.* A use in industrial group A is one involving manufacturing or the storage and sale of heavy building materials or equipment.

(1) ~~Uses must and which~~ conforms to the following requirements:

- ~~a~~1. There is no unusual fire, explosion or safety hazard;_z
- ~~b~~2. 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;_z
- ~~c~~3. 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;_z
- ~~d~~4. There is no emission of dust, dirt, or toxic or offensive odors or gas;_z and
- ~~e~~5. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

(2)b. ~~Group uses. The following u~~Uses ~~are declared to be in the~~ industrial group A include; provided, however, that if any of the following uses, being established subsequent to the adoption of this chapter, is operated or changed so that said use does not comply with the standards for an industrial group A use, and said use as operated or changed would not be permitted as a new use in the district in which it is located, then such use shall be declared in violation of this chapter:

- ~~a~~1. 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;_z
 - ~~1.~~(i) 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;_z
 - ~~2.~~(ii) 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;_z
 - ~~3.~~(iii) Pottery and other ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas;_z
 - ~~4.~~(iv) 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;_z
 - ~~5.~~(v) Musical instruments, toys, novelties and rubber and metal stamps;_z
 - ~~6.~~(vi) Blacksmith shop and machine shop;_z
 - ~~7.~~(vii) Laundry, cleaning and dyeing works and carpet and rug cleaning;_z
 - ~~8.~~(viii) Ice manufacturing plant and soft-drink bottling plant;_z and

- ~~9.(ix)~~ Assembly of electric appliances, electronic instruments and devices, ~~radios, phonographs and television sets,~~ including the manufacture of small parts ~~only, such as coils, condensers, transformers, crystal holders and similar products.~~;
- ~~b2. Storage building and warehouse.~~ ~~3.—~~ Experimental laboratories;
- ~~c4.~~ 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.(i)~~ 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.(ii)~~ Contractor's equipment storage yard or plant or rental of equipment commonly used by contractors;
 - ~~3.(iii)~~ ~~Retail lumber yard, including only incidental mill work.~~ ~~(iv)~~— Feed and fuel yard;
 - ~~4.(v)~~ Public utility service yard or electrical receiving or transforming station; ~~and~~
 - ~~5.(vi)~~ Pipe yard or storage, sale or rental of oil and gas well-drilling equipment.

~~(15p)~~ *Industrial group B.a. Defined.*—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, but which* conforms to the following requirements:

- ~~a1.~~ 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;
- ~~b2.~~ 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;
- ~~c3.~~ There is no emission of toxic gases or fumes; ~~and~~
- ~~d4.~~ There is no production of heat or glare perceptible from any lot line of the premises on which the use is located.

~~(2)b.~~ *Group uses.* ~~The following uses are declared to be in the industrial group B include; provided, however, that if any of the following uses, being established subsequent to the adoption of the ordinance from which this section is derived, is operated or changed so that said use does not comply with the standards for an industrial group B use, and said use as operated or changed would not be permitted as a new use in the district in which it is located, then such use shall be declared in violation of this article:~~

- ~~a1.~~ 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;
- ~~b2.~~ 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~~
- ~~c3.~~ Manufacture, compounding, processing, refining and treatment of the following material and products:
 - ~~1.(i)~~ Acetylene;
 - ~~2.(ii)~~ Alcohol;
 - ~~3.(iii)~~ Asphalt;
 - ~~4.(iv)~~ Brick, tile or terracotta;
 - ~~5.(v)~~ Concrete products or mixing;
 - ~~6.(vi)~~ Electric steam power plant;

- ~~(7.vii)~~ Lampblack_z
 - ~~(8.viii)~~ Oilcloth or linoleum_z
 - ~~(9.ix)~~ Paint, shellac, turpentine, lacquer or varnish_z
 - ~~(10.x)~~ Paper or pulp_z
 - ~~(11.xi)~~ Petroleum products_z
 - ~~(12.xii)~~ Plastics_z
 - ~~(13.xiii)~~ Beer, whiskey or alcoholic beverages_z
 - ~~(14.xiv)~~ Stove or shoe polish_z and
 - ~~(15.xv)~~ Tar or tar products_z
- d4. 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_z
- e5. Any of the following uses, provided that it shall be located not closer than 500 feet from any zone in which it is prohibited_z:
- 1.(i) Cement, lime, gypsum, or plaster of Paris manufacturing_z
 - (2.ii) Distillation of bones_z
 - (3.iii) Drop-forge industry, manufacturing of forging with power hammer_z
 - (4.iv) Fat rendering, except as an incidental use_z
 - (5.v) Fertilizer manufacturing_z
 - (6.vi) Garbage, offal, or dead animal reduction_z
 - (7.vii) Gas manufacture_z
 - (8.viii) Petroleum refining_z
 - (9.ix) Smelting of tin, copper, zinc or iron ores_z
 - (10.x) Soap manufacture_z
 - (11.xi) Stockyards or feeding pens_z
 - (12.xii) Slaughter and packing of animals and meat products_z and
 - (13.xiii) Tannery or curing or storage of raw hides_z
- f6. Bulk storage of petroleum and petroleum products.

~~(16g)~~ *Utility service group. a-Defined.* 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 utility or sanitary sewage system for the benefit of the public ~~and is one for which the following factors are present_z~~

- (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_z
 - b2. The utility which the structure or use serves is one available to the general public_z
 - c3. The design and location of the premises and structure is in full compliance with all requirements of this section and of this chapter_z
 - d4. ~~The use is located on a lot no smaller in area than the minimum area specified in the district in which it is located for any principal use.~~ 5- The use complies with all height and yard regulations for the district in which it is located_z
 - e6. ~~Except for electrical distribution installations, w~~ 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_z

- ~~f7.~~ 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
- ~~g8.~~ 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)b.~~ Group uses. The following ~~uses~~ are ~~declared to be in the~~ examples of utility service group uses:
 - ~~a.~~ Telecommunication transmission tower;
 - ~~b1.~~ Electric transformer station, but not a steam-generating plant;
 - ~~c2.~~ Electric transmission line;
 - ~~d3.~~ Sewage pumping station;
 - ~~e4.~~ Water pumping station;
 - ~~f5.~~ 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) Generally Purpose. In order to carry out the purposes of this ~~article~~ 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 ~~board of adjustment~~ prior to the granting of a building permit or certificate of occupancy therefor; ~~and that the board of adjustment is given limited discretionary powers relating to the grant of such permit or certificate~~ 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.

~~(1c)~~ General provisions. ~~a.~~—The uses listed in this section are conditional uses that require increased investigation before considering approval ~~designated as special uses, and no building permit or certificate of occupancy shall be issued by the building inspector until the application for such permit or certificate has been reviewed and authorized by the board of adjustment.~~

~~(1b.)~~ The planning and zoning commission must conduct ~~board of adjustment shall not authorize the issuance of a building permit or certificate of occupancy until the application therefor has appeared at~~ 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. ~~Before approving the issuance of a building permit or certificate of occupancy for a special use, the board of adjustment shall find:~~

- ~~a1.~~ The proposed use is in harmony with the purpose and intent of this ~~article~~ chapter;
- ~~b.~~ The proposed use is not in conflict with ~~and any portion of the~~ master-adopted comprehensive plan of the city; ~~for the district.~~

- ~~c2.~~ 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, and will not be detrimental to the use or development of adjacent properties or of the general surrounding neighborhood; and
- ~~e3.~~ The proposed use will comply with/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.

~~(54.)~~ The planning and zoning commission may recommend proposed use will comply with all special requirements for the proposed use regulations established by this section and all special conditions necessary for the safety and general welfare of the public. 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.— The board of adjustment shall be authorized to impose any condition on the grant of a building permit or certificate of occupancy for a special use as it deems necessary for the protection of the neighborhood and the general welfare of the public.~~

~~e.— The board of adjustment shall not authorize the location of a special use in any district from which it is prohibited.~~

~~f.— The board of adjustment shall refuse to authorize the issuance of a building permit or certificate of occupancy for any special use if the board finds that such special use would fail to comply with any of the requirements of this chapter.~~

~~g.— The board of adjustment shall require the applicant for authorization of a special use to furnish any engineering drawings or specifications, site plans, operating plans or any other data the board finds necessary to appraise the need for or effect of such special use.~~

(2d) Airports and heliports. An airport ~~or heliport~~ 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 as a special use, provided that:

~~(1a.)~~ The area shall be is sufficient to meet the federal requirements for the class of airport or heliport proposed;:-

~~(2b.)~~ 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;:-

~~(3e.)~~ There is sufficient distance between the end of each useable landing strip and the airport boundary to satisfy the requirements of the civil aeronautics 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;:-

~~(4d.)~~ Any buildings, hangars, or other structures shall be at least 100 feet from any street or ~~lot~~ lines property boundary;:-

~~(5e.)~~ Adequate space for off-street parking ~~of at least 50 vehicles~~ has been provided. A traffic study must be submitted to document the need for the number of spaces proposed ~~if, in the opinion of the board of adjustment, off-street parking space for more than 50 vehicles will be required, the board shall increase this requirement;:- and~~

- (6f.) The application for authorization of an airport or heliport shall be accompanied by ~~a plans,~~ drawn to scale meeting the requirements of the FAA, other regulatory agencies and the city, showing:
- ~~1. The proposed location of the airport.~~
 - ~~2. Boundary lines.~~
 - ~~3. Dimensions.~~
 - ~~4. Names of owners of abutting properties.~~
 - ~~5. Proposed layout of runways, landing strips or areas.~~
 - ~~6. Taxi strips.~~
 - ~~7. Aprons.~~
 - ~~8. Roads.~~
 - ~~9. Parking areas.~~
 - ~~10. Hangars, buildings; and other structures and facilities.~~
 - ~~11. The location and height of all buildings, structures, trees, and overhead wires falling within the airport approach zone and less than 500 feet distant from the boundary lines of the airport;~~
 - ~~12. Other pertinent data, such as topography and grading plan, drainage, water and sewage, etc.~~
- ~~g. The plans for the proposed airport have been reviewed by the city planning and zoning commission. In its approval of the proposed airport, the city planning and zoning commission shall make at least the following two findings:~~
- ~~1. The airport is not in conflict with any existing element of a master plan; and~~
 - ~~2. The benefits of and need for the airport are greater than the depreciating effects and damages to the neighboring property.~~

(3e) Cemetery. A cemetery, mausoleum, columbarium or crematory may be permitted in an industrial or A district as a special use, provided that:

~~(1a. The necessity or desirability of the establishment of such cemetery has been affirmatively determined by the board of health, and the city commission has approved the location of such proposed cemetery. b.)~~ No graves shall be located less than 100 feet distant from any property line;

~~(2c.) In any cemetery in which there will be permitted monuments and grave markers rising above the surface of the grounds, t~~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, that as a portion of the landscaped green area there shall include~~ a dense evergreen hedge at least six feet in height; ~~and, and that such dense evergreen hedges shall be at least 70 feet distant from any boundary of the cemetery which is a street line.~~

~~(4d. In any cemetery in which markers or monuments rising above the surface of the ground, and private tombs or mausoleums, are prohibited, there shall be planted and maintained a landscaped strip at least 75 feet in depth adjacent to all boundaries of the cemetery, but there need not be a dense hedge planted as part of the landscaping. e.)~~ 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. The owners of any cemetery parcel which lies across any proposed major or secondary thoroughfare shown on a master plan of the city shall reserve and dedicate a right-of-way for such thoroughfare having a minimum width of 100 feet, or such greater minimum width as the city engineer shall determine necessary, in fee simple to the city for highway purposes, and those portions of said cemetery lying on either side of such dedicated thoroughfare shall be considered as separate cemeteries for the purpose of determining grave setbacks, landscaped strips and building setbacks.~~

~~(4) Churches or other places of worship. But not including funeral or mortuary chapel.~~

~~(5) Drive-in theater. A drive-in theater may be permitted in an A or MB district as a special use, provided that:~~

~~a.— No part of such theater shall be located closer to the boundary of any residential district than 1,000 feet, or closer to any highway or adjoining property line than 50 feet.~~

~~b.— The area accessible to patrons' vehicles shall be treated with a suitable material to prevent dust.~~

~~c.— Reservoir parking space, off the street, shall be provided for patrons awaiting admission in an amount not less than 30 percent of the vehicular capacity of the theater.~~

~~d.— The vehicular circulation shall be so designed and constructed as to permit only one-way traffic within the boundaries of the tract on which the theater is to be located.~~

~~e.— Ingress and egress from the highway shall be so designed and constructed as to provide for safe traffic movement.~~

~~f.— The screen shall be so located and shielded that the picture shown shall be invisible from any highway.~~

~~g.— A structure for the sale and service of food and nonalcoholic beverages may be permitted as an accessory use for a drive-in theater.~~

(6f) *Golf driving range or miniature golf course.* A golf driving range or miniature golf course may be permitted in an A or ~~MB industrial~~ district as a special use, provided that:

~~(1a.)~~ 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;

~~(2b.)~~ 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~~not to be an annoyance to any developed residential property;~~

~~(3c.)~~ When the area within 500 feet of the property boundary is undeveloped, any approval is limited to one year ~~The board of adjustment shall grant only a temporary certificate of occupancy for a period not to exceed one year and must be renewed annually, which certificate may be renewed at the expiration of each temporary certificate of occupancy for an additional year, provided residential development adjoining the golf driving range or miniature golf course has not exceeded the required density and provided any other standards established by this chapter or special conditions imposed by the board of adjustment have been fully complied with. 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.~~

~~(7) Temporary uses. The board of adjustment is authorized to grant certificate of occupancy for temporary uses as follows:~~

~~a.— For a carnival or circus in an A, A-20, MA or MB district for a period not to exceed 21 days.~~

~~b.— For a religious meeting in a tent or other temporary structure in a CB, MA, MB or A district for a period not to exceed 60 days.~~

~~c.— For the open lot sale of Christmas trees in a CA, CB, CC, MA, MB or A district for a period not to exceed 45 days.~~

~~d.— For a real estate sales office in any district for a period not to exceed one year, provided that no cooking or sleeping accommodations are included in the structure; provided, further, that the temporary permit for such real estate sales office may be renewed for an additional period, not to exceed one year at each renewal.~~

e.— Contractors' office and equipment sheds in any district for a period not to exceed two years; provided, further, that such temporary certificate may be renewed for additional periods of one year.

~~(8) Trailer courts. A mobile home court or trailer camp may be permitted in an A district as a special use, provided that:~~

~~a.— The minimum total area of the premises shall be 90,000 square feet.~~

~~b.— The minimum unit area of premises used or occupied by each trailer shall be 2,000 square feet, clearly defined on the ground by stakes, posts, or other markers, except that where a separate parking area is provided on the trailer camp lot for motor vehicles and no motor vehicles are parked on the trailer unit area, then the minimum unit area of the premises used or occupied by each trailer shall be 1,500 feet.~~

~~c.— The minimum lane or driveway on which each individual trailer fronts shall be 20 feet in width surfaced with a dustproof all-weather surface, and giving an unobstructed access to a public street or highway.~~

~~d.— No trailer shall be placed closer than 20 feet to any other trailer, closer than 30 feet to the right-of-way line of any street, or closer than ten feet to any other boundary of the trailer camp.~~

~~e.— All entrances, exits, lanes and driveways between rows of trailers used or occupied in any trailer camp shall be lighted by electricity. At least 150-watt light shall be provided for each 50 lineal feet of lane or driveway.~~

~~f.— No business shall be conducted in any trailer in a trailer camp.~~

~~g.— Every trailer camp shall have erected, around its border, suitable woven-wire or open-metal fence not less than four feet nor more than five feet in height, having only necessary openings for ingress and egress to a public street, highway or alley. Barbed wire shall not be used in the construction of any fence.~~

~~h.— All provisions for water supply, laundry, sewage and fire protection to be provided in any trailer camp shall have been approved by the appropriate city, county, or state officer or agency.~~

~~i.— An adequate area for a playground is provided.~~

(9g) Fire stations or emergency medical response. A facility providing fire and/or emergency medical response services fire station may be permitted in any residential or commercial zoning district as a special use, provided that:

(1a.) 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.

(2b.) Sufficient parking shall be provided to accommodate the maximum number of personnel per shift plus at least 2 visitor spaces; and ~~The minimum area of the premises shall be not less than 14,000 square feet, and the building shall not occupy more than 30 percent of the total lot area.~~

~~c.— All regulations with respect to front, side and rear yards and building height restrictions shall comply with the requirements applicable within the zoning district in which such fire station is to be constructed.~~

~~d.— The lot shall be screened by appropriate plantings and/or fences approved by the architectural advisory committee, provided that no fencing or planting shall be installed between the front of the structure and the front lot line.~~

(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.— The architectural design of the exterior and interior of the building shall be approved by the architectural advisory committee.

f. — In addition to the requirements for off-street parking provided elsewhere in this chapter, an additional space shall be provided for each full-time employee stationed at such location.

(10h) *Child-Day care centers.* A a. Classification. 1. Any private group care facility housing more than 12 children will be classified as a child day care center. 2. — Any private group care facility housing 12 or less children will be classified as a home occupation use. b. Home occupation uses will comply with the requirements specified elsewhere in this chapter. c. Under this subsection, child day care center is a facility providing services to more than 12 children or any number of adults. A day care center will require a special use permit approval and must comply with the following criteria:

(1) The facility must receive state approval before an occupancy permit can be issued;

(2) The child day care center has been duly licensed as required by law.

2. — All owners of property within 300 feet are notified of the public hearing.

3. — Minimum lot size shall be not less than 7,000 square feet.

4.) For a facility catering to children, Each building shall provide not less than 35 square feet of interior play area per child; Interior play area shall be defined according to rules and regulations for child day care centers adopted by North Dakota Social Service Board.

(35-) For a facility catering to children, Each lot shall provide an 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; The play area shall be fenced and located in the rear yard of the premises and behind the building setback requirement when the building is located on a corner lot. A buffer zone of ten feet shall be provided on the play areas adjoining residential lots.

(46-) 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;

The facility must have access to public water and sewer systems.

(57-) As a minimum, onsite Off-street parking shall be provided at the following ratio of: One space per manager and employee per shift for each two employees plus and one space for each 12 children clients or major fraction; and.

(68-) Drop off and pickup of clients shall be in an area off the public street that is separate from parking spaces A traffic flow plan must be submitted indicating traffic circulation, child delivery points, child pickup points and off-street parking.

9. — The special use permit shall designate a maximum number of children considering the criteria listed in subsection (10)c.1 through (10)c.8 of this section and location of facility, type of construction, principal use of the building and effect on surrounding property.

10. Child day care center owners must provide proof the center has been licensed according to state law and in compliance with Mandan's Life Safety Code.

d. — After due notice and hearing with respect thereto, a child day care center may be permitted in all zoning districts as a special use.

(11i) *Correctional facility.* Notwithstanding anything in this chapter to the contrary, A correctional facility shall may be permitted only in an CC Commercial District or MA 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; a. — The correctional facility is located no closer than 300 feet from any preexisting church, school or property zoned residential and/or property used for residential purposes.

(3) The primary illumination field for exterior lighting shall not extend beyond the property boundary; b. — Any flood lights used to illuminate the premises are so directed and shielded as not to be an annoyance to any developed residential property.

(4c-) The setback for any No building shall be closer not less than 35 feet from to any lot property line; and.

~~(5d.) As a minimum, onsiteOff-street parking shall be provided at the followinga ratio of: oOne space for each two-employees per shift plusand one space for eachper four inmates. Any use of barb-wire for perimeter fencing shall conform to any restrictions within this chapter.~~

(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: _____