

**CHAPTER SIX
ZONING - LAND USE PLANNING**

ARTICLE 1 - PLANNING AND ZONING COMMISSION

6.0101 Planning Commission Created

There is hereby created a planning commission, which shall also serve as the Zoning Commission, consisting of five members to be appointed by the Mayor, with the approval of the City Council. The Mayor, the engineer and city attorney, shall be ex-officio members thereof. (Source: North Dakota Century Code Section 40-48-03)

6.0102 Terms, Compensation, Meetings

The terms of the members, their compensation, and meetings shall be as provided by Chapter 40-48 of the North Dakota Century Code.

6.0103 Ex-Officio Zoning Commission

The planning commission shall also serve as the zoning commission of the City to hold hearings, make reports and recommendations as to the boundaries of the various original districts and appropriate regulations to be enforced therein, and for changes in or supplements thereto. (Source: North Dakota Century Code Section 40-47-06)

ARTICLE 2 - DEFINITIONS

6.0201 Definitions

For the purpose of this chapter the following words and phrases shall have the meanings herein given:

1. "Accessory Use or Building" is a subordinate use or building or portion of the main building, customarily incident to and located on the same lot with the main use or building.
2. "Alley" means any public way intersecting a City block or portion thereof and recorded with the City Auditor's office.
3. "Alteration" as applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.
4. "Building" is a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property, including tents, lunch wagons, dining cars, camp cars, trailers and other roofed structure on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or

recreational purposes. For the purposes of this definition, “roof” shall include an awning or other similar covering, whether or not permanent in nature.

5. “Building Line” is the line between which and the street line or lot line no building or other structure or portion thereof, except as provided in this Code, may be erected above the grade level.
6. “Curb Level” means the level established for the curb in front of a building, measured at the center of such front, and where no curb level has been established, the City engineer shall establish such curb level or its equivalent for the purpose of this article;
7. “Depth of Rear Yard” refers to the mean distance between the rear line of the building and the center line of the alley, if an alley exists, otherwise to the rear lot line;
10. “Depth of Lot” refers to the mean distance between the front street line and the rear lot line;
11. “Dwelling” is a building designed or used as the living quarters for one or more families.
12. “Dwelling House” is a detached house designed for and occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit.
13. “Dwelling Unit” is one or more rooms providing complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping and eating.
14. “Dwelling, Multi-Family” is a dwelling or group of dwellings on one plot containing separate living units for three or more families, but which have joint services or facilities for both.
15. “Family” is a group of two (2) or more people related by blood, marriage, or adoption.
16. “Garage, Private” is a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
17. “Grade” means the surface of the ground, court, lawn, yard or sidewalks adjoining a building; the established grade is the grade of the street curb lines fixed by the City of Oakes; the natural grade is the undisturbed natural surface of the ground; the finished grade is the surface of the ground, court, lawn, or yard, after filling or grading to desired elevation or elevations around a building or structure; but where the finished grade is below the level of the adjoining street, the established grade shall be deemed the finished grade;
18. “Half Story” means the portion of a building immediately under a sloping roof which has the point of intersection of the top line of the rafters and the face of the walls not to exceed three (3) feet above the top floor level;
19. “Height of Building” means the vertical distance from the top of the curb at the middle of the building or the ground level at the front of the building to the average height of the roof; in case of a mansard roof, to the top of the deck; in case of a flat roof, to the top of the

highest enclosure wall;

20. "Hotel or Motel" means a building where lodging is provided for transient guests and having ten (10) or more sleeping rooms;
21. "Lot" is a parcel of land occupied or capable of being occupied by one building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter.
22. "Mobile Home" is a designed or manufactured home to be used with wheels that will be set upon and be located on a foundation. The footings of the foundation will be four feet underground, and the footings themselves will be 16 inches wide, six inches deep with two #4 rebar and an underground depth of four feet."
23. "Non-conforming Use" is a building, structure or use of land existing at the time of the enactment of this chapter and which does not conform to the regulations of the district in which it is located.
24. "Property Line" is the line beginning and ending at the distance equal to half the measurement of the plotted street or alley or the pinned markers.
25. "Setback Building Line" is a building line back of the street line. Distance a structure can be located in adjacent to property lines.
26. "Street" means a public highway designated as a street, avenue, boulevard, place, court or road on the official records on file with the County Registrar or by prescription.
27. "Structure" is anything constructed or erected which requires location on the ground or attached to something having a location on the ground, including signs and billboards, but not including fences or walls used as fences.
28. "Structural Alterations" means any change in the supporting members of a building such as bearing walls or partitions, columns, beams, or girders, excepting such alteration as may be required for the safety of the building.
29. "Use" is the purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.
30. "Yard" is an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.
31. "Yard, Front" is an open, unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.
32. "Yard, Rear" is an open, unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

33. "Yard, Side" is an open, unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a lot line.

ARTICLE 3 - ESTABLISHMENT OF DISTRICTS

6.0301 Use and Area Districts Established

For the purposes of this chapter, the City is hereby divided into use districts and area districts as provided hereafter.

6.0302 Maps and Boundaries

The location and boundaries of the zoning districts are hereby established as shown on the map entitled "Zoning Map of Oakes" on file at City Hall. The City Auditor shall regularly update the "Zoning Map of Oakes" to show any changes in the zoning boundary lines resulting from amendments to the ordinances.

Location of District Boundaries: North Dakota Century Code 40-47-03.1-7 shall apply with respect to the boundaries of the zoning districts

6.0303 Annexed Property

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

ARTICLE 4 - APPLICATION OF REGULATIONS

6.0401 Application of Regulations

Except as provided in this chapter:

1. Conformity of Buildings and Land. No building, structure or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations herein specified for the district, as shown on the official map, in which it is located.

ARTICLE 5 - NON-CONFORMING USES

6.0501 Non-Conforming Uses

The lawful use of any building, structure or land existing at the time of the enactment of this chapter may be continued, although such use does not conform with the provisions of this chapter, provided the following conditions are met

1. Alterations. A non-conforming building or structure may be altered, improved or reconstructed provided such work is not to an extent exceeding in aggregate cost twenty-five percent (25%) of the assessed value of the building or structure unless the building or structure is changed to a conforming use.
2. Extension. A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building or structure which existed prior to the enactment of this ordinance shall not be deemed the extension of such non-conforming use.
3. Changes. No non-conforming building, structure or use shall be changed to another non-conforming use.
4. Abandonment. A non-conforming use of a building or premises which have been abandoned shall not thereafter be returned to such non-conforming use.
5. Unlawful Use Not Authorized. Nothing in this chapter shall be interpreted as authorization for or approval of the continuance of the use of a structure or premises in violation of zoning regulations in effect at the time of the effective date of this chapter. Any property determined to be dangerous or in need of demolition or improvement must be in compliance within ten (10) days of notice. (See Chapter 10 Article 4)
6. Certificate of Non-Conforming Use. Upon the effective date of this chapter, the zoning administrator shall issue a "Certificate of Non-Conforming Use" to all owners of property, the use of which does not conform to the provisions of the use zone in which the property is located.
 - a. In accordance with the provisions of this section no use of land, buildings or structures shall be made other than that specified on the "Certificate of Non-Conforming Use," unless said use shall be in conformity with the provisions of the use zone in which the property is located.
 - b. A copy of each "Certificate of Non-Conforming Use" shall be filed with the office of the zoning administrator. No permit or license shall be issued to any property for which a "Certificate of Non-Conforming Use" has been issued until said permit or license has been approved by the zoning commission.
7. District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any non-conforming uses existing therein.

ARTICLE 6 - USE DISTRICTS

6.0601 Use Districts

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

R-1 Residential Districts, Single-Family, and Two-Family

R-1A	Residential Districts, Mobile Homes
C	Commercial Districts
I	Industrial Districts
U	Unplatted

6.0602 R-1 - Residential Districts – Single-Family and Two-Family

R-1 Use:

In a single-family district, all new buildings, and alterations to existing buildings, shall be used exclusively, and exclusively constructed, designed and arranged for, one or more of the following purposes:

1. Dwelling houses occupied by single and two-family (duplex) buildings.
2. Publicly owned and operated buildings including fire and police stations and other public service facilities.
3. Churches and parish houses.
4. Public and private schools.
5. Hospitals, clinics, nursing and rest homes, and homes for the aged.
6. Playgrounds, parks, golf courses and other public recreation facilities.
7. Cemeteries.

R-1 Conditional Use:

The City Council may authorize the following conditional uses in the R-1 – Residential Districts:

1. Mortuary, funeral homes
2. Multi-family dwellings

R-1 Accessory Use and Buildings:

The following accessory uses and buildings are permitted in residential districts:

1. Professional office for a physician, clergyman, architect, engineer, attorney or similar professional person residing in such main building.
2. Home Occupation (Cottage Industry). Customary home occupation for gain carried on in the main building or a building accessory thereto requiring only home equipment and employing no more than 5 non-residents help, and no trading in merchandise is carried on.
3. Gardens.
4. Any other accessory use customarily incident to a use authorized in a residential district.
5. Private garages and Accessory Buildings, (measurements are from overhang of roof)
 - a. A garage which has an entrance on a side street must be at least ten (10) feet from the side of the lot line, and the side of the garage must be at least ten (10) feet from the alley line.
 - b. A garage which has an entrance from an alley must be at least fifteen (15) feet from the alley line.
 - c. An accessory building must be located at least five (5) from any other lot line.
 - d. No separate accessory building shall be erected within five (5) feet of any other building
 - e. The size of an accessory building shall be no larger than 30 feet by 40 feet or 1,200 square feet. Anything exceeding these limits will require a variance from the Oakes City Council.
 - f. The height of the detached building shall not exceed one story of 10 (ten) feet tall and shall not exceed a height of 25 (twenty-five) feet. Anything exceeding these limits will require a variance from the Oakes City Council.
 - g. In all instances, such measurements shall be made from the eaves.

- h. No accessory building shall be allowed on any utility easement.

R-1 Area and Density Regulations:

In any use district no residence building shall hereafter be erected, established or altered on a lot having a lot area of not less than the square feet required as follows:

1. Minimum frontage of 75 feet
2. No structures shall occupy more than fifty (50) percent of an inside lot nor more than sixty (60) percent of a corner lot.
3. There shall be no more than 3 (three) accessory buildings

R-1 Building Height:

1. No single dwelling shall exceed two and one-half (2 ½) stories or 35 feet.

R-1 Yard Requirements:

1. Measured from the front property line, a front yard of not less than twenty (20) feet.
2. Measured from the rear property line, a rear yard of not less than twenty (20) feet.
3. Measured from the side property line, a side yard on each of not less than five (5) feet.

R-1 Parking Requirements:

1. Each single or two-family (duplex) dwelling shall have off-street parking spaces for two (2) automobiles. All parking stalls shall be completely within the confines of the lot.
2. Off-Street Parking—See Section 6.0702

R-1 Supplementary Regulations:

1. Visibility at intersections--On a corner lot in any residential district, nothing shall be erected, placed, or allowed to grow in such a manner as to materially impede vision.
2. It is recommended that all new residential development have underground electrical hookups.
3. Those listed in Section 6.0701- Supplementary District Regulations.

6.0603 R-1A, Residential District (Mobile Homes):

R-1A Use:

It is the purpose of the R-1A District to set aside areas wherein mobile homes can be placed in a safe and healthful environment with due regard to their necessity as a residential dwelling unit.

1. All uses permitted in the R-1, Residential District
2. Mobile Home Parks. Mobile homes shall only be permitted in the R1-A District unless otherwise specified in the provisions of this ordinance. No new mobile home park may be established, or no existing mobile home park may be expanded or modified unless zoned Mobile Home District (R-1A).
 - a. All mobile home parks are required to have underground electrical hookups.

R-1A Conditional Uses:

1. Home occupation

R-1A General Rules:

1. Accessory structures such as a storage shed, windbreak, or entryway shall be at least 10 feet from the nearest adjoining mobile home
2. No mobile home shall be parked closer than 10 feet to a private interior roadway, and it must have clear access to said roadway
3. Primary entrance and exit roadways shall connect to a dedicated public right-of-way and shall not be less than 36 feet wide from flow line to flow line
4. Off-street parking shall be provided for each mobile home lot
5. Service and utility buildings, garbage and trash containers, racks and rack locations, rodent and insect control, water and sewer provisions, shall meet the approval of the State Health Department

R-1A Accessory Use and Buildings:

1. Same as applied in R-1, Residential District

R-1A Area and Density Requirements:

1. Minimum lot area shall be 3500 square feet with a minimum lot width of 35 feet
2. Minimum front yard of the lot (this shall mean the entry side of the mobile home) shall be 10 feet.
3. Minimum end yard setback of lots for yards with double frontage (these are considered as the front and rear of the mobile home) shall be 8 feet at each end
4. Minimum side yards – 10 feet along the street side of interior roadways or driveways

R-1A Building Height Limits:

1. Same as applied in R-1 Residential District.

R-1A Yard Requirements:

1. Measured from the front property line, a front yard of not less than twenty-five (25) feet.
2. Measured from the rear property line, a rear yard of not less than fifteen (15) feet except where the rear yard abuts a dedicated public right-of-way in which case the rear yard shall follow the requirements of front yard minimums.
3. Measured from the side property line, a side yard on each of not less than ten (10) feet along interior lot lines, fifteen (15) feet along public side streets.

R-1A Parking Requirements:

1. Same as applied in R-1 Residential District.

R-1A Supplementary Regulations:

1. Same as applied in R-1 Residential District.

R-1A Requirements for Mobile Home Parks:

1. When applying for this use, there shall be provided to the Zoning Administrator a plot plan by a registered engineer, architect, or qualified planner, complete in detail, meeting and showing the following requirements:
 - a. The minimum free-standing area shall be at least two acres, and the density of mobile homes shall not be greater than eight to the net acres. Net acreage is defined as the acreage remaining after the deduction of the areas set aside for storage, recreation, clothes drying, garbage and trash collection points, utility and service building areas and spaces, roadways, driveways, walkways and off-street parking areas.

- b. Location and legal description.
- c. Entrance to and exit from the park.
- d. Vehicular driveways, roadways, and pedestrian walk.
- e. Plans showing signs and arrangement of mobile home lots and stands, location of roadways, service and utility buildings.
- f. Topography map showing original and final contours and provisions for drainage.
- g. Areas set aside for recreation, clothes washing and drying, storage and off-street parking.
- h. Fencing and screen planting on the premises.
- i. Provisions for trash and garbage storage and removal.
- j. Plans for water supply and distribution.
- k. Plans for sewage collection and disposal.
- l. Typical lot plan.

6.0604 R-2 - Residential Districts - Multi-Family *(Repealed February 2012)*

6.0605 Commercial District

C Use: The following buildings and uses are permitted in the commercial district:

- 1. Retail stores and shops, automobile, truck and farm implement sales, and services.
- 2. Service establishments, automobile service and repair stations, car washes.
- 3. Business and professional offices. Financial institutions, churches, nursery for flowers or plants, animal hospitals, and kennels.
- 4. Eating and drinking establishments, hotels, and motels.
- 5. Funeral homes and mortuaries.
- 6. Transportation services.
- 7. Amusement and recreational uses.
- 8. Wholesale businesses.
- 9. Apartment dwelling units.
- 10. Storage buildings.
- 11. Any other building or use similar to the uses herein listed in the type of services or goods sold.
- 12. Multi-family dwellings.
- 13. Private clubs.
- 14. Lodges or social buildings.
- 15. Hotels, motels, boarding and lodging houses.
- 16. Automobile parking lots.
- 17. Any accessory uses customarily incident to a use herein listed including the use of containers for the purpose of storage of merchandise or goods used in the normal operation of the business.

C Prohibited Use:

- 1. Dwelling units, except for housing for the elderly, and apartments above commercial uses.
- 2. Manufacturing, except for the production of products for sales at retail such as jewelry, eyeglasses, hearing aids or products which create no odor, noise, vibration or dust when they are manufactured.
- 3. Storage of goods except in completely enclosed buildings.

C Conditional Use:

The City Council may authorize conditional uses in the C-Commercial District including but not limited to the following:

1. Warehouses.

C Accessory Use and Buildings:

The City Council may regulate accessory uses and buildings in the C-Commercial District.

C Area and Density Regulations:

There shall be a minimum lot area of 3,000 square feet with a minimum width of twenty-five (25) feet. Uses such as hotels, motels, eating and drinking establishments shall be connected to public sewer and public water.

C Building Height:

1. No structure shall exceed three (3) stories or 45 feet.

C Yard Requirements:

1. A front yard shall conform with the existing measurements in that area.
2. Measured from the rear property line, a rear yard of not less than (ten) 10 feet.
3. Measured from the side property line, a side yard on each of not less than five (5) feet or ten (10) feet on each side of the lot.

C Parking Requirements:

1. There shall be adequate provisions for off-street parking by each of the activities within the district. See Section 6.0702

C Supplementary Regulations:

1. Those listed in Section 6.0701 Supplementary District Regulations.

6.0606 I - Industrial

I Uses: The following buildings and uses are permitted in the industrial district:

1. All uses permitted in a C-Commercial District.
2. The compounding, assembly, treatment, manufacture, processing and packing of articles or materials shall be permitted in the industrial district.

I Prohibited Uses:

1. No dwelling or dwelling unit.

I Conditional Uses:

1. The City Council shall review all the permits for the future industrial development to ensure adequate measures are provided for the welfare and safety of the public.

I Parking Requirements:

1. There shall be adequate provisions for off-street parking by each of the activities within the district. See Section 6.0702

I Supplementary Regulations:

1. Those listed in Section 6.0701 – Supplementary District Regulations.

6.0607 U - Unplatted

U Use:

The predominant use of land within the U-Unplatted District is agriculture and undeveloped land, for one or more of the following purposes:

1. Grain and crop farming, nurseries, greenhouses, and roadside stands for the sale of products which are grown on the premises.
2. Single and two-family (duplex) buildings.
3. Churches and facilities related to religious institutions.
4. Golf courses, public parks, facilities, playgrounds, and other recreational uses.
5. Public and private schools.
6. Utility lines and public service facilities.
7. Home occupations.

U Conditional Use:

The City Council may authorize the following conditional uses in the U - Unplatted Districts:

1. Airports and landing strips.
2. Cemeteries.
3. Radio and television towers and accessories.
4. Processing of agricultural products provided:
 - A. Side yards of not less than fifty (50) feet.
 - B. Rear yard of not less than fifty (50) feet.

U Accessory Use and Buildings:

The following accessory uses and buildings are permitted in unplatted districts:

1. An accessory building, or any enclosure, group or run, or any part thereof shall be located at least fifteen (15) feet from any rear or side lot line, and at least twenty (20) feet from any building used for dwelling purposes on an adjoining lot.

U Area and Density Regulations:

The City Council may regulate area and density regulations in the Unplatted District.

U Yard Requirements:

1. Measured from the front property line, a front yard of at least (twenty) 20 feet. Lots outside the city limits shall have a front yard of not less than fifty (50) feet.
2. Measured from the rear property line, a rear yard of not less than twenty (20) feet.
3. Measured from the side property line, a side yard on each of not less than five (5) feet.

U Parking Requirements:

1. There shall be adequate provisions for off-street parking by each of the activities within the district. See Section 6.0702

U Supplementary Regulations:

1. Those listed in Section 6.0701- Supplementary District Regulations.

ARTICLE 7 – AREA REGULATIONS

6.0701 Area Regulations - Supplementary District Regulations

1. Overcrowding
 - a. Dwelling units shall not be occupied by more than four person per unit unless they are a family by definition.
2. Fences
 - a. Notwithstanding any provisions of this ordinance, fences, walls, and hedges may be permitted in yards, or along the edge of any yard, provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be over six (6) feet in height.
3. Erection of more than one principal structure on a lot
 - a. Is not permitted unless yard and other dimension requirements are met for each structure.
4. Exceptions to height regulations
 - a. The height limitations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other accessory usually required to be placed above the roof level and not intended for human occupancy.
5. Structures to have access
 - a. Every building erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots as to provide safe and convenient access to servicing, fire protection, and off-street parking.
6. Signs. The following regulations shall govern the location, area and type of signs permitted within the City
 - a. General requirements:
 - i. All signs shall be structurally safe and shall be securely anchored or otherwise fastened, suspended, or supported so that they will not be a nuisance to the safety of persons or property.
 - ii. No sign, outdoor commercial advertising device or lighting device constituting a nuisance to an adjacent residential district because of lighting glare, focus, animation or flashing of a sign, lighting or advertising device shall be erected or continued in operation.
 - iii. No “revolving beacon” or “fountain” signs shall be permitted in any district.
 - iv. No sign in any district shall conflict in any manner with the clear and obvious appearance of public devices controlling public traffic.
 - v. Ground signs shall not be located on public property except by specific approval of the City Council.
 - vi. Temporary signs or banners on or over public property may be authorized by the City Council for a period not to exceed ten (10) days.
 - vii. Signs projecting over a street, alley, or other public space shall project not more than ten (10) feet and be no closer than two (2) feet to a plumb line from curb line; clearance below such signs shall be a minimum of nine (9) feet.
 - viii. Roadside market signs advertising produce grown and sold on the premises on which they are located. Said signs shall not remain continuously erected more than six (6) months of any calendar year.
 - b. Residential Districts:

- i. One (1) identification sign shall be permitted per residential use provided such sign does not exceed two (2) square feet in area; said sign may be wall, pedestal, ground or projecting type (but not projecting over public property)
 - ii. One sign of a temporary nature, such as “for sale” or “for rent”, shall be permitted per residential use provided such sign does not exceed six (6) square feet and is not lighted; said sign may be a wall, pedestal or ground type.
 - iii. Home occupation. No sign or display other than a nameplate not more than two (2) square feet in area shall be used to indicate from the exterior that the building is being utilized in part of any purpose other than of a dwelling.
- c. Unplatted District:
 - i. Highway billboards or other such highway oriented advertising devices shall be permitted, provided such signs and devices are located at least one thousand (1,000) feet from any existing advertising sign or device, regardless of political boundaries, width of rights-of-way, existing highways, streets, roads, or easements.
 - ii. Prior to construction of any highway billboard or other such highway oriented advertising device, a building permit shall be obtained. If the building inspector judges any sign to be in poor repair, not properly located, obstructing public rights-of-way, or in any way adjudged to constitute a public hazard or nuisance, any sign may be removed by the building inspector. Costs for removal and storage or disposal shall be paid by the permittee.
- d. Public or Semi-public uses:
 - i. One identification sign shall be permitted per public or semi-public use provided such sign does not exceed twenty (20) square feet in area; said sign may be wall, pedestal, ground or projecting type.
- e. Commercial, Highway Service, Industrial Districts:
 - i. No restrictions except the general sign requirements of Section 8-A above.

6.0702 Off-Street Parking Regulations

1. No building shall be erected, enlarged or changed in use unless there is provided on the lot or tract of land used, space for the parking of automobiles or trucks in accordance with the following minimum requirements:
 - a. Residential-Two (2) parking spaces for each dwelling unit
 - b. Church or School-One (1) parking space for every (5) seats in the principal gathering room plus one (1) space for each employee
 - c. Private Club or Lodge-One (1) parking space for each normal attendance at club or lodge functions
 - d. Hospitals-One (1) space for each two (2) patient beds (excluding bassinets) plus one (1) additional space for each doctor, plus one (1) additional space for each (2) employees, and loading and unloading space for hospital ambulance
 - e. Convalescent or Nursing Home-One (1) space for each four (4) residents or patients, plus one (1) space for each two (2) employees, plus one (1) space for emergency vehicles
 - f. Offices or Clinics-One (1) parking space for each one hundred (100) square feet of floor area
 - g. Mortuary or Funeral Home-One (1) space for each one hundred fifty (150) square feet of floor area
 - h. Theatres-One (1) space for each four (4) seats

- i. Wholesale Establishments and Business Services-One (1) space for every three hundred (300) square feet of floor area
 - j. General Retail-Four (4) spaces for every one thousand (1,000) square feet of floor area
 - k. Restaurants or Bars-One (1) space for each two hundred (200) square feet of floor area
 - l. Hotel, Motel, or Tourist Cabin-One (1) space for each room plus two (2) additional spaces for each three (3) employees
 - m. Commercial, Entertainment, and Recreation-One (1) space for each one hundred (100) square feet
 - n. Industrial Uses-One (1) space for each one and one half (1 ½) employee on the shift of the greatest employment, plus one (1) truck space for each 7,500 square feet of gross floor area
 - o. Core Commercial District-One (1) parking space shall be provided on the same lot for each six hundred (600) square feet of constructed building on the lot
 - p. Mixed Uses-In cases of mixed uses, the parking spaces required shall be the sum of the requirements for the various individual uses computed separately
2. Exceptions
- a. Variance approved by the City Council

ARTICLE 8 - ENFORCEMENT

6.0801 Administrative Official

1. Administrative Official. Except as otherwise provided herein the City Auditor with direction from the City Council shall administer and enforce the provisions of this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued except where the provisions of this chapter have been complied with.
Building Official. The Building Official shall be appointed by the City Council and shall administer and enforce this ordinance. Assistance from the City Council can be provided as necessary. The Building Official reviews all building permit applications, makes inspections, and files record with the City Auditor. If the Building Official finds that any of the provisions of this ordinance are being violated, the person responsible for such violation shall be notified in writing indicating the nature of the violation and ordering the necessary action to correct it.
Zoning Commission. The Zoning Commission shall be appointed by the City Council and shall review all petitions for an amendment to the zoning ordinance and the zoning district map, and appeals by any decision of the City Council.
2. Building Permit Required. No building or structure shall be erected, added to or structurally altered until a permit, therefore, has been approved by the Building Official and issued by the City Council. All applications for such permits shall be in accordance with the requirements herein and, unless upon written order of the Zoning Commission, no such building permit or certificate of occupancy, shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this chapter. Construction of buildings or structures where a variance is required by this Article shall only begin when such variances have been applied for and granted or approved under Chapter 6, Zoning and Land Use. Any residential structure for the erection of which a permit is issued must be completed within one (1) year from the date

of such permit. If not completed within permitted time application must be resubmitted, and regular fees plus \$20.00 re-application fee must be paid. (See Rate Schedule)

Building permit is required for any alterations or additions to a permanent or accessory structure, any new construction, concrete work, storage buildings, newly constructed decks, fences, and renovations that change the original footprint of the structure.

The applicant must have area marked according to submitted plans, and Building Official will review. City Council will approve based on recommendations by Building Official.

Construction shall only begin once the application has been approved by the City Council. Building Official will be contacted with a start date to complete inspection. Exception: Fences, decks, and porches can begin construction once Building Official has approved.

- a. Matter Accompanying Application. There shall be submitted with all applications for building permits a copy of the layout or plot drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinance.
 - b. Payment of Fee of a minimum of \$25.00. (See rate schedule at end of this Chapter)
 - c. The City Council has the power of reversing wholly or partly or may modify any decision of the Building Official so long as such action is in conformity with the terms of this ordinance.
 - d. All building contractors who are hired to perform construction work with the City must be a licensed contractor with the State of North Dakota. A building permit shall not be issued to any party that does not have a licensed contractor doing the contract work for construction over the amount of \$4,000.00. A person may provide his or her own labor when doing construction work on property in which he or she holds recorded title. (see NDCC Chapter 43-07)
3. Certificates of Occupancy. Building Permit will be issued upon satisfactory inspection by Building Official based on approved application by City Council and compliance with stated information on application.
 4. Conditional Use Permits. The City Council may hear and decide on such conditional uses specifically authorized by the terms of this ordinance; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this ordinance, or to deny conditional uses when not in harmony with this ordinance. No application for a conditional use shall be granted unless all the following conditions are present:
 - a. A written application for a conditional use is submitted stating the grounds on which it is requested.
 - b. Uses and values of the other property in the area shall in no foreseeable manner be impaired or diminished by the conditional use.
 - c. Adequate utilities, access roads, drainage and other necessary site improvements have been made or are being provided.
 - d. The conditional use shall conform to all applicable regulations of the district in which it is located.
 - e. Notice shall be given at least seven (7) days in advance of a public hearing. Notice shall appear in the official newspaper for one publication prior to the hearing.
 - f. The Notice of Hearing may be waived by the Council if it is declared an emergency by a $\frac{3}{4}$ voted of the Council then present. An emergency shall exist if immediate action necessitates Council action that will benefit the City.

ARTICLE 9 – BOARD OF ADJUSTMENT (VARIANCE)

6.0901 Variances

1. Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the City Council shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in the strict application of any provision of this chapter shall be granted by the City Council unless it finds:
 - 1) That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
 - 2) That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose.
 - 3) That the granting of this variance will be in harmony with the general purpose and intent of this chapter. In addition to considering the character and use of adjoining buildings and those in the vicinity, the board, in determining its finding, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.
2. Procedure. The Mayor shall appoint 2 members of the City Council to review all application for variances. The City Council shall act in strict accordance with the procedure specified by law and by this chapter. Should the members find the variance within the general purpose, scope and intent of the City's public policies and Article 6, Zoning and Land Use, no public hearing shall be required. Notice to public or neighboring properties will be sent by Council requests.

All appeals and applications made to the City Council shall be in writing or on forms prescribed by the City Council. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. The City Council shall have the final authority to grant or deny all variances.

6.0902 Enforcement

Penalty: Cease & Desist Order according to North Dakota Century Code 42-01-06.

The erection, construction, reconstruction, alteration, repair, conversion or maintenance of any building or structure or the use of any building, structure or land in violation of this article or of any regulation, order, requirement, decision or determination made under authority conferred by this article,

shall constitute the maintenance of a public nuisance and any appropriate action or proceeding may be instituted by the City, through any administrative officials, department, board of bureau charged with the enforcement of this article:

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
2. To restrain, correct or abate such violation;
3. To present the occupancy of the building, structure or land; or
4. To prevent any illegal act, conduct, business or use in or about such premises.
5. Building Official shall present cease & desist order pending review by the City Council.

A violation of any provision of this article or a violation of or refusal or failure to comply with any regulation, order, requirement, decision of determination made under authority conferred by this article shall be punishable as provided in the chapter entitled "Ordinances."

Any person violating any provision of Oakes City Article 6 Zoning and Land Use, shall pay a civil administrative fee of \$500.00 for each violation. Any person noticed, they are in violation, may seek an administrative hearing before the Oakes City Council. Any person deemed in violation by the City Council has 10 days to seek request for review, such request shall be in writing to Oakes City Auditor.

ARTICLE 10 - ENCROACHMENT

6.1001

It shall be unlawful to erect, maintain or place any building or any structure upon any public area or city property or any area that the public has a right to enter or travel upon. Boulevards are considered public areas for purposes of this ordinance. Any person violating this ordinance is subject to the penalty and fines according to North Dakota Century Code 40-05-01.1.

ARTICLE 11 – PRIVATE DEVELOPMENT

Private Consultant Development of Public Facilities
Private Funding of Public Facilities

New development of public infrastructure (utilities, paving, street lights, etc.) in the City of Oakes is typically engineered by the Appointed City Engineer hereafter called 'City Engineer', and financed through special assessment. In- house engineering is done according to City Ordinances.

Periodically the City is requested to approve development designed or funded privately. The City may desire to utilize a private consultant to design and administer specific projects.

Projects that are engineered by the private sector nevertheless require City staff involvement to verify compliance to City standards of design and construction, maintenance of proper construction records, and posting of construction information into the City's computerized record system. City staff oversight is important since the privately installed public facilities are turned over to the City for ownership and maintenance. New development areas place increased demand on all City services from utility cleaning

to street maintenance, snow removal (this listing is not exemplary but illustrative), which require City involvement in the design of the infrastructure.

The City of Oakes supports the concept of privately designed and funded infrastructure development. To address the costs incurred by City staff (including the City Engineer) in review and oversight of these improvements, the City will require payment of a design oversight fee, set and charged by the City Engineer through auspices of the City Auditor. The City has specific requirements regarding consultant design and administration standards.

I. CONSULTANT SELECTION

A. Privately Funded Improvements

The developer shall select their engineering consultant. The City Engineer will charge a project review and oversight fee.

B. Publicly Funded (Special Assessed) Projects

1. City Consultant Selection

Due to staff or project timing constraints, and when determined by the City to be in their best interest, the City may elect to hire a consultant (other than the City Engineer) to complete all or portions of specific projects.

The City will select the consultant through the standard Request for Proposal (RFP) process. All engineering costs may be special assessed. The standard engineering and administration fees will be charged to the project.

2. Developer Consultant Selection

The developer may select their engineering consultant to complete design and administration within the development. The City Engineer will be involved in reviewing the design, plans, specification, contract administration, inspection and as-builts (project oversight).

II. STANDARDS

A. *Design & Construction by Private Consultant*

1. City Engineer shall coordinate area plan development and approve all plans and specifications to verify adherence to City standards.
2. City Engineer shall provide consultant inspection oversight to ensure conformance in construction and record keeping. The City Engineer will conduct inspections as necessary.
3. City Engineer, Public Works and other City departments will provide final project inspection prior to public acceptance of maintenance and ownership.

B. *Warranty*

1. Standard one-year warranty shall apply to all construction.
2. Deficiencies shall be reported directly to project engineer and City Engineer for repair within 60 days. Failure to remedy project deficiencies will result in City directed repairs special assessed against the project area or developer.

III. REVIEW AND OVERSIGHT FEES

The City Engineer will charge a project review and oversight fee for projects privately funded or engineered by developer selected consultants.

A. Fee

1. Fee Establishment Criteria

Generally based on level of involvement required by City Engineering staff. This local involvement is impacted by the following criteria:

- Consultant experience with municipal construction techniques.
 - No experience
 - Considerable experience
- Level of consultant computer automation and compatibility with City Engineer's CAD and GIS Systems.
 - Fully compatible
 - Submit as-built drawings in AutoCAD.DWG or DFX format utilizing City standards for symbology, layering, linetypes, etc.
 - Manually drafted as-built plans
- Area Plan Status.
 - Construction fits within present utility area plan.
 - Proposed construction requires staff development of utility area plan to serve the area or adjacent areas.
- Project Complexity and Coordination Required.
 - Coordination among multiple City departments required on complex projects.
 - Simple projects requiring nominal involvement by Engineering Staff.
- Construction to Normal Standards
 - Oversight fees shall be based on construction to normal City standards. Construction to higher standards (example: Concrete pavement in lieu of asphalt pavement) will be assessed an oversight fee based on the required standard, not the higher standard selected.

2. Evaluation

- a) Each project shall be evaluated on an individual basis with the above-listed criteria to establish oversight fee. The City Engineer will review the above-listed criteria with the developer and consultant for fee rate recommendation to the City. Normally the fee will be approximately 4% of the construction cost. The cost for any construction observation during construction will be on an hourly basis. Full time inspection will be required on sewer, water and street project and as necessary on others.
- b) Payment
Payment of the review and oversight fee as set by the City Engineer will be made in advance of project construction or be paid through a special assessment district once bonds are sold.
- c) Agreement
The developer/owner shall enter into an agreement with the City regarding the conditions listed pertaining to the design and oversight of public facilities as a condition of development on public right-of-way. This agreement shall be in place prior to final approval of any work undertaken by City staff (or appointed staff).

Building Permit Rate Schedule

FEE FOR BUILDING PERMIT

Structural Improvements under \$500.....	\$0.00
Structural Improvements of \$501 to \$20,000.....	\$25.00
Each Additional \$1000	\$1.00
Re-Application Fee	\$20.00