

# LAND DEVELOPMENT CODE

Forman, North Dakota

Revised January 1, 2012

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# **1. INTRODUCTION**

## **1.1. Title**

This chapter shall be known as the "Land Development Code" of the City of Forman, North Dakota.

## **1.2. Authority**

These regulations are adopted under the authority granted by Chapters 40-47, 40-48 and 40-50 of the North Dakota Century Code.

## **1.3. Purpose**

These regulations are adopted to promote the health, safety, morals and general welfare of the City of Forman.

## **1.4. Intent**

These regulations are adopted to implement the plans and policies of the City, regulate the use of land resources and minimize the cost of public services.

- a. To promote orderly development of the city and to prevent conflict among land uses and structures.
- b. To secure safety from fire, panic, noxious fumes, and other dangers.
- c. To facilitate development of water, sewerage, transportation and other customary municipal services cost effectively.
- d. To regulate the use and division of land within the city limits and within one mile extra territorial jurisdiction.
- e. To regulate the proper arrangement of streets, alleys and roads for convenient and efficient access to the adjoining properties.
- f. To protect the value of land and buildings and maintain harmony and consistency among land uses.
- g. To protect the existing properties against nuisances that interfere with the use and enjoyment of property, endanger personal health or safety or is offensive to the senses, as provided under the City of Forman ordinances.

## **1.5. Jurisdiction**

These regulations shall apply to all lands within the corporate limits of the City of Forman, North Dakota and one mile outside of its corporate limits, known as extra territorial planning area authorized by the North Dakota Laws.

### **1.6. Interpretation**

These regulations shall be held to be the minimum requirements. Whenever these requirements are at variance with other requirements, rules, regulations, deed restrictions or covenants, the most restrictive shall govern, unless otherwise specifically stated. The City Council may, from time to time, amend, supplement or repeal any part of this code after a public hearing.

### **1.7. Severability**

If any part of these regulations is found invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected.

### **1.8. Exceptions**

These regulations shall not apply to the land and buildings for agricultural uses, as herein defined.

### **1.9. Repeal**

The existing City Zoning code together with any amendments thereto is hereby repealed.

### **1.10. Effective Date**

This code shall be effective upon adoption by the City Council of the City of Forman, as provided by the North Dakota Century Code.

## **2. RULES AND DEFINITIONS**

### **2.1. Compliance**

No structure, land and building shall be hereafter used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and shall be in compliance with this code.

### **2.2. Word Use**

In the construction of this code, the following words, rules, definitions shall be observed and applied except when the context clearly indicates otherwise.

- a. Words used in present tense shall include the future.
- b. Words used in singular number shall include the plural number and the plural the singular.
- c. Shall is a mandatory word and not discretionary.
- d. May is a permissive word.

- e. The word "lot" shall also mean "parcel", "piece" and "plat".
- f. The word "building" includes all structures and structure includes buildings.

### **2.3. Definitions**

#### ***"Accessory Building and Uses"***

A subordinate building or portion of the main building the use of which is clearly incidental to, serves exclusively the principal building or principal use and shall be located on the same zoning lot.

#### ***"Agriculture"***

The process of producing food and fiber customary to the family farming operation with a minimum of 40 acres in area, excluding feedlots, processing and manufacturing of the farm-based products.

#### ***"Alley"***

A minor street providing access to the back or side of two or more parcels or lots.

#### ***"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.

#### ***"Animal Hospital or Kennel"***

A building or premises set up for treatment and boarding of domestic animals including veterinary facilities.

#### ***"Basement"***

A story, partly underground with more than one-half of its height below grade.

#### ***"Building"***

Any structure designed or intended for shelter, housing, business, office and accommodation of persons, animals, chattels or property.

#### ***"Building Area"***

That portion of the zoning lot that can be occupied by the principal and accessory uses, excluding the front, rear and side yards.

#### ***"Building Height"***

The vertical distance from the grade to the highest point of the roof.

#### ***"Building Line"***

A line establishing the minimum distance that structures may be placed from the lot lines or street right-of-way. For the purposes of this code, the building line is the same as setback line.

#### ***"Building, Principal"***

A building, the main use of which is single family and multi-family dwellings, offices, shops, stores and other uses permitted in the appropriate zoning district.

**"Channel"**

A natural or man-made watercourse for conducting the flow of water.

**"City", "City Council"**

The governing body of the City of Forman, North Dakota.

**"Club or Lodge"**

A private club or lodge, which is a nonprofit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.

**"Comprehensive Plan" or "2020 Plan"**

A guide for management of the resources and development of the City of Forman.

**"Conditional Use"**

A use not automatically permitted in a zoning district and which requires review and approval of the City Council after a public hearing. It is a use, which would not be appropriate in a particular zoning district, but which if controlled as to the number, location or relation to the surrounding uses and the area, may be consistent with the purpose and intent of these regulations. A conditional use is permitted in a district specifically allowing it, subject to the approval of the City Council and only when the council finds that such use meets all of the requirements applicable to it as specified in the city codes including these regulations.

**"Conforming Building or Structure"**

A building or structure, which complies with all requirements of this code and other regulations adopted by the City of Forman.

**"Developer"**

The owner or agent of land to be subdivided for a specific use.

**"Development"**

Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures, the construction of additions or alternations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavation and drilling operations.

**"Development Plan"**

A document that includes maps and data that is used for physical development of an area as provided by this code or may be required by the City of Forman.

**"District Zoning"**

A section or sections of Forman for which regulations governing the use of building and premises, the building heights, size of yards, lot area, lot width and the use are uniform.

**"Dwelling"**

Any building or portion thereof, used exclusively for human habitation including single family and multiple family units but not including hotels or motels, or vehicles designed for camping and other temporary occupancy such as vacation vehicles.

**"Dwelling, Multiple Family"**

A single building or portion thereof, containing two (2) or more dwelling units.

***"Dwelling, Single Family"***

A building containing one dwelling unit only.

***"Easement"***

A right to the use of land for a specific purpose, such right being held by someone other than the owner who holds the title to the land.

***"Encroachment"***

Any fill, building, structure or use including accessory uses projecting into the required yard areas or public and private property.

***"Establishment"***

A place of business for processing, production, assembly, sales, service of goods and materials.

***"Extraterritorial Area"***

Areas surrounding the City of Forman within one mile of the city corporate limits in all directions, where the city has zoning and platting control under the provisions of the North Dakota Century Code.

***"Feedlot"***

A parcel of land, which contains a commercial operation for feeding or raising of two hundred (200) or more animals, which is operated as a separate activity and not incidental to farming.

***"Fence"***

Any structure at least four (4) feet high consisting of rails, timber, boards, PVC materials, walls, shrub row, hedgerow or similar planting or any combination thereof.

***"Final Plat"***

The map, plan, or record of a subdivision and any accompanying material prepared in conformance with this code.

***"Frontage"***

The front part of a lot abutting a public right-of-way, or road or highway.

***"Garage, Private"***

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.

***"Grade"***

The land elevation at the horizontal intersection of the ground and the building.

***"Home Occupation"***

Any occupation which: (a) carried on in a dwelling unit by members of the family; (b) is clearly secondary to the use of residential dwelling units and (c) does not create excessive noise, traffic or conflict with adjoining uses.

**"Hotel or Motel"**

A building in which lodging accommodations, with or without meals, is provided for compensation.

**"Improvements"**

Street grading, surfacing, installations of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, trees, street lights as may be required by the City of Forman.

**"Junk or Salvage Yard"**

An open area where waste or scrap material, including parts of used motor vehicles, appliances and farm implements are bought, sold, exchanged, stored, baled, parked, disassembled or handled.

**"Kennel, Animal"**

Any premises where dogs, cats and other household pets are boarded, bred and maintained for compensation.

**"Lot"**

A piece, parcel, lot or area of land established by survey, plat or deed, that meets the yard requirements of this code and fronts on a public street.

**"Lot, Corner"**

A lot abutting two (2) public streets at their intersection.

**"Lot Coverage"**

The total surface area of a lot, which is covered by any type of structure.

**"Lot Depth"**

The average horizontal distance between the front lot line and rear lot line.

**"Lot Lines"**

The property lines bounding the lot.

**"Lot of Record"**

A lot, which is a part of a subdivision or a parcel of land, which has been recorded in the office of Sargent County Register of Deeds.

**"Lot Width"**

The horizontal distance between the side lot lines of a lot, measured at the front building setback line.

**"Lot, Zoning"**

A single lot, parcel or tract of land within a zoning district.

**"Manufactured and Modular Homes"**

Factory built dwelling units, with at least 900 square feet of living space, to be placed on a permanent foundation or basement and is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to be placed on a permanent site and bears a label certifying that it was built in compliance with the latest

standards adopted by the U.S. Dept. of Housing and Urban Development for a manufactured home and the Uniform Build Code for a modular home.

***"Mobile Home"***

Manufactured unit, transportable in one or more sections, has at least 900 square feet of living space and is designed as a year-round dwelling unit to be placed on a permanent foundation or a basement. The mobile home must comply with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Dept. of Housing and Urban Development. A recreational travel trailer is not a mobile home.

***"Mobile/Manufactured Home Park"***

A parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities subject to the requirements of this code is approved by the City of Forman.

***"Nonconforming Building"***

Any building or structure, which does not conform to any or all of this code but existed at the time of adoption of the code.

***"Nonconforming Use"***

Any principal use of land or building which does not conform to any or all parts of this code but existed at the time of adoption of the code.

***"Non-residential Plat"***

A plat whose intended use is other than residential such as commercial or industrial uses.

***"Nursing, Elderly Care Facility"***

A residential facility for the aged or infirm in which unrelated persons are accommodated for compensation.

***"Parking Lot"***

An off-street area designated for parking of automobiles accessible from a public street or alley where each parking space shall be no less than nine (9) feet by twenty (20) feet.

***"Permanent Foundation"***

An extension of the outer walls of a building or structure made of solid materials such as brick, concrete or treated wood and extended below the ground surface through the frost zone, or other depths as required by the city.

***"Permitted Uses"***

Those uses, buildings or structures which comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Permitted uses are distinct from conditional uses that are authorized only if certain requirements of this code are met.

***"Person"***

Any individual, firm, corporation, partnership or legal entity.

***"Planned Development"***

A plan for grouping of buildings and structures on a site of two (2) or more acres in single ownership, which is based on a detailed layout plan and recorded in the Office of Sargent County Register of Deeds upon approval by the City of Forman.

***"Planning Commission"***

A citizen group appointed by the City Council under the authority of North Dakota Laws, as an advisory group only. The City Council may act as the Planning Commission.

***"Plat"***

A map of a subdivision of land prepared according to the provisions of this code.

***"Preliminary Plat"***

The preliminary plan of a subdivision and any accompanying material prepared in accordance with the requirements of this code.

***"Public Way"***

Any dedicated and recorded right-of-way including alleys, sidewalks, streets, roads or highways.

***"Regional Flood"***

A flood determined by the state and Federal Emergency Management Agency and is representative of large floods known to have occurred in Sargent County, North Dakota.

***"Replat"***

A change in an approved or recorded plat requiring changes in street layout, lot lines or blocks.

***"Right-of-Way"***

A strip of land designated or dedicated for streets, sidewalks, railroads, electric transmission line, telephone and telegraph lines, oil or gas pipelines, sanitary, storm, or water systems.

***"Service Station"***

Any building or premises where automotive fuels, automotive related services, lubricants, parts and supplies are made available to the motorist.

***"Setback"***

The minimum horizontal distance between the building line and the related front, side, or rear property line.

***"Sign"***

Any emblem, name, identification, description or illustration which is used for outdoor advertising having permanent location on the ground or attached to or painted on a building including bulletin boards, billboards and poster boards, but excluding real estate for sale signs, political campaign signs, public information and traffic signs.

***"Site Plan"***

A detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this code.



**"Street"**

A dedicated public way, which affords traffic circulation and a principal means of access to abutting properties.

**"Street, Line"**

The outer boundary of a public way.

**"Street, Local"**

A public way intended for a low volume of traffic that provides access to individual properties.

**"Street, Major"**

A public way, arterial or collector streets, used primarily for carrying a large volume of traffic.

**"Structural Alterations"**

Any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.

**"Structure"**

Anything, built, constructed or erected, the use of which requires permanent location on the ground including advertising signs, billboards, power lines and transmission lines.

**"Subdivider"**

Any person, group, corporation, entity or agency dividing or proposing to divide land to create a subdivision.

**"Subdivision"**

The division of a tract or parcel of land into lots for the purpose of sale or of building development.

**"Variance"**

The relaxation of the terms of the zoning code in relationship, to building height, size of the front, rear and side yards, where the literal enforcement of this code would create an undue hardship, but it is not contrary to the purposes of the Forman 2020 Plan and this Code. The variance shall not be contrary to the public interest.

**"Yard"**

An open space on the zoning lot that is unoccupied or unobstructed by any portion of a structure from the ground upward.

**"Yard, Front"**

A yard that extends across the full width of the lot as the least distance between the front lot line and the front building line.

**"Yard, Rear"**

A yard that extends across the full width of the lot, as the least distance between the rear lot line and the rear building line.

**"Yard, Side"**

A yard between the front and rear yards, as the least distance between the side of the principal building and the side lot line.

**3. GENERAL PROVISIONS**

**3.1. Comprehensive Plan, 2020 Plan.**

This code is administered and enforced to implement the 2020 Plan of the City of Forman, a document adopted by the City Council as a policy guide to protect the city's resources and accommodate the type of development deemed appropriate including but not limited to the following:

- a. To conserve and enhance the taxable value of land and buildings and to avoid one land use placing negative impact on another.
- b. To encourage the most appropriate use of land in the city.
- c. To regulate and restrict the location and intensity of use of buildings and lands.
- d. To separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.
- e. To facilitate traffic movement and promote development of compatible uses.

**3.2. Non-conforming Uses**

The lawful use of a building or premises existing at the date of adoption of this code may be continued. Where a non-conforming use is continued for a period of more than twelve consecutive calendar months any subsequent use or occupancy of such premises shall conform to this code. Whenever a building is destroyed or damaged by fire or other casualty to the extent of more than fifty percent (50%) of its market value, it shall not be restored unless said building shall conform to the provisions of the district in which it is located. Non-conforming uses shall not be expanded to occupy a larger area of land than existed at the date of adoption of this code unless there is undue hardship and it is approved by the City Council.

**3.3. Land Suitability**

No land shall be used for a purpose that is held unsuitable for the reason of flooding, soil limitations, inadequate drainage, incompatibility with adjoining uses or any condition likely to be harmful to the health, safety or the welfare of the people in the area. The City Council may require information and data to determine the land suitability. The city may consult with county and state agencies to assist in its determination.

**3.4. Conditionally Permitted Uses**

Where a use is classified as a conditional use under this code and exists at the date of adoption of this code, it shall be considered a permitted use. Where a use is not allowed as a conditional use or permitted use, under this code, and exists at the date of adoption

of this code, it shall be considered non-conforming and shall be subject to the non-conforming buildings and use provisions, Sections 11.1.

### **3.5. Dedication of Land for Streets**

Whenever a parcel of land to be subdivided as a subdivision contains a street or public way, such a street or alley shall be dedicated to the city at the location and details shown on the final plat.

### **3.6. Residential Development**

No lot shall contain more than one principal residential building, and no dwelling unit shall be built on a lot that does not abut a dedicated public street. Accessory buildings shall not exceed fifteen (15) feet in height and be located at least five (5) feet from all lot lines.

### **3.7. Public Water and Sewer System**

To protect the public health, to control water pollution and to reduce nuisance and odor, all new development within the City of Forman shall be connected to the city water and sewer system. Construction and use of septic tanks may be permitted within the city corporate limits upon approval of the City of Forman.

## **4. ZONING DISTRICT BOUNDARIES AND MAP**

### **4.1. Zoning Districts**

The following zoning districts are hereby established to carry out the purposes of this code:

- a. A      Agricultural District
- b. R-1    Residential District
- c. R-2    Residential District
- d. C-1    Commercial District
- e. C-2    Commercial District
- f. I      Industrial District
- g. PD    Planned Development District
- h. FP    Floodplain Management District

### **4.2. Zoning District Map**

The location and boundaries of the zoning districts are hereby established as shown on the "Zoning District Map" on file in the Office of the City of Forman City

Auditor/Mayor. The zoning district maps, together with all information shown thereon and all amendments thereto, shall be an integral part of this code.

#### *4.2.1. 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 Forman residential district until such classification has been changed by an amendment to the Zoning Ordinances as prescribed by law.

#### *4.2.2. Public Streets as Boundary*

Where zoning district boundary lines are indicated as following streets and public ways or extensions thereof, such boundary lines shall be construed to be the centerline of said streets or public ways or extension thereof unless clearly shown to the contrary.

#### *4.2.3. Lot Line as Boundary*

Where a zoning district boundary line coincides approximately but not exactly with the lot line, the zoning boundary shall be construed to be the lot line at that location. All section lines, quarter section lines and quarter-quarter section lines may be construed as the property lines.

#### *4.2.4. District Description for Un-subdivided Lands*

For un-subdivided property, zoning district boundaries may be determined by metes and bounds description or by a legal description.

#### *4.2.5. Vacated Areas*

Where a street or public way is vacated by the official action of the City Council, the zoning district boundaries shall be extended to the center of the vacated street or public way.

#### *4.2.6. 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 provision of this Chapter, provided the following conditions are met:

A non-conforming building or structure may not be altered, improved or extended unless the building or structure is changed to a conforming use.

No non-conforming building or structure shall be changed to another non-conforming use.

Any non-conforming building or structure that has been abandoned shall not thereafter be returned to such non-conforming use.

Nothing in this Chapter shall be interpreted as authorization for or approval of the continuance of the use of a building or structure in violation of zoning regulations in effect at the time of the effective date of this Chapter.

**Summary of Zoning District Requirements**

District	Lot Area	Lot Width in feet	Yard Requirements in feet			
			Front	Rear	Side	
Agricultural	For Agricultural uses 40 acres min. For Residential 2 acres min. For Non-residential 2 acres min.	200 ft. minimum	50	50	25	
Residential	R-1 10,000 sq. ft. for single family R-2 7,500 sq. ft. for single family R-2 3,500 sq. ft. per unit for multi family	75 ft. minimum 75 ft. minimum	25 25	25 25	10 10	
Commercial	C-1 & C-2	10,000 sq. ft. for commercial 7,500 sq. ft. for single family 4,000 sq. ft. per unit for multi family	75 ft. minimum 75 ft. minimum 75 ft. minimum	30 25 25	20 25 25	10 10 10
Industrial	Minimum 1 acre	100 ft. minimum	50	50	20	

### Dominant Permitted and Conditional Uses

Uses	A District		R1 District		R2 District		C-1 District		C-2 District		I District	
	Permitted	Conditional	Permitted	Conditional	Permitted	Conditional	Permitted	Conditional	Permitted	Conditional	Permitted	Conditional
Ag. Mfg/Process		X								X	X	
Auto Service									X		X	
Bldg. Materials							X		X		X	
Chemical Storage											X <sup>4</sup>	X <sup>4</sup>
Churches/Cemeteries	X		X		X							
Contractor's Yard								X		X	X	
Day Care Facilities				X	X							
Farming	X											
Feed Lots		X										
Fuel Sales							X		X		X	
Golf Course/Parks	X				X							
Hotel/Motel							X		X			
Manufacturing										X	X	
Mfg/Mod Home	X				X <sup>3</sup>	X						
Mfg. Home Park						X						
Multi Family					X <sup>1</sup>	X <sup>2</sup>	X		X			
Offices							X		X			
Restaurant/Taverns							X		X			
Retail Stores							X		X			
Salvage Yard		X										X
Sand & Gravel		X										X
Sanitary Landfill		X										X
Schools	X		X		X							
Sewage Lagoons		X										
Single-family	X		X		X			X		X		

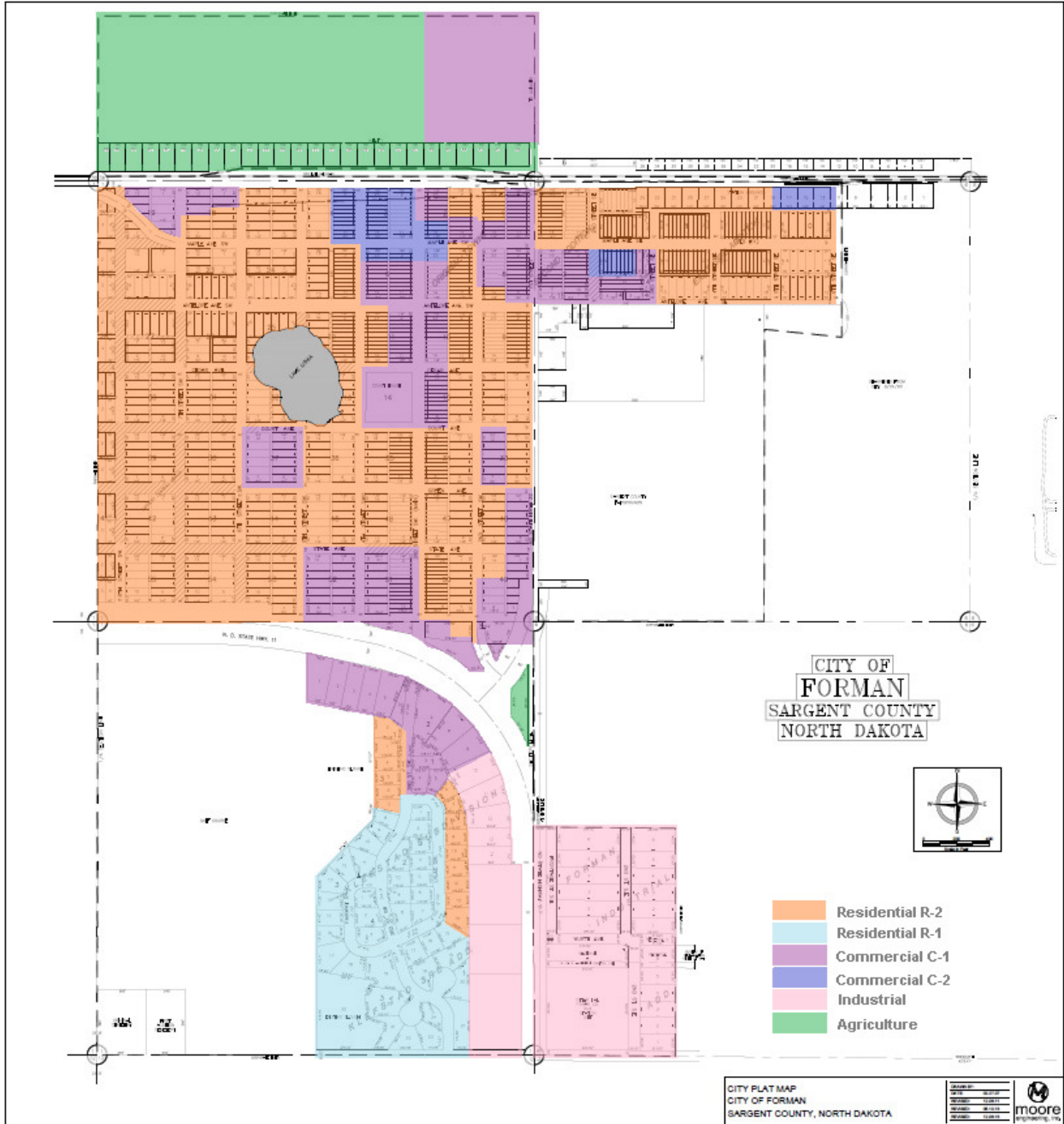
<sup>1</sup> Four or Fewer Units

<sup>2</sup> Five or More Units

<sup>3</sup> Permanent Foundation

<sup>4</sup> Ag Chemical Permitted

# Zoning Map



#### *4.2.7. Zoning District Boundary Interpretation*

Where any uncertainty exists as to the exact location of the zoning district boundary lines, the City Council shall determine the location of such boundary lines.

#### *4.2.8. Certification*

The official zoning map shall bear a certificate with the signature of the City of Forman Mayor and certification of the City Auditor/Mayor and date of adoption of the zoning map as an integral part of this code.

## **5. ZONING DISTRICT REGULATIONS**

### **5.1. A Agricultural District**

#### *5.1.1. Purpose*

The purpose of this district is to provide for preservation and protection of agricultural uses while in existence, in the city or its extra territorial planning area.

#### *5.1.2. Permitted Uses*

1. All types of farming and ranching operations including dairying, but excluding feedlots, poultry, fish and fur farming.
2. Accessory buildings and structures.
3. Churches and cemeteries
4. Golf courses, parks and play fields.
5. Home occupations.
6. Public and private schools, public buildings and facilities.
7. Single Family Residential Units including manufactured homes and modular homes.
8. Construction {and maintenance of drainage systems to manage the water run-off and water reservoirs.
9. General utility lines and pipelines, including substations for transformers, pumping stations and lift stations.

#### *5.1.3. Conditionally Permitted Uses*

1. Feedlots, poultry, fish and fur farming subject to provisions of Section 6.4.
2. High voltage transmission lines and accessory structures.



3. Manufacturing and processing of agricultural products produced in the area.
4. Radio, TV stations and towers.
5. Sale and services of agricultural equipment and machinery.
6. Salvage and junk yards, subject to provisions of Section 6.3.
7. Sewage lagoons and wastewater treatment facilities.
8. Skeet, trap and rifle ranges if nearer than one thousand (1,000) feet from any residence.
9. Storage of farm related chemicals.
10. Veterinary clinics, animal hospitals and domestic animal kennels not nearer than five hundred (500) feet from any residence except the residence of the owner or operator.
11. Sanitary landfills, subject to the provisions of Section 6.6.
12. Mining of sand and gravel, subject to the provisions of Section 6.5.

*5.1.4. Lot Area and Lot Width*

1. For agricultural uses, the area shall not be less than forty (40) acres.
2. For non-farm residential uses, the lot area shall not be less than two (2) acres.
3. For non-residential uses, the lot area shall not be less than two (2) acres.
4. The lot width for any use in agricultural district shall not be less than two hundred (200) feet.

*5.1.5. Yard Requirements*

1. The minimum front yard, measured from the front property line shall not be less than fifty (50) feet.
2. The minimum rear yard, measured from the rear lot line shall not be less than fifty (50) feet.
3. The minimum side yard, measured from the side lot line shall not be less than twenty-five (25) feet.

#### **5.1.6. Building Height**

1. The building height for residential buildings shall not exceed two and one half stories (2 1/2) or thirty-five (35) feet.
2. The building heights for manufacturing of agricultural products, radio and TV towers shall be determined by the City Council.
3. The building height, excepting the radio and TV towers and church steeples, for all other uses shall not exceed sixty (60) feet.

#### **5.1.7. Parking Requirements**

Parking requirements shall be subject to the provisions of Section 6.1.

#### **5.1.8. Sign Requirements**

Sign requirements shall be subject to the provisions of Section 6.2.

### **5.2. R-1 Residential District**

#### **5.2.1. Purpose**

The residential district is primarily established to promote a suitable residential environment and to accommodate low density detached single-family residential units uninterrupted by conflicting uses and incompatible activities.

#### **5.2.2. Permitted Uses**

1. Single family detached residential uses with a minimum of 1200 square feet of living space
2. Churches, schools and public facilities including libraries, parks, schools and golf courses
3. Accessory buildings and structures
4. Home occupation

#### **5.2.3. Conditional Uses**

1. Day care facilities
2. Municipal office including city, county and state offices

#### **5.2.4. Lot Area, Lot Width and Coverage**

1. The minimum lot area for single-family units shall be ten-thousand (10,000) square feet.
2. The minimum lot width shall be no less than seventy-five (75) feet. Maximum lot coverage shall be thirty-five per cent.

#### 5.2.5. *Yard Requirements*

1. The minimum front yard, measured from the front lot line, shall be no less than twenty-five (25) feet.
2. The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.
3. The minimum side yard, measured from the side lot line, shall not be less than ten (10) feet on each side of a lot.

#### 5.2.6. *Regulations Regarding Fences and Walls*

1. No fence, wall, shrub row, hedgerow or similar planting shall be erected, maintained or planted, nor shall any addition or change thereto be made until plans and specifications, and any other information reasonably related to the proposed fence have been submitted and approved in writing by the City.
2. Mutual consent of adjoining landowners is required before a fence shall be erected or altered.
3. No fencing shall be permitted to extend beyond the front of the primary structure facing the front of the lot.
4. No fence shall exceed six (6) feet in height.
5. All fences shall be maintained by the property owner and shall be stained or otherwise finished to be consistent with the neighborhood.

#### 5.2.7. *Building Height*

No building shall be more than two and one half (2 1/2) stories or thirty-five (35) feet high, excepting church steeples.

#### 5.2.8. *Parking Requirements*

1. There shall be a minimum of two (2) off-street parking spaces for each residential dwelling unit.
2. Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 6.1.

#### 5.2.9. *Sign Requirements*

1. There shall be no more than one identification sign per residential dwelling structure not exceeding twelve (12) square feet in area. The sign may be wall, pedestal, ground or projecting type but it shall not project into the public right-of-way or public property.
2. Temporary signs including "For Sale", "For Rent", political campaign signs greeting signs and really signs are permitted.

3. For non-residential uses, the provisions of Section 6.2 shall apply.

### **5.3. R-2 Residential District**

#### *5.3.1. Purpose*

The R-2 Residential District is primarily established to promote a suitable residential environment to accommodate single and multifamily residential dwelling units.

#### *5.3.2. Permitted Uses*

1. Single-family detached dwelling units including manufactured homes and modular homes placed on a permanent foundation or basement. In addition, all housing units shall meet the following requirements:
  - a. the main entrance shall face the street;
  - b. the roof pitch shall not be less than (four/twelve) 4/12 ratio;
  - c. each unit shall have space for at least a single stall attached garage;
  - d. modular homes and site built homes meet the requirements of Uniform Building Code;
  - e. manufactured homes meet HUD Code;
  - f. each unit shall have at least nine hundred fifty (950) square feet of living space; and
  - g. each unit shall have appearance comparable to conventional site built homes.
2. Multi family dwelling units, no more than four unit per structure
3. Manufactured or modular homes, provided that they :
  - a. are placed on a permanent foundation or basement;
  - b. have no less than nine hundred fifty (950) square feet of living space on each floor;
  - c. have roof pitch of no less than (four/twelve) 4/12 ratio;
  - d. have main entrance facing the public street;
  - e. have siding similar to the surrounding dwelling units.
4. Churches, schools and day care facilities.
5. Home Occupation

6. Accessory buildings and structures
7. Parks, playgrounds and recreational open spaces

#### 5.3.3. *Conditionally Permitted Uses*

1. Bed and breakfast establishments
2. Manufactured home parks, where public water and sewer are available, with the following requirements:
  - a. A site plan showing location of streets, utilities, off-street parking, driveways walkways blocks, lots, playground and park area.
  - b. The housing unit park shall contain a minimum of three (3) acres of land.
  - c. Each mobile home shall be placed on a lot at least fifty (50) feet wide with a minimum area of five thousand (5,000) square feet.
  - d. Each unit shall be placed on a stand and anchored to provide a firm foundation.
  - e. Each unit shall have a minimum setback of ten (10) feet within the private park and thirty (30) feet from the public streets.
  - f. Each unit shall have a minimum side yard of ten (10) feet and a rear yard of twenty (20) feet.
  - g. The design and construction of the private streets within the park shall conform to the design standards of the city.
  - h. All units shall be served by underground utilities unless waived by the City Council.
  - i. There shall be two (2) off-street parking spaces per manufactured home.
3. Hospitals, medical clinics, short or long term care homes.
4. Multi family dwelling units five or more per structure.
5. Public and private utilities and structures.

#### 5.3.4. *Lot Area, Lot Width and Coverage*

1. The minimum lot area for single-family units shall be seven thousand five hundred (7,500) square feet.
2. For multifamily uses, the minimum lot area shall be three thousand five (3,500) square feet per unit and provided that public water and sewer is available.

3. The minimum lot width shall be no less than seventy five (75) feet. Maximum lot coverage shall be forty five per cent (45%).

#### *5.3.5. Yard Requirements*

1. The minimum front yard, measured from the front lot line, shall be no less than twenty-five (25) feet.
2. The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.
3. The minimum side yard, measured from the side lot line, shall not be less than six (6) feet on each side of a lot.

#### *5.3.6. Regulations Regarding Fences and Walls*

Regulations regarding fences and walls shall be as set forth in Section 5.2.6 of this Chapter.

#### *5.3.7. Building Height*

No building shall be more than two and one half (2 1/2) stories or thirty-five (35) feet high, excepting church steeples.

#### *5.3.8. Parking Requirements*

1. There shall be a minimum of two (2) off-street parking spaces for each residential dwelling unit.
2. Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 6.1.

#### *5.3.9. Sign Requirements*

1. There shall be no more than one identification sign per residential dwelling structure not exceeding twelve (12) square feet in area. The sign may be wall, pedestal, ground or projecting type but it shall not project into the public right-of-way or public property.
2. Temporary signs including "For Sale", "For Rent", political campaign signs greeting signs and really signs are permitted.
3. For non-residential uses, the provisions of Section 6.2 shall apply.

### **5.4. Commercial District C-1**

#### *5.4.1. Purpose*

The commercial district is primarily established to accommodate the concentration of commercial and related uses. Commercial uses must be compatible with adjoining uses and shall not negatively affect the adjoining properties.

#### 5.4.2. *Permitted Uses*

1. Accessory uses.
2. Advertising signs and billboards.
3. Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.
4. Automobile accessory stores and automobile dealerships.
5. Banks and financial institutions.
6. Boarding and rooming houses.
7. Fraternal and philanthropic organizations.
8. Hotels and motels.
9. Professional offices for businesses and services without limitation.
10. Public buildings and facilities
11. Restaurants including all types of eating and drinking establishments.
12. Retail stores, of all types including but not limited to food, drug, clothing, parts, materials and the like
13. Multiple family dwelling units.

#### 5.4.3. *Conditional Uses*

1. Contractor's yards and operations.
2. Processing and packaging of materials.
3. Single-family dwelling units, sleeping rooms.
4. Warehouses and wholesaling distributorships.

#### 5.4.4. *Lot Area and Lot Width*

1. The minimum lot area for commercial use shall be ten thousand (10,000) square feet, excluding the lots of record at the time of adoption of this code.
2. The minimum lot area for residential uses shall be seven thousand five hundred (7,500) square feet, excluding the lots of record or existing second floor residential units

3. The minimum lot width for commercial district shall be seventy-five (75) feet, excluding the lots of record.

#### *5.4.5. Yard Requirements*

1. The minimum front building line, measured from the front lot line, shall be thirty (30) feet, excluding the lots of record.
2. The minimum rear building line, measured from the rear lot line, shall be twenty (20) feet, excluding the lots of record.
3. The minimum side building line, measured from the interior side of the lot shall be ten (10) feet, excluding the lots of record.

#### *5.4.6. Building Height*

The building height requirements in commercial district shall not be more than thirty-five (35) feet excepting farm related buildings and communication towers.

#### *5.4.7. Parking Requirements*

1. For commercial uses, the rear yard spaces may be used for parking.
2. For commercial uses, parking shall be subject to the provisions of Section 6.1.
3. For residential uses, there shall be two (2) off-street parking spaces for each dwelling unit.

#### *5.4.8. Sign Requirements*

For uses in commercial district, the provisions of Section 6.2 shall apply.

### **5.5. Commercial District C-2**

#### *5.5.1. Purpose*

The commercial district is primarily established to accommodate the concentration of commercial and related uses. Commercial uses must be compatible with adjoining uses and shall not negatively affect the adjoining properties. This district is meant to allow more uses than the Commercial District established in 5.4.

#### *5.5.2. Permitted Uses*

1. All permitted uses allowed under 5.4.2.
2. Auto body and auto repair shops

#### *5.5.3. Conditional Uses*

1. All conditional uses allowed under 5.4.3.



2. Manufacturing
3. Fireworks sales

#### *5.5.4. Lot Area and Lot Width*

1. The minimum lot area for commercial use shall be ten thousand (10,000) square feet, excluding the lots of record at the time of adoption of this code.
2. The minimum lot area for residential uses shall be seven thousand five hundred (7,500) square feet, excluding the lots of record or existing second floor residential units
3. The minimum lot width for commercial district shall be seventy-five (75) feet, excluding the lots of record.

#### *5.5.5. Yard Requirements*

1. The minimum front building line, measured from the front lot line, shall be thirty (30) feet, excluding the lots of record.
2. The minimum rear building line, measured from the rear lot line, shall be twenty (20) feet, excluding the lots of record.
3. The minimum side building line, measured from the interior side of the lot shall be ten (10) feet, excluding the lots of record.

#### *5.5.6. Building Height*

The building height requirements in commercial district shall not be more than thirty-five (35) feet excepting farm related buildings and communication towers.

#### *5.5.7. Parking Requirements*

1. For commercial uses, the rear yard spaces may be used for parking.
2. For commercial uses, parking shall be subject to the provisions of Section 6.1.
3. For residential uses, there shall be two (2) off-street parking spaces for each dwelling unit.

#### *5.5.8. Sign Requirements*

For uses in commercial district, the provisions of Section 6.2 shall apply.

### **5.6. Industrial District**

#### *5.6.1. Purpose*

The industrial district is primarily established to accommodate industrial uses and

facilities appropriate to the City of Forman. It is planned to encourage grouping of related industrial uses for preventing intrusion on other uses specifically residential areas and to maintain an orderly, functional and efficient industrial land use system.

#### 5.6.2. *Permitted Uses*

1. Accessory uses.
2. Agricultural chemical production and storage.
3. Any industrial or manufacturing operation provided that:
  - a. Dust, fumes, odors, smoke, vapor, noise, lights and vibration producing operations shall be enclosed within the industrial district, and:
  - b. Outdoor storage, equipment and materials areas shall be concealed from abutting rights-of-way.
4. Any production, processing and treatment of products such as battery and tire service, concrete and asphalt products, dairy processing, bottling works, ice and cold storage plants, machine and sheet metal shops provided that all operations be conducted entirely in enclosed buildings.
5. Building material and supply establishments.
6. Contractor's yards and construction shops.
7. Electric power production and substations.
8. Fuel sales establishment including bottle gas.
9. Public utility buildings including water and wastewater facilities and accessories.
10. Radar stations and towers.
11. Radio and TV stations and studios.

#### 5.6.3. *Conditional Uses*

1. Local and regional sanitary landfills, compost sites and incinerators.
2. Salvage or junk yards.
3. Storage and sale of chemicals, explosives and the like.
4. Conditional uses shall not be located nearer than five hundred (500) feet from any residential area.

#### 5.6.4. *Lot Area and Lot Width*

1. The minimum lot area for industrial district shall be one acre.
2. The minimum lot width for industrial district shall be one hundred (100) feet.

#### *5.6.5. Yard Requirements*

1. The minimum setback from any street measured from the right-of-way, shall be twenty-five (25) feet.
2. The minimum rear building line, measured from the rear lot line, shall be twenty (20) feet.
3. The minimum side building line, measured from the side lot line, shall be twenty (20) feet.
4. No building or structure shall be located within one hundred (100) feet from the boundary of a residential area.

#### *5.6.6. Building Height*

The building height requirement in industrial district shall not be more than sixty (60) feet.

#### *5.6.7. Parking Requirements*

For parking in the industrial district, the provisions of Section 6.1 shall apply.

#### *5.6.8. Sign Requirements*

For signs in the industrial district, the provisions of Section 6.2 shall apply.

### **5.7. PD Planned Development District**

#### *5.7.1. Purpose*

The PD planned development district is primarily established to encourage and promote environmental quality of Forman by allowing for greater freedom, imagination and flexibility in the development of land while complying with the intent and purpose of this code, other municipal codes and the City 2020 Plan. It is further the purpose of PD District to encourage more rational, efficient and cost-effective development with relationship to public services while enhancing and improving the environmental quality of the area.

#### *5.7.2. Permitted Uses*

1. Any group of permitted uses in any zoning district in these regulations, provided that there is distinct compatibility and harmony among the uses, with no adverse effects on the adjoining use.

2. No use shall be permitted in the PD District except in conformity with the City 2020 Plan and the precise development plan prepared to meet the requirement of this district.
3. In a PD District the uses and their intensity, appearance and arrangement shall be of such visual and operational character which: (1) are compatible with the physical nature of the site or area; (2) would not adversely affect the provisions for public services; (3) would not create a traffic or parking demand incompatible with the existing or proposed facilities.
4. The PD District shall not adversely affect the economic prosperity of Forman or its extra territorial planning area.
5. The PD District shall include assurances that the proposed plan would be completed in a manner that would not adversely affect the city or the area as a result of termination. The terms of the assurances shall address financial and development considerations in sufficient detail as may be required by the city.

#### *5.7.3. Site Requirements*

1. There shall be no predetermined requirements for lot area, lot width, building height and yards, but such requirements are made a part of an approved, recorded and detailed development plan.
2. The minimum land parcel for PD District shall be five (5) acres.
3. In PD District the location, number and configuration of parking spaces shall be a part of the detailed development plan.
4. In PD District the location, type and size of signs shall be a part of the detailed development plan.

#### *5.7.4. Development Plan*

Where a Development Plan is required for a tract of land, the following shall be included in the plan.

1. Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
2. General layout of proposed streets and location of blocks for designated uses.
3. Location of open spaces and facilities for public uses.
4. Existing drainage pattern based on the available topographic information from the U. S. Geological Survey Maps and other similar information.
5. The development plan shall be drawn at a scale of one inch equaling four hundred (400) feet or less.

6. The Planning Commission may require other information as a part of the development plan.

#### *5.7.5. Data Submission Requirements*

1. A general map of the area showing existing land use, zoning, street pattern and traffic data.
2. Detailed development plan showing:
  - a. Detailed lot layout and street pattern;
  - b. Grading and storm water drainage plan;
  - c. Location of open spaces and recreational areas;
  - d. Location and description of any areas to be dedicated to the public.
3. Proof of financial capability.
4. Analysis of economic impacts.
5. Agreements, by-laws, provisions and covenants that insures the timely and satisfactory completion of the project without posing a burden on the city or adjoining properties.

#### *5.7.6. Review and Approval Procedure*

1. The Planning Commission shall review the proposed plan and it may require additional information and may require modification of the plan before it makes its recommendations to the City Council after a public hearing.
2. The City Council upon holding a public hearing may approve, deny or further modify the development plan. A developer's agreement spelling out all financial responsibilities of the developer and the city to be approved subsequently.
3. Upon approval of the City Council, the detailed development plan shall be recorded with the Sargent County Register of Deeds and the original plan be kept on file in the office of the Code Administrator.

### **5.8. F FLOOD PLAIN DISTRICT**

#### *5.8.1. Applicability*

The F Flood Plain District consists of the lands which have been or may be covered by flood water as delineated on the maps for the City of Forman and the Township of Forman in Sargent County, if prepared by the Federal Emergency Management Agency for administration of the National Flood Insurance Program or other maps and information provided by the State of North Dakota.

#### 5.8.2. *Purpose*

The F Flood Plain District is primarily established to designate those areas that need to accommodate the run-off water and to protect the public and private property from the adverse effects of flooding by prohibiting development on the lands prone to flooding.

#### 5.8.3. *Permitted Uses*

1. Agricultural uses including general farming, pasture, grazing and related uses provided that the buildings and structures for human habitation are flood proofed.
2. Non-structural uses including ponding of run-off water and treated waste water.
3. Public utilities including railroads, streets, channels and pipelines.
4. Outdoor recreational uses including, golf courses, bicycle trails, picnic areas and boat launching ramps.

#### 5.8.4. *Conditional Uses*

Temporary buildings and structures not related to flood control and farming such as stands, fences, shelters, temporary signs and temporary parking.

#### 5.8.5. *Building Height*

No building shall be more than two and one-half (2 1/2) stories or thirty-five (35) feet high excepting farm silos.

#### 5.8.6. *Signs*

Temporary signs shall be no larger than thirty (30) square feet in area.

## **6. SPECIAL PROVISIONS**

### **6.1. Off-Street Parking**

#### 6.1.1. *Purpose*

The purpose of this section is to provide for the off-street parking regulations to increase the safety and capacity of public roads by requiring off-street parking or loading facilities.

#### 6.1.2. *General Requirements*

1. An off-street automobile parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.
2. All open off-street parking areas with four (4) or more spaces and all loading berths shall be:

- a. improved with all-weather surface to provide a durable and dust free surface such as asphalt or concrete; and
- b. graded to dispose of all surface water run-off but not be diverted to adjoining properties.

### 6.1.3. *Special Requirements*

- 1. No building shall be erected or enlarged without meeting the following parking requirements, excluding Main Street:
  - a. Business; professional or public office building, studio, bank, medical or dental clinics, three (3) parking spaces plus one additional space for each four hundred (400) square feet of floor area over one thousand (1,000) square feet.
  - b. Private club or lodge; one parking space for each two hundred (200) square feet of service area.
  - c. Restaurant, eating and drinking establishment; one parking space for each one hundred (100) square feet of floor area.
  - d. For industrial use, there shall be one off street parking space for every two (2) employees.

## 6.2. *Signs*

### 6.2.1. *Purpose*

The purposes of regulating signs in the City of Forman is to provide for a visually pleasant environment and minimize potentially unsafe conditions for all age groups, but yet offer many opportunities for public and private information and advertising.

### 6.2.2. *General Requirements*

- 2. Directory signs shall not be larger than twenty (20) square feet in area for permitted uses.
- 3. Directory signs for conditional uses shall not be larger than forty (40) square feet.
- 4. Advertising signs shall not be larger than ninety-six (96) square feet.

### 6.2.3. *Special Requirements*

- 1. Signs in the residential districts shall be limited to:
  - a. One sign per dwelling structure not exceeding twelve (12) square feet in area which may be wall, pedestal, ground or projecting type;

- b. One temporary sign such as "For Sale", "For Rent", not exceeding twenty (20) square feet in area.
2. Signs in the commercial and industrial districts shall be limited to:
- a. One general identification sign per business not exceeding fifty (50) square feet in area that may be wall, pedestal, ground or projecting type.
  - b. Temporary signs including "For Sale", "For Rent"; political campaign signs, greeting signs and rally signs not exceeding fifty (50) square feet in area;
  - c. Directory and advertising signs in agricultural, commercial and industrial districts shall not be larger than ninety-six (96) square feet and not placed nearer than six hundred (600) feet apart.

### **6.3. Junk or Salvage Yards**

#### *6.3.1. Purpose*

The purpose of these requirements is to preserve and protect the visual and other environmental amenities of the rural areas while allowing the salvage or junk yards as business places.

#### *6.3.2. Site Approval Requirements*

All sites for salvage and junk yards require approval by the City Council.

#### *6.3.3. Locational Standards*

- 1. No salvage or junkyard shall be located within five hundred (500) feet of a residential district and two hundred (200) feet of commercial buildings and structures.
- 2. No salvage or junkyard shall be located in areas, which due to high water table, flooding and soil conditions may affect the quality of surface and ground water.
- 3. No salvage or junkyard shall be located nearer than one hundred (100) feet of all streets and highway rights-of-way.
- 4. All salvage yards and operations shall be screened from the public view unless the salvage material is placed five hundred (500) feet away from any highway right-of-way and screened by natural vegetation, building and landform.

### **6.4. Feedlots**

#### *6.4.1. Purpose*

These regulations are designed to allow feedlots for feeding of livestock,



furbearers and poultry at the same time protect the adjoining uses against odor, run off and other incompatible characteristics associated with feedlots.

#### **6.4.2. General Requirement**

1. All feedlots as defined by this code are only permitted as conditional uses subject to the provisions of this code and the requirements of the North Dakota State Health Department.
2. All feedlots shall be designed and constructed with all reasonable preventive measures to avoid surface run-off including construction of sealed collection and retention ponds.
3. Where appropriate, there shall be sufficient drainage to avoid pollution of the ground water from the standing effluents.
4. Feedlots shall not be placed in the floodplains.
5. The applicant, as a part of site approval application, shall submit a plan for removal and disposal of the liquid and solid waste generated by the feedlot.
6. No feedlot shall be located nearer than five hundred (500) feet from a residential development in the extra territorial area or corporate limits of the City of Forman.

### **6.5. Mining of Sand and Gravel**

#### **6.5.1. Purpose**

The purpose of these provisions is to provide for mining and extraction of sand and gravel for commercial uses, to protect and preserve agricultural land by guiding such operations, and to minimize the traffic, noise, dust, fume and vibration impact on the adjoining uses and the City of Forman.

#### **6.5.2. Site Approval Requirements**

All sand and gravel mining, excavation sites require approval by the City Council.

#### **6.5.3. Data Submission Requirements**

1. A site plan for operation and reclamation of the mined land including maps showing location of the land to be mined, location of roads and points of access to the site, maps showing the existing and proposed contours after the land is mined and a time table for operation of the site.
2. A guarantee that the reclamation of the site be completed within one year of the closure of the operation of the site.
3. Proof of compatibility with the existing landform including the vegetation, surface and ground water resources.

**6.5.4. Proximity to Existing Uses**

The operation of sand and gravel sites shall not be nearer than five hundred (500) feet from any residential uses or three hundred (300) feet from non-residential uses.

**6.5.5. Permit Requirements**

Any person who operates a sand and gravel operation shall obtain a permit from the City Auditor/Mayor before starting any mining or excavation of the sand and gravel sites, and after approval by the City Council.

**6.6. Sanitary Landfills and Solid Waste Sites**

**6.6.1. Compliance with State Laws and Rules**

Any person who operates sanitary landfills or solid waste sites shall comply with all North Dakota state laws and administrative rules set forth by the state agencies.

**6.6.2. City Code and Procedures**

The City of Forman hereby adopts solid waste provisions, subject to the Provisions of NDCC 11-33-20, to assure meeting the purposes of this code and the City 2020 Plan.

**6.6.3. Purpose**

The purpose of these provisions is to protect public health, ground and surface water, conflict with present land uses and preservation and protection of natural resources in the City of Forman.

**6.6.4. Site Approval Requirements**

All solid waste sites require a review by the City Council.

**6.6.5. Locational Standards**

1. No landfill incinerator shall be located within one thousand (1,000) feet of residential uses, and five hundred (500) feet of commercial buildings and structures.
2. No landfill shall be located in areas which due to high water table, flooding, or soil conditions may affect the quality of surface and ground water.
3. No landfill operation shall be located nearer than two hundred (200) feet of all road and highway rights-of-way.

**6.6.6. Data Submission Requirements**

1. Maps of the area showing existing features such as roads, highways, vegetation cover, water courses, drainage way, soils, topography, depth of water table, wet lands, sloughs, existing uses, buildings and structures including the existing utility lines.
2. A plan for operation of the site including a descriptive text explaining consistency or inconsistency with the natural or manmade environment.
3. Records of data and information submitted to the state of North Dakota appropriate agencies and the county as a part of the application for state and county permits.
4. The City Council may require additional information if it deems it necessary.

#### **6.6.7. *Statement of Findings***

Upon the public notification and a public hearing, the City Council shall determine whether the proposed site meets the requirements of this code.

#### **6.7. *Garden Sheds***

A garden shed shall be no larger than fourteen (14) feet by fourteen (14) feet and no greater than fifteen (15) feet in height. Garden sheds shall be located no less than six (6) feet from the rear and side lot lines in rear corners of the property. There shall be no more than two (2) garden sheds on any zoning lot. Said structures shall have doors facing into the property.

#### **6.8. *Public Nuisances***

Public nuisances including but not limited to noxious weeds, smoke, gases, radio interference, noise, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall not be permitted and shall be subject to violation and penalties of Section 13 of this code.

### **7. LAND SUBDIVISION**

#### **7.1. *Purpose***

- a. To insure the orderly development of the City of Forman.
- b. To provide for proper arrangement of streets in relation to other existing and planned streets.
- c. To provide for adequate and convenient open spaces for traffic, utilities, firefighting, recreation, light and air.
- d. To facilitate adequate provisions for access, placement of water and sewer systems, schools, and public open spaces.

- e. To avoid development of unsuitable areas because of soil, drainage and other physical limitations.
- f. To facilitate subdivision of larger parcels into smaller parcels and lots.
- g. To implement the 2020 Plan of the City of Forman.

## **7.2. Preliminary Plat**

The preliminary plat shall be prepared by a registered land surveyor and shall be submitted to the Planning Commission for review and recommendation to the City Council. The preliminary plat shall cover the entire contiguous area owned or controlled by the subdivider if it is less than twenty (20) acres even though only a small portion of it is proposed for the development at the time. The subdivider may be required to submit a development plan if the owner/agent controls more than twenty (20) contiguous acres of land.

### **7.2.1. Preliminary Plat Content**

The preliminary plat shall include the following requirements, data and information.

1. The preliminary plat drawn at a scale of not smaller than 1" = 100'.
2. Name and location of the subdivision.
3. Date, graphic scale and north point.
4. Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.
5. Total acreage within the subdivision.
6. Location, right-of-way width and names of any existing or proposed streets including width of public ways, easement, railroad, utility rights-of-way, parks and other public open spaces, permanent buildings or structures, corporate boundaries and section lines within or adjacent to the subdivision.
7. Location of existing property lines, buildings, drives, streams, watercourses, wooded areas and drainage ways.
8. Existing zoning of the proposed subdivision and the zoning of the adjacent tracts of land.
9. Boundary line of adjacent tracts of land or lots showing owners' name.
10. Contour at vertical intervals of not more than two (2) feet.
11. Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.

12. Layout of the proposed streets, alleys, crosswalks and easements, showing widths and street names.
13. Lay out, number and dimensions of all lots and blocks.
14. Parcels of land intended to be dedicated or reserved for public use or set aside for the use of property owners within the subdivision.
15. Building setback lines, showing dimensions.

#### *7.2.2. Preliminary Plat Submission Requirements*

1. The subdivider shall apply on appropriate forms provided by the City Auditor/Mayor to the Planning Commission at least one week prior to its regularly scheduled meeting.
2. The subdivider shall submit two (2) prints of the preliminary plat to the City Auditor/Mayor at the time the application is made. The plat shall comply with the provisions of this code.
3. The subdivider may submit any instrument whereby he/she proposes to regulate land use in the subdivision for protecting the proposed development.
4. The subdivider shall provide other data related to drainage, soil suitability, financing of improvement and other related information which the Planning Commission requests.

#### *7.2.3. Development Plan*

Where a development plan is required for a tract of land, the following shall be included in the plan.

1. Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
2. General layout of proposed streets and location of blocks for designated uses.
3. Location of open spaces and facilities for public uses.
4. Existing drainage pattern based on the available topographic information from the U. S. Geological Survey Maps and other similar information.
5. The development plan shall be drawn at a scale of not smaller than one inch representing four hundred (400) feet.
6. The Planning Commission may require other information as a part of the development plan.

#### *7.2.4. Review Process*

1. The Planning Commission shall review the preliminary plat and recommend to the City Council for approval, approval with conditions or denial of the preliminary plat. The Planning Commission may require additional information before it takes action.
2. The conditional approval of a preliminary plat shall clearly state the nature and extent of the conditions, which shall be met before a final plat is submitted for review and approval. Tentative approval of a preliminary plat by the City Council is not an acceptance of a subdivision plat, but is an expression of approval of a general plat as a guide to preparation of a subdivision for final plat review and approval.
3. The City Council may require the subdivider to submit a revised preliminary plat before the subdivider proceeds with the preparation of the final plat.
4. Approval of the preliminary plat shall be effective for a period of two (2) years within which a final plat shall be prepared. If the final plat is not submitted within this time period, the City Council may require the subdivider to resubmit the preliminary plat for review and approval, unless the developer had provided a detailed time table for the preparation of the final plat(s).

### **7.3. Final Plat**

The final plat shall cover the area, which is realistically designated for transfer or sale of lots.

#### **7.3.1. Final Plat Content**

The final plat shall conform to all provisions of this code and conditions set forth by the City Council.

1. Name of subdivision and date of tentative approval by the City Council.
2. Location by section, township and range, or other legal description.
3. Names of owners and surveyor or other professional person preparing the plat.
4. Plat map with scale of one inch representing one hundred (100) feet or less.
5. Date, graphic scale and north point.
6. Boundary line of subdivision based on an accurate traverse, showing distances and bearings.
7. Exact location, width and name of all streets within and adjoining the subdivision, and the exact location of all alleys and crosswalks.

8. True bearing: and distances to the nearest established street lines or official monuments which shall be accurately described on the plat.
9. City, township, county or section lines accurately tied to the boundary lines of the subdivision by bearing and distance.
10. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
11. All easements for rights-of-way provided for public services and public utilities.
12. All lot numbers and lot lines, with accurate dimensions in feet and hundredths.
13. Accurate location of all monuments, which shall be of material and size in accordance with the standards of the city and the state.
14. Accurate outlines and legal descriptions of any areas (not including streets, alleys or public utility easements) to be dedicated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed covenant for common use of all property owners.
15. Building setback lines, accurately shown with dimensions.
16. Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
17. Certification by registered surveyor to the effect that the plat represents a survey made by him, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.
18. Notarized certification by the owners of the land of the adoption of the plat and the dedication of sewers, water distribution lines and other improvements and of streets and other public areas.

### *7.3.2. Final Plat Submission Requirements*

The subdivider shall apply on appropriate forms to the Planning Commission for approval of the final plat, if he/she holds a valid approval of the preliminary plat.

1. The subdivider shall submit the final plat to the Planning Commission at least one week before the regularly scheduled meeting of the Planning Commission.
2. The final plat shall comply with all provisions of this code and conditions and requirements set forth as a part of review and approval of the preliminary plat. All filing fees shall be paid to the city at the time of filing the final plat for approval.

3. The Planning Commission may require the subdivider to submit detailed drawings for grading of the lots, blocks, streets, detailed drawings for pavement, curb, gutter and sidewalk, drawings for installation of water, sanitary and storm sewer facilities.

#### **7.3.3. Review Process**

1. If the Planning Commission finds the final plat in conformance with the requirements stipulated for approval of the preliminary plat, it shall recommend to the City Council for approval after a public hearing.
2. For subdivisions outside of the city corporate limits, a print of the final plat shall be submitted to the Sargent County Auditor. The approval of the County Commission is necessary for all plats outside of the city.
3. The subdivider shall prepare an estimate of the cost of providing the required improvements based on the city design standards for street, curb, gutter, sidewalk, sanitary sewer, storm sewer and water lines.
4. If all conditions and requirements have been met, the Planning Commission shall recommend approval of the final plat to the City Council.

#### **7.4. Amendment of 2020 Plan**

Upon final approval of a subdivision involving the creation of new streets, the widening, decreasing or vacation of existing streets or alleys, or the creation, enlargement or decrease of other lands devoted to public use, the City Council shall, at the same time, and without further public hearing, approve such change in streets, alleys or public lands as an amendment to the 2020 Plan, if it finds appropriate. In the case of streets, alleys and public lands outside of the city corporate limits, notice of action of the City Council and appropriate recommendations shall be forwarded to the Board of Sargent County Commissioners.

#### **7.5. Filing of Subdivision Plat**

The subdivider, upon approval of the final plat, shall file the plat with the Register of Deeds of Sargent County. Sale of any lot prior to filing of the final plat is in violation of this code.

### **8. DESIGN STANDARDS**

#### **8.1. Conformance**

The subdivider shall prepare the preliminary and final plat in conformance with the standard set forth herein.

#### **8.2. Street Design**



1. The arrangement, character, classification, extent, width, grade and location of all streets shall be designed in relation to existing and planned streets, topographic conditions, existing natural features, public convenience and safety and the proposed uses of land served by such streets and to the most advantageous development of adjoining uses.
2. Where it is not shown on the 2020 Plan, the arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing streets in surrounding areas or conform to a plan approved by the Planning Commission to meet a particular situation.
3. Where a subdivision abuts or contains an existing or proposed major street or highway, the Planning Commission may require service streets, reverse frontage lots with screen planting in a reservation strip along the rear property line, deep lots with rear service alleys abutting the primary street or highway, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.
4. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.
5. Reserve strips in private ownership controlling access to streets are prohibited.
6. Street jogs with centerline offsets of less than one hundred fifty (150) feet shall be avoided.
7. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on major streets.
8. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than four hundred (400) feet for local and collector streets, and of such greater radii as the Planning Commission shall determine for special cases.
9. Streets shall be laid out to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than eighty (80) degrees.
10. Curb radii on all block corners shall be ten (10) feet and a five (5) foot radius shall be used at intersections of streets and alleys.
11. Street rights-of-way shall be not less than the following:
  - a. (1 ) Major streets, eighty (80) feet;

- b. Local streets, sixty (60) feet;
  - c. Cul-de-sac, one hundred (100) feet in diameter for a turnaround;
  - d. Alleys, residential district, twenty (20) feet;
  - e. Sidewalks, four (4) feet;
12. Half streets are prohibited except where essential to the reasonable development of the subdivision and in conformity with the other requirements of this code and where the Planning Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever an existing half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.
  13. Cul-de-sacs shall not be longer than five hundred (500) feet.
  14. General considerations for intersection design are that:
    - a. Intersections of more than two (2) streets at a point shall not be permitted.
    - b. Alleys shall be discouraged in residential districts but may be provided in commercial and industrial districts.
  15. Dead-end streets without a suitable turnaround are prohibited.

### **8.3. Block Design**

The length, width and shape of blocks shall be suited to the planned use of land, zoning requirements, needs for convenient access, control of safety of street traffic, and the topographic conditions.

1. Residential block length shall not exceed nine hundred (900) feet. The length of blocks is considered to be the distance from one street centerline to opposite street centerline and is measured through adjacent back lot lines or through the center of the block.
2. Pedestrian crosswalks not less than ten (10) feet wide may be required in blocks longer than six hundred (600) feet where the crosswalks are deemed by the Planning Commission to be essential to provide circulation, or access to schools, playgrounds or other community facilities.
3. The width of blocks shall generally be sufficient to allow two (2) tiers of lots and shall be at least two hundred and fifty (250) feet wide.
4. Blocks intended for commercial and industrial use shall be specifically designated for such purposes with adequate space set aside for off-street parking and delivery facilities. The Planning Commission may require

service drives or frontage roads along major streets for commerce and industry.

#### **8.4. Lot Design**

The shape, size and orientation of the lots shall be appropriate for the location of the subdivision. For residential low-density, a north-south lot orientation is encouraged. Residential lot dimension within the city corporate limits shall be:

1. Minimum width at building line, seventy-five (75) feet.
2. Minimum lot area, seven thousand five hundred (7,500) square feet.
3. For non-residential lots, the provisions of commercial and industrial zoning districts stipulated in Sections 5.4 and 5.5 of this code shall apply.
4. Residential lot dimensions within the extra territorial planning area in Agricultural District shall be subject to the provisions of Section 5.1.
5. Residential lot dimensions within extra territorial planning area in Residential District shall be subject to the provisions of Section 5.2.
6. Residential lots abutting major streets shall have extra depth of at least twenty (20) feet to allow for proper setbacks.
7. All lots shall front a public street.
8. Side lot lines shall be substantially at right angles.
9. Residential corner lots shall have an extra width of ten (10) feet to permit adequate building setbacks from the side streets.
10. Lot lines shall follow the city corporate limits.
11. Double frontage lots shall be avoided except where essential to provide separation of development from arterial streets.
12. Depth and width of lots reserved or laid out for commercial or industrial uses shall be adequate to provide for off-street parking and service facilities required by the type of use and development and the provisions of the appropriate zoning district.

#### **8.5. Street Names**

1. The Planning Commission may disapprove the name of any street shown on the plat that has already been used elsewhere in the area, or because of similarity that may cause confusion.
2. Where a street maintains the same general direction, except for curvilinear changes for a short distance, the same name shall continue for the entire length of the street.

3. A name assigned to a street, which is not presently a through street, shall be continued for the separate part of a through street.

#### **8.6. Utility Easements**

1. Easements across lots or along rear or side lot lines shall be provided for utilities where necessary, shall be at least five (5) feet wide on each side of the lot line, and shall be designated as "utility easement".
2. All lots shall be served by underground electric, cable television and telephone lines unless waived by the Planning Commission due to topographic conditions or excessive costs.
3. All utility lines for electric power, cable television and telephone service carried overhead shall be placed in utility easement.
4. Utility lines installed in the utility easement shall not be closer than one foot to the property line or three (3) feet to any monument.

#### **8.7. Grading and Drainage**

1. When required, the subdivider shall provide a detailed grading and drainage plan showing the grades of streets and drainage improvements.
2. The drainage shall not discharge into any sanitary sewer facility.
3. The drainage facilities shall be located in street right-of-way or in drainage easements.
4. The grading and drainage system shall be approved by the City Council.
5. Grading established in any subdivision shall not be changed without approval of the City Council.

#### **8.8. Drainage Way Easement**

Where a subdivision is traversed by a watercourse or drainage way, an adequate drainage way easement shall be provided. The location, width, alignment and grading of such easement shall be set by the City Council to accommodate the anticipated discharge from the property being subdivided and also the anticipated run-off from the adjoining properties.

#### **8.9. Tree Planting**

The planting of trees of an appropriate species and at appropriate locations may be required by the City Council.

#### **8.10. Streetlights**

Streetlights and their location shall be in accordance with the minimum standards established by the City Council.

### **9. REQUIRED IMPROVEMENTS**

Before installation of improvements in any subdivision, the City Council shall make a determination for improvements required, based on a schedule of improvements including the standards, and class of construction.

### **9.1. Completion Assurance**

To cover the cost of improvements, as determined by the City Council, the subdivider may post a bond or submit a letter of credit from an acceptable financial institution in an amount sufficient to construct such improvements.

### **9.2. Survey Monuments**

The subdivider shall install survey monuments in all lots and block corners in the subdivision in accordance with the requirements of the State of North Dakota.

### **9.3. Public Water**

1. Where appropriate, water mains shall be installed so as to provide individual service to each lot within the subdivision.
2. Water mains shall extend to the boundary of the subdivision, except where in the opinion of the City Council, it is deemed impractical.
3. A rural water supply shall comply with the requirements of Sargent County and State of North Dakota.

### **9.4. Sanitary Sewer**

1. All subdivisions shall be provided with sanitary sewers to each lot.
2. Sanitary sewer shall be extended to the boundary of the subdivision, except where in the opinion of the City Council it is deemed impractical.

### **9.5. Storm Sewer**

The storm sewer drainage facilities shall be installed in accordance with the plans and specifications approved by the City Council.

### **9.6. Grading and Surfacing**

The full width of all rights-of-way shall be graded in accordance with the City of Forman street standards.

### **9.7. Curbs, Gutters and Sidewalks**

Concrete curb and gutters, where appropriate, may be installed in all subdivisions in accordance with the City of Forman standards. Where the city requires construction of a sidewalk, it shall be in accordance with the design standards established by the City Council.

### **9.8. Installation of Improvements**

Construction of all improvements is contingent on approval by the City Council. The subdivider shall be responsible for furnishing the necessary data required for such approval.

## **10. ADMINISTRATION AND ENFORCEMENT**

### **10.1. Organization**

To administer this code the following bodies are hereby vested with authority to act in behalf of City of Forman:

The City Auditor/Mayor

The Planning Commission

The Zoning Board of Adjustment

The City Council

### **10.2. City Auditor/Mayor/Mayor**

The City Auditor/Mayor are duly appointed city officials authorized by the City Council and is responsible to administer this code, to assist the Planning Commission, and the City Council on any matter related to planning for and development of the City of Forman.

#### **10.2.1. Duties**

1. Issue all zoning certificates, permits and maintain records thereof.
2. Issue all building and repair permits.
3. Maintain zoning related records and zoning district map including records, of all amendments, conditional uses and variances.
4. Receive, file and forward to the Planning Commission all applications for zoning amendments, site approvals and conditional uses.
5. Prepare and publish notices and notify adjoining property owners.
6. Notify, in writing, the property owner or user upon finding violation of this code and cite the nature of violation clearly, require compliance and a report of the findings to the City Council.
7. Receive, file and forward to the Planning Commission all applications for preliminary and final plats and the supporting documents.
8. Receive, file and forward all requests for variances to the City Council, which may act as a Board of Adjustment.

9. Report all zoning and land subdivision violations to the City Council.

#### *10.2.2. Interpretation of Regulations*

All questions of interpretation of this code shall be presented to the City Council, which acts as the Board of Adjustment.

#### *10.2.3. Building Permit Applications*

Any person or persons intending to construct or reconstruct or relocate a building or make alteration, before proceeding with the work, or commencing any excavation in connection with it, shall obtain a permit from the City Auditor/Mayor. These provisions shall also apply to the mobile homes.

1. Each application for a building permit shall be accompanied by a legal description and a map showing the actual dimension of the lot to be built upon, the size, shape and location of the building for observing the yard requirements of this code.
2. The application shall specify the type of the building, structure, material of which it is composed, the part or portion of the lot to be occupied by the principal building and accessory buildings and the building cost.

#### *10.2.4. Building Permits*

The City Auditor/Mayor shall issue a building permit if the proposed building or structure conforms to zoning and building provision of this code. If the City Auditor/Mayor denies a permit because of nonconformance with this code, he/she shall inform the applicant of his/her right to appeal to the City Council.

#### *10.2.5. Fees*

The City Auditor/Mayor shall charge and collect a fee as follows:

1. For zoning application, conditional use permits, and variances a fee of \$30.00 shall be paid to the city to defray the cost of advertising and mailing of public hearing notices.
2. For building permits for additions, alterations or new construction the permit fees consist of:
  - a. \$10.00 for improvements under \$1,000.
  - b. \$25 for improvements over \$1,000.
3. The city may levy other charges to defray the cost of building inspection, appraisal, preliminary and final plat review, as deemed necessary by the City Auditor/Mayor

Replacement of roofs, siding and windows do not require a building permit.

#### *10.2.6. Certificate of Occupancy or Use*

The City Auditor/Mayor or their designees may inspect the completed building, including placement of mobile homes and manufactured homes and assurance that all provisions and conditions set forth under this code are met. In the event the City Auditor/Mayor or their designees find violations and deviations from the terms and conditions of this code, he/she shall make a report and recommendation for action to the City Council.

#### *10.2.7. Conditional Use and Site Approval Permits*

The City Auditor/Mayor shall issue a conditional use or site approval permit upon approval of the application by the City Council subject to the provisions of Section 11.

#### *10.2.8. Variances*

The City Auditor/Mayor shall issue a permit if the City Council approves the variance. The terms of the variance or special use shall be stipulated in the permit, subject to the provisions of Section 11.

#### *10.2.9. The Final Plat*

The City Auditor/Mayor shall sign the final plat, if the City Council has approved the final plat subject to the provisions of Sections 7, 8 and 9 of this code.

### **10.3. Planning Commission**

The Planning Commission shall consist of five members appointed by the City Council. The City Council may act as the Planning Commission

#### *10.3.1. Duties*

1. To hear and act on all applications for amendments to zoning districts and take action for approval, denial or approval with modification.
2. To hear and act on all applications for conditional uses and site approvals in the manner prescribed in this code and make recommendations to the City Council.
3. The action of the Planning Commission is advisory to the City Council and all final decisions rest with the City Council.
4. The Planning Commission may serve as the building official and serve at the discretion of the City Council.

#### *10.3.2. Notice of Hearings*

The Planning Commission shall fix a reasonable date for hearing of applications for zoning district amendments, conditional use permits, site approval and plat applications and other matters before it, give public notice thereof in the official newspaper of the city and the nearest regularly published newspaper at least once a week for two consecutive weeks prior to the hearing. The notices shall



give time and place of hearing and shall state the purpose of the hearing and that the applications and supporting documents for zoning district amendments and conditional use permits shall be available for public inspection by the City Auditor/Mayor.

#### *10.3.3. Meetings*

Meetings of the Planning Commission shall be held at the call of the Chairperson and at such other times as the Planning Commission may determine. All meetings shall be open to the public and any person may testify for or against a petition.

### **10.4. Board of Adjustment**

The Zoning Board of Adjustment shall consist of five members appointed by the City Council. In the absence of a Board of Adjustment, the City Council shall act as the Zoning Board of Adjustment.

#### *10.4.1. Duties*

Hear and decide variance from the terms of this code that shall not be contrary to the public interest.

#### *10.4.2. Notice of Hearing*

The Zoning Board of Adjustment shall fix a reasonable date for hearing the application for variance(s), give public notice in the official newspaper of the city at least once a week for two consecutive weeks prior to the hearing. The notices shall give time and place of hearing and shall state the purpose of hearing and that the application and supporting documents for variance shall be available for public inspection by the City Auditor/Mayor.

### **10.5. City Council**

The City Council maintains the authority for review, approval, modification and denial of recommendations of the City Auditor/Mayor and the Planning Commission.

#### *10.5.1. Duties*

1. The City Council is responsible for approval, modification or denial of amendments to the text of this code.
2. The City Council is responsible for approval, modification or denial of amendments to change the zoning district(s) boundaries.
3. The City Council is responsible for granting conditional use permits.
4. The City Council shall, in absence of a Board of Adjustment, act as the Zoning Board of Adjustment.

### *10.5.2. Notice of Hearing*

The City Council may hold hearing(s) as required by the City of Forman general ordinances, this code and laws of the State of North Dakota.

## **11. PROCEDURES FOR AMENDMENTS, CONDITIONAL USES, VARIANCES & PLATS OF SUBDIVISION**

### **11.1. Zoning District Amendments**

#### *11.1.1. Public Hearing Notice*

The Planning Commission shall hold a public hearing, a notice of which shall be published at least once a week for two weeks prior to the hearing in the official newspaper of the county. The notice of hearing shall include:

1. The time and place of hearing;
2. Description of the property by street address for platted lands and clearly identifiable location for the unplatted lands;
3. The proposed use, requested zoning district change;
4. Time and place for public inspection of the documents submitted by the applicant before the hearing; and
5. Notification to all property owners within 150 feet of the property in question.

#### *11.1.2. Public Hearings*

1. The Planning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, the Planning Commission shall make recommendation to the City Council. The Planning Commission may require additional information before it completes its findings and making its recommendations.
2. The City Council may hold a public hearing on the proposed amendment within 30 days of the receipt of the recommendations from the Planning Commission. Notice of the hearing shall be published in the official city newspaper prior to the date established for the hearing.

#### *11.1.3. Data Submission Requirements*

Petitions for zoning district change, conditional uses and site approval shall be submitted to the City Auditor/Mayor with the following information:

1. Legal description of the area proposed to be rezoned.
2. A site plan showing buildings and uses in the zoning district proposed to be changed and the requested zoning district classification.

3. A fee shall be paid in accordance with the schedule in Section 10.2.5.

#### *11.1.4. Deliberation and Decision*

Following the hearing, the Planning Commission, upon due deliberation, shall make a report of its findings and recommendations to the City Council.

### **11.2. Conditional Use Permits**

#### *11.2.1. Purpose*

The development of this code is based upon division of the city into districts, within which district the use of land and building bulk and locations of building and structures are mutually compatible and substantially harmonious. However, there are certain uses, which, because of their unique characteristics, cannot be properly classified as permitted uses in any particular district, without consideration, in each case, of impact of those uses upon neighboring premises. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to location, development and operation of such uses.

#### *11.2.2. Public Hearing Notice*

Shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 11.1.1.

#### *11.2.3. Public Hearings*

Shall be the same as the provisions set forth for public hearing for zoning district amendment in Section 11.1.2.

#### *11.2.4. Data Submission Requirements*

Shall be the same as the provisions set forth for data submission requirements for zoning district amendment in Section 11.1.3.

#### *11.2.5. Deliberation and Decision*

Shall be the same as the provisions set forth for deliberation and decision for zoning district amendment in Section 11.1.4.

#### *11.2.6. Standards*

No application for conditional use shall be approved unless the Planning Commission finds that all of the following conditions are present.

1. That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.

2. That the uses, values and enjoyment of other property in the area for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the district.
4. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic impact on the area.
6. That the conditional use shall substantially conform to all applicable regulations of the district in which it is located.

#### *11.2.7. Conditions and Guarantees*

1. Prior to the decision on any conditional use, the Planning Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the city and to secure compliance with the standards and requirements specified in Section 11.2.6.
2. No alteration of a conditional use shall be permitted unless approved by the City Council.

### **11.3. Variances**

Variance from the dimensional standards of this code may be granted provided that the applicant establishes proof of practical difficulty or undue hardship.

#### *11.3.1. Public Hearing Notice*

The Zoning Board of Adjustment shall hold a public hearing, a notice of which shall be published at least one week prior to the hearing in the official newspaper of the city. The notice of hearing shall include:

1. the time and place of hearing;
2. description of the property by street address for platted lands and clearly identifiable location for the unplatted lands;
3. the proposed use and requested zoning district change;
4. time and place for public inspection of the documents before the hearing.

#### *11.3.2. Public Hearings*

The Zoning Board of Adjustment at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, it shall approve, deny or modify the proposal. The Zoning Board of Adjustment may require additional information before it completes its findings and decision.

#### *11.3.3. Data Submission Requirements*

Petitions for variances shall be submitted with the following information.

1. Legal description of the property.
2. A map showing the existing land uses and zoning district classification of the area.
3. The reason for the variance request.
4. The type of variance requested and an explanation of whether the hardship is unique to the applicant's property.
5. Any other information that the Zoning Board of Adjustment deems necessary.
6. A fee of \$30 is paid in accordance with the schedule established by the City Council.

#### *11.3.4. Deliberation and Decision*

In making its finding, the Zoning Board of Adjustment shall ascertain that the requests for variance is consistent with the City 2020 Plan and meets all requirements of this code and other regulations of the City of Forman.

#### *11.3.5. Standards*

No application for variance shall be approved unless the City Council finds that all of the following are present.

1. That special conditions and circumstances exist which are peculiar to the premises and which are not applicable to other premises in the same zoning district.
2. That literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
3. That the special conditions and circumstances have not resulted from actions of the applicant.
4. That granting the variance requested will not confer upon the applicant any special privileges that are denied by this code to other premises.

#### *11.3.6. Justification*

1. That the reasons set forth in the application justify the granting of the variance.
2. The variance is the minimum, which would make possible a reasonable use of the premises.
3. That the granting of variance will be in harmony with the general purpose of this code and will not be injurious to the surrounding premises, neighborhood or the city and will not be contrary to the comprehensive plan and the purposes of this code.
4. That there is practical difficulty or unnecessary hardship in use of the premises if the strict application of the regulations were to be carried out.

#### **11.4. Plat Approval**

The procedure for approval of the preliminary and final plats shall be the same as the zoning amendment procedure under Section 11.

### **12. CITIZENS PROTEST**

If a protest to amendments, conditional use permits and subdivision plats is signed by owners of 20% or more of the area of the lots included in such proposed zoning change, or of the area adjacent, extending 150 feet, excluding street rights-of-way, from the property to be changed, the amendment shall not become effective except by a favorable vote of at least three-fourths (3/4) of the members of the City Council.

### **13. VIOLATIONS AND PENALTIES**

Anyone who violates the provisions of this code or fails to comply with any of its requirements, upon conviction, shall be punished by a fine of no more than \$200 per day or imprisonment for not more than 90 days. Each day that a violation continues shall constitute a separate offense.

### **14. ENACTMENT**

In order that all development, buildings and structures within the City of Forman and its one mile extraterritorial planning and zoning area, be properly guided in accordance with the requirements set forth herein, this Land Development Code is hereby adopted.

\_\_\_\_\_  
Mark Bopp, Mayor  
City of Forman

May 14, 2018  
Date of Adoption

\_\_\_\_\_  
Trish Pearson, City Auditor  
City of Forman

Seal