

ORDINANCE NO. 1300

An Ordinance to Amend and Re-enact portions of Subpart B – Land Development and Public Services of the Mandan Municipal Code related to communications facilities within the right-of-way and telecommunication transmission tower height limitations without first securing a conditional use permit

WHEREAS, The City of Mandan is committed to facilitating the provision for residents’ wireless service needs

WHEREAS, Infrastructure necessary to provide for future services may require placement within publicly owned right-of-way

WHEREAS, Care must be taken in order to preserve the integrity of the variety of services supplied through the public right-of-way

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

Section 1. Chapter 115 is hereby renamed as follows:

Chapter 115 – RIGHT-OF-WAY

Section 2. Enacted. Section 115-10-1 relating to Purpose is hereby enacted to read as follows:

115-10-1 Purpose

To ensure that residents, businesses and public safety operations in the city have reliable access to wireless telecommunications network technology and state of the art mobile broadband communications services, the city desires to accommodate the deployment of wireless communications facilities and services within the public right-of-way. The city also desires to minimize potential negative impacts of wireless facility placement within the public right-of-way. This article applies only to installation in the public right-of-way. All other installations are governed by Chapter 105 of this ordinance, and all other applicable laws and regulations. The impact of wireless facilities can be reduced by maintaining standards and objectives for location, visual impact, structural integrity, compatibility, colocation, and the like, which do not unreasonably discriminate among similar users.

Nothing in this chapter affects the city's right to regulate users of the public right-of-way in a neutral and nondiscriminatory manner. The city intends to exercise its authority with respect to the regulation, placement, construction and modification of wireless facilities in the public right-of-way to the fullest extent permitted by applicable law.

Section 3. Enacted. Section 115-10-2 relating to Definitions is hereby enacted to read as follows:

115-10-2 Definitions

For purposes of this article, the following definitions apply. References to "sections" are, unless otherwise specified, references to sections in this article.

Antenna means a device used to transmit and/or receive radio or electromagnetic waves for the provision of communication services including, but not limited to, cellular, paging, personal communications services and microwave communications. Such devices include, but are not limited to small wireless facility antennas, small cell antennas, remote radio heads, directional antennae, such as panel antennas, GPS antennas, microwave dishes, and satellite dishes; omnidirectional antennae; and wireless access points (Wi-Fi), including strand-mounted wireless access points.

Applicant means any person who applies for a permit under this article.

Attachment includes any wireless communication facility affixed to, contained in, or placed on or in a structure within the city's public right-of-way.

City means the City of Mandan.

City Engineer means the Mandan City Engineer or his or her designee.

City-Owned Structure means an existing structure owned by the city that is located in the city's public right-of-way. It does not mean State, County or other government entity owned infrastructure within the public right-of-way. It does not mean infrastructure owned by a public utility. It does not mean infrastructure located outside of the public right-of-way or on right-of-way which the city does not control.

Colocation means the mounting or installation of new wireless communication facilities on or within an existing wireless support structure.

Construction Plan means a written plan, and a collection of documents, for construction that:

- (a) demonstrates substantial conformity with adjacent like-structure height, girth, color, material, spacing, and function, where applicable.

- (b) includes the identity and qualifications of each person directly responsible for the design and construction;
- (c) includes signed and sealed documentation to proportional scale from a professional engineer licensed in North Dakota describing the proposed wireless communication facilities in detail, including
 - (1) the proposed location of the wireless support structure and all easements, property boundaries, and existing structures within on the same side of the roadway and within fifty (50) feet of such wireless facility or wireless support structure unless a different distance is specified by the city engineer;
 - (2) a structural, loading, and wind-speed analysis for existing, proposed, and reserved loading, and
 - (3) a schematic describing the communications properties of the facility, including EMF and RF propagation and off-site data connections; and
 - (4) includes such other information as the city engineer may require.

EMF means electromagnetic frequency.

Equipment means accessory equipment serving or being used in conjunction with an antenna or wireless communication facility. Equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables and conduit, equipment buildings, cabinets, storage sheds, shelters, and vaults.

Existing Height means the height of a structure, including wireless communications facilities, as originally approved or as of the most recent approved modification. Height shall be measured from natural grade to the top of all appurtenances.

Existing structure means a structure located in the public right-of-way and capable of supporting wireless communication facilities, erected prior to the application for colocation or substantial modification under this article. An existing structure includes a replacement of an existing structure that is proposed to accommodate the colocation of a wireless communication facility, as long as the replacement structure is substantially similar in appearance to the existing structure and no more than 10% taller than the existing height of the structure to be replaced.

Ground-Mounted Equipment means any equipment that is affixed to the ground and extends above the natural grade.

GPS means Global Positioning System.

Guidelines or *Wireless Facility Guidelines* means any procedure or description from the city engineer, which may be modified and amended from time to time, concerning wireless facility

application process and siting requirements. Any such Wireless Facilities Guidelines shall be consistent with this article.

Interference means any material and harmful impairment, physically or electronically of the operation, views, signals or functions of city property or third party property.

Laws means any and all applicable federal and state laws and applicable local ordinances, resolutions, regulations, administrative orders or other legal requirements.

Land Development Code means the Subpart B – Land Development and Public Services of the Code of Ordinances of the City of Mandan, North Dakota.

MAA means a master attachment agreement between the city and a lessee that defines the general terms and conditions which govern their relationship with respect to particular sites at which the city agrees to permit lessee to install, maintain, and operate communications equipment on existing or new city owned infrastructure.

Installation Permit Holder means any person that has obtained permission through the issuance of an installation permit from the city under this article to locate, install or place wireless facilities in the public right-of-way.

Person means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

Public Right-of-Way means the area on, below, or above a public roadway, highway, street, cart way, bicycle lane and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

RF means radio frequency.

Site or Premises means the area occupied by the wireless support structure, the wireless communications facility, accessory equipment, ground-mounted equipment, and the path of the wire or conduit connecting to an off-site network.

Wireless Communication Facility means any fixed tangible asset usable for the purpose of providing wireless transmission of voice, data, images or other signals or information including, but not limited to, telecommunications, cellular telephone service, personal communications service and paging service. A wireless communications facility includes antennas and accessory equipment. A wireless communications facility does not include an underlying wireless support structure.

Wireless Support Structure means any fixed, above-grade structure in the public right-of-way used to house or support wireless communications facilities and equipment.

Section 4. Enacted. Section 115-10-3 relating to Locating Wireless Communication Facilities is hereby enacted to read as follows:

115-10-3 Locating Wireless Communication Facilities

The location of any new wireless communication facility in the public right-of-way shall be prioritized to locate on existing structures, such as utility poles through agreement with the pole owner, or street lights, or the replacement of an existing structure as provided herein, when said existing structures are present within one-hundred feet of the desired location. Installation of wireless support structures for the purpose of supporting a wireless communication facility within the public right-of-way will be permitted only as deemed appropriate by the city engineer and the applicant must have a franchise agreement with the city for the use of the public right-of-way, MAA, or an encroachment agreement for that specific location and an installation permit.

Section 5. Enacted. Section 115-10-4 relating to Installation Permit Required is hereby enacted to read as follows:

115-10-4 Installation Permit Required

- (a) No person may construct, install or modify a wireless communication facility within the public right-of-way without having first done one of the following:
 - (1) Having entered into an MAA with the city, if the wireless communication facility will be installed on city owned existing or new infrastructure.
 - (2) Having obtained a franchise from the city allowing use of the public right-of-way.
 - (3) Having obtained an encroachment agreement allowing the specific occupation of the public right-of-way.
 - (4) Having entered into an agreement to co-locate with an entity with infrastructure in the right-of-way pursuant to a current franchise. In each case, the person must also obtain an installation permit from the city engineer as set forth in this chapter.

- (b) Installation Permit Issuance. Before a Site License, if applicable, is agreed upon and an installation permit is issued, a written application for each site must be filed with the city

engineer containing such information as may be required by the city engineer. The application shall include the following:

- (1) Information required to be provided by a registrant for public right-of-way use and occupancy under this chapter.
 - (2) The name and address of any retail communications service provider for which the facilities are intended to be used, if this is different than the applicant.
 - (3) Evidence that the applicant has obtained all state permits and other licenses, as well as insurance, performance and payment bonds as may be required by the city engineer.
 - (4) A detailed map, including a digital shapefile, of the location of all proposed facilities for which the permit is sought.
 - (5) A construction plan and profile, if requested.
 - (6) Other information required by this article.
- (c) Fees. The city may require payment of a nonrefundable installation permit application fee at the time an installation permit application is submitted, as approved by the Board of City Commission and adopted in the Wireless Facilities Guidelines. Such fees shall be set to recoup some or all of the cost of permit review, processing and issuance, and will be in addition to any other applicable fee or any separate payments that may be required in the event an installation permit is granted for use of the public right-of-way or the use of city-owned structures. The city reserves the right to charge applicants for installation permits and a fee for their use of the public right-of-way to the extent that such charges are allowed under state and federal law. All such fees shall be described in the Wireless Facility Guidelines and may be in addition to any fee charged for or cost associated with attachment to city-owned structures.
- (d) Where the city determines that it requires expert assistance in evaluating an application, the city may procure technical and other specialized consulting services that may be necessary to promptly and thoroughly review the application. Reasonable fees charged by the consultant shall be paid from the one-time application fee referred to in subpart c above.
- (e) Time for Review. The city engineer shall comply with applicable federal, state and local law concerning the time period for review following receipt of a completed application to install or modify a wireless communications facility or wireless support structure in the public right-of-way. Specific timeframes shall be described in Wireless Facility Guidelines.

- (f) Nondiscrimination. The city shall evaluate, issue, and deny permit applications under this article on a neutral basis, with no unreasonable discrimination among similarly situated applicants and installations.
- (g) The city engineer may impose additional reasonable conditions on any installation permit issued under this article relating to time, place and manner.
- (h) The city shall not impose environmental testing, sampling, or monitoring requirements or other compliance measures for RF emissions on wireless communication facilities that are categorically excluded under the FCC's rules for radiofrequency remissions pursuant to 4 CFR 1.1307(b)(1).
- (i) Scope and Duration.
 - (1) Any installation permit granted pursuant to such application shall be limited in scope to the description submitted in a completed application, as modified by any further agreed-upon conditions or subsequently approved modification.
 - (2) The installation permit shall be voided by the city unless in the city's determination the work is commenced within one hundred eighty (180) days from the date of issuance of the permit, unless extended by the city engineer. If the facility is not used for its intended use within twelve (12) months from the date of permit issuance, the city shall revoke the permit unless extended by the city engineer.
 - (3) Within sixty (60) days following completion of facility installation as described in the permit application, the permit holder shall submit as-built diagrams in AutoCAD format and digital photographs of the Site to the city engineer. A digital shapefile shall also be provided to include such information as deemed necessary by the city engineer.
 - (4) MAAs issued under this article are valid for a period of twenty (20) years. To extend the MAA for an additional period of ten (10) years, the permit holder shall provide proof that it continues to have the legal authority to occupy and use the public right-of-way for the purpose set forth in its permit; shall affirm that its site as it exists at the time of the renewal is in full compliance with the applicable city permit or permits issued for the site, and is in compliance with FCC regulations; and shall pay any permit processing fee required for renewal. Failure to submit such proof of legal authority or affirmation of compliance shall be grounds for non-renewal of the permit. The burden is on the permit holder to demonstrate that the site complies with the requirements herein.

- (j) Conditional Upon Related Agreements. The city engineer may cause a permit under this article to be made temporary or conditional upon the execution of a finalized permit application or attachment agreement further addressing the proposed installation.
- (k) Proximity to Other Facilities. The city reserves the right to deny, but is not obligated to deny, any siting permit application under this article that proposes to install a new wireless support structure within three hundred (300) feet of any other existing wireless support structure. It is the intent of this provision to encourage the colocation of wireless communication facilities on the same wireless support structure or on existing buildings or other structures, and to sensibly limit the overall visual impact of wireless communications in the public right-of-way.
- (l) Denial of Permit. Any denial of permit shall be made in writing, supported by substantial evidence that the proposed installation would be inconsistent with one or more of the provisions of the Code of Ordinances of the City of Mandan, North Dakota or with the health, safety and welfare of the city.

Section 6. Enacted. Section 115-10-5 relating to General Conditions is hereby enacted to read as follows:

115-10-5 General Conditions

The city engineer may approve a permit for the installation of a wireless communication facility in the public right-of-way, provided the applicant certifies compliance with the following general conditions, and subject to other use-specific conditions and other requirements set forth in this article and in any Wireless Application Guidelines.

- (a) General Design Standards. The following design standards will apply:
 - (1) Installation is not to significantly create a new obstruction to property sight lines.
 - (2) Appropriate clearance from existing utilities.
 - (3) In a single-family neighborhood, noise limit to be 5dBA above ambient sound, not to exceed 30 dBA as measured at a property line. Other noise regulations may apply. If the facility does not generate noise, include this information in the submittal so information can be shared with neighborhood.
 - (4) Installations shall match the aesthetics of existing street lights and street furniture in the neighborhood of the proposed small cell locations, if any. These aesthetic considerations and accommodations are to be included in the application submittal.

- (5) All equipment located within the public ROW shall be located such that it meets ADA requirements and does not obstruct, impede, or hinder usual pedestrian or vehicular travel or interferes with the operation and maintenance of signal lights, signage, street lights, street furniture, fire hydrants, underground utilities, or business district maintenance.
 - (6) The height of any wireless communication facility shall be comparable to nearby structures of similar type and not more than 50 feet above normal grade unless otherwise approved by the city engineer in the installation permit.
 - (7) Antennas shall not exceed the physical dimensions set forth in 47 C.F.R. 1.1312(e)(2).
 - (8) All riser cabling and wiring must be contained in conduit, affixed directly to the face of the structure, or enclosed within the hollow interior of the pole, for as long as it is technically feasible. No exposed slack or extra cable will be allowed, except for a drip loop as needed.
 - (9) No signage or advertising will be permitted, except as required by law or as specifically permitted or required by the city engineer.
 - (10) Wireless communication facilities in historic areas shall comply with any special requirements applicable to such areas, and may be subject to additional city review.
- (b) Minimizing Impacts on Adjacent Property Owners.
- (1) A permit holder should actively mitigate any unreasonable adverse impact relating to visibility from the adjacent property; access to and from the adjacent property; intrusion of light, sound, or smell; in addition to any other cognizable unreasonable and substantial impact made known by an adjacent property owner. This shall not apply to new developments that were not present at the time of installation; however, this does not mean that specific sites will be included in any renewal agreement between the wireless communication facility permit holder and the city.
 - (2) No Antenna shall be within five (5) feet of a door, balcony or window nor placed in front of any window within 20 feet. To the extent feasible, antennas shall be located at a similar height to the antenna unit on the adjacent public right-of-way, unless otherwise restricted by the right-of-way width.
 - (3) An installation shall not interfere with city operations, or the operations of preexisting third-party installations in the public right-of-way. The city will reasonably cooperate

with the applicant and/or permit holder to permit activities and modifications that may effectively avoid or correct the interference.

Section 7. Enacted. Section 115-10-6 relating to Wireless Communications Facilities Upon Existing Structures is hereby enacted to read as follows:

115-10-6 Wireless Communications Facilities Upon Existing Structures

In addition to the general conditions described in section 115-10-5 and any specification contained in the Wireless Facility Guidelines, any wireless communication facility for which an installation permit is requested under this chapter shall meet the following requirements:

- (a) The wireless communication facility shall not increase total existing height, including the wireless support structure, by more than 10% over other public utility poles in the area unless, in the city engineer's discretion, an alternative height is accepted depending on the type and structure of the existing facility and the proposed location.
- (b) The wireless communication facility shall not impair nighttime visibility in the area that result from light emanating from a utility structure and shall not otherwise interfere with the original purpose of an existing structure.
- (c) Electrical power. Unless otherwise provided in the applicable Site License, franchise, or encroachment agreement the acquisition of electrical power shall be the sole responsibility of the applicant.
- (d) Minimize impact to the aesthetics of the existing poles.
- (e) Structural calculations, which show that the existing pole(s) can carry the loading of the new proposed facilities, shall be submitted with the permit application package.

Section 8. Enacted. Section 115-10-7 relating to Attachments to City-Owned Structures is hereby enacted to read as follows:

115-10-7 Attachments to City-Owned Structures

In addition to the requirements set forth in this article and the Wireless Facility Guidelines, the following conditions will apply to a wireless communication facility attached to a city-owned structure:

- (a) The city engineer shall require an applicant for a wireless communication facility attachment to a city-owned structure to execute a separate MAA with the city addressing such attachment.
- (b) The management of attachments to city-owned structures is governed by the MAA between the city and the applicant. The MAA does not waive any zoning, building code or other public right-of-way management requirements that may also apply.
- (c) The city may require payment of rental fee, permit fee, application fee or other compensation, as set forth in the Wireless Facility Guidelines.
- (d) In the event a city-owned wireless support structure is compromised or knocked down, the city and an affected wireless communication facility permit holder will cooperate to reinstall or replace the pole and restore the wireless communication facility. The wireless communication facility permit holder shall be responsible for costs incurred by the repair or reinstallation of the wireless support structure. The MAA shall contain indemnifying language holding the city harmless for damages stemming from third-parties.
- (e) Training. At the request of the city, the permit holder shall host on-site training for city maintenance staff. The training will be offered semiannually or as otherwise agreed between the parties. The training shall include occupational safety, personal protection, proximity limits, emergency procedures and contact information. This information shall also be provided in writing and submitted electronically to the city.

Section 9. Enacted. Section 115-10-8 relating to Replacement of City-Owned Structures or Addition of City-Owned Structures is hereby enacted to read as follows:

115-10-8 Replacement of City-Owned Structures or Addition of City-Owned Structures

In addition to the general conditions described in this chapter and the Wireless Facility Guidelines, the proposed replacement of an existing city-owned structure or placement of a new city owned structure shall be subject to the following requirements.

- (a) Any new or replacement city-owned structure must be able to co-locate at least one additional similar facility.
- (b) So as not to be located along the frontage of a Historic building, deemed historic on a federal, state, or local level.
- (c) So as not to significantly create a new obstruction to property sight lines.

- (d) Equal distance between trees when possible, with a minimum of 15 feet separation such that no proposed disturbance shall occur within the critical root zone of any tree.
- (e) New city-owned structures shall be located in line with trees, existing streetlights, utility poles, and other furniture.
- (f) Before installing a new structure in the right-of-way or replacing an existing structure, the applicant must demonstrate the following, to the satisfaction of the city engineer:
 - (1) That it will not be located within 100 feet of the apron of a fire station, police station, or other adjacent emergency service facility.
 - (2) At the intersection of property lines, or along secondary property frontage for corner lots.
 - (3) Located in line with trees, existing streetlights, utility poles, and other furniture.
 - (4) That the facility is not able to be placed on existing right-of-way infrastructure. The applicant shall provide a map of existing infrastructure in the service area and describe why each such site is not feasible.
 - (5) That city functions for which the original structure was used will be preserved, at a minimum, as part of any replacement structure, at the applicant's expense. Replacement of lighting, electrical power, network connectivity, and any other functional purpose of, on or within the original structure shall be done to the satisfaction of the city engineer.
 - (6) In a manner that does not impede, obstruct, or hinder pedestrian or vehicular travel.
 - (7) New poles should match aesthetics of adjacent poles.
- (g) Ownership. A replacement structure or a new structure under this section shall be dedicated to and owned by the city upon completion, free and clear of all liens and encumbrances.
- (h) Unless otherwise provided in the applicable Site License, franchise, or encroachment agreement, acquisition and use of electrical power to serve a wireless communication facility on a replacement wireless support structure or facility shall be the sole responsibility of the permit holder.
- (i) Stocked Poles. To enable prompt replacement in the event of a knockdown or structural compromise, a permit holder shall provide the city with an inventory of poles to be kept by the city. The inventory shall consist of, for each type/style of pole, one pole substantially identical to the initial city owned replacement pole. For each set of five

additional replacement poles of any particular type/style, an additional pole of that type/style.

- (j) Facilities placed in the right-of-way shall be maintained in accordance with the terms of this article and as provided for in the MAA.
- (k) An applicant may be required to enter into such license and other agreements with the city or third parties as the city may require to effect the replacement, consistent with this section.

Section 10. Enacted. Section 115-10-9 relating to Equipment is hereby enacted to read as follows:

115-10-9 Equipment

- (a) Equipment other than ground-mounted equipment shall be mounted in one of the manners described below, and as prescribed by the city engineer, utility provider, or applicable health and safety code.
 - (1) Equipment shall be mounted in a base shroud of approved design. The base shroud should be coated or painted an approved color to match the pole.
 - (2) Equipment shall be mounted directly to the pole a minimum of twelve (12) feet above the existing grade and be coated or painted with an approved color to match the pole.
 - (3) Equipment shall be mounted to the pole in an equipment box a minimum of twelve (12) feet above the existing grade. The equipment box shall be coated or painted an approved color to match the pole.
 - (4) Equipment shall be attached to the wireless support structure in a manner as approved by the city engineer.
- (b) Ground-Mounted Equipment.
 - (1) A permit for a wireless communication facility that involves ground-mounted equipment will be issued if the city engineer finds the following:
 - a. The ground mounted equipment will not disrupt traffic or pedestrian circulation;
 - b. Space exists in the public right-of-way to accommodate the ground mounted equipment;

- c. The ground mounted equipment will not create a safety hazard;
- d. The location of the ground mounted equipment minimizes impacts on adjacent property;
- e. In any historical area, that the ground mounted equipment does not detrimentally affect the historical nature of the area, to the satisfaction of the city engineer;
- f. That no reasonable alternative exists that is more favorable to adjacent property owners and to effective use and management of the public right-of-way; and
- g. The ground mounted equipment will not adversely impact the health, safety or welfare of the community.

(2) Underground equipment. Ground mounted equipment and utilities will be placed underground in all locations unless technically infeasible.

- (c) Any excavation required for installation of ground-mounted or underground equipment shall be performed in accordance with all applicable local, state, and federal laws and regulations.

Section 11. Enacted. Section 115-10-10 relating to Attachment to City-Owned Buildings is hereby enacted to read as follows:

115-10-10 Attachment to City-Owned Buildings

The city may permit the attachment of a facility to a city-owned building upon the recommendation of the city engineer and the approval of a lease by the city commission. An installation permit shall be required for such installations. If a city-owned building is sold the permit for the relevant attachment shall be revoked. The city shall work with the permit holder to identify a suitable alternative site for the replacement of the wireless communication facility and credit the permit holder for the fees already incurred toward the application of a new site. The city shall be held harmless for the permit revocation effectuated by the sale of the city-owned building.

Section 12. Amended. Section 105-1-4 (q) (2) relating to the Utility service group examples is hereby amended to include the following example of a utility service group use:

k. Wireless Communications Facility

Section 13. Amended and Re-enacted. Section 101-1-3 adding a new definition following Wholesale group to read as follows:

Wireless communications facility means any fixed tangible asset usable for the purpose of providing wireless transmission of voice, data, images or other signals or information including, but not limited to, telecommunications, cellular telephone service, personal communications service and paging service. A wireless communications facility includes antennas and accessory equipment. A wireless communications facility does not include an underlying wireless support structure.

Section 14. Amended and Re-enacted. Section 101-1-3 remove definition of Telecommunication facility and adding a new definition for Telecommunication transmission tower and Telecommunication transmission tower and antenna height following Subdivision, minor to read as follows:

Telecommunication transmission tower means any pole, spire, structure or combination hereof, including supporting lines, cables, wires, braces and mast, designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guyed towers or monopole towers. A telecommunication tower may include, but not be limited to, radio and television transmission towers, microwave towers, common carrier towers, cellular telephone towers and personal communication service towers.

Telecommunication transmission tower and antenna height means the height of a freestanding telecommunication transmission tower and antenna shall be measured as the distance from ground level to the highest point on the tower, including the antenna. The height of a rooftop communication antenna shall be measured as the distance from the point where the base of the tower and antenna is attached to the roof, to the highest point on the supporting structure, including the antenna.

Section 15. Amended and Re-enacted. Section 105-1-2 (1) to read as follows:

- (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, telecommunication transmission 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 percent of the height of the structure above ground level, except those

structures as permitted or deemed necessary within the public right-of-way as outlined in Chapter 115.

Section 16. Enacted. Section 105-1-5 (i) relating to a requirement for telecommunication transmission tower and antennae height in excess of 120' to obtain a conditional use permit to read as follows:

- (i) Telecommunication transmission tower and antenna height exceeding one-hundred-twenty (120) feet.

Section 17. Amended and Re-enacted. Section 105-3-4 (d) is amended as follows:

- (d) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the planning and zoning commission and ratification by the city commission..
 - (1) Accessory dwelling unit.
 - (2) Education group.
 - (3) Public recreation group.
 - (4) Utility service group.
 - (5) Religion group.
 - (6) Bed and breakfast.
 - a. One additional parking space per bedroom.
 - b. One sign no larger than four square feet.
 - c. Must maintain state facility license in good standing.

Section 18. Amended and Re-enacted. Section 105-3-5 (d) is amended as follows:

- (d) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the planning and zoning commission and ratification by the city commission..
 - (1) Public recreation group.
 - (2) Education group.
 - (3) Utility service group.
 - (4) Religion group.

- (5) Accessory dwelling unit.
- (6) Bed and breakfast
 - a. One additional parking space per bedroom.
 - b. One sign no larger than four square feet.
 - c. Must maintain state facility license in good standing.

Section 19. Amended and Re-enacted. Section 105-3-6 (d) is amended as follows:

- (d) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the planning and zoning commission and ratification by the city commission.
 - (1) Public recreation group.
 - (2) Education group.
 - (3) Utility service group.
 - (4) Religion group.

Section 20. Amended and Re-enacted. Section 105-3-8 (d) is amended as follows:

- (d) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the planning and zoning commission and ratification by the city commission.
 - (1) Education group.
 - (2) Religion group.
 - (3) Utility service group.
 - (4) Public recreation group.
 - (5) Site built or modular dwelling unit.

Section 21. Amended and Re-enacted. Section 105-3-9 is amended as follows:

Sec. 105-3-9. - RM Residential District.

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

- (1) *General description.* The RM Residential District is established as a district in which the principal use of land is for residences, including multifamily dwellings and similar high-density residential development. For the RM Residential District, in promoting the general purposes of this chapter, the specific intent of this section is:

- a. To encourage the construction of, and continued use of, the land for residential purposes.
 - b. To prohibit commercial and industrial use of the land and to prohibit any other use that would substantially interfere with the development and continuation of residential structures in the district.
 - c. To encourage the discontinuance of existing uses that would not be permitted as new uses in the district.
 - d. To discourage any use which, because of its character or size, would generate traffic or require municipal services substantially in excess of traffic and services that would exist if the district was developed solely for multifamily dwellings and similar residential uses.
- (2) *Uses permitted.* The following uses are permitted:
- a. Single-family dwelling.
 - b. Two-family dwelling.
 - c. Multifamily dwelling.
 - d. Group dwelling.
 - e. Educational group.
 - f. Church.
 - g. Health-medical group.
 - h. Public recreation group.
 - i. Railroad line trackage.
 - j. Funeral establishments, provided that the following requirements are met:
 - 1. Each such establishment shall provide an off-street parking area on the premises equal to 35 percent of the lot area and in no case less than 4,900 square feet exclusive of the area needed to park vehicles owned or operated by such establishment. For the purpose of determining such parking area, neither the required side yards nor the area in front of the building setback line shall be included as a part of such parking area.
 - 2. Each parcel upon which a funeral establishment is to be maintained shall have two side yards, one on each side of the building. The sum of the widths of the two side yards shall not be less than 20 percent of the average width of the lot, but in no event shall any side yard be less than ten feet.
 - 3. No parking shall be permitted within ten feet of the side lot lines or in the area ahead of the building setback line.
 - k. Office-bank group.
 - 1. Bed and breakfast facility located in a single-family dwelling, provided that the owner of the dwelling is the holder of a current bed and breakfast facility license for not to exceed four lodging units issued pursuant to the provisions of N.D.C.C. ch.

23-09.1 and that the owner provides one off-street vehicle parking space for each such unit and one off-street parking space for the owner/operator of such facility, and provided, further, that only one sign, not exceeding four square feet in size, advising such facility, may be placed on the premises.

m. Manufactured home.

(3) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the planning and zoning commission and ratification by the city commission.

a. Utility service group

(4) *Density.* The maximum allowable density is 30.0 families per net acre.

(5) *Lot area.*

a. Each building containing dwelling units hereafter erected shall be located on a lot having an area not less than that shown in the following schedule:

Lot Area in Square Feet	Maximum Number of Dwelling Units
4,000 but less than 5,000	1
5,000 but less than 6,000	2
6,000 but less than 7,000	3
7,000 or more	4

b. For each 1,000 square feet, or fraction thereof, in excess of 7,000 square feet contained in a lot, the principal building may contain one dwelling unit in addition to the four dwelling units permitted in a principal building located on a lot having an area of 7,000 square feet. Any other permitted building or structure, together with accessory buildings, shall be located on a lot having an area of not less than 7,000 square feet; provided, however, that if a building designed for efficiency apartment units having not more than one-bedroom units, intended to house not more than two persons per dwelling unit, not exceeding the floor area ratio provided in subsection (6) of this section and meeting all other provisions of this section and the provisions of this Code relating to the minimum standards governing the condition and maintenance of dwelling units, a building containing not more than six such efficiency dwelling units may be erected on a lot having not less than 7,000 square feet in area.

(6) *Lot width.* Each lot shall have a width of not less than 50 feet measured along the front building line; provided, however, that on a record lot having a width of less than 50 feet

at the front building line and corresponding to a record lot shown on a plat or deed recorded prior to the adoption of the ordinance from which this section is derived, the minimum lot width measured along the front building line may be reduced to not less than 40 feet.

- (7) *Floor area ratio.* The floor area ratio of the principal building and all accessory buildings shall not exceed 0.40 for single-story buildings, nor shall it exceed 1.20 for buildings of more than one story. The ground area occupied by the principal and accessory buildings shall not exceed 40 percent of the total area of the lot. In computing floor area ratio and ground coverage, 200 square feet shall be added to the actual area of the building for each car space required by this chapter, if such space is not furnished within a building.
- (8) *Front yard.* Each lot shall have a front yard not less than 15 feet in depth.
- (9) *Side yards.* Each lot shall have two side yards, one on each side of the principal building. The sum of the widths of the two side yards shall be not less than 20 percent of the average width of the lot. On any lot having an average width of 50 feet or less, each side yard shall be not less than ten percent of the width of the lot, and in no case shall a side yard be less than four feet in width. On any lot having an average width greater than 50 feet, neither side yard shall be less than five feet in width. In no event shall any side yard be less than the requirements set forth in this subsection, provided that in computing the side yard width on any lot, the first one foot of any overhang for eaves shall not be counted.
- (10) *Rear yard.* Each lot shall have a rear yard not less than ten feet in depth.
- (11) *Height limits.* Single-family dwellings and two-family dwellings shall not exceed 2.5 stories, nor shall they exceed 35 feet in height. No principal building for any other permitted use shall exceed six stories, nor shall it exceed 60 feet in height. For each one foot or fraction thereof that a building exceeds 35 feet in height, there shall be added two feet to the minimum width of each side yard, two feet to the minimum depth of the front yard and one foot to the minimum depth of the rear yard required by this section. No accessory building shall exceed two stories, nor shall it exceed 25 feet in height.
- (12) *Exception.* Notwithstanding the limitations imposed by any other provision of this chapter, upon due application by the owner and the recommendation thereof by the planning and zoning commission, the board may permit the subdivision of an existing lot and approve the replat thereof to show the lot lines along the centerline of a common wall, and the renumbering of the lot upon which multifamily townhouses or row dwelling units are being or have been constructed so as to permit separate ownership of a lot without side yards and having an area and width smaller than that required for a single-family dwelling, subject to the following:
 - a. Each of the lots created by the subdivision shall contain an average of not less than 2,400 square feet of area.
 - b. Each lot shall front on a dedicated street, or access shall be provided by platting a common driveway area and utility easements.
 - c. Except for setbacks along the common property lines, all other setbacks and yard requirements shall be met.

- d. Each lot shall have separate water and sewer service lines into such lot or an appropriate written agreement between the adjoining property owners establishing the manner in which the cost of maintenance and repair of such lines will be shared.
- e. The subdivision of the lot shall be accomplished by the platting thereof in accordance with subdivision regulations of the city ordinances, including required public hearings for the plat approval.

(Ord. No. 1242, § 5, 12-20-2016)

Section 22. Amended and Re-enacted. Section 105-3-10 is amended as follows:

Sec. 105-3-10. - RH Residential District.

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

- (1) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Mobile home means a mobile structure manufactured upon a chassis or an undercarriage which is an integral part of the structure and which:

- a. Is transported to the site on wheels;
- b. Comes fully equipped with flush toilet, tub or shower and kitchen facilities;
- c. Is ready for immediate occupancy upon its arrival to the site and its connection with utilities; and
- d. Is designed for long-term use as a single-family residence without permanent foundation.

Mobile home park means a plot or parcel of land, under single ownership, which has been improved for purposes of locating mobile homes as dwellings.

Mobile home site means a parcel of land, within a mobile home park, designed and improved for the accommodation of not more than one mobile home as a single-family residence.

Mobile home stand means that part of a mobile home site which has been reserved and improved for the placement of a mobile home, appurtenant structures or additions to a mobile home.

Self-propelled mobile home means a self-propelled vehicle containing living facilities, including the terms "house car" and "motor home," which was designed for temporary dwelling, generally for travel and recreational use, and licensed by a state as a motor vehicle.

Travel trailer means a vehicular portable structure having no foundation other than wheels or jacks, designed to be used as a temporary dwelling for travel and recreational activities, which is not more than eight feet in body width.

Travel trailer park means a plat or parcel of land, under single ownership, which has been improved for the purposes of locating travel trailers.

Travel trailer site means a parcel of land within a travel trailer park designed and improved for the accommodation of not more than one travel trailer.

Unit, dependent, means a mobile home, travel trailer or self-propelled mobile home without bath or shower and toilet facilities.

Unit, nondependent, means a mobile home, travel trailer or self-propelled mobile home with bath, shower and toilet facilities.

(2) *General description.* The RH Residential District is established as a district in which the principal use of land is for residences, including mobile homes and travel trailers, located within mobile home parks and travel trailer parks.

(3) Permitted Uses:

a. Mobile homes and travel trailers, located within mobile home parks and travel trailer parks.

(4) *Conditional uses.* These uses are permitted on a specific site only after review and approval by the planning and zoning commission and ratification by the city commission:

a. Utility service group

(5) *Location.* All mobile home and travel trailer parks shall be located in approved subdivisions according to the city's subdivision regulations.

(6) *Mobile home and travel trailer park locations.*

a. *Mobile homes.* All mobile homes in the city shall be located in an approved mobile home park or mobile home subdivision before being occupied. Also, no business shall be conducted out of a mobile home, except administrative duties of the court owner or manager of home occupation uses according to the city's zoning ordinances.

b. *Mobile home parks.* Mobile home parks shall be located in an RH zoning district according to future provisions. Mobile home parks should be considered medium-density residential.

c. *Travel trailers.* Travel trailers shall be located in an approved travel or mobile home park.

d. *Travel trailer parks.* Travel trailer parks shall be located in an RH zoning district according to future provisions.

e. *Self-propelled mobile homes.* Self-propelled mobile homes shall be located in an approved travel trailer or mobile home park.

(7) *Licenses and/or permit requirements.*

a. It is unlawful for any person to maintain, operate, alter or expand any mobile home or travel trailer park within the city's jurisdiction (one mile) without first obtaining a

valid license and building permit from the designated officials of the city. Alteration or expansion of an existing mobile home or travel trailer park shall include any addition or reduction of a park site or rearrangement of other service buildings within the park.

- b. All mobile home and park license fees shall be set by resolution of the board.
- c. Application for a mobile home or travel trailer park license shall be filed with and issued by the state department of health and the city. The application shall be reviewed by the state health officer and city departments as deemed necessary by the building inspector. The site plans, specifications and zoning shall be reviewed by the city planning and zoning department. Application for subdivision or site plan approval and zoning changes for a mobile home or travel trailer park shall include payment of a planning review fee. These fees shall parallel the fee schedule of the city for subdivision and zone changes. The purpose of these fees is to offset the cost of publication and review by the planning department. An application for mobile home or trailer court approval shall be submitted to the city planner, along with said fee, and shall include the following:
 1. Name and address of the applicant and engineer or surveyor.
 2. Location map and legal description of the proposed or existing trailer or mobile home park.
 3. A complete site plan and specification of the proposed travel trailer or mobile home park or of the alteration or expansion of an existing park indicating:
 - (i) Total acreage and all dimensions of the tract of land.
 - (ii) Date of plan.
 - (iii) Lot and block acreage.
 - (iv) Scale and north arrow.
 - (v) Locations and dimensions of all existing and proposed streets, alleys and walkways, and location and size of all sidewalks.
 - (vi) Locations and dimensions of all proposed mobile home sites.
 - (vii) Locations, plans and specifications of all proposed service buildings.
 - (viii) Contours of the land at one-foot intervals for ground slopes between zero and two percent, two-foot contours between two and five percent, and four-foot contours for over five percent.
 - (ix) Finished grade plan for all streets and developed areas as required by the city engineer.
 - (x) Locations and dimensions of all utility easements.
 - (xi) Locations and sizes of water, sewer and storm sewers or open drainage lines.
 - (xii) Locations of fire hydrants.
 - (xiii) Locations of all recreational areas.
 - (xiv) Locations of lighting stands.
 - (xv) All setback dimensions.
 - (xvi) Location and dimensions of mobile home park buffer.

- (xvii) Such further information as may be required by the health officer to determine if the proposed mobile home park is in compliance with the applicable health regulations.
4. If the applicant desires to alter or expand an existing mobile home park, an additional site plan shall be submitted indicating the locations and dimensions of existing mobile home sites, streets, walkways and service buildings.
 5. A reproducible Mylar and six blue line prints, 24 inches by 36 inches, shall be submitted to the planning and zoning office upon final approval by the board. Said site plan shall have the signatures of the owner, city engineer, planning and zoning commission chairperson and board president.
 6. Within two weeks of moving into a mobile home, the owner will be required to have a certificate of occupancy. Before issuing the certificate of occupancy, the building inspector or designate shall inspect all utility connections, stabilizing devices, anchoring equipment and determine that the address has been properly installed. A fee for the certificate of occupancy, as set by the board, shall be required of the mobile home owner.
 7. All mobile home and travel trailer parks shall be located in an approved subdivision according to the city's subdivision regulations.
- (8) *Design requirements for mobile home parks.*
- a. *Minimum size.* Each parcel of land to be used for a mobile home park shall be a minimum of ten acres, and any addition to said park must contain a minimum of four acres and be contiguous to the park with a boundary of at least 100 feet. The ratio of average depth to average width shall not be in excess of 4:1. There shall be a minimum width of 150 feet along any abutting public right-of-way.
 - b. *Streets and parking; access to park.* Direct vehicular access to the mobile home park shall be only from an abutting approved public street. Access shall be so located as to provide minimum congestion on the external streets and to provide for good circulation within the park. Private access right-of-way shall intersect public right-of-way no closer than 150 feet from the intersection of two public streets.
 - c. *Width of streets.* Streets in a mobile home park shall be private, but shall be constructed and paved in accordance with city street specifications and approved by the city engineer, except as to the paved width, which shall be as follows:
 1. Two-way streets with parking on both sides shall be 40 feet in width.
 2. Two-way streets with parking on one side shall be 32 feet in width.
 3. Two-way streets with no parking on either side shall be 24 feet in width.
 4. No streets shall be less than 24 feet in width.
 - d. *Entrance roads; easements and intersections.* All entrance roads into a mobile home park shall have a minimum unobstructed width of 60 feet and a minimum paving width of 36 feet at the point of entry. All streets into the mobile home park shall be

designed for two-way traffic. Easements shall be provided on all streets within the mobile home park for the provision of city services, such as police, fire, and refuse collection. Street intersections should be at right angles on all major streets and minor streets, if possible.

- e. *Curb and gutter and street grades.* Curb and gutter or alternatives shall be laid on all streets according to the city engineer. Street grades shall be sufficient to ensure surface drainage.
- f. *Parking.* At least two off-street paved parking spaces per mobile home site shall be provided in the mobile home park. Clustered parking to meet the off-street requirements is allowed, but shall not be on the street right-of-way. Off-street parking for guests should be on the basis of one parking space for each four mobile home lots. Off-street parking shall be provided on the basis of one parking space for each 300 square feet of gross floor space in recreational, service and community buildings.
- g. *Buffer strip.* Mobile homes shall be set back from any public right-of-way 25 feet and not less than 15 feet from any other boundary. Said buffer strip may be platted as part of the mobile home site. The buffer strip may not be designed for streets and utility sites, but may be utilized for drainage structures. No other structures shall be placed within any of the buffer strips.
- h. *Recreation areas.* Mobile home park owners are encouraged to design parks with recreational areas sufficient for park residents.

(9) *Design requirements for mobile home site.*

- a. *Minimum size.* Each mobile home site shall have a minimum of 5,000 square feet of area with a minimum average width of 50 feet and minimum average depth of 100 feet. Mobile home sites located on a cul-de-sac may reduce frontage at the street line to 35 feet, but lot area must contain 5,000 square feet.
- b. *Land coverage.* Total structural coverage of a mobile home site shall not exceed 50 percent of the site area. In computing the ground coverage, 400 square feet shall be added to the area of the mobile home site for the two required off-street parking spaces and all accessory buildings. All nonattached storage sheds must be located in the backyard and not within five feet of the side or rear site line.
- c. *Access.* Each mobile home site shall abut on a street within the mobile home park, and access directly to the site shall only be from such an internal street.
- d. *Setback requirements.* No part of the mobile home or other structure upon a mobile home site shall be closer than five feet to a mobile home site boundary line. Mobile homes shall be set back from each other and accessory buildings by at least 15 feet on adjacent lots. There shall be a minimum of ten feet between an individual mobile home and any abutting pavement of a park street.

(10) *Provisions of services in mobile home park.*

- a. *Service buildings.* Service buildings may include management offices, laundry facilities, repair shops and storage areas, sanitary facilities and indoor recreation facilities and incidental commercial uses.

- b. *Service building requirements.* All service buildings shall comply with the city ordinances and state laws and regulations concerning buildings, electrical installations, plumbing and sanitation systems. They shall, at all times, be operated and maintained in a clean, sightly condition by the park management.
- c. *Building height requirements.* No structure erected in a mobile home park shall exceed 25 feet in height.
- d. *Water supply.* Each mobile home park shall be connected with the city's water supply system and designed, constructed and maintained in accordance with the city's ordinances and state laws and regulations. Each mobile home park shall be provided with at least one above-ground water service connection which shall be capped when a mobile home does not occupy the site.
- e. *Sewage disposal.* All mobile home parks shall be connected to the city central sewer system, and sewer lines shall be designed, constructed and maintained in accordance with the city's ordinances and state laws and regulations and shall be capped when not in use.
- f. *Street lighting.* All entrances, exits and streets in mobile home parks shall be well-lighted. Street lighting may be either overhead or low level, but must be reflected onto the street.
- g. *Electricity and grounding.* Each mobile home and mobile home site shall be provided with electricity and proper grounding in accordance with the city's ordinances. Each mobile home site shall be individually metered by the supplying electrical utility company.
- h. *All service utility lines.* All service utility lines for electrical, telephone, gas and television communication shall be placed underground and designed and constructed in accordance with the city's ordinances.
- i. *Refuse handling.* The storage, collection and disposal of refuse in the mobile home park shall be provided for in accordance with the applicable city ordinances and state laws and regulations.
- j. *Fire protection.* All mobile home parks shall be subject to the regulations stated in the fire protection codes adopted by the city and state. Mobile home parks shall be kept free of litter, rubbish and other flammable materials. Portable fire extinguishers, rated for class B and C, shall be kept in service buildings, readily accessible for use by all occupants and maintained in good operating condition.
- k. *Street signs and mobile home site address and design.* The owner of a mobile home park shall provide street name signs. The individual mobile home owner shall be responsible for displaying on the front of the mobile home the address in letters no smaller than two inches in height before occupancy. All street names shall conform to the city's street plan. All existing and new mobile home parks shall construct street signs, and all sign material shall conform to the city's street sign specifications.
- l. *Register of occupants.*
 - 1. A register of all mobile home occupants and owners of mobile homes in the park shall be maintained with the following information:

- (i) The name and address of each mobile home occupant.
 - (ii) The name and address of the owner of each mobile home, if different from the occupant.
 - (iii) The dates of arrival and departure of each mobile home.
2. An updated register of occupancy shall be provided to the city every three months with the data in subsection (8)l.1 of this section, as required by the county tax equalization department.
- (11) *Temporary parking of travel trailers, camper trailers, cargo trailers and boat trailers.*
- a. *Forty-eight-hour parking limit.* No owner of property within the corporate limits of the city shall permit the parking, maintaining or keeping upon his property, and no person shall park, maintain or keep any travel trailer, camper trailer, cargo trailer or boat trailer for more than 48 hours, unless such trailer is located in a garage. Trailer sales of new and used unoccupied trailers, house cars or camp cars by an individual, firm, or corporation, properly licensed and zoned for trailer sales use shall be located in commercial zoning districts.
 - b. *Parking sites in mobile home parks.* A separate travel trailer park site for travel trailers or camper trailers shall be permitted in any mobile home park, provided that:
 - 1. Said camp area comprises less than ten percent of the total area of said mobile home park;
 - 2. A 25-foot buffer strip exists between said camp site and any mobile home site; and
 - 3. Toilet, water and garbage disposal facilities are available and easily accessible to users of said camp site.
 - c. *Parking of trailers in residential districts.*
 - 1. Travel trailers, camper trailers and boat trailers not in excess of eight feet in width shall be permitted to park on private property in any residential district, provided that they are:
 - (i) Located behind the front building line and not on the public boulevard;
 - (ii) Located in a storage shed or garage; or
 - (iii) Located in a driveway area permitted for the parking of passenger cars.
 - 2. Collapsible camping trailers, when stored on a residential lot, shall be stored in a collapsed state.
 - d. *Parking of self-propelled mobile homes.* Self-propelled mobile homes, not exceeding state department of transportation limits in length, shall be permitted to park as a passenger vehicle, but shall not be permitted to be used as a living unit on any public right-of-way.
 - e. *Parking on public property prohibited.* No trailer or mobile home shall be parked upon any public right-of-way, park or other public property within the corporate

limits of the city more than 48 hours, and shall not be used for sleeping, housekeeping or living quarters while so parked, unless located in an area publicly designated for such use.

- f. *Parking of construction trailers.* Trailers used for construction offices on a construction site in a subdivision shall be permitted during the period of construction only after a building permit for the construction job has been issued. Such trailers must be removed from the site or subdivision before a certificate of occupancy is issued for the new construction. Such permitted trailers shall not be used for sales, habitation or promotional purposes and shall be permitted only after receiving a permit from the building inspector for each such trailer.

(12) *Design requirements for travel trailer park.*

- a. *Site plans.* Site plans and specifications for travel trailer parks are required as stated in subsection (10)e of this section.
- b. *Minimum size.* Each parcel of land to be used for a travel trailer park shall be a minimum of 2.5 acres, and the ratio of average depth to average width shall not be in excess of 4:1. If included as part of a mobile home park, a travel trailer park cannot occupy more than ten percent of the area.
- c. *Streets and parking.*
 - 1. *Access to park.* Direct vehicular access to the travel trailer park shall be only from an abutting, approved public street. Access shall be located so as to provide minimum congestion on the external streets and to provide for good circulation within the park.
 - 2. *Width of streets.* Streets in a travel trailer park shall be private and shall be of the following width:
 - (i) Two-way streets with no parking on either side shall be at least 24 feet in width.
 - (ii) Two-way streets with parking on one side shall be at least 32 feet in width.
 - (iii) No roads will be permitted with parking on both sides of the street.
 - (iv) One-way streets are permitted with a minimum width of 24 feet.
 - 3. *Street surfacing.* All streets shall be paved according to specifications set forth by city ordinances.
 - 4. *Parking.* At least one off-street parking space per travel trailer site in each travel trailer park is required.
 - 5. *Travel trailer site.* Each travel trailer site shall be well drained and contain a stabilized vehicular parking pad composed of paving or other suitable material as determined by the city engineer. The remainder of the site shall be grassed and landscaped.
- d. *Buffer strip.* There shall be a well-landscaped buffer strip not less than 25 feet in depth between travel trailer sites and all public streets abutting the travel trailer park and a landscaped buffer strip of not less than 15 feet in depth between travel trailer sites and all other boundaries of the park. Nothing contained in this subsection is to

be construed to require a 25-foot buffer strip or 15-foot buffer strip between individual travel trailer sites. The landscaped buffer shall be separate from travel trailer sites, recreation areas, streets, and the utility sites, but may be utilized for drainage structures and utilities distribution and collection. No other structures shall be placed within any of the buffer strips.

- e. *Recreation areas.* A minimum of ten percent of the total land area of a travel trailer park shall be devoted to one or more common use areas for recreation activity. These recreation areas shall be storage areas, utility sites, and all nonrecreational service buildings. They shall be easily accessible to all park users and shall be owned and maintained by the park management. Although the required space for recreation usage can be met through more than one recreation area in a travel trailer park, minimum size of any area shall be 5,000 square feet.
- f. *Tent camping.* Tent camping shall be permitted in a travel trailer park on individual travel trailer sites or as accessory uses to travel trailers, if occupied by members of the same party.

(13) *Design requirements for travel trailer sites.*

- a. *Minimum size.* Each parking site shall have a minimum of 1,500 square feet of area with a minimum average width of 25 feet and a minimum average depth of 60 feet. There shall be a maximum of 15 travel trailer sites per acre of land within the travel trailer park.
- b. *Access.* Each travel trailer site shall abut on at least one street within the travel trailer park, and access directly to the site shall be only from such an internal street.
- c. *Setback requirements.* No part of a travel trailer placed on a travel trailer site shall be closer than five feet to a site line.
- d. *Appurtenances.* No permanent external appurtenances, such as cabanas or awnings, may be attached to a travel trailer, and the removal of wheels or the placement of the unit on a permanent foundation is prohibited.

(14) *Provisions of services in travel trailer parks.*

- a. *Service buildings.*
 - 1. Service buildings may include management offices, laundry facilities, storage areas and any other such buildings necessary to the proper operation of a travel trailer park.
 - 2. All service buildings shall comply with the city ordinances and state law and regulations concerning buildings, electrical installations, plumbing and sanitation systems. They shall, at all times, be operated and maintained in a clean, sightly condition by the park management.
- b. *Water supply.*
 - 1. An adequate supply of water shall be provided in accordance with the state sanitary codes and city ordinances. Travel trailer parks shall be connected to the city's central water system and with water lines designed, constructed and maintained in accordance with the city's ordinances.

2. A minimum of one water supply outlet shall be provided for every two travel trailer sites.
 - c. *Sewage disposal.*
 1. All sewage disposal facilities shall be designed, constructed and maintained in accordance with the state sanitary codes and city ordinances. All travel trailer parks shall be connected to the central sewer system of the city.
 2. At least one sanitary dumping station shall be provided for every travel trailer park with at least one connection for every 50 travel trailer sites or fractional part.
 3. A complete restroom facility shall be located within a travel trailer site in accordance with the following schedule for 30 travel trailer sites or fractional part:
 - (i) Toilets: Two men, four women.
 - (ii) Urinal: Two men.
 - (iii) Washstand: Three men, three women.
 - (iv) Showers: Two men, two women.
 - d. *Lighting.* All entrances, exits, streets and service buildings shall be well-lighted during the hours of darkness. Street lighting may be either overhead or low-level, but must be reflected into the street.
 - e. *Electricity and grounding.* Each travel trailer site shall contain at least one approved electrical receptacle having a minimum of 100/115 volt alternating current.
 - f. *Service utility lines.* All service utility lines within a travel trailer park shall be placed underground and designed and constructed in accordance with city ordinances.
 - g. *Refuse handling.* Each travel trailer site shall be provided with either a metal can with a tight-fitting metal covering, of a capacity not less than four gallons and not to exceed 30 gallons, or dumpster containers, one to four cubic yards, for 14 travel trailer sites that can be maintained by the city.
 - h. *Fire protection.* All travel trailer parks shall be subject to the regulations stated in the Fire Protection Code adopted by the city. Travel trailer parks shall be kept free of litter, rubbish and other flammable materials.
 - i. *Animal control.* No owner or person in charge of an animal shall permit said animal to run at large or to commit any nuisance within the limits of any travel trailer park.
 - j. *Street names.* The owner of the travel trailer park shall provide for street name signs. All street names shall conform to the city's street plan. All existing and new travel trailer parks shall construct street signs, and all sign material shall conform to the city's street sign specifications.
- (15) *Operation of travel trailer park.*
 - a. *Permitted uses.* A travel trailer park may include travel trailers and any such service buildings or accessory uses necessary for the proper, safe, sanitary operation of the

travel trailer park. One mobile home may be located in any travel trailer park for the exclusive use of the owner or park manager as an office or residence.

- b. *Responsibilities of park management.* The owner of a travel trailer park or the park management shall, at all times, keep the park and its facilities in a clean, orderly and sanitary condition. The park management shall inform all park occupants of the provisions of this article and other related ordinances and state laws and of the responsibilities under this section.
 - c. *Register of occupants.* A register of all travel trailer occupants in the park shall be maintained with the following information:
 1. The name and address of each travel trailer owner or operator making use of the travel trailer park.
 2. The make, model, year and vehicle license number of each travel trailer and motor vehicle.
 3. The state, territory and county in which all vehicles are registered.
 4. The dates of arrival and departure of each travel trailer.
- (16) *Penalty.* Every person violating this section shall, upon conviction thereof, be punished by a fine of not more than \$500.00, by imprisonment for not more than 30 days or by both such fine and imprisonment in the discretion of the court. The court has the power to suspend the sentence or any part and to revoke the suspension thereof.

(Ord. No. 1242, § 5, 12-20-2016)

Section 23. Amended and Re-enacted. Section 105-3-11 (2) is amended as follows:

- (2) *Uses permitted.* The following uses are permitted:
- a. Single-family dwelling.
 - b. Two-family dwelling.
 - c. Multifamily dwelling.
 - d. Group dwelling.
 - e. Retail group A.
 - f. Service group A.
 - g. Filling station.
 - h. Office-bank group.
 - i. Health-medical group.
 - j. Utility service group

- k. Bed and breakfast facility located in a single-family dwelling, provided that the owner of the dwelling is the holder of a current bed and breakfast facility license for not to exceed four lodging units issued pursuant to the provisions of N.D.C.C. ch. 23-09.1 and that the owner provides one off-street vehicle parking space for each such unit and one off-street parking space for the owner/operator of such facility, and provided, further, that only one sign, not exceeding four square feet in size, advertising such facility, may be placed on the premises.

Section 24. Amended and Re-enacted. Section 105-4-2 (b) (Use Table) is amended as follows:

Use Table

Proposed Use Category	Definition	Use Standard	District	
			DC	DF
<i>Residential Uses</i>				
Group Dwelling	Residential occupancy of a structure by a group of people who do not meet the definition of household.		P	P
Household dwelling	Residential occupancy of a dwelling unit by a household (related or up to four unrelated).			
Single-family, detached				P
Duplex/single-family attached (2)				P
Single-family, attached (3-8)	e.g., condos			P
Multifamily structure			P	P
Residences on 2nd floor & above			P	P
<i>Commercial Uses</i>				
Drive-through facilities	Drive-through facilities in conjunction with a permitted principal use.	X	SUP	SUP
Entertainment event, major	Activities and structures that draw large numbers of people to specific events or shows. This category does not include outdoor recreation and entertainment uses, such as golf driving ranges and racetracks.		P	P
Office group	Activities conducted in an office setting and generally focusing on business, government, professional, medical or financial services.		P	P

Parking, accessory	Parking that is an accessory to a specific use, but not located on the same parcel as the use - use standards for accessory parking that is adjacent to a residential use.	X	SUP	SUP
Parking, commercial	Parking that is not an accessory to a specific use - fees may or may not be charged.	X	P	SUP
Retail sales and services Retail group A Service group A Service group B Groups are modified by description of this item and other items in this table.	Establishments involved in the sale, lease or rental of any new or used products to the general public - they may also provide personal services or entertainment or provide product repair or services for consumer and business goods — use standards for convenience store/gas stations, mortuaries/funeral homes. This category does not include self-service storage uses, adult entertainment centers, animal hospitals or kennels, or off-premises advertising signs.	X	P	P
Retail group B	Auto, truck, motor cycle, off-road, and boat sales; Feed, grain, and farm supply sales.	X	—	SUP
Auto repair garage	Service to passenger vehicles, light trucks and other consumer motor vehicles generally, the customer does not wait at the site while the service or repair is being performed.	X	SUP	P
Auto service, limited	Direct services to motor vehicles where the driver generally waits in the car or nearby while the service is performed.	X	SUP	P
<i>Institutional Uses</i>				
Colleges	Colleges and institutions of higher learning.		P	P
Community services	Public, non-profit or charitable uses, generally providing a local service to the community.	X	P	P
Day care	Care, protection and supervision for children and adults on a regular basis away from their primary residence for less than 24 hours/day.	X	SUP	P
Health care facilities	Medical or surgical care to patients, with overnight care.		P	P
Parks and open areas	Natural areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, etc.		P	P
Religious institutions	Meeting area for religious activities	X	P	P
Safety services	Public safety and emergency response services.		P	P

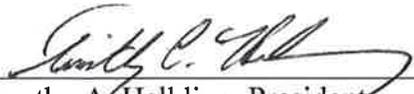
Schools	Schools at the primary, elementary, middle, junior high or high school level.	X	—	P
<i>Other Uses</i>				
Detention facilities	Government-operated facilities for the detention or incarceration of people.	X	—	—
Moving of buildings/structures	Moving in of a building or structure that has been previously occupied in another location.	X	—	SUP
Passenger terminals	Passenger terminals for regional bus and rail service.	X	P	P
Public/community events	Planned gathering on public property consisting of 50 or more people or any sized event which blocks, or otherwise reserves, access to public property/right-of-way ¹ .	X	A	A
Wireless communication facilities	Devices and supporting elements necessary to provide telecommunication services.		SUP	SUP
Utilities and essential services	Infrastructure services that need to be located in or near the area where the service is provided.		P	P

¹ Does not apply to spontaneous responses to current events or activities common to public parks/property that do not alter the day-to-day functionality of the site.

(Code 1994, § 21-04-17; Ord. No. 1013, § 2, 10-17-2006; Ord. No. 1296, § 1, 11-6-2018)

Section 25. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 26. Effective Date. This ordinance shall take effect following final passage, adoption and publication.


 Timothy A. Helbling, President
 Board of City Commissioners

Attest:

 James Neubauer,

City Administrator

Planning and Zoning Commission:

First Consideration:

Second Consideration and Final Passage:

March 23, 2020

April 7, 2020

April 21, 2020

