

# **Chapter 39 ZONING**

*Last updated January 2016*

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## **Article 39.01 General Provisions**

### **Sections:**

<b>39.01.001</b>	<b>Title</b>
<b>39.01.002</b>	<b>Jurisdiction</b>
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<b>39.01.007</b>	<b>Severability of Provision</b>
<b>39.01.008</b>	<b>Publication</b>

### **Section 39.01.001 Title**

This title of the Dickinson Municipal Code shall be known as Zoning Ordinance of the City of Dickinson. (Ord. No. 1171 § 1.)

### **Section 39.01.002 Jurisdiction**

The provisions of this chapter shall be applicable to all property within the corporate limits of the City of Dickinson and its extra-territorial jurisdiction as provided by Chapters 40-47 of the North Dakota Century Code. The townships, sections and portions of sections within the jurisdiction of this chapter shall be as set forth in Table 1-1, Entitled “Dickinson ETZ”.

In addition to zoning regulations, the application of municipal building and property maintenance codes, basic housing codes, subdivision regulations, special use licensing and fire district codes shall be enforced in the extraterritorial zoning area as well as in the incorporated area of the municipality. (Ord. No. 1171 § 1, Ord. No. 1418 § 1)

## **TABLE 1-1 Dickinson ETZ**

### **Township 139 North, Range 96 West**

- Section 1
- Section 2
- Section 3
- Section 4
- Section 5
- Section 6
- Section 7
- Section 8
- Section 9
- Section 10
- Section 11
- Section 12
- Section 13
- Section 14

Section 15  
Section 16  
Section 17  
N1/2, SE1/4, N1/2SW1/4 and SE1/4SW1/4 of Section 18  
N1/2NE1/4 and SE1/4NE1/4 of Section 19  
N1/2, SE1/4 and N1/2SW1/4 of Section 20  
Section 21  
Section 22  
Section 23  
NW1/4, N1/2NE1/4 and W1/2SW1/4 of Section 24  
NW1/4, N1/2NE1/4, SW1/4NE1/4 and NW1/4SW1/4 of Section 26  
N1/2 and N1/2S1/2 of Section 27  
N1/2 and NE1/4SW1/4 of Section 28  
NE1/4NE1/4 of Section 29

**Township 139 North, Range 97 West**

Section 1  
E1/2, E1/2NW1/4, NW1/4NW1/4 and NE1/4SW1/4 of Section 2  
N1/2NE1/4 and SE1/4NE1/4 of Section 11  
N1/2, SE1/4, N1/2SW1/4 and SE1/4SW1/4 of Section 12  
NE1/4, NE1/4NW1/4 and NE1/4SE1/4 of Section 13

**Township 140 North, Range 97 West**

SE1/4, E1/2SW1/4 and SW1/4SW1/4 of Section 13  
SE1/4SE1/4 of Section 14  
E1/2, SE1/4NW1/4, E1/2SW1/4 and SW1/4SW1/4 of Section 23  
Section 24  
Section 25  
Section 26  
Section 35  
Section 36

**Township 140 North, Range 96 West**

SE1/4SE1/4 of Section 8  
S1/2SW1/4 and NE1/4SW1/4 of Section 9  
S1/2 of Section 10  
S1/2SW1/4 of Section 11  
W1/2, SE1/4 and S1/2NE1/4 of Section 14  
Section 15  
Section 16  
E1/2, SW1/4, S1/2NW1/4 and NE1/4NW1/4 of Section 17  
S1/2 and SE1/4NE1/4 of Section 18  
Section 19  
Section 20  
Section 21  
Section 22

Section 23  
S1/2 and NW1/4 of Section 24  
Section 25  
Section 26  
Section 27  
Section 28  
Section 29  
Section 30  
Section 31  
Section 32  
Section 33  
Section 34  
Section 35  
Section 36

**Township 139 North, Range 95 West**

Section 5  
Section 6  
Section 7  
W1/2, NE1/4, N1/2SE1/4 and SW1/4SE1/4 of Section 8  
NW1/4, NW1/4NE1/4 and NW1/4SW1/4 of Section 17  
N1/2, SW1/4, W1/2SE1/4 and NE1/4SE1/4 of Section 18

**Township 140 North, Range 95 West**

W1/2SW1/4 of Section 29  
S1/2, S1/2NW1/4 and SW1/4NE1/4 of Section 30  
Section 31  
S1/2, NW1/4 and SW1/4NE1/4 of Section 32  
(Ord. No. 1561 § 1.)

**Section 39.01.003 Purpose**

The purposes of the Zoning Ordinance of the City of Dickinson are to:

- a. Serve the public health, safety, and general welfare of the city and its jurisdiction.
- b. Classify property in a manner that reflects its suitability for specific uses.
- c. Provide for sound, attractive development within the city and its jurisdiction.
- d. Encourage compatibility of adjacent land uses.
- e. Protect environmentally sensitive areas.
- f. Further the objectives of the Comprehensive Development Plan of the City of Dickinson. (Ord. No.1171 § 1.)

**Section 39.01.004 Consistency with Comprehensive Development Plan**

The City of Dickinson intends that this Zoning Ordinance and any amendments to it shall be consistent with the City's comprehensive Development Plan. It is the City's intent to amend

this ordinance whenever such action is deemed necessary to keep regulatory provisions in conformance with the Comprehensive Development Plan. (Ord. No. 1171 § 1.)

**Section 39.01.005     Conflicting Provisions**

The Zoning Ordinance shall be held to provide the minimum requirements necessary for the promotion of the public health, safety and welfare. If any provision of the Zoning Ordinance conflicts with any other provision of the Zoning Ordinance, any other Ordinance of the City of Dickinson, or any applicable State or Federal law, the more restrictive provision shall apply. (Ord. No. 1171 § 1.)

**Section 39.01.006     Relief from Other Provisions**

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute. (Ord. No. 1171 § 1.)

**Section 39.01.007     Severability of Provision**

If any chapter, section, clause, or phrase of this Zoning Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. (Ord. No. 1171 § 1.)

**Section 39.01.008     Publication**

This Ordinance shall be published in book or pamphlet form and shall, together with the maps being a part hereof, shall be filed with the City Administrator of the City of Dickinson, North Dakota.

The following townships, sections and portions of sections are within the jurisdiction of this chapter:

**TABLE: 1-1**

**Township 139 North, Range 96 West**

**Township 140 North, Range 96**

**West**

Section 1	S1/2 of Section 15
Section 2	S1/2 of Section 16
Section 3	SE1/4 of Section 17
Section 4	E1/2 of Section 19
Section 5	Section 20
Section 6	Section 21
Section 7	Section 22
Section 8	Section 23
Section 9	S1/2 of Section 24
Section 10	Section 25
Section 11	Section 26
Section 12	Section 27
Section 13	Section 28

Section 14  
Section 15  
Section 16  
Section 17  
N1/2 and SE1/4 of Section 18  
N1/2 and SE1/4 of Section 20  
Section 21  
Section 22  
Section 23

**95 West**

NW1/4 of Section 24  
N 1/2 of Section 26  
Section 27  
N1/2 and SE1/4 of Section 28

**Township 139 North, Range 97 West**

All of Section 1

Section 18

All of Section 12  
NE1/4 of Section 13

**Township 140 North, Range 97 West**

SE1/4 of Section 25  
All of Section 36

Section 32

Section 29  
Section 30  
Section 31  
Section 32  
Section 33  
Section 34  
Section 35  
Section 36

**Township 139 North, Range**

Section 5  
Section 6  
Section 7  
Section 8  
NW1/4 of Section 17  
N1/2 and SW1/4 of

**Township 140 North, Range 95**

**West**

S1/2 of Section 30  
Section 31  
S1/2 and NW1/4 of

(Ord. No. 1171, § 1; Ord. No. 1195, § 1.)

## **Article 39.02 Definitions**

### **Sections:**

<b>39.02.001</b>	<b>Purpose</b>
<b>39.02.002</b>	<b>General Construction of Language</b>
<b>39.02.003</b>	<b>Definition of Terms</b>
<b>39.02.004</b>	<b>A</b>
<b>39.02.005</b>	<b>B</b>
<b>39.02.006</b>	<b>C</b>
<b>39.02.007</b>	<b>D</b>
<b>39.02.008</b>	<b>E</b>
<b>39.02.009</b>	<b>F</b>
<b>39.02.010</b>	<b>G</b>
<b>39.02.011</b>	<b>H</b>
<b>39.02.012</b>	<b>I</b>
<b>39.02.013</b>	<b>J</b>
<b>39.02.014</b>	<b>K</b>
<b>39.02.015</b>	<b>L</b>
<b>39.02.016</b>	<b>M</b>
<b>39.02.017</b>	<b>N</b>
<b>39.02.018</b>	<b>O</b>
<b>39.02.019</b>	<b>P</b>
<b>39.02.020</b>	<b>Q</b>
<b>39.02.021</b>	<b>R</b>
<b>39.02.022</b>	<b>S</b>
<b>39.02.023</b>	<b>T</b>
<b>39.02.024</b>	<b>U</b>
<b>39.02.025</b>	<b>V</b>
<b>39.02.026</b>	<b>W</b>
<b>39.02.027</b>	<b>X</b>
<b>39.02.028</b>	<b>Y</b>
<b>39.02.029</b>	<b>Z</b>

### **Section 39.02.001 Purpose**

Article Two shall be known as the Definitions. The purpose of these provisions is to promote consistency and precision in the interpretation of the Zoning Ordinance. The meaning and construction of words as set forth shall apply throughout the Zoning Ordinance, unless where modified in a specific section or where the context of such words or phrases clearly indicates a different meaning or construction. (Ord. No. 1171 § 1.)

### **Section 39.02.002 General Construction of Language**

The following general rules of construction apply to the text of the Zoning Ordinance.

a. Headings

Section and subsection headings contained herein are provided for illustrative purposes only and shall not be deemed to limit, govern, modify, or

otherwise affect the scope, meaning, intent of any provision of the Zoning Ordinance.

b. Illustration

In the case of any real or apparent conflict between the text of the Ordinance and any illustration explaining the text, the text shall apply.

c. Shall and May

“Shall” is always mandatory. “May” is discretionary.

d. Tenses and Numbers

Words used in the present tense include the future tense. Words used in the singular include the plural, and the plural the singular, unless the context clearly indicates contrary.

e. Conjunctions

Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:

1. “**And**” indicates that all connected items or provisions apply.

2. “**Or**” indicates that the connected items or provisions may apply singly or in any combination.

3. “**Either...or**” indicates that the connected items or provisions shall apply singly but not in combination.

f. Referenced Agencies

Unless otherwise indicated, all public officials, bodies, and agencies referred to in this

Chapter are those of the City of Dickinson. (Ord. No. 1171 § 1.)

### **Section 39.02.003 Definition of Terms**

For the purposes of this Zoning Ordinance, certain terms and words are hereby defined. Certain sections contain definitions which are additional to those listed here. Where terms are not specifically defined, their ordinarily accepted meaning or meanings implied by their context shall apply. (Ord. No. 1171 § 1.)

### **Section 39.02.004 A**

1. Abutting: Having lot lines or district boundaries in common, including property separated by a public street or alley. Used interchangeably with adjacent.

2. Accessory Structure: A structure which is incidental to and customarily associated with a specific principal use or building on the same site.

3. Accessory Use: A use which is incidental to and customarily associated with a specific principal use on the same site.

4. Addition: Any construction which increases the size of a building or structure in terms of site coverage, height, length, width, or gross floor area.

5. Agent of Owner: Any person showing written verification that he/she is acting for, and with the knowledge and consent of, a property owner.

6. Alley: A public right of way which is used as a secondary means of access to abutting property.

7. Alteration: Any construction or physical change in the internal arrangement of spaces, the supporting members, the positioning on a site, or the appearance of a building or structure.

8. Apartment: A housing unit within a building designed for and suitable for occupancy by only one family. Apartments are generally located within multi-family residential buildings.

9. Attached: Having one or more walls in common with a principal building or connected to a principal building by an integral architectural element, such as a covered passageway; facade wall extension; or archway. (Ord. No. 1171 § 1.)

## **Section 39.02.005     **B****

1. Base Zoning District: A district established by this Ordinance which prescribes basic regulations governing land use and site development standards. No more than one Base Zoning District shall apply to any individually platted lot or parcel unless the lot or parcel is part of a Planned Unit Development.

2. Basement: A level of a building below street level that has at least one-half of its height below the surface of adjacent ground. A basement used for independent dwelling or business purposes shall be considered a story for the purposes of height measurement.

3. Beginning of Construction: The initial incorporation of labor and materials within the foundation of a building or structure.

4. Block: An area of land within a subdivision that is entirely bounded by streets, by streets and the exterior boundaries of the subdivision, or by a combination of the above with a watercourse or lake, and which has been designated as such on a plat for the purposes of legal description of a property.

5. Block Face: The property abutting on side of a street and lying between the two nearest intersection streets, or between the one nearest intersecting street and a major physical barrier, including, but not limited to, railroads, streams, lakes, or the corporate limits of Dickinson.

6. Board of Adjustment: A body authorized by the city commission expressly for the purpose of granting relief from situations of hardship and to hear appeals as provided by this Ordinance.

7. Bufferyard: A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

8. Building: A structure entirely separated from any other structure by space or by walls and having a roof and built to provide shelter, support, or enclosure for persons or property.

9. Building Coverage: The area of a site covered by buildings or roofed areas, excluding allowed projecting, eaves, balconies, and similar features.

10. Building Envelope: The three-dimensional space within which a structure is permitted to be built on a lot after all zoning and other applicable municipal requirements have been met.

11. Building Line: The outer boundary of a building established by the location of its exterior walls.

12. Building Official: The designee of the City Commission, responsible for the enforcement of the Uniform Building Code.

13. Business: Activities that include the exchange or manufacture of goods or services on a site.

14. Business Center: A building containing more than one commercial business, or any group of nonresidential buildings within a common development, characterized by shared parking and access. (Ord. No. 1171 § 1.)

## **Section 39.02.006     **C****

1. Certificate of Occupancy: An official certificate issued by the Building Official or his/her designee, upon finding of conformance with the Unified Building Code, and upon receipt of a Certificate of Zoning Compliance.

2. Certificate of Zoning Compliance: An official certificate issued by the Building Official or his/her designee, which indicates that the proposed use of building or land complies with the provisions of the Zoning Ordinance.

3. Change of Use: The replacement of an existing use by a new use.

4. Cluster: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

5. City: The City of Dickinson, North Dakota.

6. City Commission: The City Commission of Dickinson, North Dakota.

7. Collector Street: A street connecting neighborhoods within the same communities, designed to carry traffic from local to arterial streets.

8. Common Area: An area held, designed, and designated for common or cooperative use within a development.

9. Common Development: A development proposed and planned as one unified project not separated by a public street or alley.

10. Common Open Space: Land within or related to a development that is not individually owned or dedicated for public use, designed and generally intended for the common use of the residents of the development.

11. Compatibility: The degree to which two or more different land use types are able to exist together in close proximity, with no one use having significant negative effects on any other use.

12. Comprehensive Plan: The duly adopted Comprehensive Development Plan of the City of Dickinson.

13. Condominium: A real estate ownership arrangement that combines fee simple title to a specific unit and joint ownership in common elements shared with other unit owners. Types of units may include dwelling units, parking spaces, office spaces, or commercial spaces.

14. Conservation Development: A development design technique that concentrates buildings in specific areas on a site to allow remaining land to be used for recreation, common open space, or the preservation of historically or environmentally sensitive features.

15. Conservation Subdivision: Wholly or in majority, a residential subdivision that permits a reduction in lot area, setback, or other site development regulations, provided 1) there is no increase in the overall density permitted for a conventional subdivision in a given zoning district, and 2) the remaining land area is used for common space.

16. County: Stark County, North Dakota.

17. Court: An approved private right-of-way which provides access to residential properties and meets at least three of the following conditions:

- (a) Serves twelve or fewer housing units or platted lots.

- (b) Does not function as a local street because of its alignment, design, or location.
- (c) Is completely internal to a development.
- (d) Does not exceed 600 feet in length.

18. Courtyard: An open, unoccupied space, bounded on two or more sides by the walls of the building.

19. Conventional Subdivision: A subdivision which literally meets all nominal standards of the City's zoning and subdivision ordinances for lot dimensions, setbacks, street frontage, and other site development regulations.

20. Creative Subdivision: A subdivision which, while complying with the Subdivision Ordinance, diverges from nominal compliance with site development regulations in the Land Development Ordinance. Creative subdivisions imply a higher level of pre-planning than conventional subdivisions. They may be employed for the purpose of environmental protection or the creation of superior community design. Types of Creative Subdivisions include Cluster Subdivisions and Traditional Neighborhood Districts. (Ord. No. 1171 § 1.)

### **Section 39.02.007 D**

1. Density: The amount of development per specific unit of a site.
2. Drive-in Services: Uses which involve the sale of products or provision of service to occupants in vehicles.
3. Detached: Fully separated from any other building or jointed to another building in such a manner as not to constitute an enclosed or covered connection.
4. Driveway: A permanently paved, surfaced area providing vehicular access between a street and an off-street parking or loading area.
5. Dwelling Unit: One or more rooms, designed, occupied or intended for occupancy as a separate living quarter, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household. (Ord. No. 1171 § 1.)

### **Section 39.02.008 E**

1. Easement: A privilege or right of use granted on, above, under, or across a particular tract of land for a specific purpose by one owner to another owner, public or private agency, or utility.
2. Enclosed: A roofed or covered space fully surrounded by walls.
3. Extraterritorial: Within the zoning or subdivision jurisdiction of the City of Dickinson, but outside its corporate limits. The Extra-territorial jurisdiction of Dickinson extends for two miles beyond its corporate limits. (Ord. No. 1171 § 1.)

### **Section 39.02.009 F**

1. Family: One or more persons living together and sharing common living, sleeping, cooking, and eating facilities within an individual housing unit, no more than four of whom may be unrelated. The following persons shall be considered related for the purpose of this title:
  - (a) Persons related by blood, marriage, or adoption;
  - (b) Persons residing with a family for the purpose of adoption;

- (c) Not more than eight persons under 19 years of age, residing in a foster house licensed or approved by the State of North Dakota.
  - (d) Not more than eight persons 19 years of age or older residing with a family for the purpose of receiving foster care licensed or approved by the State of North Dakota.
  - (e) Person(s) living with a family at the direction of a court.
2. Federal: Pertaining to the Government of the United States of America.
  3. Floor Area Ratio: The quotient of gross floor area divided by gross site area.
  4. Frontage: The length of a property line of any one premises abutting and parallel to a public street, private way, or court. (Ord. No. 1171 § 1.)

### **Section 39.02.010     **G****

1. Grade: The surface of the ground, court, lawn, yard, or sidewalks adjoining a building, with the established grade being one fixed by the city and which established grade shall also constitute the natural grade and the finished grade.
2. Gross Floor Area: The total enclosed area of all floors of a building, measured to the inside surfaces of the exterior walls. This definition excludes the areas of basements, elevator shafts, airspaces above atriums, and enclosed off-street parking and loading areas serving a principal use. (Ord. No. 1171 § 1.)

### **Section 39.02.011     **H****

1. Height: The vertical distance from the established grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, or to the average height between eaves and the ridge for gable, hip, shed, or gambrel roofs. For other cases, height shall be measured as the vertical distance from the established grade to the highest point of a structure as herein defined. Where a building or structure is located on a slope, height shall be measured from the average grade level adjacent to the building or structure.
2. Home Based Business/Home Occupation: An accessory occupational use conducted entirely within a dwelling unit by a member of the family residing in the premises, which is clearly incidental to the residential use of the dwelling or residential structure and does not change the residential character of its site.
3. Housing Unit or Dwelling Unit: A building or portion of a building arranged for and intended for occupancy as an independent living facility for one family, including permanent provisions for cooking. (Ord. No. 1171 § 1.)

### **Section 39.02.012     **I****

1. Impervious coverage: The total horizontal area of all buildings, roofed or covered spaces, paved surface areas, walkways and driveways, and any other site improvements that decrease the ability of the surface of the site to absorb water, expressed as a percent of site area. The surface water area of pools is excluded from this definition. (Ord. No. 1171 § 1.)

### **Section 39.02.013     **J****

(Ord. No. 1171 § 1.)

## **Section 39.02.014    **K****

(Ord. No. 1171 § 1.)

## **Section 39.02.015    **L****

1. Landscaped Area: The area within the boundaries of a given lot, site or common development consisting primarily of plant material, including but not limited to grass, trees, shrubs, vines, ground cover, and other organic plant materials; or grass paver masonry units installed such that the appearance of the area is primarily landscaped.

- (a) Perimeter Landscaped Area: Any required landscaped area that adjoins the exterior boundary of a lot, site or common development.
- (b) Interior Landscaped Area: Any landscaped area within a site exclusive of required perimeter landscaping.

2. Loading Area: An off-street area used for the loading or unloading of goods from a vehicle in connection with the use of the site on which such area is located.

3. Lot: A parcel of property with a separate and distinct number or other identifying designation which has been created, assigned and recorded in the Office of the -- County Register of Deeds, as provided for by the North Dakota Century Code. Each individual lot is subject to the provisions of a particular base Zoning District, and shall have a minimum frontage of 20 feet, except as provided in an approved Planned Unit Development and/or Creative Subdivision.

- (a) Corner Lot: A lot located at the junction of at least two streets, private ways or courts or at least two segments of a curved street, private way or court, at which the internal angle of intersection is no greater than 135 degrees.
- (b) Double Frontage Lot: A lot, other than a corner lot, having frontage on two streets, private ways or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at time of platting or as defined by this ordinance. (Also known as a Through Lot).
- (c) Interior Lot: A lot other than a corner lot.
- (d) Common Development Lot: When two or more contiguous lots are developed as part of a single development, these lots may be considered a single lot for purposes of this ordinance.

4. Lot Area: The total horizontal area within the lot lines of a lot.

5. Lot Depth: The mean horizontal distance measured between the front and rear lot lines.

6. Lot Line: A property boundary line(s) of record that divides one lot from another lot or a lot from the public or private street right-of-way or easement.

- (a) Front Lot Line: The lot line separating a lot and public or private street right-of-way or easement.
  1. For an interior lot, the lot line separating the lot from the easement.
  2. For a corner lot, ordinarily the shorter of the lot lines abutting a public or private street or easement. The owner and Building Official may agree to designate any lot line abutting a

public street or otherwise noted on a final plat as the Front Lot Line.

3. For a double frontage lot, the lot lines separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line shall be determined by the Building Official at the time of application for the original building permit for the lot, or as may be noted on the final plat.

- (b) Rear Lot Line: The lot line which is opposite and most distant from the front line.
- (c) Side Lot Line: Any lot line that is neither a front or rear lot line. A side lot line separating a lot from a street, private way or court is a street side lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.
- (d) Rear Lot Lines for Corner Lots: On corner lots, the Building Official may designate the rear lot line, provided that such lot line does not define a Street Yard.

7. Lot Width: The horizontal distance between the side lot lines at the minimum required front yard setback. Lot width is measured by determining the length of a line drawn parallel to the front lot line set back at the required minimum front yard setback. (Ord. No. 1171 § 1.)

## **Section 39.02.016 M**

1. Manufactured Home Dwelling or Class A Mobile Home: A factory built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site; does not have permanently attached to its body or frame any wheels or axles; bears a label certifying that it was built in compliance with the National Manufactured Home Construction and Safety Standards promulgated by the US Department of Housing and Urban Development; and which complies with the following architectural and aesthetic standards:

- (a) The home shall have at least 900 square feet of floor area;
- (b) The home shall have an exterior width of at least 20 feet;
- (c) The roof shall be pitched with a minimum pitch of 4:1.
- (d) The exterior material shall be or have the appearance of being wood siding or masonry, but shall not be sheet siding with a vertical orientation;
- (e) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock;
- (f) Permanent utility connections shall be installed in accordance with local regulations;
- (g) The home shall have all wheels, axles, transporting lights, and towing apparatus removed; and
- (h) The home shall be installed upon a permanent foundation that is constructed and built in accordance with local regulations.

2. Mixed Use Building: A building or structure that incorporates two or more use types within a single building or structure, provided that each use type is permitted within the individual Base Zoning District in which the building or structure is to be located.

3. Mixed Use Development: A single development which incorporates complementary land use types into a single development.

4. Mobile Homes: A building type designed to be transportable in one or more sections, constructed on a permanent chassis or undercarriage, and designed to be used as a dwelling unit or other use with or without a permanent foundation when connected to the required utilities; or not otherwise satisfying the definition of Manufactured Home Dwellings.

5. Mobile Home Park: A unified development under common ownership, developed, subdivided, planned, and improved for the placement of mobile home units for non-transient use. Mobile Home Parks include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purposes of display; inspection, sale, or storage.

6. Mobile Home Subdivision: A development subdivided, planned, and improved for the placement of mobile home units on lots for uses by the individual owners of such lots. Mobile Home Subdivisions may include common areas and facilities for management, recreation, laundry, utility services, storage, storm shelter, and other services; but do not include mobile home sales lots on which unoccupied mobile homes are parked for the purpose of display, inspection, sale, or storage. (Ord. No. 1171 § 1.)

## Section 39.02.017 N

1. Nonconforming Development: A building, structure, or improvement which does not comply with the regulations for its zoning district set forth by this Zoning Ordinance but which complied with applicable regulations at the time of construction.

2. Nonconforming Lot: A lot which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.

3. Nonconforming Sign: A sign that was legally erected prior to the adoption, revision or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the lot.

4. Nonconforming Structure: A structure which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the structure.

5. Nonconforming Use: A land use which was lawful prior to the adoption, revision, or amendment of this zoning ordinance but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning ordinance. No action can be taken which would increase the non-conforming characteristics of the land use.

6. Nuisance: An unreasonable and continuous invasion of the use and enjoyment of a property right which a reasonable person would find annoying, unpleasant, obnoxious, or offensive. (Ord. No. 1171 § 1.)

## **Section 39.02.018     **O****

1. Open Space: Area included on any site or lot that is open and unobstructed to the sky, except for allowed projections of cornices, overhangs, porches, balconies, or plant materials.
2. Outdoor Storage: The storage of materials, parts, or products that are related to the primary use of a site for a period exceeding three days.
3. Overlay District: A district established by this Ordinance to prescribe special regulations to be applied to a site only in combination with a base district.
4. Owner: An individual, firm, association, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land. (Ord. No. 1171 § 1.)

## **Section 39.02.019     **P****

1. Parking Facility: An area on a lot and/or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this Zoning Ordinance. Parking facilities include parking lots, private garages, and parking structures. Vehicle storage is distinct from parking, and is regulated by provisions in Sections 39.03.070, 39.03.080, 39.03.090' s, Table 4-2. Vehicle storage is also governed by provisions of Article 39.09 Parking Regulations.
2. Parking Spaces: An area on a lot and/or within a building, intended for the use of temporary parking of a vehicle. This term is used interchangeably with “parking stall”. Each parking space must have a means of access to a public street by way of a driveway, access easement, or other connection. Tandem parking stalls in single-family detached, single family attached, and townhome residential uses shall be considered to have a means of access to a public street.
3. Paved: Permanently surfaced with poured concrete, concrete pavers, or asphalt.
4. Permitted Use: A land use type allowed as a matter of right in a zoning district, subject only to special requirements of this Zoning Ordinance.
5. Planning Commission: The Planning Commission of the City of Dickinson, as authorized pursuant to Chapters 40-47 of the North Dakota Century Code.
6. Planned Unit Development: A development of land which is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.
7. Porch, Unenclosed: A roofed or unroofed open structure projecting from an exterior wall of a building and having no enclosed features more than thirty-six (36) inches above its floor other than wire screening and a roof with supporting structure.
8. Premises: A lot, parcel, tract or plot of land, contiguous and under common ownership or control, together with the buildings and structure thereon.
9. Private Garage: A building for the storage of motor vehicles where no repair service facilities are maintained and where no motor vehicles are kept for rental or sale.
10. Property Line: See “Lot Line.” (Ord. No. 1171 § 1.)

## **Section 39.02.020     **Q****

(Ord. No. 1171 § 1.)

## **Section 39.02.021     **R****

1. **Recreational Vehicle:** A vehicle towed or self-propelled on its own chassis or attached to the chassis of another vehicle and designed or used for temporary dwelling, recreational, or sporting purposes. Recreational vehicles include, but are not limited to, travel trailers; campers; motor coach homes; converted buses and trucks, boats, and boat trailers.
2. **Regulation:** A specific requirement set forth by this Zoning Ordinance which must be followed.
3. **Remote Parking:** A supply of off-street parking at a location not on the site of a given development. (Ord. No. 1171 § 1.)

## **Section 39.02.022     **S****

1. **Screening:** The method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features as may be permitted by the landscape provisions of this ordinance.
2. **Setback:** The distance, as required by the minimum setback(s) which establishes the horizontal component(s) of the building envelope.
3. **Sign:** A symbolic, visual device fixed upon a building, structure, or parcel of land, which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.
4. **Site:** The parcel of land to be developed or built upon. A site may encompass a single lot; or a group of lots developed as a common development under the special and overlay districts provisions of this ordinance.
5. **Site Plan:** A plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land; and any other information that may reasonably be requested by the City in order that an informed decision can be made on the associated request.
6. **Special Permit Use:** A use with operating and/or physical characteristics different from those of permitted uses in a given zoning district which may, nonetheless, be compatible with those uses under special conditions and with adequate public review. Special permit uses are allowed in a zoning district only at the discretion of and with the explicit permission of the City Commission, upon the recommendation of the Planning Commission.
7. **State:** The State of North Dakota.
8. **Story:** The portion of a building included between the surface of any floor and the surface of the next floor above it; if there is no floor above it, the space between such floor and the next ceiling above it. A half story under a sloped roof, the wall heights of which on at least two opposite, exterior walls are less than four feet.
9. **Street:** A right of way, dedicated to public use, which affords a primary means of access to the abutting property. This definition is intended to be inclusive of the term as defined in North Dakota statute.
10. **Street, Intersecting and Principal:** In regard to a site, the principal street shall be the street to which the majority of lots on a blockface are oriented; the intersecting street shall be a street other than a principal street.
11. **Street, Local:** A street which is used primarily for access to the abutting properties.

12. Street, Major: A street carrying traffic between neighborhoods, connecting neighborhoods with major activity centers, or accommodating major through traffic. Major streets are designated as collectors, arterials, or expressways by the Comprehensive Development Plan.

13. Street Yard: The area of a lot or parcel which lies between any street property line and the fronting walls of any building or buildings on the parcel. The street yard follows all irregularities or indentations in the building, excluding minor irregularities such as porches or steps.

14. Structure: Any object constructed or built, the use of which requires location on the ground or attachment to something located on the ground. (Ord. No. 1171 § 1.)

### **Section 39.02.023     **T****

1. Townhouse: A dwelling unit having a common wall with or abutting one or more adjacent dwelling units in a townhouse structure, with its own front and rear access to the outside, and neither above nor below any other dwelling unit.

2. Townhouse Structure: A building formed by at least three contiguous townhouses with common or abutting walls. (Ord. No. 1171 § 1.)

### **Section 39.02.024     **U****

1. Use: The conduct of an activity, or the performance of a function or operation, on a site or in a building or facility.

2. Utilities: Installations, either above or below ground, necessary for the production, generation, transmission, delivery, collection, treatments, or storage of water, solid or fluid wastes, storm water, energy media, gas, electronic or electromagnetic signals, or other services which are precedent to development and use of land. (Ord. No. 1171 § 1.)

### **Section 39.02.025     **V****

(Ord. No. 1171 § 1.)

### **Section 39.02.026     **W****

(Ord. No. 1171 § 1.)

### **Section 39.02.027     **X****

(Ord. No. 1171 § 1.)

### **Section 39.02.028     **Y****

1. Yard; Required: That portion of a lot which lies between a lot line and the corresponding building setback line or the required landscape area. This area shall be unoccupied and unobstructed from the ground upward except as may be specifically provided for or required by this ordinance.

(a) Corner Front Yard: The space extending the full width of a lot, lying between the front lot line as defined by Section 39.02.015, 6 (d), and the front setback line.

- (b) Interior Front Yard: The space extending the full width of a lot, lying between the front lot line and the front setback line.
- (c) Rear Yard: The space extending the full width of a lot, lying between the rear lot line and the rear setback line.
- (d) Side Yard: The space extending the depth of a lot from the front to rear lot lines, lying between the side yard setback line and the interior lot line.
- (e) Street Side Yard: On a corner lot, the space extending from the front yard to the rear yard, between the street yard setback and the street side lot line. (Ord. No. 1171 § 1.)

### **Section 39.02.029     **Z****

1. Zoning District: A designated specified land classification, within which all sites are subject to a unified group of use and site development regulations set forth in this Zoning Ordinance.

2. Zoning Administrator: The designee of the City Commission, responsible for the interpretation and administration of the City of Dickinson Zoning Ordinance. Zoning Administrator and Building Official may be used interchangeably. (Ord. No. 1171 § 1.)

## **Article 39.03 Use Types**

### **Sections:**

<b>39.03.001</b>	<b>Purpose</b>
<b>39.03.002</b>	<b>Determinations</b>
<b>39.03.003</b>	<b>Agricultural Use Types</b>
<b>39.03.004</b>	<b>Residential Use Types</b>
<b>39.03.005</b>	<b>Civic Use Types</b>
<b>39.03.006</b>	<b>Office Use Types</b>
<b>39.03.007</b>	<b>Commercial Use Types</b>
<b>39.03.008</b>	<b>Parking Use Types</b>
<b>39.03.009</b>	<b>Industrial Use Types</b>
<b>39.03.010</b>	<b>Transportation Use Types</b>
<b>39.03.011</b>	<b>Miscellaneous Use Types</b>

### **Section 39.03.001 Purpose**

Article Three shall be known as the Use Types. The purpose of the Use Types is to establish a classification system for land uses and a consistent set of terms defining uses permitted or conditionally permitted within various zoning districts. The Use Types section also provides a procedure for determining the applicable use type of any activity not clearly within any defined use type. (Ord. No. 1171 § 1.)

### **Section 39.03.002 Determinations**

#### **a. Classification of Uses**

In the event of any question as to the appropriate use types of any existing or proposed use or activity, the Zoning Administrator of the City of Dickinson shall have the authority to determine the appropriate use type. A determination of the Zoning Administrator may be appealed to the Board of Adjustment. In making such determinations, the Zoning Administrator and Board of Adjustment shall consider such characteristics or specific requirements of the use in common with those included as examples of use types. Those examples, when included in use type descriptions, are intended to be illustrative, as opposed to exclusive lists.

#### **b. Records**

The Zoning Administrator shall make all such determinations of appropriate use types in writing. The record of the determination shall contain a report explaining the reasons for the determination. (Ord. No. 1171 § 1.)

### **Section 39.03.003 Agricultural Use Types**

Agricultural use types include the on-site production and sale of plant and animal products by agricultural methods.

#### **a. Horticulture**

The growing of horticultural and floricultural specialties, such as flowers, shrubs, or trees intended for ornamental or landscaping purposes. This definition may include accessory retail sales under certain conditions. Typical uses include wholesale plant nurseries and greenhouses.

#### **b. Crop Production**

The raising and harvesting of tree crops, row crops or field crops on an agricultural or commercial basis. This definition may include accessory retail sales under certain conditions.

**c. Type I Animal Production**

The raising of animals or production of animal products, such as eggs or dairy products on an agricultural or commercial basis on a site which is also used for crop production or where grazing of natural vegetation is the major feed source; or the raising of animals for recreational use. Type I Animal Production shall also include confined feeding and holding facilities consisting of no more than 20 feeder or fat cattle; no more than 20 beef cows; no more than 20 dairy cattle; no more than 50 swine, llamas, and ostriches or similar large birds; no more than 200 sheep; no more than 300 turkeys; and/or no more than 1,000 chickens, ducks, or geese. Typical uses include grazing, ranching, dairy farming, and poultry farming.

**d. Type II Animal Production**

The confined feeding and holding facilities consisting of between 21 and 140 feeder or fat cattle; between 21 and 100 beef cows; between 21 and 100 dairy cattle; between 51 and 500 swine, llamas, and ostriches or similar large birds; between 201 and 2,000 sheep; between 301 and 3,000 turkeys; and/or between 1,001 and 10,000 chickens, ducks, or geese within buildings, lots, pens, or other close quarters which are not used for crop production or where grazing of natural vegetation is not the major feed source. Typical uses include small commercial feedlots.

**e. Type III Animal Production**

The confined feeding and holding facilities consisting of more than 150 feeder or fat cattle; more than 100 beef cows; more than 100 dairy cattle; more than 500 swine, llamas, and ostriches or similar large birds; more than 2,000 sheep; more than 3,000 turkeys; and/or more than 1,001 and 10,000 chickens, ducks, or geese within buildings, lots, pens, or other close quarters which are not used for crop production or where grazing of natural vegetation is not the major feed source. Typical uses include large commercial feedlots.

**f. Livestock Sales**

Use of a site for the temporary confinement and exchange or sale of livestock. Typical uses include sales barns. (Ord. No. 1171 § 1.)

## **Section 39.03.004 Residential Use Types**

Residential use types include uses providing wholly or primarily non-transient living accommodations. They exclude institutional living arrangements providing 24-hour skilled nursing or medical care, forced residence, or therapeutic settings.

**a. Single-Family Residential**

The use of a site for one dwelling unit, occupied by one family. (NOTE: Mobile home units are not a single-family use type. See below categories for such units).

1. *Single-Family Residential (Detached)*: A single-family residential use in which one dwelling unit is located on a single lot, with no physical or structural connection to any other dwelling unit.
2. *Single-Family Residential (Attached)*: A single-family residential use in which one dwelling unit is located on a single lot and is attached by a common vertical wall to only one other adjacent dwelling unit on another single lot.

**b. Duplex Residential**

The use of a legally-described lot for two dwelling units, each occupied by one family within a single building, excluding mobile home units.

**c. Two-Family Residential**

The use of a site for two dwelling units, each occupied by one family, each in a separate building, excluding a mobile home unit.

**d. Townhouse Residential**

The use of a site for three or more attached dwelling units, each occupied by one family and separated by vertical side walls extending from foundation through roof without openings. Each townhouse unit must have at least two exposed exterior walls.

**e. Multiple-Family Residential**

The use of a site for three or more dwelling units within one building.

**f. Residential - Commercial Zone**

The use of levels other than the main level or ground level within LC, CC, DC and GC zoning districts.

**g. Group Residential**

The use of a site for a residence by more than three unrelated persons, not defined as a family, on a weekly or longer basis.

**h. Manufactured Home Residential**

Use of a site for one or more manufactured home dwellings, as defined in Section 39.02.016.

**i. Mobile Home Park**

Use of a site under common ownership for one or more mobile home units. Generally, the land on which mobile homes are placed in a Mobile Home Park is leased from the owner of the facility.

**j. Mobile Home Subdivision**

Division of a tract of land into lots that meet all the requirements of the City of Dickinson's subdivision ordinance for the location of mobile homes. Generally, a lot within a Mobile Home Subdivision is owned by the owner of the mobile home placed upon such lot.

**k. Retirement Residence**

A building or group of buildings which provide residential facilities for more than four residents of at least sixty-two years of age, or households headed by a householder of at least sixty-two years of age. A retirement residence may provide a range or residential building types and may also provide support services to residents, including but not limited to food service, general health supervision, medication services, housekeeping services, personal services, recreation facilities, and transportation services. The retirement residence may accommodate food preparation in independent units or meal service in one or more common areas. Retirement residences may include additional health care supervision or nursing care. (Ord. No. 1171 § 1; Ord. 1244 § 1.)

**Section 39.03.005 Civic Use Types**

Civic use types include the performance of utility, educational, recreational, cultural, medical, protective, governmental, and other uses which are strongly vested with social importance.

**a. Administration**

Governmental offices providing administrative, clerical or public contact services that deal directly with the citizen, together with incidental storage and maintenance of necessary vehicles. Typical uses include federal, state, county, and city offices.

**b. Cemetery**

Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including columbariums, crematoria, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**c. Clubs**

Uses providing meeting, recreational, or social facilities for a private, non-profit or non-commercial association, primarily for use by members and guests.

**d. College and University Facilities**

An educational institution of higher learning which offers a course of study designed to culminate in the issuance of a degree certified by a generally recognized accrediting organization.

**e. Convalescent Services**

A use providing bed care and in-patient services for persons requiring regular medical attention but excluding a facility providing surgical or emergency medical services and excluding a facility providing care for alcoholism, drug addiction, mental disease, or communicable disease. Typical uses include nursing homes.

**f. Cultural Services**

A library, museum, or similar registered non-profit organizational use displaying, preserving and exhibiting objects of community and cultural interest in one or more of the arts and sciences.

**g. Day Care Services (Family)**

This Use Type includes all classifications of day care facilities, including but not limited to facilities licensed by the State of North Dakota, providing care for not more than nine (9) individuals. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

**h. Day Care Services (Group)**

This Use Type includes all classifications of day care facilities, including facilities licensed by the State of North Dakota, providing care for ten (10) or more individuals. This term includes nursery schools, preschools, day care centers for children or adults, and similar uses but excludes public and private primary and secondary educational facilities.

**i. Detention Facilities**

A publicly operated or contracted use providing housing and care for individuals legally confined, designed to isolate those individuals from the community.

**j. Emergency Residential Services**

A facility or use of a building to provide a protective sanctuary for victims of crime or abuse, including emergency housing during crisis intervention for victims of rape, abuse, or physical beatings.

**k. Group Care Facility**

A facility licensed or approved by the State of North Dakota or other appropriate agency, which provides for the care and short or long-term, continuous multi-day occupancy of more than three unrelated persons who require and receive therapy or counseling on site as part of an organized and therapeutic ongoing program for any of the purposes listed below. Such facilities shall exclude those uses defined as group homes. Group Care Facilities include facilities which provide for the:

1. Adaptation to living with, or rehabilitation from, the handicaps of physical disability.

2. Adaptation to living with, or rehabilitation from, the handicaps of emotional or mental disorder; or of mental retardation if such facility has an overnight occupancy of more than eight persons.
3. Rehabilitation from the effects of drug or alcohol abuse.
4. Supervision while under a program alternative to imprisonment, including but not limited to pre-release, work-release, and probationary programs.

**l. Group Home**

A facility licensed by the State of North Dakota in which at least four but no more than eight persons, not including resident managers or house parents, who are unrelated by blood, marriage, or adoption reside while receiving therapy, training, or counseling for the purpose of adaptation to living with or rehabilitation from cerebral palsy, autism, or mental retardation.

**m. Guidance Services**

A use providing counseling, guidance, recuperative, or similar services to persons requiring rehabilitation assistance as a result of mental illness, alcoholism, detention, drug addiction, or similar condition on a daytime care basis.

**n. Health Care**

A facility providing medical, psychiatric, or surgical service for sick or injured persons exclusively on an out-patient basis including emergency treatment, diagnostic services, training, administration and services to out-patients, employees, or visitors.

**o. Hospital**

A facility providing medical, psychiatric, or surgical service for sick or injured persons primarily on an in-patient basis, including emergency treatment, diagnostic services, training, administration, and services to patients, employees, or visitors.

**p. Maintenance Facilities**

A public facility supporting maintenance, repair, vehicular or equipment servicing, material storage, and similar activities including street or sewer yards, equipment service centers, and similar uses having characteristics of commercial services or contracting or industrial activities.

**q. Park and Recreation Services**

Publicly-owned and operated parks, playgrounds, recreation facilities, and open spaces.

**r. Postal Facilities**

Postal services, including post offices, bulk mail processing or sorting centers operated by the United States Postal Service.

**s. Primary Educational Facilities**

A public, private, or parochial school offering instruction at the elementary school level in the branches of learning study required to be taught in schools within the State of North Dakota.

**t. Public Assembly**

Facilities owned and operated by a public agency or a charitable non-profit organization accommodating major public assembly for recreation, sports, amusement, or entertainment purposes. Typical uses include civic or community auditoriums, sports stadiums, convention facilities, fairgrounds, incidental sales, and exhibition facilities.

**u. Religious Assembly**

A use located in a permanent building and providing regular organized religious worship and religious education incidental thereto (excluding private primary or private secondary educational facilities, community recreational facilities, day-care facilities, and incidental

parking facilities). A property tax exemption obtained pursuant to Property Tax Code of the State of North Dakota shall constitute prima facie evidence of religious assembly use.

**v. Safety Services**

Facilities for conduct of public safety and emergency services including police and fire protection services and emergency medical and ambulance services.

**w. Secondary Educational Facilities**

A public, private, or parochial school offering instruction at the junior high or high school level in the branches of learning and study required to be taught in the schools of the State of North Dakota.

**x. Utilities**

Any above ground structures or facilities, other than lines, poles, and other incidental facilities, used for the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, delivery, collection, or storage of water, sewage, electricity, gas, oil, energy media, communications, electronic or electromagnetic signals, or other services which are precedent to development and/or use of land. (Ord. No. 1171 § 1.)

## **Section 39.03.006 Office Use Types**

Office use types include uses providing for administration, professional services, and allied activities. These uses often invite public clientele but are more limited in external effects than commercial uses.

**a. General Offices**

Use of a site for business, professional, or administrative office. Typical uses include real estate, insurance, management, travel, or other business offices; organization and association offices; banks or financial offices; or professional offices.

**b. Financial Services**

Provision of financial and banking services to consumers or clients. Walk-in and drive-in services to consumers are provided on site. Typical uses include banks, savings and loan associations, savings banks, and loan companies. An ATM (Automatic Teller Machine) which is not accompanied on-site by an office of its primary financial institution is considered a “General Retail Services” Use Type.

**c. Medical Offices**

Use of a site for facilities which provide diagnoses and outpatient care on a routine basis, but which does not provide prolonged, in-house medical or surgical care. Medical offices are operated by doctors, dentists, or similar practitioners licensed for practice in the State of North Dakota. (Ord. No. 1171 § 1.)

## **Section 39.03.007 Commercial Use Types**

Commercial uses include the sale, rental, service, and distribution of goods; and the provision of services other than those classified under other use types.

**a. Agricultural Sales and Service**

Establishments or places of business engaged in sale from the premises of feed, grain, fertilizers, farm equipment, pesticides and similar goods or in the provision of agriculturally-related services with incidental storage on lots other than where the service is rendered. Typical uses include nurseries, hay, farm implement dealerships, feed and grain stores, and tree service firms.

## **b. Automotive and Equipment Services**

Establishments or places of business primarily engaged in sale and/or service of automobiles, trucks, or heavy equipment. The following are considered automotive and equipment use types:

1. *Automotive Rental and Sales*: Sale or rental of automobiles, noncommercial trucks, motorcycles, motor homes, recreational vehicles or boats, including incidental storage, maintenance, and servicing. Typical uses include new and used car dealerships; motorcycle dealerships; and boat, trailer, and recreational vehicle dealerships.
2. *Auto Services*: Provision of fuel, lubricants, parts and accessories, and incidental services to motor vehicles; and washing and cleaning and/or repair of automobiles, non-commercial trucks, motorcycles, motor homes, recreational vehicles, or boats, including the sale, installation, and servicing of equipment and parts. Typical uses include service stations, car washes, muffler shops, auto repair garages, tire sales, and installation, wheel and brake shops, and similar repair and service activities but exclude dismantling, salvage, or body and fender repair services.
3. *Body Repair*: Repair, painting, or refinishing of the body, fender, or frame of automobiles, trucks, motorcycles, motor homes, recreational vehicles, boats, tractors, construction equipment, agricultural implements, and similar vehicles or equipment. Typical uses include body and fender shops, painting shops, and other similar repair or refinishing garages.
4. *Equipment Rental and Sales*: Sale or rental of trucks, tractors, construction equipment, agricultural implements, mobile homes, and similar heavy equipment, including incidental storage, maintenance, and servicing. Typical uses include truck dealerships, construction equipment dealerships, and mobile home sales establishments.
5. *Equipment Repair Services*: Repair of trucks, tractors, construction equipment, agricultural implements, and similar heavy equipment. Typical uses include truck repair garages, tractor and farm implement repair services, and machine shops, but exclude dismantling, salvage, or body and fender repair services.
6. *Vehicle Storage*: Storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of operating or non-operating vehicles beyond 21 days constitutes an Industrial Use Type.

## **c. Bed and Breakfast**

A lodging service that provides overnight or short-term accommodations to guests or visitors, usually including provision of breakfast. Bed and breakfasts are usually located in large residential structures that have been adapted for this use. For the purpose of this definition, bed and breakfasts are always owned and operated by the resident owner of the structure, include no more than ten units, and accommodate each guest or visitor for no more than 7 consecutive days during any one month period.

## **d. Business Support Services**

Establishments or places of business primarily engaged in the sale, rental or repair of equipment, supplies and materials or the provision of services used by office, professional and service establishments to the firms themselves but excluding automotive, construction and farm equipment; or engaged in the provision of maintenance or custodial services to businesses. Typical uses include office equipment and supply firms, small business machine repair shops or hotel equipment and supply firms, janitorial services, photography studios, and convenience printing and copying.

**e. Business or Trade Schools**

A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or public or private educational facility.

**f. Campground**

Facilities providing camping or parking areas and incidental services for travelers in recreational vehicles or tents, which accommodate each guest or visitor.

**g. Cocktail Lounge**

A use engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises, including taverns, bars, cocktail lounges, and similar uses other than a restaurant as that term is defined in this section.

**h. Commercial Recreation (Indoors)**

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. The preponderance of activities occur within enclosed structures. Typical uses include movie theaters, private dance halls, or private skating facilities.

**i. Commercial Recreation (Outdoors)**

Private businesses, or other organizations which may or may not be commercial by structure or by nature, which are primarily engaged in the provision or sponsorship of sports, entertainment, or recreation for participants or spectators. The preponderance of activities occur outside of enclosed structures. Typical uses include driving ranges, commercial race tracks, and drive-in theaters.

**j. Communications Services**

Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms but excludes those classified as Utilities. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities. Broadcast towers, and their minor ancillary ground structures are classified as "Miscellaneous Use Types."

**k. Construction Sales and Services**

Establishments or places of business primarily engaged in the retail or wholesale sale, from the premises, of materials used in the construction of buildings or other structures other than retail sale of paint, fixtures and hardware. This use type excludes those uses classified under Automotive and Equipment Services. Typical uses include building materials sales, or tool and equipment rental or sales.

**l. Consumer Services**

Establishments which provide services, primarily to individuals and households, but excluding Automotive Use Types. Typical uses include automated banking machines, appliance repair shops, watch or jewelry repair shops, or musical instrument repair shops.

**m. Convenience Storage**

Storage services primarily for personal effects and household goods within enclosed storage areas having individual access but excluding use of such areas as workshops, hobby shops, manufacturing, or commercial activity. Typical uses include mini-warehousing.

**n. Crematorium**

An establishment containing a furnace for the purpose of reducing human or animal bodies or remains to ashes by burning.

**o. Food Sales**

Establishments or places of business primarily engaged in the retail sale of food or household products for home consumption. Food sales establishments may include the sale of non-food items. Typical uses include groceries, delicatessens, meat markets, retail bakeries, and candy shops.

1. *Convenience Food Sales:* Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, and by the sale of fuel for motor vehicles.

2. *Limited Food Sales:* Establishments occupying facilities of less than 10,000 square feet; and characterized by sales of specialty foods or a limited variety of general items, but excluding the accessory sale of fuel for motor vehicles.

Typical uses include delicatessens, meat markets, retail bakeries, candy shops, small grocery stores.

3. *General Food Sales:* Establishments selling a wide variety of food commodities, using facilities larger than 10,000 square feet. Typical uses include supermarkets.

**p. Funeral Services**

Establishments engaged in undertaking services such as preparing the human dead for burial, and arranging and managing funerals. Typical uses include funeral homes or mortuaries.

**q. Gaming Facilities**

Establishments engaged in the lawful, on-site operation of games of chance that involve the risk of money for financial gain by patrons. Gaming facilities shall include the accessory sale of liquor and food, pursuant to licensing regulations of the City of Dickinson or the State of North Dakota.

**r. General and Limited Retail Services**

Sale or rental with incidental service of commonly-used goods and merchandise for personal or household use but excludes those classified more specifically by these use type classifications. Typical uses include department stores, apparel stores, furniture stores, or establishments providing the following products or services:

Household cleaning and maintenance products; drugs, cards, stationery, notions, books, tobacco products, cosmetics, and specialty items; apparel jewelry, fabrics and like items; cameras, photograph services, household electronic equipment, records, sporting equipment, kitchen utensils, home furnishing and appliances, art supplies and framing, arts and antiques, paint and wall paper, hardware, carpeting and floor covering; interior decorating services; office supplies; mail order or catalog sales; bicycles; and automotive parts and accessories (excluding service and installation). General Retail Services include:

1. *Limited Retail Services:* Establishments providing retail services, occupying facilities of 5,000 square feet or less for any single

establishment or 10,000 square feet or less for a multi-tenant facility. Typical establishments provide for specialty retailing or retailing oriented to Dickinson and a local market.

2. *General Retail Services*: Establishments providing retail services, occupying facilities of more than 5,000 square feet for any single establishment or more than 10,000 square feet for a multi-tenant facility. Typical establishments provide for general purpose retailing oriented to Dickinson and its immediate vicinity.

**s. Kennels**

Boarding and care services for dogs, cats and similar small mammals or large birds; or any premises on which three or more animals included under this definition over four months of age are kept and maintained. Typical uses include boarding kennels, ostrich raising facilities; pet motels, or dog training centers.

**t. Laundry Services**

Establishments primarily engaged in the provision of laundering, dry cleaning or dyeing services other than those classified as Personal Services. Typical uses include bulk laundry and cleaning plants, diaper services, or linen supply services.

**u. Liquor Sales**

Establishments or places of business engaged in retail sale for off-premise consumption of alcoholic beverages. Typical uses include liquor stores, bottle shops, or any licensed sales of liquor, beer or wine for off-site consumption.

**v. Lodging**

Lodging services involving the provision of room and/or board, but not meeting the classification criteria of Bed and Breakfasts. Typical uses include hotels, apartment hotels, and motels.

**w. Personal Improvement Services**

Establishments primarily engaged in the provision of informational, instructional, personal improvements and similar services of a non-professional nature. Typical uses include driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

**x. Personal Services**

Establishments or places of business primarily engaged in the provision of services of a personal nature. Typical uses include beauty and barber shops; seamstress, tailor, or shoe repair shops; photography studios; or dry cleaning stations serving individuals and households, driving schools, health or physical fitness studios, reducing salons, dance studios, handicraft and hobby instruction.

**y. Pet Services**

Retail sales, incidental pet health services, and grooming and boarding, when totally within a building, of dogs, cats, birds, fish, and similar small animals customarily used as household pets. Typical uses include pet stores, small animal clinics, dog bathing and clipping salons, and pet grooming shops, but exclude uses for livestock and large animals.

**z. Research Services**

Establishments primarily engaged in research of an industrial or scientific nature. Typical uses include electronics research laboratories, space research and development firms, testing laboratories, or pharmaceutical research labs.

**aa. Restricted Businesses**

Any business activity which offers the opportunity to view sexual activities or view or touch anatomical areas for entertainment purposes in a manner that offends contemporary standards in the community of Dickinson, depicts or describes sexual conduct in a patently offensive way, and lacks serious literary, artistic, political, or scientific value. This category includes the sale of viewing of visual or print materials that meet these criteria. Typical uses include retail services or stores which are distinguished by an emphasis on activities or materials that emphasize sexual content; businesses which offer live performances characterized by exposure of specified anatomical areas; and adult theaters.

**bb. Restaurants**

A use engaged in the preparation and retail sale of food and beverages; including the sale of alcoholic beverages when conducted as a secondary feature of the use, producing less than 50 per cent of the establishment's gross income.

1. *Restaurant (Drive-in or Fast Food)*: An establishment which principally supplies food and beverages in disposable containers and is characterized by high automobile accessibility and on-site accommodations, self-service, and short stays by customers.
2. *Restaurant (General)*: An establishment characterized by table service to customers and/or accommodation to walk-in clientele, as opposed to Drive-in or Fast Food Restaurants. Typical uses include cafes, coffee shops, and restaurants.

**cc. Stables and/or Riding Academies**

The buildings, pens and pasture areas used for the boarding and feeding of horses, llamas, or other equine not owned by the occupants of the premises. This use includes instruction in riding, jumping, and showing or the riding of horses/equine for hire.

**dd. Surplus Sales**

Businesses engaged in the sale of used or new items, involving regular, periodic outdoor display of merchandise for sale. Typical uses include flea markets and factory outlets or discount businesses with outdoor display.

**ee. Trade Services**

Establishments or places of business primarily engaged in the provision of services that are not retail or primarily dedicated to walk-in clientele. These services often involve services to construction or building trades and may involve a small amount of screened, outdoor storage in appropriate zoning districts. Typical uses include shops or operating bases for plumbers, electricians, or HVAC (heating, ventilating, and air conditioning) contractors.

**ff. Vehicle Storage (Short-term)**

Short-term storage of operating or non-operating vehicles for a period of no more than 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage beyond 21 days constitutes an Industrial Use Type.

**gg. Veterinary Services**

Veterinary services and hospitals for animals. Typical uses include pet clinics, dog and cat hospitals, pet cemeteries, and veterinary hospitals for livestock and large animals. (Ord. No. 1171 § 1; Ord. 1225 § 1.)

## **Section 39.03.008 Parking Use Types**

**a. Off-Street Parking**

Parking use types include surface parking of motor vehicles on a temporary basis within a privately or publicly owned off-street parking facility.

**b. Parking Structure**

The use of a site for a multi-level building which provides for the parking of motor vehicles on a temporary basis, other than as an accessory to a principal use on the same site. (Ord. No. 1171 § 1.)

**Section 39.03.009 Industrial Use Types**

Industrial use types include the on-site extraction or production of goods by non-agricultural methods, and the storage and distribution of products.

**a. Construction Yards**

Establishments housing facilities of businesses primarily engaged in construction activities, including incidental storage of materials and equipment on lots other than construction sites. Typical uses are building contractor's yards.

**b. Custom Manufacturing**

Establishments primarily engaged in the on-site production of goods by hand manufacturing, within enclosed structures, involving the use of hand tools or light equipment. This category also includes the incidental direct sale to consumers of only those goods produced on site. Typical uses include ceramic studios, custom jewelry manufacturing, and candle making shops.

**c. Grain Elevators**

Establishments or uses engaged in the large-scale storage or processing of agricultural products that cannot be otherwise categorized as light, general, or heavy industries.

**d. Light Industry**

Establishments engaged in the manufacture or processing of finished products from previously prepared materials, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution. These establishments are characterized by having no major external environmental effects across property lines and include no unscreened or un-enclosed outdoor storage. Typical uses include commercial bakeries, dressed beef processing plants, soft drink bottling, and apparel assembly from fabrics, electronics, manufacturing, print shops and publishing houses.

**e. General Industry**

Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment or fabrication of materials and products from prepared materials or from raw materials without noticeable noise, odor, vibration, or air pollution effects across property lines.

**f. Heavy Industry**

Enterprises involved in the basic processing, storage, and manufacturing of products, predominately from raw materials, with noticeable noise, odor, vibration, or air pollution effects across property lines; or a use or process engaged in the storage of or processes involving potentially or actually hazardous, explosive, flammable, radioactive, or other commonly recognized hazardous materials.

**g. Oil Wells**

A use involving on-site extraction of petroleum or petroleum products. The oil well site is the location at which such resources physically penetrate the plane of the ground, and includes any facilities needed for the storage or flaring of petroleum or petroleum products, but excludes underground pipes or conduits.

**h. Recycling Collection**

Any site which is used in whole or part for the receiving or collection of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

**i. Recycling Processing**

Any site which is used for the processing of any post-consumer, non-durable goods including, but not limited to glass, plastic, paper, cardboard, aluminum, tin, or other recyclable commodities.

**j. Resource Extraction**

A use involving on-site extraction of surface or subsurface mineral products or natural resources, excluding oil wells and the grading and removal of dirt. Typical uses include quarries, borrow pits, sand and gravel operations, and mining.

**k. Salvage Services**

Place of business primarily engaged in the storage, sale, dismantling or other processing of used or waste materials which are not intended for reuse in their original forms. Typical uses include automotive wrecking yards, junk yards, or paper salvage yards.

**l. Vehicle Storage (Long-term)**

Long-term storage of operating or non-operating vehicles for a period exceeding 21 days. Typical uses include storage of private parking tow-aways or impound yards but exclude dismantling or salvage. Long-term storage of 21 days or less constitutes a Commercial Use Type.

**m. Warehousing (Enclosed)**

Uses including storage, warehousing, distribution, and handling of goods and materials within enclosed structures. Typical uses include wholesale distributors, storage warehouses, and van and storage companies.

**n. Warehousing (Open)**

Uses including open air storage, distribution, and handling of goods and materials. Typical uses include monument yards, materials yards, open storage. (Ord. No. 1171 § 1.)

## **Section 39.03.010 Transportation Use Types**

Transportation use types include the use of land for the purpose of providing facilities supporting the movement of passengers and freight from one point to another.

**a. Aviation Facilities**

Landing fields, aircraft parking and service facilities, and related facilities for operation, service, fueling, repair, storage, charter, sales, and rental of aircraft, and including activities directly associated with the operation and maintenance of airport facilities and the provision of safety and security.

**b. Railroad Facility**

Railroad yards, equipment servicing facilities, and terminal facilities.

**c. Transportation Terminal**

Facility for loading, unloading, and interchange of passengers, baggage, and incidental freight or package express, including bus terminals, railroad stations, public transit facilities.

**d. Truck Terminal**

A facility for the receipt, transfer, short term storage, and dispatching of goods transported by truck. (Ord. No. 1171 § 1.)

## **Section 39.03.011      Miscellaneous Use Types**

### **a. Alternative Energy Production Devices**

The use of a site for the production of energy utilizing methods that do not involve the oxidation, combustion, or fission of primary materials. Typical uses include solar collector fields, installations which generate energy by harnessing the natural heat of the earth or of geological features, or water-powered mills or generating facilities.

### **b. Broadcasting Tower**

A structure(s) for the transmission or broadcasting of radio, television, radar, or microwaves, ordinarily exceeding the maximum height permitted in its zoning district or utilizing antennas or satellite dishes for commercial broadcasting.

### **c. Amateur Radio Tower**

A structure(s) for the transmission or broadcasting of electromagnetic signals by FCC-licensed Amateur Radio operators.

### **d. Construction Batch Plant**

A temporary demountable facility used for the manufacturing of cement, concrete, asphalt, or other paving materials intended for specific construction projects.

### **e. Wind Energy Conservation System (WECS)**

Any device which converts wind energy to a form of usable energy, including wind charges, windmills, or wind turbines.

### **f. Landfill (Inert)**

The use of a site as a depository for solid wastes that do not readily undergo chemical or biological breakdown under conditions normally associated with land disposal operations. Typical disposal material would include ashes, concrete, paving wastes, rock, brick, lumber, roofing materials and ceramic tile. Inert landfills must receive appropriate State permission.

### **g. Landfill (Municipal Industrial or Special Waste)**

The use of a site as a depository for any solid waste except hazardous and toxic waste as defined by the Federal Environmental Protection Agency and/or the State of North Dakota. Typical disposal material would include non-putrescible wastes; and putrescible wastes such as vegetation, tree parts, agricultural wastes (garbage) and manure. Municipal Industrial or Solid Waste landfills must receive appropriate State Permission. (Ord. No. 1171 § 1.)

# **Article 39.04 Zoning District Regulations**

**Sections:**

- 39.04.001 Purpose**
- 39.04.002 Establishment of Districts**
- 39.04.003 Application of Districts**
- 39.04.004 Hierarchy**
- 39.04.005 Development Regulations**
- 39.04.006 Zoning Map**
- 39.04.007 Interpretation of District Boundaries**
- 39.04.008 Vacation of Streets and Alleys**

## **Section 39.04.001 Purpose**

Article Four presents the Zoning District Regulations. Zoning Districts are established in the Zoning Ordinance to promote compatible land use patterns and to establish site development regulations appropriate to the purposes and specific nature of each district. (Ord. No. 1171 § 1.)

## **Section 39.04.002 Establishment of Districts**

The following base districts and overlay districts are hereby established. Table 4-1 displays the purposes of these districts.

<u>BASE ZONING</u>	<u>DISTRICT NAMES</u>	<u>DISTRICTS</u>
AG		Agricultural District
RR		Rural Residential District
R-1		Low-Density Residential District
R-2		Medium-Density Residential District
R-3		High-Density Residential District
MH		Mobile Home Residential District
LC		Limited Commercial District
CC		Community Commercial District
DC		Downtown Commercial District
GC		General Commercial District
LI		Limited Industrial District
GI		General Industrial District
P		Public District
		<u>OVERLAY DISTRICTS</u>
MU		Mixed Use Overlay District
PUD		Planned Unit Development Overlay District
FP/FW		Floodplain/Floodway Overlay District
UM		Underground Mine Overlay District

(Ord. No. 1171 § 1.)

### **Section 39.04.003 Application of Districts**

A base district designation shall apply to each lot or site within the city and its planning jurisdiction. A site must be in one base district.

Overlay districts may be applied to any lot or site or any portion thereof, in addition to a base district designation. The Mixed Use District may stand alone as a base district. (Ord. No. 1171 § 1.)

### **Section 39.04.004 Hierarchy**

References in the Zoning Ordinance to less intensive or more intensive districts shall be deemed to refer to those agricultural, residential, commercial, and industrial base zoning districts established in Section 39.04.002, and shall represent a progression from the AG Agricultural District as the least intensive to the GI General Industrial District as the most intensive. The Overlay Districts shall not be included in this reference. (Ord. No. 1171 § 1.)

### **Section 39.04.005 Development Regulations**

For each Zoning District: Purposes are set forth in Table 4-1, Permitted Uses are set forth in Table 4-2, and Site Development Regulations are presented in Table 4-3.

Supplemental Regulations may affect specific land uses or development regulations in each zoning district. The applicable Supplemental Regulations are noted in Table 4-2. (Ord. No. 1171 § 1.)

### **Section 39.04.006 Zoning Map**

#### **a. Adoption of Zoning Map**

Boundaries of zoning districts established by this Zoning Ordinance shall be shown on the Zoning Map maintained by the Zoning Administrator. This map, together with all legends, references, symbols, boundaries, and other information, shall be adopted as a part of, and concurrent with this Ordinance. Said Zoning Map shall be prominently displayed in the council chambers and/or an area accessible to the public at Dickinson city offices.

#### **b. Changes to the Zoning Map**

The Zoning Map may be changed from time to time by ordinance, following the procedure set forth by Article Twelve. Such changes shall be reflected on the Zoning Map. The Zoning Administrator shall keep a complete record of all changes to the Zoning Map. (Ord. No. 1171 § 1.)

### **Section 39.04.007 Interpretation of District Boundaries**

The following rules shall apply in determining the boundaries of any zoning district shown on the Zoning Map.

- a. Where district boundaries are indicated as approximately following lot lines, such lot lines shall be considered the district boundaries.
- b. Where district boundaries are indicated as within street or alley, railroad, or other identifiable rights-of-way the centerline of such rights-of-way shall be deemed the district boundary.

- c. Where a district boundary divides a property, the location of the boundary shall be determined by the use of the scale appearing on the Zoning Map.
- d. The City Council shall determine any other uncertainty regarding district boundaries not covered in this section. (Ord. No. 1171 § 1.)

**Section 39.04.008      Vacation of Streets and Alleys**

Whenever a public street, alley, or other public right-of-way is vacated, the zoning district adjoining each side of such right-of-way shall be extended out to the former centerline.

Table 4-1      Purposes of Zoning Districts

<b>Symbol</b>	<b>Title</b>	<b>Purpose</b>
<b>AG</b>	Agricultural District	The AG District provides for and preserves the agricultural and rural use of land, while accommodating very low density residential development generally associated with agricultural uses. This district is designed to maintain complete agricultural uses within the Dickinson extra-territorial jurisdiction. In addition, land included in the Urban Reserve in the Comprehensive Development Plan should be retained in the AG district to prevent premature or inappropriate development.
<b>RR</b>	Rural Residential	This district provides for the rural residential use of land, accommodating very low and low density residential environments. The district’s regulations assure that density is developed consistent with: land use policies of the Dickinson Comprehensive Plan regarding rural subdivision; levels of infrastructure; and environmentally sensitive development practices. The district also accommodates developments that merge urban living with rural life.
<b>R-1</b>	Low-Density Residential	This district is intended to provide for low-density residential neighborhoods, characterized by single-family dwellings on relatively large lots with supporting community facilities and urban services. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.
<b>R-2</b>	Medium-Density Residential	This district is intended to provide for medium-density residential neighborhoods, characterized by single-family dwellings on small to moderately sized lots and low-density, multiple-family development. It provides special regulations to encourage innovative forms of housing development. It adapts to both established and developing neighborhoods, as well as transitional areas between single-family and multi-family neighborhoods. Its regulations are intended to minimize traffic congestion and to assure that density is consistent with the carrying capacity of infrastructure.
<b>R-3</b>		This district is intended to provide locations primarily for multiple-family housing, with supporting and appropriate community facilities. It also permits some non-residential uses such as offices through a special

	High-Density Residential	permit procedure, to permit the development of mixed use neighborhoods.
<b>MH</b>	Mobile Home Residential	This district recognizes that mobile home development, properly planned, can provide important opportunities for affordable housing. It provides opportunities for mobile home development within planned parks or subdivision, along with the supporting services necessary to create quality residential neighborhoods.
<b>Symbol</b>	<b>Title</b>	<b>Purpose</b>
<b>LC</b>	Limited Commercial	This district reserves appropriately located area for office development and a limited variety of low-impact commercial facilities which serve the needs of residents of surrounding residential communities. The commercial and office uses permitted are compatible with nearby residential areas. Development regulations are designed to ensure compatibility in size, scale, and landscaping with nearby residences.
<b>CC</b>	Community Commercial	This district is intended for commercial facilities which serve the needs of markets ranging from several neighborhoods to the overall region. While allowed commercial and office uses are generally compatible with nearby residential areas, traffic and operating characteristics may have more negative effects on residential neighborhoods than those permitted in the LC District. CC Districts are appropriate at major intersections, at the junction of several neighborhoods, or at substantial commercial subcenters.
<b>DC</b>	Downtown Commercial District	This district is intended to provide appropriate development regulations for Downtown Dickinson. Mixed uses are encouraged within the DC District. The grouping of uses is designed to strengthen the town center's role as a center for trade, service, and civic life.
<b>GC</b>	General Commercial	This district accommodates a variety of commercial uses, some of which have significant traffic or visual effect. These districts may include commercial uses which are oriented to services, including automotive services, rather than retail activities. These uses may create land use conflicts with adjacent residential areas, requiring provision of adequate buffering. This district is most appropriately located along major arterial streets or in areas that can be adequately buffered from residential districts.
<b>LI</b>		This district is intended to reserve sites appropriate for the location of industrial uses with relatively limited environmental effects. The district is designed to provide appropriate space and regulations to encourage





Sports Facilities, Fields, and Arenas (Public)														P	
Utilities	S	S	S	S	S	S	S	P	P	P	P	P	P	S	
Office Uses															
General Offices	S				S		P	P	P	P	P	P	P		
Financial Services					S		P	P	P	P	P	P	P		
Medical Offices					S		P	P	P	P	P	P	S		
Commercial Uses															
Ag Sales/Service	S							S		P	P	P	P		
Auto Rental/Sales								S	P	P					39.06.005c
Auto Services							S	P	P	P	P	P	P		39.06.005a,b
Body Repair								S	P	P	P	P	P		39.06.005a
Equipment Rental/Sales									S	P	P	P	P		39.06.005c
Equipment Repair									S	P	P	P	P		39.06.005a
Veh. Storage (Short-Term)										P	P	P	P		
Bed and Breakfast	P	S		S	P		P	P	P	P					39.06.005d
Business Support Services							P	P	P	P	P	P	P		
<b>Use Types</b>	<b>A G</b>	<b>R R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MH</b>	<b>L C</b>	<b>C C</b>	<b>D C</b>	<b>G C</b>	<b>L I</b>	<b>G I</b>	<b>P</b>	<b>Addl Reg</b>	
Business/Trade School								P	P	P	P				
Campground	S					S				S					
Cocktail Lounge								P	P	P					
Commercial Recreation (Indoor)	S						S	P	P	P	P				
Commercial Recreation (Outdoor)	S									P	P	P	S		
Communication Service							P	P	P	P	P	P			
Construction Sale/Service								S	S	P	P	P			
Consumer Service							P	P	P	P	P				
Convenience Storage	S				S	S	S	S		S	P	P			39.06.005f
Crematorium										S	S	P			
Food Sales (Convenience)							S	P	S	P	P	P			

Food Sales (Limited)							P	P	P	P						
Food Sales (General)							S	P	P	P						
Funeral Service					S		P	P	P	P						
Limited Retail Services							P	P	P	P						
Gaming Facility								S	S	P						
General Retail Services								P	P	P						
Kennels	P	S							S	S	P	P				
Laundry Services								S	S	P	P	P				
Liquor Sales		S					P	P	P	P						
Lodging								P	P	P	S					
Personal Improvement					S		P	P	P	P	P	P				
Personal Services					S		P	P	P	P	P	P				
Pet Services	S						P	P	P	P						
Research Services							P	P	P	P	P	P				
Residential-Commercial							P	P	P	P						
Restaurants (Drive-In)							S	P	S	P	S	S				
<b>Use Types</b>	<b>A G</b>	<b>R R</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>MH</b>	<b>L C</b>	<b>C C</b>	<b>D C</b>	<b>G C</b>	<b>L I</b>	<b>G I</b>	<b>P</b>			<b>Addl Reg</b>
Restaurants (General)	P						P	P	P	P	S	S				
Restricted Business																
Stables	P	S											S			
Surplus Sales	S								P	P	P	P				
Trade Services	S							P	P	P	P	P				
Vehicle Storage										S	P	P				
Veterinary Services	S	S					S	S	S	P	P					
Parking Uses																
Off-Street Parking			S	S	S		S	S	P	P	P	P				
Parking Structure								S	P	S	P					
Industrial Uses																39.06.007
Custom Manufacturing								S	P	P	P	P				
Light Industry											P	P				
General Industry												P				
Heavy Industry												S				
Oil Wells	S											S				
Resource Extraction	S											S				



Industrial or Special Waste)														
Alternative Energy Production Devices	P	P	S	S	S	S		S	S		S	P		
Motorized Sports	S										S	S		Note 10

\*Note: Provisions of Sections 39.06.008 through 39.06.009 apply to all use types

P = Uses Permitted by Right  
S = Uses Permitted by Special Permit  
Blank = Use Not Permitted

## ZONING DISTRICT REGULATIONS

Table 4-3 Summary of Site Development Regulations

<b>Regulator</b>	<b>AG</b>	<b>RR</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3*</b>
Minimum Lot Area (square feet)	5 Acres	1 Acre (Note 1)*	7,500	7,000	7,000
Minimum Lot Width (feet)	300	100			
Single-Family			60	50	50
Other Residential			60	75 (Note 3)	75 (Note 3)
Site Area per Housing Unit (square feet)					
Single-Family	5 Acres	1 Acre	7,500	7,000	7,000
Duplex			7,000	3,500	3,500
Townhouse or multi-family up to 4 units				3,000 (Note 7)	3,000
Each additional multi-family unit over 4 units					1,000 (Note 4)
Retirement Residential Minimum Yards (feet)	(Note 11)		(Note 11)	(Note 11)	(Note 11)
<b>Regulator</b>	<b>AG</b>	<b>RR</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3*</b>
Front Yard					
Arterial Streets	50	40	25	25	25
Other Streets	50	40	25	25	25
Street Side Yard	15	15	15	15	15
Interior Side Yard	15	15	6	6 (Note 2)	6 (Note 2)
Rear Yard	50	25	20	20 (Note 6)	20 (Note 6)
Maximum Height (feet)	35 (Note 5)	35	35	45	60
Maximum Building Coverage	NA	25%	40%	60%	70%
Maximum Impervious Coverage	NA	35%	50%	65%	75%
Floor Area Ratio	NA	NA	NA	NA	NA

- Notes Accompanying This Table Appear after Table 4-3

ZONING DISTRICT REGULATIONS

Table 4-3 Summary of Site Development Regulations

<b>Regulator</b>	<b>MH</b>	<b>LC*</b>	<b>CC*</b>	<b>DC</b>	<b>GC*</b>
Minimum Lot Area (square feet)	See	5,000	12,000	None	12,000
Minimum Lot Width (feet)	Regulations	50	100	NA	100
Site Area per Housing Unit (square feet)	set forth in Section	Same as R-3	NA	500	NA
Minimum Yards (feet)	39.06.003f				
Front Yard		20	20	0	20
Street Side Yard		20	10	0	10
Interior Side Yard		10	0	0	0
Rear Yard		20	0	0	0
Maximum Height (feet)		40	40	No Limit	60
Maximum Building Coverage		50%	60%	100%	70%
Maximum Impervious Coverage Retirement Residential		70% (Note 11)	80%	100% (Note 11)	90%

\*Uses in the R-3, LC, CC, GC, LI, and GI Districts are subject to landscape and screening provisions contained in Article 8

Table 4-3 Summary of Site Development Regulations

<b>Regulator</b>	<b>LI*</b>	<b>GI*</b>
Minimum Lot Area (square feet)	10,000	10,000
Minimum Lot Width (feet)	100	100
Site Area per Housing Unit (square feet)	N/A	N/A
Minimum Yards (feet)		
Front Yard	20	20
Street Side Yard	20	20
Interior Side Yard	10	10
Rear Yard	20	20
Maximum Height (feet)	None	None
Maximum Building Coverage	70%	85%
<b>Regulator</b>	<b>LI*</b>	<b>GI*</b>
Maximum Impervious Coverage	90%	100%
Floor Area Ratio	1.0	2.0

\*Uses in the R-3, LC, CC, GC, LI, and GI Districts are subject to landscape and screening provisions contained in Article 39.08

- Notes Accompanying This Table Appear after Table 4-3 -

ZONING DISTRICT REGULATIONS

Notes to Preceding Pages: Tables 4-2 and 4-3

**Note 1:**

Rural Residential development situated within one of the designated rural development areas of the Comprehensive Plan may occur on minimum lot sizes below 1.0 acres, if such development is approved by the City as a Conservation Subdivision, designed in conformance with the Comprehensive Plan, to ensure compatible installation of infrastructure and sanitary waste collection systems in the future.

**Note 2:**

Six feet for single-story construction, one foot for each 4 feet for any building over 24 feet in height. See Section 39.06.003 for supplemental regulations governing single-family attached and townhouse residential use types.

**Note 3:**

See Section 39.06.003 for supplemental regulations regarding modifications of lot width for townhouse residential use type.

**Note 4:**

Density of multi-family residential may exceed this maximum, subject to approval of a Special Use Permit by the City Council, with the recommendation of the Planning Commission.

**Note 5:**

Height limit for residential structures. 65 feet for other permitted uses.

**Note 6:**

Ten feet for single-story construction, five feet for each additional story.

**Note 7:**

The 3,000 square feet per townhouse unit applies for up to 10 units in townhouse developments in the R-2 district.

**Note 8:**

All allowable accessory buildings to a residence shall be limited to a maximum of one thousand two hundred feet (1,200) and for a maximum of three (3) detached structures for the first one acre or less. The total area of all accessory buildings may be increased by 250 square feet for each additional half (.5) acre of land area above one acre, but in no case shall the total exceed 30 percent lot coverage. Accessory buildings shall include the following: barns, stable, storage buildings, and detached personal vehicle garages.

**Note 9:**

Toxic Gaseous Storage: Storage facilities of toxic gaseous, materials, tanks/or bulk facilities shall not be built within (2) two miles of any residential subdivision or within (1) mile of any building for human occupancy.

**Note 10:**

- (1) Adequate direct road access to the site is provided with such access designed to minimize traffic congestion; and
- (2) Sufficient off-street parking areas are provided in conformance with Article 39.09, Table 9-1; and
- (3) The site is located at least one (1) mile from any residentially zoned area.

**Note 11:**

Density for Retirement Residential is 7,000 square feet for 4 units and 1,000 square feet for each additional unit.

**Note 12:**

Attached garages shall not exceed the total square footage and height of the residence.

**Note 13:**

Detached structures shall not exceed the height of fifteen (15) feet or the height of the primary residence, whichever is less, unless the detached structure is setback from the side and rear property line a minimum of two (2) horizontal feet for every one (1) foot in height exceeding the maximum height of the structure in residential districts.

**Note 14:**

Accessory structures larger than two hundred and fifty (250) square feet shall be constructed with similar materials of the primary residence or building in residential and commercial zoning districts.

(Ord. No. 1171 § 1; Ord. No. 1205, § 1; Ord. 1225 § 2; Ord. 1235 § 1 & 2; Ord. 1244 § 3, Ord. 1423 § 4; Ord. 1437 § 4; Ord. 1475 § 1)

## **Article 39.05 Special and Overlay Districts**

### **Sections:**

<b>39.05.001</b>	<b>General Purpose</b>
<b>39.05.002</b>	<b>Purpose</b>
<b>39.05.003</b>	<b>Permitted Uses</b>
<b>39.05.004</b>	<b>Site Development Regulations</b>
<b>39.05.005</b>	<b>Amendments</b>
<b>39.05.006</b>	<b>Purpose</b>
<b>39.05.007</b>	<b>Permitted Uses</b>
<b>39.05.008</b>	<b>Site Development Regulations</b>
<b>39.05.009</b>	<b>Access to Public Streets</b>
<b>39.05.010</b>	<b>Application Process</b>
<b>39.05.011</b>	<b>Adoption of District</b>
<b>39.05.012</b>	<b>Amendment Procedure</b>
<b>39.05.013</b>	<b>Building Permits</b>
<b>39.05.014</b>	<b>Termination of PUD District</b>
<b>39.05.015</b>	<b>Purpose</b>
<b>39.05.016</b>	<b>Application of District</b>
<b>39.05.017</b>	<b>Permitted Uses</b>
<b>39.05.018</b>	<b>Adoption of District</b>
<b>39.05.019</b>	<b>Purpose</b>
<b>39.05.020</b>	<b>Floodplain and Floodway Overlay Districts: Findings of Fact</b>
<b>39.05.021</b>	<b>Floodplain and Floodway Permits and Administration</b>
<b>39.05.022</b>	<b>Establishment of Zoning Districts</b>
<b>39.05.023</b>	<b>Standards for Floodway Overlay District and Floodplain Overlay District</b>
<b>39.05.024</b>	<b>Floodplain Overlay District: Regulations</b>
<b>39.05.025</b>	<b>Floodway Overlay Districts</b>
<b>39.05.026</b>	<b>Request for Variances From District Requirements</b>
<b>39.05.027</b>	<b>Zoning Regulations For Nonconforming Uses</b>
<b>39.05.028</b>	<b>Definitions</b>
<b>39.05.030</b>	<b>Corridor Overlay District – Purpose</b>
<b>39.05.031</b>	<b>Corridor Overlay District – Boundaries</b>
<b>39.05.032</b>	<b>Corridor Overlay District – Permitted Uses</b>
<b>39.05.033</b>	<b>Corridor Overlay District – Application and Exemptions</b>
<b>39.05.034</b>	<b>Corridor Overlay District – Standards</b>
<b>39.05.040</b>	<b>West Villard Overlay District – Purpose</b>
<b>39.05.041</b>	<b>West Villard Overlay District – Boundaries</b>
<b>39.05.042</b>	<b>West Villard Overlay District – Application</b>

### **Section 39.05.001 General Purpose**

Special Districts provide for base districts that allow multiple land uses and flexible development, with the requirement that a specific plan for the area be submitted by applicants. Overlay Districts are used in combination with base districts to modify or expand base district regulations. Overlay Districts are adapted to special needs of different parts of the City of Dickinson.

The Overlay Districts are designed to achieve the following objectives:

- a. To recognize special conditions in specific parts of the City which require specific regulation.
- b. To provide flexibility in development and to encourage innovative design through comprehensively planned projects. (Ord. No. 1171 § 1.)

### **Section 39.05.002 Purpose**

#### **MU MIXED USE DISTRICT**

The MU Mixed Use District is intended to accommodate projects which combine several compatible land uses into an integrated development. The MU District may also be used to pre-designate parts of the city which are appropriate for a mixture of residential areas with workplaces and services. Development in the MU District must accommodate transportation systems, pedestrian and bicycle movement, and surrounding environments. All projects developed in an MU District are subject to a Special Use Permit process. (Ord. No. 1171 § 1.)

### **Section 39.05.003 Permitted Uses**

Each ordinance establishing an MU District establishes the use types permitted within its boundaries. (Ord. No. 1171 § 1.)

### **Section 39.05.004 Site Development Regulations**

- a. The minimum area of any MU District is two acres.
- b. Prior to the issuance of any building permits or other authorization, all projects in the MU District shall receive approval by the City Commission, following a recommendation by the Planning Commission, according to the Special Use Permit procedure set forth in Article 39.12. This approval may be granted for a specific plan for the development of an MU District in lieu of a plan for individual projects, provided that any subsequent developments are consistent with the specific plan.
- c. Applications for approval must contain at a minimum the following information:
  1. A detailed site map, including:
    - (a) a boundary survey
    - (b) site dimensions
    - (c) contour lines at no greater than five foot intervals
    - (d) adjacent public rights of way, transportation routes, and pedestrian or bicycle systems
    - (e) description of adjacent land uses
    - (f) utility service to the site and easements through the site
    - (g) description of other site features, including drainage, soils, or other considerations that may affect development.
  2. A developmental plan, including:
    - (a) a site layout, including the location of proposed buildings, parking, open space, and other facilities
    - (b) location, capacity, and conceptual design of parking facilities
    - (c) description of the use of individual buildings
    - (d) description of all use types to be included in the project or area, and maximum floor area devoted to each general use
    - (e) maximum height of buildings

- (f) schematic location and design of open space on the site, including a landscaping plan
  - (g) vehicular and pedestrian circulation plan, including relationship to external transportation systems
  - (h) schematic building elevations and sections if required to describe the project
  - (i) grading plans
  - (j) proposed sewer and utility improvements
  - (k) location, sizes, and types of all proposed signage.
3. Specific proposed development regulations for the project, including:
- (a) the specific use types permitted within the proposed district
  - (b) maximum floor area ratios
  - (c) front, side, and rear yard setbacks
  - (d) maximum height
  - (e) maximum building and impervious coverage
  - (f) design standards applicable to the project.
4. A traffic impact analysis, if required by the City. (Ord. No. 1171 § 1.)

### **Section 39.05.005 Amendments**

The Zoning Administrator is authorized at his/her discretion to approve amendments to an approved development plan, provided that:

- a. A written request is filed with the Zoning Administrator, along with information specifying the exact nature of the proposed amendment.
- b. The amendment is consistent with the provisions of this section.
- c. The amendment does not alter the approved site regulations of the development plan and does not materially alter other aspects of the plan, including traffic circulation, mixture of use types, and physical design.
- d. Any amendment not conforming to these provisions shall be submitted to the Planning Commission and City Commission for action. (Ord. No. 1171 § 1.)

### **Section 39.05.006 Purpose**

#### **PUD PLANNED UNIT DEVELOPMENT DISTRICT**

The PUD Planned Unit Development Overlay District is intended to provide flexibility in the design of planned projects; to permit innovation in project design that incorporates open space and other amenities; and to insure compatibility of developments with the surrounding urban environment. The PUD District, which is adopted by the City Commission with the recommendation of the Planning Commission, assures specific development standards for each designated project. (Ord. No. 1171 § 1. Ord. No. 1470 § 1.)

### **Section 39.05.007 Permitted Uses**

Uses permitted in a PUD Overlay District are those permitted in the ordinance adopting the PUD. Any use listed in this Code as a permitted or special use may be allowed. Any other use that the Commission finds compatible with the existing and planned uses in the development and on adjacent properties may be allowed. However, each approved use must be listed in the PUD and included in the approval ordinance adopted by the Commission. A PUD may be

established exclusively for residential, commercial or industrial development or any combination of those types of development. (Ord. No. 1171 § 1; Ord. No. 1470 § 1)

### **Section 39.05.008 Site Development Regulations**

A property owner shall have the option of choosing to conform with the underlying zoning district regulations or the established PUD approval, if the PUD was adopted by the Commission prior to the adoption of this chapter. (Ord. No. 1171 § 1; Ord. No. 1470 § 1)

### **Section 39.05.009 Access to Public Streets**

Each PUD District must abut a public street for at least 50 feet and gain access from that street. (Ord. No. 1171 § 1.)

### **Section 39.05.010 Application Process**

#### **a. Development Plan**

The application for a Planned Unit Development District shall include a Development Plan containing the following information:

1. A tract map, showing site boundaries, street lines, lot lines, easements, and proposed dedications or vacations.
2. A land use plan designating specific uses for the site and establishing site development regulations, including setback height, building coverage, impervious coverage, density, and floor area ratio requirements.
3. A site development and landscaping plan, showing building locations, or building envelopes; site improvements; public or common open spaces; community facilities; significant visual features; and typical landscape plans.
4. A circulation plan, including location of existing and proposed vehicular and pedestrian, facilities and location and general design of parking and loading facilities.
5. Schematic architectural plans and elevations sufficient to indicate a building height, bulk, materials, and general architectural design.
6. A statistical summary of the project, including gross site area, net site area, number of housing units by type, gross floor area of other uses, total amount of parking, and building and impervious surface percentages. (Ord. No. 1171 § 1.)

### **Section 39.05.011 Adoption of District**

- a. The Planning Commission and City Commission shall review and evaluate each Planned Unit Development application. The City may impose reasonable conditions, as deemed necessary to ensure that a PUD shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare.
- b. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
- c. The Planning Commission may recommend amendments to PUD district applications.
- d. The recommendation of the Planning Commission shall be transmitted to the City Commission for final action.

- e. The City Commission, after proper notice, shall act upon any Ordinance establishing a PUD Planned Unit Development Overlay District. Proper notice shall mean the same notice established for any other zoning amendment.
- f. An Ordinance adopting a Planned Unit Development Overlay Zoning District shall require a favorable simple majority of the City Commission for approval.
- g. Upon approval by the City Commission, the Development Plan shall become a part of the Ordinance creating or amending the PUD District. All approved plans shall be filed with the Zoning Administrator. (Ord. No. 1171 § 1.)

### **Section 39.05.012 Amendment Procedure**

Major amendments to the Development Plan must be approved according to the same procedure set forth in Section 39.05.005. (Ord. No. 1171 § 1.)

### **Section 39.05.013 Building Permits**

The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PUD District unless it is in compliance with the approved Development Plan or any approved amendments. (Ord. No. 1171 § 1.)

### **Section 39.05.014 Termination of PUD District**

If no substantial development has taken place in a Planned Unit Development District for one year following approval of the District, the Planning and Zoning Commission shall reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property. (Ord. No. 1171 § 1.)

### **Section 39.05.015 Purpose**

#### **A. AGRICULTURAL BUSINESS OVERLAY DISTRICT**

This district is intended to permit limited agricultural activities in combination with residential land uses. It recognizes the rural character of areas adjacent to Dickinson which may combine residential development at moderate densities with certain farm uses, including the raising of crops and animals, and the storage of agricultural products. It further recognizes that such uses should be strictly controlled in order to minimize effects on neighboring properties. (Ord. No. 1171 § 1.)

### **Section 39.05.016 Application of District**

This district may be used only in combination with any zoning district. (Ord. No. 1171 § 1.)

### **Section 39.05.017 Permitted Uses**

In addition to those uses permitted in the base district, the following additional uses are permitted in the Agricultural Business Overlay District:

- a. Horticulture
- b. Crop Production

c. Storage and sales of agricultural products, provided that a buffer of at least 30 feet is provided between this use and any adjacent lot within a residential zoning district. (Ord. No. 1171 § 1.)

### **Section 39.05.018 Adoption of District**

- a. The Planning Commission and City Commission shall review and evaluate each A Overlay District application.
- b. The Planning Commission, after proper notice, shall hold a public hearing and act upon each application.
- c. The Planning Commission may recommend amendments to A district applications.
- d. The recommendation of the Planning Commission shall be transmitted to the City Commission for final action.
- e. The City Commission shall act upon any Ordinance establishing an A Overlay District.
- f. The Ordinance adopting the A District shall include a statement of purpose, a description of district boundaries, and a list of supplemental site development regulations and performance standards.
- g. An Ordinance adopting an A Overlay District shall require a favorable vote of a simple majority of the City Commission for approval.
- h. Upon approval by the City Commission, each A Overlay District shall be shown on the Zoning Map, identified sequentially by order of enactment and referenced to the enacting Ordinance.
- i. Any protest against an A Overlay District shall be made and filed as provided by the Century Code of North Dakota, and amendments thereto. (Ord. No. 1171 § 1.)

### **Section 39.05.019 Purpose**

#### **FP/FW FLOODPLAIN/FLOODWAY OVERLAY DISTRICT**

It is the purpose of this ordinance to promote the public health, safety and general welfare and to minimize those losses described in Section 39.05.020 by applying the provisions of this ordinance to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
3. Protect individuals from buying lands which are unsuitable for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program when identified by the Federal Insurance Administration as a flood prone community. (Ord. No. 1171 § 1.)

### **Section 39.05.020 Floodplain and Floodway Overlay Districts:**

#### **Findings of Fact**

#### **Flood Losses Resulting from Periodic Inundation**

Flood hazard areas of the City of Dickinson, North Dakota, are subject to inundation which results in loss of life or property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

1. *General Causes of These Flood Losses*

These flood losses are caused by (a) the cumulative effect of obstruction in floodways causing increases in flood heights and velocities, (b) the occupancy of flood areas by uses vulnerable to floods or hazardous to other which are inadequately elevated or otherwise protected from flood damages.

2. *Methods Used to Analyze Flood Hazards*

This ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- a) Selection of a base flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated and the depth of inundation. The base flood selected for this ordinance is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to this ordinance. It is in the general order of a flood which could be expected to have a one (1%) percent change of occurrence in anyone year, as delineated by applicable Flood Insurance Studies and the Federal Emergency Management Administration's Flood Insurance Rate Maps and Flood Boundary and Floodway Map, or any subsequent effective Flood Insurance Studies, Rate Maps, and Flood Boundary and Floodway Maps issued after the effective date of this ordinance and adopted by the City of Dickinson.
- b) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the base flood.
- c) Computation of the floodway required to convey this flood without increasing flood heights more than 1 foot at any point.
- d) Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
- e) Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the base flood.

**Land to Which Ordinance Applies**

This ordinance shall apply to all lands within the jurisdiction of the City of Dickinson identified on the Flood Insurance Rate map (FIRM) as numbered and unnumbered A zone and/or within the Overlay Districts FP and FW established in this ordinance. In all areas covered by this ordinance, no development shall be permitted except upon a permit to develop granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community as contained in the City Code.

**Enforcement Officer**

The Zoning Administrator of the City of Dickinson is hereby designated as the City Council's duly designated Enforcement Officer under this ordinance. Unless otherwise provided by the City Council, the Natural Resources Commission shall assist the City of

Dickinson on interpretation of floodplain/floodway rules and regulations. The Enforcement Officer shall obtain comments from the NRC as part of his/her review of all proposed activity in this Overlay District.

### **Rules for Interpretation of District Boundaries**

The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the Enforcement Officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Adjustment will resolve the dispute. The base flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

### **Compliance**

No development located within known flood hazard areas of the community shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

### **Abrogation and Greater Restrictions**

It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants or deed restriction. However, where this ordinance imposes greater restrictions, the provision of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

### **Interpretation**

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the City of Dickinson and shall not be deemed a limitation or repeal of any other powers granted by state statute.

### **Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Dickinson or any officer or employee thereof for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made thereunder.

### **Severability**

If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

### **Application for Appeal**

Where a request for a permit to develop is denied by the Zoning Administrator, the applicant may apply for such permit or variance directly to the Board of Adjustment. Procedures for appeals to the Board of Adjustment shall proceed as set forth by Section 39.12.010b of this Ordinance. (Ord. No. 1171 § 1.)

## **Section 39.05.021 Floodplain and Floodway Permits and**

### **Administration**

#### **Permit Required**

No person, firm, or corporation shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate permit for development as defined in Section C. hereof.

#### **Administration**

1. The Zoning Administrator is hereby appointed to administer and implement the provisions of this ordinance.
2. Duties of the Zoning Administrator shall include, but not be limited to:
  - a) Review of all development permits to assure that sites are reasonable, safe from flooding and that the permit requirements of this ordinance have been satisfied.
  - b) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or Local Governmental agencies from which prior approval is required.
  - c) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
  - d) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
  - e) Verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
  - f) When floodproofing is utilized for a particular structure, the Zoning Administrator shall be presented certification from a registered professional engineer or architect.

#### **Application for Permit**

To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

1. Identify and describe the work to be covered by the permit.
2. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use or occupancy for which the proposed work is intended.
4. Be accompanied by plans for the proposed construction.
5. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
6. Give such other information as reasonably may be required by the Zoning Administrator. (Ord. No. 1171 § 1.)

## **Section 39.05.022 Establishment of Zoning Districts**

The mapped flood plain area within the jurisdiction of this ordinance are hereby divided into the two following districts: A Floodway Overlay District (FW) and a Floodplain Overlay District (FP) as identified in the official Flood Plain Study. Within these districts, all uses not meeting the standards of this ordinance and those standards of the underlying zoning district

shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM when identified in the Flood Insurance Study provided by the Federal Insurance Administration. (Ord. No. 1171 § 1.)

### **Section 39.05.023 Standards for Floodway Overlay District and Floodplain Overlay District**

a. No permit for development shall be granted for new construction, substantial improvement or other improvements including the placement of manufactured homes within the identified flood plain unless the conditions of this section are satisfied.

b. All areas identified as unnumbered A Zones by the Federal Insurance Administration are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this ordinance. If Flood Insurance Study Data is not available, the community shall utilize any base flood elevation data currently available within its area of jurisdiction. Further, in cases of proposed development within unnumbered “ A ” zones, the developer’ s engineer shall be required to conduct the necessary studies to determine the 100 year flood elevation and its extent in relation to such development.

c. New construction, subdivision proposals, substantial improvement, prefabricated building, placement of manufactured homes and other development shall require:

1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads including the effect of buoyancy.
2. New or replacement water supply systems and/or sanitary sewage systems designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
3. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
4. All utility and sanitary facilities be elevated or floodproofed one foot above the regulatory flood elevation. Such floodproofing is permitted only for non-residential properties.
5. That until a floodway has been designated, no development including landfill, may be permitted within the identified flood plain unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1’ ) foot on the average cross-section of the reach in which the development or landfill is located as shown in the official flood plan study incorporated by reference herein.
6. Storage of Materials and Equipment
  - a) The storage of processing of materials that are in time of flooding buoyancy, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.

- b) Storage of other materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
7. Subdivision proposals and other proposed new development, including manufactured home parks or subdivision, be required to assure that:
- a) All such proposals are consistent with the need to minimize flood damage.
  - b) All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage.
  - c) Adequate drainage is provided so as to reduce exposure to flood hazards.
  - d) Proposals for development (including proposals for manufactured home parks and subdivisions) of five (5) acres or fifty (50) lots, whichever is less, include within such proposals the regulatory flood elevation. (Ord. No. 1171 § 1.)

## **Section 39.05.024 Floodplain Overlay District: Regulations**

### **Permitted Uses**

Any use permitted in the underlying base district shall be permitted in the Floodplain Overlay District. No use shall be permitted in the district unless the standards of this Section are met.

### **Standards for the Floodplain Overlay District**

1. Any new construction or substantial improvements of residential structures shall have the lowest floor, including basement elevated one foot above the base flood elevation.
2. Any new construction or substantial improvements of non-residential structures shall have the lowest flood, including basement elevated one foot above the base flood elevation, or, together with attendant utility and sanitary facilities, shall be floodproofed so that below such a level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydro-dynamic loads and effect of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 39.05.023c. Such floodproofing is permitted only for non-residential properties.
3. All new construction and substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designated to automatically equalize hydro-static flood forces or exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by the registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be not higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - (a) Below-Grade Residential Crawlspace Construction

New construction and substantial improvement of any below-grade crawlspace shall:

- i. Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade
  - ii. Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceeding four feet at any point
  - iii. Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood
  - iv. Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads
  - v. Be constructed with materials and utility equipment resistant to flood damage
  - vi. Be constructed using methods and practices that minimize flood damage
  - vii. Be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding
  - viii. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:
    - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
    - (b) The bottom of all openings shall be no higher than one foot above grade;
    - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
4. Within AH zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.
5. **Manufactured Homes**
- a) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

- (i) Over-the-top ties shall be provided at each of the four corners of the manufactured home with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.
  - (ii) Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.
  - (iii) All components of the anchoring system shall be capable of carrying a force of 4800 lbs.
  - (iv) Any additions to manufactured homes shall be similarly anchored.
- b) All manufactured homes to be placed within Zones A1-30, AH and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of the Uniform Building Code.

c) AO Zones: Special Regulations

Located within the areas of special flood hazard are areas designated as AO Zones. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. Therefore, the following provisions apply with AO Zones:

1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM.
2. All new construction and substantial improvements of nonresidential structures shall:
  - a) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as 1 foot above the depth number specified in feet on the community's FIRM.
  - b) Together with attendant utility and sanitary facilities be completely floodproofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy. Such certification shall be provided to the official as set forth in Section 39.05.023c.
  - c) Adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures. (Ord. No. 1171 § 1; Ord. No. 1246 § 1)

## **Section 39.05.025 Floodway Overlay Districts**

### **Permitted Uses**

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the Floodway District to the extent that they are not prohibited by any other ordinance and provided that they do not require structural fill or storage of materials or equipment. No use shall increase the flood levels of the base flood elevation. These uses are subject to the standards and requirements of Section 39.05.023.

1. Agricultural uses such as general farming, pasture, nurseries, forestry.

2. Accessory residential uses such as lawns, gardens, parking and play areas.
3. Nonresidential areas such as loading areas, parking, and airport landing strips.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves. New placement of residential structures including manufactured homes are prohibited within the identified floodway (FW) area.
5. In Zone A unnumbered, obtain, review and reasonably utilize any floodway data available through Federal, State or Local sources in meeting the standards of this section. (Ord. No. 1171 § 1.)

## **Section 39.05.026 Request for Variances From District Requirements**

- a. The Board of Adjustment, as established by the City of Dickinson, shall hear and decide appeal and requests for variances from the requirements of this ordinance.
- b. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.
- c. Any person aggrieved by the decision of the Board of Adjustment or any taxpayer may appeal such decision to the City Council as provided by the Century Code of North Dakota.
- d. In passing upon such applications, the Board of Adjustment shall consider all technical evaluation, all relevant factors, standards specified in other sections of this ordinance, and:
  1. The danger that materials may be swept onto other lands to the injury of others.
  2. The danger of life and property due to flooding or erosion damage.
  3. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  4. The importance of the services provided by the proposed facility to the community.
  5. The necessity to the facility of a waterfront location, where applicable.
  6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
  7. The compatibility of the proposed use with existing and anticipated development.
  8. The relationship of the proposed use to the comprehensive plan and flood plain management program for that area.
  9. The safety of access to the property in time of flood for ordinance and emergency vehicles.
  10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effect of wave action, if applicable, expected at the site.
  11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and

facilities such as sewer, gas, electrical and water systems, and streets and bridges.

e. Conditions for Variance

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level providing terms 2. through 6. below have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. In addition to the criteria for variances set forth in Section 39.12.011C of this Ordinance, variances shall only be issued upon (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. No. 1171 § 1.)

## **Section 39.05.027 Zoning Regulations For Nonconforming Uses**

### **Continuance of Nonconforming Uses**

A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the provisions of this ordinance may be continued subject to the following conditions:

1. No such use or substantial improvement of that use shall be expended, changed, enlarged, or altered in a way which increases its nonconformity.
2. If such use is discontinued for twelve (12) consecutive months, any future use of the building premises shall conform to this ordinance. The Utility Department shall notify the Building Inspector in writing of instances of nonconforming uses where utility services have been discontinued for a period of twelve (12) months.
3. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue a nonconforming uses.

### **Replacement of Residential Uses**

If any residential nonconforming use of structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the

structure before the damage occurred within those areas identified as floodway (FW). This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

### **Replacement of Non-Residential Uses**

If any non-residential nonconforming use of structure is destroyed by any means, including flood, it should not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred except that if it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places. (Ord. No. 1171 § 1.)

## **Section 39.05.028 Definitions**

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

**Actuarial Rates.** Or “risk premium rates” are those established by the Federal Insurance Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.

**Appeal.** A request for a review of the Zoning Administrator’s interpretation of any provision of this ordinance or a request for a variance.

**Area of Shallow Flooding.** A designated AO or AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard.** The land in the flood plain within a community subject to one percent or greater chance of flooding in any given year.

**Base Flood Elevation.** Elevation indicated in the official flood plain study as the elevation of the 100-year flood.

**Base Flood Protection Elevation.** An elevation one foot higher than the water surface elevation of the base flood.

**Channel.** A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow, thus, is that water which is flowing within the limits of a defined channel.

**Community.** Any state or area or political subdivision thereof which has authority to adopt and enforce flood plain management regulations for the area within its jurisdiction.

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**Existing Construction.** (For the purposes of determining rates) structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRM’s effective before that date. “Existing Construction” may also be referred to as “existing structures”.

**Flood or Flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland or tidal waters; (2) the unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Insurance Rate Map (FIRM).** An official map of a community, on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the community.

**Flood Insurance Study.** The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevation of the base flood.

**Flood Plain Management.** The operation of an overall program of corrective and preventative measures for reducing flood damage, including but not limited to, emergency preparedness plan, flood control works, and flood plain management regulations.

**Flood Protection System.** Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard”. Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound engineering standards.

**Floodproofing.** Any combination of structural and non-structural additions, changes, or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effect of buoyancy.

**Floodplain (FP).** That area of the flood plain, outside of the floodway, that on an average is likely to be flooded once every 100 years (i.e. that has a one percent chance of flood occurrence in any one year.)

**Floodway (FW).** The channel of a river or other watercourse and the adjacent portion of the flood plain that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.

**Freeboard.** A factor of safety usually expressed in feet above a flood level for purposes of flood plain management. “Freeboard” tends to compensate for the many unknown factors that could contribute to flood heights greater than the heights calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

**Highest Adjacent Grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfurnished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building’s lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**Manufactured Home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes, the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

**Manufactured Home Park or Subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**New Construction.** Structures for which the “start of construction or substantial improvement” is commenced on or after the effective date of the FIRM.

**100-Year Flood.** The base flood having a one percent chance of annual occurrence.

**Overlay District.** A district which acts in conjunction with the underlying zoning district or districts.

**Start of Construction.** For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L97-348) includes substantial improvement, and means the date the building permit was issued, providing the actual start of construction, repair, reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of street and/or walkways, nor does it include excavation for a basement, footings, or foundations or the erection of temporary forms, nor does it include the installation of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

**Structure.** A walled and roofed building that is principally above ground, as well as a manufactured home, and a gas or liquid storage tank that is principally above ground.

**Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Variance.** A grant of relief to a person from the requirements of this ordinance which permits construction in a manner otherwise prohibited by this ordinance where specific enforcement would result in unnecessary hardship. (Ord. No. 1171 § 1.)

### **Section 39.05.030 Corridor Overlay District – Purpose**

The purpose of Corridor Overlay District for transportation corridors identified herein is to promote and protect the public health, safety and welfare by providing for consistent and coordinated treatment of properties bordering and within the identified transportation corridors in the City of Dickinson, North Dakota, and in the City of Dickinson’s Extraterritorial Zoning Jurisdiction (ETZ). The identified corridors are important transportation corridors, and will continue as such with future growth of the city. These transportation corridors are expected to carry significant volumes of traffic, making development along these transportation corridors

highly visible to the traveling public. Therefore, it is the purpose of this District to ensure high aesthetic quality of development along these important transportation corridors through:

- (A) The establishment of enhanced standards for buildings, landscaping, and other improvements constructed on the properties bordering and within the identified transportation corridors; and
- (B) The establishment of development requirements which will encourage high quality of design of development of those properties and promote the quality, scale, and character of development consistent with existing and planned uses bordering and within the identified transportation corridors.

### **Section 39.05.031 Corridor Overlay District – Boundaries**

The boundaries of the Corridor Overlay Districts are hereby established as follows:

- (A) All structures that are within 300 feet of either side of the right-of-way (existing or future if additional right-of-way is required, whichever is greater) for the following identified corridors:

- Highway 22 a/k/a 3rd Avenue West
- I-94 Highway Corridor
- Villard Street
- I-94 Business Loop (East and West)
- State Avenue
- 10th Avenue East
- 21st Street (East and West)
- 34th Street SW a/k/a 40th Street

### **Section 39.05.032 Corridor Overlay District – Permitted Uses**

The overlay district provisions apply to any base zoning district set forth in this chapter that exists within the defined overlay area. Permitted uses shall be subject to the provisions of this section and shall be further subject to requirements of the applicable base zoning district.

### **Section 39.05.033 Corridor Overlay District – Application and Exemptions**

These standards apply to sites (including all principal and accessory buildings) that are within the Corridor Overlay District unless otherwise specified herein, and apply to all use categories.

Farm structures are exempt from these requirements provided they meet the base zoning district requirements.

Existing single-family structures are exempt from these requirements provided they meet the base zoning district requirements.

Expansions to buildings that exist on the date this ordinance is adopted are exempt from the requirements of this ordinance for any building additions that do not exceed fifty percent (50%) of the existing building square footage. If multiple building expansions are conducted after the adoption of this ordinance, the expansion that causes the total square footage of expansions to reach or exceed a 50% expansion of the original building square footage shall thereafter be required to conform with the requirements of this chapter.

If overlapping regulations appear in other sections of this Land Development Code, those regulations stated herein shall take precedence.

Unless otherwise noted in this Section, the standards of the underlying base zoning districts shall apply.

## **Section 39.05.034 Corridor Overlay District – Standards**

### **Building Design**

Building design shall incorporate materials to convey permanence, substance, timelessness, and restraint. Each building shall be constructed with one or more of the following material(s) consisting of at least fifty percent (50%) of the exterior materials.

Any exterior building wall visible from the corridor shall be constructed of one or more of the following (minimum of 50%):

- a. Clay or masonry brick
- b. Customized concrete masonry with striated, scored, or broken faced brick type units (sealed) with color consistent with design theme.
- c. Poured in place, tilt-up, or precast concrete. Poured in place and tilt-up walls shall have a finish of stone, a texture, or a coating.
- d. Architectural flat metal panels or glass curtain walls.
- e. Stucco or Exterior Finish Insulation Systems (EFIS).

### **Natural stone**

Residential grade permanent siding provided that buildings are enhanced by the application of brick, decorative masonry, or decorative stucco surfaces in combination with decorative fascia, overhangs, and trim. Wooden siding may be used as a substitute for residential grade permanent siding.

Metal siding systems may be used along the corridor provided that metal is limited to 70% of the building face. In addition the building must be enhanced by the application of brick, decorative masonry, or decorative stucco surfaces in combination with decorative fascia, overhangs, and trim.

Additional materials may be approved by the City Planner provided that the substituted or additional materials meet the purpose and intent of this chapter and are similar in nature to those specified materials herein.

Non-decorative exposed concrete block buildings are prohibited.

Ground floor building facades of commercial and office buildings visible from identified corridors shall have a minimum of 20 percent glass windows.

Any portion of a building façade that exceeds one hundred (100) feet shall incorporate windows or architectural and design elements to break up the expanse of wall. Examples include, but are not limited to, windows, lighting, material changes, articulated wall surfaces, architectural treatments such as sculptured wall features or shadow lines, vertical accents, texture changes or color changes. Landscaping may be used in combination with the design elements listed above.

Sloped roofs shall not exceed one hundred (100) feet in length without a change in roof plane, or gable, or dormer.

Building design shall incorporate architectural characteristics that emphasize human scale design features, and minimize the mass and scale of buildings through the use of features including, but not limited to: variation in the rooflines and form, designs that visually define “tops” and “bottoms” of buildings, use of protected or recessed entries, use of vertical elements

on or in front of expansive blank walls, use of focal points, inclusion of windows on elevations facing streets and pedestrian areas.

Building entrances, excluding emergency exits, shall be designed as focal points and shall be enhanced through the use of elements such as canopies, overhangs, peaked roofs, paving materials, planters, landscaping features, and outdoor seating areas.

Roof-mounted and ground mounted mechanical equipment shall be fully screened from the identified corridor. Penthouses for mechanical equipment shall be incorporated into the building façade design, consistent with the exterior building design requirements.

Exterior mechanical equipment shall be shielded in a manner that protects adjacent properties from visual impacts and noise levels.

To assist in the interpretation of the above regulations the Planning Department shall maintain a catalog of approved building designs and materials as a reference.

### **Multi-building or Mixed Use Projects**

Prior to issuance of a building permit on a multi-building development, the applicant shall submit plans that demonstrate the use of consistent design elements throughout the project. Subsequent building permits shall conform to the design elements presented.

Multi-building developments shall include prominent focal points, which shall include, but not be limited to architectural structures, art, historical and/or landscape features. These features shall be located at, or visible from, vehicular and pedestrian entrances to the site.

Free standing garage clusters of multiple family residential sites shall not be placed along the corridor overlay districts unless the overall appearance is similar to the primary residential building.

### **Site Design**

#### **Building and Parking Setbacks**

Buildings on sites located at major intersections along the identified corridor (i.e. at intersections with designated future arterial roadways or traffic corridors as identified herein) shall be sited in the corner of the intersection with parking areas in the rear or side yard.

The City Planner shall consider all site design proposals with the requirements set forth herein. In those instances in which a prevailing setback has previously been established, the City Planner may require compliance with the prevailing setback rather than the provisions set forth below.

#### **Natural Features**

Significant natural or existing features, such as drainage swales, existing trees, and shelterbelts, shall be incorporated into the site design to the extent that retention of the feature allows reasonable use of the site, as determined by the City Planner.

#### **Functional Site Elements**

Trash enclosures and trash compactors shall be located such that they are not visible from the identified corridor.

Outdoor storage that does not consist of display of merchandise shall be located such that it is not visible from the identified corridor, by placing the outdoor storage on the opposite side of the building from the identified corridor, or by placing outdoor storage in an enclosed area that has the appearance of being integral to the building. All outdoor storage shall be fully screened from view through the use of an opaque decorative fencing material or architectural screen walls.

Loading and delivery areas shall not be located along the front or side of the building that fronts on the identified corridor, unless compliance is not reasonable feasible. Such areas shall

be screened from view through the use of landscaping or architectural building elements that are consistent with the architecture and building materials used in the primary buildings.

Contractor yards, service yards, heavy equipment, salvage, and items of a similar nature shall be located away from public street frontages and shall be screened with opaque fencing.

#### **Pedestrian Accommodations for Commercial Projects**

Pedestrian walkways shall be provided between building entrances/exits and parking areas, and within parking areas to provide a designated walking area, especially where there is a need to connect dispersed buildings with parking areas.

Pedestrian walkways shall be provided between buildings and sidewalks or multi-use paths along adjacent streets.

On multi-building sites and mixed use sites, the site design shall provide functional pedestrian spaces, plazas, and seating areas between or in front of buildings. Designs shall include some areas with weather protection, such as overhangs, awnings, and canopies to increase usefulness in a variety of weather conditions.

Canopy shade trees, landscape features, and seating, or other pedestrian amenities near colonnades, storefronts, and pedestrian routes shall be incorporated into the site.

#### **Lighting for Commercial Projects**

Pedestrian scale lighting fixtures shall be provided in areas designed for pedestrian activity (walkways, plazas, outdoor seating areas).

Lighting fixtures shall coordinate and complement the general architectural style of the development.

Lighting should accent entryways and other site focal points, such as significant architectural, landscaping, or artistic features shall be provided.

#### **Administration**

Submittal of plans. All plans for construction and renovation of structures within the district shall be submitted to the City Planner or his designee. The owner of the property to be constructed upon or renovated, or their authorized agent, shall submit two (2) full sized and to-scale plans and two (2) reduced copies of the necessary drawings to the planning staff.

#### **Appeals**

Any applicant may appeal a decision of the City Planner on the interpretation of the requirements herein. The appeal shall be filed with the City Planner within ten (10) business days following the decision.

The City Planner will notify all property owners abutting the subject property prior to the Planning and Zoning Commission taking action on the appeal.

The applicant or any property owner shall have the right to appeal the decision of the Planning & Zoning Commission to the City Council.

The appeal fee shall be established by the City Commission and included in the City's Fee Schedule. (Ord. No. 1454§ 1.)

### **Section 39.05.040 West Villard Overlay District - Purpose**

The purpose of the West Villard Overlay District is to allow existing residential dwelling units in commercial districts along the designated corridor as described in Section 34.05.041. (Ord. 1538 § 1)

**Section 39.05.041 West Villard Overlay District – Boundaries**

The West Villard Overlay District boundary shall be as follows: one block north of Villard Street between State Avenue and 5th Avenue West; and one block south of Villard Street between State Avenue and 8th Avenue West. (Ord. 1538 § 2)

**Section 39.05.042 West Villard Overlay District – Application**

All residential dwelling units existing on the effective date of this Ordinance shall be considered to be a legally conforming permitted use. No additional residential dwelling units shall be permitted, unless established prior to the effective date of this Ordinance. (Ord. 1538 § 3)

## **Article 39.06 Supplemental Use Regulations**

### **Sections:**

<b>39.06.001</b>	<b>Purpose</b>
<b>39.06.002</b>	<b>Supplemental Use Regulations: Agricultural Uses</b>
<b>39.06.003</b>	<b>Supplemental Use Regulations: Residential Use</b>
<b>39.06.004</b>	<b>Supplemental Use Regulations: Civic Uses</b>
<b>39.06.005</b>	<b>Supplemental Use Regulations: Commercial Use</b>
<b>39.06.006</b>	<b>Supplemental Use Regulations: Industrial Uses</b>
<b>39.06.007</b>	<b>Performance Standards for Industrial Uses</b>
<b>39.06.008</b>	<b>Supplemental Use Regulations: Accessory Uses</b>
<b>39.06.009</b>	<b>Supplemental Use Regulations: Outdoor Storage outside of the GI Zoning District</b>
<b>39.06-010</b>	<b>Accessory Dwelling Units</b>
<b>39.06.011</b>	<b>Subdivision Plat</b>

### **Section 39.06.001 Purpose**

The Supplemental Use Regulations set forth additional standards for certain uses located within the various zoning districts. These regulations recognize that certain use types have characteristics that require additional controls in order to protect public health, safety, and welfare. These regulations complement the use regulations contained in Article Four of this Ordinance. (Ord. No. 1171 § 1.)

### **Section 39.06.002 Supplemental Use Regulations: Agricultural Uses**

Nothing in these provisions shall relieve any property owner or user from satisfying any condition or requirement associated with a previous approval, special permit, variance, development permit, or other permit issued under any local, State, or Federal ordinance or statute.

#### **A. Horticulture and Crop Production: Retail Sales**

Retail operation of garden centers or roadside stands associated with a primary agricultural use may be permitted in the AG District, subject to the following requirements:

1. Garden Centers
  - (a) A garden center is a building or premises used for the retail sale of plant materials or items useful in the growing or display of lawns, gardens, and plants.
  - (b) Garden centers must conform to all site development regulations for the zoning district.
  - (c) Any garden center adjacent to a residential district must maintain a 20-foot landscaped bufferyard, consistent with the standards established in Section 804.
2. Roadside Stands
  - (a) A roadside stand is a facility used on a temporary or seasonal basis for the retail sale of produce grown largely on adjacent or surrounding agricultural lands.
  - (b) A roadside stand may be located within a required front yard but no closer than 40 feet to the edge of a traveled roadway.
  - (c) A roadside stand may operate for a maximum of 180 days in any one year.

#### **B. Incidental Animal Production in the RR District**

1. Breeding and raising of small animals and fowl, such as birds, rabbits, chinchilla, and hamsters is permitted in the RR District, provided that any building housing such animals shall be at least 50 feet from any property line and 25 feet from any dwelling unit on the site.
  2. Within the RR District, any lot of 1 acre and over may maintain one horse or llama and its immature offspring. Such a lot may have one additional animal for each additional two acres of lot area, up to a maximum total of three animals. No stable shall be located closer than 50 feet to any dwelling unit on the site.
- C. Type I and Type II Animal Production
1. Location
    - (a) Any new Type I or Type II Animal Production use established within the two mile Extraterritorial Jurisdiction of the City of Dickinson shall be subject to approval of a Special Use Permit, as set forth in Section 39.12.003.
    - (b) No confinement area for the feeding or holding of livestock or poultry shall be located within 1,000 feet of the property lines of the parcel on which it is located; or within 1,000 feet of an existing residential structure other than that of the owner or operator of the facility.
  2. Operation
    - (a) Livestock wastes within a confinement area shall be removed or disposed of by spraying or spreading on land promptly followed by disking or plowing; grinding or dehydrating in properly designed dehydrators; or stockpiling in a compost plant located at least one mile from a residential zoning district.
    - (b) Insect and rodent control measures must be instituted for confined areas by removal or disposal of manure; or by other accepted insect or rodent control measures.
  3. Drainage
    - (a) All ground surfaces within confinement areas shall be graded and compacted to insure proper drainage.
    - (b) All ground surfaces within confinement areas shall be controlled so that no appreciable amount of soil and livestock waste is carried into any roadway ditch, drainage area, or other low-lying area.
  4. Pollution Control
 

A confined area shall not produce a measurable increase in pollution in any public water-based recreational facility, public water supply, or in any waterway that is part of a public or private water supply and shall obtain proper State Health Department permits.
- D. Type III Animal Production
1. No new Type III Animal Production use shall be established within the Extraterritorial Jurisdiction of the City of Dickinson.
  2. No expansion of any existing Type III Animal Production use within the planning jurisdiction of the City of Dickinson shall be permitted. (Ord. No. 1171 § 1; Ord. 1229 § 1)

**Section 39.06.003 Supplemental Use Regulations: Residential Use**  
**Zero-Lot Line Single-Family Detached Residential**

Within a common development, one interior side yard may be equal to zero for single-family detached residential use, subject to the following regulations:

1. The side yard opposite to the zero yard must equal at least twice the normal required side yard. In all cases, a minimum required separation of twelve feet for principal buildings and six feet for accessory buildings shall be maintained.
2. The normal side yard setback requirement must be maintained adjacent to any lot with an existing structure not within the common development; or not otherwise designated for zero lot line use.
3. An easement for maintenance of the zero lotline facade is filed with the Stark County Register of Deeds and the Zoning Administrator at the time of application for a building permit.

#### **Single-Family Attached**

When permitted, the minimum side yard opposite the common wall shall be equal to twice the normal required side yard.

#### **Townhouse Residential**

Where permitted, townhouse residential is subject to the following regulations:

1. The site area per unit must be 3,000 square feet in all districts where permitted.
2. The minimum width for any townhouse lot sold individually shall be 25 feet, except within an approved creative subdivision.
3. Coverage percentages are computed for the site of the entire townhouse common development.

#### **Residential and Group Residential in LC, CC, DC and GC Districts**

The City Commission, with the recommendation of the Planning Commission, may allow a unit specifically designed for occupancy by disabled residents at street level, subject to approval of a Special Permit.

#### **Mobile Home Parks in the MH District**

In the MH Mobile Home Residential District, which permits major mobile home residential use, such use may be configured in a Mobile Home Park or Mobile Home Subdivision. Following the effective date of this Ordinance, no mobile home shall be located outside of a Mobile Home Park or Mobile Home Subdivision. A Mobile Home Park is subject to approval of a Special Use Permit and compliance with the following regulations:

- Minimum and Maximum Area  
A Mobile Home Park shall be considered to be one zoned lot. The contiguous area of a Mobile Home Park shall provide for a minimum of 2.5 acres.
- Density Requirements
  - (a) The minimum gross site area per dwelling unit shall be 7,000 square feet.
  - (b) Each mobile home space shall have a width of at least 40 feet wide and a length of at least 75 feet.
- Site Development Standards
  - (a) Setbacks: Each Mobile Home Park shall have a minimum perimeter setback of 35 feet from all exterior lot or property lines. No space for a dwelling unit or any other structure shall be permitted in the required setback.

(b) **Setback landscaping:** All area contained within the required setbacks except sidewalks and private drives shall be landscaped and screened in conformance with Section 8 of this Ordinance. Screening shall be provided in conformance with Section 8 for any common property line with another non-residential use.

(c) **Impervious Coverage:** Impervious coverage for a Mobile Home Park shall not exceed 50 percent of the total site area.

(d) **Open Space:** Each Mobile Home Park shall provide a minimum of 400 square feet of open recreational space per unit. Such space shall be provided at a central location accessible from all parts of the park by pedestrians. Required perimeter setbacks or buffers shall not be credited toward the fulfillment of this requirement.

(e) **Separation Between Mobile Home Units:** The minimum separation between a mobile home unit and/or attached accessory structure and any other mobile home units and/or accessory structure shall be 15 feet in all directions.

(f) **Separation and Setbacks for Accessory Buildings:** An accessory building on a mobile home space shall maintain a minimum rear and side yard setback of five feet. A minimum distance of six feet shall be provided between any mobile home and an unattached accessory building.

- **Street Access and Circulation Requirements**

(a) **Access to Public Street:** Each Mobile Home Park must abut and have access to a dedicated public street with a right-of-way of at least 60 feet.

(b) **Vehicular Circulation:** The Mobile Home Park must provide interior vehicular circulation on a private internal street system. Minimum interior street width between edges of pavement shall be 25 feet. The street system shall be continuous and connected with other internal and public streets; or shall have a cul-de-sac with a minimum diameter of 90 feet. No such cul-de-sacs may exceed 300 feet in length.

(c) **Separation between Units and Circulation Areas:** The minimum distance between a mobile home unit together with any attached accessory structure and the pavement of an internal street or parking area shall be 20 feet.

(d) **Sidewalks:** Each Mobile Home Park shall provide a sidewalk system to connect each mobile home space to common buildings or community facilities constructed for the use of its residents; and to the fronting public right of way. Sidewalk width shall be at least 4.5 feet.

(e) **Street and Sidewalk Standards:** All internal streets and sidewalks shall be hard-surfaced. Electric street lighting is required along all internal streets.

(f) **Parking Requirements:** Each Mobile Home Park must provide at least two off-street parking stalls for each mobile home space.

(g) **Tornado Shelters:** Underground tornado shelters shall be provided in the Mobile Home Park. Such shelter or shelters shall be built according to the recommendations of the Civil Defense authority and be large enough to meet the specific needs of the park and its residents.

- Utilities
  - (a) All Mobile Home Parks shall provide individual units and common facilities with an adequate, piped supply of hot and cold water for both drinking and domestic purposes; and standard electrical service, providing at least one 120-volt and one 240-volt electrical service outlet to each mobile home space.
  - (b) Complete sanitary and sewer service shall be provided within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance.
  - (c) Properly spaced and operating fire hydrants shall be provided for proper fire protection within each Mobile Home Park in accordance with the Subdivision Chapter of the Land Development Ordinance.
  - (d) All electric, telephone, gas and other utility lines shall be installed underground.
  - (e) All water, sewer, electric light systems, streets, and sidewalks shall be private facilities within a Mobile Home Park.
- Financial Responsibility: Each application for a Mobile Home Park shall include a demonstration by the developer of financial capability to complete the project; and a construction schedule.
- Completion Schedule: Construction must begin on any approved Mobile Home Park within one year of the date of approval by the Planning and Zoning Commission. Such construction shall be completed within two years of approval, unless otherwise extended by the Commission.

**Mobile Home Subdivision in the MH District**

1. Mobile Home Subdivisions shall be developed in accordance with all standards and requirements set forth in the Subdivision Chapter of the Land Development Ordinance of Dickinson. Site development regulations shall be the same as those required in the R-3 Zoning District. Each mobile home shall be considered a single-family detached residential unit for the purpose of determining applicable development regulations.
2. Mobile home units within Mobile Home Subdivisions shall be built in accordance with the minimum design standards of the US Department of Housing and Urban Development and display a certification of such compliance.
3. Mobile Home Subdivisions shall provide tornado shelter facilities as required by Section 39.06.003(4) (g) (Ord. No. 1171 § 1; Ord. 1244 § 2)

**Section 39.06.004 Supplemental Use Regulations: Civic Uses**

**Clubs**

Clubs located adjacent to residential uses shall maintain a bufferyard of not less than twenty feet along the common boundary with such residential use.

**Day Care**

Day care facilities are permitted by Special Use permit in the GI General Industrial Zoning District only if incidental to a permitted primary use.

**Group Care Facilities and Group Homes**

1. Each group care facility or group home must be validly licensed by either the State of North Dakota or the appropriate governmental subdivision.

2. Group homes are permitted in the DC District only on levels above street level except that a facility specifically designed for occupancy by disabled residents may be developed at street level, subject to approval of a special permit by the City Commission with the recommendation of the Planning Commission.

#### **Primary and Secondary Educational and Religious Assembly Facilities**

1. Each facility shall have a minimum lot area of one acre.
2. Buildings and parking shall have a minimum set back of 20 feet from property lines.
3. Proposed facilities shall conform to all State and federal requirements. (Ord. No. 1171 § 1.)

### **Section 39.06.005 Supplemental Use Regulations: Commercial Use**

#### **Auto Repair, Equipment Repair, and Body Repair**

1. Where permitted in commercial districts, all repair activities must take place within a completely enclosed building. Outdoor storage is permitted only where incidental to Auto Repair and Body Repair, provided that such storage is completely screened so as not to be visible from residential areas or public rights-of-way. Screening is subject to provisions of Article 8 of this ordinance.
2. Any spray painting must take place within structures designed for that purpose and approved by the Zoning Administrator.

#### **Auto Washing Facilities**

1. Each conveyor operated auto washing facility shall provide 100 feet of stacking capacity per washing lane on the approach side of the washing structure and a minimum stacking space of forty feet on the exit side.
2. Each self-service auto washing facility shall provide stacking space for three automobiles per bay on the approach side and one space per bay on the exit side of the building.

#### **Automobile and Equipment Rental and Sales**

1. All outdoor display areas for rental and sales facilities shall be an improved surface, including paving or crushed rock.
2. Body repair services are permitted as an accessory use to automobile rental and sales facilities.

#### **Bed and Breakfasts**

Bed and Breakfasts permitted in the DC District must provide any sleeping facility only on levels above street level except that units specifically designed and reserved for occupancy by handicapped people may be located on the street level.

#### **Campgrounds**

1. Minimum Size: Each campground established after the effective date of this title shall have a minimum size of one acre.
2. Setbacks: All campgrounds shall maintain a 50-foot front yard setback and a 25-foot bufferyard from all other property lines.
3. Each campground must maintain water supply, sewage disposal, and water and toilet facilities in compliance with all City ordinances; or, alternately, be limited

to use by self-contained campers, providing their own on-board water and disposal systems.

4. Campgrounds shall not be permitted to be used for any of the purposes as provided for in Article 39.13. Any campground containing one or more lodging units or skid units ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis, which are not real property, as defined in section 57-02-04, and are not mobile homes, as defined in section 57-55-01, shall be obligated to comply with Article 39.13 and obtain a crew housing special use permit, as provided therein.

### **Convenience Storage**

When permitted in the AG, GC, and LI Districts, convenience storage facilities shall be subject to the following additional requirements:

1. The minimum size of a convenience storage facility shall be one acre.
2. Activities within the facility shall be limited to the rental of storage cubicles and the administration and maintenance of the facility.
3. All driveways within the facility shall provide a paved surface with a minimum width of 25 feet.
4. All storage must be within enclosed buildings and shall not include the storage of hazardous materials.
5. No storage buildings may open into required front yards.
6. Facilities must maintain landscaped bufferyards of 35 feet adjacent to any public right-of-way and 20 feet adjacent to other property lines, unless greater setbacks are required by Article 39.08. (Ord. No. 1171 § 1; Ord. No. 1437 § 1)

## **Section 39.06.006 Supplemental Use Regulations: Industrial**

### **Uses**

#### **Salvage Services**

1. Screening:
  - (a) The perimeter of each new facility shall be fully enclosed by opaque, freestanding fencing or screen walls. Minimum height of this enclosure shall be ten feet. Any such enclosure shall be constructed behind landscaped bufferyards.
  - (b) Each existing salvage services facility shall be screened as provided above within one year of the effective date of this Ordinance.
2. Storage of materials within any salvage services facility may not be higher than the height of the surrounding screen fence or wall.
3. No Salvage Services use may be established within 300 feet of the nearest property line of a residential zoning district or of any pre-established civic use. (Ord. No. 1171 § 1.)

## **Section 39.06.007 Performance Standards for Industrial Uses**

### **Industrial Uses in the LI District: Performance Standards**

The following performance standards apply to all industrial uses permitted within an LI Limited Industrial zoning district:

1. Physical Appearance: All operations shall be carried on within an enclosed building except that new materials or equipment in operable condition may be stored outside. Normal daily inorganic wastes may be stored outside in containers, provided that such containers are not visible from the street.
2. Fire Hazard: No operation shall involve the use of highly flammable gases, acid, liquids, or other inherent fire hazards. This prohibition shall not apply to the normal use of heating or motor fuels and welding gases when handled in accordance with the regulations of the City of Dickinson and the Uniform Fire Code, as published by the International Fire Code Institute.
3. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No operation in the LI district shall generate sound levels in excess of those specified in Table 6-1 at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.
4. Sewage and Wastes: All discharges of sewage and wastes into public sewers shall comply with all applicable City ordinances.
5. Air Contaminants: No material may be discharged into the air from any source in such quantity as to cause injury, detriment, nuisance, or annoyance to any considerable number of people or to the public in general; or to endanger the health, comfort, or safety of any considerable number of people or to the public in general; or to damage other businesses, vegetation, or property.
6. Odor: The emission of odors determined by the Planning and Zoning Commission to be obnoxious to most people shall be prohibited. Such odors shall be measured at the property line of the operation.
7. Gases: No release of noxious or poisonous gases shall be permitted except as provided in this section. Measurements of sulfur dioxide, hydrogen sulfide, or carbon monoxide shall not exceed 5 parts per million taken at the property line of the operation.
8. Vibration: All machines shall be mounted to minimize vibration. No measurable vibration shall occur at the property line of the operation which exceeds a displacement of 0.003 inch.
9. Glare and Heat: All glare generated by a use shall be shielded or directed so as not to be visible at the property line of the operation. No heat may be generated from an operation that raises the air temperature at the property line of the operation by more than five degrees Fahrenheit above the ambient air temperature.
10. Storage of Chemical Products: If allowed by Special User Permit, any above or below ground storage of liquid petroleum products or chemicals of a flammable or noxious nature shall not exceed 150,000 gallons when stored on one lot less than one acre. Such storage shall not exceed 25,000 gallons in any one tank. Storage of liquid petroleum products or chemicals of a flammable or noxious nature in excess of 25,000 gallons shall be located at least 50 feet from any structure intended for human habitation and at least 1,000 feet from any Residential or Commercial zoning district.

**Industrial Uses in the GI District: Performance Standards**

The following performance standards apply to all industrial uses permitted within an LI Limited Industrial zoning district:

1. Physical Appearance: Salvage services and similar uses and operations shall be screened from view from both streets and adjacent non-industrial properties as provided by Sections 39.06.006 and 39.08.005.
2. Fire Hazard: All flammable substances involved in any activity established in the district shall be handled in conformance with the latest edition of the Uniform Fire Code, as published by the International Fire Code Institute, and other appropriate federal, state, and city statutes.
3. Maximum Permitted Sound Levels Adjacent to Residential Zoning Districts: No operating in the GI district shall generate sound levels in excess of those specified in Table 6-1 at the boundary of a residential district. All noises shall be muffled so as not to be objectionable because of intermittence, beat frequency, or shrillness.
4. Sewage and Wastes: All discharges of sewage and wastes into public sewers shall comply with all applicable City ordinances. (Ord. No. 1171 § 1.)

Table 6-1 Maximum Permitted Sound Levels at Residential Boundaries

<u>Originating Zoning District</u>	<u>Time</u>	<u>Maximum One Hour Leq* (Dba)</u>
CC, GC, LI	7:00AM - 11:00PM	65
	11:00PM - 7:00AM	60
GI	7:00AM - 11:00PM	75
	11:00PM - 7:00AM	65

\*Leq is the constant sound level that, in a given situation and time period, conveys the same sound energy as the actual time-varying a-weighted sound. It is the average sound level and accurately portrays the sound the human ear actually hears.

**Section 39.06.008 Supplemental Use Regulations: Accessory Uses**

**Home-Based Business/Home Occupations**

Home-based businesses and home occupations are permitted as an accessory use in residential units subject to the following conditions:

1. External Effects:
  - (a) There shall be no change in the exterior appearance of the building or premises housing the home occupation other than signage permitted within this section.
  - (b) No noise, odors, bright lights, electronic interference, storage or other external effects attributable to the home occupation shall be noticeable from any adjacent property or public right of way.
  - (c) The home occupation shall be carried on entirely within the principal residential structure and/or within a detached accessory building approved by the City in accordance with these zoning regulations. All “External Effects” criteria in items a.1. (a), (b), (d), (e) and (f) of this subsection are applicable for the detached accessory building.

(d) Mechanical or electrical equipment supporting the home occupation shall be limited to that which is self-contained within the structure and normally used for office, domestic or household purposes.

(e) No outdoor storage of materials or equipment used in the home occupation shall be permitted, other than motor vehicles used by the owner to conduct the occupation. Parking or storage of heavy commercial vehicles to conduct the home occupation is prohibited.

(f) All discharges of sewage and wastes into public sewers shall comply with all applicable City ordinances.

2. Employees: The home occupation shall employ no more than one full time or part time employee on site other than the residents of the dwelling unit, provided that one off-street parking space is made available and used by that non-resident employee.

3. Extent of Use: For all residential and agricultural zoning districts, a maximum percent floor area of 30% of the dwelling may be devoted to the home occupation, inclusive of any detached accessory buildings used for the home occupation.

4. Signage: Signage shall be permitted as set forth for each base district in Article

Ten.

5. Prohibited Home-Based Businesses/Home Occupations

(a) Beauty and Barber Shops: Barber and beauty shops are allowed only with a Special Use Permit as home occupations in the AG, R-2, and R-3 zoning districts.

(b) Welding, vehicle body repair, or rebuilding or dismantling of vehicles are not permitted as home-based businesses.

#### **Permitted Accessory Uses: Residential Uses**

Residential uses may include the following accessory uses, activities, and structures on the same lot.

1. Private garages and parking for the residential use.
2. Recreational activities and uses by residents.
3. Home occupations, subject to Section 39.06.008 of these regulations.
4. Residential convenience services for multi-family uses or mobile home parks.
5. Garage sales, provided that the frequency of such sales at any one location shall not exceed one during a continuous, two month period or four sales during any twelve month period.
6. Caretaker's residences.

#### **Permitted Accessory Uses: Civic Use Types**

Guidance Services and Health Care use types are permitted in the GI General Industrial zoning districts only as accessory uses to a primary industrial use.

#### **Permitted Accessory Uses: Other Use Types**

Other use types may include the following accessory uses, activities and structures on the same lot:

1. Parking for the principal use.
2. Manufacturing or fabrication of products made for sale in a principal commercial use, provided such manufacturing is totally contained within the structure housing the principal use.
3. Services operated for the sole benefit of employees of the principal use.

#### **Permitted Accessory Uses: Agricultural Use Types**

1. Garden centers and roadside stands, subject to the regulations set forth in Section 39.06.002a.
2. Other uses and activities necessarily and customarily associated with the purpose and functions of agricultural uses. (Ord. No. 1171 § 1.)

### **Section 39.06.009 Supplemental Use Regulations: Outdoor Storage outside of the GI Zoning District**

Outdoor storage is prohibited in all zoning districts except the GI General Industrial zoning district, except as provided in this section.

#### **Agricultural Use Types**

Outdoor storage is permitted only where incidental to agricultural uses.

#### **Civic Use Types**

Outdoor storage is permitted only where incidental to Maintenance Facilities.

#### **Commercial Use Types**

1. Outdoor storage is permitted where incidental to Agricultural Sales and Service; Auto Rentals and Sales; Construction Sales; Equipment Sales and Service; Stables and Kennels; and Surplus Sales.
2. Outdoor storage is permitted where incidental to Auto Services, Equipment Repair, and Body Repair, provided that such storage is completely screened at property lines by an opaque barrier, as set forth in Section 39.08.005. This provision shall apply to any Auto Services, Equipment Repair, or Body Repair use established after the effective date of this Ordinance.

#### **Industrial and Miscellaneous Use Types**

Light Industry within the DC Downtown Commercial District zoning district may not include outdoor storage.

Outdoor storage is permitted where it is incidental to Light Industry outside of the DC Downtown Commercial District; General Industry; Heavy Industry; Resource Extraction; Salvage Services; Warehousing; and Construction Yards. Any such outdoor storage is subject to screening requirements set forth in Article 39.08.

Outdoor storage is permitted where incidental to landfills. (Ord. No. 1171 § 1.)

### **Section 39.06.010 Accessory Dwelling Units**

Within the LC, CC and GC Zones (but specifically not within LI or GI Zones), accessory dwelling units are permitted by special exception, subject to the following criteria:

1. All accessory dwelling unit permits shall be administratively reviewed and approved, if meeting all permit criteria, by the Community Development Department on a designated application provided by the Community Development Department. Said application shall depict, at a minimum, property owner name(s), site address, square foot of existing or proposed principle building and accessory dwelling unit, construction type and any additional information deemed necessary by the Community Development Director. A record of all accessory dwelling units shall be stored at the Community Development Department.
2. If the accessory dwelling unit is an apartment within the structure housing the principal building on the lot, the accessory dwelling unit must be located within the building and not detached.

3. The accessory dwelling unit shall share the same sewage disposal and water supply systems as the principal dwelling unit;
4. Upon proper construction of an accessory dwelling unit, the Building Officer shall issue a temporary certificate of use and occupancy. Such temporary certificate of use and occupancy shall be renewed every twelve (12) months until such time as the accessory dwelling unit is required to be removed. A fee, in the amount to be set by City of Dickinson, shall be paid by the landowner upon each renewal of the temporary certificate of use and occupancy on or before January 30 of each year;
5. A minimum of two (2) off-street parking space shall be provided for the accessory dwelling unit in addition to the off-street parking spaces required for the principal building;
6. The landowner shall submit documentation on how the accessory dwelling unit will be incorporated into the floor plan of the principal dwelling unit once the accessory use is abandoned, or otherwise document how the accessory dwelling unit will be removed from the building;
7. The accessory dwelling unit shall be removed or modified so that it cannot function as a separate dwelling unit within two (2) months after it is no longer occupied by a person who qualifies for the use, and the landowner shall provide a statement of intended future use to the Community Development Director or his designee that conforms with the Zoning Ordinance;
8. The accessory dwelling unit shall be occupied by a maximum of two (2) people; and
9. The accessory dwelling unit shall comply with the minimum space and habitable living area requirements of any applicable housing, building and fire codes.
10. The accessory dwelling unit shall be limited to no more than one direct access into the dwelling unit from the exterior of the building.
11. The square footage of the accessory dwelling unit shall be a minimum of 300 square feet and a maximum of 700 square feet, excluding any garage area; provided, the square footage of the accessory dwelling unit shall not exceed 40 percent of the total square footage of the principle building, excluding the garage area, as it exists or as it may be modified. (Ord. No. 1524 § 1.)

### **Section 39.06.011 Subdivision Plat**

Any person or firm requesting a zoning classification or a zoning reclassification other than for an “AG” (Agriculture) zoning district must file and record an approved subdivision plat of the subject parcel with the Stark County Recorder’s office if all or a portion thereof has not been previously platted. The subdivision plat must have final approval prior to or concurrent with the final approval of the proposed zoning change. All plats must be in conformance with Chapter 34, “Subdivision of Land.” This provision does not exempt other required plats under Chapter 34. (Ord. No. 1562 § 2.)

# **Article 39.07 Supplemental Site Development Regulations**

## **Sections:**

<b>39.07.001</b>	<b>Purpose</b>
<b>39.07.002</b>	<b>Setback Adjustments</b>
<b>39.07.003</b>	<b>Height Exceptions</b>
<b>39.07.004</b>	<b>Exceptions to Site Development Regulations for Creative Subdivision</b>
<b>39.07.005</b>	<b>Fence Regulations</b>
<b>39.07.006</b>	<b>Appeals</b>

## **Section 39.07.001 Purpose**

The Supplemental Site Development Regulations recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this title and provide for specific areas of exception. (Ord. No. 1171 § 1.)

## **Section 39.07.002 Setback Adjustments**

### **Exceptions to Openness of Required Yards**

Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.

1. Common architectural projections, including roofs which cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project up to six (6) feet into a required yard, excluding the front yard, in the R-2, R-3, Commercial and Industrial Districts.
2. Terraces, patios, uncovered decks, steps, and ornamental features may project ten feet into a required yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or ten feet from the property line bordering an arterial or collector street.
3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 3 feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.
4. For buildings constructed upon a front property line, a cornice, defined as an ornamental horizontal projection at the top of a building, may project into public right-of-way. Maximum projection is four feet into the right-of-way width.
5. Accessory buildings are subject to all site development regulations of its zoning district, except as provided below:
  - (a) Side yards: An accessory building may be located a minimum of 3 feet from the side lot line of the property.
  - (b) Front Yards: No accessory building may be located between the front building line of the principal building and the front property line, except for residential buildings equal to or greater than three units per building in in the R03 zoning district.
  - (c) Rear Yard: The minimum rear yard setback for accessory buildings shall be 3 feet. This minimum rear yard setback shall be

increased to 20 feet if the accessory building requires perpendicular vehicular access from an alley. Double-frontage lots shall require front-yard setbacks along both street frontages as set forth in Table 4-3. Easements may be incorporated into these required setbacks. No accessory building shall be located within any easement or right-of-way along the rear property line.

(d) Street Yards: No accessory building shall be located within 15 feet from any street right-of-way line. If the accessory building requires vehicular access, it shall be located a minimum of 20 feet from any street right-of-way line.

(e) Maximum Size: All buildings on a site, taken together, must comply with the building coverage requirements for the zoning district.

(f) Attached Accessory Buildings: Any accessory building physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.

(g) No accessory building shall be built or placed upon any lot until construction of the principal building has begun.

(h) Perpendicular multi-family garages and garages from other structures shall be required to be separated by a minimum of thirty (30) feet. (Ord. No. 1565 § 1)

6. Lamp posts with a maximum height of ten (10) feet, and flag poles up to maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines.

### **Setback Adjustments**

1. Corner Lots

Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

### **Antennas**

1. Antennas with a surface area over 6.3 square feet and which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.
2. Such antennas shall be located no less than fifteen feet from the property line of an adjacent property within a residential zoning district.

### **Vision Clearance Zones**

No structure, including a fence, shall be built to a height of more than 32 inches above the established curb grade on the part of the lot bounded by the inside lines of the sidewalk parallel to the lines of the streets or alleys which intersect, or driveways backing onto a public street, and a line connecting a point on each of such lines thirty feet from their point of intersection. No such structure may be built upon street rights-of-way. No landscaping shall be planted in such area which will materially obstruct the view of drivers approaching the street intersection (Ord. No. 1171 § 1, Ord. No. 1423 § 2)

## **Section 39.07.003 Height Exceptions**

These provisions allow exceptions to the height limit of any zoning district in certain situations.

### **Vertical Projections**

Chimney's cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may be built to any height in accordance with existing ordinances.

### **Amateur Radio Towers and Federal Communication Commission Pronouncements**

1. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.
2. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the City Commission may grant a Special Use Permit to a licensed amateur radio operator for a specified tower height that exceeds 75 feet. In determining whether to grant such permission, the City Commission shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption), 101 FCC 2d (1985); codified at C.F.R. Section 97.15 (e).
3. Such radio towers shall not be located within any front yard of the primary use.

### **Broadcast Towers**

Broadcast towers, when operated by a federally-licensed commercial or non-profit organization, may be built to any height in accordance with existing and future ordinances. This exception does not apply to radio towers, antennas and other appurtenances operated by licensed amateur radio operators.

### **Civic Buildings**

Buildings housing civic use may exceed height limits for the zoning district. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

### **Wind Energy Conservation Systems (WECS)**

1. The distance from all lot lines or any building or power line to any tower support base of a WECS shall be equal to the sum of the tower height and the diameter of the rotor. A reduction of this requirement may be granted as part of a Special Permit approval if the Planning Commission finds that the reduction is consistent with public health, safety, and welfare.
2. The distance between the tower support bases of any two WECS shall be the minimum of five rotor lengths, determined by the size of the largest rotor. A reduction of this requirement may be granted as part of a Special Permit approval if the Planning Commission finds that the reduction does not impede the operation of either WECS.
3. The WECS operation shall not interfere with radio, television, computer, or other electronic operations on adjacent properties.

4. A fence six feet high with a locking gate shall be placed around any WECS tower base; or the tower climbing apparatus shall begin no lower than twelve feet above ground.
5. The WECS is exempt from the height restrictions of the base district.

#### **Special Permit Uses**

The City Commission with the recommendation of the Planning Commission may grant an exception from the height limit for a zoning district for a special permit use, as part of its approval of that use. The limit or extent of this exception shall be a specific part of the special use permit.

#### **Federal Aviation Administration Rules**

No structure may be built in any zoning district which exceeds the maximum height permitted under the rules of the Federal Aviation Administration. These rules describe the glide angles and operational patterns for any airport within the planning jurisdiction of the City of Dickinson. (Ord. No. 1171 § 1, Ord. No. 1490 § 1.)

### **Section 39.07.004 Exceptions to Site Development Regulations for Creative Subdivision**

#### **Purpose**

In the instance that the Subdivision Chapter of the Land Development Ordinance provides for creative subdivision, the City may authorize such subdivisions to allow for greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, to provide for more efficient use of land, to protect topographic and to encourage the preservation of common area and open space. These special regulations and design exceptions apply only to creative subdivisions.

#### **Site Area Per Unit**

1. Unless otherwise provided, the site area per unit for a creative subdivision as a whole shall be that of the zoning district in which such subdivision is located. For the purpose of computing site area per unit, the area of public streets and private ways within the subdivision must be excluded. Residential use types may be combined within the creative subdivision provided that the subdivision as a whole complies with the required maximum density of the zoning district.

#### **Perimeter Yards**

1. Structures must maintain normal street yard setbacks from any public streets that form the perimeter of the development.
2. Structures must maintain a 20 foot minimum sideyard setback from any property line that forms the boundary of the development.

#### **Area and Yards for Individual Lots**

1. Individual lots within a creative subdivision are exempt from minimum lot area or yard setback requirements set forth elsewhere in this Ordinance, unless provided for by the regulations for a specific zoning district. A creative subdivision must be planned and developed as a common development. A minimum separation of twelve (12) feet shall be established for all residential structures not attached to another, unless the City Commission grants a specified exception for developments proposing unique circumstances, only in as much as said development can be demonstrated to avoid detriment to Dickinson's efforts to

protect public health, safety, welfare, community character, property values and aesthetics.

2. Any private garage oriented to or facing a public street or private way internal to the creative subdivision must be set back a minimum of 25 feet from the property line.

### **Coverage and Landscaping Requirements**

Individual lots in a creative subdivision are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district. (Ord. No. 1171 § 1.)

## **Section 39.07.005 Fence Regulations**

### **Location Restriction**

Unless otherwise provided by this title or other sections of the Dickinson Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines, or tract outside the surveyed lot lines.

### **Sight Obstruction**

No solid fence permitted or required by this title or other sections of the Dickinson Municipal Code shall be built in any manner which creates a traffic hazard or obstructs visibility. Vision clearance zones set forth by Section 39.07.002(d) shall be maintained.

### **Residential Fences**

Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.

1. Height: The maximum height of a fence within a required front yard or street side yard setback shall be four feet. The maximum height for any fence outside of a required front yard shall be 6.5 feet.
2. Materials: Fences shall be constructed of wood, chain-link, PVC / resin, stone or masonry materials only. Barbed wire and / or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence.

### **Other Fences**

Fences constructed in commercial and industrial districts are subject to the following special provisions.

1. The maximum height of a fence for any permitted use in any non-residential zoning district shall be 6.5 feet.
2. Civic Uses in Residential Districts: The maximum height of fences installed as part of Primary and Secondary Educational Facilities or Park and Recreation Use Types within Residential Zoning Districts shall be eight feet.
3. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Dickinson.

4. Barbed wire may be used in the construction of perimeter security fencing in an industrial district or for municipal facilities provided that the bottom strand of the wire shall be at least six feet above ground level. Barbed wire may be constructed for agricultural purposes in an AG District. Electrified fences are permitted only within the AG zoning district.

**Existing Fences**

Any existing fence lawfully built before the effective date of this Ordinance may remain in place without change. Any replacement or change of such fence shall meet the requirements of this section. (Ord. No. 1171 § 1.)

**Section 39.07.006 Appeals**

Denial, revocations, or cancellations of a building permit based on the provisions of this Section may be appealed to the Board of Adjustment, as set forth in Sections 39.12.010 through 39.12.012. (Ord. No. 1171 § 1.)

## **Article 39.08 Landscaping and Screening Standards**

### **Sections:**

<b>39.08.001</b>	<b>Purpose</b>
<b>39.08.002</b>	<b>Applicability</b>
<b>39.08.003</b>	<b>Landscaping Requirements</b>
<b>39.08.004</b>	<b>Landscaping Materials and Installation Standards</b>
<b>39.08.005</b>	<b>Bufferyard Provisions</b>
<b>39.08.006</b>	<b>Screening Standards</b>
<b>39.08.007</b>	<b>Tree Plantings</b>
<b>39.08.008</b>	<b>General Provisions</b>

### **Section 39.08.001 Purpose**

The Landscaping and Screening Regulations provide additional guidance on the development of sites within Dickinson by addressing landscaping and screening requirements. They are designed to improve the appearance of the community; buffer potentially incompatible land use from one another; and conserve the value of properties within the City of Dickinson. (Ord. No. 1171 § 1.)

### **Section 39.08.002 Applicability**

The provisions of this section shall apply to all new development on each lot or site upon application for a building permit, except for the following:

- a. Reconstruction or replacement of a lawfully existing use or structure following a casualty loss.
- b. Remodeling, rehabilitation, or improvements to existing uses or structures which do not substantially change the location of structures, parking, or other site improvements.
- c. Additions or enlargements of existing uses or structures which increase floor area to impervious coverage area by less than 20 percent. Where such additions or enlargements are 20 percent or greater, these provisions shall apply only to that portion where the new development occurs. (Ord. No. 1171 § 1.)

### **Section 39.08.003 Landscaping Requirements**

Landscaping shall be required adjacent to each street property line and within street yards as set forth in Table 8-1. (Ord. No. 1171 § 1.)

### **Section 39.08.004 Landscaping Materials and Installation Standards**

#### **Official List of Plant Materials**

All plant material installed in landscaped areas or bufferyards shall be consistent with the Official List of Plant Materials provided through the office of the Zoning Administrator. All plant material shall conform in size, species and spacing with this section of the ordinance.

#### **Use of Inorganic Landscaping Materials**

Artificial trees, shrubs, plants or turf shall not be used to fulfill the minimum requirements for landscaping. Inorganic materials, such as stone or decorative pavers, may be counted toward fulfilling these minimum requirements provided that such material does not comprise more than 35% of the required landscaped area. Other concrete and/or asphalt pavement surfaces may not be used within the minimum required landscaped area, except for walkways less than 5 feet in width. (Ord. No. 1171 § 1.)

Table 8-1: Required Landscape Depth

Zoning District	Depth of Landscaping Adjacent to Street Property Line
AG	35 Feet
RR	35 Feet
R-1	15 Feet
R-2, R-3	15 Feet
MH	35 Feet
LC	15 Feet
CC	10 Feet
DC	No Requirement
GC	10 Feet
LI	15 Feet
GI	No Requirement

### **Section 39.08.005 Bufferyard Provisions**

These provisions apply when use is established in a more intensive zoning district (District A) which is adjacent to a less intensive zoning district (District B). The owner, developer, or operator of the use within District A shall install and maintain a landscaped bufferyard on his/her lot or site, as set forth in this section. Bufferyard requirements apply only to those districts indicated in Table 8-2. Bufferyards are not required of single-family, 2-family, duplex, or townhouse use types in the more intensive zoning district.

- a. The bufferyard dimensions set forth in Table 8-2 apply to zoning districts which share a common lot line. The dimensions may be reduced by ten feet if the uses are adjacent but separated by an intervening alley.

Table 8-2 Bufferyard Requirements (Feet)

		DISTRICT B		(Less Intensive Adjacent District)	
		RR (Note 1)	R-1* (Note 1)	R-2 (Note 1)	R-3, MH (Note 1)
	R-3	20	20	10	---
DISTRICT A	LC	10	10	20	---
More Intensive District	CC	20	20	20	10

(Note 2, 3)	DC	---	---	---	---
	GC	30	30	30	30
	LI	30	30	30	30
	GI	50	50	50	50

**Notes to Table 8-2:**

*Note 1:* Applies to residential uses previously established in the zoning district.

*Note 2:* Vertical screening only is required as set forth in Section 39.08.006.

*Note 3:* Buffer requirements do not apply to single-family, duplex, or townhouse residential uses established in District A.

- b. When a street separates adjacent zoning districts requiring a bufferyard, the size of the bufferyard shall be one-half the required bufferyard set forth in Table 8-2.
- c. Each required bufferyard must be landscaped and free of paved areas, access ways, storage, or other disturbances. (Ord. No. 1171 § 1.)

**Section 39.08.006 Screening Standards**

**Application**

Screening is required between adjacent zoning districts indicated in Table 8-2 when one or more of the following conditions in the more intensive zoning district is directly visible from and faces toward the boundary of the less intensive zoning district.

- 1. The rear elevation of buildings.
- 2. Outdoor storage areas or storage tanks, unless otherwise screened.
- 3. Loading docks, refuse collection points, and other service areas.
- 4. Major machinery or areas housing a manufacturing process.
- 5. Major on-site traffic circulation areas or truck and/or trailer parking.
- 6. Sources of glare, noise, or other environmental effects.

**Opaque Barrier**

A six foot opaque barrier shall be provided which visually screens the conditions listed in Section 39.08.06 (a) from less intensive uses as follows:

- 1. A solid wood and/or masonry fence or wall at least six feet in height.
- 2. A landscaping screen, using evergreen or deciduous materials, capable of providing a substantially opaque, hedge-like barrier and attaining a minimum height of six feet within three years of planting.
- 3. A landscaped earth berm with a maximum slope of three to one, rising no less than six feet above the existing grade of the lot line separating the zoning districts.
- 4. Any combination of these methods that achieves a cumulative height of six feet.

**Location of Screening Wall**

- 1. A screening wall or fence shall be installed no closer to the less intensive zoning district than one-half the width of the required bufferyard. Fence regulations are set forth in Section 39.07.005.

**Screening: Effect on Drainage**

Screening shall not adversely affect surface water or snow drainage. (Ord. No. 1171 § 1.)

### **Section 39.08.007 Tree Plantings**

In any landscaped area required by the Minimum Depth Requirements or the Bufferyard Requirements, one tree of an approved species with a minimum caliper size of two inches shall be planted and maintained for each 500 square feet of required landscaped area. Existing trees approved for preservation shall be counted toward satisfaction of this requirement. (Ord. No. 1171 § 1.)

### **Section 39.08.008 General Provisions**

#### **Time of Application**

The provisions contained in this Article shall be applied for each individual lot or site when an application for a building permit on such lot is made.

#### **Maintenance of Required Landscaping**

Upon installation of required landscape materials, each owner shall take appropriate actions to ensure their continued health and maintenance. Required landscaping that does not remain healthy shall be replaced consistent with this Article.

#### **Obstruction of View**

Landscaping or screening installed in any landscaped area shall not obstruct the view from or to any driveway approach, street, alley, or sidewalk.

#### **Earth Berm Locations**

All earth berm locations shall be reviewed by the Public Works Director, or his/her designee to determine how the berms shall relate to drainage, snow, and public utilities.

#### **Exceptions**

A development may continue with the bufferyard and screening requirements in effect at the time of issuance of its original permit, regardless of whether an adjacent lot or site is subsequently rezoned to a less intensive district which would otherwise required compliance with bufferyard or screening provisions. (Ord. No. 1171, § 1.)

## **Article 39.09 Off-Street Parking**

### **Sections:**

<b>39.09.001</b>	<b>Purpose</b>
<b>39.09.002</b>	<b>General Applications</b>
<b>39.09.003</b>	<b>Schedule of Off-Street Parking Requirements</b>
<b>39.09.004</b>	<b>Parking Facility Location</b>
<b>39.09.005</b>	<b>Parking for People with Disabilities</b>
<b>39.09.006</b>	<b>Off-Street Parking Design Standards</b>
<b>39.09.007</b>	<b>Off-Street Loading</b>
<b>39.09.008</b>	<b>Parking for Personal and Recreational Vehicles</b>
<b>39.09.009</b>	<b>Supplementary Regulations: Storage and Parking of Unlicensed or Other Vehicles</b>

### **Section 39.09.001 Purpose**

The Off-Street Parking Regulations require that developments provide parking in proportion to the need created by each use. The regulations further establish standards for the functional design of parking facilities. These regulations are intended to accommodate vehicles

in a functionally satisfactory manner and to minimize external effects on neighboring properties. (Ord. No. 1171, § 1.)

## **Section 39.09.002      General Applications**

### **Applicability**

Paved off-street parking shall be provided for any new building constructed; for new uses or conversions of existing buildings; or for enlargements of existing structures greater than fifty percent (50%) of the existing building footprint; or for an increase in the required parking stalls greater than fifty percent (50%) for the new use or building expansion. This provision shall include a cumulative fifty percent (50%) increase in total building footprint or required parking stalls from and after January 1, 2012.

### **Exemptions**

Any use within the DC Downtown Commercial District is exempt from the off-street parking, payment in lieu of parking, or loading requirements provided by Section 39.09.003. Any off-street parking facility constructed in the DC District after the effective date of this Ordinance must comply with the design standards set forth in this Article. (Ord. No. 1171 § 1; 1442 § 1.)

## **Section 39.09.003      Schedule of Off-Street Parking Requirements**

Parking facilities for each use shall be provided in accord with the minimum requirements set forth in Table 9-1.

### **Computation**

1. When a computation of required parking results in a fraction of 0.5 or greater, the requirement should be rounded up to the next whole number.
2. Unless otherwise indicated, parking requirements are based on gross floor area. Gross floor areas for the purpose of this calculation exclude any interior space used for the parking or loading of vehicles.
3. When parking requirements are computed on the basis of capacity, capacity shall be determined by the building code in effect for the City of Dickinson at the time the use is established.

### **Multiple Use Sites and Adjustments**

1. For sites with more than one use, the parking requirement shall be the sum of spaces required for each use, except as provided below.
2. The Board of Adjustment may authorize an adjustment in the total requirement for separate uses located on the same site or for separate uses located on adjoining sites and served by the same parking facility. The Board shall consider at least the following criteria in determining approval of such an adjustment:
  - (a) The characteristics and time of operation of each use, and differences in projected peak parking demand.
  - (b) Potential reduction in total expected vehicle movements afforded by multiple uses of the parking facilities.
  - (c) Functional design of the development and its parking facilities.
  - (d) Evidence of a written agreement that provides for the joint use of parking facilities. (Ord. No. 1171 § 1.)

## **Section 39.09.004 Parking Facility Location**

### **Residential Parking**

1. Off-street parking for residential uses shall be located on the same lot or site as the use. This provision does not include driveways for single-family or duplex residential uses.
2. Off-street parking areas for any multi-family residential uses shall be at least six feet from any main building; and shall not be located outside of a surfaced driveway within a required front yard or street side yard.

### **Non-residential Parking**

Off-street parking for non-residential uses shall be located on the same lot or site as the use, or within 300 feet of that use if the parking site is within a zoning district that permits the Off-Street Parking use type. Control of ownership or use rights to the remote off-street parking must be demonstrated as a condition of permission. (Ord. No. 1171 § 1.)

**Table 9-1 Minimum Off-Street Parking Requirements**

<b>Agriculture Use Types</b>	
Horticulture	1 space per 1,000 square feet of sales area.
Crop Production	No requirement
Animal Production	No requirement
Commercial Feedlots	No requirement
<b>Residential Use Types</b>	
Single-Family Residential	2 spaces per dwelling unit
Duplex Residential	2 spaces per dwelling unit
Two-Family Residential	2 spaces per dwelling unit
Multi-Family Residential	1.5 spaces per efficiency or 1-BR unit; 2 spaces per other units; 1 space per 2 units for elderly housing.
Group Residential	1 space for each two residents
Mobile Home Residential	2 spaces per dwelling unit
Retirement Residential	1 space per independent living unit; 1 space for each 3 units of assisted living
<b>Civic Use Types</b>	
Administration	1 space for 300 square feet of gross floor area
Cemetery	No requirement
Clubs	1 space per 4 person capacity in largest assembly space
Colleges and Universities	1 space for every 4 students based on average enrollment during previous 5 years
Convalescent Services	1 space for 4 beds
Cultural Services	1 space per 500 square feet of public area
Day Care Services	1 space per 5 person capacity + 1 space per employee of largest shift
Group Care Facility	1 space per 4 person capacity + 1 space per employee of largest shift
Group Home	1 space per 4 person capacity + 1 space per employee of largest shift
Guidance Services	1 space per 300 square feet
Health Care	1 space per 300 square feet + 1 space per employee of largest shift

Hospitals	1 space per 2 beds
Maintenance Facilities	See Schedule A
Parks and Recreation	No requirement
Postal Facilities	See Schedule A
Primary Education	1 space per employee of max shift
Public or Religious Assembly	1 space per 4 person capacity in largest assembly space
Secondary Education	1 space per employee of max shift + 1 space for each 3 11th and 12th grade
Safety Services	1 space per employee of maximum shift + 1 stall per 1,000 sq. ft.
Utilities	1 space per employee of maximum shift
<b>Commercial Use Types</b>	
Agricultural Sales/Service	See Schedule A
Auto Rental and Sales	See Schedule A
Auto Service*	4 times service capacity
Body Repair*	5 spaces per repair stall
Business Support Services	1 space per 500 square feet
Campground	1 space per camping unit
Cocktail Lounge	1 space per 200 square feet
Commercial Recreation	1 space per 2 person capacity**
Communication Services	1 space per 500 square feet
Construction Sales	See Schedule A
Consumer Services	1 space per 200 square feet
Convenience Storage	1 space per 20 storage units
Equipment Sales/Service	See Schedule A
Food Sales (All Types)	1 space per 200 square feet
Retail Services	1 space per 200 square feet
Liquor Sales	1 space per 200 square feet
Lodging, Bed and Breakfast	1 space per unit + 1 space for each 200 square feet of public meeting area
Personal Improvement	1 space per 200 square feet
Personal Services	1 space per 500 square feet
Pet Services	1 space per 500 square feet
Restaurants (Drive-in)	1 space per 50 square feet of customer service area
Restaurants (General)	1 space per 3 person capacity in dining area
Stables/Kennels	1 space per employee + 1 stall per 5,000 sq. ft. of site area
Surplus Sales	See Schedule A
Veterinary Services	1 space per 500 square feet
<b>Office Use Types</b>	
General Offices	1 space per 300 square feet
Medical Offices	3 spaces per staff doctor or dentist
<b>Miscellaneous Use Types</b>	
Broadcasting Tower	No requirement

Non-Putrescible Landfill	No requirement
All Landfills	No requirement
<b>Industrial Use Types</b>	
Agricultural Industries	See Schedule A
Light Industry	See Schedule A
General Industry	See Schedule A
Heavy Industry	See Schedule A
Railroad Facilities	See Schedule A
Resource Extraction	1 space per employee on largest shift
Salvage Services	See Schedule A
Warehousing	See Schedule A
Construction Yards	See Schedule A

\* Auto Service and Body Repair subject to other restrictions applicable under this ordinance:

Section 39.04: Use Types - “Vehicle Storage”; also,

Section 39.06: Supplemental Use Regulations, “Outdoor Storage.”

\*\* This standard may be reduced by up to 20% at the discretion of the Building Official, if site plan review demonstrates that circulation and loading patterns accommodate adequate space for queuing and temporary parking by users during the peak hours of operation.

**Schedule A**

This schedule sets forth minimum off-street parking requirements for uses with elements that have different functions and operating characteristics

<b><u>Function of Element</u></b>	<b><u>Requirement</u></b>
Office or Administration	1 space per 300 square feet
Indoor Sales, Display or Service Area	1 space per 500 square feet
Outdoor Sales, Display or Service Area	1 space per 2,000 square feet
Equipment Servicing or Manufacturing	1 space per 1,000 square feet
Indoor or Outdoor Storage or Warehousing	1 space per 5,000 square feet

**Section 39.09.005 Parking for People with Disabilities**

Each off-street parking facility shall provide the number of parking spaces set forth in ANSI A-117 Standards designed and designated for use by people with disabilities. Design criteria and dimensions are set forth in the Off-Street Parking Design Standards and the requirements of the Americans with Disabilities Act. Parking facilities for single-family, duplex, two-family, and mobile home residential uses are exempt from this requirement.

Van Accessible Stalls: One in every accessible spaces, but not less than one stall on each premises, shall be served by an access aisle with a minimum width of 96 inches and shall be designated as “ Van Accessible: (Ord. No. 1171 § 1.)

**Section 39.09.006 Off-Street Parking Design Standards**

**Dimensions**

Standard parking stalls shall be a minimum of nine feet wide and eighteen feet long.

**Pavement and Drainage**

1. Off-street parking facilities shall be hard surfaced and maintained with materials sufficient to prevent mud, dust, or loose material.
2. Off-street parking facilities shall be designed and built to prevent the free flow of water onto adjacent properties

### **Landscape and Screening Requirements**

Unless otherwise noted, each unenclosed parking facility of over 3,000 square feet shall comply with the following regulations:

1. Each unenclosed parking facility shall provide a minimum landscaped buffer of ten feet along any street property line.
2. Each parking facility that abuts a residential district shall provide a ten foot landscaped buffer along its common property line with the residential district.
3. Any parking facility which abuts property in a residential district shall provide a fence, wall, landscape screen, or earth berm not less than four feet in height for the length of the common boundary. A grade change, terrace, or other site feature which blocks the sight line of headlights into a residential property may satisfy this requirement, subject to the determination of the Building Official.
4. Each unenclosed parking facility of over 4,500 square feet within a street yard shall provide interior landscaped area equal to no less than 5 percent of the total paved area of the parking facility. Parking facilities within the GI District shall be exempt from this requirement.
5. Interior landscaping shall be credited toward the satisfaction of overall landscaping requirements set forth in Article 39.08

### **Entrances and Exits**

1. Adequate access to each parking facility shall be provided by means of clearly defined and limited driveways or access points. Such driveways shall be designed to direct non-residential traffic away from residential areas.
2. In the downtown commercial district entrances from arterial to off street parking, facilities shall be located at least 60 feet from the intersections of the curb lines of the intersecting streets.
3. In all other districts, the entrances from arterial or collector streets to off off street parking facilities shall be located at least 60 feet from the intersections of the curb lines of the intersecting streets.

### **Safety Features**

1. Parking facilities shall be designed to provide visibility of and between pedestrians and vehicles when circulating within or entering or leaving the facility; and shall not create blind, hidden, or hazardous areas.
2. Circulation patterns shall be designed in accord with accepted standards of traffic engineering and safety.

### **Lighting**

Any lighting used to illuminate any off-street parking area shall be arranged to direct light away from adjoining properties in any residential district.

### **Maintenance**

All parking facilities shall be maintained to assure the continued usefulness and compatibility of the facility. Acceptable maintenance includes keeping the facility free of refuse,

debris, and litter; maintaining parking surfaces in sound condition; and providing proper care of landscaped areas.

**Adjustment**

For uses subject to Special Use Permit approval, the City Commission may adjust the minimum requirements of this section, in order to provide design, usability, attractiveness, or protection to adjoining uses in a manner equal to or greater than the minimum requirements of this Article. (Ord. No. 1171 § 1.)

**Section 39.09.007 Off-Street Loading**

**Loading Requirement**

Any use which involves the receipt or distribution of freight, merchandise, supplies, vehicles, or equipment as part of its typical operation shall provide and maintain adequate space for off-street loading and circulation. Loading areas shall be designed to avoid undue interference with the public use of streets and sidewalks.

**Schedule of Loading Spaces**

Loading spaces for each use requiring them shall be provided in accord with the minimum requirements set forth in Table 9-3.

Table 9-3 Off-Street Loading Requirements

<b>Gross Floor Area of Use (square feet)</b>	<b>Number of Required Loading Spaces</b>
5,000 or less	None
5,001 - 25,000	1
25,001 - 75,000	2
75,001 – 150,000	3
Over 150,000	4 plus one for each additional 100,000 SF

**Design Standards**

1. Each loading space shall be at least 10 feet wide by 50 feet long, with a vertical clearance of at least 14 feet.
2. Paving of loading spaces and access areas shall be permanent, durable, and free of dust.
3. Off-street loading areas are subject to the landscaping and buffering requirements for parking facilities set forth in this Article. (Ord. No. 1171 § 1.)

**Section 39.09.008 Parking for Personal and Recreational**

**Vehicles**

**Applicability**

This section permits the parking of personal vehicles on a single lot in a residential district subject to specific conditions. Personal vehicles include: passenger cars; vans; pick-up trucks; camper shells, toppers, and other similar appurtenances intended for attachment to a personal vehicle; trailers under twenty feet in length, and boats. Trucks, tractor cab units, trailers, recreational vehicles, and vehicles over ten tons gross empty weight shall be defined as heavy commercial vehicles.

**Location of Parking**

1. Parking is permitted within any enclosed structure when such structure conforms to the regulations of its zoning district.
2. Parking of personal vehicles is permitted on a paved driveway (outside of an enclosed structure) within the front yard setback, but shall in no case encroach upon the public right-of-way.
3. Parking of personal vehicles within an interior side yard must be located on a hard surface.
4. Parking of personal vehicles may occur in the rear yard setback provided that such parking conforms to the provisions of the Zoning Ordinance and meets the following conditions:
  - (a) The parking space is provided on a paved, graveled, scoria, or rock surface.
5. Heavy commercial vehicles, including tractor cab units weighing more than 10 tons gross empty weight, and recreational vehicles shall not be parked on any lot within the R1, R2, R3, and MH residential zoning districts, except as provided below.

#### **Special Provisions for Recreational Vehicles and Boats**

Where permitted, parking and storage of recreational vehicles and boats is subject to the following additional conditions:

1. Recreational vehicles and boats must be maintained in a clean, well-kept state.
2. Recreational vehicles and boats may not be permanently connected to utility lines.
3. Recreational vehicles and boats may not be used for the storage of goods, materials, or equipment other than those items which pertain to the use of the vehicle. (Ord. No. 1171 § 1.)

### **Section 39.09.009      Supplementary Regulations: Storage and Parking of Unlicensed or Other Vehicles**

The storage or keeping of motor vehicles not having a properly issued current motor vehicle registration and current motor vehicle license plate properly displayed, or in good operable condition, is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Dickinson; provided that conformance with the following shall not constitute a violation of this section:

1. The storage of no more than two unlicensed and/or unregistered motor vehicle in a fully-enclosed garage or in a fenced or screened area hidden from view of a public street or adjacent residential property.
2. The storage of operable off-highway farm or industrial vehicles on tracts zoned AG Agriculture or LI or GI industrial uses, and used in agricultural or industrial activity conducted on the premises.
3. The storage of not more than one personal vehicle in good operable condition and shielded from view of the general public.
4. The storage, keeping or abandonment of parts, including scrap metals, from motor vehicles or machinery, or parts thereof, is prohibited on any lot, parcel or tract of land or part thereof, situated within the zoning

jurisdiction of the City of Dickinson, except in enclosed buildings or garages, within a permissive zoning district, or where otherwise permitted by this ordinance.

5. Parking, storage or keeping, other than in a fully enclosed garage of any non-operable motor vehicle is prohibited on any residential zoned lot, parcel or tract of land or part thereof, situated within the zoning jurisdiction of the City of Dickinson; provided, however, that automobiles that are non-operable by reasons of repair work being done thereon may be parked on the residential lot of the owner of said automobile within the Dickinson Zoning jurisdiction under the following conditions:
  - (a) The automobile is owned by the occupier of the premises and registered to him/her at that address.
  - (b) The period of said repair work does not exceed ten days in duration.
  - (c) Repair work is at all times conducted on a paved driveway.
  - (d) No more than one automobile in need of repair is situated on the premises at the same time.

### **Removal of Vehicles**

Before the City removes a vehicle suspected of being in violation of this section, by reason of it being inoperable, the City shall give the owner of the premises upon which the offending vehicle is situated a seventy-two hour warning notice. Notice shall be given by tagging the motor vehicle and by regular mail, postage pre-paid to the occupier of the premises on which the motor vehicle is situated. Any motor vehicle not removed from the premises within such seventy-two hour period shall be presumed to be inoperable and may thereafter be removed by the City. If he/she chooses, the owner may demonstrate operability of the vehicle by making special arrangements with the Dickinson Police Department to demonstrate operability of the vehicle within said seventy-two hour period. If operability of the vehicle is satisfactorily demonstrated, the automobile need not be removed. (Ord. No. 1171 § 1.)

## **Article 39.10 Sign Regulations**

### **Sections:**

<b>39.10.10</b>	<b>Purpose</b>
<b>39.10.20</b>	<b>Definition of Terms</b>
<b>39.10.30</b>	<b>General Sign and Street Graphics Regulations</b>
<b>39.10.40</b>	<b>Basic Design Elements for On-Premises Signs</b>
<b>39.10.50</b>	<b>Basic Design Elements for Off-Premises Signs</b>
<b>39.10.60</b>	<b>Other Design Elements</b>
<b>39.10.70</b>	<b>General Permit Procedures</b>
<b>39.10.80</b>	<b>Action and Appeal</b>
<b>39.10.90</b>	<b>Permit Expiration</b>
<b>39.10.100</b>	<b>Assignment of Sign Permits</b>
<b>39.10.110</b>	<b>Non-Conforming Signs</b>
<b>39.10.120</b>	<b>Administration</b>
<b>39.10.130</b>	<b>Severability</b>

### **Section 39.10.10 Purpose**

This Article 39.10 provides standards for communicating information in the environment of the City of Dickinson and its zoning jurisdiction. The regulations recognize the need to protect public health, safety, and welfare; to maintain the City's attractive appearance; to provide for adequate business identification, advertising, and communication of information; and to encourage the fair enforcement of sign regulations.

### **Section 39.10.20 Definition of Terms**

The following definitions shall be used for terms contained in this Article 39.10 that are not otherwise defined in the Dickinson City Code.

**Abandoned Sign:** A sign which, for a period of at least 180 consecutive calendar days no longer advertises or identifies a legal business establishment, product or activity.

**Aggregate sign area:** The total available sign area of all sides or portions of a sign.

**Animated sign:** A sign which has any visible moving part, flashing or osculating lights, visible mechanical movement of any description, or other apparent visible movement achieved by any means that moves, changes, flashes, osculates or visibly alters in appearance.

**Attached Sign:** A sign which is structurally connected to a building or depends upon that building for support.

**Awning:** A temporary or movable shelter supported entirely from the exterior wall of a building and composed of non-rigid materials, except for supporting framework.

**Awning Sign:** A message printed on an awning.

**Banner Sign:** Material with a printed message or graphic secured or mounted from a structure in such a way as to allow wind movement.

**Billboard Sign:** An off-premises sign that is principally designed to direct attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located. A Billboard Sign is an off-premises sign.

**Building frontage:** The linear length of a building facing a public street right-of-way, exclusive of alleys, or the linear length of the street right-of-way, whichever is smaller.

**Building Marker:** A historic or commemorative plaque, or a building name or cornerstone carved into a masonry surface.

**Building Sign:** A sign displayed upon or attached to any part of the exterior of a building. Roof signs and wall signs are considered building signs.

**Canopy Sign:** A roof-like cover, attached or unattached, extending from the exterior wall of a building and composed of supporting framework of rigid materials upon which a sign is indelibly drawn, painted or printed.

**Clearance:** The distance from the bottom of a sign elevated above grade and the grade below.

**Detached Sign:** A sign, other than a billboard sign or digital billboard sign, which is self-supporting and structurally independent from any building.

**Directional Sign:** A sign located at the exit or entrance of a premises that has two or more driveways.

**Digital Billboard Sign:** A billboard sign that is designed to convey its message, information, and advertising copy by LED or other digital means. A digital billboard sign is an off-premises sign.

**Double-Faced Sign:** A sign consisting of no more than two parallel faces or V-pattern faces supported by a single structure.

**Electronic Message Sign:** A sign emitting an illuminated message, image or design created electronically by any light source, LED (light emitting diodes), bare electric bulbs, luminous tubes, fiber optics, or any other combination of light sources creating a message. This definition shall include time, temperature and date signs. An electronic message sign which has copy which moves or appears to be moving, flashing, changing color, pulsing or alternating shall be considered an animated sign.

**Flag:** Any fabric, banner or bunting containing distinct colors, patterns or symbols, which is used or may be used as a symbol of a government, political subdivision, corporation, business, or other entity. A flag may also be used to express symbolic speech or for decorative purposes. For the purpose of these regulations, the message expressed by a flag shall not be relevant to the display of the flag.

**Ground Sign:** A sign, other than a billboard sign or digital billboard sign, that is supported by one or more columns, upright poles, or braces extended from the ground or from an object on the ground, or that is erected on the ground, where no part of the sign is attached to any part of a building with a building clearance less than three feet and vertical clearance of less than three (3) feet. Monument signs are considered ground signs.

**Illuminated sign:** An illuminated sign is one which either:  
Provides artificial light through exposed bulbs, lamps or luminous tubes on the sign surface;  
Emits light through transparent or translucent material from a source within the sign; or  
Reflects light from a source intentionally directed upon it.

**Illumination:** Lighting sources installed for the primary purpose of lighting a specific sign or group of signs.

**Marquee:** A permanent roof-like shelter extending from part or all of the building face usually over a public right-of-way.

**Monument Sign:** Any sign, other than a pole or pylon sign, which is placed upon or supported by structures or

**Moving Sign:** A sign which conveys its message through rotating, changing, or animated elements.

**Nonconforming Sign:** A sign that was legally erected prior to the adoption of this Article 39.10, but which does not conform to the provisions thereof.

**Off-Premises Sign:** Any sign that identifies or directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

**On-Premises Sign:** Any sign that (1) principally displays a non-commercial message; or (2) identifies or directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location on the premises where the sign is located.

**Permanent Sign:** A sign which is affixed to a building or the ground in compliance with the requirements of the City of Dickinson Building Code and any other applicable Federal, State or local laws and in such a manner as to be immobile without the use of extraordinary means, such as disassembly.

**Pole Sign:** An on-premises sign built on a freestanding frame, mast or pole(s) with a clearance greater than three (3) feet.

**Portable Sign:** Any sign supported by frames or posts rigidly attached to bases not permanently attached to the ground or a building and capable of being moved from place to place.

**Premises:** A tract of one or more lots or sites which are contiguous and under common ownership or control.

**Projecting Signs:** A sign other than a wall sign that is attached to and projects from a building face.

**Pylon sign:** Any sign, other than a billboard sign or digital billboard sign, which is supported by structures or supports in or upon the ground and independent of support from any building with a building clearance of three feet and a vertical clearance of four feet or higher. The base width of the pylon sign shall be no less than 50 percent of the sign length.

**Residential Sign:** A small detached or attached sign located on a residential property, conveying a message communicated by the owner of the property.

**Roof Sign:** Any sign or part of sign erected upon, against, or directly above a roof or on top of or above the parapet or cornice of a building.

**Integral Roof Sign:** A roof sign positioned between an eave line and the peak or highest point on a roof, substantially parallel to the face of a building.

**Above-Peak Roof Sign:** A roof sign positioned above the peak of a roof or above a parapet or cornice.

**Sign:** A symbolic, visual device fixed upon a building, vehicle, structure, or parcel of land which is intended to convey information about a product, business, activity, place, person, institution, candidate, or political idea.

**Sign Area:** The entire area within the periphery of a regular geometric form, or combination of regular geometric forms, comprising all of the display area of the sign

and including all of the elements of the matter displayed, but not including a sign structure that does not bear copy. The surface area of the sign shall be measured from the outside edges of the sign or the sign frame, whichever is greater. A double-faced sign shall be permitted to have the allowed area of a single-faced sign on each of the two faces of the double-faced sign.

**Sign Height:** Sign height shall be measured from the centerline of the road that provides access to the Premises, nearest the base of the sign to the highest point of the sign structure.

**Sign Type:** A functional description of the use of an individual sign.

**Street Frontage:** The length of the property line for a single parcel which runs parallel to and along each public right-of-way (exclusive of alleys) it borders.

**Temporary Signs:** A sign which is installed for a period not to exceed thirty (30) days.

**Vision-Clearance Area:** An area contained within a triangle with legs of thirty feet from the point at which the curbs or edges of two intersecting streets, private ways, or courts or an intersecting street, private way, or court and driveway, meet.

**Wall Sign:** A sign attached to and parallel with the side of a building.

**Window Sign:** A window sign is one that lets light or air through to the habitable part of the building and which is painted on, attached to or visible through a window excluding displays of merchandise.

**Zoned Lot:** A parcel of land in single ownership that is large enough to meet the minimum zoning requirements of its zoning district and can provide such yards and other open spaces that are required by the site development regulations.

## **Section 39.10.30      General Sign and Street Graphics Regulations**

### A.      Compliance

Each sign or part of a sign erected within the zoning jurisdiction of the City of Dickinson must comply with the provisions of this Article 39.10 and such other relevant provisions of the Dickinson City Code and relevant building codes including the following:

1.      International Building Code, as adopted by the City of Dickinson
2.      National Electric Code
3.      Rules and Regulations Relating to the Control of Advertising in Areas Adjacent to the Interstate and Federal Aid Primary Highways (North Dakota Department of Transportation)

### B.      Relation to Zoning Regulations and Building Regulations

1.      Signs, which are considered structures for the purposes of this Article 39.10, shall comply with the land use regulations for the zoning district in which they are located; provided, however, that signs may be located in a setback area required by the zoning district.
2.      Signs located in the extra-territorial jurisdiction of the City of Dickinson, for which the City does not issue building permits, shall secure a proper building permit from Stark County or such other jurisdiction or agency having authority to issue building permits in the extra-territorial area. The City may deny any application for a

sign permit in the extra-territorial area in the event that the applicant therefore is not permitted to build the structure by the applicable building authority

3. All planned unit development districts (PUD) shall comply with either the requirements of the underlying zoning district or requirements as specified within the PUD.

C. Resolution of Conflicting Regulations

In the event any of the provisions of this Article 39.10 are in conflict with other applicable requirements, the more restrictive requirement shall apply.

D. Prohibited Signs

The following signs are prohibited in all zoning districts:

1. Any sign painted on or attached to rocks, trees, or other natural objects.
2. Any sign or sign structure that resembles or conflicts with traffic control signs or devices, that misleads or confuses persons traveling on public streets, or that creates a traffic hazard.
3. Any sign on or overhanging public property or public right-of-way, unless specifically authorized by the appropriate public agency.
4. Any sign that creates a safety hazard by obstructing the clear view of pedestrians or vehicles, or which obscures official signs or signals.
5. Abandoned Signs. Any abandoned sign must be removed within six months of date of abandonment. Removal shall include removal of abandoned structural components. If not removed by the property owner in compliance herewith, the City may proceed to remove the abandoned sign and charge the costs thereof to the property owner.
6. Any sign that is not clean or in substantial good repair, or is not affixed to a sound structure.
7. Any sign advertising activities that are illegal under federal, state, or local laws and regulations.
8. Awning signs.
9. Roof signs.
10. Animated signs that move or change messages and/or displays more than once every one (1) second.
11. Electronic message signs that move or change messages and/or displays more than once every one (1) second.
12. Moving signs that move or change messages and/or displays more than once every one (1) second.
13. Marquee signs that are not constructed of some durable material such as metal, glass or plastic.
14. Projecting signs within the Downtown Commercial (“DC”) zoning district.
15. Residential signs within the Downtown Commercial (“DC”) zoning district.

16. Any sign erected or intended for the specific purpose or with the intended effect of hiding or covering from view of the public an adjacent or nearby sign.
17. Any sign using or employing flashing, blinking, or moving lights or lighting elements.
18. Any sign using or employing neon lights; provided, however, that neon tubing or LED tubing that maintains a constant light and does not have a flashing, blinking, or moving effect shall be permitted.
19. Any sign using or employing audio speakers, laser lights, strobe lights, searchlights, beacons, or any similar upward or outward oriented lighting or sound elements.
20. Any sign that creates or has the potential to create a public safety hazard.
21. Any obscene or indecent sign that, in whole or in part, shows sexually oriented devices, specified anatomical areas, or specified sexual activities as provided in Chapter 3 of the Dickinson City Code.
22. Any sign within the vision-clearance area.
23. Any sign or advertising device not expressly permitted under this Chapter is prohibited.
24. Billboard signs, digital billboard signs, and other off-premises signs are not prohibited under this Code, but shall be permitted only in compliance with Article 39.10.50

E. Exempt Signs

The following signs are permitted in any zoning district and are exempt from other provisions of this Chapter:

1. Bulletin boards for religious assembly or school uses, provided that they have a maximum sign area of twenty (20) square feet and are not located in the required building setback.
2. Real estate sales or management signs with an area of less than ten (10) square feet.
3. Official signs authorized by a government or governmental subdivision which give traffic, directional, or warning information.
4. Seasonal decorations for display on private property or public property.
5. On-premises construction signs with a maximum sign area of ten (10) square feet in residential districts and thirty two (32) square feet in other districts. Such signs must be removed within one week after the completion of the construction project to which they refer.
6. Works of graphic art painted or applied to building walls which contain no advertising or business identification messages.
7. Residential signs under two (2) square feet.
8. Neighborhood or subdivision identification signs under fifty (50) square feet.
9. Street Numbers.

10. Signs which are not visible from a public right-of-way, private way, or court or from a property other than that on which the sign is installed.
  11. Building Markers
- F. Temporary and Civic Signs
1. Temporary or portable signs for grand openings, sales, and special events are permitted in Commercial and Industrial zoning districts, subject to the following requirements:
    - (a) Such signs are subject to the permit procedures set forth in this Article 39.10.
    - (b) The size of such signs does not exceed the limitations set forth in Section 39.10.40.
    - (c) No more than one such sign is permitted at any single Premises.
    - (d) Temporary or portable signs may be present at any single Premises for a maximum of thirty (30) days per year.
  2. Temporary signs for non-profit civic campaigns or events, political campaigns, or other non-commercial events are permitted in any zoning district and are exempt from other provisions of this Article, subject to the following requirements.
    - (a) Such signs are installed no earlier than thirty (30) days before the date of the event or election and removed no later than seven (7) days after the date of the event or election.
    - (b) The maximum size of such signs is thirty two (32) square feet when located in any residential and Limited Commercial (“LC”) zoning district; and one hundred (100) square feet in any other zoning district.

### **Section 39.10.40 Basic Design Elements For On-Premises Signs**

The following on-premises signs are permitted as set forth herein:

- A. Building signs are permitted in all zoning districts except residentially zoned districts subject to the following provisions:
  1. Maximum height: A building sign shall not be permitted above the roofline, cornice line, parapet, or the highest point of the building facade.
  2. Maximum sign area: Each premises, and in the case of multi-occupancy buildings, each unit, shall be permitted to display building sign(s), the aggregate sign area of which shall not exceed one square foot per each linear foot of building frontage facing a public street or parking lot, but in no event more than two hundred (200) square feet of aggregate sign area. For each unit not facing a public street or parking lot, the aggregate sign area shall not exceed one square foot for each lineal foot of unit frontage for the elevation on which the building sign will be installed, but in no event more than two hundred (200) square

feet of aggregate sign area. Each premises shall be entitled to a minimum aggregate sign area of twenty (20) square feet.

3. Other limitations: Building signs shall not project more than four feet from the building wall to which the sign is attached, nor shall a building sign project into the public right-of-way
- B. Canopy signs are permitted in commercial and industrial zoning districts subject to the following provisions:
1. Canopy signs shall be allowed in addition to building signs.
  2. The aggregate sign area of all canopy signs and building signs combined per elevation shall not exceed the aggregate sign area permitted for building signs.
  3. Canopy signs shall not be permitted above the roofline of the canopy structure.
- C. Ground signs: Ground signs are permitted in all zoning classifications subject to the following provisions:
1. General ground sign provisions
    - (a) Maximum Height: The maximum height of ground signs is ten (10) feet. Monument signs shall be set back a minimum of five (5) feet from the right-of-way line, but shall be permitted an increase in height of one foot for each one foot of additional setback provided from the right-of-way line up to a maximum height of twenty (20) feet when adjacent to U.S. Interstate 94 or fifteen (15) feet when adjacent to state highways, arterial roadways, collectors and local roads.
    - (b) Setback: All ground signs shall be set back a minimum of five (5) feet from the property line or rights- of-way.
  2. Non-Residential Zoning District
    - (a) Maximum Number:
      - I. Each premises having street frontage of less than six hundred (600) feet shall be permitted to have one ground sign.
      - II. Each premises with street frontage of six hundred (600) feet or more shall be permitted to have one ground sign and one additional ground sign for each additional six hundred (600) feet of street frontage.
    - (b) Maximum Sign Area
      - I. The maximum allowable aggregate sign area for each ground sign shall not exceed one square foot for each lineal foot of public street frontage on the street where the sign is located or one hundred (100) square feet, whichever is less. A double-faced sign shall be permitted to have the allowed area of a single-faced sign on each of the two faces of the double-faced sign.
      - II. If a premises is permitted to have more than one ground sign, then all allowable ground signs may be combined into a single ground sign which shall not exceed two hundred

(200) square feet in aggregate sign area, and no single face shall exceed one hundred (100) square feet in aggregate sign area.

(c) Ground signs shall be placed no closer than three hundred (300) feet apart on the same premises.

3. Residential Zoning Districts

(a) Each residential dwelling will be permitted to have one ground sign not exceeding six (6) square feet of aggregate sign area and not exceeding six (6) feet in height. Nothing contained in this paragraph shall be construed to permit a sign if private restrictions prohibit or restrict the display of signs.

(b) Residential support uses: Each residential support use will be permitted to have one ground sign not exceeding thirty two (32) square feet of aggregate sign area and not exceeding eight (8) feet in height.

(c) Residential entry signs: Not more than two ground signs are permitted to be installed or erected at each entrance to a platted subdivision, multiple family development (apartments, condominiums and mobile home parks) provided the combined aggregate sign area of said signs shall not exceed fifty (50) square feet.

(d) Residential signs shall not be permitted in the Downtown Commercial ("DC") zoning district.

D. Pole Signs and Pylon Signs: Pole signs and pylon signs are permitted in all Commercial and Industrial zoning classifications subject to the following provisions:

1. General Pole and Pylon Sign provisions

(a) Maximum Height: A pole sign shall not exceed twenty (20) feet in height, or forty (40) feet in height if within one hundred (100) feet of I-94 rights-of-way. A pylon sign shall not exceed thirty (30) feet, or fifty (50) in height if within one hundred (100) feet of I-94 rights of way.

(b) Setback: All pole signs and pylon signs shall be set back a minimum of five (5) feet from the property line and/or right of way line and not within the vision-clearance area.

(c) Vertical Clearance: All pole signs must have a minimum of ten (10) feet over sidewalks and outside of parking areas and driveways; fourteen (14) feet over parking lots; and eighteen (18) feet over alleys or driveways

2. Non-Residential Zoning District

(a) Maximum Number:

1. Each premises having street frontage of less than six hundred (600) feet shall be permitted to have one pole sign or pylon sign.

2. Each premises with street frontage of six hundred (600) feet or greater shall be permitted to have one pole sign or pylon sign

and one additional pole sign or pylon sign for each additional six hundred (600) feet of street frontage. Pole signs and pylon signs shall be placed no closer than three hundred (300) feet apart on the same premises.

(b) Maximum Sign Area

1. The maximum allowable aggregate sign area for each pole sign shall not exceed one square foot for each lineal foot of public street frontage on the street where the sign is located or two hundred (200) square feet, whichever is less and no single sign face shall exceed one hundred (100) square feet in aggregate sign area. A double-faced sign shall be permitted to have the allowed area of a single-faced sign on each of the two faces of the double-faced sign. Pylon signs are allowed an additional twenty percent (20%) increase over the maximum sign area as described above.
  2. If a premises is permitted to have more than one pole sign or pylon sign, then all allowable pole signs or pylon signs may be combined into a single ground sign which shall not exceed two hundred (200) square feet in aggregate sign area. Pylon signs are allowed an additional twenty percent (20%) increase over the maximum sign area as described above.
- E. Flags. Each premises shall be permitted to display a maximum of number of five (5) flags, and the aggregate sign area of such flags shall not be included in the calculation of building signs for the premises; provided that any flag displayed on a premises shall only be displayed from a flagpole. Additional flags may be permitted by a special use permit.
- F. Window Signs. Window signs shall be permitted, provided that such signs, in aggregate sign area, do not cover more than fifty percent (50%) of the total window surface area of the premises facing a public street or parking lot. Window signs shall not be included in calculating the aggregate sign area for building signs.

### **Section 39.10.50 Basic Design Elements For Off-Premises Signs**

Off-premises signs (including billboard signs and digital billboard signs) shall be permitted only as provided in this Section, and shall otherwise comply with all of the terms and conditions of this Article 39.10. Off-premises signs shall not be included with on-premises signs in determining the total number or size of signs permitted on any premises.

A. Placement of Off-Premises Signs

1. Prior to granting a permit for an off-premises sign, the Building Official (or other appropriate official for signs constructed in the extra-territorial area) shall verify that the off-premises sign as it is proposed to be constructed is structurally sound and complies with all portions of the International Building Code, as adopted by the City of Dickinson, including requiring engineered drawings of the proposed sign.
2. The application for any off-premises sign shall be made by the owner of the sign. The applicant shall supply to the City, prior to the issuance of

any permit, sufficient evidence indicating the consent of the owner of the real property on which the sign is proposed to be constructed to the placement of the sign.

3. The applicant shall verify, including by means of a certificate of survey, that the proposed off-premises sign is located on private property and not within any public right-of-way and does not encroach upon such public right-of-way.
4. Off-premises signs are allowed in the General Industrial (GI), Light Industrial (LI), General Commercial (GC), and Community Commercial (CC) zoning districts; provided, however, that off-premises signs shall not be permitted within the designated Renaissance Zone of the City of Dickinson.
5. An off-premises sign shall be allowed only along and oriented towards roads identified as principal arterial roads within the City of Dickinson Comprehensive Plan and Transportation Plan. Designation of such principal arterial roads may be altered from time to time, as provided by law. At the time of its adoption, the Dickinson Comprehensive Plan and Transportation Plan identified the following roads as principal arterial roads:

Interstate-94  
3rd Avenue West / Highway 22  
Villard Street (from State Avenue to 10th Avenue East)  
I-94 Business Loop West  
I-94 Business Loop East

**B. Size Limitations**

1. No off-premises sign shall have a sign face area exceeding six hundred seventy two (672) square feet.
2. With the exception of portable signs, all off-premises signs shall have a minimum sign face area of two hundred eighty (280) square feet.

**C. Height Limitations and Materials for Off-Premises Signs**

1. Off-premises signs shall be a maximum height of fifty (50) feet if placed along and oriented towards Interstate-94; and a maximum height of forty (40) feet in all other locations.
2. Off-premises signs greater than ten (10) feet in height must be constructed of a steel monopole design with a tubular steel support, tubular steel framing, metal catwalk and a single display panel, and a concrete foundation. Applicant shall supply engineered drawings for any off-premises sign; and
3. Center mount and flag mount designs shall be allowed, along with double-faced signs. Double-faced signs shall count as one sign. Triangle face billboards are prohibited.

**D. Spacing Requirements**

1. No off-premises sign shall be placed within three hundred (300) feet of any residential zoning district, mixed-use zoning district that allows for residential use, overlay zoning district that allows for residential use, religious institution, park, or school. The spacing distance may be reduced

below three hundred (300) feet upon approval of a Special Use Permit as provided in Article 39.12.

2. No off-premises sign shall be placed within one thousand (1,000) feet of any other off-premises sign; provided, however, that off-premises signs in existence prior to May 19, 2014, that are located within five hundred (500) feet of any other off-premises sign shall be deemed to be legal conforming signs. Except as it pertains to signs oriented towards Interstate-94, this spacing distance shall include both sides of the public right of way.
3. No digital billboard sign may be placed within one thousand five hundred (1,500) feet of any other digital billboard sign, or within one thousand (1,000) feet of any other off-premises sign. Except as it pertains to signs oriented towards Interstate-94, this spacing distance shall include both sides of the public right of way.
4. Spacing limitations provided for herein shall apply regardless of whether the measurement is made from a sign permitted under this Article 39.10 or from a sign established as a legal nonconforming use hereunder.
5. In the event that two or more sign applications conflict with each other, so that only one of the applications may be granted, the applications shall be considered for approval in accordance with their respective dates of filing. An applicant shall have a period of no more than ten (10) days from the date of filing to correct any deficiencies in the application. If an applicant is unable to correct such deficiencies within the time allotted, the application shall be denied. All subsequent applications shall remain pending until resolution of the prior application. If a prior application is granted, all subsequent applications shall be immediately denied. All applicants shall be advised in writing regarding their application status.
6. Signs having received prior authorization or that are a legal non-conforming use shall have priority over a later applicant in determining compliance with the spacing restrictions.

E. Digital Billboard Signs

Digital billboard signs are subject to the following additional conditions:

1. Hold Time. Digital billboard signs shall display a static message that may not change or be changed for a period of at least seven seconds.
2. Message Transitions. Transition from one such static message to the next shall occur within a maximum of one second and without the use of animation, flashing or frame effects.
3. Sign Brightness. Digital billboard signs shall come equipped with automatic dimming technology that automatically adjusts the display's brightness based on ambient light conditions. The brightness level for digital billboards shall not increase by more than 0.3 foot-candles over ambient levels.

F. Prohibited Off-Premises Signs. The following off-premises signs are prohibited:

1. Stacked signs.
2. Signs with more than two faces.
3. Building wraps.

4. Any off-premises sign not specifically allowed for in this Article 39.10.

G. Illumination of Off-Premises Signs

1. Off-premises signs may not include any revolving or rotating beam or beacon of light that simulates an emergency light or device.
2. Off-premises signs may not include any flashing, blinking, intermittent or moving light or lights.
3. Off-premises signs may be lighted by external lighting, such as floodlights, thin line and gooseneck reflectors, provided the light source is directed upon the face of the billboard and is effectively shielded so as to prevent beams or rays of light from being directed into any portion of the public right-of-way or into any portion of adjacent properties, and the lights are of an intensity that does not cause glare, impair vision, or otherwise interfere with motorists.
4. Off-premises signs may not be illuminated so as to interfere with the effectiveness of, or obscure, an official traffic sign, device or signal.
5. Light fixtures illuminating an off-premises sign may not exceed 400 watts.
6. Digital Billboard Signs shall not include any flashing, intermittent or moving light or lights except those signs giving public service information such as time, date, temperature, and weather. This paragraph does not prohibit an LED display, provided:
  - (a) Each change of message is accomplished in one second or less.
  - (b) Each message remains in a fixed position for at least seven seconds.
  - (c) Traveling messages (e.g., moving messages, animated messages, full-motion video, and scrolling text messages) or segmented messages shall not be allowed.

H. Vehicular and Pedestrian Traffic.

All vehicles, equipment, and people used to build, service, maintain and repair the signs must confine their activity so as not to interfere with pedestrian or vehicular traffic on public roads.

I. Permitting

1. Any application for an off-premises sign permit shall meet the requirements for sign permits, and provide the following:
  - (a) Site plan indicating the proposed off-premises sign location, orientation to the roadway, setbacks, and adjacent structures, including parking areas and driveways.
  - (b) A vicinity map indicating nearby off-premises sign and digital billboard signs, and measurements from such signs up to 1,500 feet;
  - (c) Construction plans indicating sign height, dimensions and face area;
  - (d) Proposed lighting plan for the off-premises sign or digital billboard sign; and
  - (e) Written consent of the landowner for the placement of such sign on the property.

2. Off-premises signs shall not be permitted before the applicant has submitted to the City the following certifications from the appropriate professionals registered in North Dakota:
  - (a) Certification from a professional engineer registered in the State of North Dakota that the soil and subsoil surface is capable of accepting the projected loads; and
  - (b) Certification from a professional engineer registered in the State of North Dakota as to the structural strength of the sign;
3. Off-premises signs shall not be permitted by the City until a permit has been issued by the North Dakota Department of Transportation, when required.
4. A sign permit for an off-premises sign shall be valid for twelve (12) months. If no construction has commenced at the site within twelve (12) months of the date of approval of the permit, the permit shall become null and void.
5. A sign permit issued under the authority of these regulations shall in no way relieve the applicant or property owner from permitting pursuant to the Building Code.

J. Sign Maintenance

Every sign or other advertising structure, together with all its supports or braces, shall be kept in good repair. The sign location shall be free of rubbish and weeds. All structural members and all copy areas shall be kept painted and clean so as to prevent deterioration, oxidation, rust, paint fading, paint peeling or other unsightly conditions.

K. Sign Ownership

Each sign application shall include identification of the sign owner and the sign owner's contact information, including post office address and phone number, in order to allow for proper notification. The identified sign owner shall be responsible for all required maintenance of the sign and compliance with the terms and conditions of this Article 39.10. In the event of a change in ownership of a sign, the new owner thereof shall be responsible to notify the City of new owner's name and contact information.

L. Sign Removal

Permanent signs which are erected or maintained in violation of this Article 39.10 shall be removed after notice to do so. The City shall notify the owner of such sign in writing of such violation and provide the owner 30 days to remove the sign or to bring it into compliance with this Article. Upon the failure to remove the sign or comply with the notice, the City shall cause the removal of the sign. Any costs of removal incurred by the City shall be assessed to the owner of the property on which sign is located and may be collected in the manner of ordinary debt or in the manner of taxes, and such charge shall be a lien on the property.

## **Section 39.10.60      General Regulations: Other Design Elements**

A. Illumination

1. Lighting, when installed, must be positioned in such a manner that light is not directed onto an adjoining property or onto a public street or highway.
  2. Indirect illumination and internal illumination shall be allowed for civic uses in residential zoning districts and for all uses in non-residential zoning districts and the MH zoning district.
  3. Electronic Message Signs shall be allowed in all non-residential zoning districts.
- B. Marquees and Marquee Signs  
Signs placed on, attached to, or constructed on a marquee are subject to the maximum projection and clearance regulations of projecting signs.
- C. Banners  
  1. A banner sign projecting from a building may not exceed the wall height of the building.
  2. Maximum projection for any banner is five (5) feet from a building with a minimum clearance of ten (10) feet.
  3. Maximum size of a banner is the lesser of twice the permitted size of a projecting sign or one hundred twenty (120) square feet.
- D. Clocks  
For the purposes of this Article 39.10, clocks are not considered moving signs.
- E. Sign Design  
All permanent signs permitted herein must be designed to be architecturally compatible with the building design on the site.

## **Section 39.10.70      General Permit Procedures**

- A. Applicability  
Any installation, modification, or expansion of any sign which is not exempt from the provisions of this Article 39.10 shall be subject to the following permit procedure prior to installation.
- B. Maintenance of Valid Sign Permit  
The owner of a sign requiring a permit under this ordinance shall at all times maintain in force a sign permit for such property. Sign permits shall be issued for individually zoned lots. A sign permit may be revoked if the sign is not maintained in good condition.
- C. Sign Permit Applications  
All applications for sign permits shall be submitted to the Community Development Director upon the specified application form.
- D. Any nonresidential development with three (3) or more tenants shall submit a sign plan, which includes the following:
1. A summary table listing the location, sign type and area of any existing and proposed signs.
  2. A fully dimensioned and scaled elevation drawings of any proposed sign, showing sign type, height, structure and sign area.
  3. For building signs, an elevation of the building, showing placement of any sign.
  4. If the sign is to be electrically lighted, additional information regarding the Testing Laboratory or the ETL No., and the name and address of the electrical contractor as required by the Community Development Director.

5. Information regarding the type of construction, sign supports and electrical details. Fawned load calculations and footer details as required by the Building Code.

### **Section 39.10.80 Action and Appeal**

After submission of a complete application for a sign permit, the Community Development Director shall either:

1. Issue the sign permit, if the sign conforms to the provisions of this Article.
2. Reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform to the requirements of this Article 39.10. The cause for rejection shall be stated in writing.
3. Determinations of the Community Development Director may be appealed to the Board of Adjustment, as provided in Article 39.12.

### **Section 39.10.90 Permit Expiration**

If a sign is not constructed in accordance with an approved permit within twelve (12) months of the date of approval, such permit shall lapse and become null and void.

### **Section 39.10.100 Assignment of Sign Permits**

A current and valid sign permit shall be freely assignable to any successor-in-interest.

### **Section 39.10.110 Illegal and Nonconforming Signs**

- A. Any sign erected after May 19, 2014, within the zoning jurisdiction of the City of Dickinson that does not conform to the provisions of this Article 39.10 shall be deemed an illegal sign and shall be removed at the sole cost and expense of the owner thereof. The City shall notify the owner of such sign in writing of such violation and provide the owner thirty (30) days to remove the sign or to bring it into compliance with this Article. Upon any failure to remove the sign or comply with the notice, the City shall cause the removal of the sign. Any costs of removal incurred by the City shall be assessed to the owner of the property on which sign is located and may be collected in the manner of ordinary debt or in the manner of taxes, and such charge shall constitute a lien on the property.
- B. Any permanent sign in place and lawfully established as of May 19, 2014, that does not conform to the provisions of this Article 39.10 shall be deemed a legal nonconforming sign.
- C. A legal nonconforming sign that is permanently affixed to the ground or to a building may continue to be used and its copy changed from time to time; provided, however, that the nonconforming sign (a) shall not be replaced except in conformity with this Article; and (b) shall not be enlarged, altered, or reconstructed except in conformity with this Article. Such legal nonconforming sign may be repaired to the extent necessary to maintain it in a safe and sanitary condition.
- D. Any legal nonconforming sign may be reconstructed, altered, or repaired after any damage not exceeding fifty percent (50%) of its replacement cost, provided that the sign's degree of nonconformity is not increased in any way.

- E. Any legal nonconforming sign that is presently or becomes structurally damaged in excess of fifty percent (50%) of its replacement cost at the time of such destruction shall not be reconstructed, repaired, or altered except in conformity with this Article 39.10. The owner of such structurally-damaged sign shall apply for a new sign permit in accordance with this Article 39.10 in order to construct a conforming replacement sign.

### **Section 39.10.120 Administration**

The Community Development Director or his designee shall be the administrator of this Article.

### **Section 39.10.130 Severability**

In the event any section of this Article 39.10 is held invalid by court of competent jurisdiction, the invalidity shall extend only to the section affected, and other sections of this Article 39.10 shall continue in full force and effect. (Ord. No. 1540 § 1.)

# **Article 39.11 Nonconforming Development**

## **Sections:**

- 39.11.001 Purpose**
- 39.11.002 Regulations Additive**
- 39.11.003 Nonconforming Lots**
- 39.11.004 Nonconforming Structures**
- 39.11.005 Nonconforming Uses**

## **Section 39.11.001 Purpose**

Article Eleven shall be known as the Nonconforming Development Regulations. The purposes of these regulations are:

- a. To allow for reasonable use of legally created lots of record which do not meet current minimum requirements for their respective zoning districts.
- b. To provide for reasonable use of legally constructed structure which do not meet current site development regulations for their respective zoning districts.
- c. To allow for the reasonable continuation of legally established uses which do not meet current site development regulations for their respective zoning districts.
- d. To limit the continuation and provide for the gradual replacement of nonconforming uses. (Ord. No. 1171 § 1.)

## **Section 39.11.002 Regulations Additive**

Regulations for nonconforming uses are in addition to regulations for nonconforming structures. In the event of a conflict, the most restrictive regulation shall apply. (Ord. No. 1171 § 1.)

## **Section 39.11.003 Nonconforming Lots**

- a. Pre-Existing Lots of Record  
Nonconforming lots of record existing at the time of the adoption of this chapter shall be exempt, unless otherwise provided, from the minimum lot area in the lot width requirements of each zoning district. Such lots may be developed with use allowed by the regulations for the district and must comply with all other site development regulations set forth by the Zoning Ordinance.
- b. Reductions Due to Public Acquisition  
If a portion of a legally existing lot in any district is acquired for public use, the remainder of this lot shall be considered a conforming lot.
- c. Nonconforming Lots  
A nonconforming lot may be developed if a Special Use Permit is granted meeting the following criteria: (1) The lot size is not less than 25% of the minimum lot size for the district; (2) The proposed building shall be compatible in style, height, size, materials and site design of adjacent buildings; (3) The building shall meet the zoning district and all applicable development regulations, including but not limited to, setbacks and lot coverage; and (4) The property owner is not the originator of the nonconforming lot size. (Ord. No. 1171 § 1.)

## **Section 39.11.004 Nonconforming Structures**

These regulations apply to buildings and structures which were constructed legally under regulations in effect before the effective date of this Ordinance.

a. Continuation

A lawful nonconforming structure existing on the effective date of this Title may be continued, repaired, maintained, or altered, subject to the provisions of this Section.

b. Additions or Enlargements to Nonconforming Structures

1. A lawful nonconforming structure may be added to or enlarged if the addition satisfies one or more of the following conditions:

- (a) The enlargement or addition, when considered independently of the existing building, complies with all applicable setback, height, off-street parking, and landscaping requirements.
- (b) The nonconforming building and impervious surface coverage's on the site are not increased and the building, after the addition, conforms to height and off-street parking regulations applicable to its zoning district.
- (c) The addition projects no further into a required side yard setback than the existing building wall; and the enlarged building complies with building and impervious coverage, front and rear yard setbacks, and height regulations applicable to its zoning district.

c. Moving of Nonconforming Structures

A lawful nonconforming building or structure shall not be moved in whole or in part to another location on its lot unless every part of the structure conforms to all site development regulations applicable to its zoning district.

d. Repair of Nonconforming Structures

A lawful nonconforming building damaged by fire, explosion, storm or other calamity, except flood damages, may be repaired and reconstructed provided there is no increase in the degree of nonconformity. Repair and reconstruction within the designated floodplain shall be in conformance with Floodplain development regulations. (Ord. No. 1423 § 1.)

e. Conversion of a Conforming Building

A conforming building shall not be changed in any way that will result in a nonconforming development.

f. Applicability of Landscaping and Screening Regulations

A pre-existing structure, building, or development shall be exempt from Article Eight, Landscaping and Screening Regulations. Any expansion of such structure, building, or development or any adjacent new development onto property that is or becomes vacant on or after the effective date of this Ordinance shall be subject to Article Eight. (Ord. No. 1171 § 1.)

## **Section 39.11.005 Nonconforming Uses**

a. Continuation of Nonconforming Uses

Any nonconforming use lawfully existing on the effective date of this Ordinance may continue, subject to the limitations of this Section.

b. Enlargement of Nonconforming Uses

A building or structure housing a lawful nonconforming use may not be added to or enlarged.

c. Abandonment of Nonconforming Use

If any structure or property used as a lawful nonconforming use becomes vacant or unused for a continuous period of one year, any subsequent use must conform to all use regulations applicable to the property's zoning district.

d. Change of Use

1. A lawful nonconforming use may be changed only to a use type permitted in a zoning district that is equal to or less intensive than that normally required for the previous use.

e. Allowance for Repair

Repairs and maintenance of a structure occupied by a nonconforming use may be made, provided that no structural alterations are made other than those required by law.

f. Damage or Destruction of Structures

Should a structure occupied by a lawful nonconforming use be damaged to the extent that the cost of restoration exceeds 50 percent of the replacement cost of the structure, the nonconforming use shall no longer be permitted.

g. Nonconforming Uses and Conditional and Special Use Permits

A lawful pre-existing use which would require a Special Use Permit in its zoning district shall be presumed to have the appropriate Permit and shall be considered a conforming use. The use shall be subject to the regulations governing lapses or revocation of Permits, set forth in Article 39.12. (Ord. No. 1171 § 1.)

## **Article 39.12 Administration and Procedures**

### **Sections:**

<b>39.12.001</b>	<b>Purpose</b>
<b>39.12.002</b>	<b>Site Plan Review Procedure</b>
<b>39.12.003</b>	<b>Special Use Permit Procedure</b>
<b>39.12.004</b>	<b>Amendment Procedure</b>
<b>39.12.005</b>	<b>Extension of the Extra-Territorial Jurisdiction</b>
<b>39.12.006</b>	<b>Building Permits and Certificates of Zoning Compliance</b>
<b>39.12.007</b>	<b>Schedule of Fees, Charges and Expenses</b>
<b>39.12.008</b>	<b>Planning Commission - Created; Membership</b>
<b>39.12.009</b>	<b>Same - Terms; Compensation</b>
<b>39.12.010</b>	<b>Board of Adjustment</b>
<b>39.12.011</b>	<b>Powers and Duties of the Board of Adjustment</b>
<b>39.12.012</b>	<b>Appeals From The Board of Adjustment</b>
<b>39.12.013</b>	<b>Duties of Building Official, Board of Adjustment, City Commission, and Courts on</b>
<b>39.12.014</b>	<b>Severability Clause</b>
<b>39.12.015</b>	<b>Complaints Regarding Violations</b>
<b>39.12.016</b>	<b>Penalties for Violation</b>
<b>39.12.017</b>	<b>Temporary Use Permits</b>

### **Section 39.12.001 Purpose**

The Administration and Procedures Provisions establish the methods for implementation of the Zoning Ordinance. These provisions include procedures for reviewing specific uses within certain zoning districts; amending the Zoning Ordinance; and granting variances. (Ord. No. 1171 § 1.)

### **Section 39.12.002 Site Plan Review Procedure**

#### **a. Purpose**

The Site Plan Review Procedure provides for the administrative review in addition to plan review required by other sections of the Dickinson Municipal Code of projects that have potentially significant effects on traffic circulation or a significant effect on land uses in adjacent neighborhoods. The procedure provides for review and evaluation of site development features and possible mitigation of unfavorable effects on surrounding property.

#### **b. Administration**

The Building Official, or his/her designee shall review, evaluate, and act on all site plans submitted pursuant to this procedure. An applicant may appeal a denial of any application to the Board of Adjustment.

#### **c. Uses Requiring Site Plan Review**

All uses listed below shall follow the Site Plan review procedure prior to the issuance of a building permit, unless they are otherwise subject to a Special Use Permit procedure for specific zoning districts.

#### **d. Application Requirements**

An application for a Site Plan Review may be filed by the owner(s) of a property or the owners' authorized agent with the Building Official. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address, and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. A site plan, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
  - a) The date, scale, north point, title, name of owner, and name of person preparing the site plan.
  - b) The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements.
  - c) The location, size, and use of proposed and existing structures on the site.
  - d) The location of all proposed site improvements, including parking and loading areas, pedestrian and vehicular access, sewers, sidewalks, utilities, service areas, fencing, screening, landscaping, and lighting.
  - e) Location of any major site feature, including drainage and contours at no greater than five foot intervals.
  - f) Any other information that may be required for review by the Building Official, or his/her designee.

e. Administrative Action and Appeal

The Building Official, or his/her designee must act upon each complete application within ten working days of filing. An applicant may appeal a denial to the Board of Adjustment within ten days of the action. The Board of Adjustment shall consider the appeal at the first available meeting after the filing of the appeal.

f. Review and Evaluation

1. The Building Official, or his/her designee (or the Board of Adjustment in cases of appeal), shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Ordinance.
2. The Building Official, or his/her designee (or the Board of Adjustment in cases of appeal), shall make the following findings before

approval of the site plan:

- a) The proposed development, together with any necessary modifications, is compatible with the criteria established in Table 12-1.
- b) Any required modifications to the site plan are reasonable and are the minimum necessary to minimize potentially unfavorable effects.
- c) The site plan conforms to the Zoning Ordinance.

g. Modification of Site Plan

The Building Official, or his/her designee (or the Board of Adjustment in cases of appeal), may require modification of a site plan as a prerequisite for approval. Required modifications may be more restrictive than base district regulations and may include, but not be limited to, additional landscaping or screening; installation of erosion control measures; improvement of access or circulation; rearrangement of structures on the site; or other modifications deemed necessary to protect the public health, safety, welfare, community character, property values, and/or aesthetics.

h. Term and Modification of Approval

1. A Site Plan Approval shall become void two years after the date of approval, unless the applicant receives a Building Permit and diligently carries out development prior to the expiration of this period.

2. The Building Official, or his/her designee, may approve an application to modify a previously approved site plan if he/she determines that the modification does not affect findings related to the criteria set forth in Table 12-1.

3. The Building Official, or his/her designee may revoke a Site Plan Approval if he/she determines that the development is not complying with the terms and conditions of the approval. Such revocation may be appealed to the Board of Adjustment.

i. Approval to Run with Land

An approval pursuant to this section shall run with the land until the expiration date of such approval. (Ord. No. 1171 § 1.)

## **Section 39.12.003 Special Use Permit Procedure**

a. Purpose

The Special Use Permit Procedure provides for public review and discretionary City Commission approval for uses within zoning districts which have unusual site development or operating characteristics that could adversely affect surrounding properties.

b. Administration

The Planning Commission shall review and evaluate each application and transmit its recommendation to the City Commission. The City Commission shall review, evaluate, and act upon all applications submitted pursuant to this procedure.

c. Application Requirements

An application for a Special Use Permit may be filed with the Building Official by the owner(s) of a property or the owners' authorized agent. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Building Official to be necessary to describe the proposed use to approving agencies.

d. Approval Process

The Planning Commission, following proper notice, shall hold a public hearing on each Special Use Permit, and following such public hearing, shall recommend action to

the City Commission. Notice for a Special Use Permit shall be the same as provided for rezonings, as set forth in Section 39.12.004.

The City Commission, after publication, shall act on the Special Use Permit. A majority vote of those members elected to the City Commission is required for approval. The City Commission may apply any reasonable conditions to the approval of the permit.

e. Criteria for Review

1. The Planning Commission and the City Commission shall review and approve the site plan based on the criteria established in Table 12-1 and conformance with applicable regulations in this Zoning Ordinance.

f. Scope of City Commission's Approval

1. The City Commission may, at its discretion, apply a Special Use Permit to a specific owner or applicant. The City Commission may establish special site development or operational regulations as a condition for approval of a Special Use Permit.
2. The City Commission shall not grant a Special Use Permit for any home occupation/homebased business which is otherwise prohibited under Section 39.06.008 of this Ordinance.

g. Lapse and Revocation of Permit

1. A Special Use Permit shall become void two years after its effective date if the applicant has not carried out development or occupancy during that period.
2. The City Commission may revoke a Special Use Permit should the operation of the use subject to such permit violate the conditions under which the permit was granted.

h. Previously Approved Permits

Any special use approved under regulations in effect before the effective date of this Ordinance shall be considered to have a valid Special Use Permit, subject to requirements imposed at the time of its approval. (Ord. No. 1171 § 1.)

**Table 12-1: Criteria For Site Plan Review and Special Use Permits**

Land Use Compatibility	Criteria	Applies To	
		Site Plan Review	Special Use Permit
Development Density	Site area per unit or floor area ratio should be similar to surrounding uses if not separated by major natural or artificial features		X
Height and Scale			

**Table 12-1: Criteria For Site Plan Review and Special Use Permits**

Land Use Compatibility	Criteria	Applies To	
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<b>Height and Bulk</b>	<b>Development should minimize differences in height and building size from surrounding structures. Differences should be justified by urban design considerations.</b>	<b>X</b>	<b>X</b>
<b>Setbacks</b>	<b>Development should respect pre-existing setbacks in surrounding area. Variations should be justified by site or operating characteristics.</b>	<b>X</b>	<b>X</b>
<b>Building Coverage</b>	<b>Building coverage should be similar to that of surrounding development of possible. Higher coverage should be mitigated landscaping or site amenities.</b>	<b>X</b>	<b>X</b>
<b>Site Development</b>			
<b>Frontage</b>	<b>Project frontage along a street should be similar to lot width</b>	<b>X</b>	<b>X</b>
<b>Parking and Internal Circulation</b>	<b>Parking should serve all structures with minimal conflicts between pedestrians and vehicles</b>	<b>X</b>	<b>X</b>
	<b>All Structures must be accessible to public safety vehicles</b>	<b>X</b>	<b>X</b>
	<b>Development must have access to adjacent public streets and ways. Internal circulation should minimize conflicts and congestion at public access points.</b>	<b>X</b>	<b>X</b>
<b>Landscaping</b>	<b>Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Parts of site with sensitive environmental features or natural drainage ways should be preserved.</b>	<b>X</b>	<b>X</b>
<b>Operating Characteristics</b>			
<b>Traffic Capacity</b>	<b>Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements will be required to mitigate impact on street system operations</b>	<b>X</b>	<b>X</b>

<b>External Traffic Effects</b>	<b>Project design should direct non-residential traffic away from residential areas.</b>	<b>X</b>	<b>X</b>
<b>Operating Hours</b>	<b>Projects with long operating hours must minimize effects on surrounding residential areas.</b>	<b>X</b>	<b>X</b>

		<b>Site Plan Review</b>	<b>Special Use Permit</b>
<b>Operating Characteristics</b>			
<b>Outside Storage</b>	Outside storage areas must be screened from surrounding streets and less intensive land uses.	<b>X</b>	<b>X</b>
<b>Public Facilities</b>			
<b>Sanitary Waste Disposal</b>	Developments within 200 feet of a public sanitary sewer must connect to sewer system. Individual disposal systems, if permitted, shall not adversely affect public health, safety, or welfare..	<b>X</b>	<b>X</b>
	Sanitary sewer must have adequate capacity to serve development.	<b>X</b>	<b>X</b>
<b>Storm Waste Management</b>	Development should handle storm water adequately to prevent overloading of storm water management system.	<b>X</b>	<b>X</b>
	Development should not inhibit development of other properties.	<b>X</b>	<b>X</b>
	Development should not increase probability of erosion, flooding, landslides, or other run-off related effects.	<b>X</b>	<b>X</b>
<b>Utilities</b>	Project must be served by utilities	<b>X</b>	<b>X</b>
	Rural estate subdivisions should be located in designated areas which can accommodate utility and infrastructure installation consistent with the need to protect the environment and public health.	<b>X</b>	<b>X</b>
<b>Comprehensive Plan</b>	Projects should be consistent with the City of Dickinson's Comprehensive Development Plan. (Ord. No.1171 § 1.)	<b>X</b>	<b>X</b>

## **Section 39.12.004 Amendment Procedure**

### a. Purpose

The Amendment Procedures describe the methods by which changes may be made in the text of the Zoning Ordinance (text amendment) and/or the official boundaries of zoning districts (rezoning).

### b. Initiation of Amendments

1. Text amendments may be initiated by the Planning Commission or City Commission.
2. Rezoning may be initiated by a property owner or authorized agent; the Planning Commission; or the City Commission.

### c. Rezoning Application Requirements

An application for a rezoning may be filed with the Building Official, or his/her designee. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the reason for the rezoning application and the

nature and

operating characteristics of the proposed use.

4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Building Official to be necessary to describe the proposed use to approving agencies.

### d. Amendment Process

1. The Planning Commission, following fifteen (15) days' notice and publication, shall hold a public hearing on each proposed text or rezoning and, following such public hearing, shall recommend action to the City Commission. A vote either for or against an amendment by a majority of all Planning Commission members shall constitute a recommendation to the City Commission. A vote either for or against an amendment by less than a majority of all Planning Commission members shall constitute a failure to make a recommendation to the City Commission.
2. The City Commission shall act on the proposed amendment. On applications which receive a recommendation of approval from the Planning Commission, a majority vote of those members elected to the City Commission is required for approval.
3. Protest: If a valid protest petition opposing an amendment is filed with the Building Inspector by eligible property owners, a three-fourths vote of those members elected to the City Commission is required for approval. A valid protest petition must meet the following criteria:
  - (a) Submission of the petition in the office of the Building Inspector within (14) fourteen days after the conclusion of the public hearing on the amendment by the Planning Commission.
  - (b) Notarized signatures by at least one of the following:
    - (1) The owner or owners of at least 20% of the property proposed for rezoning.

- (2) The owners of 20% of the total area, excepting public rights-of-way and public property, within the zoning jurisdiction of the city and within 150 feet of the proposed rezoning.

e. Required Notice and Publication for Rezoning, Special Use Permits, and Text Amendments

- 1. Prior to consideration of a rezoning or Special Use Permit, notice of public hearings shall be provided by the following methods, as determined by the City:
  - (a) Publication: At least fifteen days before the date of hearing, the Zoning Administrator shall have published in a daily newspaper having a general circulation in the City of Dickinson a Notice of the time, place and subject matter of such hearing.
  - (b) Notification by Mail: At least ten days prior to the date of hearing, the party initiating the rezoning request shall present the Zoning Administrator a certified address list of those persons who own property within 300 feet of the subject site. The Zoning Administrator shall mail notice of the time, place and subject matter of the hearing to such property owners at least ten days prior to the date of the hearing.
  - (c) Notification by Petition: The applicant shall acquire the signatures of the owners of all properties within 200 feet of the property line in question indicating their approval of the proposed rezoning.
- 2. Prior to consideration of a text amendment, notice of public hearings shall be provided by publication as provided in Section 1204 d (1) above.

f. Notification By Mail of School District

The Zoning Administrator shall mail notice of the time, place and subject matter of any Planning Commission rezoning hearings to the Public and Parochial School District Administrative Officials and/or Chairs of the Board of Education, within whose boundaries the subject site is located. The notification shall be submitted to the applicable official and/or Board of Education at least ten days prior to the date of such meeting. Each school district to be affected by such rezoning proposal shall be notified. (Ord. No. 1171 § 1.)

**Section 39.12.005 Extension of the Extra-Territorial Jurisdiction**

Upon the automatic extension of the one-mile Extra-Territorial Jurisdiction due to annexation, the City Commission with the recommendation of the Planning Commission shall zone properties within the newly established Jurisdiction concurrent with adoption of the annexation ordinance. The zoning shall consider the Comprehensive Development Plan of the City of Dickinson and the present use of the land. (Ord. No. 1171 § 1.)

## **Section 39.12.006 Building Permits and Certificates of Zoning Compliance**

### a. Administration and Enforcement

The Building Official shall administer and enforce this ordinance. The City Commission may direct other persons to assist him/her.

If the Building Official, or his/her designee shall find that any of the provisions of this ordinance are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

### b. Building Permits Required

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Building Official. No building permit shall be issued by the Building Official except in conformity with the provisions of this ordinance, unless he/she receives a written order from the Board of Adjustment in the form of an administrative review, special exception, or variance as provided by this ordinance.

### c. Application for Building Permit

All applications for building permits shall include plans if applicable in duplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing; if any; and the location and dimension of the proposed building or alteration.

The application shall include such other information as lawfully may be required by the Building Official, including existing or proposed building or alterations; existing or proposed uses of the building and land; the number of families; housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this ordinance.

One copy of the plans shall be returned to the applicant by the Building Official, after he/she shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. One copy of the plans, similarly marked, shall be retained by the Building Official.

### d. Certificates of Zoning Compliance for New, Altered, or Non-Conforming Uses

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefore by the Building Official stating that the proposed use of the building or land conforms to the requirements of this ordinance.

### e. Expiration of Building Permit

1. If the work described in any building permit has not begun within 180 days from the date of issuance thereof; said permit shall expire; it shall be canceled by the Building Official; and written notice thereof shall be given to the persons affected.

2. If the work described in any building permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire and be canceled by the Building Official, and written notice thereof shall be given to the persons

affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

3. The expiration date of a building permit may be established for a period longer than two years if established at the time that such permit is issued by the City. The Building Official, or his/her designee may, at his/her discretion extend the expiration period of the building permit.

f. Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance

Building permits or certificates of zoning compliance issued on the basis of plans and applications approved by the Building Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this ordinance, and punishable as provided by Section hereof. (Ord. No. 1171 § 1.)

**Section 39.12.007 Schedule of Fees, Charges and Expenses**

The City Commission shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, certificates of zoning compliance, appeals, and other matters pertaining to this ordinance.

The schedule of fees shall be posted in the office of the Building Official, and may be altered or amended only by the City Commission.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal. (Ord. No. 1171 § 1.)

**Section 39.12.008 Planning Commission - Created; Membership**

This section is hereby repealed. (Ord. No. 1171 § 1; Ord. No. 1593, § 2)

**Section 39.12.009 Same - Terms; Compensation**

Terms for city planning commission members shall be for three years, with such terms expiring on December 31 of the third year following the appointment. Members of the planning commission as of January 1, 2000 shall continue to serve the terms for which they were appointed, with all subsequent appointments being three-year terms.

Ex officio members, county seat representatives and board of county commissioners' members shall serve for the period of their respective elected or appointed terms.

Appointments to fill vacancies shall be for the unexpired portion of that term.

Members of the planning commission may receive compensation as established by the board of city commissioners. (Ord. No. 1171 § 1; Ord. No. 1200, § 3.)

**Section 39.12.010 Board of Adjustment**

a. Establishment

1. A Board of Adjustment is hereby established to provide relief in situations of hardship or to hear appeals as provided by this Section. The Board shall consist of five regular members, plus one additional alternate member who shall attend and vote only when one member is unable to attend for any reason.

2. Each member shall be appointed by the board of city commissioners for a three-year term and is removable for cause by the board of city commissioners. Said terms shall expire on December 31 of the third year following the appointment, except that members of the Board of Adjustment as of January 1, 2000 shall continue to serve the terms for which they were appointed. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

3. The Board of Adjustment shall adopt rules and regulations in accordance with this ordinance and the laws of the State of North Dakota pursuant to Sections 40-47 of North Dakota Century Code. Meetings shall be held at the call of the Chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings and records shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact.

The Board shall keep a record of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. Four members of the Board shall constitute a quorum for the transaction of business.

b. Procedure for Appeals

1. Appeals shall be made to the Board of Adjustment through the office of the Building Official in written form as determined by the Building Official. The Board shall fix a reasonable time for the hearing of the appeal and shall decide the appeal within 30 days of the date of the public hearing. An appeal stays all proceedings in furtherance of the action, unless the Building Official certifies to the Board that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property.

2. The Board shall provide a minimum of ten days notice of a public hearing on any questions before it. Notice of the hearing shall be by publication in a newspaper of general circulation in the City of Dickinson; and by written notice to the appealing party.

3. Upon the public hearing, any party may appear in person or by agent or attorney.

The concurring vote of four members of such board as so composed shall be necessary to reverse any order, requirement, decision or determination of any Building Official, or to decide in favor of the appellant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variation in such ordinance. (Ord. No. 1171 § 1; Ord. No. 1200, § 4.)

## **Section 39.12.011 Powers and Duties of the Board of Adjustment**

The Board of Adjustment shall have only the following powers and duties:

a. Administrative Review: To hear and decide appeals where it is alleged there is error in any order, requirement, decisions or determination made by the Building Official, or his/her designee in the enforcement of this Ordinance.

b. Interpretation of Zoning Map: To hear and decide, in accordance with the provisions of any zoning regulation, requests for interpretation of any map.

c. Variances to Relieve Hardships Relating to Property: To authorize, upon appeal, variances from the strict application of this Ordinance where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the zoning regulations; or by reason of exceptional

topographic conditions or other extraordinary and exceptional situation or condition of such piece of property, such strict application would result in peculiar and exceptional practical difficulties to or exceptional and undue hardships upon the owner of such property.

1. Requirements for Granting of a Variance. No such variance shall be authorized by the Board unless it finds that:
  - (a) Strict application of the zoning ordinance will produce undue hardship.
  - (b) Such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
  - (c) The authorization of such variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.
  - (d) The granting of such variance is based upon reason of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.
  - (e) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable a general regulation to be adopted as an amendment to this Zoning Ordinance.
  - (f) The granting of the variance will not cause substantial detriment to the public good and will not substantially impair the intent and purpose of any Ordinance or Resolution.
2. Findings by Board. The Board of Adjustment shall make findings that the requirements of Section 39.12.011 (c.1) have been met by the applicant for a variance.
3. Conditions for Granting of Variance.
  - (a) In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 39.12.016.
  - (b) Under no circumstances shall the Board of Adjustment grant a variance to allow use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
  - (c) No non-conforming use of neighboring lands, structures, or buildings in the same district and no permitted or non-conforming use of lands, structures, or buildings in

other districts shall be considered grounds for the issuance of a variance.

d. **Board Has Powers of Building Official on Appeals: Reversing Decisions of Building Official**

In exercising the above mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination as ought to be made, and to that end shall have the powers of the Building Official from whom the appeal is taken.

The concurring vote of four members of the Board shall be necessary to reverse any order, requirements, decision, or determination of the Building Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variation in the application of this ordinance. (Ord. No. 1171 § 1.)

**Section 39.12.012 Appeals From The Board of Adjustment**

Any person or persons, or any board, taxpayer, officer, department, board or bureau of the city aggrieved by any decision of the Board of Adjustment may seek review of such decision by the City Commission in the manner provided by the laws of the State. (Ord. No. 1171 § 1.)

**Section 39.12.013 Duties of Building Official, Board of Adjustment, City Commission, and Courts on Matters of Appeal**

a. It is the intent of this ordinance that all questions of interpretation and enforcement shall be first presented to the Building Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Building Official, and that recourse from the decisions of Board of Adjustment shall be appealed to the City Commission.

b. Under this ordinance the City Commission shall have only the duties (1) of considering and adopting or rejecting proposed amendments, or the repeal of this ordinance as provided by law, (2) of establishing a schedule of fees and charges as stated in Section 39.12 of this Ordinance, and (3) of hearing any appeals from the Board of Adjustment. (Ord. No. 1171 § 1.)

**Section 39.12.014 Severability Clause**

Should any section or provision of this resolution be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the resolution as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid. (Ord. No. 1171 § 1.)

**Section 39.12.015 Complaints Regarding Violations**

Whenever a violation of this ordinance occurs, or is allowed to have occurred, any person may file a written complaint. Such complaints stating fully the causes and basis thereof shall be filed with the Building Official. He/she shall record properly such complaint immediately, investigate, and take action thereon as provided by this ordinance. (Ord. No. 1171 § 1.)

## **Section 39.12.016 Penalties for Violation**

- a. Violation of the provisions of this ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 or imprisonment for not more than six months, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.
- b. The owner or tenant of any building, structure, premises, or part thereof, any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
- c. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. (Ord. No. 1171 § 1.)

## **Section 39.12.017 Temporary Use Permits**

Temporary Use Permits may be granted as provided in this Section.

(a) Application for Temporary Use Permit

Any applicant for a temporary use permit shall file an application for such permit with the Zoning Administrator, together with the following:

1. A completed application form as provided by the city;
2. Legal description of the property where the temporary use is to be located;
3. A map of the property where the temporary use is to be located depicting the location of any existing structures, parking spaces, and the temporary use itself;
4. A complete description of the proposed temporary use, including hours of operation, proposed method of merchandise display, proposed signage, list of all goods to be sold and material and equipment to be used in the proposed operations;
5. A letter of permission from the property owner pertaining to the authorized use of the site and any other facilities or services necessary to provide for the safe operation of the event;
6. For any use that includes the operation of a tent, a copy of the certificate of flame resistance;
7. For any use that involves the processing and/or sale of food products, a copy of the temporary food establishment permit issued by the State Health Department; and
8. Any other information deemed necessary to conduct a thorough analysis of the application.

(b) Temporary Uses, Performance Standards

All temporary uses shall comply with the following performance standards:

1. Temporary uses shall demonstrate the ability to display merchandise in a manner that does not create a nuisance, or adversely impact surrounding property or the visual quality of the city;
2. Signage for temporary uses shall be limited to one sign, not to exceed eight square feet. The sign shall be attached to a vehicle or structure associated with the special event;
3. No off-premise signs or attention attracting devices shall be allowed;
4. Special events shall be located in a manner that will not cause vehicular congestion or occupy required parking spaces for another uses;
5. Upon expiration of the permit, all associated materials and equipment shall be promptly removed from the property; and
6. Other reasonable conditions of approval may be imposed to ensure the protection of the public health, safety and general welfare. (Ord. No. 1423 § 1.)

## **Article 39.13 Crew Camp Housing**

### **Sections:**

<b>39.13.001</b>	<b>Definition</b>
<b>39.13.002</b>	<b>Crew Housing Special Use Permit</b>
<b>39.13.003</b>	<b>Crew Housing Permit Fees</b>
<b>39.13.004</b>	<b>Minimum Design Standards</b>
<b>39.13.005</b>	<b>Application for Special Use Permit</b>
<b>39.13.006</b>	<b>Grant of Special Use Permit</b>
<b>39.13.007</b>	<b>Revocation of Permit</b>
<b>39.13.008</b>	<b>Prohibited Housing Types</b>
<b>39.13.009</b>	<b>Prohibited Activities</b>
<b>39.13.010</b>	<b>Posting of Reclamation Bond</b>
<b>39.13.011</b>	<b>Conditions – Reporting Requirements</b>

### **Section 39.13.001 Definitions**

As used in this Article:

1. “Crew housing facilities” means one or more lodging units or skid units, ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis, which are not real property, as defined in section 57-02-04, and are not mobile homes, as defined in section 57-55-01. A group of crew housing facilities that are connected physically or by common ownership may be treated as a single crew housing facility for purposes of imposition of crew housing permit fees imposed under this chapter.
2. “Crew housing permit” means a right granted by a city or county to locate crew housing facilities on property within the jurisdiction of the city or county under this chapter and to enjoy attendant services and facilities provided by the city or county.
3. “Skid unit” means a structure or group of structures, either single or multisectional, which is not built on a permanent chassis and is ordinarily designed for human living quarters or a place of business, on a temporary or permanent basis. (Ord. No. 1419 § 1.)

### **Section 39.13.002 Crew housing special use permit**

Any person desiring to operate a crew housing facility shall first apply for a special use permit, as provided herein. Upon receipt of the completed application, the Board of City Commissioners shall have the obligation to (1) judge whether the person applying for the permit, and any owner, operator, or vendor associated with the applicant, is experienced and able to operate a crew camp in the best interests of the City of Dickinson and its citizens; and (2) judge whether the physical location and land sought to be used for a crew housing facility is appropriate for the use intended.

Any crew housing facility shall require a special use permit, and shall not be allowed in any zoning designation within the City of Dickinson or its extra-territorial zoning jurisdiction without such special use permit. Such special use permit shall be valid for a maximum period of five years from the date of final approval by the Board of City Commissioners. Any person granted a special use permit for a crew housing facility shall have the option to apply for an extension of the special use permit for an additional five years period. Any extension of the

special use permit shall be at the sole discretion of the Board of City Commissioners. (Ord. No. 1419 § 2.)

### **Section 39.13.003 Crew housing permit fees**

The City shall impose an annual crew housing permit fee, the amount of which shall be determined on the basis of the value of services and facilities provided to the crew housing facility by the city or county, or both, and incorporated into the City's fee schedule. (Ord. No. 1419 § 3.)

### **Section 39.13.004 Minimum Design Standards**

All crew housing facilities permitted under this Article shall meet the following minimum design standards:

- 1) Provide all ordinary urban services, to include municipal water, municipal wastewater, and urban roads
- 2) Annexation of all real property containing the crew housing facility into city limits
- 3) Provide adequate parking for any and all crew housing facility residents
- 4) Provide for adequate fire suppression
- 5) Provide for adequate access to emergency vehicles
- 6) Provide for adequate security of the crew camp facility
- 7) Meet all design standards requires by any building code, fire code, subdivision code, or zoning code adopted by the City of Dickinson
- 8) The Board of City Commissioners may further require a minimum lot size or minimum acreage for the crew housing facility.
- 9) The Board of City Commissioners may further require the land on which the crew housing facility is located to be platted as a subdivision
- 10) The Board of City Commissioners may further require any condition or restriction that in the judgment of the Board is reasonable and necessary for the crew housing facility. (Ord. No. 1419 § 4.)

### **Section 39.13.005 Application for Special Use Permit**

The application for a special use permit for crew housing facility shall be signed by the owner of the crew housing facility, as well as by the owner of the land on which the crew housing facility is to be located. The application shall include the following information:

- (1) A complete statement of the type of business contemplated
- (2) Consent to a background investigation of the owner of the crew housing facility
- (3) Identify any vendors who are expected to provide services at the crew housing facility
- (4) The applicant's history of residency, employment, and business ownership for five years prior to the date of the application. If the applicant is a partnership, this information shall be furnished for all the partners; and, if a corporation, whether such corporation is a subsidiary of any corporation, and, if so, the name of the parent corporation, the purposes for which the corporation was incorporated and the names and addresses of all officers, directors and managing agents and the

names and addresses of all stockholders holding more than five percent of the capital stock of such corporation.

- (5) Whether the applicant has ever engaged in the business of owning or operating a crew housing facility before; and, if so, the dates and locations of such ownership or operation.
- (6) Whether during the five (5) years preceding the date of the application, the applicant has ever been convicted of a violation of any law of the United States or of any state; and, if so, the dates, names of places and courts in which such convictions were obtained.
- (7) Whether the applicant has any agreement, understanding or intention to have any agreement or understanding with any person to obtain for any other person or to transfer to any other person the license obtained or to use the license for any other purpose other than the specific use of the applicant; and, if so, the names and addresses of such persons and the conditions of such agreements.
- (8) A description of the temporary housing units
- (9) A description of how the proposed units are to be set and/or anchored to the ground
- (10) A statement that roads to be constructed within the facility will meet city specifications
- (11) A copy of the applicants deed and/or lease to the real property on which the crew housing facility would be located.
- (12) A copy of plot plans, drawn to scale, showing the location of housing units, additional structures, setbacks, utilities, drainage, parking, ingress, egress, screens, buffers, and fencing
- (13) A copy of the facility's house rules and regulations
- (14) A copy of the facility's on-site security plan
- (15) A copy of the facility's on-site emergency management plan, to include contingencies for fire, tornado, and other natural disaster
- (16) Any additional information deemed necessary by the City Planner, City Engineer, Planning and Zoning Commission, or Board of City Commissioners (Ord. No. 1419 § 5.)

### **Section 39.13.006 Grant of Special Use Permit**

Any application for a special use permit as provided under this Article shall be denied to any applicant who, in the discretion of the Board of City Commissioners, is a person of questionable character or for any other cause which would, in the opinion of the Board, render either the applicant or the premises to be licensed, improper or unfit for a crew housing facility, or which would, in the Board's judgment, make the granting of the permit contrary to the best interests of the City and its citizens. In granting any special use permit under this Article, the Board of City Commissioners shall have the authority to limit the number of living units or total number of persons to be housed in such units within the crew housing facility. The Board of City Commissioners shall further have the authority to limit the total acreage or land area that may be used for the crew housing facility. (Ord. No. 1419 § 6.)

### **Section 13.13.007 Revocation of Permit**

The Board of City Commissioners may review the status of any permit issued pursuant to this Article, and take appropriate action to suspend or revoke the same, as provided herein:

- (1) Suspension and Revocation for Cause. Any permit issued pursuant to this Article may be revoked or suspended for cause by the Board of City Commissioners for cause, which cause may include, among other grounds, the following:
- a. When the applicant is adjudged bankrupt.
  - b. When the applicant has made any false statement or statements in an application for the issuance of such permit.
  - c. When the applicant, in the case of a corporation or other entity, manager of a licensee has been convicted of a violation of any felony crime under the laws of the United States or of any state.
  - d. When the business of the applicant at the location permitted has been conducted in violation of the health or sanitary regulations of the city or of the state.
  - e. When in the judgment of the Board of City Commissioners, the applicant has conducted his business or permitted his business to be conducted in a disorderly manner or in a manner that is dangerous or detrimental to the public welfare and morals.
  - f. When the applicant or an agent or employee of the applicant violates any term or condition of the permit or any provision of this Article.
- (2) Notice – public hearing. Sanctions or penalties under this section may not be invoked without a public hearing if requested by the applicant. Upon written notification to the applicant by the City Administrator that a penalty is being sought under this section, the applicant may notify the City Administrator’s office within ten (10) days of the date of such written notification and request a hearing on the proposed penalty. Failure to notify the City Administrator within ten (10) days of the date of such written notification will be deemed acceptance of the penalty without hearing.
- A hearing shall be set before the Board of City Commissioners specifying the time and place of the hearing, and shall be mailed to the applicant. A record of any hearing shall be made by electronic recording device.
- If, upon such hearing, it appears to a majority of the Board of City Commissioners that sufficient cause exists for the penalty sanctions, the Board of City Commissioners shall make its order in accordance with the provisions of this Article. The Board of City Commissioners shall further issue its findings, conclusions and order which shall be mailed to the applicant.
- (3) No Refunds on Revocation or Suspension. When any permit is revoked or suspended for any reason, no portion of the permit fee shall be returned to the applicant. (Ord. No. 1419 § 7.)

### **Section 39.13.008 Prohibited Housing Types**

Recreational vehicles, campers, and mobile homes are prohibited units within a crew housing facility (Ord. No. 1419 § 8.)

### **Section 39.13.009 Prohibited Activities**

No animals are allowed on the premises of a crew housing facility. No parking shall be allowed between units. The site is to be maintained free of garbage and junk. The operator of the crew housing facility shall be responsible for establishing and enforcing any restrictions related to possession or use of alcohol on the crew housing facility premises. (Ord. No. 1419 § 9.)

### **Section 39.13.010 Posting of Reclamation Bond**

Prior to the start of any construction on the crew housing facility, or any occupancy thereof, the applicant shall post with the City of Dickinson a valid reclamation bond in an amount to be determined by the City Engineer based upon the engineer's estimate of the costs to return the property to its original condition, permanent improvements excepted, following termination of the use of the property for a crew housing facility. (Ord. No. 1419 § 10.)

### **Section 39.13.011 Conditions – Reporting Requirements**

The Board of City Commissioners may attach any conditions or reporting requirements to the grant of the special use permit that it deems necessary and prudent. (Ord. No. 1419 § 1.)

## **Article 39.28 Lighting**

**Sections:**

**39.28.060      Repealed by 1175**