

ZONING – LAND USE PLANNING

ARTICLE 1. Planning and Zoning Commission

6.0101 Planning & Zoning Commission Created

There is hereby created a planning commission consisting of three (3) members to be appointed by the governing body of the City which shall recommend the boundaries of the various original districts and appropriate regulations to be enforced therein.

The chief executive officer, the engineer and city attorney shall be ex-officio members thereof.

If the City of Max exercises extraterritorial zoning authority pursuant to North Dakota Century Code section 40-47-01.1, the planning commission must include two (2) additional members residing outside the corporate limits of the city. Such commission shall make a preliminary report and hold public hearings before making its final report. Such commission shall also hold hearings and make reports and recommendations as to the supplements and changes in boundaries and regulations.

6.0102 Purpose and Intent

The zoning regulations and districts, as herein set forth, are designed to promote the health, safety, and welfare of the people of the City of Max and are established for the purpose of promoting the sound and desirable use of land.

6.0103 Authority

This ordinance is adopted under the authority of Chapter 40-47 of the North Dakota Century Code.

6.0104 Terms, Compensation, Meetings

The terms of the members, their compensation, and meetings shall be as provided by Chapter 40-48.03 of the North Dakota Century Code.

1) Terms (NDCC 44-48.03)

- a. Commission members will be appointed by the City Council for a term of five (5) years.
- b. Initial committee will serve for 5, 3, and 1 year terms as appointed.

2) Compensation (NDCC 44-48.05)

- a. Any compensation by members requires a written request from the council prior

3) Meetings (NDCC 44-48.06)

- a. Once ordinances are formally adopted, commission will meet monthly on the third (3rd) Monday of each month.

ARTICLE 2. Definitions

6.0201 General Definitions.

Words used in the present tense shall include the future; the singular number shall include the plural.
The word “person” includes a firm, partnership, association, corporation, or individual.

The word “shall” is mandatory. The word “may” is permissive.

6.0202. List of Definitions.

Accessory Building: Any 4’x4’x4’ structure or larger located on the property.

Accessory Use or Structure: A use of structure incidental and subordinate to the main use of the property and located on the same lot as the main use, such as a garage or a tool shed.

Alley: A minor street providing vehicular service access to the back or side of two or more properties.

Alteration: As applied to a building or structure. A change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Amendment: Any change, revision, or modification to the text of this ordinance or the official zoning map.

Board of Adjustment: The City Council or a body authorized by the, which hears appeals on the enforcement of the provisions of this ordinance and grants variances.

Boulevard or Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and throughout lots, all sides of a lot adjacent to streets shall be considered boulevard/frontage. The depth of the front yard is the least distance between the front lot line and the front of the principal building. For purpose of measurement and in relation to various street widths, boulevard will extend 35 feet from the center line of the street to a point into a lot.

Building Area: The portion of a lot remaining after required yards have been provided.

Building Height: The vertical distance measured from the established grade to the highest point of the roof surface.

Building: Any structure, either temporary or permanent, designed or intended for the enclosure, shelter or protection of persons, animals or property; awnings or vehicles situated on private property and used for the purpose of a building.

Camper Park: Includes every plot of land kept, used, maintained, advertised, or held out to the public as a place for use by guests for parking trailer coaches or recreation vehicles.

Camper: A vehicular, portable structure built in a chassis, designed as a temporary dwelling for travel, recreation and vacation, having a body exceeding eight (8) feet and body length not exceeding thirty-two (32) feet.

Certificate of Zoning Compliance: A certificate stating compliance with zoning district regulations.

Clear Sight Triangle: An area of unobstructed vision at a street intersection defined by the lines of sight between points at a given distance from the intersecting street right-of-way lines. Given distance is measured as 20 feet from the corner curb in each direction and forming a triangle.

Commercial District: The areas designated by the City Commission of Max on the District Zoning Map which provides for the grouping of retail merchandising, light industry, and service activities.

Community Garages: Only allowed in designated districts and must fit one of the descriptions for Garage, private or Garage, public

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Conditional Use: A use which would not be appropriate in a particular district, but which, if controlled as to the number, location or relation to the neighborhood, would promote the public safety, health, convenience, or welfare. A conditional use is allowed in a district only if the regulations for that district specifically permit it—subject to the approval of the City Council, and only when the Council finds that such use meets all of the requirements applicable to it as specified in the ordinance. The Council may choose not to approve the conditional use, but the reasons must be given in writing.

Deck: An unclosed structure for use as a patio—no walls but may have roof.

Districts: The areas of the City of Max for which the regulations governing the use of land and the use, density, bulk, height, and location of structures and buildings are uniform.

Dwelling: A building or portion of a building occupied exclusively for residential purposes. This does not include mobile recreational vehicles.

Dwelling-Farm: A single family dwelling located on a farm which is occupied by the farm's owner or person employed thereon.

Dwelling-Mobile Home: A structure, transportable in one or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained herein.

Dwelling-Multi-Family: A residential building designed for and occupied exclusively by more than one family.

Dwelling-Single-Family: A detached residential living unit, other than a mobile home, designed for and occupied by one family.

Easement: A vested or acquired right to use land, other than as a tenant, for a specified purpose; such right being held by someone other than the owner who holds title to the land.

Family: Shall mean one or more individuals living together as members of a single housekeeping unit and doing their cooking in a single kitchen on the premises.

Farm or Farming Operation: A single tract or contiguous tracts of agricultural land containing a minimum of ten (10) acres and which normally provides a farmer, who is actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming or ranching, with not less than fifty (50) percent of his annual net income.

Floor Area: The gross floor area of the several floors in a building.

Garage, Private: means an accessory building or portion of a principal building designed and used only for storage of personal vehicles and crafts.

Garage, Public: means a building or portion thereof, designed and used for repair, maintenance, sale, service or storage of motor vehicles and crafts.

Home Occupations: A gainful occupation conducted solely by members of the family only within the dwelling or on the premises, which is clearly incidental and secondary to the use of the dwelling for living purposes and does not change the character thereof; provided that no display, other than a nameplate not more than one foot square in area, will indicate from the exterior that the building or land is being utilized in part for any purpose other than that of a dwelling.

Improvements: Street grading and surface with or without curbs and gutter, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets, and trees.

Land Use Administrator: A person appointed by the City Commission of Max to administer the zoning affairs of the City of Max.

Livestock: For the provisions of this ordinance the term "livestock" shall be limited to cattle, horses, sheep, pigs, chickens or any poultry raised for home use or profit.

Lot Coverage: The total surface area of building expressed as a percentage of the total lot, plot or tract

Lot, Depth of: The mean horizontal distance between the front and rear lot lines.

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Lot Width: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the rear of the required front yard.

Lot: A tract of land at least sufficient size to meet minimum zoning requirements for use, coverage and area, and provided such yard and other open space as are herein required.

Manufactured Home: A dwelling unit designed for transportation after construction and not necessarily on a permanent foundation. A recreational travel trailer is not to be considered a mobile home.

Mobile Home District: Areas designated by the City Commission of Max on the District Zoning Map for development of industrialized residential dwelling units.

Mobile Home Park: A tract of land designed and developed to accommodate mobile homes, each occupying a portion of the site of a purchase, lease or rental basis, and each provided with the necessary utilities suitable environment for long-term residential occupancy.

Multi-family Unit: A residential dwelling designed for occupancy by two or more families. Each separate building shall be considered one (1) multi-family unit regardless of how many families the building has been designed for.

Non-conforming use: Any structure, building or tract of land existing at the time of the adoption or amendment of this ordinance which does not conform to the ordinance.

Park Trees: Defined as trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which public has free access as a park.

Permitted Use: Defined as any use which complies with the requirements of a zoning district.

Plat: Any map, plan or chart of a tract of land or subdivision indicating the location and boundaries of individual properties.

Plot: A tract of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat.

Right-of Way: see Boulevard. The right-of-way shall not be considered as land area when computing lot size.

Setback: The line within a property defining the required minimum distances between any structure or use and right-of-way, centerlines, section lines, or other designated points.

Sight Line: See Clear Sight Triangle

Sign: Any outdoor advertising having a permanent location on the ground or attached to or painted on a building, including bulletin boards, billboards, nameplates, and poster boards.

Street: A way for vehicular traffic designed as a street, highway, boulevard, thoroughfare, parkway, thoroughway, avenue, road, or court on the official records and maps.

Street-Arterial: Those which are used primarily for fast or heavy traffic.

Street Trees: Defined as trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues, or ways within the City.

Structural Alteration: Any change in the supporting members or any substantial change in the roof or exterior walls of a building.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

Subdivision: The division of a tract or parcel of land into lots or parcels of land for the purpose, whether immediate or future, of sale or of building development. The division of agricultural land, for agricultural purposes, into parcels or more than ten (10) acres, not involving any new streets, shall not constitute a subdivision.

Tract: A plot, piece or parcel of land, other than a lot which is recorded in the office of the Register of Deeds of McLean County.

Unplotted Lot: A plot of land other than a subdivision.

Use: The specific purpose for which land or a building is used.

Variance: The relaxing of the requirements of this ordinance where it can be shown that due to unusual conditions of the property strict application of the regulations would result in undue hardship. The variance shall not be contrary to the public interest.

Yard, Front: A yard that extends across the full width of the lot. The depth is measured as the least distance between the front lot line and front building line.

Yard, Rear: A yard that extends across the full width of the lot. The depth is measured as the least distance between the rear lot line and the rear building line.

Yard, Side: The yard between the front and rear yards. The depth measured as the least distance from the side lot line and the side of the principle building.

Yard: A space on the same lot with the principle building or structure, open, unoccupied and unobstructed by buildings or structures from the ground upward.

Zoning Administrator: Designated by the City Council as the City Auditor.

Zoning Commission: The body appointed by the City Commission of Max to establish the zoning affairs of the city.

Zoning District Map: The map showing the zoning districts of the City of Max officially adopted by the City Commission of the City of Max.

ARTICLE 3. Application of Regulations

6.0301 Application of Regulations

Except as provided in this chapter:

1. **Conformity of Buildings and Land.** No building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.
2. **Conformity of Buildings.** No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area, and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.
3. **Conformity to Open Spaces.** No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

6.0302 Extraterritorial Zoning

1. Pursuant to North Dakota Century Code section 40-47-01.1, the City may extend the application of the City's zoning regulations to any quarter quarter section of unincorporated territory if a majority of the quarter quarter section is located within one (1) mile of the corporate limits of the City.

ARTICLE 4. ESTABLISHMENT OF DISTRICTS

6.0401 Use and Area Districts Established

For the purposes of this chapter, the City is hereby divided into use districts and area districts as shown on the District Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this ordinance. A copy of said map is on file in the office of the City Auditor.

Where uncertainty exists with respect to the boundaries of the various districts hereby established and as shown on the District Zoning Map, the following rules shall apply:

- a) The district boundaries are the center lines of streets or alleys, unless otherwise shown.
- b) Where the district boundaries are not center lines of streets or alleys and where the land has been or may hereafter be divided into lots or blocks and lots, the district boundaries shall be construed to be lot lines.
- c) Where land has not been subdivided into lots or blocks and lots, the district boundary lines on the District Zoning Map shall be determined by the use of the scale of measurement shown on said map.
- d) Where uncertainty may exist as to the exact boundary line of a district, the same shall be determined by the board of adjustment and a record kept thereof.

6.0402 Annexed Property

Property which has not been included within a district and which has become a part of the City by annexation shall automatically be classified as lying and being in the residential district until such classification has been changed by an amendment to the zoning ordinances as prescribed by law.

ARTICLE 5. USE DISTRICTS

6.0501 Use Districts

The City is hereby divided into the following Use Districts to be known as:

Ag	Agricultural District
R-1	Residential Districts, Single-Family
R-3	Residential Districts, Multi-Family
MH	Mobile Home District
C	Commercial Districts
I	Industrial Districts
NB	No Build Zone

Established Districts currently in effect with the City of Max are hereby grandfathered into this ordinance. See Article 6.07.

6.0502 Ag – Agricultural District

- 1) Purpose: To establish and preserve area of agriculture and low density development which do not significantly change the existing character of the area.
- 2) Permitted Uses
 - a. Agriculture and agriculture-related buildings and farm dwellings (provided that such uses are maintained in connection with a farming operation where fifty (50) percent or more of the operator's income is derived from farming).
 - b. Park and outdoor recreational facilities and related buildings for outdoor recreation.
 - c. Churches and facilities related to religious activities
 - d. Public and parochial schools.
- 3) Conditional Uses:
 - a. Sanitary disposal facilities including landfills
 - b. Mineral extraction including sand and gravel operations
 - c. Cemeteries
 - d. Agriculture and agriculture-related buildings (provided such uses are maintained and operated when less than fifty (50) percent of the operator's income is derived from farming operations).
 - e. Junk yards and salvage operations are not allowed within the City limits.
- 4) Dimensional Standards
 - a. Setbacks
 - i. 50 feet from any public right-of-way or property line
 - ii. Corner lots must adhere to clear sight triangle setback
 - b. Lot size
 - i. Minimum two (2) acre for non-farm residences
- 5) District Regulations
 - a. Any activity within 100 feet of non-farm residential dwelling that is noxious or offensive by reason of dust, odor, chemical spray, or noise shall not be permitted unless it is considered essential to normal farming operations.
 - b. The keeping of livestock is not allowed within the City of Max limits.

6.0503 R-1 – Residential Districts – Single Family

1) Purpose: In a single-family district, it is the intent to provide for low density residential use.

2) Permitted Uses

~~a) Dwelling houses occupied by not more than one family~~

~~b) Dwelling houses each occupied by not more than two families. Each family shall not be allowed more than two roomers or boarders per family.~~

c) Manufactured homes

d) Parks

e) Churches and parish houses.

f) Public and parochial schools

g) Hospitals

h) Clinics

i) Customary accessory uses associated with the permitted uses.

3) Conditional use

a) Manufactured home parks

b) Multi-family residences and home occupations

4) Dimensional Standards - minimum

a) Minimum lot size

i) Width – 75 feet

ii) Area – 11,250 square feet

b) Minimum Setbacks

i) Front yard – depth of 30 feet

ii) Rear yard – Depth of 25 feet, exclusive of a 10 foot alley easement

iii) Side yard – Width of 10 feet

iv) Corner lots must adhere to clear sight triangle setback

c) Maximum Intensity

i) The principal building and all accessories shall not cover more than 30 percent of an inside lot, nor more than 35 percent of a corner lot

d) Maximum Height Requirements

i) No building shall exceed 40 feet or 3 stories in height

e) Motor Vehicle Parking

i) Adequate off-street motor vehicle parking shall be provided. Motor vehicle parking shall be allowed on yards and setbacks.

f) Manufactured Home Regulations

i) According to Federal, State and Insurance regulations

ii) No single wide manufactured home is allowed outside of a mobile home park

iii) Pre-owned homes must be inspected before moving into City limits.

iv) Double wide manufactured home must be placed on concrete footings.

g) Camper regulations

i) No vehicle of this type may be actively occupied for more than 15 consecutive days.

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6.0504 R-3 – Residential Districts – Multi- Family

- 1) Purpose: It is the intent of the multi-family district regulations to provide for high intensity residential use.
- 2) Permitted Uses
 - a) All permitted uses in R-1
 - b) Multi-family dwellings
 - c) Community garages, used in conjunction with an occupied dwelling.
 - d) Industrial homes
 - e) Nursing homes
- 3) Conditional use
 - a) Manufactured home parks, multi-family residences and home occupations.
- 4) Dimensional Standards - minimum
 - a) Minimum lot size
 - i) Width – 75 feet
 - ii) Area - 3000 square feet per family
 - b) Minimum Setbacks
 - i) Front yard – depth of 25 feet
 - ii) Rear yard – Depth of 20 feet, exclusive of a 10 foot alley easement
 - iii) Side yard – Width of 10 feet
 - iv) Corner lots must adhere to clear sight triangle setback
 - c) Maximum Intensity
 - i) The principal building and all accessories shall not cover more than 50 percent of an inside lot, nor more than 50 percent of a corner lot
 - d) Maximum Height Requirements
 - i) No building shall exceed 40 feet or 3 stories in height
 - e) Motor Vehicle Parking
 - i) Adequate off-street motor vehicle parking shall be provided. Motor vehicle parking shall be allowed on yards and setbacks.
 - f) Manufactured Home Regulations
 - i) According to Federal, State and Insurance regulations
 - ii) No single wide manufactured home allowed outside of mobile home park
 - iii) Pre owned homes must be inspected before moving into City limits.
 - iv) Double wide manufactured home must be placed on concrete footings.
 - g) Camper Regulations
 - i) No vehicle of this type may be actively occupied for more than 15 consecutive days.

6.0505 MH – Mobile Home Districts

- 1) Purpose: It is the intent of these district regulations to provide for an area for a mobile home park to be developed for long term residential use or for industrial housing development.
- 2) Permitted Uses
 - a) Mobile Homes
 - b) Industrialized Housing
 - c) Accessory Uses
- 3) District Regulations
 - a) Mobile Home Parks shall be a minimum of five (5) contiguous acres and a maximum of seven (7) homes per gross acre.
 - b) A minimum of twelve (12) percent of the gross site area shall be devoted to open space or recreational facilities.
 - c) Underground utility hookups shall be provided for each lot. These utilities shall include water, sewer, gas, electricity, and telephone.
 - d) Minimum lot size
 - i) Width – 50 feet
 - ii) Area - 5000 square feet
 - e) Minimum Setbacks
 - i) Front yard – minimum depth of 10 feet
 - ii) Side yard – Minimum width of 15 feet
 - f) Motor Vehicle Parking
 - i) Adequate off-street motor vehicle parking shall be provided. Motor vehicle parking shall be allowed on yards and setbacks.
 - g) Streets
 - i) The individual mobile home units in the park shall be served by public streets; those streets shall be plotted and constructed according to the applicable street standards for the City of Max.
 - h) Conditional Use – Camper Park
 - i) Applicants shall provide:
 - (1) Written evidence of compliance with the regulations of the North Dakota State Laboratories Department.
 - (2) A duplicate of the license obtained from the State of North Dakota State Laboratories Department.
 - (3) Written evidence of approval by the North Dakota Health Department.
 - (4) Proposed rules and regulations.
 - (5) Mapped locations.
 - (6) Site plan submitted to State Laboratories.
 - (7) Plans and specifications of all permanent type-buildings submitted to State Laboratories.
 - (8) Any additional information deemed necessary by the Planning Commission.
 - ii) The following conditions shall apply:
 - (1) Minimum lot size
 - (a) Width – 50 feet
 - (b) Area – two thousand five hundred (2,500) square feet
 - (2) Buffer requirements
 - (a) An approved landscape-type buffer zone between each lot
 - (3) The applicant shall provide a frontage access road to the nearest quarter mile access to a public road of no less than 24 foot width.

- (4) Written and drafted evidence of conformance to the Environmental Health Guide for Travel Trailer Parking Areas.
- (5) Hold a Preliminary Conference with the Planning Commission providing compliance with zoning requirements.

6.0506 C – Commercial Districts

- 1) Purpose: It is the intent of this district to reserve an area for the grouping of businesses and personal services into a concentrated area serving the shopping needs of the community and surrounding trade area.
- 2) ~~Permitted Uses~~
 - a) ~~All permitted uses in R's~~
 - b) ~~All commercial business and service including but not limited to---~~
 - i) ~~Grocery~~
 - ii) ~~Drugs~~
 - iii) ~~Hardware~~
 - iv) ~~Clothing~~
 - v) ~~Bakeries~~
 - vi) ~~Eating and Drinking establishments~~
 - vii) ~~Professional offices~~
 - c) ~~Educational, philanthropic, or charitable institutions~~
 - d) ~~Clubs and lodges~~
 - e) ~~Family hotels and motels~~
 - f) ~~Gasoline Stations for retail, garages, and retail shops~~
 - g) ~~Public utilities~~
 - h) ~~Transportation and communication facilities~~
- 3) Conditional use
 - a) Storage facilities for building materials, such as lumber, steel, concrete blocks, or pipe, provided that these materials are either:
 - i) Enclosed by a wall or fence not less than 6 feet high, or
 - ii) Stored in an enclosed structure
 - b) Sleeping rooms
 - c) Apartments or owner-owned residences housed within commercial businesses or service establishments
 - i) This use must be secondary to the main commercial use of the building and occupy less than 50 percent of the total floor area
- 4) Dimensional Standards - minimum
 - a) Yards
 - i) Front – none
 - ii) Rear – 10 feet except where adjoining a RE District, then same as RE District
 - iii) Lot size – No minimum
 - b) Setbacks
 - i) Minimum Setbacks
 - (1) Front yard – depth of 25 feet
 - (2) Rear yard – Depth of 20 feet, exclusive of a 10-foot alley easement
 - (3) Side yard – ~~Width of 10 feet~~
 - ii) Corner lots must adhere to clear sight triangle setback
 - iii) 60 feet from right-of-way setbacks apply when CO District fronts a federal highway.
 - c) Maximum Dimensional Standards
 - i) Building Height – No building shall exceed seventy (70) feet or four (4) stories in height.

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- ii) All buildings located within the fire limits of the city, as defined by ordinance, shall conform to the construction as prescribed in said ordinance.
- d) Motor Vehicle Parking
 - i) Adequate off-street motor vehicle parking shall be provided.

6.0507 I – Industrial Districts

- 1) Purpose: It is the intent of this district to establish and preserve areas with good public transportation facilities such as highway and rail, for industrial development in locations not incompatible with other zoning districts.
- 2) Permitted Uses
 - a) All permitted uses in Commercial Districts
 - b) Farm Equipment Sales
 - c) Bulk Petroleum Storage and/or Sales
 - d) Grain and Feed Elevator or Mill
 - e) Heavy equipment sales, service or repair
 - f) Lumber yard
 - g) Sewage disposal plant
 - h) Solid waste landfill and transfer stations
 - i) Trucking or freight terminal
 - j) Warehouses
 - k) Welding shops
- 3) Conditional use
 - a) Automobile salvage and wrecking operations and junk yards are NOT allowed within the City limits of the City of Max.
 - b) Storage facilities for building materials, such as lumber, steel, concrete blocks, or pipe, provided that these materials are either:
 - i) Enclosed by a wall or fence not less than 6 feet high, or
 - ii) Stored in an enclosed structure
- 4) Dimensional Standards - minimum
 - i) Yard
 - (1) All industrial uses must be situated at a minimum of 100 feet from any residential property line.
 - ii) Front
 - (1) 45 feet
- 5) Dimensional Standards - maximum
 - i) Building Height
 - (1) 90 feet or four (4) stories
 - ii) Lot coverage
 - (1) Not covered by more than 75% of building
 - b) Motor Vehicle Parking
 - i) Adequate off-street motor vehicle parking shall be provided for all rolling equipment at a ratio of one-to-one.
 - ii) For visitors and customers at a ratio of one-per management employee
 - iii) Motor vehicle shall be allowed on yards and setbacks.
 - c) Outdoor Storage of Material
 - i) Outdoor storage of material for process or sale shall not be permitted on any front yard or in any sight line.

6.0508 NB – No Build Zone District

- 1) Purpose: It is the intent of this district to designate areas of the city that engineers have designated as no build areas due to various circumstances. Examples are flooding, unsafe for structures, etc.

ARTICLE 6. TREES, SHRUBS, FENCES

6.0601 – Responsibilities

- 1) The Zoning Committee is responsible to study, investigate, and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees, shrubs, and fences in public ways, streets and alleys.
 - a) Such plan will be presented annually to the City Council for approval.
- 2) The City Council, or its Agent, shall be responsible for the planting, pruning, and removal of all trees located within the street rights-of-way, easements, alleys and parks of the City.
- 3) The owner of land abutting on any street may, when acting within the provisions of this ordinance, prune, spray, plant or remove trees in that part of the street abutting his land not used for public travel.
- 4) A street tree permit shall be required when the owner of the property intends to deviate from the rules and regulations contained in this ordinance.

6.0602- Distance & Spacing

- 1) Trees Distance
 - a) Trees may be planted from curbs or curb lines and sidewalk as specified.
 - i) Five (5) feet from curb
 - (1) If within this distance, must be trimmed as follows:
 - (a) Trees – minimum of four (4) feet from ground
 - (i) Branches must not extend lower than four (4) feet from ground within boulevard area.
 - (b) Shrubs – maximum of four (4) feet high
 - a) Street Corners and Fireplugs
 - i) Street Corners – subject to clear site triangle definition
 - b) Fireplugs
 - i) No street tree shall be planted closer than 20 feet of any fireplug
- 2) Fence Distance
 - a) Fences cannot be erected within boulevard or within five (5) feet of curb
 - i) See definitions for definition of boulevard
 - b) Subject to clear-site triangle definition
 - c) May not be placed within 10 feet of any fireplug
- 3) Spacing
 - a) Small trees
 - i) Up to 25 feet at maturity
 - ii) Spaced at 20 feet
 - b) Medium trees
 - i) Up to 40 feet at maturity
 - ii) Spaced at 30 feet
 - c) Large trees
 - i) Up to 60 feet at maturity
 - ii) Spaced at 40 feet

- 4) Between Properties – Trees and fences
 - a) No construction within five (5) feet of curbside
 - b) Construction of trees, shrubs, or fences cannot proceed on side (mutual) property lines without a mutual agreement between property owners being secured
 - i) Signed document must be presented to the Zoning Board before construction/planting can begin.
 - ii) In event of no agreement
 - (1) Requires five (5) feet setback from property line
 - c) Cannot cause a hardship to adjoining property
 - i) Holds snow causing building destruction
 - ii) Obstructs view of traffic for entering public street

6.0603 – Utilities

- 1) All construction or planting on city property requires notification to one-call prior to any work beginning.
- 2) Street trees over 25 feet at maturity may not be planted under or within 10 lateral feet of any overhead utility wire, or over or within 5 lateral feet of any underground water line, sewer line, transmission line or other utility.
- 3) Fences may not be placed in any manner to interfere with the maintenance or construction of public utilities.

6.0604 – Public Care Tree

The City shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety when servicing city utilities or to prepare the symmetry and beauty of such public grounds.

The City Council may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which be reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest.

6.0605– Trimming and Removal

- 1) Property Owners
 - a) Every owner of any tree overhanging any street or right-of-way within the City shall trim the branches
 - i) Branches shall not obstruct the light from any street lamp
 - ii) Branches shall not obstruct the view of any street intersection
 - iii) Provides a clear space of eight feet (8') above the surface of the street or right-of-way.
 - b) Said owners shall remove all dead, diseased or dangerous trees
 - i) Broken or decayed limbs that constitute a menace to the safety of the public.
- 2) City
 - a) Shall have the right to trim any tree or shrub on private property
 - i) When it interferes with the proper spread of light along the street from a street light
 - ii) When it interferes with visibility of any traffic control device or sign
 - b) Trimming is confined to area immediately above the right-of-way

6.0606– Notification

- 1) City Council or City Zoning Committee will notify, in writing, the owners of such trees.
 - a) Removal shall be done by said owners at their own expense within sixty (60) days after the date of service of notice.
 - i) In event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

6.0607– License and Bond

- 1) It shall be unlawful for any person or firm to engage in the business or occupation of trimming, pruning, treating, or removing street or park trees within the City without first applying for and securing a license.
 - a. License fee shall be \$25 annually in advance
 - b. No license shall be required for any public service company
 - c. No license shall be required for city employee(s) doing such work in the pursuit of their public service endeavors
- 2) Before any license shall be issued, each applicant shall first file evidence of possession of liability insurance in the minimum amounts of \$50,000 for bodily injury and \$10,000 property damage indemnifying the City or any person injured or damaged resulting from the pursuit of such endeavors.

6.0608 – Interference

It shall be unlawful for any person to prevent, delay or interfere with the City boards, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any street trees, park trees, or trees on private grounds, as authorized in this ordinance.

6.0609 – Review

The City Council shall have the right to review the conduct, acts and decisions of the Zoning Board.

ARTICLE 7. NON-CONFORMING USES

6.0701 – Non-Conforming Uses

Non-conforming uses of land or buildings existing at the date of adoption of this ordinance may continue provided there are not structural alterations and the non-conforming use shall not be extended to occupy a greater area of land.

- 1) Alterations
 - a. A non-conforming building or structure may be altered, improved, or reconstructed provided such work is not to an extent exceeding in aggregate cost twenty-five percent (25%) of the assessed value of the building or structure, unless the building or structure is changed to a conforming use.
- 2) Extension
 - a. A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this ordinance shall not be deemed the extension of such non-forming use.
- 3) Changes
 - a. No non-conforming building, structure or use shall be changed to another non-conforming use.

- 4) Abandonment
 - a. A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such non-conforming use.
- 5) Unlawful Use Not Authorized.
 - a. Nothing in this ordinance shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this ordinance.
- 6) Certificate of Non-Conforming Use
 - a. Upon the effective date of adoption of this ordinance, the zoning administrator shall issue a "Certificate of Non-Conforming Use" to all owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.
 - i. In accordance with the provisions of this section no use of land, buildings or structures shall be made other than that specified on the "Certificate of Non-Conforming Use," unless said use shall be in conformity with the provisions of the use zone in which the property is located.
 - ii. A copy of each "Certificate of Non-Conforming Use" shall be filed with the office of the zoning administrator. No permit or license shall be issued to any property for which a "Certificate of Non-Conforming Use" has been issued until said permit or license has been approved by the zoning commission.
- 7) District Changes
 - a. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district classification, the foregoing provisions shall apply to any non-conforming uses existing therein.

ARTICLE 8. ADMINISTRATION

6.0801 Administrative Official

1) Administrative Official

- a. The administration and enforcement of this ordinance is hereby invested in the Planning/Zoning Commission and City Council, City of Max, North Dakota.
 - i. (revised)
 - ii. Administers and enforces the provisions of this ordinance
 - iii. Receives applications for building permits
 1. No building permit or certificate of occupancy shall be issued except where the provisions of this ordinance have been met

2) ~~Duties~~

a. ~~Planning Zoning Commission~~

- ~~i. Issues all building permits and certificates of compliance~~
- ~~ii. Conducts inspections of building for compliance with zoning ordinances and other applicable codes or ordinances~~
- ~~iii. Maintains records of the regulations and permits~~
- ~~iv. Maintains minutes of all meetings held.~~
- ~~v. Trees, Shrubs, Fences~~
 1. Prepares annual plan for care, preservation, trimming, planting, replanting, removal or disposition of trees, shrubs and fences in public ways, streets and alleys.
 2. When requested by City Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.
- ~~vi. Interprets district boundaries on the zoning district map~~
- ~~vii. Establishes rules, regulations, and procedures for the purpose of administering this ordinance.~~

b. ~~City Council~~

- ~~i. (Revision 7/2018)~~
- ~~ii. Shall receive all complaints stemming from this zoning ordinance,~~
 1. ~~zoning violations,~~
 2. ~~application for amendments,~~
 3. ~~application for conditional uses,~~
 4. ~~application for variances~~
- ~~iii. Shall officially appoint a city resident to act as Zoning Administrator and conduct the business from above mentioned duties~~
 1. ~~Administrator shall be directly responsible to City Council~~
- ~~iv. Conduct public hearings on~~
 1. ~~Conditional use permits~~
 2. ~~Variance permits~~
 3. ~~Ordinance amendments~~
 4. ~~Any other business pertaining to the zoning ordinance which requires a public hearing~~
- ~~v. Serves as Board of Adjustment~~
- ~~vi. Trees, Shrubs, Fences~~
 1. ~~Responsible for the planting, pruning, and removal of all trees located within the streets rights-of-way, easements, alleys and parks of the City.~~

SEE
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OF
7/2018
P. 27

6.0802 Building Permit

- 1) No land within the zoning limits shall be built upon and no structure or building shall be structurally altered or moved until a permit has been obtained from the Zoning Administrator.
- 2) Any building permit issued must be in conformance with this ordinance.
- 3) No permit is required for maintenance of any building or structure which does not structurally alter the building.
- 4) Construction and completion of building project must take place within one year of the issuance of permit or else the permit expires.
- 5) ~~The building permit process is outlined below:~~
 - a) ~~All applicants who wish to build or alter any structure as defined in this ordinance must apply to the zoning administrator for a permit.~~
 - b) ~~If the applicant's plans meet district regulations as prescribed in this ordinance and any other applicable codes and ordinances, the Zoning Administrator collects the fees and issues the building permit.~~
 - c) ~~If the applicant's plans do not comply with district regulations, the amendment, variance, appeals procedure in this section applies~~

SEE
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7/2018

6.0803 Certificate of Compliance

- 1) The certificate of compliance process is outlined as follows:
 - a) Upon completion of any work requiring a building permit, the Zoning Administrator conducts an onsite inspection of the work specified on the building permit.

6.0804 Certificate of Occupancy

- 1) No land shall be occupied or used and no building hereafter erected, altered, or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the zoning committee, stating that the building or proposed use thereof complies with the provisions of this ordinance.
 - a. No non-conforming use shall be maintained, renewed, changed or extended without a certificate of occupancy having first been issued by the zoning administrator therefore.
 - b. All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within forty-five (45) days after the erection or alteration shall have been approved.
 - c. The zoning administrator shall maintain a record of all certificates and copies shall be furnished, upon request, to any person having a proprietary or tenancy interest in the building affected.
 - d. No permit for excavation for, or the erection or alteration of or repairs to any building shall be issued until an application has been made for the certificate of occupancy.

Under such rules and regulations as may be established by the board of Adjustment and filed with the zoning administrator, a temporary certificate of occupancy for not more than thirty (30) days for a part of a building may be issued by the zoning administrator.

6.0805 Fees and Charges

- 1) A fee of \$25 shall be paid by the applicant upon filing an application for any amendment to the zoning ordinance or zoning map or for any other activity which requires a public hearing.
- 2) The following schedule shall be used for issuing building permits. The fee shall be paid by the applicant to the Zoning Administrator prior to receiving the permit. The fee is determined as follows:
 - a) ~~Deck~~ ~~\$5.00~~
 - b) ~~Accessory Building~~ ~~\$10.00~~
 - c) ~~Additions to a Building, value over \$1,000~~ ~~\$10~~
 - d) ~~Moving Permit – (not required when moving out of zoning limits)~~ ~~\$10~~

Amended 07/2014

See page 23

ARTICLE 9. BOARD OF ADJUSTMENT

6.0901 Creation of Board

- 1) Creation, Appointment and Organization.
 - a. The City governing body shall serve as the Board of Adjustment.
- 2) Powers and Duties. The Board of Adjustment shall have all the powers and duties prescribed by law and by this chapter, which are particularly specified as follows:
 - a. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
 - b. Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the Board of Adjustment shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in the strict application of any provision of this chapter shall be granted by the Board of Adjustment unless it finds:
 - i. That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
 - ii. That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose.
 - iii. That the granting of this variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the board, in determining its finding, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity

- 3) Procedure. The Board of Adjustment shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance shall be granted, as the case may be. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the city auditor.
- 4) Notice and Hearing. No action of the Board shall be taken on any case until after due notice has been given to the parties and public hearing has been held.

ARTICLE 10. VIOLATIONS AND PENALTIES

6.1001 Anyone who violates the provisions of this ordinance or fails to comply with any of its requirements, upon conviction, shall be fined not more than \$200 per day. Each day that a violation continues shall constitute a separate offense.

- 1) Within one year from the date a permit was issued all dirt work must be completed and the structure must be enclosed. Failure to comply may result in a fine of not more than \$200 per day.

6.1002 All fees and penalties established by this ordinance shall be credited to the General Fund of the City of Max.

6.1003 Action to Correct Violations

- 1) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure or land is used in violation of this chapter, the proper county authorities or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceedings:
- 2) To prevent such unlawful erection, construction, reconstruction, alteration, repair, or conversion, maintain, or use;
- 3) To restrain, correct, or abate such violations;
- 4) To prevent the occupancy of the building, structure, or land; or
- 5) To prevent any illegal act, conduct, business, or use in or about such premises (ND Century Code, Section 40-47-12)

ARTICLE 11. ENFORCEMENT

6.1101 Hearings

- 1) Any person who feels he has been aggrieved by a decision of any official, department or board of the city may petition for a hearing to the City Council.
- 2) The appeal shall be presented in writing to the City Council and it shall specify the grounds for appeal.
- 3) The hearing shall be held within reasonable time of the filing of the appeal.
- 4) Within fifteen (15) days after the hearing, the City Council shall take action and send their decision by registered mail to the petitioner.
- 5) It requires a concurring vote of three (3) to reverse any order, requirement or decision made by any official, department or board of the city.

6.1102 Enforcement.

The erection, construction, reconstruction, alteration, repair, conversion or maintenance of any building or structure or the use of an building, structure or land in violation of this article or of any regulation, order, requirement, decision or determination made under authority conferred by this ordinance, shall constitute the maintenance of a public nuisance and any appropriate action or proceeding may be instituted by the City, through any administrative officials, department, board of bureau charged with the enforcement of this article:

- 1) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use
- 2) To restrain, correct or abate such violation
- 3) To present the occupancy of the building, structure or land; or
- 4) To prevent any illegal act, conduct, business or use in or about such premises.

A violation of any provision of this article or a violation of or refusal or failure to comply with any regulation, order, requirement, decision of determination made under authority conferred by this article shall be punishable as an infraction. Each day the violation continues constitutes a separate violation. (see ND Century Code section 12.1-32.01)

ARTICLE 12. AMENDMENTS/SPECIAL PROVISIONS

These provisions shall apply to all districts unless otherwise stated in the district regulations.

This ordinance recognizes that certain activities, conditions, and uses may affect all districts and may be detrimental in certain districts unless proper safeguards are taken. Therefore, the following regulations have been made to protect the welfare of the people of the City of Max.

6.1201 Exceptions to Maximum Height Requirements

- 1) The following shall be exempt from maximum height requirements in all district regulations:
 - a) Antennas, belfries, chimneys, cupolas, flag poles, ventilators, water tanks, or other appurtenances usually required to be placed above roof level and not intended for human occupancy.
 - b) Towers may be erected to any height provided the same shall not exceed in area one-quarter (1/4) the area of the lot upon which the principle building is located, and shall not exceed two thousand five hundred (2,500) square feet in area, and shall be a minimum of twenty-five (25) feet at every point from any adjoining property line.
 - 2) Gasoline Filling Stations and Stations: Where Prohibited
 - a) Any retail gasoline filling station, bulk oil or gasoline station shall not be located within three hundred (300) feet of any block whereon there is located a public or parochial school.
 - 3) Churches and Schools – Exceptions to maximum intensity and setback requirements
 - a) Churches and schools shall be permitted to occupy seventy-five (75) percent of corner lots and sixty-five (65) percent of inside lots
 - b) Rear yards shall be a minimum depth of six (6) feet.
 - c) Side yards shall be a minimum width of eight (8) feet.
- (4) ADOPTION OF CODE: (see amendments)

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OF
4/2019

6.1202 Amendments

- ~~1) The governing body may, from time, to time, amend this article by supplementing, changing, modifying or repealing any of the regulations, restrictions or other provisions thereof or of the district map or the districts on said map or of the boundaries of such district. A proposed amendment may be initiated by the said Board upon its own motion, or upon receipt of a request therefore from the City zoning commission or upon receipt of a petition therefore from any interested person or persons or their agents.~~
- 2) ~~Report of City Zoning Commission – Public Hearing. The governing body shall require a report from the City zoning commission on a proposed amendment before taking final action thereon. The City zoning commission shall thereupon make a tentative report and hold a public hearing thereon with notice the same required for a public hearing by the governing body, before submitting its final report. Such final report shall be submitted within ninety (90) days after the time of referral of the proposed amendments to the City zoning commission unless the governing body is agreeable to an extension of time.~~
- 3) ~~Action by Governing Body – Public Hearing. After the receipt of the required final report on any amendment from the City zoning commission or in the event of the failure of the City zoning commission to so report within ninety (90) days following the time of referral of the proposed amendment to the City zoning commission, the governing body shall hold a public hearing, after which the proposed amendment may be passed. Not less than fifteen (15) days notice of the time~~

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2/2013

~~and place of holding such public hearing shall first be published in the official newspaper. A hearing shall be granted to any person interested, and the time and place specified.~~

- 4) ~~Vote after Protest. If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of twenty percent (20%) or more:~~
- ~~a. Of the area of the lots included in such proposed change; or~~
 - ~~b. Of those immediately adjacent in the rear thereof extending 150 feet there from; or~~
 - ~~c. Of those directly opposite thereto extending 150 feet from the street frontage of such opposite lots.~~
- 5) The amendment shall not become effective except by the favorable vote of three-fourth (3/4) of all the members of the governing body.

6.1203 Repeal

All other ordinances or parts of ordinances that are in conflict with this ordinance are hereby repealed.

6.1204 Severability

If any provision or section of this ordinance is found invalid by a court of competent jurisdiction, the remainder of the ordinance shall not be affected.

6.1205 Effective Date

This ordinance shall become effective after adoption by the City Council, Max, North Dakota.

First Reading: _____
Second Reading & Adopted _____

Signed: _____ Auditor
_____ Mayor

AMENDMENTS

6.0503 R-1 – Residential Districts – Single Family

- 5) Purpose: In a single-family district, it is the intent to provide for low density residential use.
- 6) Permitted Uses
 - a) Dwelling houses occupied by not more than one family
 - i) Single family residence shall not be allowed more than one roomer or boarder
 - b) Dwelling houses each occupied by not more than two families.
 - i) Two family dwellings may be town house or a duplex only; dwelling must meet minimum dimensional standards below to obtain building permit.

6.1202 Amendments

- 1) The governing body may, from time, to time, amend this article by supplementing, changing, modifying or repealing any of the regulations, restrictions or other provisions thereof or of the district map or the districts on said map or of the boundaries of such district. A proposed amendment may be initiated by the said Board upon its own motion, or upon receipt of a request therefore from the City zoning commission or upon receipt of a petition therefore from any interested person or persons or their agents.
- 2) City Zoning Commission
 - a. Zoning Map Change Requests
 - i. Upon receipt of application for zoning change, consideration of the application will be acted at the next regular meeting of the commission.
 - 1. A special meeting of the Zoning Commission to consider the application may be called by the Chairperson of the Commission if application request is submitted between regular meeting of commission and one week prior to City Council meeting.
 - ii. Agenda and notice requirements of open meetings law must be complied with.
 - iii. The commission should decide one of the following:
 - 1. Further review for the requested change
 - 2. Further review for the requested change subject to conditions, or
 - 3. Against the requested change.
 - iv. If further review for change, a public hearing on the proposed change will be held by the Zoning Commission not less than seven (7) nor more than twenty (20) days following.
 - 1. Notice published in official city newspaper once a week for two (2) successive weeks prior to the set time for said hearing. A notice shall also be posted in a conspicuous place of a public building, such as post office.
 - 2. Notice of the public hearing and proposed change should be mailed to all property owners within 150 feet at least seven (7) days prior to the public hearing.
 - a. At the hearing, the applicant presents his proposal for amending the zoning map. At this hearing the public presents comments and the adjacent property owners may state their opinions for the record.
 - v. Commission's decision should be reported in its minutes and its recommendation forwarded to the City Council at their next meeting.

- b. Ordinance Amendment Requests
 - i. City Council, Zoning Commission or a valid petition from any interested persons or persons may initiate a consideration for any ordinance amendment.
 - ii. A final report to any proposed amendment shall be submitted within ninety (90) days after the time of referral of the proposed amendments to the City zoning commission unless the governing body is agreeable to an extension of time.
- 3) Governing Body
- a. Zoning Change Requests
 - i. Upon receipt of a recommendation of any change from the City zoning commission:
 - 1. A second public hearing on the proposed change shall be held by City Council for which notice should be published not less than seven (7) nor more than twenty (20) days prior to the hearing.
 - a. Council motion is not required to set hearing
 - b. City Auditor may schedule hearing and publish notice.
 - 2. Public hearing and request for action should be placed on Council agenda with final approval or disapprove made by Council.
 - 3. If disapproved, an applicant may appeal to Council or a court of law.
 - b. Ordinance Amendment Requests
 - i. City Council will review recommendation for change from Planning Commission.
 - ii. Process for adoption will follow same procedure as any city ordinance amendment/change.
 - iii. Request for action should be placed on Council agenda with final approval or disapprove made by Council.
- 4) Vote after Protest. If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of twenty percent (20%) or more:
- a. Of the area of the lots included in such proposed change; or
 - b. Of those immediately adjacent in the rear thereof extending 150 feet there from; or
 - c. Of those directly opposite thereto extending 150 feet from the street frontage of such opposite lots.
 - d. The amendment shall not become effective except by the favorable vote of three-fourth (3/4) of all the members of the governing body.

First Reading: February 2013

Signed: _____ Auditor

Second Reading & Adopted March 2013

_____ Mayor

6.0805 Fees and Charges

- 1) A fee of \$25 shall be paid by the applicant upon filing an application for any amendment to the zoning ordinance or zoning map or for any other activity which requires a public hearing.
- 2) The following schedule shall be used for issuing building permits. The fee shall be paid by the applicant to the Zoning Administrator prior to receiving the permit.
The fee is determined as follows:
 - a) Permit required - \$10
 - b) Deck - \$5.00
 - c) Demolition Permit - \$10
 - d) Moving Permit – (not required when moving out of zoning limits) - \$10
- 3) ALL applications would require a fee, and if value of change is over a specific amount, then fee may be higher. Only “repairs (A4)” would require just the application.

First Reading: ____ June 2015 _____

Signed: _____ Auditor

Second Reading & Adopted _ July 13, 2015 _____

_____ Mayor

AMENDMENTS/REVISIONS – JULY 2018

6.0506 Commercial

- 1) Permitted Uses
 - a) All permitted uses in R's
 - b) All commercial business and service including—but not limited to---
 - i) Grocery
 - ii) Licensed Pharmacy
 - iii) Hardware
 - iv) Clothing
 - v) Bakeries
 - vi) Eating and Drinking establishments
 - vii) Professional offices
 - c) Educational, philanthropic, or charitable institutions
 - d) Clubs and lodges
 - e) Temporary housing
 - f) Gasoline Stations for retail, garages, and retail shops
 - g) Public utilities
 - h) Transportation and communication facilities
 - i) Community Garages

6.0801

3) Duties

- a. Planning Zoning Commission
 - i. Reviews and recommends all building permits and certificates of compliance
 - ii. Conducts inspections of building for compliance with zoning ordinances and other applicable codes or ordinances
 - iii. Maintains records of the regulations and permits
 - iv. Maintains minutes of all meetings held.
 - v. Trees, Shrubs, Fences
 1. Prepares annual plan for care, preservation, trimming, planting, replanting, removal or disposition of trees, shrubs and fences in public ways, streets and alleys.
 2. When requested by City Council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.
 - vi. Interprets district boundaries on the zoning district map
 - vii. Establishes rules, regulations, and procedures for the purpose of administering this ordinance.
- b. City Council
 - i. Receives and acts upon, with motions all building, demolition, conditional use permits
 - ii. Shall receive all complaints stemming from this zoning ordinance,
 1. zoning violations,
 2. application for amendments,
 3. application for conditional uses,
 4. application for variances
 - iii. Shall officially appoint a city resident to act as Zoning Administrator and conduct the business from above mentioned duties

1. Administrator shall be directly responsible to City Council
- iv. Conduct public hearings on
 1. Conditional use permits
 2. Variance permits
 3. Ordinance amendments
 4. Any other business pertaining to the zoning ordinance which requires a public hearing
- v. Serves as Board of Adjustment
- vi. Trees, Shrubs, Fences
 1. Responsible for the planting, pruning, and removal of all trees located within the streets rights-of-way, easements, alleys and parks of the City.

6.0802

- 1) The building permit process is outlined below:
 - a) All applicants who wish to build or alter any structure as defined in this ordinance must apply to the zoning administrator for a permit.
 - b) If the applicant's plans meet district regulations as prescribed in this ordinance and any other applicable codes and ordinances, the Zoning Administrator collects the fees
 - c) Presents all permits to the Planning & Zoning Commission for review.
 - d) Planning & Zoning makes the recommendation(s) at the next City Council meeting.
 - e) Upon City Council approval, building permits are issued by the Zoning Administrator within seven (7) days.
 - f) If the applicant's plans do not comply with district regulations, the amendment, variance, appeals procedure in this section applies

First Reading: ____ July 2, 2018 ____ Signed: _____ Auditor

Second Reading & Adopted _August 6, 2018_ _____ Mayor

ADDED to 6.1201

(4) ADOPTION OF CODE:

- (a) The erection, construction, enlargement, alteration, repair, moving, removal, demolition, conversion, occupancy, equipment, uses, height, area and maintenance of buildings or structures in the City of Max, County of McLean, if not previously stated, shall meet with the provisions of the rules and regulations of the North Dakota State Building Code and any future updates and amendments to that code, digital copies of which are on file with the City Auditor and are hereby made a part of this chapter by reference with the exception of the sections hereinafter set forth affecting local conditions in the City of Max, which are amended, for use and application in the City of Max, and the City of Max hereby adopts said code as so modified.

First Reading: ____ March 2019 ____ Signed: _____ Auditor

Second Reading & Adopted _April 2019_ _____ Mayor

AMENDMENTS/REVISIONS – ADOPTED JULY 2018

ADDED TO 6.0506 C – Commercial Districts

2) Permitted Uses

- i) Community Garage

ADDED TO 6.0507 I – Industrial Districts

3) Permitted Uses

- i) Community Garage

First Reading: ____ July 2018 ____

Signed: _____ Auditor

Second Reading & Adopted July 2018 ____

_____ Mayor

AMENDMENTS/REVISIONS – ADOPTED SEPTEMBER 2018

ADDED THE FOLLOWING TO DESCRIPTIONS:

Community Garages only allowed in designated districts and must fit one of the descriptions for **Garage, private** or **Garage, public**.

Garage, Private means an accessory building or portion of a principal building designed and used only for storing personal vehicles and crafts.

Garage, Public means a building or portion thereof, designed and used for repair, maintenance, sale, service or storage of motor vehicles and crafts

First Reading: ____ August 2018 ____

Signed: _____ Auditor

Second Reading & Adopted September 2018 ____

_____ Mayor

AMENDMENTS/REVISION – ADOPTED JUNE 2022

REVISION TO FOLLOWING:

6.0506 4/b/I for setbacks for side yard from 10' to 5' for commercial lots only.

First Reading: ____ June 6, 2022 ____

Signed: _____ Auditor

Second Reading & Adopted July 5, 2022 ____

_____ Mayor