ORDINANCE NO. 420

AN ORDINANCE AMENDING AND RE-ENACTING THE ZONING ORDINANCE OF 1977 OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEULAH, MERCER COUNTY, NORTH DAKOTA, AS FOLLOWS:

THAT ZONING ORDINANCE OF 1977 BE AMENDED AND RE-ENACTED TO READ AS FOLLOWS:

Adopted October 17, 2016

Beulah
NORTH DAKOTA

Zoning Ordinance

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Chapter 1 How To Use This Document

Section 1.1 Organization of Zoning Ordinance

1.101 General Intent

This document referred to as the Zoning Ordinance is intended to protect and promote the public health, safety, peace, comfort, convenience and general welfare; and more particularly to:

(1) Carry out the goals and objectives of the Comprehensive Plan, and to manage the future growth of the City in accordance with the Comprehensive Plan;

(2) Manage land use in a manner that will assure the orderly development and beneficial use of the incorporated and extraterritorial areas of the City for residential, commercial, industrial, and other purposes;

(3) Reduce hazards to the public resulting from the inappropriate location, use or design of buildings and land uses;

(4) Attain the physical, social, and economic advantages resulting from comprehensive and orderly land use and resource planning; and

(5) Conserve the value of land and buildings.

1.102 General Layout

The Zoning Ordinance is organized as a reference document. It is not intended to be read from cover to cover. Instead, it is organized so you may look up only the parts you need. The list of chapters in the table of contents is, therefore, very important, as are the section listings at the beginning of each chapter. Subsequent portions of this introduction explain three commonly asked questions when using this Zoning Ordinance. There are many other ways to use the Zoning Ordinance, depending on your need.

Topics that cover related information have been grouped together. There are a total of seven chapters. This chapter contains basic information on how to use this Zoning Ordinance. The six remaining chapters are summarized below.

1.103 Chapter Summaries

Chapter 2: Zoning Districts This chapter states which uses are allowed in each zone. They also state which uses are allowed in limited situations, which are conditional uses, and which are prohibited. The general development standards for each base zone are also included. The development standards include requirements such as maximum heights and required setbacks.
Chapter 3: Special and Conditional Use Standards This chapter outlines the development standards for a number of uses, whether permitted or conditional, that have been identified as unique and in need of special standards.
Chapter 4: Site Development This chapter explains the site development standards including access, parking, lighting, landscaping, signage, fences, general setback guidance, general structure height guidance, and property pin guidance.
Chapter 5: Permit Review and Application This chapter identifies review and decision making bodies in addition to the procedural process for building permits, Certificate of Occupancy, demolition permits, temporary permits, conditional use permits, variances, zoning map amendments, zoning ordinance text amendments, comprehensive plan land use map amendments, subdivision plats, and administrative decisions.
Chapter 6: Legal Framework This chapter will be used most often by attorneys, experienced contractors/developers, and city officials. The sections will provide nonconforming (“grandfathered”) use and structure requirements and limitations, an interpretation clause, enacting clause, severability clause, and other related language.
Chapter 7: Wireless Facilities This chapter establishes regulations for wireless telecommunication infrastructure so that they are consistent with the standards outlined by the Federal Communications Commission (FCC). Regulations are also provided to protect the city against potential safety and visual impacts.
Chapter 8—Reserved for Future Use
Chapter 9: Definitions Since this is a legal document and includes terms with specific meaning, the Zoning Ordinance also provides guidance on how specific terms are used. Chapter 7, Definitions, defines words that have a specific meaning within Chapter 7.

Section 1.2 When am I Required to Get a Building Permit?

☐ **Determine Construction and Maintenance Activities Included**

A building permit is required prior to the construction and/or maintenance of structures listed in section 5.11. Consult with the Building Official if planning to construct or maintain any improvement not listed.

Section 1.3 How Do I Obtain a Building Permit?

☐ **Obtain Application and Consult with Building Official**

To obtain a building permit, an application must be submitted to the Building Official in the appropriate form along with a non-refundable fee. Once the application and fee are received by the Building Official, the process outlined in section 5.12 for a building permit will follow.

Section 1.4 Do I have to comply with Deed Restrictions and City Ordinances?

☐ **Review Zoning Ordinance and Deed Restrictions**

Yes, if you live in a subdivision with restrictive and/or protective covenants you are required to contact your homeowners association for their requirements; and you must also comply with city ordinance requirements as well. If the provisions of this Zoning Ordinance impose a greater restriction than imposed by restrictive and/or protective covenants, which are a private agreement, the provisions of this Zoning Ordinance will supersede. If the provisions of a valid, enforceable private agreement impose a greater restriction than this Zoning Ordinance, the provisions of the private agreement will supersede. The City does not enforce private agreements or maintain a record of such agreements.

Section 1.5 How long does it take to get a Building Permit?

☐ **Consult with the Building Official**

The timeframe for receiving a building permit is dependent on various factors. Accuracy and completeness of information have major effects on application review time, as well as the fluctuations in the seasonal work load. The type and extent of structural work can also impact the length of time needed to review and potentially approve a building permit application.

Section 1.6 How do I Determine the Current Zoning of my Site?

☐ **Check the Zoning District Map**

Refer to the Adopted Zoning District Map available from the Building Official. The published zoning map is periodically updated, however, you may want to verify the zoning shown on the map with the City.

☐ **Check the City Comprehensive Plan Land Use Map**

The Comprehensive Plan Land Use Map illustrates the land use pattern envisioned for the future. If current zoning does not match your development plans or future intent for a site, the Comprehensive Plan Land Use Map might. Changes in zoning that are consistent with the Comprehensive Plan Land Use Map are usually favored by the P&Z Commission and Council.

Section 1.7 What Uses are Permitted in Each Zoning District?

☐ **Check the Corresponding Regulations**

This Zoning Ordinance provides descriptions for each zoning district including uses that are allowed by right, conditional uses, or prohibited uses. The regulations also outline the development standards necessary for each district.

Section 1.8 What is the Approval Process for my Project?

☐ **Determine Which Approvals are Needed**

This may include rezoning, conditional use permit, variance, subdivision, etc. First look up your proposed use in the Use Table section 2.5 to see whether the use is permitted, conditional, or not allowed with the current zoning.

☐ **Application Forms**

Obtain copies of the application forms from the Building Official.

☐ **Key Submission Dates**

Check with the Building Official to determine key cut-off dates for being placed on an upcoming meeting agenda if P&Z Commission and/or Council hearings are required.

☐ **Submittal**

Submit all required materials, application forms, and fees to the Building Official. Most applications require submittal several days before the meeting at which they will be discussed. This time period is used by the Council, P&Z Commission, and staff to review your application. In some cases, such as special land uses and rezonings, a longer lead time is needed to publish notice for public hearings and work sessions for the P&Z Commission and Council.

☐ **Review Procedures**

A majority of the review procedures are conveniently located and outlined in Chapter 5. For a quick reference, refer to the flow charts supplemented throughout this chapter.

Section 1.9 Format of Zoning Ordinance

1.901 Outline

The format of this Zoning Ordinance follows the same layout throughout. The section numbers use an expanded decimal number system following the chapter number. Major divisions within the Zoning Ordinance are called chapters. Major divisions within chapters are called sections. The format of the divisions in this Zoning Ordinance are shown below.

Chapter # Chapter Title

Section #.# Section Title

Subsection #.### - Subsection Title

(A) Paragraph Title

Paragraph Text

(1) Subparagraph Title
Subparagraph Text

(a) Subsubparagraph Text

Chapter 2 Zoning Districts

Section 2.0 Residential Zoning Districts

2.01 R-1 – Single Family, Detached

(A) Description

The R-1 Single Family, Detached district is intended to provide a low-density suburban environment with single family detached dwellings. Residences will be compatible with, and served by, parks, civic uses, institutional uses, public services.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density
- (a) Maximum Density: 5.2 units/acre

(2) Lot Size
- (a) Minimum Lot Area: 8,400 sq ft
- (b) Minimum Width: 70 ft
- (c) Maximum Lot Coverage: 30%

(3) Setbacks
- (a) Minimum Front Yard Setback: 25 ft
  - i. 8 ft protrusion allowance into setback
- (b) Minimum Interior Side Setback: 6 ft
  - i. 3 ft protrusion allowance into setback
- (c) Minimum Street Side Setback: 25 ft
  - i. 8 ft protrusion allowance into setback
- (d) Minimum Rear Setback: 25 ft
  - i. 3 ft protrusion allowance into setback

(4) Setbacks from Highways Outside of City Limits[1]
- (a) Minor Arterial: 200 ft
- (b) Major and Minor Collectors: 150 ft
- (c) Local Roads: 100 ft.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov

(5) Building Height

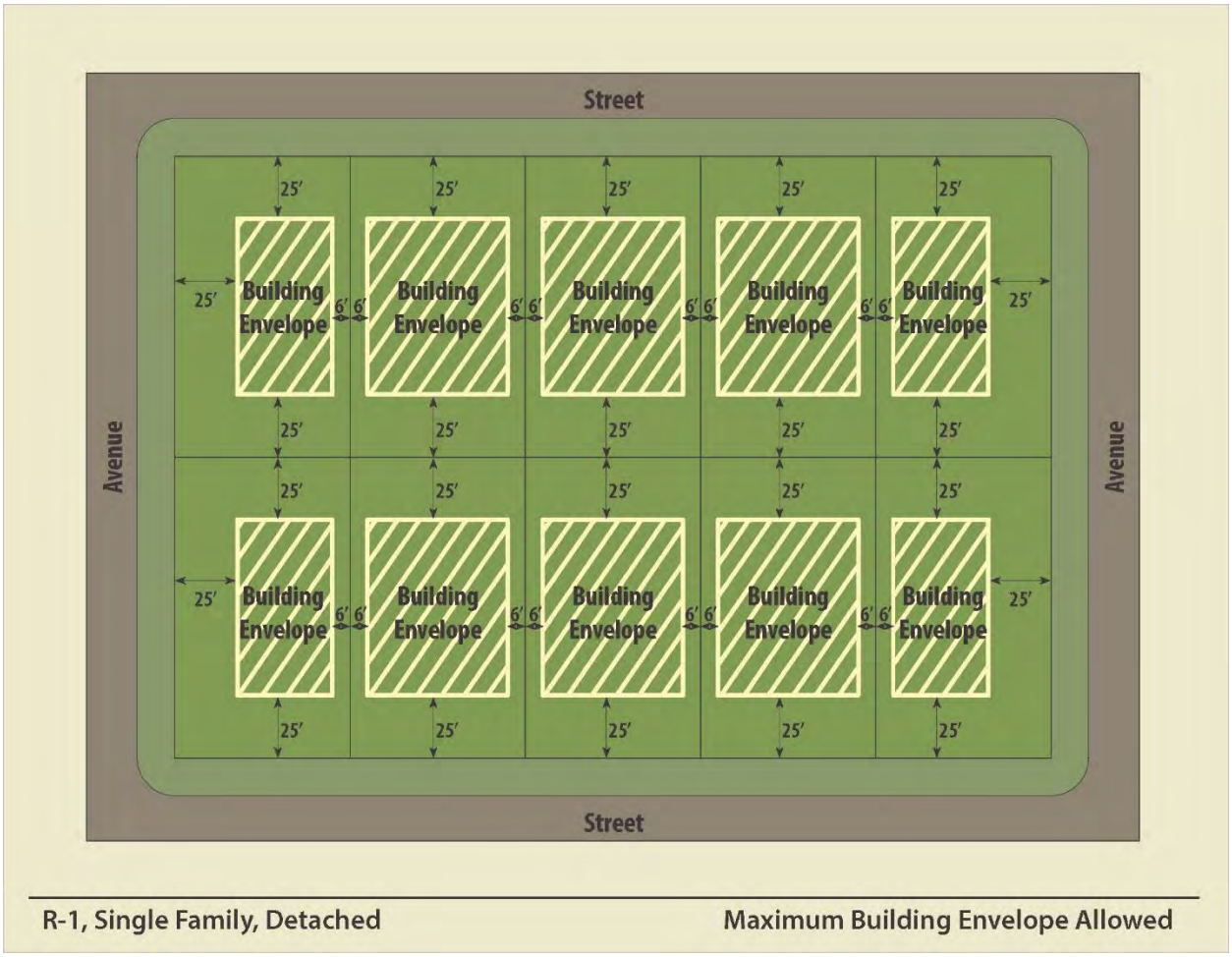
(a) Maximum Building Height: 40 ft

(D) Other Standards

Refer to Chapter 4 of the Zoning Ordinance.

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.



2.02 R-2 – Low Density Multi-Family

(A) Description

The R-2, Low Density Multi Family district is intended to allow for a mix of twin homes, duplexes, and single family detached dwellings in a suburban setting, including larger setbacks and easy vehicle access. Residences will be compatible with, and served by, parks, civic uses, institutional uses, public services, and utilities.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

Maximum Density: 10.4 units/acre

(2) Lot Size

(a) Minimum Lot Area: 8,400 sq ft
(b) Minimum Lot Area for Each Twin Home Dwelling Unit: 4,200 sq ft
(c) Minimum Width: 70 ft
(d) Minimum Width for Each Twin Home Dwelling Unit: 35 ft
(e) Maximum Lot Coverage: 30%

(3) Setbacks

(a) Minimum Front Yard Setback: 25 ft
    i. 8 ft protrusion allowance into setback
(b) Minimum Interior Side Setback: 6 ft
    i. 3 ft protrusion allowance into setback
(c) Minimum Interior Side Setback for Each Twin Home Dwelling Unit: 6 ft / no setback if attached
    i. 3 ft protrusion allowance into setback, if applicable
(d) Minimum Street Side Setback: 25 ft
    i. 8 ft protrusion allowance into setback
(e) Minimum Rear Setback: 25 ft
    i. 3 ft protrusion allowance into setback

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft

(5) Building Height

Maximum Building Height: 40 ft

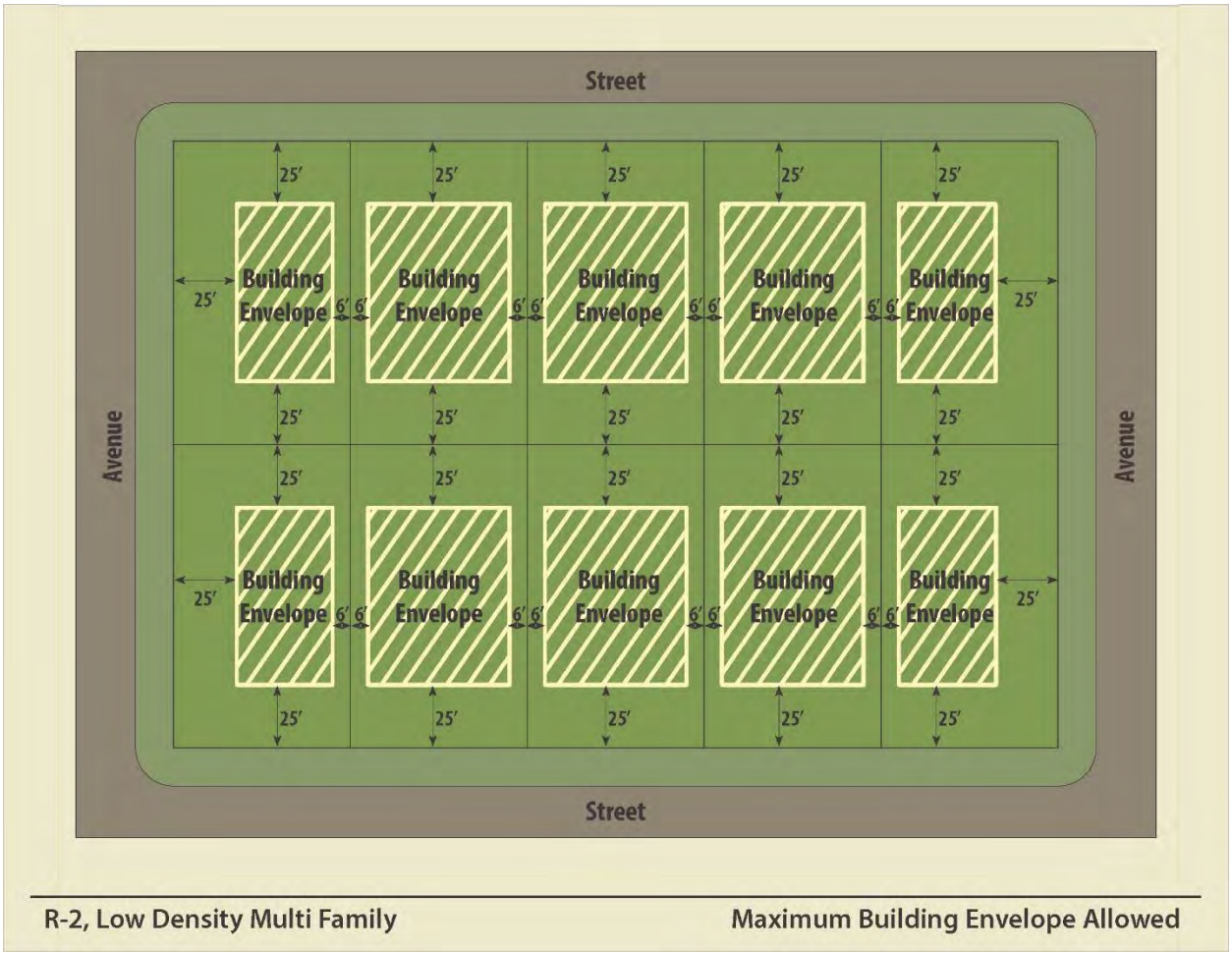
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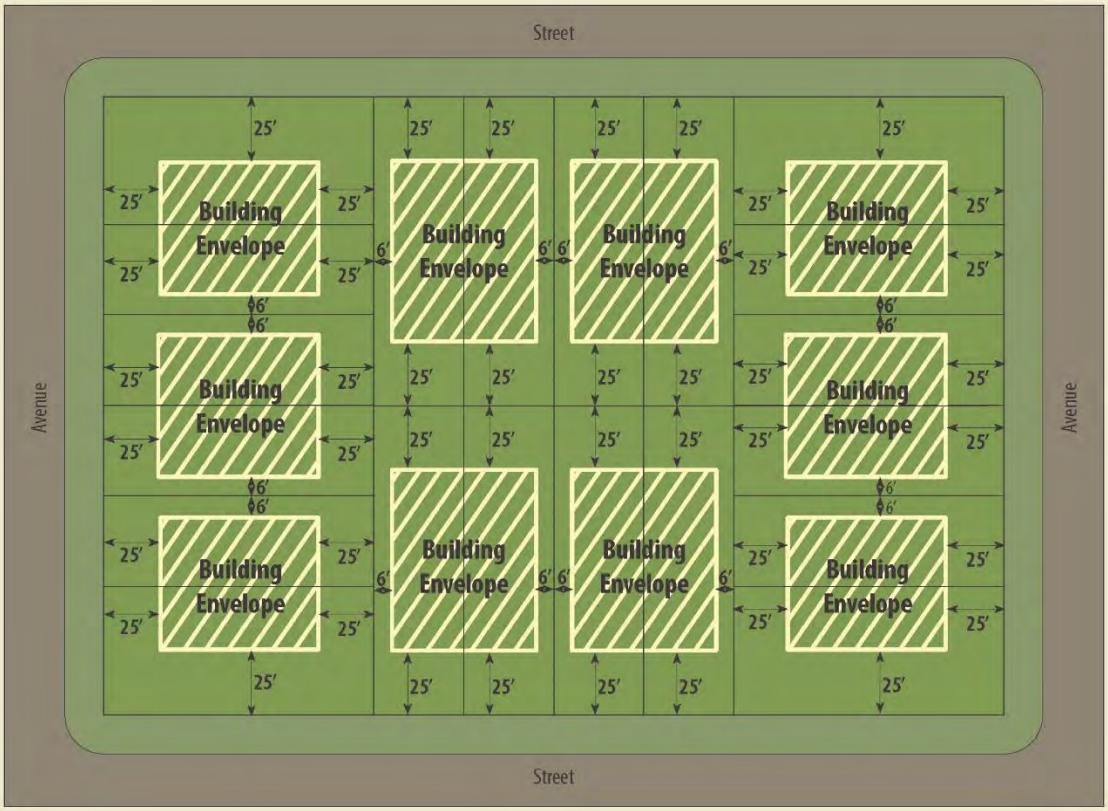
(D) Other Standards

Refer to Chapter 4 of the Zoning Ordinance.

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.





R-2, Low Density Multi Family - Attached Twin Homes Maximum Building Envelope Allowed

2.03 R-3 – High Density Multi-Family

(A) Description

The R-3, High Density Multi Family district is intended to provide higher density residential development in a suburban setting, including larger setbacks and easy vehicle access. Appropriate development can include apartment buildings, attached dwellings, modular homes, and small single family detached homes. Residences will be compatible with, and served by, parks, civic uses, institutional uses, public services, and utilities.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

Maximum Density: 16 units/acre

(2) Lot Size

(a) Minimum Lot Area 6,000 sq ft
(b) Minimum Lot Area for Attached Dwelling Units: 4,200 sq ft
(c) Minimum Width: 60 ft
(d) Minimum Width for Attached Dwelling Units: 35 ft
(e) Maximum Lot Coverage: 40%

(3) Setbacks

(a) Minimum Front Yard Setback: 25 ft
    i. 8 ft protrusion allowance into setback
(b) Minimum Interior Side Setback: 6 ft
    i. 3 ft protrusion allowance into setback
(c) Minimum Street Side Setback: 25 ft
    i. 8 ft protrusion allowance into setback
(d) Minimum Rear Setback: 25 ft
    i. 3 ft protrusion allowance into setback

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 50 ft

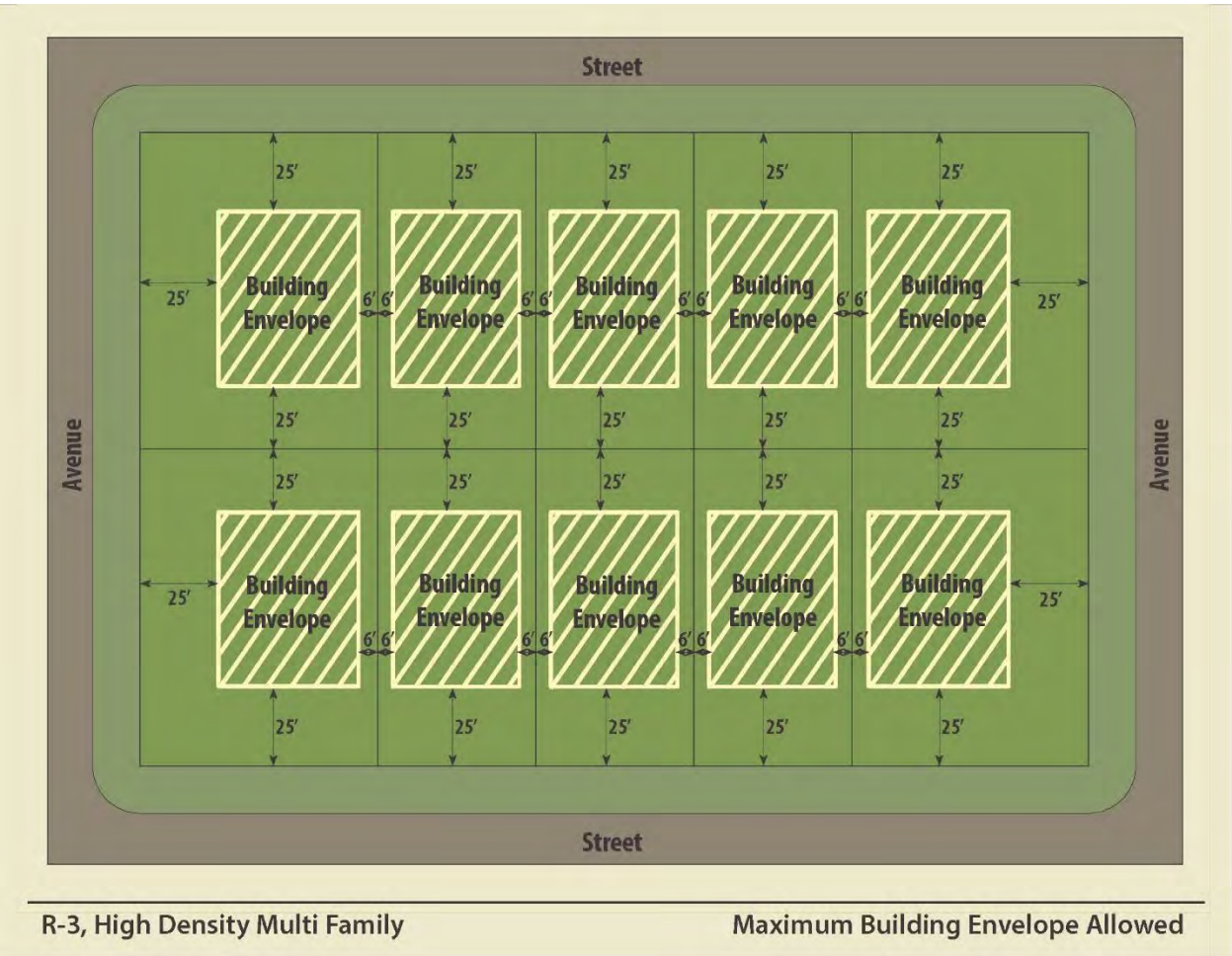
[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov

(D) Other Standards

Refer to Chapter 4 of the Zoning Ordinance.

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.



2.04 R-4 – Manufactured Home

(A) Intent

The R-4, Manufactured Home district is intended to allow for manufactured homes arranged together in a subdivision or park. However, single family detached dwellings are permitted. This development type is intended to be located in a suburban setting with parks, civic uses, institutional uses, public services, and utilities to serve residents.

A manufactured home park offers spaces for the placement of manufactured home units on a lease or rental basis. Manufactured home subdivisions include individually platted lots, for sale within the subdivision, for the placement of manufactured home units.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

Maximum Density: 6.1 units/acre

(2) Lot Size

(a) Minimum Lot Area: 6,000 sq ft/lot
(b) Minimum Width: 70 ft
(c) Maximum Lot Coverage: 35%

(3) Setbacks

(a) Minimum Front Yard Setback: 25 ft
(b) Minimum Interior Side Setback: 6 ft
(c) Minimum Street Side Setback: 25 ft
(d) Minimum Rear Setback: 10 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 35 ft

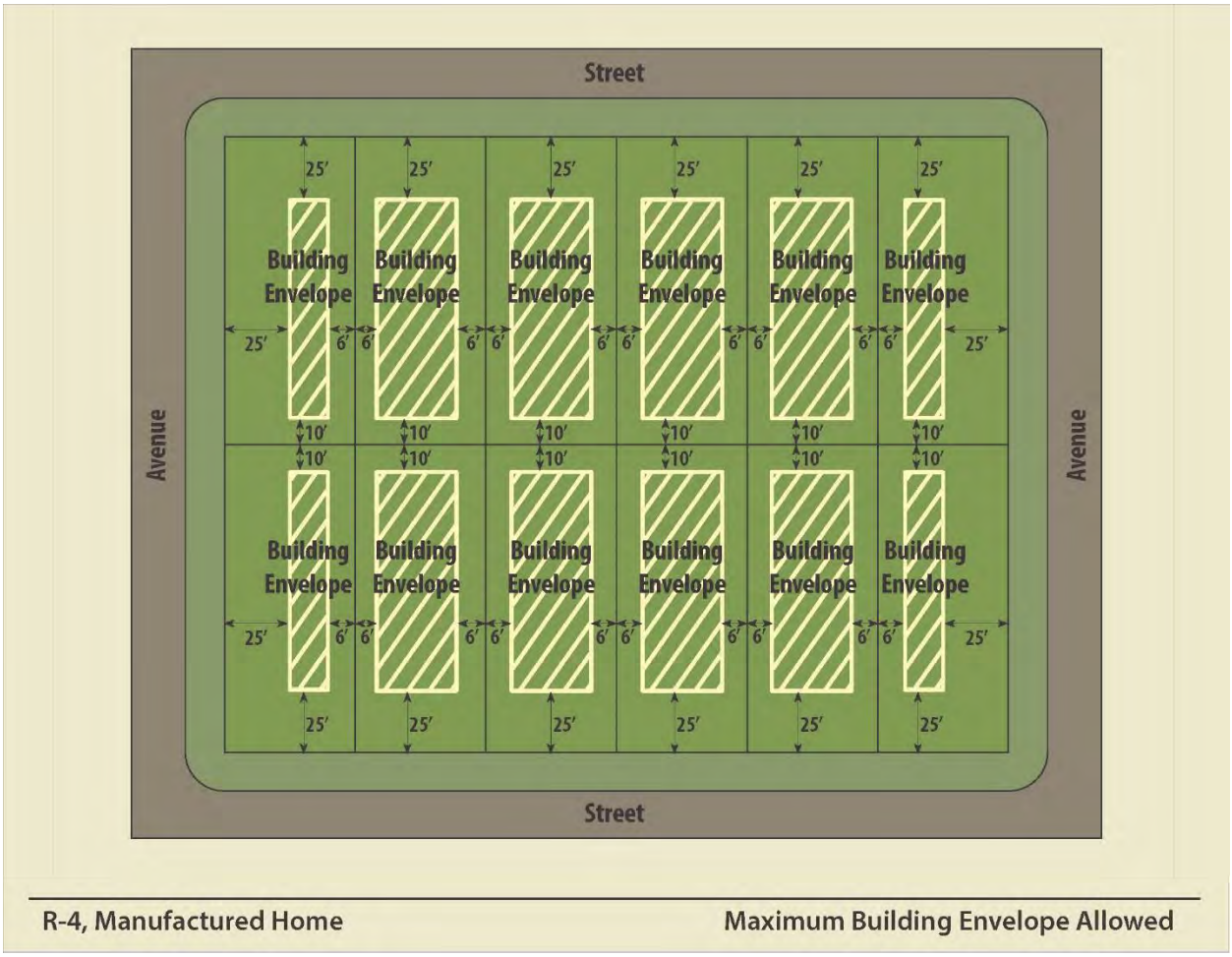
(D) Other Standards

Refer to Chapter 4 of the Zoning Ordinance.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.



R-4, Manufactured Home — Maximum Building Envelope Allowed

2.05 R-5 (Reserved for Future Use)

2.06 R-6 – Rural Residential

(A) Description

The R-6, Rural Residential, district is the lowest density residential district. It provides for a semirural environment of low-density, single family detached dwellings along with parks, civic uses, institutional uses, public services, and utilities to serve residents. The intent of the district is to allow for individual sewage treatment systems on large lots with room for sewage treatment.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

Maximum Density: 1 unit/acre

(2) Lot Size

(a) Minimum Lot Area: 87,120 sq ft (2 acres)
(b) Minimum Width: 150 ft
(c) Maximum Lot Coverage: 25%

(3) Setbacks

(a) Minimum Front Yard Setback: 30 ft
(b) Minimum Interior Side Setback: 15 ft
(c) Minimum Street Side Setback: 30 ft
(d) Minimum Rear Setback: 25 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

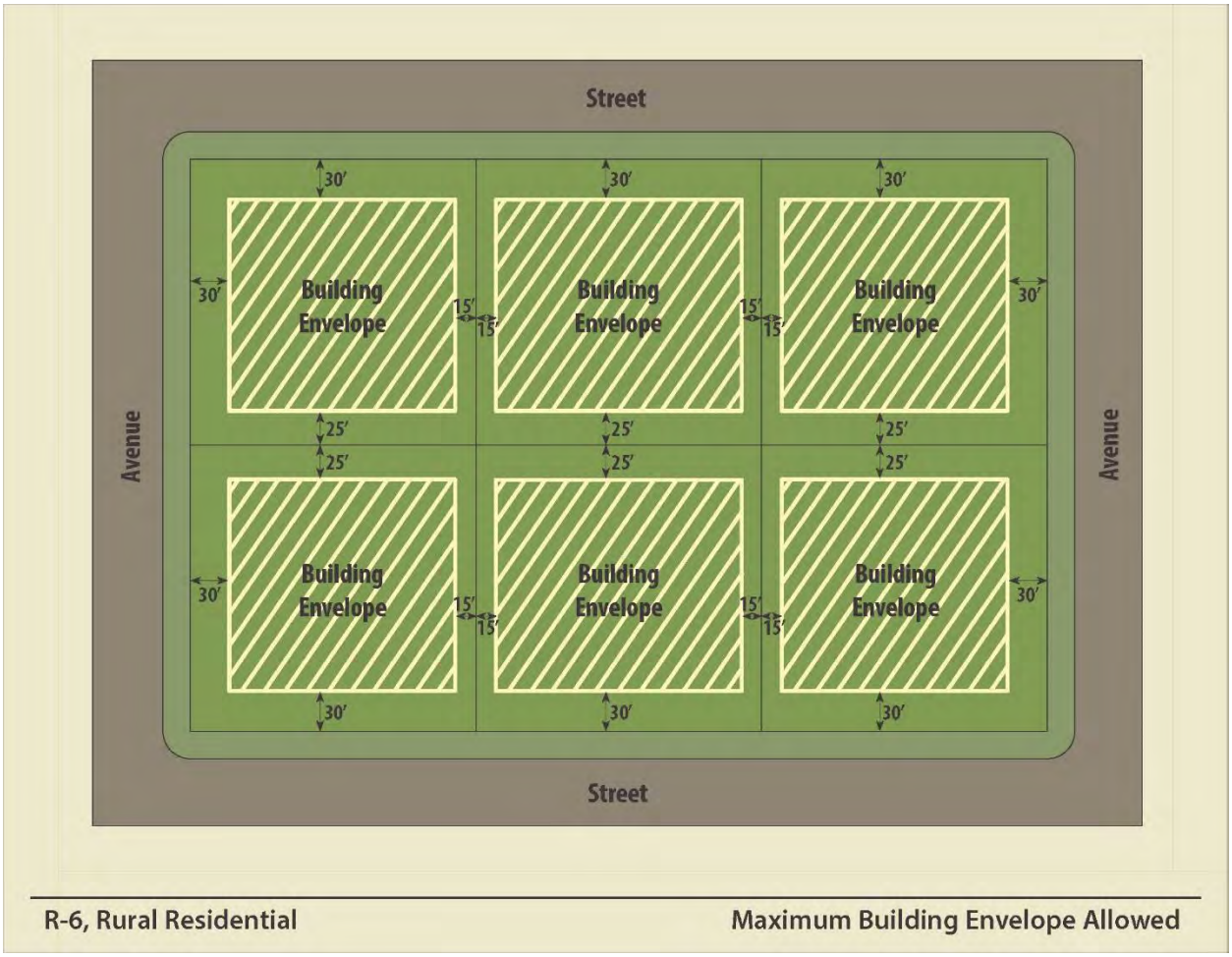
(5) Building Height

Maximum Building Height: 40 ft

(D) Permit Process

Refer to section 5.1 of the Zoning Ordinance.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov



R-6, Rural Residential — Maximum Building Envelope Allowed

2.07 R-7 – Urban Multi-Family

(A) Intent

The R-7, Urban Multi Family Residential, district is intended to accommodate higher density residential development in a compact urban setting with a focus on pedestrian access to the street. The district should be situated adjacent to downtown commercial areas to maximize pedestrian access. Appropriate development will include apartment buildings and attached dwellings with parks, civic uses, institutional uses, public services, and utilities to serve residents.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

Maximum Density: 20 units/acre

(2) Lot Size

(a) Minimum Lot Area: 5,000 sq ft
(b) Minimum Width: 50 ft
(c) Maximum Lot Coverage: 60%

(3) Setbacks

(a) Minimum Front Yard Setback: 0 ft
(b) Minimum Interior Side Setback: 0 ft
(c) Minimum Street Side Setback: 0 ft
(d) Minimum Rear Setback: 15 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 60 ft

(D) Other Standards

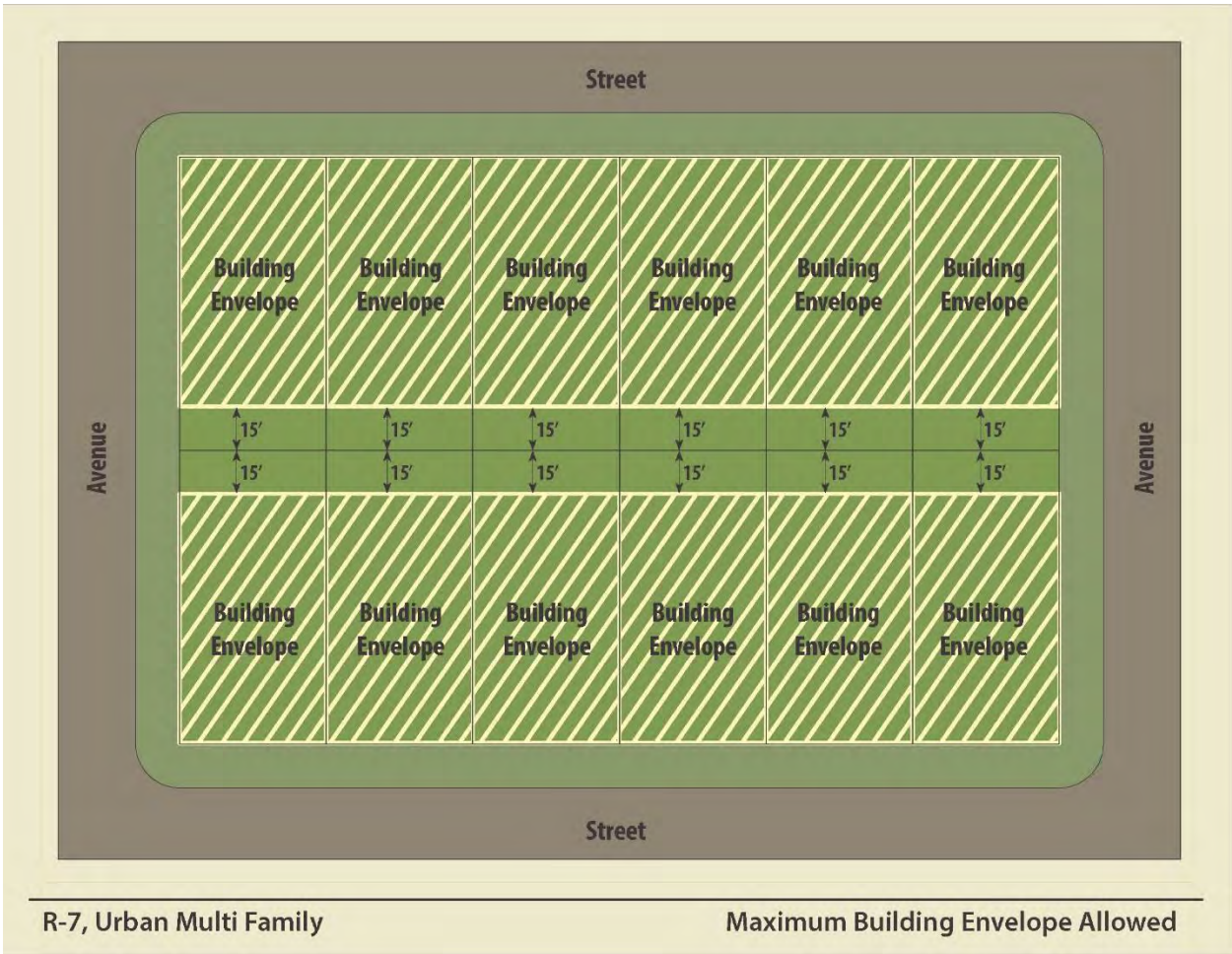
(1) Parking

Refer to Section 4.1 of the Zoning Ordinance.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.



Section 2.1 Commercial Zoning Districts

2.11 C-1 – Central Business

(A) Description

The C-1, Central Business, district is intended to preserve and enhance the City's main street and adjacent commercial area. The district allows for a variety of retail stores and related activities, as well as offices and service establishments which occupy the prime frontages in the central business district. The district is also designed to provide for the needs of the daytime work force and residents who may live above or behind commercial frontage. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive street.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

No requirement

(2) Lot Size

(a) Minimum Lot Area: No requirement
(b) Minimum Width: 25 ft
(c) Maximum Lot Coverage: 100%

(3) Setbacks

(a) Minimum Front Yard Setback: 0 ft
(b) Minimum Interior Side Setback: 0 ft
(c) Minimum Street Side Setback: 0 ft
(d) Minimum Rear Setback: 0 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 60 ft

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov

(D) Other Standards

(1) Residential

Multi-family dwellings are not permitted on the first floor lot frontage.

(2) Parking

Refer to Section 4.1.

(3) Site Access

Refer to Section 4.01.

(4) Signs

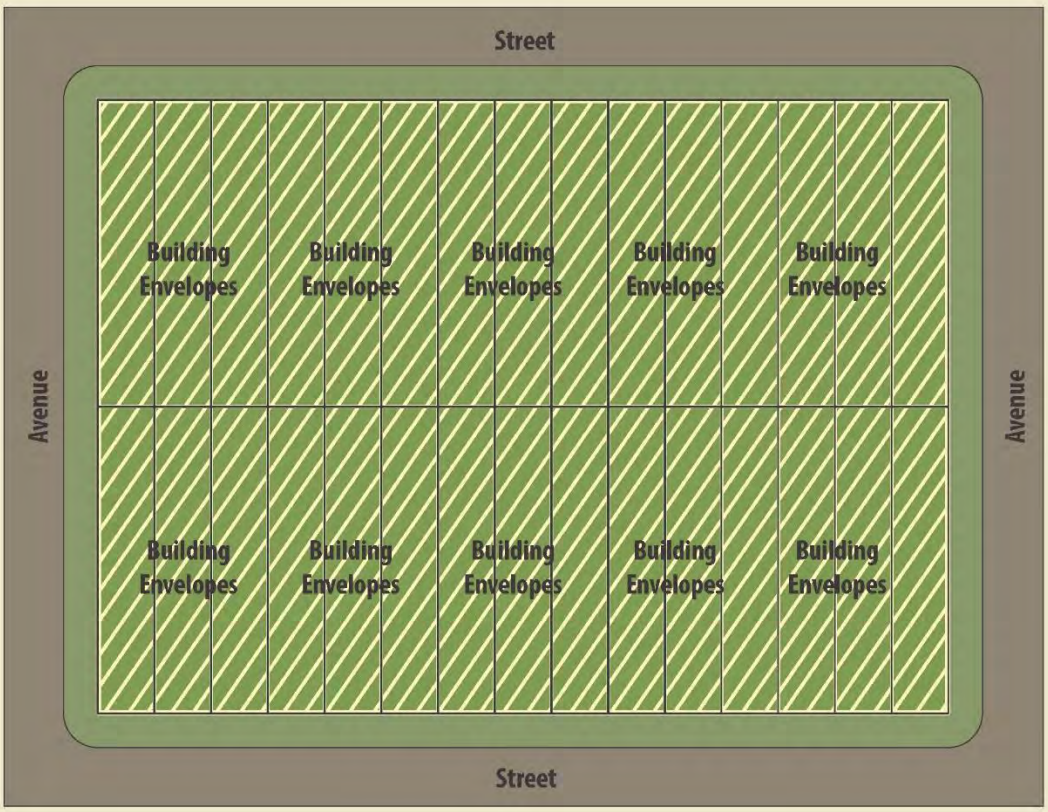
Refer to Section 4.4.

(5) Building

Be advised that Building Code requirements in the C-1 District may differ from other districts.

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.



C-1, Central Business District — Maximum Building Envelope Allowed

2.12 C-2 – Highway Commercial

(A) Description

The C-2, Highway Commercial, district is intended to provide for a variety of office, retail, and service opportunities for the purpose of creating a high quality mixture of attractive land uses along main highways, such as ND Highway 49, ND Highway 200, and County Road 21.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

No requirement

(2) Lot Size

(a) Minimum Lot Area: No requirement
(b) Minimum Width: 75 ft
(c) Maximum Lot Coverage: 55%

(3) Setbacks

(a) Minimum Front Yard Setback: 15 ft
(b) Minimum Interior Side Setback: 10 ft
(c) Minimum Street Side Setback: 15 ft
(d) Minimum Rear Setback: 20 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 60 ft

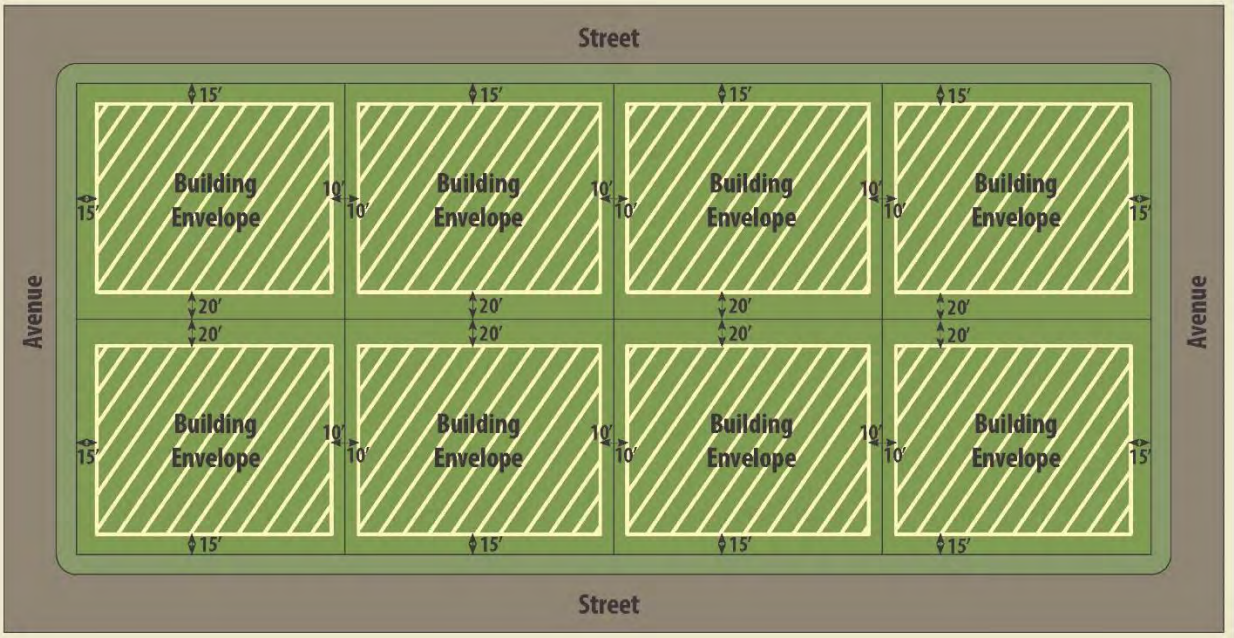
(D) Other Standards

Refer to Chapter 4 of the Zoning Ordinance.

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov



C-2, Highway Commercial — Maximum Building Envelope Allowed

2.13 C-3 – General Commercial

(A) Description

The C-3, General Commercial, district is intended to provide for a full range of commercial uses, including retail, service, and office. This district excludes warehousing and similar uses that may involve heavy truck traffic.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

No requirement

(2) Lot Size

(a) Minimum Lot Area: No requirement
(b) Minimum Width: No requirement
(c) Maximum Lot Coverage: 85%

(3) Setbacks

(a) Minimum Front Yard Setback: 20 ft
(b) Minimum Interior Side Setback: 10 ft
(c) Minimum Street Side Setback: 20 ft
(d) Minimum Rear Setback: 15 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 60 ft

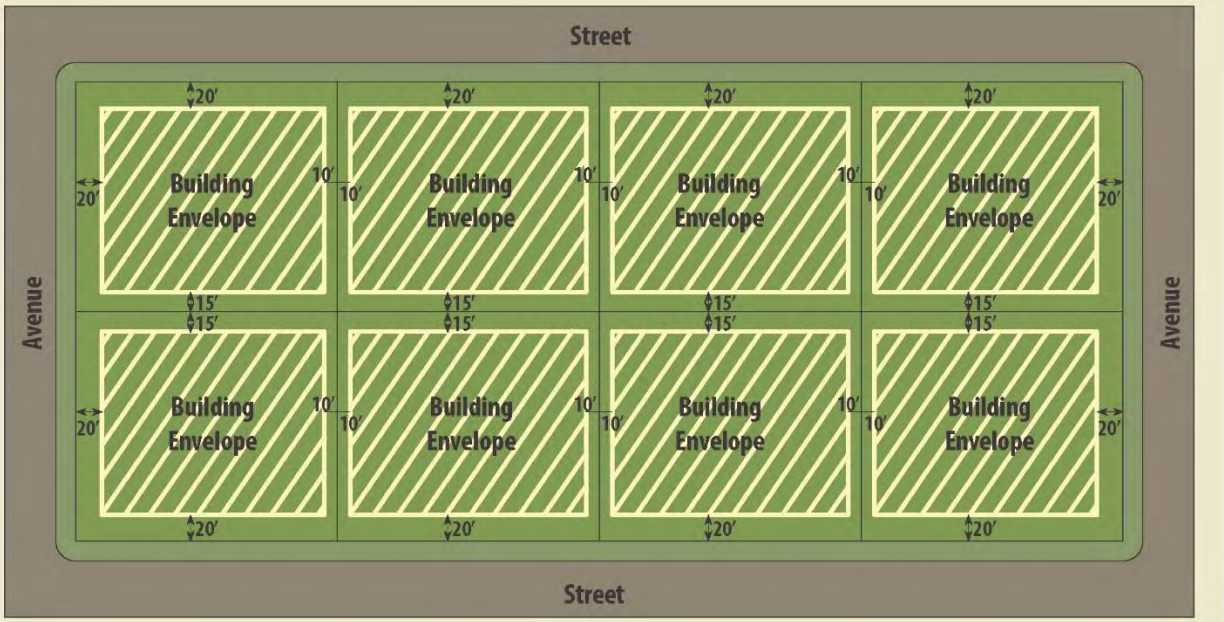
(D) Other Standards

Refer to Chapter 4 of the Zoning Ordinance.

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov



C-3, General Commercial — Maximum Building Envelope Allowed

2.14 C-4 – Neighborhood Commercial

(A) Description

The C-4, Neighborhood Commercial, district is intended to allow those uses necessary to satisfy the basic convenience shopping or service needs of residents in adjacent neighborhoods.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

No requirement

(2) Lot Size

(a) Minimum Lot Area: 12,500 sq ft
(b) Minimum Width: 70 ft
(c) Maximum Lot Coverage: 50%

(3) Setbacks

(a) Minimum Front Yard Setback: 20 ft
(b) Minimum Interior Side Setback: 10 ft
(c) Minimum Street Side Setback: 20 ft
(d) Minimum Rear Setback: 20 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 35 ft

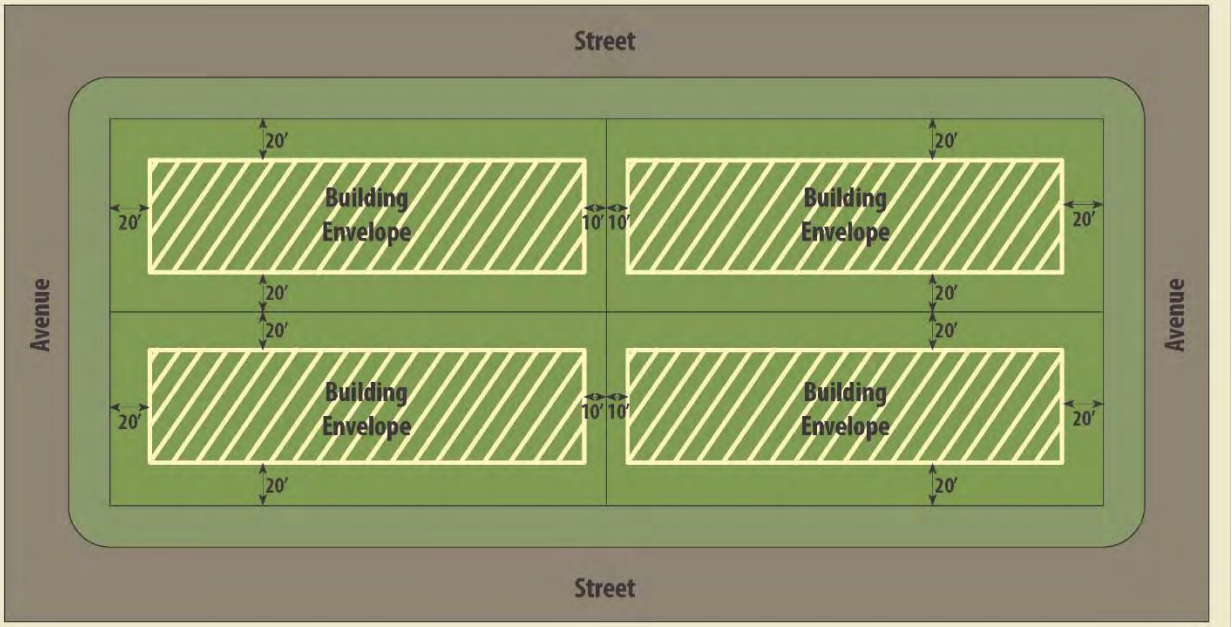
(D) Other Standards

Refer to Chapter 4 of the Zoning Ordinance.

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov.



C-4, Neighborhood Commercial — Maximum Building Envelope Allowed

Section 2.2 Industrial Zoning Districts

2.21 I – Light Industrial

(A) Description

The I, Light Industrial, district is intended to accommodate manufacturing, processing, packaging, assembly, or treatment of finished or semi-finished products from previously prepared material. Common uses include outdoor storage, warehouses, wholesales, manufacturing, and industrial services.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

No requirement

(2) Lot Size

(a) Minimum Lot Area: 8,400 sq ft
(b) Minimum Width: 70 ft
(c) Maximum Lot Coverage: 85%

(3) Setbacks

(a) Minimum Front Yard Setback: 25 ft
(b) Minimum Interior Side Setback: 12 ft
(c) Minimum Street Side Setback: 25 ft
(d) Minimum Rear Setback: 20 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 60 ft

(D) Other Standards

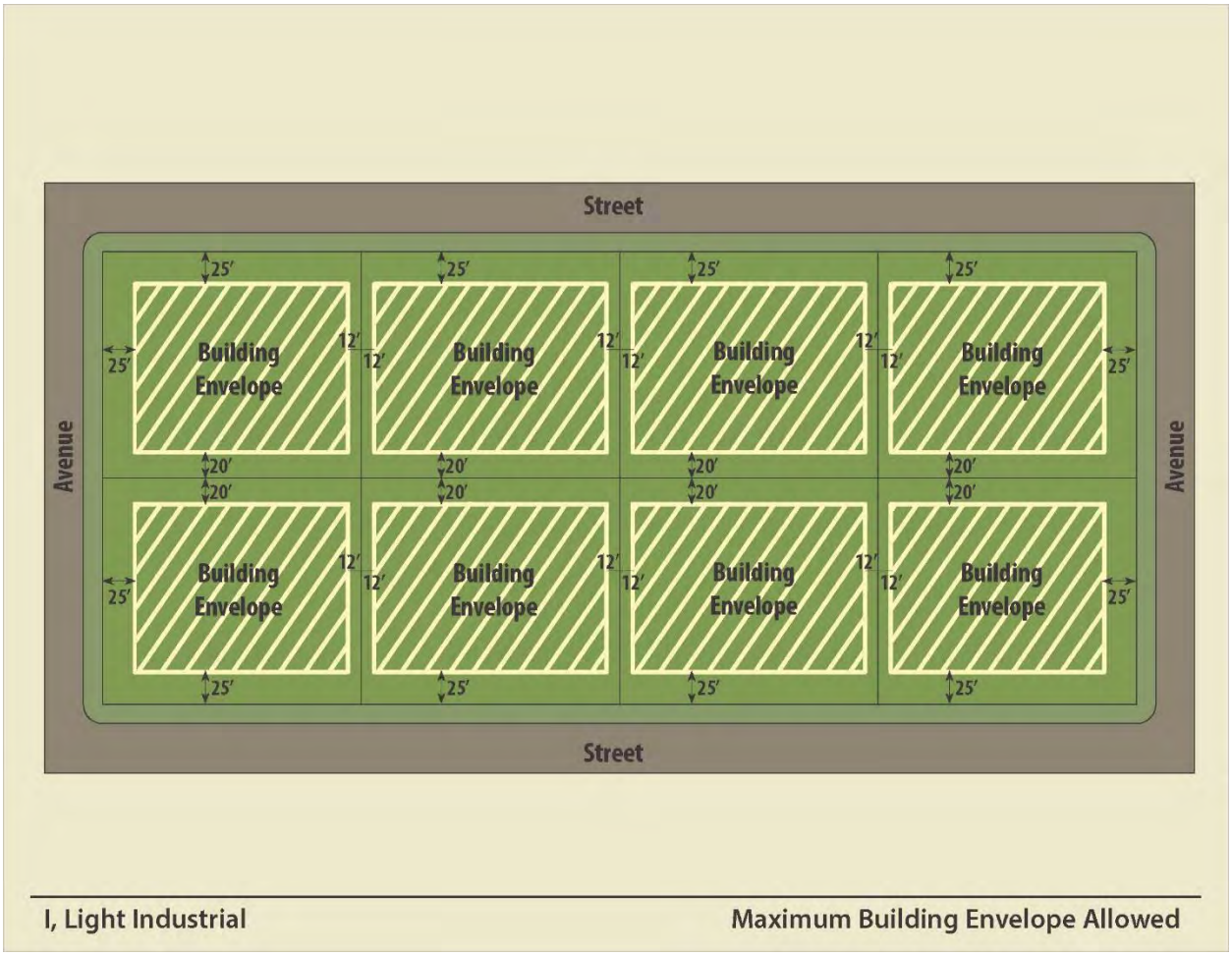
(1) Landscaping, Buffer Strip

Refer to Section 4.3 of the Zoning Ordinance. See definition of buffer strip in Section 9.0

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.



2.22 HI – Heavy Industrial

(A) Description

The HI, Heavy Industrial, District is intended to locate manufacturing and industrial operations as to not impact lower intensity, incompatible uses. District areas should be isolated to protect uses that may be objectionable or hazardous.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

No requirement

(2) Lot Size

(a) Minimum Lot Area: 8,400 sq. ft.
(b) Minimum Width: 70 ft.
(c) Maximum Lot Coverage: 85%

(3) Setbacks

(a) Minimum Front Yard Setback: 40 ft
(b) Minimum Interior Side Setback: 20 ft
(c) Minimum Street Side Setback: 40 ft
(d) Minimum Rear Setback: 40 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 100 ft

(D) Other Standards

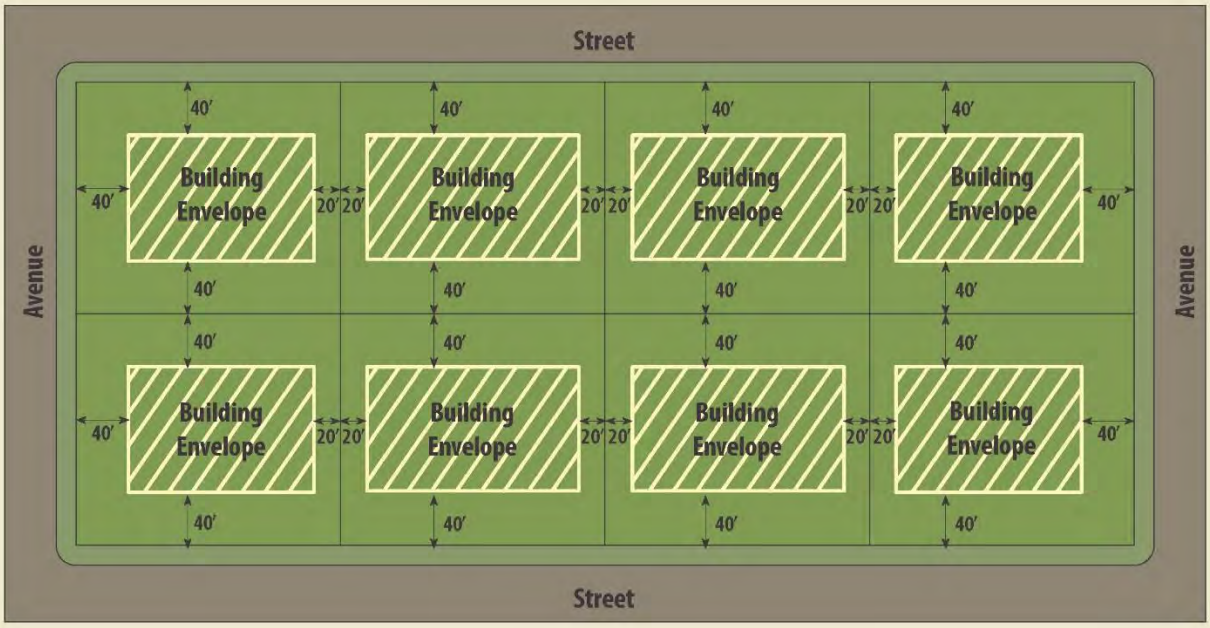
(1) Landscaping, Buffer Strip

Refer to Section 4.3 of the Zoning Ordinance. See definition of buffer strip in Section 9.0.

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov



HI, Heavy Industrial — Maximum Building Envelope Allowed

Section 2.3 Other Zoning Districts

2.31 A – Agricultural

(A) Description

The A, Agricultural, district is intended to provide a location for principally undeveloped or vacant land situated on the fringe of an urban area and used for agricultural purposes however, the land may be developed in the future. The types of uses allowed in this district encourage and protect agricultural uses until development is warranted.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

1 unit/10 acres

(2) Lot Size

(a) Minimum Lot Area: 10 acres
(b) Minimum Width: 200 ft
(c) Maximum Lot Coverage: No requirement

(3) Setbacks

(a) Minimum Front Yard Setback: 50 ft
(b) Minimum Interior Side Setback: 25 ft
(c) Minimum Street Side Setback: 25 ft
(d) Minimum Rear Setback: 50 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 60 ft

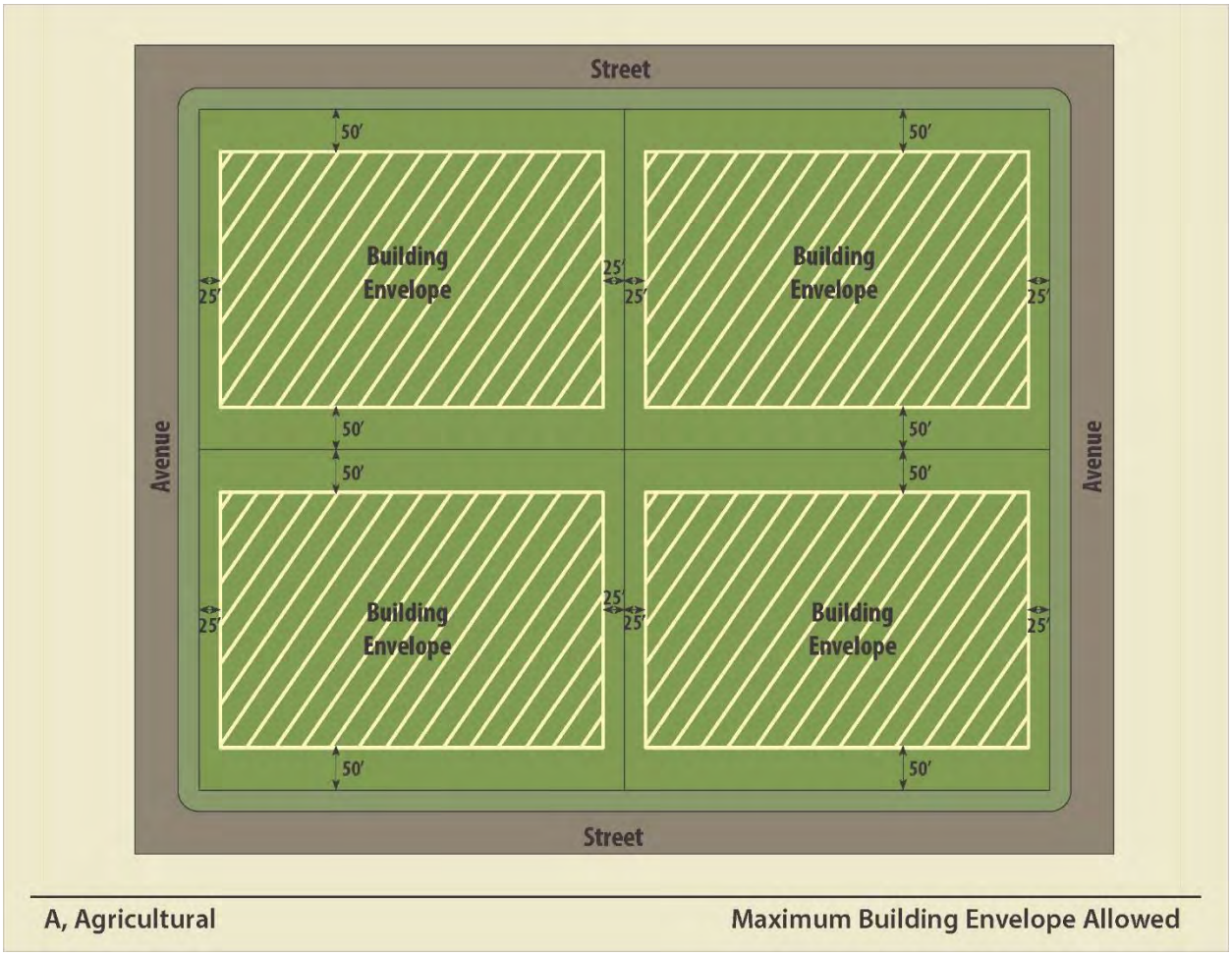
(D) Other Standards

Refer to Chapter 4 of the Zoning Ordinance.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.



2.32 POC – Public & Open Space Conservation

(A) Description

The POC, Public and Open Space Conservation, district is intended to provide for public facilities and permanent open spaces. Public facilities include uses that are governmental, civic, public service or quasi-public in nature. Open space uses include those areas of the community which exhibit significant scenic qualities, wildlife potential, or recreational potential. Also included are high risk resource areas, such as floodplain or steep terrain.

(B) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(C) Area Requirements

(1) Density

No requirement

(2) Lot Size

(a) Minimum Lot Area: No requirement
(b) Minimum Width: No requirement
(c) Maximum Lot Coverage: No requirement

(3) Setbacks

(a) Minimum Front Yard Setback: 30 ft
(b) Minimum Interior Side Setback: 6 ft
(c) Minimum Street Side Setback: 30 ft
(d) Minimum Rear Setback: 30 ft

(4) Setbacks from Highways Outside of City Limits[1]

(a) Minor Arterial: 200 ft
(b) Major and Minor Collectors: 150 ft
(c) Local Roads: 100 ft.

(5) Building Height

Maximum Building Height: 50 ft

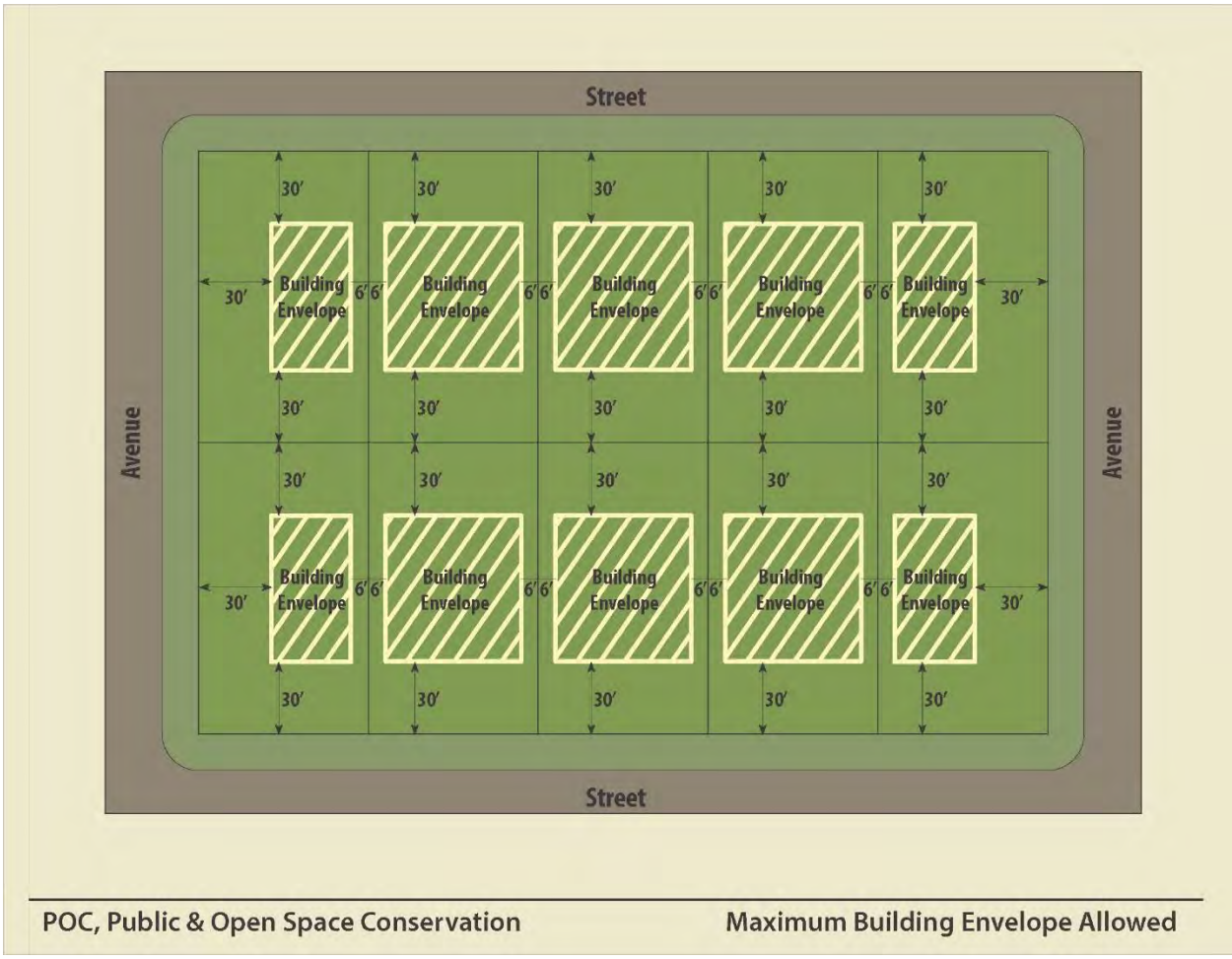
(D) Other Standards

Refer to Chapter 4 of the Zoning Ordinance.

[1] For highway designations, refer to the latest NDDOT Functional Classification Systems Map for the City of Beulah, available at www.dot.nd.gov

(E) Permit Process

Refer to section 5.1 of the Zoning Ordinance.



2.33 PUD – Planned Unit Development

(A) Description

The PUD, Planned Unit Development, district is a nonstandard district that permits greater flexibility of land planning and site design than conventional zoning districts. The district should only be provided in unique situations for the following purposes:

(1) Provide flexibility in site design, placement, and clustering of buildings; use of open areas and outdoor living areas; provision of parking; and related site and design considerations;

(2) Encourage the conservation of natural features;

(3) Provide for efficient use of public services and improvements;

(4) Permit higher density residential development in special circumstances to allow for affordable housing units.

(5) Provide for a mix of compatible land uses not otherwise allowed in other zoning districts.

The PUD designation shall not be used for the following purpose(s):

(1) To obtain variances and waivers from existing development standards;

(2) To secure agreements between an applicant and nearby property owners to receive zoning approval;

(3) And/or to assign responsibility to the City of private restrictive or protective covenants.

(B) Allowed Uses

Allowed uses are those specified in an ordinance adopted by the Council establishing a PUD district.

(C) Area Requirements

As determined by the development plan.

(D) Standards

(1) Other City Requirements. Unless specified in an ordinance adopted by the Council establishing a PUD district, all buildings and uses shall comply with the special use standards specified in Chapter 3 and the site development standards specified in Chapter 4.

(2) Compatibility. The planned development uses must be of a type and nature, as well as located as to not create a negative impact or influence upon surrounding properties. Within a mixed use planned development, the uses, despite their differences, should be complementary to one another.

(3) Need. The planned development must be of a character, land use and type needed in the area.

(4) Size. The planned development must contain at least two (2) acres.

(5) Comprehensive Plan Land Use Map. The proposed use is in harmony with the Comprehensive Plan Land Use Map of the City of Beulah.

(6) Services. Adequate utility, drainage, and other such necessary facilities and services have been or will be provided at the time of development.

(7) Access. Adequate access roads or entrance and exit drives will be provided and be so designed to prevent traffic hazards and to minimize traffic congestion on public streets.

(E) Standards to be set by Planned Development

The ordinance establishing the planned development shall specify the following items in detail, and must be in compliance with the PUD district standards (Section 2.33(D)).

(1) Allowed Uses. The Council shall establish the list of uses allowed in a PUD zoning district during the PUD Conceptual Plan approval process (See Section 2.33(F)(2)).

(2) Lot Size

(3) Residential Density.

(4) Setbacks.

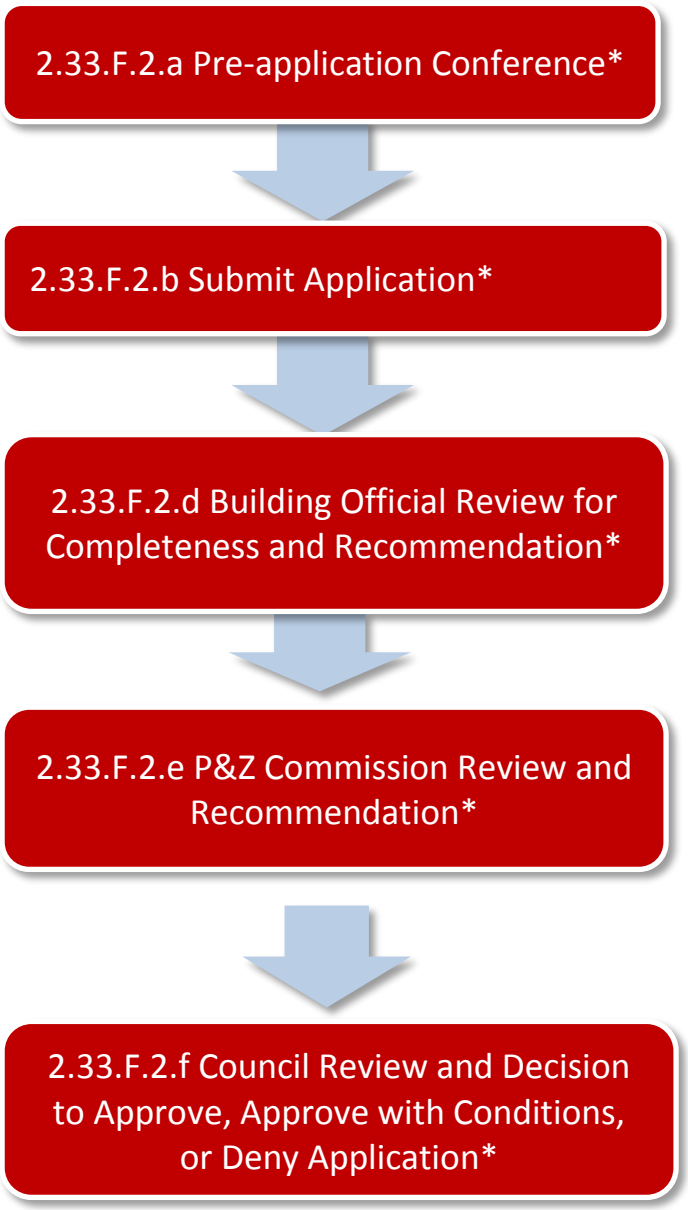
(5) Height.

(6) Lot Coverage.

(F) Application Process

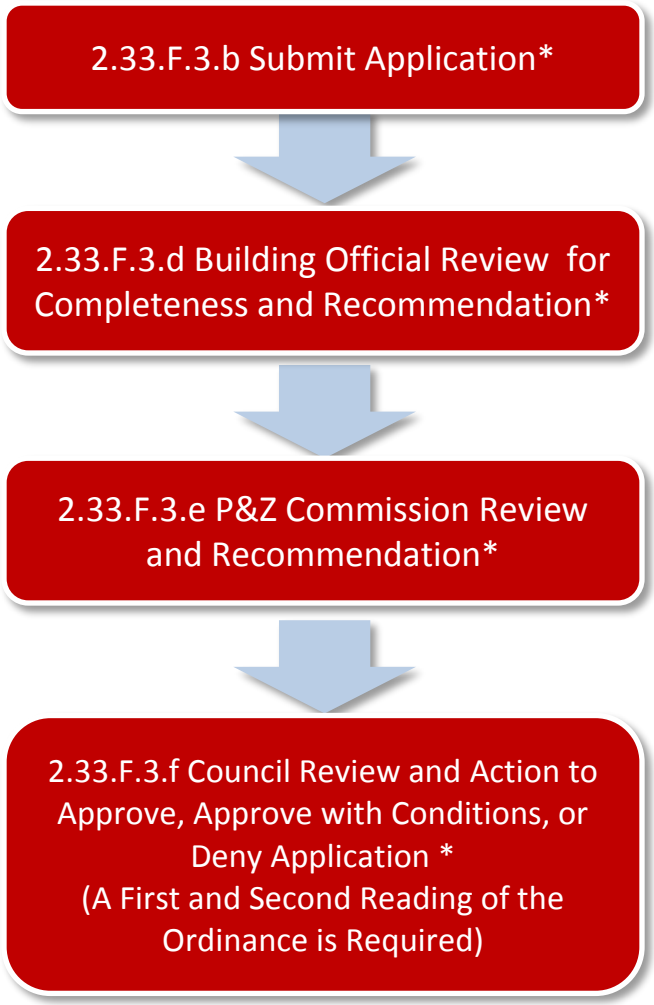
PUD Conceptual Plan

(see red text, pages II-35 to II-37 for detail)



PUD Final Plan

(see red text, pages II-37 to II-39 for detail)



(1) Process Overview

PUDs shall be processed in two stages: Conceptual Plan; Final Plan and Zoning Map Amendment. The Final Plan and Zoning Map Amendment are intended to be processed concurrently.

Stage 1: A PUD Conceptual Plan is reviewed based on the PUD Standards provided in section 2.33 (D). PUD Conceptual Plan approval establishes basic parameters for the development.

Stage 2: A PUD Final Plan is at the level of detail from which building permit approvals are issued. Detailed plans are required that are consistent with the approved PUD Conceptual Plan.

(2) PUD Conceptual Plan

The purpose of the PUD Conceptual Plan is to allow early review of a proposal before substantial commitment in technical planning from the applicant and city.

(a) Pre-application Conference*

The application shall confer with the Building Official and other city officials as determined by the Mayor and Building Official. The purpose is to provide a common understanding of the proposed PUD and the PUD review process.

(b) Submit Application*

(i.) Complete application

PUD Conceptual Plan applications shall be submitted to the Building Official in the appropriate form along with a non-refundable fee that has been established by a resolution of the Council. Additionally, Applicant shall pay into a City escrow account an amount representing the estimated legal and engineering fees and costs, and out of which the City will pay its legal and engineering fees and costs. Any legal and engineering fees and costs incurred by the City during the PUD process above and beyond the escrowed amount shall be the sole responsibility of the Applicant.

(ii.) Processing Requirements

The Building Official will determine when an application for a PUD conceptual plan is considered complete. In addition to the required fee, see the submittal checklist provided in section 2.33.F.2.c for all other required items.

(c) Application Checklist

(i) Conceptual architectural drawings.
(ii) Site Plan, with dimensions and drawn to scale.
(iii) Project description, including detail on the daily or seasonal operations; number of employees, customers, visitors; number of shifts; activities; products and services; maximum living units proposed, as applicable.
(iv) Other items and information requested by the Building Official, P&Z Commission, or Council to evaluate the proposal's potential impacts on traffic, aesthetics, city utilities, noise, and other environmental impacts.

(d) Building Official Review and Recommendation*

The Building Official shall prepare a written recommendation to the P&Z Commission that considers the PUD Conceptual Plan in light of the PUD standards provided in section 2.33 (D).

(e) P&Z Commission Review and Recommendation*

The P&Z Commission shall hold a public hearing on the PUD Conceptual Plan. The P&Z Commission may make a recommendation to the Council to approve, approve with conditions, or deny the application. The PUD Conceptual Plan application may also be tabled by the P&Z Commission in order to allow for additional information requested of the applicant. The P&Z Commission will use the criteria located in section 2.33(D) as guidance to determine if the PUD Conceptual Plan should be approved.

(f) Council Review and Action*

The Council shall hold a public hearing on the PUD Conceptual Plan application. The Council may act to approve, approve with conditions, or deny the application. The PUD Conceptual Plan application may also be tabled by the Council in order to allow for additional information requested of the applicant. The Council will use the criteria located in section 2.33(D) as guidance to determine if a PUD Conceptual Plan application should be approved.

(g) Notice of Public Hearings

(i) Newspaper
Notice of the application and the dates of the P&Z Commission and Council hearings on the application is to be published in the official newspaper of the city at least once each week for 2 successive weeks and not less than 15 days preceding the date of the first scheduled public hearing (not necessary for hearings after a continuation of the application).

(ii) Adjacent Properties
Written notice shall be provided by first class mail to all owners of the subject property and all property owners within 300 feet of the subject property. The notice shall be deposited in the U.S. mail at least 15 days before the first scheduled public hearing (not necessary for hearings after a continuation of the application) and prior to the P&Z Commission meeting.

(h) Effect of Approval

(i) Approval of the PUD Conceptual Plan is the Council's acceptance of the general use, design, and other planning concepts for the proposed conceptual plan.
(ii) Approval is required prior to filing for a PUD Final Plan and PUD Zoning Map Amendment.

(i) Failure to Act
An approved PUD Conceptual Plan shall be declared null and void if a PUD Final Plan and PUD Zoning Map Amendment are not filed for within one year of PUD Conceptual Plan approval. In the event this occurs, the existing zoning district requirements shall remain in effect.

*See process chart on page II-34.

(3) PUD Final Plan
A PUD Zoning Map Amendment must be processed concurrently with the PUD Final Plan.

(a) Criteria - To ensure compliance with the approved PUD Conceptual Plan, the PUD Final Plan shall not result in:

(i) Increase in project density or intensity
(ii) Change in the mix of housing types and land uses.
(iii) A reduction in the amount of open space and recreational areas.

(iv) Any substantial change to the circulation system, access, and parking areas.
(v) Any substantial change to the architectural character, quality, or aesthetics of that shown in the conceptual plan.

(b) Submit Application*

(i) Complete application

PUD Final Plan applications shall be submitted to the Building Official in the appropriate form along with a non-refundable fee that has been established by a resolution of the Council. Additionally, Applicant shall pay into a City escrow account an amount representing the estimated legal and engineering fees and costs, and out of which the City will pay its legal and engineering fees and costs. Any legal and engineering fees and costs incurred by the City during the PUD process above and beyond the escrowed amount shall be the sole responsibility of the Applicant.

(ii) Processing Requirements

The Building Official will determine when an application for a PUD final plan is considered complete. In addition to the required fee, see the submittal checklist provided in section 2.33.F.3.c for all other required items.

(c) Application Checklist

(i) Detailed architectural drawings.
(ii) Site Plan, with dimensions and drawn to scale.
(iii) Project description, including detail on the daily or seasonal operations; number of employees, customers, visitors; number of shifts; activities; products and services; maximum living units proposed, as applicable.
(iv) Other items and information requested by the Building Official, P&Z Commission, or Council to evaluate the proposal's potential impacts on traffic, aesthetics, city utilities, noise, and other environmental impacts.

(d) Building Official Review and Recommendation*
The Building Official shall prepare a written recommendation to the P&Z Commission that considers the PUD Final Plan in light of the approved PUD Conceptual Plan and section 2.33(F)(3)(a).

(e) P&Z Commission Review and Recommendation*
The P&Z Commission shall hold a public hearing on the PUD Final Plan. The P&Z Commission may make a recommendation to the Council to approve, approve with conditions, or deny the application. The PUD Final Plan application may also be tabled by the P&Z Commission in order to allow for additional information requested of the applicant. The P&Z Commission will use the criteria located in section 2.33(F)(3)(a) as guidance to determine if the PUD Final Plan should be approved.

(f) Council Review and Action*

The Council shall hold a public hearing on the PUD Final Plan application. The Council may act to approve, approve with conditions, or deny the application. The PUD Final Plan application may also be tabled by the Council in order to allow for additional information requested of the applicant. The Council will use the criteria located in section 2.33(F)(3)(a) as guidance to determine if a PUD Final Plan application should be approved.

(g) Notice of Public Hearing

Notice of the application and the dates of the P&Z Commission and Council hearings on the application is to be published in the official newspaper of the city at least once each week for 2 successive weeks and not less than 15 days preceding the date of the first scheduled public hearing (not necessary for hearings after a continuation of the application)

(h) Effect of Approval

Approval of the PUD Final Plan grants the applicant the right to develop the subject property, in compliance with the PUD Final Plan, this Zoning Ordinance, the North Dakota Century Code, and the Building Code.

(i) Failure to Act

An approved PUD Final Plan shall be declared null and void if applications for development have not been filed within one year of approval. If Certificates of Occupancy are not obtained within two years of approval of the PUD Final Plan, the applicant must seek a time extension from the P&Z Commission.

(j) Time Extension

A time extension must be submitted to the Building Official, on a form acceptable to the Building Official, along with the same fee as required for the PUD Final Plan.

*See process chart on page II-35.

(4) City Zoning Map Amendment

A City Zoning District Map Amendment must be processed concurrently with a PUD Final Plan. The City Zoning District Map Amendment must be processed as provided in section 5.18.

Section 2.4 Overlay Zoning Districts

2.41 FPO – Flood Plain Overlay

(A) Description

The FPO, Flood Plain Overlay, district is intended to provide special standards for development in areas subject to flooding. These areas include those that are defined as zones A, AE, AH, AO, AR, and A99 as depicted on the most recent Flood Insurance Rate Map (FIRM) produced by the Federal Emergency Management Agency (FEMA). The purpose of the overlay district is to minimize potential loss of life, destruction of property, and the use of public funds for costly flood control projects.

(B) Statutory Authorization

The Legislature of the State of North Dakota has in North Dakota Century Code, Chapters 40-47, 11-33 and 58-03, or as may be amended, delegated responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of the citizenry.

Therefore, the City Council of the City of Beulah, North Dakota does ordain as follows:

(C) Findings of Fact

(1) The flood hazard areas of the City of Beulah are subject to periodic inundation which can endanger life, result in loss of property, create health and safety hazards, disrupt commerce and governmental services, cause extraordinary public expenditures for flood protection and relief, and impair the tax base, all of which adversely affect the public health, safety and general welfare.

(2) Flood losses caused by the cumulative effect of obstructions in the special flood hazard areas cause increases in flood heights and velocities. Inadequately floodproofed, elevated or otherwise unprotected structures also contribute to flood loss.

(D) Statement of Purpose

It is the purpose of this subsection to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed;

(1) To protect human life and health;

(2) To minimize expenditure of public money for costly flood control projects;

(3) To minimize the need for rescue and relief efforts associated with flooding, and generally undertaken at the expense of the general public;

(4) To minimize prolonged business interruptions;

(5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, streets, and bridges located in special flood hazard areas;

(6) To help maintain a stable tax base by providing for the second use and development of special flood hazard areas so as to minimize future flood blight areas;

(7) To ensure that potential buyers are notified that property is in a special flood hazard area; and,

(8) To ensure that those who occupy the special flood hazard areas assume responsibility for their actions.

(E) Methods of Reducing Flood Losses

In order to accomplish its purposes, this Zoning Ordinance includes methods and provisions for:

(1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

(2) Requiring that uses vulnerable to flood, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

(4) Controlling filling, grading, dredging, and other development which may increase flood damage; and,

(5) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.

(F) Lands to Which this Subsection Applies

This subsection shall apply to all special flood hazard areas within the jurisdiction of the City of Beulah.

(G) Basis for Establishing the Special Flood Hazard Areas

The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Beulah, dated October 16, 2015," with an accompanying Flood Insurance Rate Map is hereby adopted by reference and declared to be a part of this subsection. The Flood Insurance Study is on file at Beulah City Hall located at 120 Central Avenue N., Beulah, North Dakota 58523.

(H) Compliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered

without full compliance with the terms of this subsection and other applicable regulations.

(I) Greater Restrictions

This subsection is not intended to repeal, remedy, or impair any existing easements, covenants, or restrictive or protective covenants. However, where this subsection and another ordinance, easement, covenant, or restrictive or protective covenants conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(J) Interpretation

In the interpretation and application of this subsection, all provisions shall be:

(1) Considered as minimum requirement;

(2) Liberally construed in favor of the City of Beulah; and,

(3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(K) Warning and Disclaimer or Liability

The degree of flood protection required by this subsection is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This subsection does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This subsection shall not create liability on the part of the City of Beulah, its City Council members, officers, agents, or employees, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this this subsection or any administrative decision lawfully made thereunder.

(L) Designation of the City Floodplain Manager

The City Floodplain Manager is hereby appointed to administrator and implement this subsection by granting or denying development permit applications in accordance with its provisions.

(M) Duties and Responsibilities of the City Floodplain Manager

Duties of the City Floodplain Manager shall include, but not be limited to:

(a) Permit Review

(i.) Review all development permits to determine that the permit requirements of this subsection have been satisfied.

(ii.) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local government agencies from which prior approval is required.

(iii.) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection 2.41(R)(1)(a) are met.

(b) Use of Other Base Flood Data

When base flood data has not been provided in accordance with subsection 2.41(G), the City Floodplain Manager shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available (known as best available data) from a federal, state, or other source, as criteria for requiring that new construction, substantial improvements, or other development in the floodplain are administered in accordance with subsection 2.41(Q).

(c) Information to be Obtained and Maintained

(i.) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(ii.) For all new or substantially improved floodproofed structures:

1. Obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed;

2. Maintain the floodproofing certifications required in subsection 2.41(N)(1)(c).

(iii.) Maintain for public inspection all records pertaining to the provisions of this subsection.

(d) Alteration of Watercourses

The Floodplain Manager shall:

1. Notify nearby communities, water resource districts, and the North Dakota State Engineer, as necessary, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished; and,

3. Notify the appropriate water resource district prior to removal or placement of fill within two hundred feet of the bank of a body of water during normal flow or stage.

(e) Interpretation of Flood Insurance Rate Map (FIRM) Boundaries

Make interpretation where needed, as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection 2.41(O).

(N) Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any special flood hazard area established in subsection 2.41(G). Application for a development permit shall be made on forms furnished by the City Floodplain Manager and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill storage materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

(1) Elevation in relation to mean sea level, of the lowest floor of all structures;

(2) Elevation in relation to mean sea level to which any structure has been floodproofed;

(3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in subsection 2.41(Q); and,

(4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(O) Variance Procedure

(1) Council shall hear and decide requests for variances from the requirements of this subsection.

(a) In passing upon such applications, the Council shall consider all technical evaluations, all relevant factors, standards specified in other parts of this subsection; and:

(i.) the danger that materials may be swept onto other lands to the injury of others;

(ii.) the danger to life and property due to flooding or erosion damage;

(iii.) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(iv.) the importance of the services provided by the proposed facility to the community;

(v.) the necessity to the facility of a waterfront location, where applicable;

(vi.) the availability of alternative locations, for the proposed use which are not subject to flooding or erosion damage;

(vii.) the compatibility of the proposed use with existing and anticipated development;

(viii.) the relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program for that area;

(ix.) the safety of access to the property in time of flood for ordinary and emergency vehicles;

(x.) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(xi.) 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.

(b) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre to less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in subsection 2.41(O)(1) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(c) Upon consideration of the factors of subsection 2.41(O)(1) and the purposes of this subsection, the Council may attach such conditions to the granting of variances as it deems necessary to further the purposes of this subsection.

(2) Conditions for Variances

(a) 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.

(b) Variances shall not be issued within the identified floodplain if any increase in flood level during the base flood discharge would result.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) 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 a variance will not result in increased flood heights, additional threats to public safety, cause fraud on or victimization of the public as identified in subsection 2.41(O)(1), or conflict with existing laws or ordinances.

(e) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(3) Appeals to the Council

(a) The Council shall hear and decide requests for variances in accordance with the requirements of this subsection.

(b) The Council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the City Floodplain Manager in the enforcement or administration of this subsection.

(c) Those aggrieved by the decision of the Council or any taxpayer, may appeal such decision to the District Court, as provided in N.D.C.C. § 40-47- 11, 11-33-12, 58-03-14, or as amended.

(d) The City Floodplain Manager shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(P) General Standards

In all special flood hazard areas the following standards are required:

(1) Anchoring

(a) All new construction and substantial improvements, including additions, shall be anchored to prevent flotation, collapse or lateral movement of the structure.

(b) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(2) Construction Materials and Methods

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) All new construction and substantial improvements shall 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.

(3) Utilities

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

(c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals

(a) All subdivision proposals shall be consistent with the need to minimize flood damage;

(b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

(c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

(d) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least 50 lots or 5 acres (whichever is less).

(Q) Specific Standards

In all special flood hazard areas where base flood elevation data has been provided as set forth in subsection 2.41(G) or subsection 2.41(M)(1)(b), the following provisions are required:

(1) Residential Construction

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot above the base flood elevation according to local, state, and federal regulations.

(2) Nonresidential Construction

Construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to at least one foot above the base flood elevation according to local, state, and federal regulations or, together with attendant utility and sanitary facilities shall:

(a) Be flood proofed to at least two feet above the base flood elevation, so that below this elevation the structure is watertight with walls substantially impermeable to the passage of water.

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(c) Be certified by are registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the City Floodplain Manger as set forth in subsection 2.41(N)(1)(c).

(3) Manufactured Homes

(a) Manufactured homes shall be anchored in accordance with subsection 2.41(P)(2)(b).

(b) All manufactured homes or those to be substantially improved shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated on fill to at least one foot above the base flood elevation, and is securely anchored to an adequately anchored foundation system as referred to in the Federal Emergency Management Agency's *Protecting Manufactured Homes from Floods and other Hazards, A Multi-Hazard Foundation and Installation Guide*.

(R) Floodways

Located within the special flood hazard areas established in subsection 2.41(G) are areas designated as floodways. Since a floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) If subsection 2.41(R)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of subsections 2.41 (P), (Q), and (R).

2.42 UGO – Underground Mining Overlay

(A) Description

The UGO, Underground Mining Overlay, district is advisory and voluntary; however, compliance is strongly recommended for the protection of life and property.

This district is intended to advise property owners and developers of the potential development hazards and threats to life and property that may be created by underground mining as a result of historic mining activity in the area. Areas with proven underground mining and the potential for underground mining have been documented by the North Dakota Public Service P&Z Commission, Abandoned Mine Lands Division (AML). The overlay district corresponds to those areas within the City's zoning jurisdiction that have been documented by AML.

This district applies to all forms of development, including roads, utilities, and any structures. All work in connection with development, including grading, paving, and other necessary activities is subject to this section.

(B) Allowed Uses

As allowed in the base zone district(s)

(C) Area Requirements

As allowed in the base zone district(s)

(D) Standards

(1) To demonstrate that no undermining hazards are present onsite, the following should be performed by the applicant:

(a) Coordinate with AML for documentation regarding whether or not undermining hazards exist at the proposed development site. Evidence of coordination with AML should be submitted and kept on file with the Building Official.

(b) If no documentation exists on record with AML, then the applicant should utilize an engineering or drilling firm to conduct a site evaluation.

(c) The engineering or drilling firm should provide evidence in writing that they have coordinated with AML to account for known undermining activity at the proposed site.

(d) A copy of the site evaluation results should be delivered to the Building Official.

(2) If the proposed site has already been documented as having been undermined by the City and/or AML, then development of the site is not recommended.

(3) If the site evaluation shows that undermining is present underneath the site, then development of the site is not recommended.

(E) Responsibility

(1) All development decisions made as a result of this section are the responsibility of the property owner.

(2) The City of Beulah and AML cannot assume the risk of injury to persons or damage to persons or property resulting from work performed as advised in this section.

(3) Pursuant to N.D.C.C. 32-12.1-03(3)(f)(1), the City of Beulah may not be held liable for any claim relating to injury directly or indirectly caused by the performance or nonperformance of a public duty, including inspecting, licensing, approving, mitigating, warning, abating, or failing to so act regarding compliance with or the violation of any law, rule, regulation, or any condition affecting health or safety.

Section 2.5 Use Table

P	Permitted Use by Right
C	Conditional Use
P[#]	Permitted Use w/ Requirements
C[#]	Conditional Use w/ Requirements
No Symbol	Not Permitted

Use Category	Use	AG - Agricultural	R1 - Single Family, Detached	R2 - Low Density Multi Family	R3 - High Density Multi Family	R4 - Manufactured Home Park	R6 - Rural Residential	R7 - Urban Multi Family	C1 - Central Business District	C2 - Highway Commercial	C3 - General Commercial	C4 - Neighborhood Commercial	I - Light Industrial	HI - Heavy Industrial	POC - Public and Open Space Conservation
Residential															
Group Living	Assisted Living Facility				C			C							
	Nursing Facilities				C			C							
	Group Home - Disabled		P	P	P	P	P	P							
	Group Home - Halfway House				C			C							
	Retirement Facilities			C	P			P							
Multi Family	Multi-family Residential				P			P	P[2.11 (D)(1)]						
	Basement Apartment		C	P	P		C	P	P						
	Crew Camp	C[3.5]											C[3.5]	C[3.5]	
	Twin Homes			P	P				C						
	Duplex			P	P				C						
	Townhomes			P	P			P	C						
Single Family	Second Dwelling, Detached	C					C								
	Dwelling, Single Family Detached w/ Horses	P					P								
	Dwelling, Single Family Detached	P	P	P	P	P	P		C						P
	Manufactured Homes	P				P			C						
	Mobile Homes	P				P									
	Modular Homes	P		P		P	P								
	Guest House	P[3.7]	P[3.7]	P[3.7]											
	Temporary Residence	P[3.15]	P[3.15]	P[3.15]	P[3.15]	P[3.15]	P[3.15]	P[3.15]					P[3.15]	P[3.15]	
	Recreational Vehicle Park	C[3.11]					C[3.11]			C[3.11]					C[3.11]

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Commercial															
Food and Beverages	Bakeries								P		P	P			
	Delicatessen								P	P	P	P			
	Dine-In Restaurants								P	P	P	P			
	Drive-Thru Restaurants								C	P	P	P			
	Liquor Stores								P	P	P	P			
	Taverns/Bars								P	P	P	P			
Motor Vehicle Sales and Services	Car Wash									P	P	P	P		
	Motor Vehicle Sales									P	P		P		
	Motor Vehicle Repair, Tire Sales, and Services									P	P		P	P	
	Motor Vehicle Dealerships									P	P		P		
Other	Animal Hospitals/Veterinary									P	P	P			
	Animal Kennels									C	C		C		
	Barber Shop/Beauty Salon								P	P	P	P			
	Bed and Breakfast Establishment	C[3.2]		C[3.2]	C[3.2]			P[3.2]	P			P			
	Hotel/Motel								P	P	P				
	In-home Businesses	P[3.8]	P[3.8]	P[3.8]	P[3.8]	P[3.8]	P[3.8]	P[3.8]	P[3.8]						
	Offices, Medical								P	P	P	P	P	P	
	Offices, Professional								P	P	P	P	P	P	
	Laundromats								P	P	P	P	P		
	Mortuaries									C	P		P		C
	Photography/Art Studios								P		P				
	Self-Service Storage Facilities										P[3.14]		P		
	Tattoo Parlor								P	P	P				

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Commercial															
Other	Convenience Stores w/ Fuel									P	P	P	P		
	Convenience Stores w/o Fuel								P	P	P	P	P		
	Filling Station									P	P	P	P		
	Adult Entertainment Centers												P[3.0]		
	Dry Cleaner								P	P	P	P	P		
	Paint Store and Service									P	P		P		
	Plumbing Service									P	P		P		
	Radio/TV Station								P	P	P		P		
	Shoemaker								P	P	P	P	P		
	Tailor								P	P	P	P	P		
	Butcher Shops								P	P	P	P	P		
	Retail Shops								P	P	P	P			
Recreation, Commercial	Amusement Parks									P	P	C			
	Bowling Alleys									P	P	P			
	Dance Studio									P	P	P			
	Health Club								P	P	P	P			
	Mini Golf									P	P	P			
	Private Clubs	C								P	P	P			
	Commercial Skating Rinks									P	P	P			
	Theaters, Drive-in									P	P	C			
	Theaters								P	P	P	C			
	Agricultural Public Events	C													C

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Industrial															
Agriculture	Agriculture/Farming	P													P
	Dairy Processing Plants												C	P	
	Feedlots	C												P	
	Grain Mills/Elevators	C											P	P	
	Wholesale Nurseries & Greenhouses	P					C						P		P
	Agriculturally-Oriented Business	C								C			P	C	
Industrial Production	Chemical Fertilizer Plant													P	
	Lumber yard												P	P	
	Salvage & Junk yard													P[3.13]	
	Pipeyards													P	
	Utility Corridors	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]	C[3.16]
	Refineries & Petro-chemical Plant													C[3.12]	
Resource Extraction	Mineral Extraction	C[3.9]												C[3.9]	
	Oil & Gas Drilling	C												C	
	Sand and Gravel Mining	C[3.9]												P	
	Sand and Gravel Processing	C[3.9]												P	
	Utility Scale Solar	C[3.17]												P	
	Wind Energy Conversion														

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Industrial															
Other	Machine or Welding Shop												P	P	
	Aviation	C													C
	Concrete Mixing Plant	C												P	
	Car Enthusiasts & Collectors												P[3.3]	P	
	Machinery/Equipment Sales & Services												P	P	
	Outdoor Storage									C	C		P	P	
	Production Facility												P	P	
	Storage of Hazardous Materials												C	C	
	Temporary Structures	P[3.15]											P[3.15]	P[3.15]	
	Truck Stops									P	P		P	P	
	Commercial Above-ground Fuel Storage									C[3.4]			P[3.4]	P[3.4]	
	Railroad Spur (Not Railroad Owned)	C[3.10]												C[3.10]	
	Commercial Warehouses												P	P	
Institutional															
Education	Colleges								C	C					P
	Preschools		C	C	C	C	C	C	C			C			P
	Primary Schools														P
	Secondary Schools														P
	Technical/Trade Schools								C	C	P				P

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Institutional															
Government and Services	Governmental Offices/Facility (Other)		C	C	C	C	C	C	C	C	C	C	C	C	P
	Drainage Facilities	C	C	C	C	C	C	C	C	C	C	C	C	C	P
	Utility Building	C	C	C	C	C	C	C	C	C	C	C	C	C	C
	Sewage Treatment Plants	C												C	C
	Solid Waste Landfills	C												C	C
	Water Storage Facility	C	C	C	C	C	C	C		C	C	C	C	C	P
Other	Cemeteries														P
	Emergency Response Facilities	C							C	C	C	C	C		C
	Health Care Facilities								C	P	P	P			P
	Community Centers		C	C	C	C	C	C	P	P	P	P	P		
	Conservation Areas	P													P
	Day Care Facilities		P[3.6]	P[3.6]	P[3.6]	P[3.6]	P[3.6]	P[3.6]	P[3.6]	P[3.6]	P[3.6]	P[3.6]			
	Religious Institutions		C	C	C	C	C	C	C	C	C	C			
	Parking Lot, Commercial or Public				P			P	P	P	P	P	P	P	P
	Parking Garage							P	P	P	P				
Recreation	Campground														P
	Indoor Recreation Center		C	C	C	C	C	C	C	C	C	C			P
	Community Swimming Pools		P	P	P	P	P	P				P			P
	Cultural Institutions								P	P		P			P
	Golf Courses/Country Clubs	C													P
	Libraries		C	C	C	C	C	C	C	C	C	C			P
	Parks		P	P	P	P	P	P	P	P	P	P			P

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Communications															
	Off-premise Advertising Signs	C								P[4.46]	P[4.46]		P[4.46]	P[4.46]	
	Wireless Telecommunication Facilities	**Go to [7.2]**													

Chapter 3 Special and Conditional Use Standards

*Refer to the Use Table (Section 2.5) for other uses without special standards and not listed in this chapter.

Section 3.0 Adult Entertainment Centers

Standards

(1) Separation Requirements

An adult entertainment center business shall not be located within 1,250 feet of the following:

(a) Any religious institution

(b) School (public or private)

(c) Park or recreation facility (excluding paths)

(d) Residential zoning district

(e) Daycare facility

(f) Planned unit development with dwelling units.

(g) Any establishment that dispenses alcoholic beverages onsite

(h) Another adult entertainment center business

(2) The entrance of persons less than 18 years of age shall be prohibited

(3) Signs and Displays

(a) No signs shall be displayed on the outside of the building or free-standing onsite, except for signs identifying the business as an “adult entertainment center”, “adult bookstore”, “adult entertainment facility”, “adult cinema” or something similar thereto.

(b) No signs or other materials depicting sexual activities or anatomical areas shall be portrayed outside of the building or free-standing onsite.

Section 3.1 Accessory Structures

(A) Area Requirements

(1) Density

Lot coverage: accessory structures are included within the maximum lot coverage for each zoning district.

(2) Setbacks

(a) Setbacks to lot lines are the same as required in the applicable zoning district.

(b) Minimum setbacks between structures: as Building and Fire Codes allow.

(3) Building Height

Maximum height is provided in each zoning district section. Where not listed for accessory structures, the maximum height shall be the same for all structures.

(B) Other Standards

(1) Accessory structures may not be utilized for permanent or temporary residential occupancy.

(2) Each accessory structure may include up to one (1) kitchen and one (1) bathroom for private use.

Section 3.2 Bed and Breakfast Establishments

Standards

(1) No more than four (4) guestrooms shall be offered for use at any one time.

(2) Each bed and breakfast shall meet the off-street parking requirements in Section 4.1.

(3) No long-term rental shall be permitted. The maximum length of stay shall be 30 days.

(4) The residence of the host/operator of the bed and breakfast shall be within the bed and breakfast establishment.

(5) Structures shall not be altered in a way that changes the general appearance as a residential structure.

(6) Receptions, private parties, or similar activities shall not be permitted unless expressly approved as part of a Conditional Use Permit.

(7) Other than registered guests, no meals shall be served to the general public unless expressly approved as part of a Conditional Use Permit.

(8) No cooking facilities shall be allowed in the guest rooms.

(9) One sign shall be allowed, with a size limit of three square feet. Internally illuminated signs are not allowed.

Section 3.3 Car Enthusiasts and Collectors

Standards

(1) Antique Vehicles, Special Interest Vehicles, and/or Parts Cars may be located, stored, and maintained only on the vehicle owner's property.

(2) Antique Motor Vehicles, Special Interest Vehicles, and/or parts cars may be dismantled on property owned by the car enthusiast or collector, for purposes of making necessary repairs or improvements to said vehicles.

(3) The standards of this section shall not apply to any special interest vehicle which is operable and licensed to be operated on North Dakota highways and streets.

Section 3.4 Commercial Above-ground Fuel Storage

Standards

(1) Exemption

(a) Above-ground fuel storage tanks utilized for non-commercial, onsite building heating needs are allowed in any zone district and are subject to State requirements.

(b) Below-ground storage does not apply to this section and are subject to State requirements.

(2) Storage Restrictions

Individual and aggregate tank size limits are determined by the State Fire Marshal.

(3) Code Compliance

(a) Written evidence of approval by the State Fire Marshall and/or respective fire districts shall be submitted to the Building Official.

(b) Where State and City regulations apply, the stricter regulation applies.

(4) The applicant shall provide any other information the Building Official deems necessary.

Section 3.5 Crew Camps

(A) Standards

(1) Lots

The parcel upon which a crew camp is located will meet the lot area and width requirements of the zoning district in which it is located.

(2) Access

(a) The housing facility must be located along, or shall have direct access to, an improved section line roadway or other roadway classified as an arterial. If the arterial roadway is not improved, the developer/operator is responsible for construction and paving costs of said roadway to City standards, if required, based on site location, prior to occupancy of the housing facility.

(b) A minimum of two access points are required for crew camps with occupancies of 25 or more residents. This is to allow for alternate emergency access.

(c) A traffic study is required for facilities with more than 100 residents. Roadway improvements (i.e. turn lanes) recommended by the traffic study shall be installed at the owner's expense.

(3) Emergency Preparedness

(a) The applicant/owner must provide Law Enforcement officers unrestricted access to any crew camp building and/or premises for the purposes of carrying out their duties as Law Enforcement officers.

(b) To allow emergency service providers to pinpoint the location of a victim and to speed up their response time, each dwelling unit in the facility shall have a locator device deemed suitable by the local emergency service providers. Such device may be a colored flashing beacon or strobe light. Locations of the locator devices shall be near the doorways of individual sleeping quarters and at any other locations throughout the facility as deemed necessary by local emergency service responders.

(c) Each structure in the facility shall have full 360-degree access around the structure for fire-fighting apparatus and emergency responders.

(d) Each structure in the facility shall provide for adequate fire suppression.

(e) A storm shelter must be provided onsite to provide adequate space for all residents and employees of the crew camp at maximum occupancy. Shelter design must be approved by the City Building Official.

(f) Each unit within the development shall be numbered for emergency response purposes. A map mounted on a sign shall be provided at the entrance that identifies the location and numbers of the units within the development. Additional directional signs shall be utilized within the development to help guide emergency responders.

(g) The crew camp facility shall provide for adequate security for the premises. The owner/applicant shall be required to submit a security plan approved by the Beulah Chief of Police.

(4) Onsite Improvements

(a) Roads to be constructed within the facility shall meet City specifications.

(b) Each crew camp is subject to compliance with the State Building Code, the State Electrical Code, and the State Plumbing Code.

(c) One off-street parking space is required for each resident and for each employee of the facility. No on-street parking is allowed.

(d) Spacing between individual units shall be in compliance with fire code and building code specifications. Zoning district setback requirements do not apply.

(e) A minimum of ten (10) percent of the gross area of the site shall be utilized for outdoor recreational and leisure space.

(f) A 6 foot fence shall be installed around the perimeter of the crew camp facility. The fence may be chain linked or slatted, and shall be constructed in such a way as to prevent any garbage or refuse from escaping the crew camp premises.

(5) Required Facility Identification Signs

Up to sixty-four (64) square feet of sign area visible from external roadways and adjoining property is permitted onsite. No single sign shall exceed thirty-two (32) square feet in area. Signs shall not obstruct views of drivers. Signs shall be illuminated at night.

(6) Storm Water Management

Storm water runoff must be controlled to ensure no net increase in runoff as compared to the site prior to development.

(7) Water and Wastewater

(a) Onsite water and wastewater systems must meet compliance with North Dakota State Health Department requirements.

(b) For connections to an existing water supply or wastewater systems, agreements with service providers are required.

(8) Occupant Restrictions

(a) If pets are allowed by the facility owner's policy, the site must be fenced and gated to contain any animals on the site. Perimeter fencing must be provided as approved by the P&Z Commission.

(b) Residents may not be permitted to move into or live in any previously used housing units unless the housing has a current limited certificate of inspection or has been found to meet all applicable codes and requirements by any code enforcement agency having jurisdiction.

(c) Residents are prohibited from possessing any dangerous weapons or any firearm on the crew camp facility premises, as those terms are defined in N.D.C.C. § 62.1-01-01.

(d) Alcohol use shall be permitted pursuant to the Council's approval. The operator of the crew camp shall be responsible for establishing and enforcing any restrictions required related to possession and/or use of alcohol on the crew camp premises.

(e) Recreational vehicles, campers, and mobile homes are prohibited within any crew camp facility within the City.

(9) Enforcement

(a) The City Building Official may conduct a nondestructive walkthrough inspection of previously used temporary work camp housing to ensure compliance with applicable codes, including the State Building Code, State Electrical Code, and State Plumbing Code. If the housing is found to be compliant with these codes, the Building Official may issue a limited certificate of inspection, which is effective for the term of the conditional use permit.

(b) A third-party certificate of inspection is required for newly manufactured housing facilities.

(c) The Council shall review any approved conditional use permit for a crew cramp on an annual basis to ensure compliance with the conditions as provided in the conditional use permit issued by the city.

(10) Reclamation

(a) An owner of a crew camp has the duty to remove that housing and all related above-grade and below-grade infrastructure within one hundred eighty days after the crew camp is vacated, and return the property to its original condition, or such condition as approved by the property owner and the City. .

(b) The City may abate any public nuisance caused by vacated crew camps within its jurisdiction.

(c) A crew camp owner shall provide the City with a surety bond, letter of credit, or other security instrument in the form and in an amount specified by the City. These funds must be used to cover actual expenses that may be incurred by the City in removal of the temporary work camp housing, including any above-grade or below-grade infrastructure. The owner is liable for any expenses that are reasonably incurred by the City which exceed the amount of the security.

(d) The City may abate any public nuisance caused by vacated crew camps within its jurisdiction. The cost of such abatement shall be assessed against the property where the crew camp is located, or the reclamation surety bond, letter of credit, or other security instrument provided under this section.

(B) Application Submittal Requirements

(1) Site Plan, to include the following:

(a) Existing Conditions

(i) Vicinity map inset showing facility location in proximity to Beulah
(ii) Property lines
(iii) Public rights-of-way and public and private access easements
(iv) Utility easements
(v) Width and surfacing of existing roads serving the facility

(b) Proposed Development

(i) Location and use of structures
(ii) Building setback distances from property lines
(iii) Distances between structures
(iv) Distance from structures to internal roads/streets
(v) Widths and surfacing of roads/streets
(vi) Off-street parking spaces
(vii) Location and size of any signage
(viii) Location, size, and type of onsite recreational amenities
(ix) Onsite fencing location and detail
(x) Infrastructure locations
(xi) Snow storage areas
(xii) Outdoor recreation and leisure area

(c) Storm Water Management Plan

(i) Existing contours with existing drainage patterns
(ii) Existing culvert sizes and locations
(iii) Proposed contours and directions of flows
(iv) Proposed retention facilities
(v) Calculations of proposed runoff and sufficient evidence to assure no net increase in offsite runoff.

(d) Any other information required by the Building Official to allow the P&Z Commission to make an informed decision on the request.

(C) Pre-Occupancy Approvals

Approvals of crew camps are contingent upon the following additional submittal items provided prior to the issuance of a certificate of occupancy and use of the facility:

(1) Letters of acknowledgement from local service providers, including fire protection, emergency medical services, and law enforcement.

(2) Agency Approvals

(a) Copies of any permits required by other agencies such as the North Dakota Department of Health, the North Dakota State Water Board, South Central Regional Water District, and North Dakota Department of Transportation.

(3) Traffic study (required for facilities of more than 100 residents)

(4) Agreements with water and sewer providers

(5) Proof of insurance

(6) Fire and emergency operations plan

(7) The name and contact information for the onsite manager

(8) Policies & rules for residents of the facility

(9) Infrastructure Compliance

Compliance letter from the City Engineer stating the interior roadways, infrastructure, storm water drainage improvements and other features of the facility have been constructed properly and in accordance with sound engineering principles.

Section 3.6 Daycare Facilities

(A) Standards

(1) Adequate pick up and drop off areas shall be provided.

(2) In-home Daycare Facilities.

(a) Daycare facilities that are located in a residence must comply with the in-home business standards (Section 3.8).

(b) In-home daycare facilities may accommodate as many customers as permitted by the North Dakota Century Code and State Department of Human Services, provided the facility complies with all State requirements.

Section 3.7 Guest House

(A) Area Requirements

(1) Size

A guest house cannot exceed 50% of the size of the single family detached house on the subject lot.

(2) Setbacks

(a) Setbacks to lot lines are the same as required in the applicable zoning district.

(b) Minimum setbacks between structures: as Building and Fire Codes allow.

(3) Building Height

(a) Maximum height for a guest house with one (1) story: 15 ft.

(b) Maximum height for a guest house above a garage or with two (2) or more stories: 35 ft.

(B) Other Standards

A guest house may only be permitted when a primary residential dwelling exists on the subject lot.

Section 3.8 In-home Businesses

(A) Standards

(1) In-home businesses shall be a secondary use within a residence and shall not be the primary use of the residence.

(2) No more than 25% of the floor area of the residence shall be utilized for the in-home business.

(3) Physical changes to the residence that require a building permit for the purposes of the in-home business is prohibited.

(4) Outside activities, storage, or displays (except signs) related to the in-home business shall be prohibited on the property.

(5) Up to three (3) square feet of total sign area relating to the in-home business is allowed on the property.

(6) In addition to those living at the place of business, up to two (2) employees are allowed at a time.

(7) No additional off-street parking areas may be developed for the use of business-related parking.

(8) The in-home business shall not be utilized as a staging area where employees meet and are dispatched to other work sites.

(9) Up to one (1) commercial vehicle relating to the in-home business may be parked outside the place of business (off-street or on-street).

(B) Federal and State Requirements

In-home businesses must comply with the standards provided in section 3.8(A), unless otherwise required by federal or state law.

(C) Prohibited In-home Businesses

(1) Any activity is prohibited which produces noise, litter, vibration, glare, fumes, odors, dust, or electrical hazards, fire hazards, or involves the storage of hazardous materials, or any other nuisance greater than that normally experienced in the zoning district where the business is taking place.

(2) The following activities shall be prohibited as an in-home business:

(a) Vehicle repair

(b) Auto body work

(c) Taxidermy

(d) Boarding of pets

(e) Other uses as determined by the Building Official to be detrimental to the integrity of the residential area.

(D) Submittal Requirements

Each In-home business shall submit a standards checklist to the city that shall be completed and signed by the property owner. The submittal shall verify compliance with section 3.8(A).

Section 3.9 Mineral Extraction and Sand, Gravel, Scoria, and Other Aggregate Material Mining and Processing

(A) Mineral Extraction

(1) Applicability

The standards (as provided in Section 3.9(A)(2)) are limited to mineral extraction activities not regulated by the State of North Dakota.

(2) Standards

(a) The applicant shall submit mining activity plans to the Building Official that show how the proposal will effect City growth areas and plans. The proposal's impact upon City growth areas and plans shall be minimized.

(b) The applicant shall prepare for City review and approval a road improvement and maintenance plan to offset the impact of truck trips generated by mining activities. The plan shall be formalized by an agreement between the City and the mine operator that identifies road improvements and maintenance to be constructed and/or funded by the operator proportional to the impact.

(c) Rock crushers shall be considered accessory to sand and gravel operations, provided that the material used and processed is limited to that found on the subject property.

(d) Buffers

(i.) No excavation shall take place within three hundred (300) feet of an adjacent property line.

(ii.) No excavation shall take place within five hundred (500) feet of an existing residence.

(e) The applicant shall prepare a schedule for hours of work for City review and approval.

(B) Sand, Gravel, Scoria, and Other Aggregate Material Mining and Processing Standards

(1) The applicant shall submit documentation verifying compliance with State Health Department requirements and shall provide a copy of all documentation submitted to the State Soil Conservation Committee.

(2) The application shall submit mining activity plans to the Building Official that show how the proposal will effect City growth areas and plans. The proposal's impact upon City growth areas and plans shall be minimized.

(3) The applicant shall prepare for City review and approval a road improvement and maintenance plan to offset the impact of truck trips generated by mining activities. The plan shall be formalized by an agreement between the City and the mine operator that identifies road improvements and maintenance to be constructed and/or funded by the operator proportional to the impact.

(4) Rock crushers shall be considered accessory to sand and gravel operations, provided that the material used and processed is limited to that found on the subject property.

(5) Buffers

(a) No excavation shall take place within three hundred (300) feet of an adjacent property line.

(b) No excavation shall take place within five hundred (500) feet of an existing residence.

(c) The applicant shall prepare a schedule for hours of work for City review and approval.

(C) Reclamation

(1) An owner of a mine has the duty to begin reclamation of the mine and all related above-grade and below-grade infrastructure to its former condition within one hundred eighty days after the operation of the facility has ceased. Reclamation must be completed 1 year after operation of the facility has ceased.

(2) The City may abate any nuisance of the mine and all related above-grade and below-grade infrastructure if the owner fails to do so, and assess the cost thereof against the property in question as a lien against the real property from which the cost was incurred and the lien may be foreclosed in judicial proceedings in the manner provided by law for loans secured by liens on real property. If this amount is not adequate to cover the cost of reclamation, repair, or removal, the City has a lien for the amount of the additional costs on real property owned, or later acquired, by the property owner in the City. If the City provides the amount of the lien and the name of the owner, the County Auditor shall enter on the tax list the amount of the additional cost as a tax lien. The tax lien is enforceable by the City in the same manner as a tax lien by a county.

(3) The mine owner shall provide the City with a surety bond, letter of credit, or other security instrument in the form and in an amount specified by the City. These funds must be used to cover actual expenses that may be incurred by the City in reclamation of the mine to the previous state, including any above-grade or below-grade infrastructure. The owner is liable for any expenses that are reasonably incurred by the City which exceed the amount of the security.

Section 3.10 Railroad Spur (Not Railroad Owned)

(A) Standards

(1) No trackage shall be placed within one hundred twenty-five (125) feet of an area zoned for residential use, including, but not limited to R-1 through R-7 or PUD.

Section 3.11 Recreational Vehicle (RV) Parks

(A) Definitions

(1) Recreational Vehicle: A vehicle which is:

(a) built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projections;
(c) designed to be self-propelled or permanently towable by a light duty truck;
(d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use; including, but not limited to;
(e) travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

(2) Recreational Vehicle Parks: An identified area providing space and facilities for recreational vehicles for recreational use or transient lodging. Recreational vehicle parks are developed for the placement and occupancy of recreational vehicles for residential purposes on rented, leased, or owned spaces with necessary accessory uses and amenities.

(B) Purpose

These standards are intended to provide for recreational vehicle parks which are suitably developed for the placement and occupancy of recreational vehicles for residential purposes on rented, leased, or owned spaces with necessary accessory uses and amenities. These standards will enable the development of unique, well-planned projects incorporating a variety of vehicle-based housing for permanent or seasonal occupancy. It is the intent of these standards to provide adequate regulations to preserve the residential character of the development and to prohibit inappropriate and incompatible land uses.

(C) Allowed Uses

Uses are allowed as shown in the Use Table in Section 2.5.

(D) Permit Process:

As part of following the Conditional Use Permit process detailed in Chapter 5, the proposal shall involve the following:

Master Plan

(1) A master plan shall be submitted to the Building Official and shall include items as deemed necessary by the Building Official, including, but not limited to:

(i.) RV pad layout
(ii.) Landscaping plan and layout
(iii.) Parking
(iv.) Lights
(v.) Bathroom and shower facilities
(vi.) Recreation plan

(vii.) Garbage pick up

(2) The master plan shall be reviewed by the P&Z Commission and is subject to approval by the Council as part of the permit process.

(E) Standards

(1) RV Pads

(a) A pad for the placement of the RV shall be provided that is at least fifteen (15) feet wide and fifty (50) feet deep.

(b) One (1) RV is allowed on each approved space or lot. No manufactured homes, mobile homes, storage structures or any other type of structure shall be permitted on a lot or space designated as an RV lot on an official site plan on file with the City.

(c) The pad surface material shall be appropriate to the context or general location of the park (rural, urban, etc.), subject to approval by the P&Z Commission.

(2) Area Requirements

(a) Lot/Space Size

(i) Minimum Lot Area: 1,500 sq ft
(ii) Minimum Width: 30 ft

(b) RV Pad Setbacks

(i) Minimum Front Yard Setback: 15 ft
(ii) Minimum Interior Side Setback: 5 ft
(iii) Minimum Street Side Setback: 15 ft
(iv) Minimum Rear Setback: 10 ft

(c) RV Pad Setback Exceptions

(i) Outdoor terraces or patios without roofs or walls may project three (3) feet into the setback.
(ii) Outdoor steps or stairs may project three (3) feet into the setback.
(iii) Window canopies may project into any setback space.

(3) Parking

(a) A minimum of one (1) paved parking stall shall be provided on each lot/space.

(b) A minimum of one (1) paved parking stall shall be provided for visitors for every ten (10) RV spaces/lots.

(c) Parking surface material shall be appropriate to the context or general location of the park (rural, urban, etc.), subject to approval by the P&Z Commission.

(4) Site Access

Access to lots or spaces shall be from the interior of the development.

(5) Dedicated Streets (City Right of Way)

If served by dedicated public streets, the development shall comply with City street standards.

(6) Private Streets

(a) Minimum curb-to-curb width for streets with parking on one (1) side: 32 ft

(b) Minimum curb-to-curb with for street with parking on both sides: 40 ft

(7) Street Surface

The street surface material shall be appropriate to the context or general location of the park (rural, urban, etc.), subject to approval by the P&Z Commission.

(8) Pedestrian Circulation Plan

A plan shall be submitted with the Permit that defines all intended routes for pedestrian access within the Park and connections to existing paths adjacent to the park (if existing paths are present).

(9) Lighting

All streets, walkways, and recreation areas must be adequately lit, with final approval by the P&Z Commission.

(10) Drainage

A drainage plan must be prepared by a State of North Dakota registered professional engineer and is subject to any applicable City and State requirements.

(11) Recreation

(a) A recreational plan is required, subject to approval by the P&Z Commission.

(b) Adjacent recreational facilities shall be considered to account for the needs of Park occupants.

(12) Buffer Strip

(a) A buffer strip composed of landscaping, as described herein, shall be placed along the perimeter of the development area abutting public right of way or any other residential zone district.

(b) The minimum width of the buffer shall be twenty (20) feet.

(c) The buffer area must include at least 1 tree and 10 shrubs per 50 lineal feet of buffer.

(13) Water and Sewer

The entire development shall be connected to and served by City water and sewer systems.

(14) Electrical Services

The entire development shall be served with underground electrical service facilities. No overhead distribution systems are allowed.

(15) Park Layout Diagram

(a) A diagram of the development layout must be provided at all entrances to the development.

(b) The diagram must be externally lit for use during evening hours.

(16) Landscaping

(a) A landscaping plan for the entire development must be prepared.

(b) All landscaping within the development shall be planted, seeded, or sodded within one year of occupancy of the first dwelling. Up to one (1) extension, not to exceed 6 months, may be granted by the Building Official.

(17) Park Showers and Bathroom Facilities

(a) A common shower and bathroom facility available for all residents and visitors must be provided in a central location within the development.

(b) Two (2) bathrooms with wash basins and two (2) showers must be provided for every 30 lots/spaces within the development. Any RV park with less than 30 lots/spaces within the development is not required to have bathrooms with wash basins or showers.

Section 3.12 Refineries and Petro-Chemical Plants

(A) Standards

The development shall comply with all state and federal regulations.

(B) Permit Process

As part of following the Conditional Use Permit process detailed in Chapter 5, the proposal shall involve the following:

(1) Preliminary Master Plan

a. A preliminary master plan shall be submitted to the Building Official and shall include items as deemed necessary by the Building Official.

b. The master plan shall be accompanied by a statement from the applicant detailing the needs of the plant, construction crews, employees, housing, community facilities, and county and community services.

c. The preliminary master plan shall be reviewed by the P&Z Commission and is subject to approval by the Council.

(2) Environmental Impact Statement

a. The applicant shall provide twelve (12) copies of an environmental impact statement to the Building Official for distribution to the appropriate agencies.

b. Provide written evidence of approval of the State Department of Health on pollution controls.

c. Provide written evidence of approval for a water permit from the State Water Board.

d. Provide written evidence of approval for all other applicable state and federal agencies as determined by the Building Official.

e. The project shall conform to all requirements regarding preservation, removal, or relocation of historical or archeological artifacts.

Section 3.13 Salvage and Junk Yards

Standards

(1) All salvage and/or junkyards shall be screened by evergreen plantings or solid fences, and are subject to review and approval by the P&Z Commission.

(2) No burning of salvaged material and/or junk shall be permitted.

(3) The applicant shall provide any additional information the Building Official deems necessary.

Section 3.14 Self-Service and Outdoor Storage

Standards

(1) Outdoor storage areas must be fenced to affectively block views from adjacent properties and public right of way. Fence plans must be submitted for P&Z Commission review and approval.

(2) Landscape Strip

Except for necessary walks, driveways, and parking areas, each yard on the street side of the development shall be planted with ground cover, shrubs, and trees.

(a) Width. The minimum width of the landscape strip along the each street side of the development shall be ten (10) feet.

(b) Trees & Shrubs. The landscape strip must include at least 1 tree and 20 shrubs per 50 lineal feet of buffer.

(c) A landscaping plan for the entire development must be prepared and submitted to the P&Z Commission for approval.

(d) All landscaping within the storage area shall be commenced within 180 days of approval, and completed within 1 year of approval by the P&Z Commission. Up to one (1) extension, not to exceed 6 months, may be granted by the Building Official.

Section 3.15 Temporary Structures & Residences

(A) Exemptions

The following temporary uses are not subject to this Ordinance:

(1) Periodic or one-time events

(2) Christmas tree sales lots

(B) Time Limit

(1) Not Construction-related: Temporary structures not associated with a construction project are permitted for a maximum of one (1) year.

(2) Construction-related: Temporary structures and residences associated with a construction project shall be removed within one (1) year of the date:

(a) A Certificate of Occupancy is issued for the permanent building; or

(b) The permit for the temporary structure or residence expires, whichever occurs first.

(3) Temporary permit renewals must be reviewed and approved by the P&Z Commission.

(C) Standards

Compliance with all local and State building codes is required.

(D) Permit Process

Refer to section 5.1.

Section 3.16 Utility Corridors (Surface or Underground)

Standards

(1) Utility corridor siting shall have minimal interference with farming operations.

(2) The applicant shall submit corridor development plans to the Building Official that show how the proposal will effect City growth areas and plans. The proposal's impact upon City growth areas and plans shall be minimized.

Section 3.17 Utility-scale Solar Facilities

Standards Where a Conditional Use Permit is Required

(1) Zoning District Standards that do not Apply

(a) The building area to lot area ratio shall not apply to utility-scale solar facilities.

(b) Zone district height restrictions do not apply.

(2) Site Reclamation

(a) An owner of a solar facility has the duty to begin reclamation of the area and all related above-grade and below-grade infrastructure to its former condition within one hundred eighty days after the operation of the facility has ceased. Reclamation must be completed 1 year after operation of the facility has ceased.

(b) The City may abate any nuisance of the solar facility and all related above-grade and below-grade infrastructure if the owner fails to do so, and assess the cost thereof against the property in question as a lien against the real property from which the cost was incurred and the lien may be foreclosed in judicial proceedings in the manner provided by law for loans secured by liens on real property. If this amount is not adequate to cover the cost of reclamation, repair, or removal, the City has a lien for the amount of the additional costs on real property owned, or later acquired, by the property owner in the City. If the City provides the amount of the lien and the name of the owner, the County Auditor shall enter on the tax list the amount of the additional cost as a tax lien. The tax lien is enforceable by the City in the same manner as a tax lien by a county.

(c) The facility owner shall provide the City with a surety bond, letter of credit, or other security instrument in the form and in an amount specified by the City. These funds must be used to cover actual expenses that may be incurred by the City in reclamation of the facility to the previous state, including any above-grade or below-grade infrastructure. The owner is liable for any expenses that are reasonably incurred by the City which exceed the amount of the security.

Chapter 4 Site Development

Section 4.0 Access Management

4.01 Site Access

(A) Access to Highways 49 and 200 within the extraterritorial area subject to city zoning jurisdiction

(1) Access shall be limited to one (1) per quarter (1/4) mile.

(2) The landowner shall provide a backage road at least three hundred (300) feet from the Highway. Backage roads allow adequate stacking distance for vehicles and allows businesses to have improved Highway visibility. This requirement does not apply where an existing frontage road exists.

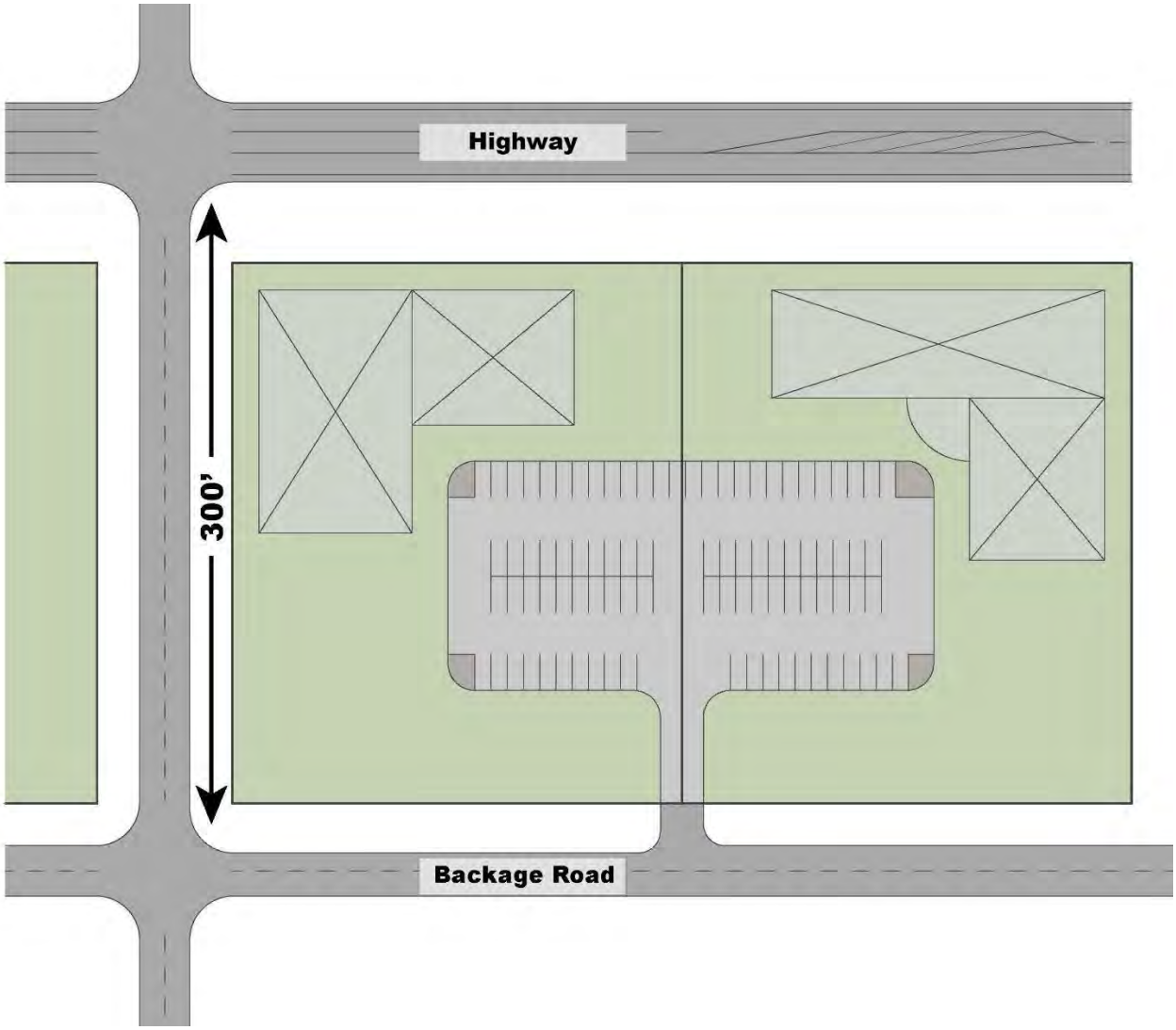
(3) Written evidence of approval by the North Dakota Department of Transportation (NDDOT) shall be provided to the Building Official.

(B) Access to Highways 49 and 200 within the city limits

(1) Access shall be limited to one (1) per six hundred (600) feet.

(2) The landowner shall provide a backage road at least three hundred (300) feet from the Highway. Backage roads allow adequate stacking distance for vehicles and allows businesses to have improved Highway visibility. This requirement does not apply where an existing frontage road exists.

(3) Written evidence of approval by the North Dakota Department of Transportation (NDDOT) shall be provided to the Building Official.


Highway
300'
Backage Road

4.02 Sight Visibility Triangle

(A) Purpose

The sight visibility triangle is intended to prevent a motorist's visibility from being obstructed while entering or exiting a driveway or public/private street right-of-way.

(B) Standards

(1) Unless otherwise noted, no building, sign, tree, shrub, parking spaces, fences, or any other object not mentioned in this section may be erected or constructed within the sight visibility triangle.

(2) The sight visibility triangle does not apply to the Central Business district and Urban Multi Family district.

(3) Sight Visibility Triangle Size:

(a) The distance shall be measured along the intersecting property lines from where the two property lines meet.

(b) For properties containing property lines that are the centerline of a right-of-way, the distance shall be measured from where the curb lines extend and intersect. The edge of pavement applies in the absence of a curb.

(c) For properties containing one property line that is the centerline of a right-of-way, the distance shall be measured from where the curb line extends and intersects the property line. The edge of pavement applies in the absence of a curb.

(d) For lots adjacent to or containing private drives, the distance shall be measured from where the curb lines extend and intersect. The edge of pavement applies in the absence of a curb.

(e) The following table shall be used to determine the size of the sight visibility triangle:

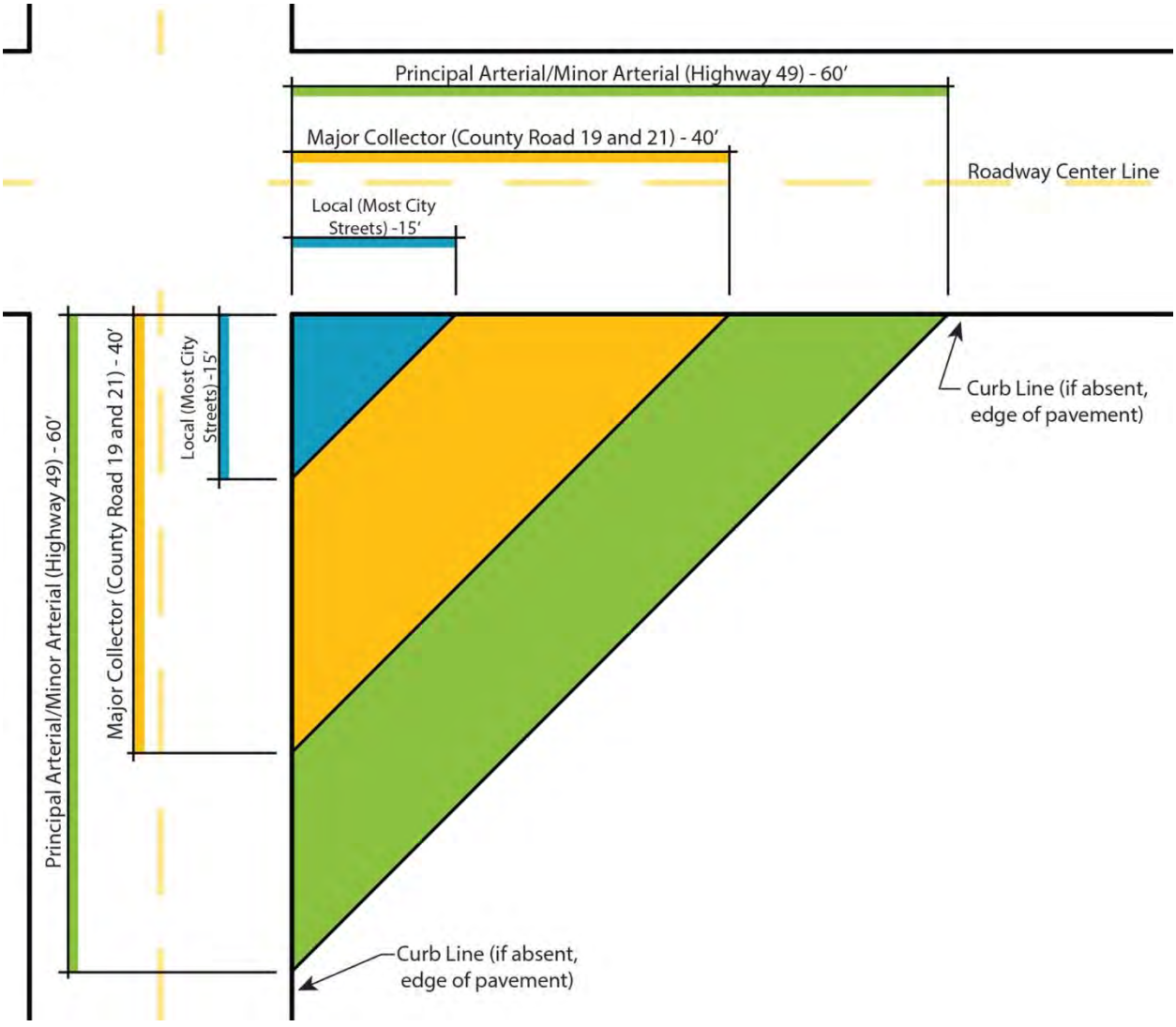
*Road Functional Classification	Size of Sight Visibility Triangle
Principal Arterial	60 feet from property line
Minor Arterial	60 feet from property line
Major Collector	40 feet from property line
Local Street (all other streets not classified by NDDOT)	15 feet from property line

*Refer to the NDDOT Functional Classification Map for Beulah at www.dot.nd.gov

(f) Where two streets with differing classifications intersect, the street with the higher volume classification applies (Principal arterial is highest, followed by Minor Arterial, Major Collector, and Local Street).

(g) The size of the sight visibility triangle is subject to change when the Building Official finds that an increase is necessary for safety reasons.

Sight Visibility Triangle Diagram



Section 4.1 Parking Standards

(A) Administration

(1) No application for a building permit or certificate of occupancy that requires off-street parking shall be approved unless there is included within the plan for such improvement, or use, the required off-street parking spaces. The certificate of occupancy shall not be issued unless the required parking spaces are provided (see Section 4.1(C) for detail) in accordance with this Ordinance and the approved site plan.

(2) Parking requirement calculations with fractions over one-half (1/2) shall require one (1) parking space.

(3) In the case of uses not listed in the Off-street Parking Table (Section 4.1(B)), the Building Official shall determine the appropriate requirements based upon a similar use.

(4) Requirements for off-street parking shall be a continuing obligation so long as the structure and/or use is in existence and is operational, requiring vehicle parking.

(5) The off-street parking area shall not be encroached upon by buildings, storage, or any other use.

(6) A reduction in the number of spaces can only be made by the P&Z Commission. An approved reduction must be consistent with the following criteria:

(a) A reduction must be by reason of reduction of floor space, number of employees, or change in other factors controlling the regulation of the number of required parking spaces.

(b) The reduction must be both reasonable and consistent with the intent of this section.

(B) Off-Street Parking Table

Use Category	Use Examples	Minimum Parking Spaces Required
Residential		
Group Living	Assisted Living	1 per every patient room
Multi Family	Twin Homes	1.25 per efficiency & 1-bedroom unit 2 per 2-bedroom or larger unit .20 guest space per unit
Single Family	Dwelling, Single Family Detached	1 per each dwelling unit
Commercial		
Food & Beverages	Shops (Liquor Stores, Bakeries, Delicatessen)	1 per every 250 square feet of customer service space
	Dine-In Restaurants	1 per every 75 square feet of customer service space
	Dine-Thru Restaurants	1 per every 75 square feet of customer service space plus stacking spaces
	Taverns/Bars	1 per every 150 square feet of customer service space
Motor Vehicle Sales & Services		1 per every 200 square feet of customer service space
Recreation, Commercial	Amusement Parks	Parking Study Required
	Bowling Alleys	4 per every bowling lane, plus 1 for each employee
	Health Club	1 per every 150 square feet of floor area
	Theater	1 per each 5 seats planned for patron use
Other Services	Office, Professional	1.5 per each office
	Office, Medical	1.5 per patient exam room
	Animal Hospitals/Vets	1.5 per each animal care room
	Hotel/Motel/Bed & Breakfast	1 per guest room, plus required spaces for associated uses
	Community Centers	1 per every 300 square feet of floor area
	Bank & Financial Institutions	1 per 250 square feet of floor area, plus stacking spaces
	All other retail establishments	1 per every 150 square feet of floor area
Industrial		
Agriculturally-oriented businesses	Grain Mills/Elevators	1 per each employee, 1 additional space for each 5 employees
Industrial Production	Lumber Yard	1 per each employee, 1 additional space for each 10 employees

Resource Extraction	Sand and Gravel Processing	1 per each employee, 1 additional space for each 10 employees
Other	Administrator or Office Area	1.5 per every office space
	Adult Entertainment Centers	1 per every 200 square feet of customer service space
	Machinery/equipment Sales & Services	1 per every 200 square feet of customer service space
	Games of Chance	1 per every 250 square feet of customer service space
	Production Facilities	1 per each 2 employees, 1 additional space for each 10 employees
	Truck Stops	1 per every 100 feet of customer service space
	Warehouses	1 per each 2 employees, 1 additional space for each 10 employees
Institutional		
Education	College	Parking Study Required
	Primary Schools and Preschools	Parking Study Required
	Secondary Schools	Parking Study Required
	Technical/Trade Schools	Parking Study Required
Government Facilities & Services		Parking Study Required
Other Institutional Uses	Hospitals	Parking Study Required
	Day Care Facilities	1 per each 500 square feet of floor area
	Religious Institutions	1 per each 3 seats
Recreation	Campground	1 per each camp site, 10 visitor spaces, 1 per each employee
	Community Swimming Pools	1 per each employee, 1 per every 100 square feet
	Cultural Institutional	Parking Study Required
	Golf Courses/Country Club	Parking Study Required
	Libraries	1 per every employee, 1 per every 500 square feet
	Parks	Parking Study Required

(C) Off-Street Circulation Area Detail

(1) Location

(a) Off-street parking shall be provided on the same lot as the subject building or use and within the same zoning district.

(b) Based upon practical difficulties, the Building Official may allow off-street parking to be located within 400 feet of the premises to which the parking requirement applies. If the parking is on a separate lot, a cross access and parking easement(s) shall be recorded as necessary prior to the certificate of occupancy.

(2) Right-of-Way Use Prohibition

Parking facilities shall be designed so that vehicles maneuvering out of parking spaces do not back into or across the road right-of-way. All parking facilities shall be designed so that every space is accessible without having to leave the facility and re-entering from the road right-of-way. Public alleys are exempt from this requirement. This does not apply to R-1- Single Family, Detached, R-2 – Low Density Multi family, R-4 – Manufactured Home, and R-6 – Rural Residential zone districts.

(3) Striping and Pavement Marking

All parking facilities that are paved shall be striped in such a manner so that individual parking spaces and traffic patterns are clearly delineated.

(4) Size

Each parking space must be a minimum of nine (9) feet wide by twenty (20) feet long. Parking lot dead-ends shall include an extension of the parking lot not less than five (5) feet to allow vehicles to back out of stalls.

(5) Surfacing

Except in the HI-Heavy Industrial, A-Agricultural, R-6-Rural Residential, and POC-Public Open Space and Conservation zone districts, all off-street parking areas shall be surfaced with impervious asphalt, concrete, or similar material approved by the P&Z Commission. The surface must be intact and not composed of any loose material.

(6) Wheel Stops and/or Bollards

If curbs are not provided, then parking spaces that face and are adjacent to a building, fence, or other structure shall utilize wheel stops and/or bollards.

(7) Stacking Requirements

(a) Stacking Space Definition: Stacking spaces provide the ability for vehicles to queue on site prior to receiving a service, such as a drive-through bank teller or restaurant.

(b) Size: A stacking space shall be a minimum of 9 feet in width and 20 feet in length and shall not be located within or interfere with any other circulation driveway, parking space, fire lane, or maneuvering area.

(c) Required Stacking Spaces

Use	Stacking Spaces Required
Financial Institution (Automated or Not)	4
Car Wash	4
Pharmacy or Other Retail with Drive-Through	3
Restaurant with Drive-Through	5 (from first window)
School	As determined by Building Official
Daycare Facility (except in-home)	As determined by Building Official

(8) Loading and Unloading Requirements

(a) Loading spaces shall be required in I-Light Industrial, HI-Heavy Industrial, C-2 – Highway Commercial, C-3 – General Commercial, and C-4 – Neighborhood Commercial zone districts.

(b) Ample space for vehicles to maneuver into and out of loading spaces shall be provided off-street.

(c) Loading space requirements

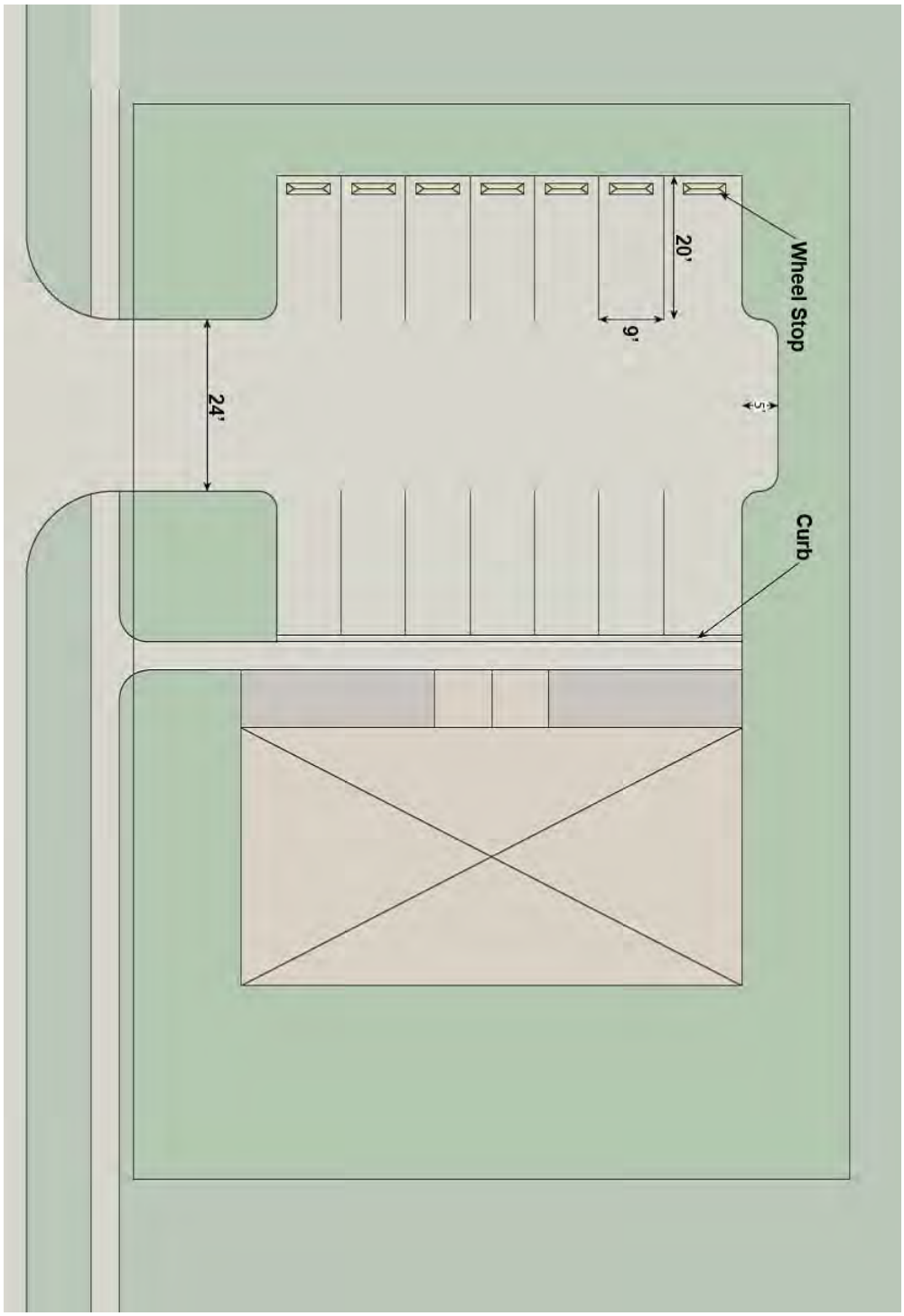
Structure Size (Gross Square Feet)	Minimum Loading Spaces	Minimum Loading Space Size (feet)
0 – 19,999	1	10 x 25
20,000 and greater	1 per 20,000 square feet	12 x 55
Shopping Center	As determined by Building Official	As determined by Building Official

(9) Parking Lot Layout Dimensions

Angle of Parking Space in Degrees	Driving Aisle (feet)	Total Width of 1 Tier of Spaces Plus Driving Aisle (feet)	Total Width of 2 Tiers of Spaces Plus Driving Aisle (feet)
90	24	44	64
60 one-way	16	34	52
60 two-way*	24	not allowed	60
45 one-way	14	29	44
45 two-way*	24	not allowed	54
Parallel one-way	14	23	32
Parallel two-way	24	33	42

*Spaces oriented to direction of traffic

*(10)*Parking Lot Layout Diagram



Section 4.2 Lighting Standards

4.21 Outdoor Lighting

(A) Purpose

These lighting standards are designed to ensure personal safety and prevent motor vehicle and pedestrian conflicts by reducing the negative effects of glare, light pollution and light trespass.

(B) Applicability

This section applies to outdoor lighting in the following zoning districts: C1 (Central Business District), C2 (Highway Commercial), C3 (General Commercial), C4 (Neighborhood Commercial), I (Light Industrial), HI (Heavy Industrial), and POC (Public Open Space and Conservation).

(C) Standards

Exterior lighting shall be hooded and designed as follows:

(1) To prohibit glare on public right of way.

(2) To prohibit glare on neighboring properties.

(3) Directed downward.

(4) To only produce glare upwards to accent architectural features, monuments, or flags.

Section 4.3 General Landscaping Standards

4.31 General Landscaping Standards

(A) Installation

(1) All landscaping and buffers (other than street trees) required by this Ordinance must be installed within one (1) year of the date that the building permit was approved.

(2) Installed landscaping shall not create a safety hazard or negatively impact adjacent areas.

Section 4.4 Sign Standards

4.41 Intent

Sign standards are intended to regulate and coordinate the type, placement, height, dimensions, maintenance, and construction of signs in order to provide the citizens of Beulah a safe and aesthetically-pleasing environment. These standards will allow the dissemination of public and private information and advertising.

4.42 General Sign Standards

(A) Location

(1) All signs shall be located on the same lot as the business that the sign is advertising. Off-premise advertising signs as provided in this section are an exception.

(2) Signs, regardless of type, shall not impede, obstruct, interfere or frustrate the following:

(a) vehicular circulation

(b) pedestrian walkways

(c) public right-of-ways

(d) sight visibility triangles

(B) Maintenance

(1) All types of signs shall be maintained in good repair at all time.

(2) Cracked and peeling paint, missing or damaged sign panels, burned-out bulbs, or any other state of disrepair shall be attended to within 90 days from when notice of the damage is provided to the property owner by the City.

(3) After a business ceases, the owner has thirty (30) days to remove signs identifying businesses, goods, or services that are no longer provided on the premise.

(4) The P&Z Commission may order the repair or removal of any damaged, deteriorated, obsolete, or abandoned signs, or signs on vacant buildings.

(C) Nonconformance

(1) Signs lawfully existing at the time of adoption of this Zoning Ordinance shall be deemed legal non-conforming, and may continue regardless of its conformance pertaining to use, size or location with this Zoning Ordinance.

(2) Signs that are nonconforming under this section shall be deemed nonconforming uses or structures, and therefore, fall under the standards of Section 6.12 (nonconforming lots, structure, and uses) of this Zoning Ordinance.

(D) Variances

Variances from the Sign Area and Height Standards are unlawful unless an application for variance has been filed with a permit application. All variances are subject to review by the P&Z Commission. See Section 5.17 for Variance procedure.

4.43 Zoning District Standards

(A) Residential Zoning Districts

(1) One sign per dwelling, excluding temporary signs, not exceeding a total area of three (3) square feet.

(2) One sign per lot or complex for apartment buildings and condominiums of four (4) or more units. The sign shall not exceed a total area of thirty-six (36) square feet and must serve to identify the apartment building or condominium.

(3) One temporary sign per lot, not exceeding a total area of six (6) square feet.

(4) Wall signs shall not exceed ten (10) feet in height.

(5) Free standing signs shall not exceed six (6) feet in height.

(6) Illuminated and animated signs are prohibited.

(B) Neighborhood Commercial Zoning District

(7) One sign per structure, excluding temporary signs, not exceeding a total area of thirty-six (36) square feet.

(8) One temporary sign per lot, not exceeding a total area of six (6) square feet.

(9) Wall signs shall not exceed fifteen (15) feet in height.

*(10)*Free standing signs shall not exceed fifteen (15) feet in height.

*(11)*Illuminated and animated signs are prohibited.

(C) General Commercial & Highway Commercial Zoning Districts

*(12)*Lots containing one business:

(a) Wall, pedestal, awning, free standing, or projecting signs shall not exceed a total area of fifty (50) square feet.

(b) Wall signs shall not exceed forty (40) feet in height.

(c) Free-standing signs shall not exceed thirty (30) feet in height.

(13) Lots containing multiple businesses:

(a) Each lot may only contain one free standing sign, and the property owner is encouraged to construct a cooperative free standing sign identifying the multiple businesses located on the premises.

(b) Each business is permitted one sign–wall, awning or projecting–in addition to a cooperative free standing sign between multiple businesses.

(c) Wall, pedestal, free standing, awning, or projecting signs shall not exceed a total area of fifty (50) square feet.

(d) Wall signs shall not exceed forty (40) feet in height.

(e) A cooperative free standing sign identifying each business may not exceed forty (40) feet in height, nor exceed a total area of fifty (50) square feet per business or two hundred (200) square feet, whichever is greater.

(D) Central Business District

(14) Wall, pedestal, awning, free standing, or projecting signs shall not exceed a total area of forty (40) square feet.

(15) Signs shall not exceed twenty (20) feet in height

(16) Free-standing signs shall not exceed ten (10) feet in height.

(E) Industrial Districts

(17) Lots containing one business:

(a) Wall, pedestal, awning, free standing, or projecting signs shall not exceed a total area of thirty (30) square feet.

(b) Wall signs shall not exceed thirty (30) feet in height.

(c) Free-standing signs shall not exceed thirty (30) feet in height.

(18) Lots containing multiple businesses:

(a) Each lot may only contain one free standing sign, and the property owner is encouraged to construct a cooperative free standing sign identifying the multiple businesses located on the premises.

(b) Each business is permitted one sign–wall, awning or projecting–in addition to a cooperative free standing sign between multiple businesses.

(c) Wall, pedestal, free standing, awning, or projecting signs shall not exceed a total area of sixty (60) square feet.

(d) Wall signs shall not exceed thirty (30) feet in height.

(e) A cooperative free standing sign identifying each business may not exceed forty (40) feet in height, nor exceed fifty (50) square feet per business or two hundred (200) square feet, whichever is greater.

4.44 Electronic Messaging & Digital Signs

(A) Standards

(1) Digital signs are permitted in the following districts:, C-1 – Central Business District, C-2 – Highway Commercial, C-3 – General Commercial, I – Light Industrial, HI – Heavy Industrial.

(2) Electronic messaging & digital signs shall not exceed a total area of fifty (50) square feet.

(3) Electronic messaging & digital signs shall not exceed a height of twenty (20) feet.

(4) Electronic messaging & digital signs shall hold a static message that cannot be change for a period of at least seven (7) seconds.

(5) If applicable, if an electronic messaging/digital sign contains more than one message, the transition from each message shall happen instantaneously.

(6) Electronic messaging and digital signs shall be equipped with automatic dimming technology, which allows the sign to automatically adjust the display's brightness based on ambient light conditions.

(7) The brightness level shall not increase by more than 0.3 foot-candles over ambient levels.

(8) Compliance with this section must be verified by the city engineer.

4.45 Incidental Signs & Bulletin Boards

(A) Standards

Signs & bulletin boards customarily incidental to religious institutions, public institutions, and other societal meeting establishments do not require a permit; however, shall meet the following standards:

(1) One incidental sign or bulletin board per lot;

(2) The incidental sign or bulletin board shall not exceed a total area of twenty (20) square feet;

(3) The sign or bulletin board shall not exceed a height of eight (8) feet;

4.46 Off-premise Advertising Signs

(A) Dimensional Limitations

(1) Off-premise advertising signs shall not exceed a total area of two hundred (200) square feet.

(2) Off-premise advertising signs shall not exceed fifty (50) feet in height.

(B) Location Limitations

(3) Off-premise advertising signs are only permitted in the following districts: C2 – Highway Commercial, C3 – General Commercial, I – Light Industrial, HI – Heavy Industrial.

(4) Non-digital off-premise advertising signs shall be set back seven-hundred fifty (750) feet from all Residential districts, Neighborhood Commercial districts, Central Business districts, and Public and Open space districts.

(5) Digital off-premise advertising signs shall be set back one thousand (1,000) feet from all Residential districts, Neighborhood Commercial districts, Central Business districts, and Public and Open space districts.

(6) Non-digital off-premise advertising signs shall be set back one thousand (1,000) feet from all other off-premise advertising signs.

(7) Digital off-premise advertising signs shall be set back one thousand five hundred (1,500) feet from all other off-premise advertising signs.

(C) Digital Off-premise Advertising Signs

(8) Digital off-premise advertising signs shall hold a static message that cannot be changed for a period of seven (7) seconds.

(9) If a digital off-premise advertising signs contains more than one message, the transition from each message shall happen instantaneously.

(10) Electronic messaging and digital signs shall be equipped with automatic dimming technology, which allows the sign to automatically adjust the display's brightness based on ambient light conditions.

The brightness level shall not increase by more than 0.3 foot-candles over ambient levels.

4.47 Temporary Signs

(A) Applicability

The following signs are deemed temporary, and therefore, a permit is not required to place the sign on the corresponding lot:

(1) Contractor Signs

(a) Signs that denote the architect, engineer, or contractor on the premise where construction, repair, or renovation is in progress;
(b) Signs shall not exceed sixteen (16) square feet in residential districts and thirty-two (32) square feet in all of other district.

(2) Signs advertising the development of a new subdivision development

(a) Signs shall not exceed forty (40) square feet;
(b) The number of signs may not exceed one (1) per entrance;
(c) The signs may remain in place until owners of 75% of the lots within the subdivision have been issued certificates of occupancy.

(3) Banner signs that are affixed to the façade of the building

(4) Going-out-of-business signs

(5) Grand opening signs

(6) Garage sale signs

(7) Portable Signs

(a) One portable sign per lot
(b) The portable sign must be placed within the confines of the property
(c) The total area of the portable sign may not exceed thirty (30) square feet
(d) Portable signs shall not be permanently affixed to the ground, but rather, securely anchored to the ground for the duration of their placement.

(B) Duration

(1) Unless otherwise provided, to qualify as a temporary sign, the sign may not remain in place for more than fourteen (14) days.

(2) Upon completion of the duration period, a temporary sign may not be erected on the same premises until an additional thirty (30) days has elapsed.

4.48 Exempt Signs

(A) Applicability

The following signs are exempt from the provisions of this Zoning Ordinance:

(1) Signs required by law;

(2) Signs authorized for a public purpose;

(3) Political signs;

(4) Holiday-related non-advertising signs;

(5) Official traffic control, parking restrictions, or informational signs;

(6) Danger or warning signs of a cautionary nature;

(7) Cornerstones and historical markers;

(8) Real estate for sale, rental, or lease signs;

(9) Name plates and addresses; and

(10) Window displays of actual merchandise

4.49 Prohibited Signs

(A) Applicability

The following types of signs are prohibited:

(1) No part of any sign shall be permitted to be located on or above public right of way, except for signs required by law.

(2) Obscene or Indecent Signs – Signs that depict, in whole or in part, anatomical areas or specified sexual activities.

(3) Beacon, Flashing, or Strobing Signs – Signs that emit a flashing or steady light, except for signs connected with the operation of the airport or public facilities. Signs utilized for public and/or traffic safety purposes are exempt.

(4) Rotating Signs – Signs that rotate or revolve

(5) Signs affixed to natural features such as trees, rocks, or shrubs.

(6) Signs affixed to utility poles.

(7) Signs that resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices.

(8) Signs that obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices.

Section 4.5 Setbacks

4.51 How to Measure Setbacks

(A) Description

The setback is measured from the edge of the road easement or the lot line, whichever is closest to the proposed structure.

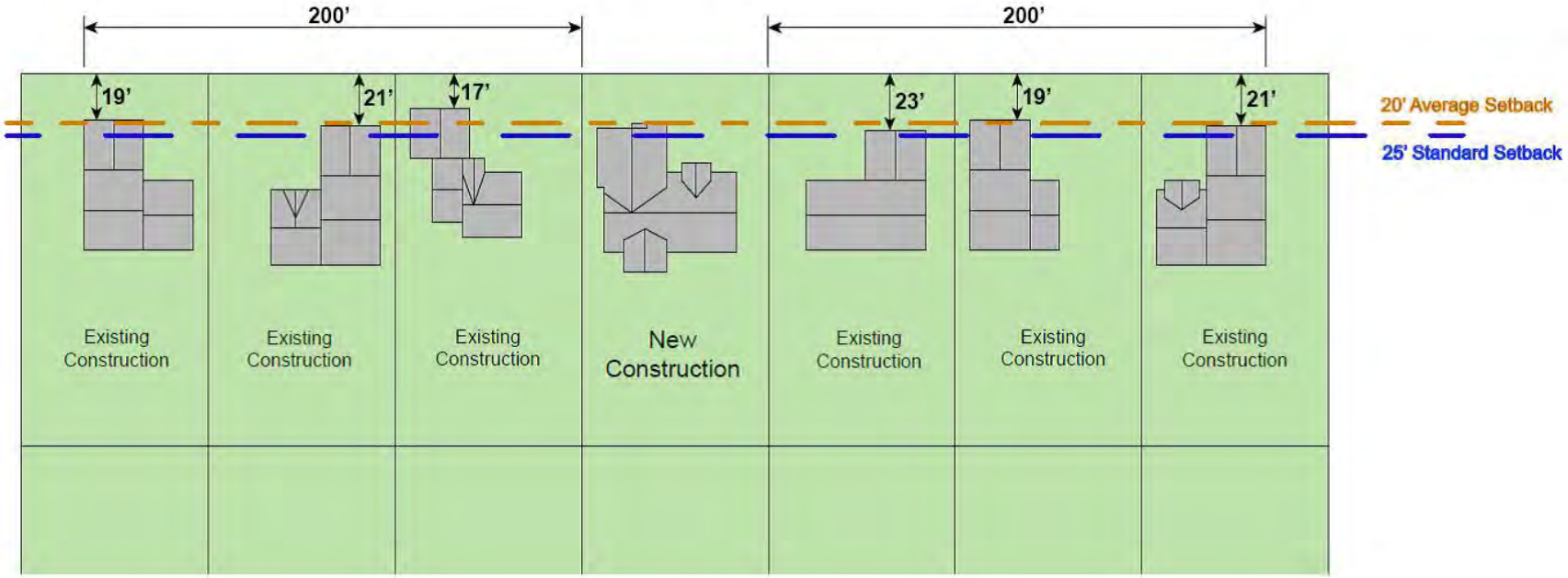
(B) Eaves

If the eave (roof overhang) extends more than three (3) feet from the structure wall, then the setback distance must be measured from the edge of the eave.

4.52 Setback Averaging

(A) Description

Setback averaging is only allowed on a block where the *average* front setback of existing buildings within 200 feet of the subject lot is not more than 6 feet less than the front setback requirement. Where the subject block is all in a single zoning district, the front setback for the proposed building shall be set at such average depth. When a block is zoned in different zoning districts, the front setback requirements of the district that requires the greater front setback shall apply along the entire block.


200'
200'
19'
21'
17'
23'
19'
21'
20' Average Setback
25' Standard Setback
Existing Construction
Existing Construction
Existing Construction
New Construction
Existing Construction
Existing Construction
Existing Construction

4.53 Setback Exceptions

(A) Description

Sight visibility triangle requirements supersede all setback requirements. Otherwise, every part of the required yard setback must be open and unobstructed from the ground to the sky except as set out in this subsection:

(1) Trees, shrubbery or other landscape features may be located within any required setback;

(1) Fences and walls may be located within any required setback.

(2) Driveways and sidewalks may be located within any required setback;

(3) Utility lines, wires and associated structures, such as power poles, may be located within any required setback;

(4) Signs, where permitted, may be located within any required setback;

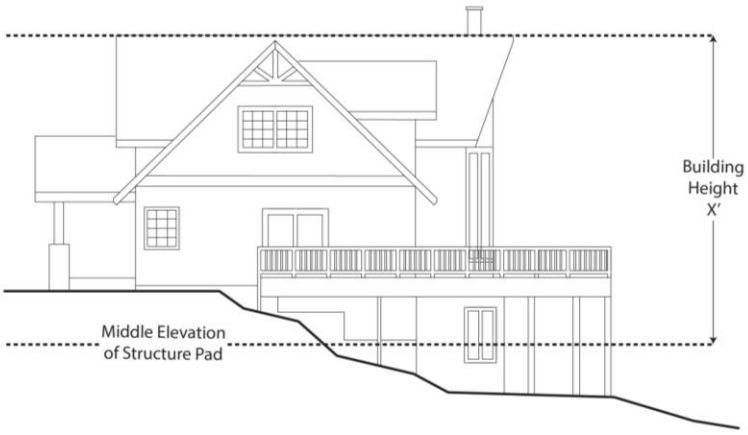
(5) Uncovered decks, terraces, steps, earthworks and other similar landscaping or design elements placed directly on finished grade that do not exceed an average height of thirty (30) inches above the surrounding grade may project up to eight (8) feet into the required setback.

Section 4.6 Structure Height

4.61 How to Measure Structure Height

(A) Description

Structure height shall be measured from the center point, or middle elevation of the structure pad to the peak of the roof.





4.62 Exceptions

(A) Items Excepted from Height Requirements

(1) Chimneys and flues

(2) Agricultural buildings

(3) Appurtenances usually required to be placed above roof level and not intended for human occupancy.

Section 4.7 Fences

4.71 Fence Standards

(A) Height Standards

District	Maximum Height in front yard or where facing right of way (feet)	Max. Side Yard Height (feet) Not Along Right of Way	Max. Rear Yard Height (feet) Not Along Right of Way	Max. Height in Other Locations (feet) Not Along Right of Way
All Residential Districts (R1 – R7)	4	7	7	6
Neighborhood Commercial (C-4)	7	7	7	7
Central Business District (C-1)	4	7	7	7
Highway Commercial (C-2) & General Commercial (C-3)	12	12	12	12

(B) Other Standards

(1) Fences shall be set back no less than twelve (12) inches from all lot lines and a minimum of three (3) feet from alleys.

(2) No fences shall be constructed of barbed wire, chicken wire, snow fence, or any other material which is deemed unsightly or hazardous by the Building Official.

(3) Fences shall have an entrance no less than three and one-half (3.5) feet wide to allow access for emergency purposes.

(4) These standards do not apply to temporary fences used in conjunction with construction or public events.

(5) The sight visibility triangle requirements must be met as described in section 4.02.

Section 4.8 Property Pins

4.81 Property Pins Required

(A) It shall be the responsibility of the property owner to pin property lines for new construction of primary structures.

(B) If there is an existing structure, it is the property owner's responsibility to identify the property lines. The City shall not be liable for incorrect property lines.

4.82 Removal and Replacement

No property pin or monument shall be removed, and if found to be removed, must be replaced by property owner.

Section 4.9 Foundations

4.91 Minimum Foundations

(A) All buildings and structures of a size of 100 square feet or more, and not otherwise required to have a foundation, shall be anchored by a minimum foundation of an approved floating concrete slab approved by the Building Official.

(B) All buildings and structures, not otherwise required to have a foundation, and under 100 square feet in size, shall be anchored in a manner approved by the Building Official.

Chapter 5 Permit Review and Application

Section 5.0 Review and Decision-making Bodies

5.01 Council

(A) Powers and Duties

The Council shall make the final decision on the following applications and appeals provided in the Zoning Ordinance:

(1) Zoning Ordinance Text Amendments
The Council may from time to time amend, supplement, or change by ordinance the text of this Zoning Ordinance on its own initiative or upon application for a text amendment.

(2) Zoning Map Amendments
The Council shall be responsible for reviewing zoning map amendment (rezoning) applications and for taking the final action to approve or deny such applications.

(3) Planned Unit Development (PUD) Amendments

(a) PUD Conceptual Plan
The Council shall be responsible for reviewing PUD Conceptual Plans and for taking the final action to approve, approve with conditions, or deny such applications.

(b) PUD Final Plan
The Council shall be responsible for reviewing PUD Final Plans and for taking the final action to approve, approve with conditions, or deny such applications. The Council is also responsible for reviewing PUD zoning map amendment applications, which are required to be processed along with the PUD Final Plan.

(4) Conditional Use Permits
The Council shall be responsible for reviewing and taking the final action to approve, approve with conditions, or deny Conditional Use Permit applications.

(5) Subdivision Plats
The Council shall be responsible for reviewing and taking the final action to approve, approve with conditions, or deny final subdivision plat applications.

(B) Council and the Board of Adjustment

(1) The Council will perform all duties of a Board of Adjustment as defined by the NDCC.

(2) Duties

(a) Zoning Variances

The Council shall be responsible for reviewing and taking final action to approve, approve with conditions, or deny zoning variance applications.

(b) Appeals of Administrative Decisions

The Council shall hear and decide appeals from affected parties regarding any order, requirement, decision, or determination made by an administrative official charged with the enforcement of this Zoning Ordinance.

5.02 Planning and Zoning Commission

(A) Authority

The P&Z Commission is created in accordance with North Dakota Century Code and includes the same powers and duties authorized for the Zoning P&Z Commission as provided in North Dakota Century Code section 40-47-06 (or as modified) and planning P&Z Commissions as provided in North Dakota Century Code Chapter 40-48 (or as modified).

(B) Members

P&Z Commission membership includes the following:

(1) Five members to be appointed by the Mayor, with the approval of the Council.

(2) One member residing outside the corporate limits of the City of Beulah, whose residence is located within the territorial limits of the zoning regulation authority exercised by the City of Beulah. (Said member to be appointed by the Mercer County Board of County P&Z Commissioners.)

(C) Terms of Office

The terms of office are determined by the North Dakota Century Code.

(D) Powers and Duties

(1) The P&Z Commission shall have such powers and shall perform such duties as provided for a Planning P&Z Commission as detailed in North Dakota Century Code.

(2) The P&Z Commission shall act in an advisory capacity to the Council in any matter which may be assigned to the P&Z Commission for consideration and recommendation.

(3) The P&Z Commission's powers and duties under this Ordinance are set out in this subsection (below).

(a) Zoning Ordinance Text Amendments

The P&Z Commission shall be responsible for reviewing Ordinance text amendment applications and for recommending that the Council approve, approve with conditions, or deny such applications.

(b) Zoning Map Amendments
The P&Z Commission shall be responsible for reviewing zoning map amendment (rezoning) applications and for recommending that the Council approve, approve with conditions, or deny such applications.

(c) Planned Unit Development (PUD) Overlay Amendments

(i) PUD Conceptual Plan

The P&Z Commission shall be responsible for reviewing PUD Conceptual Plans and for recommending that the Council approve, approve with conditions, or deny such applications.

(ii) PUD Final Plan
The P&Z Commission shall be responsible for reviewing PUD Final Plan applications and for recommending that the Council approve, approve with conditions, or deny such applications.

(d) Conditional Use Permits
The P&Z Commission shall be responsible for reviewing Conditional Use Permit applications and for recommending that the Council approve, approve with conditions, or deny such applications.

(e) Subdivision Plats

(i) The P&Z Commission shall be responsible for reviewing Preliminary Subdivision Plat applications and for recommending that the Council approve, approve with conditions, or deny such applications.
(ii) The P&Z Commission shall be responsible for recommending that the Council approve or deny Final Subdivision Plat applications.

(f) Building Permit
Prior to building permit approval by the Building Official, the P&Z Commission may be provided notification of current building permits under review and provide comment on building permits as necessary pertaining to planning and zoning matters. The P&Z Commission may act to accept building permits subject to its purview.

(g) Bonding and Fees
The P&Z Commission may recommend that the Council approve, approve with conditions, or deny bonding and fee schedules pertaining to planning and zoning matters.

(h) Variances
The P&Z Commission shall be responsible for reviewing Variance applications and for recommending that the Council approve, approve with conditions, or deny such applications.

(i) Other Matters

The P&Z Commission shall have such other duties as determined from time-to-time by the Council and this Zoning Ordinance.

Section 5.1 Process

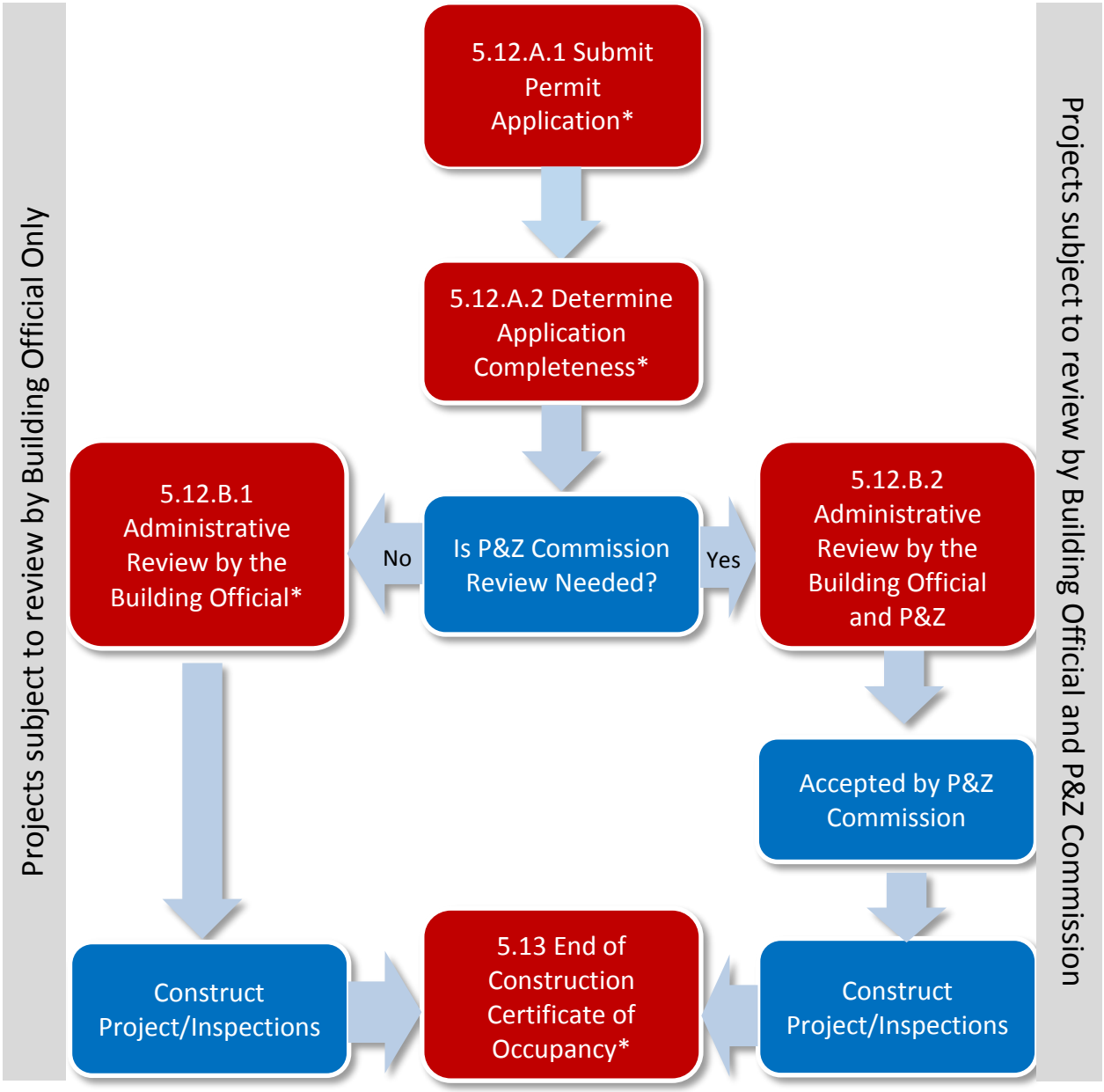
Section 5.11 Building Permit Required

The construction and/or maintenance of the following improvements requires a building permit. Consult with the Building Official if planning to construct or maintain any improvement not listed below.

(A) Fences
(B) Siding
(C) Windows
(D) Exterior Doors
(E) Sidewalks
(F) Driveways
(G) Curb and gutter
(H) Decks
(I) Additions
(J) Sheds
(K) Garages
(L) Storage units
(M) Communication towers
(N) New residence
(O) Remodels
(P) New commercial structure
(Q) Commercial structure remodel
(R) Signs
(S) Water and Sewer tie-ins
(T) Roofing
(U) Swimming pools
(V) Drain Tile

Section 5.12 Building Permit

Building Permit Process
(see following pages red text for detail)



(A) Application

(1) Submit Permit Application*

Building Permit applications shall be submitted to the Building Official in the appropriate form along with a non-refundable fee that has been established by a resolution of the Council.

(2) Determine Application Completeness*

(a) Building Permits may be issued only for development on legal lots where the plat creating the lot has been recorded by the County Recorder of Mercer County. This requirement may be waived by the P&Z Commission for development where the city has extraterritorial zoning jurisdiction, if the P&Z Commission is satisfied that roadway access and the provision of utilities can be properly provided without the platting process.

(b) The applicant has verified the location of the lot lines for the subject lot. Lot line verification is the responsibility of the applicant.

(c) The Building Official will determine when an application for a building permit is considered complete. In addition to the required fee, see the submittal checklist provided in section 5.12.A.2.d for all other required items.

(d) Application Checklist

(i) Site plan, drawn to scale, with dimensions.
(ii) Floor plan, drawn to scale, with dimensions.
(iii) Elevations, drawn to scale, with dimensions.
(iv) Foundation plans, drawn to scale, with dimensions.
(v) Elevation of final lot grade, drawn to scale, with dimensions.

(B) Review and Action

(1) Administrative review by the Building Official*

(a) The following types of improvements/maintenance require administrative review. Note that the below list is not all-inclusive. The Building Official must be contacted to determine whether a building permit is required.

(i) Siding
(ii) Windows
(iii) Exterior Doors
(iv) Water and Sewer Tie-ins
(v) Drain Tile

(b) The Building Official will review all building plans and site plans, working with the applicant until all plans meet applicable Zoning Ordinance and building code requirements, as determined by the Building Official. The final lot grade shall be reviewed to ensure it does not pose a hazard to life or property on the subject lot or on adjacent lots.

(c) When all required plans have been accepted and approved by the Building Official, the Building Permit is issued and the applicant is able to construct the project.

(d) Inspections must be completed to ensure compliance with the Zoning Ordinance, building code, and State Electrical and Plumbing Codes as determined applicable by the Building Official. Inspections are carried out by the Building Official or his designee.

(e) When all required items on the Certificate of Occupancy checklist have been completed, a Certificate of Occupancy will be issued.

(2) Administrative review by the Building Official and P&Z Commission*

(a) Administrative review and action by the Building Official and P&Z Commission applies to all projects not listed in section 5.12(B)(1)(a).

(b) The Building Official will review all building plans and site plans, working with the applicant until all plans meet applicable Zoning Ordinance and building code requirements, as determined by the Building Official.

(c) When all required plans have been accepted by the P&Z Commission, the Building Permit is issued and the applicant is able to construct the project.

(d) The Building Official will notify the P&Z Commission of all permits in compliance with Zoning Ordinance requirements.

(e) Inspections must be completed to ensure compliance with the Zoning Ordinance and building code. Inspections are carried out by the Building Official or his designee.

(f) When all required items on the Certificate of Occupancy checklist have been completed, an Certificate of Occupancy will be issued, when applicable.

(C) Expiration

In case construction has not begun within six (6) months after the date of issuance of a Building Permit, said permit shall be cancelled, unless an extension is granted by the P&Z Commission.

(D) Failure to Obtain Permit

All building permits must be obtained before any requested work is begun. Failure to obtain a building permit prior to the commencement of any work shall constitute a violation of this Zoning Ordinance.

*See process chart on page V-5.

Section 5.13 Certificate of Occupancy*

(A) Permit Process

Where a building permit has been approved, a Certificate of Occupancy shall be obtained prior to habitation or use of the structure.

(B) Permit Required

It is unlawful to use or permit the use of any building or premises or part, hereafter created, erected, changed, converted, moved, altered or enlarged wholly, or partly in its use or structure, until a Certificate of Occupancy has been issued by the Building Official. Such permit shall show that such building or premises or part and the proposed use are in conformity with the provisions of the building code, State Electrical and Plumbing Codes, and this Zoning Ordinance.

*See process chart on page V-5.

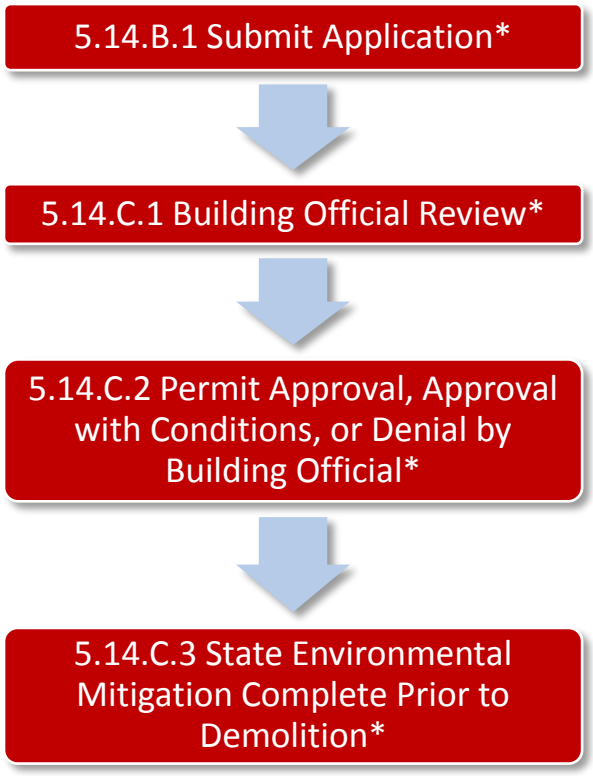
Section 5.14 Demolition Permit

(A) Permit Required

A demolition permit is required to demolish any of the following improvements. Each improvement must be included in the permit. Each separate property must have a separate demolition permit. The Building Official shall be consulted regarding any item not listed below as to whether a demolition permit is required.

(1) Garage
(2) Shed
(3) Sidewalk
(4) Curb and Gutter
(5) Driveway
(6) Deck
(7) Residence
(8) Commercial Structure
(9) Storage Unit
*(10)*Communication Tower
*(11)*Freestanding Sign
*(12)*Swimming Pool that required a building permit for construction

Demolition Permit Process
(see following text in red for detail)



(B) Application

(1) Submit Permit Application*

Demolition Permit applications shall be submitted to the Building Official in the appropriate form along with a non-refundable fee that has been established by a resolution of the Council.

(2) Determine Application Completeness

The Building Official will determine when an application for a demolition permit is considered complete. In addition to the required fee, see the submittal checklist provided in section 5.14.B.3 for all other required items.

(3) Application Checklist

(a) State Department of Health mitigation approval.

(b) Ownership verification and approval.

(c) Building Official approval.

(C) Review and Action

(1) The Building Official will review the application for completeness.*

(2) The Demolition Permit application shall be approved, approved with conditions, or denied by the Building Official. If approved, or approved with conditions, the Building Official shall issue the Demolition Permit. *

(3) Any environmental mitigation activities required by the State of North Dakota Department of Health must be completed prior to Demolition.*

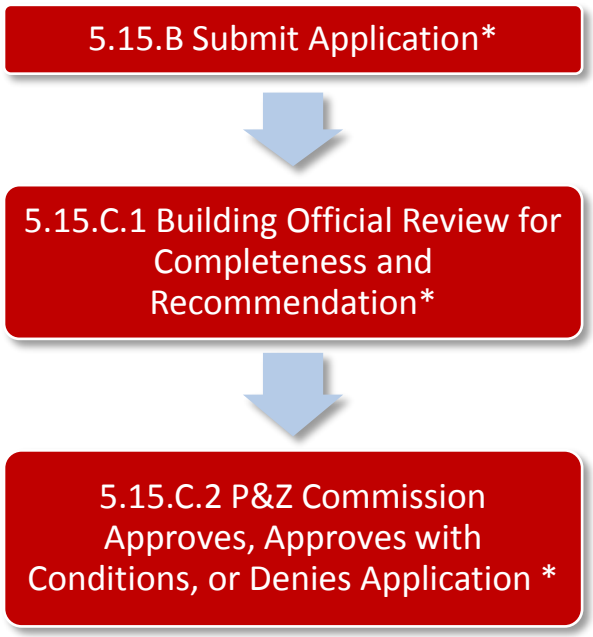
*See process chart on page V-9.

Section 5.15 Temporary Permit

(A) Permit Required

All temporary structures and temporary residences as listed in this Ordinance require a Temporary Permit. See Chapter 7, Definitions regarding what constitutes a temporary structure or residence.

Temporary Permit Process
(see following text in red for detail)



(B) Submit Application*

(1) Application

Temporary Permit applications shall be submitted to the Building Official in the appropriate form along with a non-refundable fee that has been established by a resolution of the Council.

(2) Determine Application Completeness

The Building Official will determine when an application for a temporary permit is considered complete. In addition to the required fee, see the submittal checklist provided in section 5.15.B.3 for all other required items.*

(3) Application Checklist

(a) Site plan, drawn to scale, with dimensions.

(b) Elevations and/or photos.

(c) Written description of proposed use.

(C) Review and Action

(1) The Building Official will review the application for completeness and develop a recommendation for the P&Z Commission.*

(2) The P&Z Commission may act to approve, approve with conditions, or deny the application. The action upon the temporary permit application may also be tabled by the P&Z Commission in order to allow for additional information requested of the applicant.*

*See process chart on page V-10.

Section 5.16 Conditional Use Permit

Conditional Use Permit Process

(see following text in red for detail)



(A) Submit Application*

(1) Application

Conditional Use Permit applications shall be submitted to the Building Official on an appropriate form along with a non-refundable fee that has been established by a resolution of the Council.

(2) Processing Requirements

The Building Official will determine when an application for a conditional use permit is considered complete. In addition to the required fee, see the submittal checklist provided in section 5.16.A.3 for all other required items.

(3) Application Checklist

(a) Site Plan, drawn to scale, with dimensions.

(b) Elevation of proposed structure(s), if structures are included.

(c) Project description, including detail on the daily or seasonal operations; number of employees, customers, visitors; number of shifts; activities; products and services; maximum living units proposed, as applicable.

(d) Non-refundable fee

(e) An amount to be determined by the City to cover estimated engineering and legal fees related to the project. Said amount shall be held in escrow by the City, and paid to the City Engineer and City Attorney upon completion of the project. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the sole responsibility of applicant.

(f) Other items and information requested by the Building Official, P&Z Commission, or Council to evaluate the proposal's potential impacts on traffic, aesthetics, city utilities, noise, and other environmental impacts.

(B) Review and Action

(1) The Building Official will review the application for completeness and develop a recommendation based upon the review criteria in section 5.16(C).*

(2) The P&Z Commission will be advised of the application and provided with the Building Official's recommendation.

(3) The P&Z Commission shall hold a public hearing for the conditional use permit request. The P&Z Commission will thereafter make a recommendation to the Council to approve, approve with conditions, or deny the application. The action upon the application may also be tabled by the P&Z Commission in order to allow for additional information requested of the applicant. The P&Z Commission will use the criteria located in section 5.16(C) as guidance to determine if a Conditional Use Permit should be approved.*

(4) The Council shall hold a public hearing on the proposed conditional use permit. The Council may act to approve, approve with conditions, or deny the application. The action upon the application may also be tabled by the Council in order to allow for additional information requested of the applicant. The Council will use the criteria located in section 5.16(C) as guidance to determine if a Conditional Use Permit should be approved.*

(C) Criteria

A Conditional Use Permit may not be approved unless the Council finds that all of the following criteria, as applicable, have been satisfied:

(1) The proposed use is in harmony with the purpose and intent of this Zoning Ordinance, applicable zoning district, and with the purpose and intent of the Comprehensive Plan.

(2) If applicable, the proposed use will comply with all special standards established in Chapter 3.

(3) Adequate utility, drainage, and other such necessary facilities and services have been or will be provided at the time of development.

(4) Adequate access roads or entrance and exit drives will be provided and be so designed to prevent traffic hazards and to minimize traffic congestion in public streets.

(D) Notice of Public Hearing

(1) Newspaper

Notice is to be published in the official newspaper of the City at least once each week for 2 successive weeks and not less than 15 days preceding the date of each scheduled public hearing (not necessary for hearings after a continuation of the application).

(2) Adjacent Properties

Written notice shall be provided by first class mail to all owners of the subject property and all property owners within 300 feet of the subject property. The notice shall be deposited in the U.S. mail at least 15 days before the scheduled public hearings (not necessary for hearings after a continuation of the application).

(E) Appeal Process

An appeal of the Council decision may be made to the district court.

(F) Amendments

The process for amendments to conditional use permits is the same as required for a new application.

*See process chart on page V-12.

Section 5.17 Variance

(A) Variance Restrictions

A variance can only be considered in the following areas:

(1) Height
(2) Yard/setbacks
(3) Lot area
(4) Lot coverage
(5) Off-street parking and loading requirements
(6) Sight visibility triangle
(7) Sign area
(8) Sign height

Variance Process
(see following text in red for detail)



(B) Submit Application*

(1) Application

Variance applications shall be submitted to the Building Official on the appropriate form along with a non-refundable fee that has been established by a resolution of the Council.

(2) Processing Requirements
The Building Official will determine when an application for a variance is considered complete. In addition to the required fee, see the submittal checklist provided in section 5.17.B.3 for all other required items.

(3) Application Checklist

(a) Site Plan, drawn to scale, with dimensions.

(b) Elevation(s) of proposed structures (for height variances only).

(c) Written statement of hardship.

(d) Written notice provided by first class mail to all owners of the subject property and all property owners within 300 feet of the subject property. The notice shall be deposited in the U.S. mail at least 15 days before the scheduled meetings of P&Z Commission and Council (not necessary for hearings after a continuation of the application).

(C) Review and Action

(1) The Building Official will review the application for completeness and develop a recommendation based upon the review criteria in section 5.17(D).*

(2) The P&Z Commission will receive the application as well as the Building Official's recommendation.

(3) The P&Z Commission will thereafter make a recommendation to the Council to approve, approve with conditions, or deny the application. The action upon the application may also be tabled by the P&Z Commission in order to allow for additional information requested of the applicant. The P&Z Commission will use the criteria located in section 5.17(D) as guidance to determine if a variance should be approved.*

(4) The Council will act to approve, approve with conditions, or deny the application. The action upon the application may also be tabled by the Council in order to allow for additional information requested of the applicant. The Council will use the criteria located in section 5.17(D) as guidance to determine if a variance should be approved.*

(D) Criteria

A Variance may not be approved unless the Council finds that all of the following criteria, as applicable, have been satisfied:

(1) The requested variance arises from conditions that are unique to the subject property, that are not ordinarily found in the same zoning district.

(2) The request is not made to satisfy the owner's convenience.

(3) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

(4) The strict application of the applicable zoning standards will constitute an unnecessary physical hardship (not economic hardship).

(5) The variance desired will not adversely affect the public health, safety or general welfare.

(6) The variance is the minimum variance that will overcome the hardship.

(E) Appeal Process

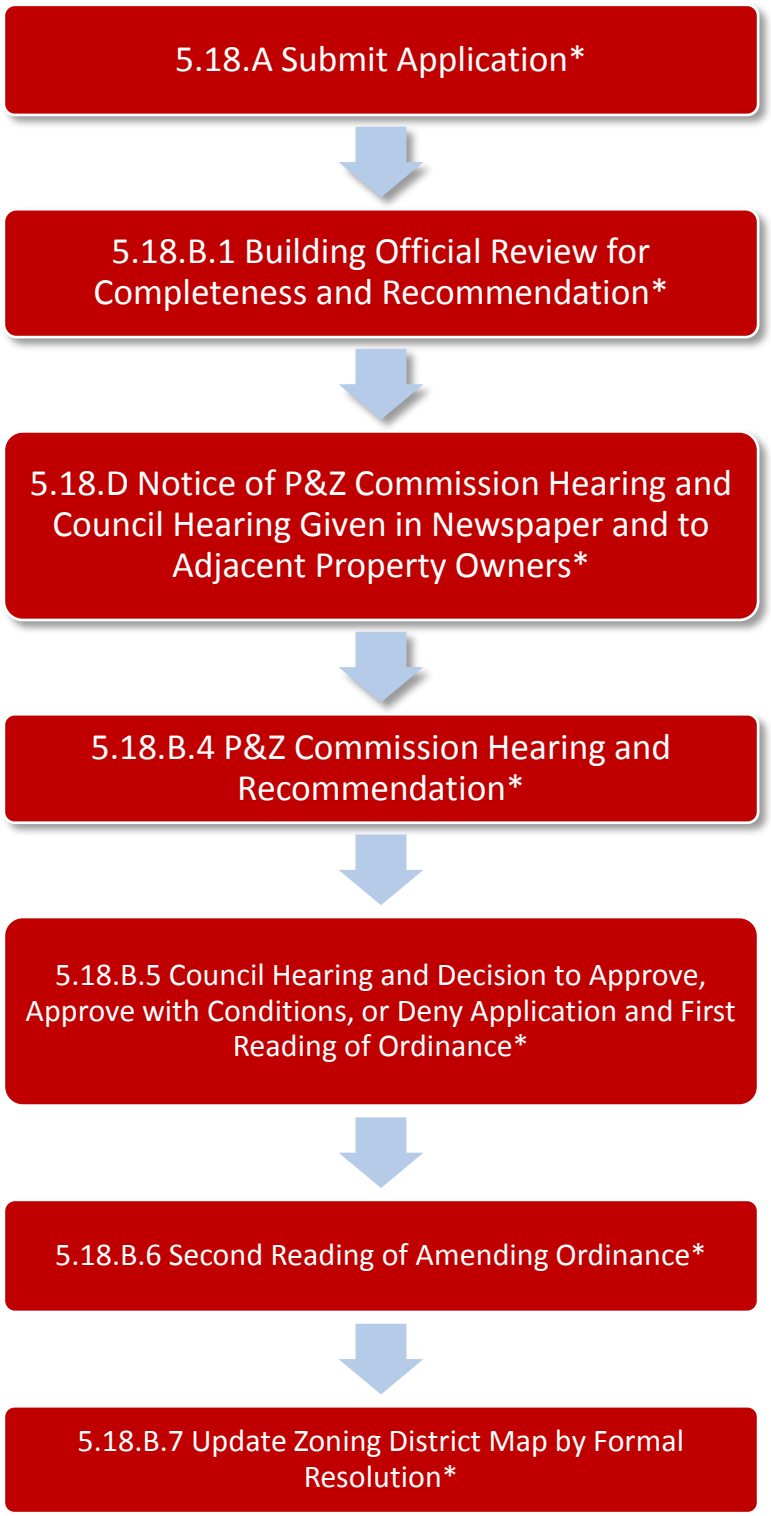
An appeal of the Council decision may be made to the district court.

*See process chart on page V-15.

Section 5.18 Zoning District Map Amendment

Zoning District Map Amendment Process

(see following text in red for detail)



(A) Prepare Zoning District Map Amendment/Submit Application*

(1) Application:

Zoning District Map Amendment applications shall be submitted to the Building Official in the appropriate form along with a non-refundable fee that has been established by a resolution of the Council.

(2) Processing Requirements:

The Building Official will determine when an application for a zoning district map amendment is considered complete. In addition to the required fee, see the submittal checklist provided in section 5.18.A.3 for all other required items.

(3) Application Checklist

(a) Applicant name and contact information.

(b) Legal Description of the property.

(c) The existing zoning of the area and adjoining lots.

(d) The proposed zoning of the area and adjoining lots.

(e) Reason applicant is seeking zoning change.

(B) Review and Action

(1) The Building Official will review the application for completeness and develop a recommendation based upon the review criteria in section 5.18(C).*

(2) The P&Z Commission will be advised of the application and provided with the Building Official's recommendation.

(3) For any Zoning Map Amendment in the Extraterritorial Area, see N.D.C.C. § 40-47-01.1.

(4) The P&Z Commission shall hold a hearing on the Zoning Ordinance amendment request. The P&Z Commission will thereafter make a recommendation to the Council to approve, approve with conditions, or deny the application. The action upon the zoning district map amendment application may also be tabled by the P&Z Commission in order to allow for additional information requested of the applicant. The P&Z Commission will use the criteria located in section 5.18(C) as guidance to determine if a zoning map amendment should be approved.*

(5) The Council shall hold a public hearing on the proposed zoning district map amendment. The Council will thereafter act to approve, approve with conditions, or deny the application. The action upon the zoning district map amendment application may also be tabled by the Council in order to allow for additional information requested of the applicant. The Council will use the criteria located in section 5.18(C) as guidance to determine if a zoning district map

amendment should be approved.* At said hearing, the Council shall have a first reading of the Amending Ordinance

(6) The Council shall have a second reading of the Amending Ordinance, at which time it will be adopted. *

(7) The Council shall amend the Zoning District Map by formal resolution. *

(C) Criteria

The Council will use the following as guidance to determine if a Zoning District Map Amendment should be approved:

(1) The requested zoning change is justified by a change in conditions since the area was initially zoned or by an error in the zoning district map.

(2) The City and other agencies will be able to provide necessary public services, facilities, and programs to serve the development allowed by the new zoning classification.

(3) The approval will not adversely affect the condition or value of property in the vicinity.

(4) The proposed amendment is consistent with the purpose of this Ordinance, in harmony with the Comprehensive Plan Land Use Map, and other adopted policies of the City.

(D) Notice of Public Hearing*

(1) Newspaper

Notice is to be published in the official newspaper of the city, or in the official newspaper of the City and the official newspaper of Mercer County if the proposed site is within the City's extraterritorial zoning jurisdiction, at least once each week for 2 successive weeks and not less than 15 days preceding the date of the scheduled public hearings. (Not necessary for hearings after a continuation of the application)

(2) Adjacent Properties

Written notice shall be provided by first class mail to all owners of the subject property and all property owners within 300 feet of the subject property. The notice shall be deposited in the U.S. mail at least 15 days before the scheduled public hearings. (Not necessary for hearings after a continuation of the application)

(E) Notice of Amendment Adoption

Within 30 days after the Council approves a zoning district map amendment, the City Auditor shall ensure that notice of the approved amendment is published in the official newspaper of the city.

(F) Protest Petitions

(1) Protest Provision Required

Any person aggrieved by a proposed change to the zoning district map may file a protest petition prior to consideration by the Council. The protest shall be submitted to the City Auditor. A protest petition against a change, supplement, modification, amendment, or repeal is signed by the owners of twenty (20) percent or more:

(a) Of the area of the lots included in such proposed change; or

(b) Of the area adjacent, extending one hundred and fifty (150) feet from the area to be changed, excluding the width of streets.

"Valid" protest petitions must be in writing, contain a clear and concise statement describing and setting forth the protest, and contain the signature and address of each protesting property owner, and the location of property owned by each protestor shall be shown on a map attached to the protest petition.

(2) Vote Required

The amendment shall not become effective except by the favorable vote of a three-fourths majority of all members of the Council. The provisions of this Zoning Ordinance relating to public hearings and official notice shall apply equally to all changes or amendments considered under this section provided that protest petitions must be filed with the City Auditor prior to the time set for the Council hearing on the protest.

*See process chart on page V-18.

Section 5.19 Zoning Ordinance Text Amendment

See N.D.C.C. § 40-12.

Section 5.20 Comprehensive Plan Land Use Map Amendment

Comprehensive Plan Land Use Map Amendment Process
(see following text in red for detail)



(1) Submit Application*

(1) Application

Comprehensive Plan Land Use Map Amendment applications shall be submitted to the Building Official in the appropriate form along with a non-refundable fee that has been established by a resolution of the Council.

(2) Processing Requirements:

The Building Official will determine when an application for a Comprehensive Plan Land Use Map Amendment is considered complete. In addition to the required fee, see the submittal checklist provided in section 5.20.A.3 for all other required items.

(3) Application Checklist

(a) Written justification outlining the need for the Comprehensive Plan Land Use Map Amendment.

(b) Map of proposed amendment showing entire land area, existing and proposed subdivision(s), and proposed modification of land use classifications, drawn to scale, with dimensions.

(4) Review and Action

(1) The Building Official will review the application for completeness and develop a recommendation based upon the review criteria in section 5.20(C).*

(2) The P&Z Commission will receive the application and be provided with the Building Official's recommendation.

(3) The P&Z Commission shall hold a hearing on the Comprehensive Plan Land Use Map Amendment request. The P&Z Commission will thereafter make a recommendation to the Council to approve, approve with conditions, or deny the application. The action upon the Comprehensive Plan Land Use Map Amendment application may also be tabled by the P&Z Commission in order to allow for additional information requested of the applicant. The P&Z Commission will use the criteria located in section 5.20(C) as guidance to determine if a Comprehensive Plan Land Use Map Amendment should be approved.*

(4) The Council shall hold a public hearing on the proposed Comprehensive Plan Land Use Map Amendment. The Council may act to approve, approve with conditions, or deny the application. The action upon the Comprehensive Plan Land Use Map Amendment application may also be tabled by the Council in order to allow for additional information requested of the applicant. The Council will use the criteria located in section 5.20(C) as guidance to determine if a Comprehensive Plan Land Use Map Amendment should be approved.*

(5) Upon approval of the application, a first reading of the amending ordinance will be performed at the time of the public hearing. Thereafter, a second reading of the amending ordinance shall occur to formally adopt the ordinance. *

(6) Upon passing of the Amending Ordinance, the Comprehensive Land Use Plan shall be updated. *

(C) Criteria

The Council will use the following as guidance to determine if a Comprehensive Plan Land Use Map Amendment should be approved:

(1) Consistency
The criterion is "whether the proposed change would be consistent with the intent of the Comprehensive Plan."

(2) Compatibility
The criterion is "whether the proposed change would be compatible with the existing land use pattern or the designated future land uses."

(3) Substantial Adverse Impact
The criterion is "whether the proposed change would create substantial adverse impact in the adjacent area or in the City or County in general."

(4) Adequate Shape and Size
The criterion is "whether the subject site is of adequate shape and size to accommodate the proposed change."

(D) Notice of Public Hearing

(1) Newspaper
Notice is to be published in the official newspaper of the city at least once each week for 2 successive weeks and not less than 15 days preceding the date of the scheduled public hearings (not necessary for hearings after a continuation of the application).

(2) Adjacent Properties
Written notice shall be provided by first class mail to all owners of the subject property and all property owners within 300 feet of the subject property. The notice shall be deposited in the U.S. mail at least 15 days before the scheduled public hearings (not necessary for hearings after a continuation of the application).

(E) Protest Petitions

(1) Protest Provision Required
Any person aggrieved by a proposed change to the Comprehensive Plan Land Use Map may file a protest petition prior to consideration by the Council. The protest petition shall be submitted to the City Auditor. A protest petition against a change, supplement, modification, amendment, or repeal must be signed by the owners of twenty (20) percent or more:

(a) Of the area of the lots included in such proposed change; or

(b) Of the area adjacent, extending one hundred and fifty (150) feet from the area to be changed, excluding the width of streets.

"Valid" protest petitions must be in writing, contain a clear and concise statement describing and setting forth the protest, and contain the signature and address of each protesting property owner, and the location of property owned by each protestor shall be shown on a map attached to the petition.

(2) Vote Required

The amendment shall not become effective except by the favorable vote of a three-fourths majority of all members of the Council. The provisions of this Zoning Ordinance relating to public hearings and official notice shall apply equally to all changes or amendments considered under this section provided that protest petition is filed with the City Auditor prior to the time set for the hearing.

(F) Notice of Amendment Adoption

Within 30 days after the Council approves a Comprehensive Plan Land Use Map Amendment, the City Auditor shall ensure that notice of the approved amendment is published in the official newspaper of the City.

*See process chart on page V-22.

Section 5.21 Subdivision Plats

Preliminary Plat Process

(see red text, pages V-28-V-29 for detail)



Final Plat Process

(see red text, pages V-29-V-30 for detail)



(A) Minor Subdivisions

(1) Minor subdivisions meet the following criteria:

(a) Does not require the dedication of public rights-of-way or the construction of new streets;

(b) The resulting subdivision is three (3) lots or less;

(c) Does not create any public improvements;

(d) Does not land-lock the subject tract or any adjacent property;

(e) Does not violate any local, state or federally-adopted law, this Ordinance, City plan or policy;

(f) Is prepared in accordance with and is subject to all requirements of the County Recorder or the procedures for Final Plats as established by this Subdivision Regulation;

(g) The lot and block arrangement of the plat of record along with its original name shall be indicted by dotted or dashed lines. Also any revision or vacated roadway on the original plat of record shall be so indicated.

(2) Any subdivision application that meets the criteria under 5.21(A)(1) does not need to comply with the requirements of part 5.21(C) – Preliminary Plat Review. All other parts of section 5.21 must be complied with.

(3) Any subdivision application that does not meet the criteria under 5.21(A)(1) must comply with section 5.21, parts (B), (C), (D), (E), and (F).

(B) Preapplication Review

Before submitting a plat for a proposed subdivision, the applicant shall confer with the Building Official to discuss the proposal and applicable regulations. The purpose of the Preapplication Meeting is for the applicant to become familiar with applicable subdivision procedures and standards. The Building Official may waive the preapplication meeting requirement in writing.

(C) Preliminary Plat Review

(1) Submit Application*

(a) Submission
Preliminary plat applications shall be submitted to the Building Official in the appropriate form along with a non-refundable fee that has been established by a resolution of the Council and an amount to be determined by the City to cover estimated engineering and legal fees related to the project. Said amount shall be held in escrow by the City, and paid to the City Engineer and City Attorney upon completion of the project. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the sole responsibility of applicant.

(b) Processing Requirement
The Building Official will determine when an application for a preliminary plat is considered complete. In addition to the required fee and escrow amount, see the submittal checklist provided in section 5.21.C.1.c for all other required items.

(c) Submittal Checklist
(i) Plat map.

(ii) Preliminary storm water management plan.
(iii) Identification of undeveloped land, if any.
(iv) Roadway profiles.
(v) Written justification for use of private roadways, if applicable.
(vi) Other items and information requested by the Building Official, P&Z Commission, or Council to evaluate the proposal's potential impacts on traffic, aesthetics, city utilities, noise, and other environmental impacts.

(2) Building Official Review and Recommendation*

The Building Official shall prepare a recommendation in writing to the P&Z Commission. The recommendation will include discussion of compliance with the Comprehensive Plan, City Ordinances, and North Dakota Century Code.

(3) Review and Recommendation – P&Z Commission*

The P&Z Commission shall hold a public hearing on the Preliminary Subdivision Plat. The P&Z Commission will thereafter make a recommendation to the Council to approve, approve with conditions, or deny the application. The action on the preliminary subdivision plat application may also be tabled by the P&Z Commission in order to allow for additional information requested of the applicant. The recommendation made by the P&Z Commission on the Preliminary Plat shall be based on compliance with the North Dakota Century Code and City Ordinances, with consideration given to the Comprehensive Plan.

(4) Review and Action – Council*

The Council shall hold a public hearing on the Preliminary Subdivision Plat. The Council may act to approve, approve with conditions, or deny the application. The action on the preliminary subdivision plat application may also be tabled by the Council in order to allow for additional information requested of the applicant. The action taken by the Council on the Preliminary Plat shall be based on compliance with the North Dakota Century code and City Ordinances, with consideration given to the Comprehensive Plan. After the preliminary review and action, the applicant may proceed with the preparation of Construction Plans and submit the required final plat documents for review and approval.

*See process chart on page V-26.

(D) Final Plat Review and Action

(a) Submit Application

(a) Submission

Final plat applications shall be submitted to the Building Official in the appropriate form along with a non-refundable fee that has been established by a resolution of the Council.

(b) Processing Requirements

The application for a Final Subdivision Plat shall not be processed until all of the following documents and information have been submitted to the Building Official in the appropriate form:

(i) A copy of a title insurance policy or an attorney's opinion of title, running to the benefit of the City of Beulah, stating the name of the owner of record.

(ii) A Plat Review Checklist.

(iii) Three (3) Mylar Plat Surveys signed by the applicant, property owner(s) of record (i.e. consistent with all information provided in the Title Opinion), P&Z Commission Chairman, and Mayor of the City of Beulah, and land surveyor.

(iv) Infrastructure improvement plans.

(2) Building Official Review and Recommendation*

The Building Official shall prepare a recommendation in writing to the P&Z Commission that reviews the application in light of the approved Preliminary Plat (and any conditions required by the Council), Comprehensive Plan, City Ordinances, and the North Dakota Century Code.

(3) Review and Recommendation – P&Z Commission*

The P&Z Commission shall hold a public hearing on the proposed Final Subdivision Plat and may recommend approval or denial of the proposed Final Subdivision Plat to the Council. The action on the proposed Final Subdivision Plat application may also be tabled by the P&Z Commission in order to allow for additional information requested of the applicant. The recommendation made by the P&Z Commission on the proposed Final Subdivision Plat shall be based on compliance with the North Dakota Century code and City Ordinances, with consideration given to the Comprehensive Plan.

(4) Review and Action – Council*

The Council shall hold a public hearing on the proposed Final Subdivision Plat and may act to approve or deny the application. The action on the proposed Final Subdivision Plat application may also be tabled by the Council in order to allow for additional information requested of the applicant. The action taken by the Council on the Final Subdivision Plat shall be based on compliance with the North Dakota Century code and City Ordinances, with consideration given to the Comprehensive Plan.

*See process chart on page V-27.

(E) Notices

(1) Newspaper

Notice is to be published in the official newspaper of the City at least once each week for 2 successive weeks and not less than 15 days preceding the date of each scheduled public hearing for both the preliminary plat and the final plat (not necessary for hearings after a continuation of the application).

(2) Adjacent Properties

Written notice shall be provided by first class mail to all owners of the subject property and all property owners within 300 feet of the subject property. The notice shall be deposited in the U.S. mail at least 15 days before each scheduled public hearing for both the preliminary plat and the final plat. (Not necessary for hearings after a continuation of the application)

(F) Recordation of Final Plat

After approval of a Final Plat, the applicant shall be responsible for recording the Final Plat with the Mercer County Recorder.

Section 5.22 Annexation

(A) Description

(1) The annexation of land into the City of Beulah can be accomplished by any one of two methods. These methods are:

(a) Annexation by application of owners and electors;

(b) Annexation by resolution of the City of Beulah.

(2) The first method is initiated by the landowners of the property and the electors residing on the property within the area proposed for annexation. The second method is for annexation at the Council's initiative.

(3) Refer to NDCC 40-51.2 for further detail regarding this section.

(B) Annexation by Application

(1) Description

A written application signed by not less than three-fourths of the qualified electors or by the owners of not less than three-fourths in assessed value of the property in an area proposed for annexation is presented to the City Auditor along with an amount to be determined by the City Auditor to cover estimated engineering and legal fees related to the project. Said amount shall be held in escrow by the City, and paid to the City Engineer and City Attorney upon completion of the project. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the sole responsibility of applicant.

(2) Process

Refer to Section 5.22.D for a flow chart. The process is as follows:

(a) The annexation application is submitted in a form set by the City Auditor. The application is accompanied by the annexation plat and legal description, both prepared by the applicant.

(b) The City Auditor verifies that the applicants of the petition are qualified electors and/or owners of the property represented in the application. The annexation area will need to be configured such that it is both contiguous to the existing municipal boundary and does not exceed the area represented by three-fourths of the qualified electors or three-fourths in assessed value. In the case of both the number of qualified electors and the assessed value, a calculation will need to be made to determine the percentage represented by the petition. The City Attorney prepares a draft ordinance for the proposed annexation.

(c) Notice is published in the official newspaper of the City once each week for two consecutive weeks and not less than 15 days before the P&Z Commission hearing. Notice is also mailed by the City Auditor to any property owner included in the proposed annexation who did not already sign the petition, as well as to any political subdivision affected by the annexation, such as another city, county, or township that is directly affected by annexation of the land area included in the application. This notice is mailed at least 15 days before the P&Z Commission hearing.

(d) The P&Z Commission shall hold a hearing and provide a recommendation to the Council regarding the annexation application.

(e) The Council shall hold a hearing regarding the proposed annexation followed by the first reading of the proposed annexation ordinance.

(f) The Council holds the second reading and final approval of the proposed annexation ordinance.

(g) After completion of the first and second reading, the annexation plat and ordinance is filed with the City Auditor and recorded at the Mercer County Recorder's office.

(C) Annexation by Resolution

(1) Description

The Council adopts a resolution describing the property to be annexed.

(2) Process

Refer to Section 5.22.E for a flow chart. The Council may adopt a resolution to annex contiguous or adjacent territory as follows:

(a) The City prepares an annexation plat for the property to be annexed. The annexation area will need to be configured such that it is contiguous to the existing municipal boundary.

(b) The City Attorney prepares the resolution of annexation based on the annexation plat and legal description.

(c) The Council adopts the resolution of annexation.

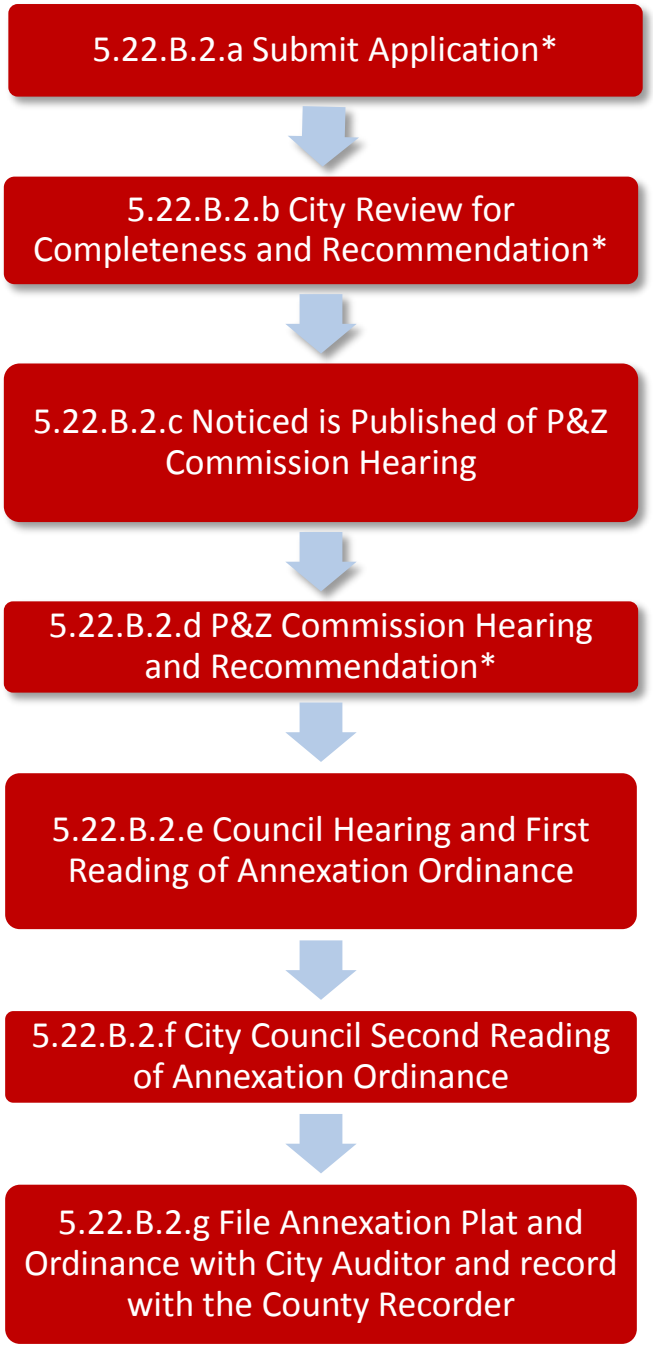
(d) The City Auditor shall publish the resolution and a notice of the time and place the Council will meet to hear and determine the sufficiency of any written protests against the proposed annexation in the official newspaper of the City once each week for two consecutive weeks. The City Auditor shall mail at least 7 days before the hearing, by certified mail, a notice to the owner of each parcel of real property within the area to be annexed at the person's last known mailing address. The notice must inform land owners of the resolution, the time and place of hearing, and the requirement that protests must be filed in writing. The owners of any real property within the territory proposed to be annexed within 30 days of the first publication of the resolution may file written protests with the City Auditor protesting against the proposed annexation. The City Auditor shall

also mail at least 7 days before the hearing, by certified mail, the notice of the time and place of the hearing to the governing body of each city, county, or township directly affected by the land area proposed to be annexed. No state owned property may be annexed without the written consent of the State agency or department having control of the property. The Council, at its next meeting after the expiration of the time for filing protests, shall hear and determine the sufficiency of the protests.

(e) In the absence of protests filed by the owners of more than one-fourth of the territory proposed to be annexed as of the date of the adoption of the resolution, the territory described in the resolution becomes a part of the City. When a copy of the resolution and the annexation plat for the annexed area, certified by the executive officer of the City are filed with the City Auditor and recorded with the Mercer County Recorder's office, the annexation becomes effective.

(f) If the owners of one-fourth or more of the territory proposed to be annexed protest, or if a city that has extraterritorial zoning or subdivision regulation authority over the area petitioned to be annexed protests, the Council may either stop its pursuit of the annexation or submit the matter to a committee for mediation as provided in NDCC §40-51.2-07.1.

(D) Annexation by Application Process



(E) Annexation by Resolution Process



(F) Appeals of Administrative Actions



(1) Applicability

The Council shall hear and decided appeals where there is an alleged error in a decision or determination made by the Building Official or P&Z Commission in administering or enforcing the Zoning Ordinance and subsequent amendments thereto.

(2) Right to Appeal

An appeal of an administrative action may be filed by anyone affected by the decision of the Building Official or P&Z Commission.

(3) Submit Appeal*

Appeals of administrative actions shall be submitted to the City Auditor in writing and contain a clear statement of the nature of the appeal.

(4) Processing Requirements

The appeal must be determined complete by the City Auditor

(5) Effect of Appeal

The acceptance of an appeal by the City Auditor stays all proceedings of the administrative action that is the subject of the appeal.

(6) Record Given

The City Auditor shall provide the Council with all written documentation constituting the record upon which the administrative action is appealed.

(7) Review and Action

(a) The City Auditor will review the appeal for completeness*
(b) The Council will be advised of the appeal.
(c) The Council shall hold a public hearing on the appeal. The action taken by the Council must be based upon the criteria found in section 5.23(I).*
(d) Every decision of the Council shall be accompanied by written findings of fact specifying the reason for the decision.
(e) The Council decision findings shall be filed at City Hall within 30 days after the date of the final action.

(H) Notices

The Applicant shall be provided a Notice of Hearing and a copy of the written findings of fact.

(I) Review Criteria

An appeal shall be sustained only if the Council finds that the administrative official acted imprudently. Every decision of the Council regarding an appeal of an administrative action shall be accompanied by written findings of fact specifying the reason for the decision, contained within the official meeting minutes of the public hearing.

*See process chart on page V-34.

Section 5.23 Appeals of Council Actions

An appeal of the Council decision may be made to the district court pursuant to the procedure outlined in N.D.C.C. § 28-34-01.

Section 5.24 Organization Chart

Procedure	**Review (R) and Decision-Making (DM)**		
	Building Official	**P&Z Commission**	**Council**
Building Permit	R/DM*	DM	-
Demolition Permit	R/DM	-	-
Temporary Permit	R	DM	-
Zoning Ordinance Text Amendments	R	R	DM
Zoning Map Amendments (Rezones)	R	R	DM
Comprehensive Plan Land Use Map Amendment	R	R	DM
Subdivision (Preliminary and Final Plats)	R	R	DM
Conditional Use Permits	R	R	DM
Planned Unit Development (Conceptual and Final Plans)	R	R	DM
Initial ETA Zoning	R	R	DM
Variances	R	R	DM
Appeals of Administrative Decisions	-	-	DM
Appeals of Council Actions	District Court		

*Building Official is the decision maker only for Building Permits that are specified in the Zoning Ordinance.

Chapter 6 Legal Framework

Mandatory and Discretionary Terms

The words "shall," "will," and "must" are always mandatory. The words "may" and "should" are discretionary terms.

Section 6.0 Authority

This Ordinance is adopted pursuant to the authority granted by Chapters 40-47, 40-48, and 40-50.1 of the North Dakota Century Code.

Section 6.1 Title

This Zoning Ordinance and the District Zoning Map shall constitute and be known as the City of Beulah Zoning Ordinance and hereinafter referred to as the “Zoning Ordinance”.

Section 6.2 Jurisdiction

This Zoning Ordinance applies to all land within the corporate limits of the City of Beulah and to the land within the extraterritorial jurisdiction of the City.

Section 6.3 Purpose

The Zoning Ordinance is intended to implement the Comprehensive Plan and related policies in a manner that promotes the health, safety, and general welfare of the citizens of Beulah.

Section 6.4 Consistency with Comprehensive Plan

The Zoning Ordinance shall be consistent with the Comprehensive Plan as required by the North Dakota Century Code 40-47-03.

Section 6.5 Conflicting Provisions

(A) Conflict with State or Federal Regulations

If the provisions of this Zoning Ordinance are inconsistent with those of the state or federal government, the more restrictive provision will control, to the extent permitted by law.

(B) Conflict with Other City Regulations

If the provisions of this Zoning Ordinance are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the City, the more restrictive provision will control.

(C) Conflict with Private Restrictions

It is not the intent of this Zoning Ordinance to interfere with, abrogate or annul any easement, protective or restrictive covenant, or other agreement between private parties. If the provisions of this Zoning Ordinance impose a greater restriction than imposed by a private agreement, the provisions of this Zoning Ordinance will control. If the provisions of a valid, enforceable private agreement impose a greater restriction than this Zoning Ordinance, the provisions of the private agreement will control. The City does not enforce private agreements or maintain a record of such agreements.

Section 6.6 Interpretation

In their interpretation and application, the provisions of this Zoning Ordinance shall be liberally construed in favor of the City of Beulah; and shall not be construed to be a limitation or repeal of any other power granted by the North Dakota Century Code.

Section 6.7 Repeal and Re-enactment

All regulations, parts of regulations, existing ordinances, or resolutions in conflict with this Zoning Ordinance and its provisions are hereby repealed and the updated Zoning Ordinance, with new amendments is hereby enacted.

Section 6.8 Severability

If any Court of competent jurisdiction declares any part of this Zoning Ordinance to be invalid, the ruling will not affect the validity of the other provisions of this Zoning Ordinance not expressly included in the ruling.

Section 6.9 Building Permits

The City shall in no case grant any permit for the construction, moving, or alteration of any building if the building as proposed to be constructed, moved or altered would be in violation of city zoning regulations or building codes adopted by the City of Beulah or any other codes or regulations required by the State of North Dakota.

Section 6.10 Enforcement

(A) Notice and Order

Whenever a zoning or code violation is found, the City Building Official shall give written notification to the owner of the property that a violation has occurred and order the violation abated and the property, building, or use brought into compliance with this Zoning Ordinance. A reasonable amount of time shall be allowed for compliance.

(B) Action to Correct Violations

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure, or land is used in violation of this Zoning Ordinance, the proper local authorities of the City, in addition to other remedies, may institute any appropriate action or proceeding:

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

(C) Penalty

(1) Any person, firm, or corporation violating any of the provisions of this Zoning Ordinance shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars ($1,000.00). Each and every day that a violation of this Zoning Ordinance shall be continued shall constitute and be considered a separate offense. A violation of any provision of this Zoning Ordinance or the regulations and restrictions made herein shall constitute the maintenance of a public nuisance and shall be an infraction.

Section 6.11 Zoning District Map

(A) Description

(1) The City of Beulah is divided into zones, or districts, as shown on the Zoning District Map, which is adopted as part of this Zoning Ordinance. A copy of the Zoning District Map is on file in the office of the Building Official.

(2) Where uncertainty exists with respect to the boundaries of the various districts on the Zoning District Map, the following rules shall apply:

(a) The district boundaries are the center lines of streets or alleys, unless otherwise shown.

(b) Where the district boundaries are not center lines of streets or alleys and where the land has been or may hereafter be divided into lots or blocks and lots, the district boundaries shall be lot lines.

(c) Where land has not been subdivided into lots or blocks and lots, the district boundary lines on the Zoning District Map shall be determined by where district boundary lines follow property lines. In the absence of property lines, a surveyed boundary is required.

(d) Where uncertainty may exist as to the exact boundary line of a district, the location shall be determined by the Council and a record kept thereof.

Section 6.12 Nonconforming Lots, Structures, and Uses

(A) Description

(1) Definitions

(a) Nonconforming Lot: A lot which does not conform to the location requirements or dimensional or size standards of this Zoning Ordinance or for the district in which it is located, either at the effective date of this Zoning Ordinance as a result of subsequent amendments which may be incorporated into this Zoning Ordinance, or as a result of zoning changes.

(b) Nonconforming Structure: A structure which does not conform to the regulations of this Zoning Ordinance for the district in which it is located, either at the effective date of this Zoning Ordinance, or as a result of subsequent amendments which may be incorporated into this Zoning Ordinance, or as a result of zoning changes.

(c) Nonconforming Use: The use of a building or other structure or of a tract of land which does not conform to the use or regulations of this Zoning Ordinance for the district in which it is located, either at the date of this Zoning Ordinance, as a result of subsequent amendments which may be incorporated into this Zoning Ordinance, or as a result of zoning changes

(2) Authority to Continue

Nonconformities shall be allowed to continue in accordance with the regulations of this section.

(3) Tenant or Ownership Change

Changes to tenancy, ownership, or management are permitted, as long as no other changes are made that require conformity as specified in the Zoning Ordinance.

(4) Determination of Nonconformity Status

The burden of establishing that a nonconformity lawfully exists is the City's burden, not the owner's.

(5) Extension/Enlargement

No nonconforming use may be enlarged, expanded or extended to occupy a greater area of land or floor area than was occupied at the date the use became a nonconformity: either at the effective date of this Zoning Ordinance, at the effective date of a subsequent amendment to this Zoning Ordinance, or at the effective date of a zoning change. No additional accessory use, building or structure may be established on the site of a nonconforming use. Uses may be extended throughout any part of a nonconforming building or other structure that was lawfully and manifestly designed or arranged for such use.

(6) Damage or Destruction

If a structure devoted in whole or in part to a nonconforming use is damaged or destroyed by any means, to the extent of more than 50 percent of its taxable assessed valuation as determined by the City prior to the damage, that structure may not be restored unless the structure and the use thereof thereafter complies with all regulations of the zoning district in which it is located. The determination of reduced structural valuation shall be made by the City. The property owner may contest the City's valuation with the use of a third party appraiser to be conducted at the property owner's expense. In the event that the City's appraisal is contested, the valuation to be used shall be determined by the Council. If the damage or destruction represents 50 percent or less of the structure's value prior to the damage, repair and restoration is allowed, provided that a building permit must be obtained within six months of the damage and restoration must begin within one (1) year of the date of damage.

(7) Repairs and Maintenance

Repairs and normal maintenance required to keep nonconforming uses, structures and lots in a safe condition are permitted, provided that no alterations may be made except those allowed by this Article or required by law or ordinance.

(8) Discontinuance

In the event any non-conforming use ceases, for whatever reason, for one (1) year, the subsequent use of such parcel or lot must conform to the regulations and provisions set by this Zoning Ordinance for the district in which such parcel or lot is located.

(9) Moving Structure

Should any structure containing a non-conforming use be moved any distance whatsoever, the structure shall thereafter be used only in conformity with the provisions of this Zoning Ordinance.

(10) Change

A non-conforming use or structure shall not be changed to any use other than those permitted within the district in which the building is located. Once so changed, it shall not revert back to a non-conforming use.

(11) Accessory Uses

No use accessory to a principal use that is nonconforming may continue after the principal use ceases.

(12) Deed Notice

The City of Beulah may place a deed notice on lots with nonconforming uses or structures. The deed notice is intended to inform current and future owners that the lot is nonconforming with the Zoning Ordinance. The deed notice must provide detail regarding the nonconforming status.

Section 6.13 Property Owner Responsibility

The responsibility of property owners includes verifying property lines, removing and relocating a structure if placed incorrectly, and identifying all easements on the property.

Section 6.14 Existing Lots of Record

Any nonconforming lot of record existing at the effective date of the Zoning Ordinance and held in separate ownership different from the ownership of adjoining lots may be used for the erection of a structure conforming to the use regulations of the district in which it is located with the approval of the P&Z Commission, even though its dimensions are less than the minimum requirements of the Zoning Ordinance, except as set forth hereafter.

Where two (2) or more adjacent lots of record exist under the same ownership with either one or both having less than the needed area and width, the request for a permit shall be referred to the P&Z Commission, which may first require combining the lots, thereby complying with the minimum requirements of the Zoning Ordinance.

Chapter 7 Wireless Facilities

Section 7.0 Purpose and Intent

The purpose of this title is to establish predictable and balanced regulations for the siting and screening of wireless equipment in order to accommodate the growth of wireless communication systems within the City, while protecting the public against any adverse impacts on the City's aesthetic resources and the public welfare. To accomplish the above-stated objectives and to ensure that the placement, construction, or modification of wireless facilities complies with all applicable federal and state laws, the City of Beulah adopts this comprehensive wireless telecommunications Ordinance.

By enacting this Ordinance, it is the City's intent to ensure that Beulah has sufficient wireless infrastructure to support its public safety communications and has access to reliable wireless communications services. This Ordinance encourages the use of public right of way, stealth design, and existing structures for wireless infrastructure in order to minimize impacts on surrounding areas.

Section 7.1 Definitions

For the purposes of this Chapter, the following definitions apply:

(A) Abandonment: Cessation of use of a wireless support structure for wireless telecommunications activity for at least the minimum period of time specified under this Chapter.

(B) Accessory Equipment: Any equipment serving or being used in conjunction with a wireless facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment building, cabinets and storage sheds, shelters or similar structures.

(C) Antenna: Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(D) Base Station: The equipment and non-tower supporting structure at a specific site authorized to communicate between user equipment and a communications network, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.

(E) Collocation: Shall mean and refer to the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

(F) Concealed Wireless Facility: Any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.

(G) Eligible Facilities Request: A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment but does not include a substantial modification.

(H) Equipment Compound: An area surrounding or near the base of a wireless support structure within which are located wireless facilities.

(I) Existing Structure: A wireless support structure, erected prior to the application for an eligible facilities request, collocation or substantial modification under this ordinance that is capable of supporting the attachment of wireless facilities. The term includes but is not limited to, electrical transmission towers, buildings and water towers. The term shall not include any utility pole.

(J) Fall Zone: The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(K) FCC: Shall mean and refer to the Federal Communications Commission or its successor.

(L) Monopole: A single, freestanding pole-type structure supporting one or more antennas. For the purposes of this Chapter, a monopole is not a tower or a utility pole.

(M) Ordinary Maintenance: Ensuring that wireless facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing, and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing antennas of a similar size, weight, shape and color and accessory equipment within an existing equipment compound and relocating the antennas to different height levels on an existing monopole or tower upon which they are currently located. Ordinary maintenance does not include substantial modifications.

(N) Replacement Pole: A pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.

(O) Site: For towers or monopoles other than towers or monopoles in public right-of-way, referring to the current boundaries of the leased or owned property surrounding the tower, monopole, any access, or utility easements currently related to the site, and, for other eligible support structures, shall mean and be further restricted to, that area in proximity to the structure and to other transmission equipment already deployed on the ground.

(P) Substantial Modification: The mounting of a proposed wireless facility or wireless facilities on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the following criteria:

1) Increases the existing vertical height of a wireless support structure by:

a) More than ten percent (10%) or one additional antenna array not more than twenty (20') feet higher for towers not with a public right-of-way, or

b) More than ten percent (10%) or ten (10'), whichever is greater, for towers within public right-of-way and all base stations

2) Increases the existing width of a wireless support structure by:

a) More than twenty (20') feet or the tower width at the level of the appurtenance, whichever is greater, for towers not with public right-of-way, or

b) Six (6') feet for towers with public right-of-way and all base stations

3) The request defeats the existing concealment elements of a tower or base station.

4) The request violates a prior condition of approval that does not conflict with the other standards for a substantial change.

(Q) Tower: A lattice-type structure, guyed or freestanding, that supports one or more antennas.

(R) Utility Pole: A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

(S) Water Tower: A water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

(T) Wireless Facility or Wireless Facilities: The set of equipment and network components, exclusive of the underlying wireless support structure, including, but not limited to, antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

(U) Wireless Support Structure: A freestanding structure, such as a monopole or tower, designed to support wireless facilities. This definition does not include utility poles.

(V) Wireless Transmission Equipment: Any equipment that facilitates transmission for any authorized wireless communication service including backup power

Section 7.2 Approvals Required for Wireless Facilities and Wireless Support Structures.

(A) *Administrative Review and Approval.* The following types of applications are subject to the review process as provided in section IV. No other type of Land Development Code review beyond what is listed in section IV is necessary:

(1) New wireless support structures that are less than one hundred (100) feet in height, in any Industrial District;

(2) Concealed wireless facilities that are forty (40) feet or less in height, in any residential or commercial district;

(3) Monopoles or replacement poles located on public property or within utility easements or rights-of-way, in any zoning district; and

(4) Collocations applied under FCC statute 6409(a) that are not substantial modifications.

(B) *Conditional Use.* Any application for wireless facilities and/or wireless support structures not subject to administrative review and approval pursuant to this Ordinance shall be permitted in any district upon the granting of a Conditional Use Permit from the Council in accordance with the standards for granting a Conditional Use Permit set forth in Chapter V. Valid conditions include but are not limited to drainage, landscaping, maintenance, lighting, fencing, access, indemnification, and compliance with all generally applicable laws. Any application submitted under FCC statute 332(c)(7) shall be reviewed for a Conditional Use Permit.

(C) *Exempt from All Approval Processes.* The following are exempt from all Beulah zoning approval processes and requirements:

(1) Ordinary maintenance of existing wireless facilities and wireless support structures, as defined in this Chapter; and

(2) Wireless facilities placed on utility poles.

Section 7.3 Administrative Review and Approval Process.

(A) *Content of Application Package-For New Sites.* All administrative review application packages must contain the following:

(1) Administrative review application form signed by applicant;
(2) Copy of lease or letter of authorization from property owner evidencing applicant's authority to pursue application. Such submissions need not disclose financial lease terms;

(3) Site plans detailing proposed improvements. Drawings must depict improvements related to the applicable requirements including property boundaries, setbacks, topography, elevation sketch, and dimensions of improvements;

(4) A statement by applicant setting forth the number of carriers that the proposed tower will be designed to hold;

(5) An application fee to be set by the Council; and

(6) An amount to be determined by the City Engineer to cover engineering inspections and fees related to the project. Said amount shall be held in escrow by the City, and paid to the City Engineer upon completion of the project. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(7) An amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the City

Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(B) *Content of Application Package-For Other Sites/Facilities.* All administrative review application packages must contain the following:

(1) Administrative review application form signed by applicant;

(2) A completed application for collocations shall identify which FCC statuary term the applicant is seeking approval for;

(3) For collocations and substantial modifications, written verification from a licensed professional engineer certifying that the host support structure is structurally and mechanically capable of supporting the proposed additional antenna or configuration of antennas;

(4) For substantial modifications, drawings depicting the improvements along with their dimensions;

(5) An application fee to be set by the Council; and

(6) An amount to be determined by the City Engineer to cover engineering inspections and fees related to the project. Said amount shall be held in escrow by the City, and paid to the City Engineer upon completion of the project. Any engineering fees and/or cost outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(7) An amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the City Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(C) *Procedure and Timing.*

<u>TIMELINE</u>

30 DAYS- Applicant notified of application completeness

60 DAYS- Total Review and Process for FCC statute 6409(a) Collocations

90 DAYS- Total Review and Process for FCC statute 332(c)(7) Collocations

150 DAYS- Total Review and Process for New Sites

(1) <u>Applications for New Sites That Are Subject to Administrative Review and Approval.</u> Within one hundred fifty (150) calendar days of the receipt of an application for new sites that are subject to administrative review and approval under this Chapter, the City Engineer will:

(a) Review the application for conformity with this Chapter.

(b) Make a final decision to approve or disapprove the application; and

(c) Advise the applicant in writing of its final decision. If the City Engineer denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Chapter.

(d) Failure to issue a written decision within one hundred fifty (150) calendar days may result in relief to the applicant as delineated by existing FCC regulations.

2. Applications for a FCC statute 6409(a) Collocation Subject to Administrative Review and Approval. Within sixty (60) days of the receipt of an application for a collocation, the City Engineer will:

*	Notification of Application Completeness	-	30 days
*	Time for Applicant to Cure Deficiencies	-	10 days
*	Total Review and Process Completed	-	60 days*

*Note: Circumstances such as 60th day landing on a weekend, holiday, or if there is a mutual agreement to extend the timeframe will result in minor change of deadline.

a) Review the application for conformity with this Chapter. An application under this section is considered complete unless the City Engineer notifies in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take ten (10) calendar days from receiving such notice to cure the specific deficiencies. No additional deficiencies shall be appended after the written notice is provided to the applicant. If the applicant cures the deficiencies within ten (10) calendar days, the application shall be reviewed and processed within sixty (60) calendar days from the initial date the application was received. If the applicant requires a period of time beyond ten (10) calendar days to cure the specific deficiencies, the sixty (60) calendar days deadline for review shall be extended by the same period of time;

b) Make a final decision to approve or disapprove the collocation application; and

c) Advise the applicant in writing of its final decision. If the City Engineer denies an application, it must provide written justification of the denial, which must be based on substantial evidence of inconsistencies between the application and this Chapter.

d) Failure to issue a written decision within ninety (90) calendar days may result in relief to the applicant as delineated by existing FCC regulations.

3. Building Permit. Upon approval of the application and grant of the zoning approval, the applicant must apply for a building permit. The applicant must apply for a building permit within 12 months of issuance of the zoning approval. This deadline may be extended for 6 additional months by submitting a letter requesting said extension,

and a fee in the amount of ½ of the original building permit fee. Upon receipt of said items, the Council may grant or deny said extension of the deadline to apply for a building permit.

Once a building permit has been issued, any and all construction set forth therein must be substantially completed within 12 months of the issuance of the Building Permit. This deadline may be extended for 6 additional months by submitting a letter requesting said extension, and a fee in the amount of ½ of the original building permit fee. Upon receipt of said items, the Council may grant or deny said extension of the deadline to substantially complete construction.

A building permit application fee shall be set by the Council, and applicant shall pay an additional amount to be determined by the City Engineer to cover engineering inspections and fees related to the project. Said amount shall be held in escrow by the City and paid to the City Engineer upon completion of the project. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the responsibility of the applicant. Applicant shall also pay an amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the City Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant

4. The City Engineer shall set the inspections schedule for the site, and notify the applicant of said schedule. Applicant shall strictly comply with all required inspections.

5. Upon substantial completion of the project detailed in the building permit, the applicant shall notify the City Engineer who shall conduct a final inspection of the site. If the City Engineer is satisfied that the construction meets all required building code and other applicable project standards he shall issue applicant a certificate of occupancy.

Section 7.4 Conditional Use Permit Process for Wireless Communication Towers

(A) Any wireless facility or wireless support structures not meeting the requirements of Section III.A or III.C above, may be permitted in all zoning districts upon the granting of a Conditional Use Permit, subject to:

(1) The submission requirements of Section V.B;

(2) The applicable standards of Section VI; and

(3) The requirements of Conditional Use Permits (as set forth in Chapter 5 herein).

(B) *Contents of Conditional Use Permit Application Package.* All Conditional Use Permit application packages must contain the following:

(1) Conditional Use Permit application form signed by applicant;

(2) Copy of lease or letter of authorization from the property owner evidencing applicant's authority to pursue Conditional Use Permit application. Such submissions need not disclose financial lease terms;

(3) Written description and scaled drawings of the proposed wireless support structure or wireless facility, including structure height, ground and structure design, and proposed materials;

(4) Number of proposed antennas and their height above ground level, including the proposed placement of antennas on the wireless support structure;

(5) Line-of-sight diagram or photo simulation, showing the proposed wireless support structure set against the skyline and viewed from at least four (4) directions within the surrounding areas;

(6) A statement that the proposed wireless support structure will be made available for collocation to other service providers at commercially reasonable rates, provided space is available and consistent with Section 7.5(A)(1)(a) of this Chapter;

(7) Notice of the filing of the application with the City Auditor must be mailed to surrounding property owners within ¼ mile of proposed project site;

(8) Notice of the filing of the application with the City Auditor must be published twice in the official newspaper of the City, if the proposed site is within City limits, or twice in the official newspaper of the City and the official newspaper of Mercer County if the proposed site is within the City's extraterritorial zoning jurisdiction;

(9) An application fee to be set by the Council; and

(10) An amount to be determined by the City Engineer to cover engineering inspections and fees related to the project. Said amount shall be held in escrow by the City, and paid to the City Engineer once the project is completed. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(11) An amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(C) *Procedure and Timing for New Site.*

TIMELINE

* Notification of Application Completeness - 30 days

* Time Applicant Has to Cure Deficiencies - 30 days

* Total Review and Process Complete - 150 days*

* Note: Circumstances such as 150th day landing on a weekend, holiday, or if there is a mutual agreement to extend the timeframe will result in minor change of deadline.

Within one hundred fifty (150) calendar days of the receipt of an application under Section 7.4 of this Chapter, the City Engineer will:

(1) Complete the process for reviewing the application for conformity with ordinances applicable to conditional use permits, including conducting a hearing in accordance with Chapter 5 herein. An application under this section is deemed to be complete unless the City Engineer notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty (30) calendar days from receiving such notice to cure the specific deficiencies. No additional deficiencies shall be appended after the written notice is provided to the applicant. If the applicant cures the deficiencies within thirty (30) calendar days, the application shall be reviewed and processed within one hundred fifty (150) calendar days from the initial date the application was received. If the applicant requires a period of time beyond thirty (30) calendar days to cure the specific deficiencies, the one hundred fifty (150) calendar days deadline for review shall be extended by the same period of time;

(2) Make a final decision to approve or disapprove the application; and

(3) Advise the applicant in writing of its final decision. If the Council denies an application, it must provide written justification of the denial.

(4) Failure to issue a written decision within one hundred fifty (150) calendar days shall constitute an approval of the application.

(D) *Procedure and Timing for 332(c)(7) Collocations.*

TIMELINE

* Notification of Application Completeness - 30 days

* Time Applicant Has to Cure Deficiencies - 10 days

* Total Review and Process Complete - 90 days*

* Note: Circumstances such as 90th day landing on a weekend, holiday, or if there is a mutual agreement to extend the timeframe will result in minor change of deadline.

Within ninety (90) calendar days of the receipt of an application under Section V. of this Ordinance, the City Engineer will:

(1) Complete the process for reviewing the application for conformity with ordinances applicable to conditional use permits, including conducting a hearing in accordance with Chapter 5, herein. An application under this

section is deemed to be complete unless the City Engineer notifies the applicant in writing, within thirty (30) calendar days of submission of the application of the specific deficiencies in the application which, if cured, would make the application complete. Upon receipt of a timely written notice that an application is deficient, an applicant may take ten (10) calendar days from receiving such notice to cure the specific deficiencies. No additional deficiencies shall be appended after the written notice is provided to the applicant. If the applicant cures the deficiencies within ten (10) calendar days, the application shall be reviewed and processed within ninety (90) calendar days from the initial date the application was received. If the applicant requires a period of time beyond ten (10) calendar days to cure the specific deficiencies, the ninety (90) calendar days deadline for review shall be extended by the same period of time;

(2) Make a final decision to approve or disapprove the application; and

(3) Advise the applicant in writing of its final decision. If the Council denies an application, it must provide written justification of the denial.

(4) Failure to issue a written decision within ninety (90) calendar days shall constitute an approval of the application.

(E) Building Permit. Upon approval of the application and grant of the Conditional Use Permit, the applicant must apply for a building permit. The building permit fee shall be set by the Council. The applicant must apply for the building permit within 12 months of issuance of the Conditional Use Permit. This deadline may be extended for 6 additional months by submitting a letter requesting said extension, and a fee in the amount of ½ of the original building permit fee. Upon receipt of said items, the Council may grant or deny said extension of the deadline to apply for a building permit.

Once a building permit has been issued, any and all construction set forth therein must be substantially completed within 12 months of the issuance of the Building Permit. This deadline may be extended for 6 additional months by submitting a letter requesting said extension, and a fee in the amount of ½ of the original building permit fee. Upon receipt of said items, the Council may grant or deny said extension of the deadline to substantially complete construction.

A building permit application fee shall be set by the Council, and applicant shall pay an additional amount to be determined by the City Engineer to cover engineering inspection and fees related to the project. Said amount shall be held in escrow by the City and paid to the City Engineer upon completion of the project. Any engineering fees and/or costs outstanding after payment of the escrowed funds shall be the responsibility of the applicant. Applicant shall also pay an amount to be determined by the City Attorney to cover legal fees and costs related to the project. Said amount shall be held in escrow by the City, and paid to the City Attorney upon completion of the project. Any legal fees and costs outstanding after payment of the escrowed funds shall be the responsibility of applicant.

(F) The City Engineer shall set the inspections schedule for the site, and notify the applicant of said schedule. Applicant shall strictly comply with all required inspections.

(G) Upon substantial completion of the project detailed in the building permit, the applicant shall notify the City Engineer who shall conduct a final inspection of the site. If the City Engineer is satisfied that the construction meets all required building code and other applicable project standards, he shall issue applicant a certificate of occupancy.

Section 7.5 General Standards and Design Requirements.

(A) *Design*

(1) Wireless support structures shall be subject to the following:

a) Shall be engineered and constructed to accommodate a minimum number of collocations based upon their height:

(i) Support structures fifty (50) to one hundred (100) feet shall support at least two (2) telecommunications providers;

(ii) Support structures greater than one hundred (100) feet but less than one hundred-fifty feet (150) shall support at least three (3) telecommunications providers;

(iii) Support structures greater than one hundred fifty (150) feet in height shall support at least four (4) telecommunications carriers.

b) The ground lease area that support structure owner has control of surrounding the wireless support structure must be of sufficient size to accommodate accessory equipment for the appropriate number of telecommunications providers in accordance with Section 7.5(A)(1)(a). Consideration of the required ground lease area shall take into account the constraints of the surrounding built environment.

(2) Concealed wireless facilities shall be designed to accommodate the collocation of other antennas whenever economically and technically feasible. Antennas must be enclosed, camouflaged, screened, obscured or otherwise not readily apparent to a casual observer.

(3) Upon request of the applicant, the Council may waive the requirement that new wireless support structures accommodate the collocation of other service providers if it finds that collocation at the site is not essential to the public interest, or that the construction of a shorter support structure with fewer antennas will promote community compatibility.

(4) A letter of intent or interest on behalf of a carrier shall be included with the design that once the support structures is constructed, it is reasonably sure that an antenna will be mounted within one (1) year after completion.

(5) A monopole or replacement pole shall be permitted within utility easements or rights-of-way, in accordance with the following requirements:

a) The utility easement or right-of-way shall be a minimum of sixty (60) feet in width.

b) The height of the monopole or replacement pole may not exceed by more than thirty (30) feet the height of existing utility support structures.

c) Monopoles and the accessory equipment shall be set back a minimum of fifteen (15) feet from all boundaries of the easement or right-of-way.

d) Single carrier monopoles may be used within utility easements and rights-of-way due to the height restriction imposed by Subsection (c) above.

e) Poles that use the structure of a utility tower for support are permitted. Such poles may extend up to twenty (20) feet above the height of the utility tower.

f) Consideration of traffic safety.

(6) A wireless communication tower utilized for any purposes shall be prohibited from locating in a front yard.

(B) *Setbacks*

(1) Unless otherwise stated herein, each wireless support structure shall be set back from all property lines a distance equal to its engineered fall zone. If engineered fall zone documentation is not supplied by applicant, then the setbacks shall be the height of the structure. Said setback may be reduced by the Council upon submission of a report prepared by a registered engineer evaluating potential tower collapse. The Council may then reduce the setback as it sees fit.

(C) *Fall Zone*

(1) Documentation from a licensed professional engineer of calculation of the fall zone and certification that the wireless support structure has sufficient structural integrity to accommodate the required number of additional users as provided in this ordinance shall be provided in the applicant's application for a building permit.

(D) *Height*

(1) In residential districts, wireless support structures shall not exceed a height equal to one hundred (100) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the Council shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Council.

(2) In commercial and industrial districts, wireless support structures shall not exceed a height equal to one hundred seventy-five (175) feet from the base of the structure to the top of the highest point, including appurtenances. Notwithstanding the foregoing, the Council shall have the authority to vary the foregoing height restriction upon the request of the applicant. With its waiver request the applicant shall submit such technical information or other justifications as are necessary to document the need for the additional height to the satisfaction of the Council.

(E) *Aesthetics*

(1) Lighting and Marking. Wireless facilities or wireless support structures shall not be lightened or marked unless required by the Federal Communications Commission (FCC) or the Federal Aviation Administration (FAA).

(2) Signage. Signs located at a wireless facility shall be limited to ownership and contact information, FCC antenna registration number (if required) and any other information as required by government regulation. Commercial advertising is strictly prohibited. Notwithstanding the foregoing, nothing in this Ordinance shall prohibit signage that is approved for other uses on property on which wireless facilities are located (e.g., approved signage at locations on which concealed facilities are located).

(F) *Accessory Equipment.* Accessory equipment, including any buildings, cabinets or shelters, shall be used only to house equipment and other supplies in support of the operation of the wireless facility or wireless support structure. Any equipment not used in direct support of such operation shall not be stored on the site.

(G) *Fencing*

(1) Ground mounted accessory equipment and wireless support structures shall be secured and enclosed with a fence not less than six (6) feet in height and shall also be equipped with an appropriate anti-climbing device, as deemed appropriate by the Council.

(2) The Council may waive the requirement of subsection 7.5(G)(1) if it is deemed that a fence is not appropriate or needed at the proposed location.

(H) *Certificate of Completion and Site Review*. Upon completion of the structures, the applicant shall schedule an inspection by the City Engineer to inspect the site and ensure it is in compliance with this Ordinance. Upon successful completion of the inspection, the City Engineer shall issue to the applicant a Certificate of Completion, and said Certificate shall be filed with the City Auditor. Any and all costs of the inspection shall be borne by the applicant.

Section 7.6 Miscellaneous Provisions.

(A) *Abandonment and Removal.* If a wireless support structure is abandoned, and it remains abandoned for a period in excess of twelve (12) consecutive months, the Council may require that such wireless support structure be removed only after first providing written notice to the owner of the wireless support structure and giving the owner the opportunity to take such action(s) as may be necessary to reclaim the wireless support structure within ninety (90) days of receipt of said written notice. In the event the owner of the wireless support structure fails to reclaim the wireless support structure within the ninety (90) day period, the owner of the wireless support structure shall be required to remove the same within six (6) months thereafter. The Council shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

(B) *Multiple Uses on a Single Parcel or Lot.* Wireless facilities and wireless support structures may be located on a parcel containing another principal use on the same site or may be the principal use itself.

(C) *Violations*. If at any time, a structure is found to be in violation of this Chapter, the structure shall be declared a nuisance and shall be abated in the manner as provided by law.

Section 7.7 Wireless Facilities and Support Structures in Existence on the Date of Adoption

(A) Wireless facilities and wireless support structures that were legally permitted on or before the date this Chapter was enacted shall be considered a permitted and lawful use.

(B) *Activities at Non-Conforming Wireless Support Structures.* Notwithstanding any provision of this Chapter:

(1) Ordinary maintenance may be performed on a non-conforming wireless support structure or wireless facility.

(2) Collocation of wireless facilities on an existing non-conforming wireless support structure shall not be construed as an expansion, enlargement or increase in intensity of a non-conforming structure and/or use and shall be permitted through the administrative approval process defined in Section 7.3; provided that the collocation does not substantially modify the size of the equipment compound at that location or otherwise substantially modify the existing non-conformity.

(3) Substantial modifications may be made to non-conforming wireless support structures utilizing the conditional use permit process defined in Section 7.4 of this Chapter.

Chapter 8 Extraterritorial Zone (reserved for future use)

Chapter 9 Definitions

Section 9.0 Terms

9.0001 Adult Bookstore

An adult bookstore is an enclosed building having as a substantial or significant portion of its stock in trade, books, magazines or other periodicals which are distinguished or characterized by the emphasis on matter depicting less than completely and opaquely covered human genitals, pubic region, buttocks or female breast.

9.0002 Adult Cinema

An adult cinema is an enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of less than completely or opaquely covered human genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola.

9.0003 Adult Entertainment Center

An enclosed building wherein an admission is charged for entrance, or food or nonalcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas.

9.0004 Adult Entertainment Facility

An Adult Bookstore, Adult Cinema, Adult Entertainment Center, or any combination thereof.

9.0005 Accessory Structure

Accessory structures are intended to allow for increased use and enjoyment of property to accommodate storage and other needs, depending on the purpose of the zoning district. It is a structure that:

(a) Is clearly incidental to and customarily found in connection with a principal structure or use
(b) Is subordinate in area,
(c) extent and purpose to the principal building or use
(d) Contributes to the comfort, convenience or necessity of occupants of the principal use
(e) Is located on the same lot and in the same zoning district as the principal use

(f) Accessory buildings are detached structures such as garages, sheds, playhouses, storage buildings and other similar structures, which are not to be used as sleeping quarters or living space and must be separated from the structure by a distance as required in the state fire code and/or state building code; or

(g) Accessory structures are allowed in all zoning districts

9.0006 Accessory Use

A use on the same lot with, and of a nature customarily incidental and subordinate to the principle use. It is a use that:

(a) Is operated and maintained under the same ownership and on the same lot as the permitted use.
(b) Does not contain structures or structural features inconsistent with the permitted use.
(c) Includes residential occupancy only as permitted in the Zoning Ordinance.
(d) Is allowed once the permitted use is present or under construction.
(e) Does not involve the conduct of any business, trade, or industry, except for home and professional occupations as defined herein, when accessory to residential district permitted uses.

9.0007 Agriculture/Farming

The use of land for planting, growing, cultivating and harvesting crops for human or livestock consumption and pasturing or yarding of livestock.

9.0008 Agricultural Public Events

Events related to agricultural vocations and are not temporary uses, but may reoccur indefinitely at regular time periods. Such events could include, but are not limited to farm tours, animal rodeos, corn mazes, horse racing, and barn recreation.

9.0009 Amendment

Any change, revision, or modification of the text of this Zoning Ordinance or the District Zoning Map.

9.0010 Amusement Parks

An outdoor and/or indoor commercial use with rides, shows, refreshments, games of chance or skill, or other entertainments.

9.0011 Animal Hospital/Veterinary Clinic

A facility designed to provide medical care to large or small animals and may have the capability of providing on-site extended care.

9.0012 Animal Kennels

A commercial establishment operated for the purpose of selling, trading, breeding, boarding, training, or grooming customary household pets for compensation.

9.0013 Annexation

The act or an instance of annexing, or adding to something larger, especially the incorporation of new territory into the domain of the city.

9.0014 Antique Motor Vehicle

Shall include any motor vehicle which is at least forty (40) years old and licensed as an antique vehicle in accordance with Section 39-04-10.4 of the North Dakota Century Code.

9.0015 Apartments

A dwelling unit that shares one or more walls with an adjacent dwelling unit within the same structure, typically a multifamily residence, and designed as a place of residence for a single family, an individual, or a group of individuals. Apartments can share a common ceiling or floor with an adjacent dwelling unit.

9.0016 Appeal

This term refers to a request to a higher authority for review of an administrative decision.

9.0017 Assisted Living Facility

A facility offering residence, supervision, and daily assistance to individuals who generally need assistance to perform daily, routine tasks, non-medical in nature.

9.0018 Aviation

Anything regarding or involving the operation of an airplane/aircraft, including runways and aircraft hangers, as well as, anything regulated under the Federal Aviation Administration (FAA).

- *Examples*: Airfields, Aircraft Runways, Aircraft Hangers

9.0019 Bakeries

A commercial use where bread, cakes and other baked goods are made and/or sold.

9.0020 Banks and Financial Institutions

A use which provides retail banking and related services to individuals and businesses.

9.0021 Barber Shop/Beauty Salon/ Tanning Salon

Any commercial building, room, place, or establishment that provides professional hairdressing, manicuring, shaving, tanning, and unwanted hair removal (waxing and threading) services.

9.0022 Base flood or 100-year flood

The flood having a one percent chance of being equaled or exceeded in any given year.

9.0023 Base Flood Elevation (BFE)

The height of the base flood or 100-year flood usually in feet above mean sea level.

9.0024 Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

9.0025 Basement Apartment

A dwelling unit completely located within a basement.

9.0026 Bed and Breakfast Establishment

A private home that is used to provide accommodations for a charge to the public. Bed and breakfast establishments are intended to allow for minor and incidental commercial activity in the residence of the host/owner. A bed and breakfast establishment is an accessory use to the residence.

9.0027 Best Available Data (BAD)

Water elevation information from any source used to estimate or determine a base flood elevation (i.e. high water mark).

9.0028 Billboard

An advertising sign that is not located upon the premises of the businesses that the sign is advertising for.

9.0029 Bowling Alley

A structure utilized primarily for the sport of bowling, and may include the incidental sale or dispensing of food and drink and the sale or rental of bowling equipment.

9.0030 Buffer Strip

An area that provides a buffer, or division, between two areas. "Buffer strips" may be composed of landscaping, a fence, a wall, a combination of these elements, or other means deemed appropriate by the P&Z Commission, or otherwise specified herein.

9.0031 Building

Any structure designed, or intended for the enclosure, shelter, or protection of persons, animals, or property.

9.0032 Building Envelope

The interface between the interior of the building and the outdoor environment, including the walls, roof, and foundation

9.0033 Butcher Shop

A retail establishment supplying meat products, excluding the slaughtering of animals on the premises.

9.0034 Campground

A dedicated area or place where tents, camping trailers, recreational vehicles and the like are placed for the purpose of providing temporary shelter for recreational purposes.

9.0035 Car Collector

Means the owner of one or more specialized vehicles, who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof, for his own use, in order to restore, preserve, and maintain a special interest vehicle or antique vehicle.

9.0036 Car Enthusiast

Means the owner of one or more specialized vehicles, who collects, purchases, acquires, trades, or disposes of special interest vehicles or parts thereof, for his own use, in order to restore, preserve, and maintain a special interest vehicle.

9.0037 Car Wash

A commercial facility for the washing or steam cleaning of motor vehicles, not including semi-trucks or tractors.

9.0038 Cemeteries

Land used or intended to be used for the burial of one or more human bodies or cremated remains thereof, including crematories and mausoleums.

9.0039 Chemical Fertilizer Plant

A production facility which produces material that can be added to soil to sustain plant growth.

9.0040 Coal Mining

An operation that involves an open pit or connected long narrow openings under the ground where coal is removed.

9.0041 Code

Any code regulating the use, construction, maintenance, or renovation of property or structures adopted by the Council.

9.0042 Colleges

An educational institution of higher learning which grants degrees of higher achievement than a high school diploma.

9.0043 Commercial Above Ground Fuel Storage

Any individual tank or group of tanks utilized for commercial purposes, storing combustible and flammable liquids as defined by NFPA 30 (National Fire Protection Association, Flammable and Combustible Liquids Code).

9.0044 Commercial Skating Rinks

An outdoor or indoor rink where ice or roller skating is permitted for free or for a fee or charge.

9.0045 Commercial Warehouses

A building or portion of a building which goods, merchandise, or equipment is stored for eventual distribution by another commercial use.

9.0046 Communication Tower

A tower erected for the purpose of providing communication services, such as radio, television, phone, to the general public.

9.0047 Community Centers

A building or group of buildings operated by a public or nonprofit group or agency and used for recreational, social, educational or cultural activities.

9.0048 Community Swimming Pool

A facility in an indoor or outdoor setting with a pool and/or water features for public aquatic recreation.

9.0049 Comprehensive Plan

An adopted policy document required by North Dakota Century Code 40-47-03, intended to guide City decisions related to growth and development.

9.0050 Comprehensive Plan Land Use Map

A component of the Comprehensive Plan that indicates future land uses within the City limits and the extraterritorial area of the City. Future land uses are shown as different classifications or designations (i.e. residential, commercial, industrial, public, etc.).

9.0051 Concrete Mixing Plant

A premises wherein materials are processed, mixed, and/or treated so as to produce concrete.

9.0052 Conditional Use

Specified uses that are subject to discretionary review by the P&Z Commission and Council.

9.0053 Conservation Area

An area which receives protection because of recognized natural, ecological and/or cultural values.

9.0054 Convenience Stores with Fuel

A retail establishment, typically small in nature, which provides food, fuel, and other consumer goods.

- *Examples*: Convenience stores that accommodate dine-in restaurants, fuel stations with a small retail shop.

9.0055 Convenience Stores without Fuel

A retail establishment, typically small in nature, which provides food and other consumer goods. Fuel is not dispensed onsite.

9.0056 Conveyance or hydraulic conveyance

A geometric characteristic of a river or watercourse at a given point that determines the flow-carrying capacity at that point.

9.0057 Council

The City Council of the City of Beulah, ND.

9.0058 Crew Camp

A well-planned and specifically designed temporary housing facility that may offer meals, limited recreational activities, and other services for the benefit and well-being of its residents. The majority of residents of a crew camp are typically nonresidents with jobs in cyclical or temporary industries. A crew camp is not a hotel, motel, recreational vehicle park, mobile home park, or campground. A crew camp is not a facility that provides parking and hookups for individually owned recreational vehicles, fifth wheels, camper trailers, pop-up campers, pickup trucks with on-board campers or similar units. A crew camp is not a conventional “stick-built” on-site structure or group of structures. A crew camp is not intended for permanent or long-term habitation.

9.0059 Cultural Institution

An establishment that provides cultural, intellectual, scientific, environmental, educational or artistic enrichment to members of the community.

- *Examples*: museums, art studios, zoos, conservations

9.0060 Dairy Processing Plants

An agriculturally-related use which produces milk or other dairy products for sale.

9.0061 Dance Studio

A business establishment that provides training, instruction, and demonstrations/recitals of various forms of dance to individuals, or a group of individuals, of the community.

9.0062 Day Care Facility

An establishment offering temporary supervision services to various individuals.

- *Examples*: Day Care of Children, Day Care of Adults

9.0063 Delicatessen

A commercial use which sells and prepares cold cuts, cheeses, and a variety of salads, as well as a selection of unusual or foreign prepared foods.

9.0064 Density

The number of dwelling units per acre.

9.0065 Department Store

A retail establishment which provides a wide range of consumer goods that are segmented into different departments within the facility.

- *Examples*: Macy's, Shopko, Target, Wal-Mart

9.0066 Development

This term refers to the following in reference to Section 2.4: 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 located within the special flood hazard area.

9.0067 Dine-In Restaurants

A commercial establishment whose principal business is preparation and sale of food and/or beverages intended for immediate human consumption, within the establishment's permanent structure. Drive-thru services are not provided. Outdoor seating may be provided, but only in addition to indoor seating.

9.0068 Districts

The areas of the City of Beulah for which the regulations governing the use of land and the uses, density, height, and location of structures and buildings are regulated by uniform standards.

9.0069 Drainage Facilities

Facilities or structures not located within state or city right of way that are designed to convey water

- *Examples:* Facilities and structures for drainage, flood control, ponding, conservation, erosion control, and reclamation.

9.0070 Drive-Thru Restaurants

A restaurant that has a drive-thru lane to serve customers in motor vehicles and/or an area where motor vehicles may park and be served food while the customers remain in their motor vehicles. In addition, a drive-thru restaurant may also serve customers within the establishment's permanent structure. Outdoor service to parked vehicles may be provided.

9.0071 Dry Cleaner

A place where cleaning or dyeing of clothing or other like materials is accomplished with chemicals other than water and for which a charge is made. Involves the process of removing dirt, grease, paints, or other stains from wearing apparel, textiles, fabrics, rugs, and similar items, by the use of nonaqueous liquid solvents, whether flammable or nonflammable.

9.0072 Duplex

A building containing two dwelling units constructed in one building on one or more lots.

9.0073 Dwelling Unit

One or more rooms arranged, designed, or used as independent living quarters for a single household. Buildings with more than one kitchen or more than one set of cooking facilities are deemed to contain multiple dwelling units unless the additional cooking facilities are clearly accessory and not intended to serve additional households.

9.0074 Dwelling, Single Family Detached

One dwelling unit occupied by one family that does not share common walls with another dwelling unit, and is located on one or more adjacent lots.

9.0075 Easement

An interest in land owned by another person, consisting in the right to use or control the land, or an area above or below for a specific limited purpose.

9.0076 Emergency Response Facility

An area or facility used to house emergency response equipment and transport vehicles. Such equipment shall include fire-fighting trucks, ambulances, helicopters and any other equipment of similar purpose. Such facilities shall include what is commonly referred to as fire stations and ambulance heliports.

9.0077 Extraterritorial Area

The unincorporated land within one mile of the City of Beulah's corporate boundary. In the inner half-mile, closest to the City's corporate boundary, the city has sole zoning jurisdiction to receive and review applications for building permits and all planning and zoning matters. In the outer half-mile, the City and the County share zoning jurisdiction. Detail regarding the extraterritorial area is provided in North Dakota Century Code Chapter 40-47-01.1, or as amended.

9.0078 Family

Any number of individuals, related by blood, legal adoption, or marriage, or a group of not more than three persons who need not be related by blood or marriage, living together in a dwelling unit as members of a single housekeeping unit.

9.0079 Feedlots

Areas with an open lot or building intended for feeding, breeding, raising, or holding animals where manure may accumulate.

9.0080 Filling Station

A business establishment designed to allow customers to fill up motor vehicles with various types of fuel.

9.0081 Flood Insurance Rate Map (FIRM)

The official map issued by the Federal Emergency Management Agency where special flood hazard areas are designated as Zone A, AE, AO, AH, or A99.

9.0082 Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters and/or, from the unusual and rapid accumulation or runoff of surface waters from any source.

9.0083 Floodway or Regulatory Floodway

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

9.0084 Floor Area

The sum of the gross horizontal areas of all floors measured in square feet not including the basement floor.

9.0085 Foundation Skirts

Permanent material attached to the perimeter of the mobile home or manufactured home structure completely enclosing the underside of the mobile home or manufactured home structure from ground level to bottom of structure.

9.0086 Front Yard

Yard extending across the full width of the lot from side lot lines, the depth of which is the least distance between the front lot line and the front building line.

9.0087 Frontage

The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirement on corner lots and through lots, all sides of a lot adjacent to street shall be considered frontage.

9.0088 Frontage Road

Local roads or streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.

9.0089 Games of Chance

Means and includes only games in which prizes including money or anything of monetary value are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as “bingo” or “lotto”. No game of chance shall involve wagering of money by one player against another player.

9.0090 Garage

An accessory structure utilized for the storage of vehicles and/or other miscellaneous items. "Garages" shall be at least 12 feet wide by 20 feet long.

9.0091 Golf Courses/Country Clubs

An area of land with highly maintained natural turf laid out for the game of golf with a series of nine or more holes. May include a central building or group of buildings dedicated to facility maintenance, staff offices, or dining.

9.0092 Government Offices/Facility (Other)

A facility owned or substantially controlled by a governmental entity. Does not include sewage disposal plants, solid waste landfills, educational institutions, cemeteries, community centers, health care facilities, or any recreation facilities.

- *Examples:* Police stations, fire stations, other emergency response offices, city government offices, state government offices, or federal government offices.

9.0093 Grain Mills/Elevators

A facility with a tower containing a bucket elevator or a pneumatic conveyor, which scoops up grain from a lower level and deposits it in a silo or other storage facility.

9.0094 Group Home - Disabled

A group home for the disabled is a dwelling unit which is occupied as a single housekeeping unit in a family-like environment by up to 8 persons with disabilities plus support staff. Residents are supervised by a sponsoring entity or its staff which furnishes habilitative services to the group home residents. A group home is owned or operated under the auspices of a nonprofit association, private care provider, government agency, or other legal entity, other than the residents themselves or their parents or other individuals who are their legal guardians. The group home constitutes a single housekeeping unit where residents share responsibilities, meals, and recreational activities as in any family. The group home staff is specially trained to help the residents achieve the goals of independence, productivity, and integration into the community.

A group home for the disabled is not a clinic or hospital where treatment is the principal or essential service provided. Residency in a group home is long term relatively permanent and measured in years, not months or weeks. A group home can house people with developmental disabilities (mental retardation, autism, etc.), mental illness or physical disabilities as defined by NDCC 25-16-14(1.) It does not include hospices, emergency shelters, residences for victims of abuse, or other group living arrangements. A group home for the disabled is not a group home facility for drug and alcohol treatment, treatment of sex offenders; and alternative or post incarceration.

9.0095 Group Home – Halfway House

A residence for individuals after release from institutionalization (such as for mental disorders, drug or alcohol addiction, treatment of sex offenders, or incarceration) that is designed to facilitate their readjustment to private life.

9.0096 Guest House

Living quarters on the same premises with the main dwelling, which is either attached to the main dwelling or is detached, for use by temporary guests of the occupants of the premises. Guest homes are intended to be incidental to the primary single family detached house, and not intended to be a rental facility.

9.0097 Health Care Facilities

An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, disability, and other physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

- *Examples:* Hospital, ambulatory surgical center, birthing center.

9.0098 Health Club

A commercial athletic, recreational, health or fitness establishment.

9.0099 Highway

All roads designated as arterial or collectors by the North Dakota Department of Transportation.

9.0100 Hotel/Motel

A building or group of buildings, which provides rooms for sleeping accommodations for transients on a daily or weekly basis, whether such establishments are designated as a hotel, inn, motel, motor inn, motor lodge, or otherwise.

9.0101 In-home Business

A business, profession, occupation, or trade conducted for gain, conducted within a dwelling unit for gain or support by a resident of the dwelling unit. In-home businesses are intended to be compatible with other permitted uses and with the residential character of the neighborhood where they are located. Includes a gainful occupation within the dwelling or on the premises, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes.

9.0102 Indoor Recreational Center

A public facility that provides recreational opportunities in an indoor setting. Administrative offices, eating, and cooking facilities may be provided on an ancillary basis.

9.0103 Intensity

The percentage of a lot occupied by a structure or use.

9.0104 Junkyard

An establishment that provides for the discarding, keeping, sale, storage, or trading of debris, junk, non-desirable goods, rubbish, scrap metals, trash, waste, dismantled motor vehicles, wrecked motor vehicles, dismantled appliances, wrecked appliances, or anything similar in nature, as well as any parts thereof of the foregoing items.

- *Examples*: Auto Wrecking Yard, Salvage Yard

9.0105 Laundromats

A commercial establishment typically equipped with washing machines and dryers, usually coin-operated and self-service.

9.0106 Libraries

A building or room containing collections of books, periodicals, and sometimes films and recorded music for people to read, borrow, or refer to. May include public meeting rooms and related facilities.

9.0107 Liquor Stores

A commercial establishment principally for the retail sale of alcoholic beverages for off-premise consumption.

9.0108 Local Roads

The remaining mileage not otherwise classified as arterials or collectors by the North Dakota Department of Transportation shall be assigned to the local road system.

9.0109 Lot

Land designated as a separate and distinct lot on a legally recorded subdivision platted pursuant to Chapter 40-50.1 NDCC.

9.0110 Lot Area

The total area within the boundary lines of the lot, excluding public right-of-way.

9.0111 Lot Combination

A combination of two (2) or more platted lots into a single lot whose boundaries coincide with the lot lines shown on the recorded plat of the subdivision that meets the following criteria: 1) does not involve the vacation of existing easements; and 2) does not involve lots within more than one zoning district.

9.0112 Lot Coverage

The area, in percentage, of the total lot area covered by a structure.

9.0113 Lot, Corner

A lot abutting on two or more streets other than an alley at their intersection.

9.0114 Lot, Interior

A lot bounded by a street on only one side.

9.0115 Lot, Depth

The mean horizontal distance between the front and rear lot lines.

9.0116 Lot, Line

The property line bounding a lot.

9.0117 Lot, Through

A lot that fronts on two public streets and is not a corner lot. Only one street shall be considered as a front lot line, as determined by the Building Official upon issuance of a building permit or the demarcation made on a recorded plat map.

9.0118 Lot Line, Front

For an interior lot, a line separating the lot from the street. On a corner lot, each street side shall constitute a front yard.

9.0119 Lot Line, Rear

On a corner lot, there is no rear lot line. On all other corner lots, the rear lot line is opposite the front lot line as determined by the Building Official upon issuance of a building permit or the demarcation made on a recorded plat map.

9.0120 Lot Line, Side

Any lot lines other than front lot lines or rear lot lines.

9.0121 Lot, Width

The horizontal distance between the side lot lines measured at the front yard setback line.

9.0122 Lowest Floor

The lowest floor of a structure including the basement.

9.0123 Lumber Yard

An establishment where lumber and other building materials, such as brick, tile, cement, insulation, roofing materials, and the like, are sold at retail.

9.0124 Machine or Welding Shop

A structure containing machinery for the manufacture, modification, or repair of metal goods and equipment. Welding may be performed therein.

9.0125 Machinery/Equipment Sales and Services

Establishment which provides agricultural, construction, and related equipment and/or machinery for sale and, as a secondary use, provides services, including maintenance, repair and service, testing, and rental.

9.0126 Major Collector

A road serving incorporated cities and other traffic generators or serving as important intra-county travel corridors and designated as such by the North Dakota Department of Transportation.

9.0127 Manufactured Home

A dwelling unit constructed in accordance with Federal Manufactured Housing Construction and Safety Standards in effect after June 15, 1976.

This term refers to the following in reference to Section 2.41: 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. The term "manufactured home" does not include a "recreational vehicle", but does include "mobile home".

9.0128 Manufactured Home Park or Subdivision

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

9.0129 Mineral Extraction

An operation where ore is crushed and separated into valuable substances or waste.

9.0130 Mini Golf Course

A tract of land laid out for playing miniature golf where the only clubs used on the course are putters.

9.0131 Minor Arterial

A road linking cities and larger unincorporated communities, forming an integrated network for inter-county travel, and designated as such by the North Dakota Department of Transportation.

9.0132 Minor Collector

A road collecting traffic from local roads, providing service to communities and linking important traffic generators with rural areas and designated as such by the North Dakota Department of Transportation.

9.0133 Mobile Home

A factory made, transportable, single dwelling unit that was manufactured prior to the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which went into effect on June 15, 1976, and therefore does not comply with the regulations therein.

9.0134 Modular Home

Modular home is to mean the same as “Industrialized Modular Building” under § 108-02-01-07.16 of the North Dakota Administrative Code (NDAC): any building of closed construction, i.e., constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without

disassembly, damage, or destruction, and which is made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. Industrialized modular building includes modular housing which is factory-built single-family and multifamily housing, including closed- wall panelized housing, and other modular, nonresidential buildings. Industrialized modular building does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.

9.0135 Monopole

A single, freestanding pole-type structure supporting one or more antennas for telecommunication purposes. For the purposes of this Ordinance, a monopole is not a tower or a utility pole.

9.0136 Mortuaries

A commercial facility where preparations are made for burials or cremation and/or where funeral services are conducted.

9.0137 Motor Vehicle Dealership

Any land or buildings used primarily for the sale of motor vehicles fit for transportation. In addition, may provide servicing or mechanical repair of motor vehicles as a use subordinate to motor vehicle sales.

9.0138 Motor Vehicle Repair, Tire Sales, and Services Facility

A facility for the servicing/mechanical repair of motor vehicles and/or selling of parts for motor vehicles.

9.0139 Motor Vehicle Sales Facility

Any land or buildings used primarily for the sale or rental of motor vehicles fit for transportation. Does not include servicing or mechanical repair of motor vehicles.

9.0140 Multi-family Residential

A residential building that contains 3 or more dwelling units that share common walls or common floors/ceilings with one or more dwelling units. The land upon which the building sits is not divided into separate lots.

9.0141 New Construction

Structures for which the "start of construction" commenced on or after the effective date of the Zoning Ordinance.

9.0142 Nonconforming Lot

A lot which does not conform to the location requirements or dimensional or size standards of this Zoning Ordinance for the district in which it is located, either at the effective date of this Zoning Ordinance, as a result of subsequent amendments which may be incorporated into this Zoning Ordinance, or as a result of zoning changes.

9.0143 Nonconforming Structure

A structure which does not conform to the regulations of this Zoning Ordinance for the district in which it is located, either at the effective date of this Zoning Ordinance, as a result of subsequent amendments which may be incorporated into this Zoning Ordinance, or as a result of zoning changes.

9.0144 Nonconforming Use

The use of a building or other structure or of a tract of land which does not conform to the use or regulations of this Zoning Ordinance for the district in which it is located, either at the date of this Zoning Ordinance, as a result of subsequent amendments which may be incorporated into this Zoning Ordinance, or as a result of zoning changes.

9.0145 Nurseries and Greenhouses, Retail

An establishment that provides the cultivation, display, storage and sale of plants, shrubs, trees, as well as other associated materials and tools. Goods are sold onsite.

9.0146 Nurseries and Greenhouses, Wholesale

A facility where plants are grown and sold to retailers for resale. Goods are not sold onsite.

9.0147 Nursing Facility

A facility that offers 24-hour medical care primarily for seniors. Some patients may only be there temporarily for rehabilitation.

9.0148 Offices, Medical

An office or health facility providing health services including, without limitation, preventative and rehabilitation treatment, diagnostic services, testing, and analysis. This use includes offices providing medical, dental, surgical, rehabilitation, podiatral, optometric, chiropractic, and psychiatric services, and medical or dental laboratories incidental to these offices, but exclude inpatient services and overnight accommodation.

- *Examples:* Dentist office, Chiropractor office, Medical Clinic

9.0149 Offices, Professional

An establishment providing direct, "over-the-counter" services to consumers (e.g., banks, insurance agencies, real estate offices, travel agencies, utility company offices, etc.) and office-type facilities occupied by businesses providing professional services and/or engaged in the production of intellectual property.

- *Examples:* Banks, Insurance agency offices, Office building with multiple tenants

9.0150 Off-Premise Advertising Signs

Advertising signs that are not located on the property of the business that is being advertised.

- *Examples*: Billboards

9.0151 Oil and Gas Drilling

An operation where facilities, structures, materials, and equipment, whether temporary or permanent, are utilized for the drilling of an oil or gas well.

9.0152 Ordinance, Zoning

The Zoning Ordinance of the City of Beulah, ND.

9.0153 Outdoor Dining

A restaurant that allows the consumption of food and/or beverages on its own property in an area open to the air, such as under an umbrella, on a patio, deck, or porch, whether or not enclosed with screening material.

9.0154 Outdoor Storage

The storage of goods, merchandise, inventory, equipment, or other tangibles for any purpose other than outdoor display in an areas not fully enclosed within a building or structure. Involves storage in connection with a business or public use.

9.0155 P&Z Commission

The Planning and Zoning Commission of the City of Beulah, ND.

9.0156 Paint Store and Service

An establishment where paint and painting supplies are stored and administrative functions take place. The painting service takes places at the customer's location. The establishment may also be utilized for the onsite retail sale of paint and painting supplies.

9.0157 Parking Lot, Commercial or Public

A lot or open air vehicle parking facility that may be operated as a business enterprise by charging a fee for parking or may allow free parking. Also includes an open air vehicle parking facility that is publicly owned and is intended to allow parking by the general public.

9.0158 Parking Garage

A parking facility located above ground or underground consisting of one or more levels that may or may not include other primary or accessory uses.

9.0159 Parks

A public area dedicated to recreational activity in an open-air setting.

9.0160 Parts Car

A motor vehicle generally in non-operable condition, which is owned by a car enthusiast or collector to furnish parts to restore, preserve, and maintain a special interest vehicle or antique vehicle.

9.0161 Permanent Foundation (with respect to manufactured and mobile homes)

A foundation consisting of skirting which must be attached to the manufactured or mobile home and foundation so as not to permit rodent entry. Skirting material must be of such quality so as to provide weather proofing and not deteriorate unreasonably with weather conditions. The foundation must be a minimum width of 24" x minimum depth of 4" or wide enough to permit the blocking to sit on the foundation and to form weight bearing load points. The footing must also contain anchor provisions for permanent attachment of storm anchors. There shall be a minimum of six anchors on a mobile home 14' x 70' or smaller and eight on mobile homes larger than 14' x 70'.

9.0162 Permitted Use

Any use which complies with the requirements of a zoning district.

9.0163 Photography/Art Studio

A commercial facility primarily engaged in painting, photographic, graphic art, and other art forms or video services.

9.0164 Pipeyard

An establishment where pipes are produced, fabricated and/or stored, either within a structure or outdoors.

9.0165 Plat

Plat or subdivision plat refers to any subdivision platted pursuant to N.D.C.C. § 40-50.1.

9.0166 Plumbing Service

An establishment where plumbing supplies are stored and administrative functions take place. The plumbing service takes places at the customer’s location.

9.0167 Portable Sign

A sign designed for temporary use that is not permanently affixed to the structure or property.

9.0168 Preschool

An educational establishment offering early childhood education to children prior to the commencement of compulsory education at primary school. The establishment may be privately operated or government run.

9.0169 Primary School

An educational institution in which children receive elementary education, coming before secondary school and after preschool.

- *Example:* Elementary school

9.0170 Principal Structure

A structure used in conjunction with the principal use of the lot on which it is situated.

9.0171 Private Club

Buildings or ground used for regular or periodic meetings or gatherings of a group of persons, but not groups organized to render a service customarily carried on as a business.

9.0172 Production Facility

An establishment that is industrial in nature, which provides for the manufacturing, fabrication, production and distribution of consumer goods.

- *Examples*: Manufacturing facilities, freight movement facilities, wholesale facilities, production facilities, storage facilities, bottling plant.

9.0173 Public Utility

Any association, person, firm, corporation, limited liability company, or agency engaged or employed in any business that provides the following services: electricity, gas, heat, power, steam, telephone, telegraph, transportation, or water. The term also applies to the provision of the listed services within the city zoning jurisdiction through the use of facilities such as water lines, sewer lines, gas lines, electrical power lines, communication lines, and other facilities inherent to provision of utilities to customers.

9.0174 Radio/TV Station

A facility used for all uses related to the production of radio broadcasts, motion pictures, and television film and tape, including motion picture and television stages; exterior sets; laboratories; construction, repair, and storage facilities; all vehicles used to transport this equipment and other related commercial vehicles; and accessory fabrication activities. This use does not include telecommunication facilities or towers.

9.0175 Rear Yard

A yard extending across the full width of the lot from side lot lines, the depth of which is the least distance between the rear lot line and the rear of the principle building.

9.0176 Reasonably Safe from Flooding

Base flood waters will not inundate the land or damage structures to be removed from the special flood hazard area, and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

9.0177 Recovery Living Facilities

A facility that is used by addicts recovering from substance abuse, which serve as an interim environment between rehab and a return to their former lives.

9.0178 Recreational Vehicle (RV)

A vehicle which is:

(a) built on a single chassis;
(b) 400 square feet or less when measured at the largest horizontal projections;
(c) designed to be self-propelled or permanently towable by a light duty truck; and
(d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel, or seasonal use;

Including, but not limited to, travel trailers, trailers on wheels, park-model trailers, and other similar vehicles.

9.0179 Recreational Vehicle Park

An identified area providing space and facilities for recreational vehicles for recreational use or transient lodging. Recreational vehicle parks are developed for the placement and occupancy of recreational vehicles for residential purposes on rented, leased, or owned spaces with necessary accessory uses and amenities.

9.0180 Refineries and Petro-chemical Plant

An industrial installation where a substance is refined in mass quantities.

9.0181 Religious Institutions

An establishment dedicated to the use of a congregation of people for religious worship (primary use is for religious worship).

9.0182 Remodel

Projects where the floor area is being increased by 50 percent or more, or where the cost of the remodeling is greater than the assessed value of the existing improvements on the site. Assessed value is the value shown on the applicable county assessment and taxation records for the current year.

9.0183 Retirement Facility

A residential facility that offers limited or no medical care, and places an emphasis on individual privacy. Retirement homes are very similar in function to apartment living.

9.0184 Retail Shop

An establishment primarily used for the sale of consumer goods, merchandise, and/or services to the general public.

- *Examples*: Retail farm and feed store, appliance store, department store, mattress store, jewelry store

9.0185 Right-of-Way

The area, either public or private, over which the right of passage exists. The right-of-way shall not be considered as land area when computing lot size.

9.0186 Sand and Gravel Mining

The removal of sand, gravel, and/or scoria from the earth.

9.0187 Sand and Gravel Processing

The refinement of sand, gravel, and/or scoria for the purpose of use or sale.

9.0188 Secondary Schools

An education institution which provides education for students after primary school and before college.

- *Example:* High school or middle school

9.0189 Second Dwelling, Detached

An additional dwelling unit established in conjunction with a single-family dwelling on the same lot, but physically separated.

9.0190 Self-Service Storage Facility

A building containing storage areas that are generally rented or leased by an individual, group, or business, for the purpose of storing personal property.

9.0191 Setback

The least horizontal distance between a structure foundation edge and a lot line or right of way edge.

9.0192 Severability

If a provision in the Zoning Ordinance states that part of the Zoning Ordinance is held to be illegal or otherwise unenforceable, the remainder of the Zoning Ordinance will still apply.

9.0193 Sewage Treatment Plants

Facilities that receive raw sewage and bring about a reduction in organic and bacterial content of the waste so as to render it less dangerous and less odorous.

9.0194 Shed

An accessory structure designed for general storage use. "Sheds" shall be no larger than 12 feet wide by 18 feet long.

9.0195 Shoemaker

An establishment that involves the production and/or repair of a range of footwear items, including shoes, boots, sandals, clogs and moccasins.

9.0196 Shopping Center

A collection or group of retail shops or department stores, generally located in the same building or site, for the purpose of selling consumer goods, merchandise, and services.

- *Example*: Strip Mall, Mall, Plaza

9.0197 Side Yard

A yard extending from the rear line of the required front yard to the rear lot line, the depth of which is the least distance from the sides of the principal building and the side lot line.

9.0198 Sign

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

9.0199 Sign, Wall

A sign for a business attached or erected against the building or structure, with the exposed face of the sign in a plane parallel to the plane of such building or structure.

9.0200 Sight Visibility Triangle

An area reserved for driver's visibility at the corner of an intersecting driveway and a street or two intersecting streets. See section 4.02.

9.0201 Solid Waste Landfills

An area where solid waste is disposed.

9.0202 Special Flood Hazard Area (SFHA)

An area of land that would be inundated by a flood having a one percent chance of being equaled or exceeded in any given year.

9.0203 Special Interest Vehicle

A motor vehicle, whether licensed or unlicensed, which is used for competition or exhibition by a car enthusiast, and is either operative, or is being diligently worked on by the car enthusiast for the purpose of making the vehicle operative, and also may be a vehicle which is at least twenty (20) years old, and which has not been altered or modified from original manufacturer's specifications, and, because of its historical interest, is being preserved by hobbyists.

9.0204 Start of Construction

Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, 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 streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

9.0205 Stealth Antenna

A commercial antenna that is designed to be non-obtrusive, or virtually transparent or invisible to the surrounding neighborhood. Stealth antennas are typically attached to buildings and other structures throughout the City and provide an alternative method of providing communication services for carriers.

- *Example*: Antenna located within a structure such as a church steeple, antenna located on a water tower

9.0206 Storage of Hazardous Materials

A building used primarily for the storage of hazardous materials.

- *Examples*: Storage of Explosive Materials, Storage of Flammable Materials

9.0207 Street

Except for the section lines, a way for vehicular traffic whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land place, or however else designated.

9.0208 Structure

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

This term refers to the following in reference to Section 2.41: A walled and roofed building, including manufactured homes and gas or liquid above-ground storage tanks.

9.0209 Subdivision

The division of a tract or parcel of land into lots for the purpose, whether immediate or future, of sale or of building development, and any plat or plan which includes the creation of any part of one or more streets, public easements, or other rights of way, whether public or private, for access to or from such lots, and the creation of new or enlarged parks, playgrounds, plazas, or open spaces (N.D.C.C. § 40-48-01(2)).

9.0210 Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the building to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

9.0211 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:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred. For the purposes 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:

(a) 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

(b) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

9.0212 Tailor

An establishment where clothes are fitted to fit individual customers.

9.0213 Tattoo Parlors

Establishments that provide services which create a permanent mark or figure fixed upon the body by insertion of pigment under the skin or by production of scars.

9.0214 Taverns/Bars

A public eating or drinking commercial establishment which is licensed to sell alcoholic beverages for consumption on the premises.

9.0215 Technical/Trade School

An education institution which provides mostly employment preparation skills for trained labor.

9.0216 Temporary Residence

A temporary residence is a structure or vehicle that may or may not require a building permit from the City and which may not comply with other standards in this Zoning Ordinance. Temporary residences are utilized for temporary habitation. Temporary residences are intended for habitation during construction of a primary, permanent residence, to be inhabited by residents of the primary, permanent residence.

- *Examples:* Recreational vehicles (RVs), mobile homes, manufactured homes

9.0217 Temporary Structure

A temporary structure is a structure that may or may not require a building permit from the City and which may not comply with other standards in this Zoning Ordinance. Temporary structure are used for a specific, temporary purpose, but not for temporary habitation.

- *Examples:* Membrane buildings, shipping/storage containers, mobile office

9.0218 Temporary Uses

Uses of a temporary nature, sometimes involving temporary structures, which may be allowed in certain zoning districts in accordance with the procedures established in Section 5.15 of the Zoning Ordinance.

9.0219 Theater

A commercial building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use.

9.0220 Theater, Drive-In

An open-air theatre where customers may park and remain within their motor vehicles during a presentation.

9.0221 Townhomes

A single family dwelling unit constructed in a group of three or more attached units in which each unit extends from foundation to roof and with a yard or public way on at least two sides. Each single family dwelling unit is on a separate lot.

- *Example*: Three or more row houses.

9.0222 Truck Stops

A use where the primary function is providing fuel and other services to semi or tractor-trailer trucks. A truck wash or restaurant may be a secondary use.

9.0223 Twin Home

Two single family dwelling units attached with a common wall. Each unit extends from foundation to roof and with a yard or public way on at least two sides. Each single family dwelling unit is on a separate lot.

9.0224 Unit, Dwelling

A building or portion of it designed and used for residential occupancy by a single household and that includes exclusive sleeping, cooking, eating and sanitation facilities. Buildings with more than one set of cooking facilities are considered to be multi-dwelling structures unless the additional cooking facilities are clearly accessory, such as an outdoor grill.

9.0225 Use

The specific purpose for which land or buildings are intended.

9.0226 Utility Building

A building or structure that houses a public utility.

- *Examples:* Water and sewage pumping stations, telephone exchange buildings, electrical substations, and gas regulator substations.

9.0227 Utility Corridor

Includes public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level (extending beyond the city zoning jurisdiction).

9.0228 Utility-Scale Solar Facility

Solar-power generating facilities that convert solar energy (energy from the sun) into electrical power. Facilities include, but are not limited to, both photovoltaic and concentrating solar power (CSP) methods utilized at a large scale for commercial purposes. Utility scale solar facilities do not include facilities intended only for individual buildings or businesses.

9.0229 Variance

A deviation of Zoning Ordinance requirements to be considered where enforcement of the Zoning Ordinance would cause unnecessary hardship or practical difficulty to a property owner.

9.0230 Water Storage Facility

A structure for bulk storage of water for any purpose such as drinking, cleaning, cooking, manufacturing, agriculture, fire retardant, etc.

9.0231 Wind Energy Conversion System

An apparatus for converting the kinetic energy available in wind to mechanical energy that can be used to power machinery and/or to operate an electrical generator. The major components of a typical wind energy conversion system include a wind turbine, a generator, interconnection apparatus, and control systems.

9.0232 Yard

A space on the same lot with the principal building or structure, open, unoccupied, and unobstructed by buildings or structures from the ground upward, except for accessory structures as permitted by this Zoning Ordinance.

9.0233 Zoning District, Base

These zoning districts cover all properties (public and private), except city and state right of way, within city zoning jurisdiction. The following zoning districts are included: all residential zoning districts, all commercial zoning districts, all industrial zoning districts, the agricultural zoning district, the public and open space conservation zoning district, and the recreational vehicle district.

9.0234 Zoning District Map

The map showing the zoning districts of the City of Beulah officially adopted by the Council.

9.0235 Zoning District, Overlay

An overlay zone is a second, mapped zoning district that is overlaid or superimposed over a base zoning district. An overlay zoning district permits special regulations to exist within parts or all of a base zoning district or across a broad area containing several base zoning districts. Overlay zoning districts within the city include the floodplain overlay and underground mining overlay zoning districts.

SAVINGS CLAUSE. If any provision of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

SEVERABILITY. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

EFFECTIVE DATE. The Ordinance shall be in full force and effect after its final passage and approval and publication of its title and penalty clause.

DATED this _____ day of October, 2016.

_____

DARRELL R. BJERKE, Mayor

ATTEST:

_____

HEATHER FEREBEE, City Auditor

First Reading: October 3, 2016

Second Reading: October 17, 2016

Publication Date: _____

Effective Date: _____