

TITLE IV

PLANNING AND ZONING

CHAPTERS:

- 4-01. Introduction.
- 4-02. Rules and Definitions.
- 4-03. General Provisions.
- 4-04. Zoning District Boundaries and Map.
- 4-05. Zoning District Regulations.
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CHAPTER 4-01

INTRODUCTION

SECTIONS:

- 4-0101. Title.
- 4-0102. Authority.
- 4-0103. Purpose.
- 4-0104. Intent.
- 4-0105. Jurisdiction.
- 4-0106. Interpretation.
- 4-0107. Severability.
- 4-0108. Exceptions.
- 4-0109. Repeal.
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4-0101. **TITLE.** This chapter shall be known as, referred to and cited as the "Land Development Code", City of Kindred, North Dakota and herein after is referred to as the "Code".

4-0102. **AUTHORITY.** These regulations are adopted pursuant to the authority granted by Chapters 40-47, 40-48 and 40-50 of the North Dakota Century Code.

4-0103. **PURPOSE.** These regulations are adopted to promote the health, safety, morals, and general welfare of the people of the City of Kindred in accordance with the provisions of the North Dakota Century Code.

4-0104. **INTENT.** These regulations are adopted to implement the plans and policies of the City of Kindred, regulate the use of land resources and minimize the cost of public services.

1. To promote orderly development of Kindred and to prevent conflict among land uses and structures.
2. To secure safety from fire, panic, noxious fumes, and other dangers.
3. To facilitate development of water, sewerage, transportation and other customary municipal services cost effectively.
4. To regulate the use and division of land within the city limits and within the extra territorial jurisdiction, as authorized by North Dakota laws.

5. To regulate the proper arrangement of streets, alleys and roads for convenient and efficient access to the adjoining properties.
6. To protect the value of land and buildings and maintain harmony and consistency among land uses.
7. 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 Kindred Codes.

4-0105. **JURISDICTION.** These regulations shall apply to all lands and structures above or below the ground within the corporate limits of the City of Kindred, North Dakota and its extra territorial planning area authorized by the North Dakota Laws applying to each quarter-quarter section of unincorporated area, the majority of which is located within one-half mile of its limits in any direction.

Source: Ord. 2013-47, Sec. 2 (2013)

4-0106. **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, adopted by the City of Kindred, the most restrictive shall govern, unless otherwise specifically stated. The City Council, the governing body of the City of Kindred, may, from time to time, amend, supplement or repeal any part of this Code after a public hearing.

Source: Ord. 2013-47, Sec. 3 (2013)

4-0107. **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.

4-0108. **EXCEPTIONS.** These regulations shall not apply to the land and buildings for general agricultural uses, as defined in Section 4-0501.1(a).

4-0109. **REPEAL.** The existing City Zoning Code together with any amendment thereto are hereby repealed.

4-0110. **EFFECTIVE DATE.** This Code shall be effective upon adoption by the City Council of the City of Kindred, as provided by the North Dakota Century Code.

CHAPTER 4-02

RULES AND DEFINITIONS

SECTIONS:

- 4-0201. Compliance.
- 4-0202. Word Use.
- 4-0203. Definitions.

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4-0201. **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.

4-0202. **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.

1. Words used in present tense shall include the future.
2. Words used in singular number shall include the plural number and the plural number shall include the singular number.
3. Shall is a mandatory word and not discretionary.
4. May is a permissive word.
5. The word "lot" shall also mean "parcel", "piece" and "plat".
6. The word "building" includes all structures and structure includes buildings.

4-0203. **DEFINITIONS.**

1. **"Accessory Building and Uses"** means a subordinate building or portion of the main building the use of which is clearly incidental to and serves exclusively the principal building or principal use and shall be located on the same zoning lot.
2. **"Advertising Sign"** See sign.
3. **"Agriculture"** means the process of producing food and fiber customary to the family farming operation with a

minimum of 40 acres in area, excluding feed lots, processing and manufacturing of the farm-based products.

4. **"Aircraft Hangar"** means any building in which storage or housing of aircraft is a primary use.

Source: Ord. 2005-5, Sec. 1 (2005)

5. **"Airpark"** means a residential community that consists of single-family detached housing units, two-family detached housing units, and housing units having direct access to the Kindred Davenport Regional Airport.

Source: Ord. 2005-5, Sec. 1 (2005); Ord. 2013-47, Sec. 4 (2013)

6. **"Alley"** means a minor street providing access to the back or side of two or more parcels or lots.

7. **"Alteration"** means any change, enlargement or rearrangement in structural parts of a building or structure.

8. **"Amendment"** means any change, revision or modification to the text of this code and/or the Zoning District Map.

9. **"Animal Unit"** means a unit of measure determined by species as follows:

Livestock Type	Animal Unit	300 a.u.	1,000 a.u.
1 horse	2.0	150	500
1 dairy cow (milking or dry)	1.33	225	750
1 mature beef	1.0	300	1,000
1 beef feeder-finishing	0.75	400	1,343
1 Cow-calf pair	1.0	300	1,000
1 mature bison	1.0	300	1,000
1 swine	0.1	3,000	10,000
1 goose or duck	0.033	9,090	30,303
1 sheep	0.1	3,000	10,000
1 turkey	0.0182	16,483	54,945
1 chicken	0.008	37,500	125,000
Any other livestock not listed above	1.0	300	1,000

SOURCE: Ord. 2009-25, Sec. 1 (2009).

10. **"Animal Hospital or Kennel"** means a building or premises set up for treatment and boarding of domestic animals including veterinary facilities.
11. **"Basement"** means a story, partly underground with more than one-half of its height below grade.
12. **"Board of Adjustment"** means a body of citizens appointed by the Kindred City Council to hear appeals on the enforcement of this code see Section 4-1004.
13. **"Building"** means any structure above or below ground designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property.
14. **"Building Area"** means that portion of the zoning lot that can be occupied by the principal and accessory uses, excluding the front, rear and side yards.
15. **"Building Height"** means vertical distance from the grade to the highest point of the roof.
16. **"Building Line"** means a line establishing the minimum distance that structures may be placed from the lot lines or street right-of-way within which no part of the principal or accessory building shall be placed. For the purposes of this Code the building line is the same as setback line.
17. **"Building, Principal"** means 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 in this code.
18. **"Channel"** means a natural or man-made water course for conducting the flow of water including drainage ditches and intermittent water courses.
19. **"City", "City Council"** means the governing body of the City of Kindred, North Dakota.
20. **"Club or Lodge"** means 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.

21. **"Comprehensive Plan"** or **"Kindred Plan 2020"** means a guide for management of the resources and development of the City of Kindred.
22. **"Conditional Use"** means a use not automatically permitted in a zoning district and which requires review and approval of the City Council after a public hearing before the Planning Commission. 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.
23. **"Conforming Building or Structure"** means a building or structure which complies with all requirements of this Code and other regulations adopted by the City of Kindred.
24. **"Developer"** means a land owner, or its agent engaged in subdividing land for development for a specific use.
25. **"Development"** means any human 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.
26. **"Development Plan"** means a document including maps and data for physical development of an area as required by this Code or may be required by the City of Kindred.
27. **"District, Zoning"** means a section or sections of Kindred 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, as required by this code.
28. **"Drive-through Service"** means the ability for a business, by the design and layout of its property and building, to serve customers who remain in their vehicle.

Source: Ord. 2020-78, Sec. 1

29. **" Dwelling "** means 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 recreational purposes.
30. **" Dwelling Unit "** means a part or all of a building that provides complete living facilities for one family including, kitchen, bathroom, living and sleeping areas.
31. **" Dwelling, Two-Family Dwelling "** means a detached residential building containing two dwelling units, designed for occupancy by not more than two families.

Source: Ord. 2005-5, Sec. 1 (2005)

32. **" Dwelling, Multiple Family "** means a single building or portion thereof, containing two (2) or more dwelling units which share common entry and hallway(s).
33. **" Dwelling, Single Family Detached "** means a building containing one dwelling unit only.
34. **" Easement "** means a right to the use of land for a specific purpose, such as utilities or access, such right being held by someone other than the owner who holds the title to the land.
35. **" Encroachment "** means any fill, building, structure or use including accessory uses projecting into the required yard areas or easement areas.
36. **" Establishment "** means a place of business for processing, production, assembly, sales, service of goods and materials.
37. **" Extra-territorial Area "** means areas surrounding the City of Kindred within one-half (1/2) mile of the city corporate limits in all directions, where the city has zoning and platting jurisdiction under the provisions of the North Dakota Century Code.

Source: Ord. 2010-29, Sec. 1 (2010)

38. **" Family "** means a collective body of persons living together in a domestic relationship based on birth, marriage, guardianship or other domestic bond as distinguished from a group in a boarding house, lodging house, club or a hotel.



39. **"Feed Lot"** means a parcel of land which contains a commercial operation for feeding or raising of fifty (50) or more animals which is operated as a separate activity and not incidental to farming.
40. **"Final Plat"** means the map, plan, or record of a subdivision and any accompanying material prepared in conformance with this Code.
41. **"Frontage"** means the front part of a lot abutting a public right-of-way, or road or highway.
42. **"Garage, Private"** is a building or part thereof accessory to a main building which provides for the storage of automobiles and in which no business for profit is carried on.
43. **"Grade, Building"** means the land elevation at the horizontal intersection of the ground and the building.
44. **"Home Occupation"** means any occupation which: (a) is 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, provided that no articles are sold other than those made on the premises.
45. **"Hotel or Motel"** means a building in which lodging accommodations, with or without meals are provided for compensation.
46. **"Improvements"** means 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 Kindred.
47. **"Junk or Salvage Yard"** means 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.
48. **"Kennel, Animal"** means any premises where dogs, cats and other domesticated pets, but not including wild animals, are boarded, bred and maintained for compensation.

49. **"Lot"** means a piece, parcel, or area of land established by survey, plat or deed, that meets the yard requirements of this Code and fronts on a public street.
50. **"Lot, Corner"** means a lot abutting two (2) or more public streets at their intersection.
51. **"Lot Coverage"** means building area, the total surface area of a lot which is covered by any type of structure, excluding the yard areas.
52. **"Lot Depth"** means the average horizontal distance between the front lot line and rear lot line.
53. **"Lot Lines"** means the property lines bounding the lot.
54. **"Lot of Record"** means a lot, which is a part of a subdivision or a parcel of land which has been recorded in the office of the Cass County Register of Deeds, prior to adoption of this Code.
55. **"Lot Width"** means the horizontal distance between the side lot lines of a lot, measured at the front building setback line.
56. **"Lot, Zoning"** means a single lot, parcel, or tract of land within a zoning district.
57. **"Manufactured and Modular Homes"** means factory built dwelling units, transportable in one or more sections, with at least 900 square feet of living space, which are designed as year-round dwelling units and shall be placed on a permanent foundation or basement. The manufactured dwelling units shall bear a label certifying that such units were built in compliance with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Dept. of Housing and Urban Development for manufactured homes. The Uniform Building Code shall apply to modular homes.
58. **"Manufactured Home Park"** means a parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities, is prepared subject to the requirements of this Code.
59. **"Mobile Home"** means manufactured dwelling unit.
60. **"Nonconforming Building"** means any building or structure which does not conform with any or all of this Code but existed at the time of adoption of the Code.

61. **"Nonconforming Use"** means any principal use of land or building which does not conform with any or all parts of this Code but existed at the time of adoption of the Code.
62. **"Non-residential Plat"** means a plat whose intended use is other than residential such as commercial or industrial uses.
63. **"Nursing, Elderly Care Facility"** means a residential facility for the aged or infirm in which unrelated persons are accommodated for compensation.
64. **"Parking Lot"** means 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.
65. **"Permanent Foundation"** means an extension of the outer walls of a building or structure made of solid materials such as concrete or treated wood and extended below the ground surface through the frost zone, or other depths as required by the city. Pilings shall not be accepted as permanent foundation.
66. **"Permitted Uses"** means 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.
67. **"Person"** means any individual, firm, corporation, partnership or legal entity.
68. **"Planned Development"** means 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 Cass County Recorder upon approval by the City of Kindred.
69. **"Planning Commission"** means a citizen body appointed by the City Council under the authority of North Dakota Laws, as an advisory group to the City Council on zoning, development and planning matters.
70. **"Plat"** means a map of a subdivision of land prepared according to the provisions of this Code.

71. **"Preliminary Plat"** means the preliminary plan of a subdivision and any accompanying material prepared in accordance with the requirements of this Code.
72. **"Public Way"** means any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads or highways.
73. **"Regional Flood"** means a flood determined by the State and Federal Emergency Management Agency and is representative of large floods known to have occurred in Cass County, North Dakota.
74. **"Replat"** means a change in an approved or recorded plat requiring changes in street layout, lot lines, or blocks.
75. **"Right-of-Way"** means 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. The right-of-way width for street purposes shall be as follows: sixty (60) feet for local streets; eighty (80) feet for connector streets; and one hundred (100) feet for arterial streets.
76. **"Self-storage"** means a building that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers that are leased to or owned by customers for the storage of goods or wares.

Source: Ord. 2020-78, Sec. 1

77. **"Service Station"** means any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.
78. **"Setback Line"** means the minimum horizontal distance between lot line and the building lines.
79. **"Sign"** means 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.

80. **"Site Plan"** means a detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this Code.
81. **"Storage Container"** means an all-metal structure, or structure made of other materials, fully enclosed, used for storage purposes, and is accessory and detached from the principal building. Storage containers are individual units that are periodically removed from a property by truck and are considered a structure without any attached foundation or footings. A storage container may be a self-contained unit that includes wheels and is licensed as a vehicle or a unit that must be trucked to a site and removed from the trailer used for transport. This definition does not include any warming shed that may be used at city parks or schools, or sheds and dumpsters or rolloff containers that are used for the collection of solid waste. Storage containers are also referred to as shipping containers, cargo containers, temporary storage containers, portable storage containers, containerized storage devices, semi-trailers or truck-trailers.

Source: Ord. 2018-70, Sec. 1

82. **"Street"** means a dedicated public way which affords traffic circulation and is a principal means of access to abutting properties.
83. **"Street, Line"** means the outer boundary of a public way.
84. **"Street, Local"** means a public way intended for a low volume of traffic which provides access to individual properties with a minimum of sixty (60) feet of right-of-way.
85. **"Street, Major"** means a public way, arterial or collector streets, used for carrying a large volume of traffic, with a minimum of eighty (80) - one hundred (100) feet, depending on its functional classification.
86. **"Structural Alterations"** means any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.
87. **"Structure"** means anything, built, constructed above or below ground, the use of which requires permanent location on or below the ground, including advertising

signs, billboards, power lines and transmission lines, tunnels and pipelines.

88. **"Subdivider"** means any person, group, corporation, entity or agency dividing or proposing to divide land so as to create a subdivision.
89. **"Subdivision"** means the division of a tract or parcel of land into lots for the purpose of sale or of building development.
90. **"Truck Terminal"** means any enclosed structure used primarily for the storing, loading and unloading of three or more delivery trucks, tractor-trailer trucks, or large trucks exceeding 26,000 pounds gross vehicle weight.

Source: Ord. 2007-20, Sec. 1 (2008).

91. **"Use"** means the purpose for which land or a building is arranged, designed, occupied or maintained.
92. **"Variance"** means the relaxation of the terms of this 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 Kindred Plan 2020 and this Code. The variance shall not be contrary to the public interest.
93. **"Yard"** means an open space on a lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.
94. **"Yard, Front"** means 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.
95. **"Yard, Rear"** means 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.
96. **"Yard, Side"** means a yard between the front and rear yards, as the least distance between each side of the principal building and each side lot line.

CHAPTER 4-03

GENERAL PROVISIONS

SECTIONS:

- 4-0301. Comprehensive Plan, Kindred Plan 2020.
- 4-0302. Non-Conforming Uses.
- 4-0303. Land Suitability.
- 4-0304. Conditionally Permitted Uses.
- 4-0305. Dedication of Land for Streets.
- 4-0306. Public Water and Sewer System.

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4-0301. **COMPREHENSIVE PLAN, KINDRED PLAN 2020.** This Code is administered and enforced to implement the Kindred Plan 2020 of the City of Kindred, 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:

1. To preserve and enhance the taxable value of land and buildings, and to avoid land uses which pose negative impacts on one another.
2. To encourage the most appropriate use of land in the city and its extra-territorial area of one-half mile around the city.

Source: Ord. 2013-47, Sec. 5 (2013)

3. To regulate and restrict the location and intensity of use of buildings and lands.
4. To separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.
5. To facilitate traffic movement and promote development of compatible uses.

4-0302. **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 discontinued 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 an undue hardship and is approved by the City Council.

4-0303. **LAND SUITABILITY.** No land shall be used for a purpose which 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.

4-0304. **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 under Section 4-1102.

4-0305. **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.

4-0306. **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 Kindred shall be connected to the city water and sewer system. Construction and use of septic tanks shall not be permitted within the city corporate limits of the City of Kindred and its extra-territorial jurisdiction unless the proposed use is related to an existing farming operation.



CHAPTER 4-04

ZONING DISTRICT BOUNDARIES AND MAP

SECTIONS:

- 4-0401. Zoning Districts.
- 4-0402. Zoning District Map.

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4-0401. **ZONING DISTRICTS.** The following zoning districts are hereby established to carry out the purposes of this Code:

- 1. A Agricultural District
- 2. SFR-1 Single Family Residential District
- 3. SFRA-1 Single Family Residential Airpark District
- 4. SFR-2 Single Family Residential District
- 5. SFRA-2 Single Family Residential Airpark District
- 6. SFR-3 Single Family Residential District
- 7. SFRA-3 Single Family Residential Airpark District
- 8. MFR-4 Multi-family Residential District
- 9. GC-1 General Commercial District
- 10. HC-2 Highway Commercial District
- 11. I Industrial District
- 12. PD Planned Development District
- 13. FP Floodplain Management District
- 14. D Downtown District

Source: Ord. 2005-5, Sec. 2; Ord. 2020-78, Sec. 2

4-0402. **ZONING DISTRICT MAP.**

- 1. **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 Kindred City Auditor. The zoning district maps, together with all information shown thereon and all amendments thereto, shall be an integral part of this Code.

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 center line of said streets or public ways or extension thereof unless clearly shown to the contrary.
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. **District Description for Unsubdivided Lands.** For unsubdivided property, zoning district boundaries may be determined by metes and bounds description or by a legal description.
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.
6. **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.
7. **Certification.** The official zoning map shall bear a certificate with the signatures of the Mayor, the Planning Commission Chairperson, the City Auditor and the date of adoption of the zoning map as an integral part of this Code.

CHAPTER 4-05

ZONING DISTRICT REGULATIONS

SECTIONS:

- 4-0501. A - Agricultural District.
  - 4-0502. SFR-1 - Single Family Residential District.
  - 4-0502-1. SFRA-1 - Single Family Residential Airpark District.
  - 4-0502-2. SFRA-2 - Single Family Residential Airpark District.
  - 4-0502-3. SFRA-3 - Single Family Residential Airpark District.
  - 4-0503. SFR-2 - Single Family Residential District.
  - 4-0504. SFR-3 - Single Family Residential District.
  - 4-0505. MFR-4 - Multiple Family Residential District.
  - 4-0506. GC-1 - General Commercial District.
  - 4-0507. HC-2 - Highway Commercial District.
  - 4-0508. I - Industrial District.
  - 4-0509. PD - Planned Development District.
  - 4-0510. F - Flood Plain District.
  - 4-0511. D - Downtown District.
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4-0501. **A - AGRICULTURAL DISTRICT.**

1. **Purpose.** The purpose of this district is to provide for preservation and protection of agricultural uses while in existence, in the city and its extra territorial planning area.
2. **Permitted Uses.**
  - a. All types of farming and ranching operations including dairying, but excluding feed lots, poultry, fish and fur farming.
  - b. Accessory buildings and structures.
  - c. Churches and cemeteries.
  - d. Golf courses, parks and play fields.
  - e. Home occupations.
  - f. Public and private schools, public buildings and facilities.
  - g. Single Family Residential Units including manufactured homes and modular homes.
  - h. Construction and maintenance of drainage systems to manage the water run-off and water reservoirs.

- i. General utility lines and pipe lines including substations for transformers, pumping stations and lift stations.
3. **Conditionally Permitted Uses.** The following uses shall be subject to the provisions of Section 4-1102 and also Chapter 4-06 where appropriate.
- a. Airports
  - b. Feed lots, poultry, fish and fur farming subject to provisions of Section 4-0604.
  - c. Grain Elevators .
  - d. High voltage transmission lines and accessory structures.
  - e. Manufacturing and processing of agricultural products produced in the area.
  - f. Radio, TV stations and towers and microwave and cellular phone towers and related communication facilities.
  - g. Sale and services of agricultural equipment and machinery.
  - h. Salvage and junk yards, subject to provisions of Section 4-0603.
  - i. Sewage lagoons and waste water treatment facilities.
  - j. Skeet, trap and rifle ranges, if not nearer than 1,000 feet from any residence.
  - k. Storage of farm related chemicals.
  - l. Veterinary clinics, animal hospitals and domestic animal kennels, not nearer than 500 feet from any residence, except the residence of the owner or operator.
  - m. Sanitary land fills, subject to the provisions of Section 4-0606.
  - n. Mining of sand and gravel, subject to the provisions of Section 4-0605.

4. **Lot Area and Lot Width.**

- a. For agricultural uses, the area shall not be less than forty (40) acres.
- b. For non-farm residential uses, the lot area shall not be less than five (5) acres.
- c. For non-residential uses, the lot area shall not be less than five (5) acres.
- d. The lot width for any use in agricultural district shall not be less than two hundred (200) feet.

5. **Yard Requirements.**

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

6. **Building Height.**

- a. The building height for residential buildings shall not exceed two and one-half stories (2½) or thirty-five (35) feet.
- b. The building heights for manufacturing of agricultural products, radio, TV, microwave and cellular phone towers, shall be determined by the City Council, based on accepted standards used in the area.
- c. The building height, excepting the radio and TV, microwave and cellular phone towers and church steeples, for all other uses shall not exceed sixty (60) feet.

7. **Parking Requirements.** Parking requirements shall be subject to the provisions of Section 4-0601.

8. **Sign Requirements.** Sign requirements shall be subject to the provisions of Section 4-0602.

9. **Animal Units on Single-Family Non-Farm Agricultural Property.** Animal units allowed not exceeding one(1) unit per acre density provided that:
- a. The parcel in question comprises an area of at least 5 acres, there shall be a minimum of 1 acre for one animal unit, and an additional acre for every additional animal unit kept on the property. More animal units on acreage will require a conditional use permit.
  - b. The residential use area shall be separated from the area to be used as an animal enclosure by a fence, and that the entire animal enclosure area shall be fenced to prevent escape and subsequent damage to adjacent property.
  - c. Any structure or appliance intended for housing, feeding or watering animals, or any manure pile must not be closer than 300 feet from any residential dwelling other than that of the owner.
  - d. All manure and other animal wastes be removed and disposed of properly on at least an annual basis.
  - e. The number of animal units permitted shall be based on the size of the portion of the parcel to be used as an animal enclosure, and that animal enclosure area shall not be less than 3 acres.

4-0502. **SFR-1 - SINGLE FAMILY RESIDENTIAL DISTRICT.**

- 1. **Purpose.** The SFR-1 single family 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.
- 2. **Permitted Uses.**
  - a. Single family detached residential uses with the following minimum square feet of living space:
    - i. Rambler-style homes with a minimum of 1,400 square feet on the main floor.
    - ii. Two-story homes with a minimum of 1,800 square feet of living space. Two-story homes must have a minimum of 1,000 square feet of living space on the first floor.
    - iii. Multi-level homes with a minimum of 1,800 square feet of living space. Multi-level homes

must have a minimum of 1,000 square feet of living space on the lower level.

Source: Ord. 2006-9, Sec. 1 (2006)

- b. Churches, schools and public facilities including libraries, parks, schools and golf courses.
- c. Accessory buildings and structures as set out in Section 4-0610 of these ordinances.

Source: Ord. 2008-21, Sec. 1 (2008).

- d. Home occupation.
3. **Conditionally Permitted Uses.** The following uses shall be subject to the provision of Section 4-1102.
- a. Day care facilities.
  - b. Manufactured homes subject to provisions of Section 4-0504(2) (a) (c).
  - c. Municipal offices including city, county and state offices.
  - d. Two-family dwellings.
4. **Lot Area, Lot Width and Coverage.**
- a. The minimum lot area for single family dwellings shall be twelve thousand (12,000) square feet.
  - b. The minimum lot width shall be no less than eighty-five (85) feet. Maximum lot coverage shall be fifty percent (50%).
  - c. The minimum lot area for a two-family dwelling shall be fourteen thousand (14,000) square feet.
  - d. The minimum lot width for a two-family dwelling shall be no less than one hundred (100) feet. Maximum lot coverage shall be fifty percent (50%).
5. **Yard Requirements.**
- a. The minimum front yard, measured from the front lot line, shall be no less than twenty-five (25) feet.
  - b. The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.
  - c. The minimum side yard, measured from the side lot line, shall not be less than ten (10) feet on each side of a lot.

- d. On corner lots, the minimum side setback on the street side of the property may not be less than twenty (20) feet and the minimum front setback may not be less than twenty-five (25) feet.

SOURCE: Ord. 2005-2, Sec. 1 (2005); Ord. 2017-67, Sec. 1

6. **Building Height.** No building shall be more than two and one-half (2½) stories or thirty-five (35) feet high, excepting church steeples.

7. **Parking Requirements.**

- a. There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.
- b. Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 4-0601.

8. **Sign Requirements.**

- a. There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) 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.
- b. Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- c. Signs for non-residential uses shall be subject to the provisions of Section 4-0602.

4-0502-1. **SFRA-1 - SINGLE FAMILY RESIDENTIAL AIRPARK DISTRICT.**

1. **Purpose.** The SFRA-1 single family residential airpark district is primarily established to promote a residential airpark community, adjacent to the Kindred Davenport Regional Airport, that has a mix of residential housing units, including detached single-family housing units, detached two-family housing units, and to provide residential housing units with direct access to the public taxiway and a hangar to accommodate private planes.

Source: Ord. 2013-47, Sec. 6 (2013)



2. **Permitted Uses.**

- a. Single-family detached residential uses with a minimum of 1,500 square feet of living space on the main floor.
- b. Two-family detached residential uses with a minimum of 1,500 square feet of living space on the main floor for each family.
- c. Single-family residential uses with a minimum of 1,500 square feet of living space on the main floor attached to hangars having a minimum of 2,000 square feet by an adjoining wall to form a single building.
- d. Single-family residential uses with a minimum of 1,500 square feet of living space on the main floor attached to a hangar having a minimum of 2,000 square feet that is attached to an adjoining hangar and residential use on an adjoining lot to form a single building consisting of two residential uses and two hangers.
- e. Single-family residential uses with a minimum of 1,500 square feet of living space on the main floor attached to storage garages having a minimum of 1,000 square feet by an adjoining wall to form a single building.
- f. Single-family residential uses with a minimum of 1,500 square feet of living space on the main floor attached to a storage garage having a minimum of 1,000 square feet that is attached to an adjoining storage garage and residential use on an adjoining lot to form a single building consisting of two residential uses and two storage garages.
- g. Home occupation.

3. **Conditionally Permitted Uses.** The following uses shall be subject to the provision of Section 4-1102.

- a. Large hangars exceeding 3,500 square feet.
- b. Large storage garages exceeding 3,500 square feet.
- c. Manufactured homes subject to provisions of 4-0504(2) (a) (c).

4. **Required Conditions.**

- a. Where the residential use and the hangar use are combined as one building, the exterior shall resemble a conventional housing unit in that the exterior finishing materials, roof pitches, and

architectural detailing found on all structures are complimentary.

- b. Residential uses with attached hangers shall be permitted only on lots having direct access to private taxiways.
- c. Where the residential use and the storage garage use are combined as one building, the exterior shall resemble a conventional housing unit in that the exterior finishing materials, roof pitches, and architectural detailing found on all structures are complimentary.
- d. The residence shall be placed in the front of the lot, with the attached hangar use to the rear of the lot.
- e. The residence shall be placed in the front of the lot, with the attached storage garage use to the rear of the lot.
- f. No bulk fuel storage or chemical storage shall be allowed in the hangars in this zoning district. For purposes of this zoning district, bulk fuel storage and chemical storage is defined as any storage container exceeding the capacity of ten (10) gallons.
- g. No commercial uses shall be permitted in this zoning district.

**5. Lot Area, Lot Width and Coverage.**

- a. The minimum lot area for a single family dwelling shall be 12,000 square feet.
- b. The minimum lot width for single-family dwellings shall be no less than 85 feet. Maximum lot coverage shall be fifty percent (50%).
- c. The minimum lot area for a two-family dwelling shall be 12,000 square feet. For purposes of this zoning district, a lot utilized for a two-family dwelling unit may consist of two adjoining lots each having a minimum of 6,000 square feet.
- d. The minimum lot width for a two-family dwelling shall be no less than 100 feet measured at the front setback line. Maximum lot coverage shall be fifty percent (50%). For the purposes of this zoning district, a lot utilized for a two-family dwelling unit may consist of two adjoining lots

each having a minimum of 6,000 square feet and a minimum of lot width of 50 feet.

- e. The minimum lot area for a single family dwelling attached to a hanger shall be 14,000 square feet.
- f. The minimum lot area for a single family dwelling attached to a storage garage shall be 14,000 square feet.
- g. The minimum lot width for a single family dwelling attached to a hanger shall be no less than 100 feet measured at the front setback line. Maximum lot coverage shall be fifty percent (50%).
- h. The minimum lot width for a single family dwelling attached to a large garage shall be no less than 100 feet measured at the front setback line. Maximum lot coverage shall be fifty percent (50%).

6. **Yard Requirements.**

- a. The minimum front yard, measured from the front lot line, shall be no less than 25 feet.
- b. The minimum rear yard, measured from the rear lot line, shall not be less than 25 feet.
- c. The minimum side yard, measured from the side lot line, shall not be less than 10 feet on each side of a lot.
- d. On corner lots, the minimum side setback on the street side of the property may not be less than twenty (20) feet and the minimum front setback may not be less than twenty-five (25) feet.

Source: Ord. 2017-67, Sec. 2

7. **Building Height.** No building shall be more than two and one-half (2½) stories or 35 feet high.

8. **Parking Requirements.**

- a. There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.
- b. Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 4-0601.

9. **Sign Requirements.**

- a. There shall be no more than one identification sign per residential dwelling structure not exceeding

six (6) 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.

- b. Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- c. Signs for non-residential uses shall be subject to the provisions of Section 4-0602.

Source: Ord. 2005-5, Sec. 3 (2005)

4-0502-2. **SFRA-2 - SINGLE FAMILY RESIDENTIAL AIRPARK DISTRICT.** (Source: Ord. 2014-52, Sec. 1 (2014))

- 1. **Purpose.** The SFRA-2 single family residential airpark district is primarily established to promote a residential airpark community, adjacent to the Kindred Davenport Regional Airport, that has a mix of residential housing units, including detached single-family housing units, detached two-family housing units.
- 2. **Permitted Uses.**
  - a. Single-family detached residential uses with a minimum of 1,200 square feet of living space on the main floor.
  - b. Two-family detached residential uses with a minimum of 1,200 square feet of living space on the main floor for each family.
  - c. Single-family residential uses with a minimum of 1,200 square feet of living space on the main floor attached to storage garages having a minimum of 720 square feet by an adjoining wall to form a single building.
  - d. Single-family residential uses with a minimum of 1,200 square feet of living space on the main floor attached to a storage garage having a minimum of 720 square feet that is attached to an adjoining storage garage and residential use on an adjoining lot to form a single building consisting of two residential uses and two storage garages.
  - e. Home occupation.
- 3. **Conditionally Permitted Uses.** The following uses shall be subject to the provision of Section 4-1102.
  - a. Large storage garages exceeding 3,500 square feet.

- b. Manufactured homes subject to provisions of 4-0504.2(a) and (c).

**4. Required Conditions.**

- a. Where the residential use and the storage garage use are combined as one building, the exterior shall resemble a conventional housing unit in that the exterior finishing materials, roof pitches, and architectural detailing found on all structures are complimentary.
- b. The residence shall be placed in the front of the lot, with the attached storage garage use to the rear of the lot.
- c. No commercial uses shall be permitted in this zoning district.

**5. Lot Area, Lot Width and Coverage.**

- a. The minimum lot area for a single family dwelling shall be 10,000 square feet.
- b. The minimum lot width for single-family dwellings shall be no less than 75 feet. Maximum lot coverage shall be fifty percent (50%).
- c. The minimum lot area for a two-family dwelling shall be 12,000 square feet. For purposes of this zoning district, a lot utilized for a two-family dwelling unit may consist of two adjoining lots each having a minimum of 6,000 square feet.
- d. The minimum lot width for a two-family dwelling shall be no less than 100 feet measured at the front setback line. Maximum lot coverage shall be fifty percent (50%). For the purposes of this zoning district, a lot utilized for a two-family dwelling unit may consist of two adjoining lots each having a minimum of 6,000 square feet and a minimum of lot width of 50 feet.
- e. The minimum lot area for a single family dwelling attached to a storage garage shall be 10,000 square feet.
- f. The minimum lot width for a single family dwelling attached to a large garage shall be no less than 75 feet measured at the front setback line. Maximum lot coverage shall be fifty percent (50%).

6. **Yard Requirements.**

- a. The minimum front yard, measured from the front lot line, shall be no less than 25 feet.
- b. The minimum rear yard, measured from the rear lot line, shall not be less than 25 feet.
- c. The minimum side yard, measured from the side lot line, shall not be less than 10 feet on each side of a lot.
- d. On corner lots, the minimum side setback on the street side of the property may not be less than twenty (20) feet and the minimum front setback may not be less than twenty-five (25) feet.

Source: Ord. 2017-67, Sec. 3

7. **Building Height.** No building shall be more than two and one-half (2½) stories or 35 feet high.

8. **Parking Requirements.**

- a. There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.
- b. Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 4-0601.

9. **Sign Requirements.**

- a. There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) 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.
- b. Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- c. Signs for non-residential uses shall be subject to the provisions of Section 4-0602.

4-0502-3. **SFRA-3 - SINGLE FAMILY RESIDENTIAL AIRPARK DISTRICT.** Source: Ord. 2020-77, Sec. 1

1. **Purpose.** The SFRA-3 single family residential airpark district is primarily established to promote a residential airpark community, adjacent to the Kindred Davenport Regional Airport, that has a mix of residential housing units.
2. **Permitted Uses.**
  - a. Single-family detached residential uses with a minimum of 1,200 square feet of living space on the main floor.
  - b. Two-family detached residential uses with a minimum of 1,200 square feet of living space on the main floor for each family.
  - c. Single-family residential uses with a minimum of 1,200 square feet of living space on the main floor attached to storage garages having a minimum of 720 square feet by an adjoining wall to form a single building; or a minimum of 580 square feet by adjoining wall and a detached storage garage with a minimum of 580 square feet in rear yard.
  - d. Single-family residential uses with a minimum of 1,200 square feet of living space on the main floor attached to a storage garage having a minimum of 720 square feet that is attached to an adjoining storage garage and residential use on an adjoining lot to form a single building consisting of two residential uses and two storage garages.
  - e. Home occupation.
  - f. Accessory Structures meeting the following requirements:
    1. **Front Yards.** With the exception of a garage or driveway, no accessory building, structure, use or equipment may be placed within a front yard.
    2. **Rear Yards.** No accessory building, structure, and/or detached garage for a single-family dwelling shall occupy more than twenty-five percent (25%) of the area of the rear yard.
    3. **Ground Coverage.** For lots 10,000 square feet or under in area, the total floor area of any garage(s) and accessory buildings may not exceed 1,000 square feet; for lots over 10,000

square feet to 15,000 square feet, the total floor area of any garage(s) and accessory buildings may not exceed 1,200 square feet; for lots over 15,000 square feet to 20,000 square feet, the total floor area of any garage(s) and accessory buildings may not exceed 1,400 square feet; for lots over 20,000 square feet to 25,000 square feet, the total floor area may not exceed 1,600 square feet; for lots over 25,000 square feet, the total floor area may not exceed 1,600 square feet; for lots over 25,000 square feet to 30,000 square feet, the total floor area of any garage(s) and accessory buildings may not exceed 1,800 square feet; for lots over 30,000 square feet to 35,000 square feet, the total floor area may not exceed 2,000 square feet; and for lots exceeding 35,000 square feet, the total floor area of any garage(s) and accessory buildings may not exceed 2,200 square feet; and in all cases the total floor area may not exceed the ground coverage of the dwelling, less any attached garage.

4. **Height.** No accessory building shall be higher than the principle residence, or exceed eighteen (18) feet in height to the peak.
5. **Set-back requirements.** No detached accessory building or use shall be erected in any required yard, except a rear yard, nor shall it be located closer than three (3) feet to any side or rear lot line, subject to the following exceptions:
  - a. On corner lots, an accessory building or use, including driveways on the street side, shall maintain the same side yard setback required for the main building, except for garages accessing a public street, which shall maintain a setback of 18 feet for lots of 50 feet or less and 20 feet for lots greater in width than 50 feet.
  - b. In no instance shall an accessory building or use be located within a dedicated easement right-of-way.
6. **Time of Construction.** No accessory building shall be constructed upon a lot until the construction of the main building has commenced.



7. **Limitation of Structures.** No permit shall be issued for the construction of more than one accessory building and/or structure on any single lot except for an accessory building for storage not exceeding one hundred fifty (150) square feet in addition to a detached garage.
8. **Encroachment.** All buildings, including those of less than 120 square feet, may not encroach into any easements.
9. **Storage Containers.** The placement or use of any storage container as an accessory building, storage building, or living unit is prohibited.
10. **Access.** Driveway access to any accessory building must be turf, concrete, asphalt or similar material; driveway access may not be dirt, gravel, crushed concrete or other similar material.

3. **Required Conditions.**

- a. Where the residential use and the storage garage use are combined as one building, the exterior must resemble a conventional housing unit in that the exterior finishing materials, roof pitches, and architectural detailing found on all structures are complimentary.
- b. The residence must be placed in the front of the lot, with the attached storage garage use to the rear of the lot.
- c. No commercial uses are permitted in this zoning district.

4. **Lot Area, Lot Width and Coverage.**

- a. The minimum lot area for a single family dwelling shall be 10,000 square feet.
- b. The minimum lot width for single-family dwellings shall be no less than 75 feet. Maximum lot coverage shall be fifty percent (50%).
- c. The minimum lot area for a single family dwelling attached to a storage garage shall be 10,000 square feet.
- d. The minimum lot width for a single family dwelling attached to a storage garage shall be no less than

75 feet measured at the front setback line. Maximum lot coverage shall be fifty percent (50%).

5. **Yard Requirements.**

- a. The minimum front yard, measured from the front lot line, shall be no less than twenty-five (25) feet.
- b. The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.
- c. The minimum side yard, measured from the side lot line, shall not be less than ten (10) feet on each side of a lot.
- d. On corner lots, the minimum side setback on the street side of the property may not be less than twenty (20) feet and the minimum front setback may not be less than twenty-five (25) feet.

6. **Building Height.** No building shall be more than two and one-half (2½) stories or thirty-five (35) feet high.

7. **Parking Requirements.**

- d. There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.

8. **Sign Requirements.**

- a. There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) 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.
- b. Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.

4-0503. **SFR-2 - SINGLE FAMILY RESIDENTIAL DISTRICT.**

1. **Purpose.** The SFR-2 low density 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.

2. **Permitted Uses.**

- a. Single family detached residential uses.

- b. Churches, schools and public facilities including libraries, parks, schools and golf courses.
- c. Accessory buildings and structures, as set out in Section 4-0610 of these ordinances.

SOURCE: Ord. 2008-21, Sec. 2 (2008).

- d. Home occupation.
3. **Conditionally Permitted Uses.** The following uses shall be subject to the provision of Section 4-1102.
- a. Day care facilities.
  - b. Manufactured homes.
  - c. Municipal offices including city, county and state offices.

4. **Lot Area, Lot Width and Coverage.**

- a. The minimum lot area for single family units shall be ten thousand (10,000) square feet.
- b. The minimum lot width shall be no less than seventy five (75) feet. Maximum lot coverage shall be fifty percent (50%).

5. **Yard Requirements.**

- a. The minimum front yard, measured from the front lot line, shall be no less than twenty-five (25) feet.
- b. The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.
- c. The minimum side yard, measured from the side lot line, shall not be less than ten (10) feet on each side of a lot.
- d. On corner lots, the minimum side setback on the street side of the property may not be less than twenty (20) feet and the minimum front setback may not be less than twenty-five (25) feet.

Source: Ord. 2017-67, Sec, 4

6. **Building Height.** No building shall be more than two and one-half (2½) stories or thirty-five (35) feet high, excepting church steeples.

7. **Parking Requirements.**

- a. There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.
- b. Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 4-0601.

8. **Sign Requirements.**

- a. There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) 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.
- b. Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- c. Signs for non-residential uses shall be subject to the provisions of Section 4-0602.

4-0504. **SFR-3 - SINGLE FAMILY RESIDENTIAL DISTRICT.**

Source: Ord. 2018-69, Sec. 1

1. **Purpose.** The SFR-3 single family residential district is primarily established to promote a suitable residential environment to accommodate the present single family uses and the future single family and duplex residential dwelling units on smaller lots.

2. **Permitted Uses.**

- a. 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 shall meet the requirements of Uniform Building Code; (e) manufactured homes shall meet the latest HUD standards; (f) each unit shall have at least nine hundred (900) square feet of living space; and (g) each unit shall have appearance comparable to conventional site built homes in the vicinity.

- b. Two family dwelling units.
  - c. Churches, schools and day care facilities.
  - d. Home Occupation.
  - e. Accessory buildings and structures, as set out in Section 4-0610 of these ordinances.
  - f. Parks, playgrounds and recreational open spaces.
3. **Conditionally Permitted Uses.** The following uses shall be subject to the provisions of Section 4-1102.
- a. Bed and breakfast establishments.
  - b. Manufactured or modular homes, provided that they:
    - (a) are placed on a permanent foundation or basement;
    - (b) have no less than nine hundred (900) 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.
  - c. Manufactured home parks with the following requirements:
    - (i) A site plan showing location of streets, utilities, off-street parking, driveways walkways blocks, lots, playground and park area.
    - (ii) The manufactured housing park shall contain a minimum of three (3) acres of land.
    - (iii) Each manufactured home shall be placed on a lot at least sixty (60) feet wide with a minimum lot area of seven thousand (7,000) square feet.
    - (iv) Each unit shall be placed on a permanent foundation or basement.
    - (v) Each unit shall have a minimum front yard setback of twenty-five (25) feet from the public streets.
    - (vi) Each unit shall have a minimum side yard of eight (8) feet and a rear yard of twenty-five (25) feet.

(vii) The design and construction of the private streets within the park shall conform to the design standards of Cass County and the City of Kindred.

(viii) All units shall be served by underground utilities unless waived by the City Council.

(ix) There shall be two (2) off-street parking spaces per manufactured home.

d. Hospitals, medical clinics, short or long term care homes.

e. Multi family dwelling units of three to four per structure.

f. Public and private utilities and structures.

**4. Lot Area, Lot Width and Coverage.**

a. The minimum lot area for single family units shall be seven thousand (7,000) square feet.

b. For duplexes, the minimum lot area shall be five thousand (5,000) square feet per unit.

c. For three-four unit structures, the minimum lot area shall be four thousand (4,000) square feet per unit.

d. The minimum lot width shall be no less than sixty (60) feet. Maximum lot coverage shall be sixty five percent (65%), excluding the yard areas.

**5. Yard Requirements.**

a. The minimum front yard, measured from the front lot line, shall be no less than twenty-five (25) feet.

b. The minimum rear yard, measured from the rear lot line, shall not be less than twenty-five (25) feet.

c. The minimum side yard, measured from the side lot line, shall not be less than eight (8) feet on each side of a lot.

d. On corner lots, the minimum side setback on the street side of the property may not be less than twenty (20) feet and the minimum front setback may not be less than twenty-five (25) feet.

6. **Building Height.** No building shall be more than two and one-half (2½) stories or thirty-five (35) feet high, excepting church steeples.
7. **Parking Requirements.**
  - a. There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.
  - b. Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 4-0601.
8. **Sign Requirements.**
  - a. 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.
  - b. Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
  - c. Non-residential uses shall be subject to the provisions of Section 4-0602.

4-0505. **MFR-4 - MULTIPLE FAMILY RESIDENTIAL DISTRICT.**

1. **Purpose.** The MFR-4 multiple family residential district is primarily established to promote a suitable residential environment and to accommodate higher density residential development to meet the needs of various income and age groups in the City of Kindred.

Source: Ord. 2013-47, Sec. 8 (2013)

2. **Permitted Uses.**
  - a. Two family dwelling units.
  - b. Multiple family dwelling units.
  - c. Home occupation.
  - d. Accessory buildings and structures, as set out in Section 4-0610 of these ordinances.

SOURCE: Ord. 2008-21, Sec. 4 (2008).

- e. Parks and play grounds, golf courses and outdoor sport facilities.
  - f. Parking lots for residential uses.
  - g. Municipal facilities such as city hall, fire station, police station, library, and museum.
  - h. Churches and related buildings.
  - i. Day care facilities.
  - j. Public and private schools.
3. **Conditionally Permitted Uses.** The following uses are subject to the provisions of Section 4-1102.
- a. Bed and breakfast establishments.
  - b. Cemeteries, crematoriums and the related facilities.
  - c. Nursing homes.
  - d. Group homes, group quarters, lodging houses and rooming houses.
  - e. Professional offices.
  - f. Private clubs and fraternal organizations.
4. **Lot Area, Lot Width and Lot Coverage.**
- a. The minimum lot area for each dwelling unit in a multiple family structure of more than two (2) units in the city shall be three thousand (3,000) square feet.
  - b. The minimum lot area for multiple family structures shall be twelve thousand (12,000) square feet.
  - c. The minimum lot width in the MFR-4 multiple family residential district shall be seventy-five (75) feet.
  - d. The maximum lot coverage, excluding the yard requirements, shall be 70%.
5. **Yard Requirements.**
- a. The minimum front yard, measured from the front lot line, shall be twenty-five (25) feet.
  - b. The minimum rear yard, measured from the rear lot line, shall be twenty-five (25) feet.



- c. The minimum side yard, measured from the side lot line, shall be ten (10) feet.
- d. On corner lots, the minimum side setback on the street side of the property may not be less than twenty (20) feet and the minimum front setback may not be less than twenty-five (25) feet.

Source: Ord. 2017-67, Sec. 6

**6. Building Height.**

- a. No residential building shall be more than three (3) stories or forty-five (45) feet high.
- b. Non-residential buildings shall be no more than two and one-half (2½) stories or thirty-five (35) feet high excepting church steeples and similar structural elements.

**7. Parking Requirements.**

- a. There shall be two (2) surfaced off-street parking spaces for each residential dwelling unit. For efficiency apartments there shall be at least one space per dwelling unit.
- b. There shall be no less than one off-street parking space for each ten (10) beds in the nursing homes and group homes.
- c. Non-residential uses shall be subject to the provisions of Section 4-0601.

**8. Sign Requirements.**

- a. 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.
- b. Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- c. Signs for Non-residential uses shall be subject to the provisions of Section 4-0602.

4-0506. **GC-1 - GENERAL COMMERCIAL DISTRICT.**

1. **Purpose.** The GC-1 general 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.

2. **Permitted Uses.**

a. Accessory buildings and uses, as set out in Section 4-0610 of these ordinances.

SOURCE: Ord. 2008-21, Sec. 5 (2008).

b. Advertising signs and billboards.

c. Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.

d. Banks and financial institutions.

e. Bed and breakfast establishments.

f. Boarding and rooming houses.

g. Churches and places of assembly.

h. Dry cleaning and laundromats.

i. Fraternal and philanthropic organizations.

j. Furnishing and furniture stores.

k. General services and repairs.

l. Hotels and motels.

m. Multiple family dwelling units and residential units above commercial businesses.

n. Nursing homes.

o. Professional offices for businesses and services without limitation.

p. Public buildings and facilities.

q. Restaurants including all types of eating and drinking establishments.

r. Retail stores of all types including but not limited to food, drug, clothing, parts, materials and the like.

- s. Day care facilities.

Source: Ord. 2008-23, Sec. 1 (2008)

- 3. **Conditionally Permitted Uses.** The following uses are subject to the provisions of Section 4-1102.
  - a. Contractor's yards and operations provided that the storage area is fenced and not visible from the street.
  - b. Grain elevators.
  - c. Processing and packaging of materials.
  - d. Storage spaces for rent.
  - e. Warehouses and wholesale distributorships.
  - f. Storage of vehicles, equipment, machinery, supplies, and other similar items not incidental to the on-site operation of a business that is registered with the North Dakota Secretary of State.
  - g. Storage of vehicles, equipment, machinery, supplies, and other similar items owned by a person, except if the person resides on the property.

Source: Ord. 2020-81. Sec. 1

- 4. **Lot Area and Lot Width.**
  - a. The minimum lot area for commercial use shall be ten thousand (10,000) square feet.
  - b. The minimum lot width for commercial district shall be seventy-five (75) feet, excluding the lots of record.
  - c. The maximum lot coverage, excluding the yard requirement shall be 70%.
- 5. **Yard Requirements.**
  - a. The minimum front building line, measured from the front lot line, shall be twenty-five (25) feet.
  - b. The minimum rear building line, measured from the rear lot line, shall be twenty (20) feet.

- c. The minimum side building line, measured from the interior side of the lot shall be ten (10) feet.
- 6. **Building Height.** The building height requirements in the general commercial district shall not be more than sixty (60) feet excepting farm related buildings and communication towers.
- 7. **Parking Requirements.**
  - a. For commercial uses, the rear yard spaces may be used for parking.
  - b. For commercial uses, parking shall be subject to the provisions of Section 4-0601.
  - c. For residential uses, there shall be two (2) off-street parking spaces for each dwelling unit.
- 8. **Sign Requirements.** For uses in commercial district, signs shall be subject to the provisions of Section 4-0602.

4-0507. **HC-2 - HIGHWAY COMMERCIAL DISTRICT.**

1. **Purpose.** The HC-2 highway commercial district is primarily established to accommodate those highway oriented commercial uses which by nature and operational characteristics such as direct access, large number of parking spaces, require separation from other uses because of the intensity and frequency of consumer travel.

2. **Permitted Uses.**

- a. Accessory uses, as set out in Section 4-0610 of these ordinances.

SOURCE: Ord. 2008-21, Sec. 6 (2008).

- b. Advertising signs and billboards, subject to Section 4-0602.
- c. Amusement places such as bowling alleys, athletic clubs, pool halls, theaters, miniature golf courses and similar outdoor or indoor facilities.
- d. Animal hospitals and kennels including outdoor dog runs or exercise pens when located not less than two hundred (200) feet from any residential district.
- e. Bakeries and confectioneries.

- f. Banks and financial institutions.
- g. Battery and tire service establishments.
- h. Building material and supply establishments.
- i. Carpet and rug stores.
- j. Churches and places of assembly.
- k. Department stores.
- l. Dry cleaning establishments and laundromats.
- m. Feed and seed stores.
- n. Frozen food lockers, but not slaughtering on the premises.
- o. Fuel sales establishments.
- p. Funeral homes.
- q. Furniture and refinishing and upholstering.
- r. Garages for repair and service of motor vehicles including towing and wrecker service but not salvage operations.
- s. Green houses.
- t. Highway maintenance shops.
- u. Machinery and equipment sales and service including farm machinery and accessories.
- v. Marine vehicle sales and service.
- w. Meat product sales and locker rentals.
- x. Monument sales.
- y. Motels and hotels.
- z. Motor vehicle sales and rental.
- aa. Office and supply stores and business machine sales and services.
- ab. Packing and crating operations.
- ac. Plumbing shops and yards.

- ad. Radio, television, and electronic equipment sales and service.
- ae. Recreational vehicles sales and service.
- af. Restaurants including all types of eating and drinking establishments.
- ag. Shopping malls including the retail services customarily accommodated therein.
- ah. Sporting goods stores and bait shops.
- ai. Taverns and liquor stores.
- aj. Single and multiple residential dwelling units above commercial businesses.

Source: Ord. 2022-96, Sec. 1

- 3. **Conditionally Permitted Uses.** Conditional uses shall not be located less than two hundred (200) feet from a residential district and shall be subject to the provisions of Section 4-1102.
  - a. Contractors yard, provided that the storage area is fenced and not visible from the street.
  - b. Machine shops and fabrication of metal products.
  - c. Processing and packing of non-toxic and non-odorous material.
- 4. **Lot Area, Lot Width and Lot Coverage.**
  - a. The minimum lot area for HC-2 highway commercial district shall be twenty thousand (20,000) square feet.
  - b. The minimum lot width for HC-2 highway commercial district shall be one hundred (100) feet.
  - c. The maximum lot coverage, excluding the yard requirement shall be 70%, exclusive of the yard requirements.
- 5. **Yard Requirements.**
  - a. The minimum front building line, measured from the front lot line, shall be fifty (50) feet for all properties, Cass County Highway 15. For properties fronting on other streets the minimum building line shall be twenty (20) feet.

- b. The minimum rear building line for properties Cass County Highway 15 shall be fifty (50) feet and for other streets the minimum shall be twenty (20) feet.
  - c. The minimum side building line, measured from Cass County Highways 15 rights-of-way shall be twenty-five (25) feet. The minimum side yard for interior side of the lot shall be ten (10) feet. The minimum side building line measured from other rights-of-way shall be ten (10) feet.
6. **Building Height.** The building height requirement in HC-2 highway commercial district shall be subject to the provisions of the city airport height regulations.
7. **Parking Requirements.**
- a. The front yard may be used for parking.
  - b. Parking in HC-2 highway commercial district, shall be subject to the provisions of Section 4-0601.
8. **Sign Requirements.** Signs in HC-2 highway commercial district shall be subject to the provisions of Section 4-0602.

4-0508. **I - INDUSTRIAL DISTRICT.**

1. **Purpose.** The I industrial district is primarily established to accommodate industrial uses and facilities appropriate to the City of Kindred. 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.
2. **Permitted Uses.**
- a. Accessory uses.
  - b. Agricultural chemical production and storage.
  - c. Any industrial or manufacturing operation provided that: (a) dust, fumes, odors, smoke, vapor, noise, lights and vibration producing operations shall be enclosed within the premises, and: (b) outdoor storage, equipment and materials areas shall be concealed from abutting street or highway rights-of-way.

- d. Any production, processing and treatment of products such as battery and tire service, dairy processing, bottling works, ice and cold storage plants, machine and sheet metal shops provided that all operations be conducted entirely in enclosed buildings.

Source: Ord. 2007-20, Sec. 2 (2008).

- e. Building material and supply establishments.
- f. Contractors yards and construction shops.
- g. Electric power production and substations.
- h. Fuel sales establishment including bottle gas.
- i. Grain elevators.
- j. Public utility buildings including water and waste water facilities and accessories.
- k. Radio, television, microwave, cellular phone towers and related facilities.
- l. Aggregate stockpiling and sales, asphalt processing and concrete redi-mix plants, as well as accessory trucking operations.

Source: Ord. 2007-20, Sec. 2 (2008).

- m. Truck terminals.

Source: Ord. 2007-20, Sec. 2 (2008).

3. **Conditionally Permitted Uses.** The following uses shall be subject to the provisions of Section 4-1102.

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

4. **Lot Area and Lot Width.**



- a. The minimum lot area for industrial district shall be one acre.
  - b. The minimum lot width for industrial district shall be one hundred (100) feet.
5. **Yard Requirements.**
- a. The minimum setback from Cass County Highway 15 shall be fifty (50) feet and for any streets shall be twenty-five (25) feet.
  - b. The minimum rear building line, measured from the rear lot line, Cass County Highway 15 shall be fifty (50) feet and for other streets shall be twenty (20) feet.
  - c. The minimum side building line, measured from the side lot line, shall be twenty (20) feet.
6. **Building Height.** The building height requirement in industrial district shall not be more than sixty (60) feet.
7. **Parking Requirements.** Parking in the industrial district, shall be subject to the provisions of Section 4-0601.
8. **Sign Requirements.** Signs in the industrial district shall be subject to the provisions of Section 4-0602.

4-0509. **PD - PLANNED DEVELOPMENT DISTRICT.**

1. **Purpose.** The PD planned development district is primarily established to encourage and promote environmental quality of the City of Kindred 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 Kindred Plan 2020. 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.
2. **Permitted Uses.**
  - a. 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 uses.

- b. No use shall be permitted in the PD District except in conformity with Kindred Plan 2020 and the detailed development plan prepared to meet the requirement of this district.
- c. 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.
- d. The PD District shall not adversely affect the economic prosperity of the City of Kindred or its extra territorial planning area.
- e. 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 its termination. The terms of the assurances shall address financial and development considerations in sufficient detail as may be required by the city.

3. **Site Requirements.**

- a. 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.
- b. The minimum land parcel for PD District shall be two (2) acres.
- c. In PD District the location, number and configuration of parking spaces shall be a part of the detailed development plan.
- d. In PD District the location, type and size of signs shall be a part of the detailed development plan.

4. **Development Plan.** A Development Plan shall be include the following maps and data.

- a. Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
- b. Detailed layout of proposed streets and location of blocks for designated uses.

- c. Location of open spaces and facilities for public uses.
- d. Existing drainage pattern based on the current topographic information and the location of land to be dedicated for park and playground.
- e. The development plan shall be drawn at a scale of one inch equaling two hundred (200) feet or less.
- f. Other engineering or financial information required by the city.
- g. Proof of financial capability.
- h. Analysis of economic impacts.
- i. Agreements, by-laws, provisions and covenants which insures the timely and satisfactory completion of the project without posing a burden on the city or adjoining properties.

5. **Review and Approval Procedure.**

- a. 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.
- b. 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 is required.
- c. Upon approval by the City Council, the detailed development plan shall be recorded with the Cass County Register of Deeds and the original plan be kept on file in the office of the Code Administrator.

4-0510. **F - FLOOD PLAIN DISTRICT.** 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 Kindred and Cass County, 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. This district is an overlay district and its provisions apply to all flood prone lands in the City of Kindred.

- 1. **Purpose.** The F Flood Plain District is primarily established to designate those areas which 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.

2. **Permitted Uses.**

- a. Agricultural uses including general farming, pasture/grazing and related uses excluding the buildings and structures for human occupancy.
- b. Non-structural uses including ponding of run-off water and treated waste water.
- c. Public utilities including railroads, streets, bridges, channels, and pipelines.
- d. Outdoor recreational uses including, golf courses, bicycle trails, picnic areas and boat launching ramps.

3. **Conditionally Permitted Uses.** Temporary buildings and structures not related to flood control and farming such as stands, fences, shelters, temporary signs and temporary parking. These uses shall be subject to the provisions of Section 4-1102.

4. **Building Height.** No building shall be more than two and one-half (2½) stories or thirty-five (35) feet high excepting farm silos.

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

4-0511. **D - DOWNTOWN DISTRICT** Source: Ord. 2020-78, Sec. 3

1. **Purpose.** The purpose of the D Downtown Zoning District is to create a pedestrian-orientated district that contains a compatible mix of residential and commercial uses. This district is meant to encourage infill development and the revitalization of Kindred's core. Uses within this district will consist primarily those that can generate day-to-day activity and patronage.

2. **Permitted Uses.**

- a. Accessory buildings and uses as set out in Section 4-0610 of these ordinances.
- b. Amusement places including bowling alleys, athletic clubs, pool halls, and similar indoor facilities.

- c. Bakeries and confectionaries.
  - d. Banks and financial institutions.
  - e. Bed and breakfast establishments.
  - f. Building material and supply establishments.
  - g. Day care facilities.
  - h. Dry cleaning and laundromats.
  - i. Fraternal and philanthropic organizations.
  - j. Furnishing and furniture stores.
  - k. Hotels and motels.
  - l. Medical or dental clinic.
  - m. Personal service shop or agency including but not limited to tailor, dressmaking, beauty, barber, laundromat, shoe repair shop, or mailing and packaging service.
  - n. Professional offices for businesses and services without limitation.
  - o. Restaurants including all types of eating and drinking establishments, excluding those offering in-car services.
  - p. Retail stores of all types including but not limited to food, drug, clothing, parts, materials and the like. Exceptions to this category include gas stations, convenience stores, and any retail with a drive-through component.
  - q. Single and multiple residential dwelling units above commercial businesses.
  - r. Theaters, except those offering in-car services.
3. **Conditionally Permitted Uses.** The following uses shall be subject to the provisions of Section 4-1102.
- a. Public buildings and facilities, including parks, playgrounds, and outdoor sports facilities.
  - b. Light manufacturing or production with the following requirements:

- (i) The property also contains an on-site retail or service component.
  - (ii) The use shall not generate smoke, gases, odors, emissions, trash, refuse, or heat that will constitute a nuisance to surrounding property owners or the public.
  - (iii) No bulk storage of flammable or hazardous materials for resale.
  - (iv) Storage of materials and production activities must be in an enclosed structure.
- c. Automobile body shops, battery and tire service establishments, and other automobile service establishments.

**4. Prohibited Uses.**

- a. Storage of vehicles, equipment, machinery, supplies, and other similar items not incidental to the on-site operation of a business that is registered with the North Dakota Secretary of State.
- b. Storage of vehicles, equipment, machinery, supplies, and other similar items owned by a person, except if the person resides on the property.
- c. Self-storage facilities.
- d. Boarding and rooming houses.
- e. Nursing homes.
- f. Feed and seed stores.
- g. Fuel sales.
- h. Funeral homes.
- i. Assembly, packaging, freight, or warehousing.
- j. Telecommunications towers.
- k. Any use which is noxious or offensive by reason of odor, dust, noise, smoke, gas, fumes, radiation, or similar environmental impacts.

**5. Lot Area, Lot Width, and Lot Coverage.**

- a. The minimum lot area for D downtown district shall be 1,300 square feet.
  - b. The minimum lot width for D downtown district shall be 25 feet.
  - c. The maximum lot coverage shall be 100%, exclusive of the yard setback requirements.
6. **Yard Requirements.**
- a. The minimum front building line, measured from the front lot line, shall be zero (0) feet.
  - b. The maximum front building line, measured from the front lot line, shall be ten (10) feet. Vehicle parking is not allowed within the front yard setback.
  - c. The building can be setback from the front lot line up to twenty-five (25) feet if the front yard is used for pedestrian-orientated purposes including but not limited to dining, retail, handicap accessible entrance, or a landscaped patio, plaza, or greenspace. Vehicle parking is not allowed within the front yard setback.
  - d. The minimum rear yard, measured from the rear lot line, shall be forty (40) feet.
  - e. The minimum side building line, measured from the interior side lot line, shall be zero (0) feet.
7. **Height.** No building or structure in the downtown district shall be more than 60 feet.
8. **Parking Requirements.**
- a. Off-street parking is permitted only behind the building in the rear yard.
  - b. No off-street parking spots or access to said spots shall be located in the front of the building facing Elm Street.
  - c. There shall be no parking spots, in whole or in part, within four and one half (4.5) feet of sidewalks.
  - d. An off-street automobile parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.

- e. All open off-street parking areas 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 graded to dispose of all surface water run-off but not be diverted to adjoining properties.
- f. No structure shall be erected or enlarged without meeting the following parking requirements:
  - (i) All uses with the principal building smaller than one thousand eight hundred (1,800) square feet are exempt from being required to provide off-street parking spaces.
  - (ii) Retail businesses and services, offices, studios, banks, medical or dental clinics, private clubs or lodges, and other similar commercial uses with the principal building 1,800 square feet and greater must provide one (1) parking space for each three hundred (300) square feet above the one thousand eight hundred (1,800) square feet threshold.
  - (iii) Restaurants or eating and drinking establishments with the principal building 1,800 square feet and greater must provide one (1) parking space for each two hundred (200) square feet above the one thousand eight hundred (1,800) square feet threshold.
  - (iv) Notwithstanding the aforementioned provision (i), hotels, motels, bed and breakfast, or other lodging uses shall have one (1) parking space per rentable room.
  - (v) Notwithstanding the aforementioned provision (i), Residential uses shall have one (1) parking space per bedroom with no more than two (2) total spaces per residential unit.
- g. Those parcels containing a mixture of commercial and residential uses shall calculate its parking requirements based upon the relative amount of square feet devoted towards each type of use.
- h. Uses with different operating hours or peak business periods may share off-street parking spaces as part of an Alternative Access and Parking



Plan that has been approved by the Planning and Zoning Commission.

- (i) Shared parking spaces must be located within 500 feet of the primary entrance.
- (ii) Shared parking areas serving uses the downtown zoning district must be located in the downtown district or any commercial zoning district.
- (iii) Those wishing to use shared parking as a means of satisfying off-street parking requirements must submit, in writing, an analysis to the Planning and Zoning Commission that clearly demonstrates the feasibility of shared parking. The analysis must address the size and type of structures, the composition of tenants, the anticipated rate of parking turnover, and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

9. **Sign Requirements.** Signs in D downtown district shall be subject to the provisions of Section 4-0602 and to the following provisions:

- a. Projecting signs may encroach over the sidewalk no greater than four (4) feet from the curb cut. The minimum vertical clearance is ten (10) feet in height as measured from the established grade of the sidewalk.
- b. Sidewalk signs are permitted as long as the placement of the sign does not present a safety hazard or reduces the traversable space to less than the requirements of the Americans with Disabilities Act.

10. **District Design and Compatibility Standards.** In order to fulfill the purpose of this district, the following standards are enacted to preserve and enhance the aesthetic character and pedestrian-orientated nature of the district.

- a. Vehicle access to the property will be limited to accessing off-street parking and for the loading and unloading of deliveries incidental to the commercial or residential use.
- b. Vehicle access to enclosed storage, such as garages, or access to shop or storage space is

prohibited along sides of the lot facing Elm Street.

- c. Drive-through service is prohibited in the downtown district.
- d. Buildings abutting Elm Street shall have its principal entrance located along Elm Street. Exceptions to this provision are:
  - (i) The building is subdivided into lots in such a manner that precludes direct access from Elm Street.
  - (ii) The physical layout of the building precludes direct access from Elm Street.
  - (iii) An entrance accessible to those with physical handicaps is not physically or financially feasible.
- e. Building facades orientated towards sidewalks must have a minimum of 15% glazing for all upper floor facades.
- f. Façade elements above the ground floor may project into yards.
- g. The ground floor building façade along Elm Street must be configured as follows:
  - (i) 50% clear non-reflective and non-tinted glass is required along ground floor façade between two (2) feet above grade and ten (10) feet above grade.
  - (ii) Building entries may be recessed from the façade up to 8 feet in depth.
  - (iii) Awnings may project into the right-of-way to within two (2) feet of the curb.
- h. The screening of ground-level building mechanical or electrical equipment and trash receptacles or dumpsters shall follow the provisions of Section 4-0609.
- i. Rooftop building and mechanical equipment shall be screened from public view between the ground level and six feet off the ground level. The screening shall be at least 60% opaque, it shall be at least as tall as the equipment it is intended to screen,

and it must harmonize with the design of the building in terms of material, color, shape, and size. Off-premise signs and billboards shall not be considered required screening.

- j. All walls that front a public street shall be finished with architectural materials such as brick, glass, stone, ceramic, stucco, precast panels, exterior insulation finish systems (e.g. dryvit), or curtain walls.
- k. The following materials shall not be used on walls visible from a public street: metal panels, vinyl or aluminum siding, wood-based materials, concrete blocks or cinder blocks, and fiberglass or plastics. Concrete block may be used only if it is burnished, standing flute, or sculpted.

CHAPTER 4-06

SPECIAL PROVISIONS

SECTIONS:

- 4-0601. Off-Street Parking.
- 4-0602. Sign Requirements.
- 4-0603. Junk or Salvage Yards.
- 4-0604. Feed Lots.
- 4-0605. Sand and Gravel Operations.
- 4-0606. Sanitary Landfills and Solid Waste Sites.
- 4-0607. Public Nuisances.
- 4-0608. Adult Entertainment Centers - Location Restricted.
- 4-0609. General Fencing and Screening Requirements.
- 4-0610. Accessory Structures in Residential and Commercial Districts.

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4-0601. **OFF-STREET PARKING.**

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.
2. **General Requirements.**
  - a. An off-street automobile parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.
  - b. 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 graded to dispose of all surface water run-off but not be diverted to adjoining properties.
  - c. Parking of recreational vehicles as living spaces in residential districts shall be limited to two (2) weeks. All recreational vehicles shall be parked on surfaced parking spaces.
3. **Special Requirements.**
  - a. No structure shall be erected or enlarged without meeting the following parking requirements:
    - (i) For retail businesses and services, offices, studio, bank, medical or dental clinics, one (1) parking space for each one hundred (100) square feet of floor area.

- (ii) For private club or lodge; two parking spaces for each one hundred (100) square feet of service area.
- (iii) For restaurant, eating and drinking establishment; one parking space for each one hundred (100) square feet of floor area.
- (iv) For industrial uses there shall be one off street parking space for every two (2) employees.

4-0602. **SIGN REQUIREMENTS.**

1. **Purpose.** The purposes of regulating signs in the City of Kindred 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.
2. **General Requirements.**
  - a. Directory signs shall not be larger than twenty (20) square feet in area for permitted uses.
  - b. Directory signs for conditional uses shall not be larger than forty (40) square feet.
  - c. General advertising signs shall not be larger than ninety-six (96) square feet.
  - d. All signs larger than twenty (20) square feet shall require a conditional use permit as provided in Section 4-1102.
3. **Special Requirements.**
  - a. Signs in the residential districts shall be limited to: (i) One sign per dwelling structure which may be wall, pedestal, ground or projecting type; (ii) One temporary sign such as "For Sale", "For Rent", not exceeding twenty (20) square feet in area.
  - b. Signs in the commercial and industrial districts shall be limited to: (i) One general identification sign per business not exceeding fifty (50) square feet in area which may be wall, pedestal, ground or projecting type. (ii) Temporary signs including "For Sale", "For Rent"; political campaign signs, greeting signs and rally signs not exceeding fifty (50) square feet in area; (iii) 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.

4-0603. **Junk or Salvage Yards.**

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.
2. **Site Approval Requirements.** All sites for salvage and junk yards require approval by the City Council.
3. **Locational Standards.**
  - a. No salvage or junk yard shall be located within five hundred (500) feet of a residential district and two hundred (200) feet of commercial buildings and structures.
  - b. No salvage or junk yard shall be located in areas which due to high water table, flooding and soil conditions may affect the quality of surface and ground water.
  - c. No salvage or junk yard shall be located nearer than one hundred (100) feet of all streets and highway rights-of-way.
  - d. 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, buildings and land form.

4-0604. **FEED LOTS.**

1. **Purpose.** These regulations are designed to allow feed lots for feeding of livestock, fur bearers and poultry at the same time protect the adjoining uses against odor, run off and other incompatible characteristics associated with feed lots.
2. **Site Approval Requirement.** All sites for feed lots require approval by the City Council after a public hearing before the Planning Commission.
3. **General Requirements.**
  - a. All feed lots 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.

- b. All feed lots shall be designed and constructed with all reasonable preventive measures to avoid surface run-off including construction of sealed collection and retention ponds.
  - c. Where appropriate, there shall be sufficient drainage to avoid pollution of the ground water from the standing effluents.
  - d. Feed lots shall not be placed in the floodplains.
  - e. 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 feed lot.
  - f. No feed lot 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 Kindred.
4. **Permit Requirements.** The City Auditor may issue a permit for feed lot operation after a public hearing before the Planning Commission and approval by the City Council.

#### 4-0605. **SAND AND GRAVEL OPERATIONS.**

1. **Purpose.** The purpose of these provisions is to provide for mining, stock piling and extraction of sand and gravel for commercial uses, and 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 Kindred.
2. **Site Approval Requirements.** All sand and gravel mining and stock piling excavation sites require approval by the City Council and public hearing before the Planning Commission.
3. **Data Submission Requirement.**
  - a. 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.

- b. A guarantee that the reclamation of the site be completed within one year of the closure of the operation of the site.
  - c. Proof of compatibility with the existing land form including the vegetation, surface and ground water resources.
- 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.
  - 5. **Permit Requirements.** Any person who operates a sand and gravel operation shall obtain a permit from the City Auditor before starting any mining or excavation of the sand and gravel sites, and upon approval by the City Council, after a public hearing before the Planning Commission.

4-0606. **SANITARY LANDFILLS AND SOLID WASTE SITES.**

- 1. **Compliance with State Laws and Rules.** Any person who operates sanitary landfills, inert landfills or similar solid waste sites shall comply with all North Dakota state laws and administrative rules set forth by the State agencies and the provisions of this code.
- 2. **City Code and Procedures.** The City of Kindred hereby adopts solid waste provisions, subject to the Provisions of N.D.C.C. 11-33-20, to assure meeting the purposes of this Code and the Kindred Plan 2020.
- 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 Kindred and its extra territorial planning area.
- 4. **Site Approval Requirements.** All solid waste sites require approval by the City Council after a public hearing before the Planning Commission.
- 5. **Locational Standards.**
  - a. No landfill or incinerator shall be located within one thousand (1,000) feet of residential uses, and five hundred (500) feet of non-compatible commercial buildings and structures.



- b. 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.
- c. No landfill operation shall be located nearer than one hundred (100) feet of all road and highway rights-of-way.

6. **Data Submission Requirements.**

- a. 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.
- b. A plan for operation of the site including a descriptive text explaining consistency or inconsistency with the natural or man made environment.
- c. 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.
- d. The City Council may require additional information if it deems it necessary.

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 and public health, safety and welfare.

4-0607. **PUBLIC NUISANCES.** Public nuisances including but not limited to noxious weeds, grass over the height of 6-inches, smoke, gases, radio interference, noise, accumulation of junk, trash, rubbish, appliances, inoperational automobiles and parts, dead or diseased trees shall not be permitted and shall be subject to violation and penalties of Chapter 4-13 of this Code.

4-0608. **Adult Entertainment Centers - Location Restricted.**

- 1. **Purpose.** The purpose of this section is to limit location of an adult entertainment facility and its visible exposure to other residents of the township.
- 2. **Definitions.**
  - a. **Adult Bookstore:** An enclosed building having as a substantial or significant portion of its stock in

trade, books, magazines, or other periodicals which are distinguished or characterized by their emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

- b. Adult Cinema: An enclosed building used on a regular basis for presenting pictorial materials or other visual images by way of direct or indirect projection, which materials are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons therein in return for the payment of a consideration, irrespective of the number of patrons who may be able to view the presentation at one time.
- c. Adult Live Performance Theater: An enclosed building used on a regular basis for presenting live performances by singers, musicians, dancers, comedians, models, or any similar type of entertainers, which live performances are distinguished or characterized by an emphasis on the depiction of specified sexual activities or specified anatomical areas, for observation by patrons.
- d. Adult Entertainment Center: An adult bookstore or adult cinema, or adult live performance theater.
- e. Specified Anatomical Areas:
  - (1) Less than completely and opaquely covered:
    - a) Human genitals, pubic region;
    - b) Buttock;
    - c) Female breast below a point immediately above the top of the areola; and
  - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- f. Specified Sexual Activities:
  - (1) Human genitals in a state of sexual stimulations or arousal;
  - (2) Acts of human masturbation, sexual intercourse, or sodomy;

(3) Fondling of human genitals, pubic region, buttock or female breast.

3. **Location:** Notwithstanding anything in this zoning ordinance to the contrary, an adult entertainment center shall be permitted only as a conditional use in the I, GC-1 and HC-2 districts, and then only if the center meets the following conditions:

a. The center is located no closer than 1250 feet from any religious institution, cemetery, school, park or recreational facility (bike paths excluded).

Source: Ord. 2013-47, Sec. 9 (2013)

b. The center shall not be located within 1,250 feet of any establishment that dispenses alcohol on-premises.

c. The center shall not be located within 1,250 feet of any other adult entertainment center.

d. The center excludes from its premises those persons less than 18 years of age.

e. The center displays no signs visible from the exterior of the center, except for signs identifying the center as an adult bookstore, adult cinema or adult live performance theater, or combination thereof.

f. No materials depicting specified sexual activities or specified anatomical areas shall be visible from the exterior of the center.

g. The business premises of the center which are generally open to its patrons are open equally at the same time without charge to members of any law enforcement agency who may wish to enter thereon, provided the entry is in the course of the discharge of the law enforcement officer's duties.

4-0609. **GENERAL FENCING AND SCREENING REQUIREMENTS.**

Source: Ord. 2006-11, Sec. 1 (2007), Ord. 2012-41, Sec. 1 (2013)

1. **Definition of Fence.** An artificially constructed structure of any material or combination of material erected to enclose or screen areas of land.

2. **General Fencing and Screening Requirements for Residential Areas.** In any residential district, fences, hedges, and plantings may be permitted in the buildable area and in any required yard, or along the edge of any yard, provided that no fence or hedge along the sides or

front edge of any required front yard shall be over three (3) feet in height, except on through lots or double frontage lots where one of the front yards is intended to serve as the rear yard and is consistent with the other lots on the block a fence or hedge may be up to eight (8) feet in height. All fencing and screening shall meet visibility requirements for intersections by not impeding vision between a height of two and one-half (2½) feet and ten (10) feet within thirty (30) feet from the intersecting curb lines, or within twenty (20) feet from the intersecting property lines if there is no curb. Coordinated fencing schemes for the block are strongly encouraged, and if possible developed during the subdivision process. No fence or hedge within any buildable area or along any side or rear lot line shall be over eight (8) feet in height and shall not extend past the front plane of the house.

No chain link fence is permitted past the front plane of a house.

Where there is an alley, the setback will be a minimum of ten (10) feet from the property line.

2. **Required Fencing and Screening.** Where any business, industrial users, or multiple-family buildings of four (4) or more units (i.e., structure, parking or storage) abuts property zoned for residential use, that business, industry, or multiple-family building shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, industry, or multiple-family building of four (4) or more units is across the street from a residential zone, but not on that side of a business, industry, or multiple-family building considered to be the front yard. Provided, however, that the provisions of this section will not apply where a multiple-family building abuts a property also zoned for multiple-family use. All fencing and screening specifically required by this section shall meet visibility requirements for intersections and other requirements as stated herein, and shall consist of either a fence or green belt planting strip. A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a solid screening effect six (6) feet in height for multiple-family uses and at least six (6) feet in height for business and industrial uses. A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide substantial visual screening to a minimum height of six (6) feet.

Earth mounding and berms may be used but shall not be used to achieve more than three (3) feet of the required screen, unless otherwise provided for by the City (i.e., PUD requirements).

4. **Construction Standards.** No fence, hedge, or plantings shall be constructed or maintained with electrified barbed wire, or other spiked materials which may pose injurious to public health and safety. Posts and other supporting structures used in the construction of fences shall be faced inward toward the property being fenced.
5. **Private Recreational Fences.** Private recreational fences shall conform to the provisions attached to residential fences. Swimming pool fences shall be six (6) feet in height.
6. **Public Fences.** Fences used in connection with public facilities and public recreational uses shall have a maximum height of ten (10) feet in any yard and be of the open fence variety. Residential construction standards shall apply to all public fences.
7. **Non-Residential Fences.** Fences in light commercial areas shall conform to the provisions of residential fences. Fences in industrial or agricultural districts shall conform to the provisions attached to residential fences except where the Building Administrator determines it would be in the public welfare to add to fence height or to add security materials onto the fence. In such cases, fences shall not exceed ten (10) feet in height.
8. **Temporary Fences.** Temporary fences needed to enclose sites, such as construction sites, do not require fencing permits.
9. **Fencing Permit.** With the exception of temporary fences, a permit is required for all fencing. The cost of said permit shall be Twenty-five Dollars (\$25) or one percent (1%) of the total cost of the fencing project, whichever is greater. All fence projects are to be completed within 60 days of the issuance of the Fencing Permit.

4-0610. **ACCESSORY STRUCTURES IN RESIDENTIAL AND COMMERCIAL DISTRICTS.**

Source: Ord. 2008-21, Sec. 7 (2008); Ord. 2018-70, Sec. 2

1. **Front Yards.** No accessory use, building, structure or equipment shall be allowed within a required front yard. With the exception of a garage or driveway, no accessory building, structure, use or equipment may be placed within a front yard.

2. **Rear Yards.** No accessory building, structure, and/or detached garage for a single-family dwelling shall occupy more than twenty-five percent (25%) of the area of the rear yard.
3. **Ground Coverage.** For lots 10,000 square feet or under in area, the total floor area of any garage(s) and accessory buildings may not exceed 1,000 square feet; for lots over 10,000 square feet to 15,000 square feet, the total floor area of any garage(s) and accessory buildings may not exceed 1,200 square feet; for lots over 15,000 square feet to 20,000 square feet, the total floor area of any garage(s) and accessory buildings may not exceed 1,400 square feet; for lots over 20,000 square feet to 25,000 square feet, the total floor area may not exceed 1,600 square feet; for lots over 25,000 square feet, the total floor area may not exceed 1,600 square feet; for lots over 25,000 square feet to 30,000 square feet, the total floor area of any garage(s) and accessory buildings may not exceed 1,800 square feet; for lots over 30,000 square feet to 35,000 square feet, the total floor area may not exceed 2,000 square feet; and for lots exceeding 35,000 square feet, the total floor area of any garage(s) and accessory buildings may not exceed 2,200 square feet; and in all cases the total floor area may not exceed the ground coverage of the dwelling, less any attached garage.
4. **Height.** No accessory building shall be higher than the principle residence, or exceed sixteen (16) feet in height to the peak.
5. **Set-back requirements.** No detached accessory building or use shall be erected in any required yard, except a rear yard, nor shall it be located closer than three (3) feet to any side or rear lot line, subject to the following exceptions:
  - a. Where the rear lot line is coterminous with any alley right-of-way, the accessory building or use shall not be closer than ten (10) feet to such a rear lot line.
  - b. On corner lots, an accessory building or use, including driveways on the street side, shall maintain the same side yard setback required for the main building, except for garages accessing a public street, which shall maintain a setback of 18 feet for lots of 50 feet or less and 20 feet for lots greater in width than 50 feet.

- c. In no instance shall an accessory building or use be located within a dedicated easement right-of-way.
- d. On through lots or double frontage lots where one of the front yards is intended to serve as the rear yard and is consistent with the other lots on the block, detached accessory buildings may be erected within twelve (12) feet of the intended real lot line and three (2) feet of the side lot line.
- e. Accessory buildings for townhouses may be constructed up to the interior lot line following the principal building scheme.

Source: Ord. 2020-83, Sec. 1

- 6. **Time of Construction.** No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced.
- 7. **Limitation of Structures.** No permit shall be issued for the construction of more than one accessory building and/or structure on any single lot except for an accessory building for storage not exceeding one hundred fifty (150) square feet in addition to a detached garage.
- 8. **Encroachment.** All buildings, including those of less than 120 square feet, may not encroach into required easements.
- 9. **Outside Wood boilers.** Outside wood boilers and outside solid fuel burning furnaces are prohibited in all residential and common zones. This subsection specifically includes any outdoor wood boilers located or installed in an accessory building.
- 10. **Storage Containers.** The placement or use of any storage container as an accessory building, storage building, or living unit on residentially zoned property is prohibited.

CHAPTER 4-07

LAND SUBDIVISION

SECTIONS:

- 4-0701. Purpose.
- 4-0702. Pre-Application Conference.
- 4-0703. Preliminary Plat.
- 4-0704. Final Plat.
- 4-0705. Amendment of Kindred Plan 2020.
- 4-0706. Filing of Subdivision Plat.
- 4-0707. Lot Splits. (Source: Ord. 2016-65, Sec. 1)

This section of the code addresses the procedures, requirements and administration for dividing and subdividing land for development of residential, commercial, industrial and other urban uses. It requires a pre-application conference, preliminary plat and final plat submission for review and approval by the City of Kindred after public hearing before the Planning Commission.

4-0701. **Purpose.**

1. To insure the orderly development of the City of Kindred.
2. To provide for proper arrangement of streets in relation to other existing and planned streets.
3. To provide for adequate and convenient open spaces for traffic, utilities, fire fighting, recreation, light and air.
4. To facilitate adequate provisions for access, placement of water and sewer systems, schools, and public open spaces.
5. To avoid development of unsuitable areas because of soil, drainage and other physical limitations.
6. To facilitate subdivision of larger parcels into smaller parcels and lots.
7. To implement the Kindred Plan 2020.

4-0702. **Pre-Application Conference.** Prior to the filing of an application for review of a preliminary plat, the subdivider/developer shall consult the Code Administrator for advice and assistance for the purpose of reviewing the procedures and requirements of this code and related city policies and plans which may affect the proposed development.



4-0703. **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 under 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.

1. **Preliminary Plat Content.** The preliminary plat shall include the following requirements, data and information.
  - a. The preliminary plat drawn at a scale of not smaller than 1" = 100'.
  - b. Name and location of the subdivision.
  - c. Date, graphic scale and north point.
  - d. Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.
  - e. Total acreage within the subdivision.
  - f. 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.
  - g. Location of existing property lines, buildings, drives, streams, water courses, wooded areas and drainage ways.
  - h. Existing zoning of the proposed subdivision and the zoning of the adjacent tracts of land.
  - i. Boundary line of adjacent tracts of land or lots showing owners' name.
  - j. Contour at vertical intervals of not more than two (2) feet.
  - k. Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.

- l. Layout of the proposed streets, alleys, cross walks and easements, showing widths and street names.
  - m. Layout, number and dimensions of all lots and blocks.
  - n. Parcels of land intended to be dedicated or reserved for public use or set aside for the use of property owners within the subdivision.
  - o. Building setback lines, showing dimensions.
2. **Preliminary Plat Submission Requirements.**
- a. The subdivider shall apply on appropriate forms provided by the City Auditor to the Planning Commission at least one week prior to its regularly scheduled meeting.
  - b. The subdivider shall submit two (2) prints of the preliminary plat to the City Auditor at the time the application is made. The plat shall comply with the provisions of this Code.
  - c. The subdivider may submit any instrument and covenant whereby he/she proposes to restrict land use in the subdivision for protecting the proposed development.
  - d. The Planning Commission may require the subdivider to provide other data related to drainage, soil suitability, financing of improvement and other related information.
3. **Development Plan.** Where a development plan is required for a tract of land, the following shall be included in the plan.
- a. Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
  - b. General layout of proposed streets and location of blocks and intended uses.
  - c. Location of open spaces and facilities for public uses.
  - d. Existing drainage pattern.

- e. The development plan shall be drawn at a scale of not smaller than one inch representing four hundred (400) feet.
- f. Soil and flood plain data.
- g. The Planning Commission may require other information as a part of the development plan.

4. **Preliminary Plat Review Process.**

- a. The Planning Commission, after a public hearing (Section 4-1003), 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.
- b. 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.
- c. The City Council may require the subdivider to submit a revised preliminary plat before the subdivider proceeds with the preparation of the final plat. The subdivision of land outside the city but within the extra-territorial area, the city shall require annexation of land to the city. The developer shall be required to pay for the cost of extension of public utilities, if the proposed subdivision is not contiguous to the present development and is separated by undeveloped parcel(s) of land.
- d. 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.

4-0704. **FINAL PLAT.** The final plat shall cover the area which is realistically designated for transfer or sale of lots.

1. **Final Plat Content.** The final plat shall conform to all provisions of this Code and conditions set forth by the City Council.
  - a. Name of subdivision.
  - b. Location by section, township and range, or other legal description.
  - c. Names of owners and surveyor or other professional person preparing the plat.
  - d. Plat map with scale of one inch representing one hundred (100) feet or less.
  - e. Date, graphic scale and north point.
  - f. Boundary line of subdivision based on an accurate traverse, showing distances and bearings.
  - g. Exact location, width and name of all streets within and adjoining the subdivision, and the exact location of all alleys and crosswalks.
  - h. True bearing and distances to the nearest established street lines or official monuments which shall be accurately described on the plat.
  - i. City, township, county or section lines accurately tied to the boundary lines of the subdivision by bearing and distance.
  - j. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
  - k. All easements for rights-of-way provided for public services and public utilities.
  - l. All lot numbers and lot lines, with accurate dimensions in feet and hundredths.
  - m. Accurate location of all monuments, which shall be of material and size in accordance with the standards of the city and the state.
  - n. Accurate outlines and legal descriptions of any areas 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.

- o. Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
  - p. 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.
  - q. 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.
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.
- a. The subdivider shall submit the final plat to the Planing Commission at least one week before the regularly scheduled meeting of the Planning Commission.
  - b. The final plat shall comply with all provisions of this Code and conditions and requirements set forth by the City Council 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.
  - c. 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.
3. **Final Plat Review Process.**
- a. If the Planning Commission, after a public hearing, finds the final plat in conformance with the requirements stipulated for approval of the preliminary plat, it shall recommend for approval to the City Council.
  - b. For subdivisions outside of the city corporate limits, a print of the final plat shall be submitted to the Cass County Commission. The

approval of the County Commission is necessary for all plats outside of the city.

- c. 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.
- d. If all conditions and requirements have been met, the Planning Commission shall recommend approval of the final plat to the City Council.
- e. The City Council, after a public hearing, may approve, deny or modify the final plat.

4-0705. **AMENDMENT OF KINDRED PLAN 2020.** 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 Kindred Plan 2020, 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 Cass County Commission.

4-0706. **FILING OF SUBDIVISION PLAT.** The subdivider, upon approval of the final plat, shall file the plat with the Register of Deeds of Cass County. Sale of any lot prior to filing of the final plat is in violation of this Code.

4-0707. **LOT SPLITS.** (Source: Ord. 2016-65, Sec. 1)

1. **Conditions.** A lot split may be exempt from the platting requirements of this ordinance if the following conditions are met:
  - a. The lot split does not contain more than two lots.
  - b. The two lots conform to the requirement of the respective zoning district for width and area coverage of each lot.
  - c. Any lot may be split only once under these provisions.
  - d. The lot split is not part of a continuing practice of lot splitting for a particular area to circumvent platting or replatting requirements of this ordinance.
  - e. The lot split does not violate any provisions of city ordinances, plans, or any other state and local ordinances.

2. **Procedure.** An application for lot split shall be submitted to the Code Administrator. If the Code Administrator determines that conditions are met, he/she shall schedule a review of the application before the Planning Commission. Written notice of application shall be sent to all property owners within 150 feet of the proposed lot, excluding street rights-of-way and publicly owned properties before the meeting. The board may approve, modify or deny the application for lot split.
3. **Application.** A fee similar to application for rezoning requests shall be required for each application. If the request for lot split is denied, the fee shall be refunded.
4. **Transfer of Lots.** No owner, or agent of owner, shall transfer, sell or agree to sell any land before the lot split, replat, or plat is approved as provided under the requirements of this ordinance.

CHAPTER 4-08

DESIGN STANDARDS

SECTIONS:

- 4-0801. Conformance.
- 4-0802. Street Design.
- 4-0803. Block Design.
- 4-0804. Lot Design.
- 4-0805. Street Names.
- 4-0806. Utility Easements.
- 4-0807. Grading and Drainage.
- 4-0808. Drainage Way Easement.
- 4-0809. Landscaping.
- 4-0810. Street Lights.
- 4-0811. Dedication of Land for Parks and Playgrounds.

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4-0801. **CONFORMANCE.** The subdivider shall prepare the preliminary and final plat in conformance with the standard set forth in this Code and the current city standards.

4-0802. **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, flood plain, 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 Kindred Plan 2020, 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: (a) service streets, reverse frontage street with screen planting in a reservation strip along the rear property line; (b) deep lots with rear service alleys abutting the major street; and (c) 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, 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. The Planning Commission shall discourage direct access to Cass County Highway 15.
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. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than eighty (80) degrees.
9. Curb radii on all block corners shall be at least ten (10) feet and a five (5) foot radius shall be used at intersections of streets and alleys.
10. Street rights-of-way shall be not less than the following:
  - a. Major arterial streets, one hundred (100) feet;
  - b. Minor arterials and collector streets, eighty (80) feet;
  - c. Local streets, sixty (60) feet;
  - d. Cul-de-sac, one hundred (100) feet in diameter for a suitable turnaround;
  - e. Alleys, residential district, twenty (20) feet;
  - f. Sidewalks, four (4) feet;
11. 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 City Council finds it 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.

12. Cul-de-sacs shall not be longer than five hundred (500) feet.
13. Intersections of more than two (2) streets at a point shall not be permitted.
14. Dead-end streets without a suitable turnaround are prohibited.

4-0803. **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 City Council 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 City Council may require service drives or frontage roads along major streets for business and industry.

4-0804. **LOT DESIGN.**

1. 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 dimensions within the city corporate limits shall be subject to the provisions of the appropriate zoning districts under Sections 4-0501 through 4-0504.
2. Non-residential lots shall be subject to the provisions of commercial and industrial zoning districts stipulated in Sections 4-0505 through 4-0507.

3. Residential lot dimensions within the extra territorial planning area in Agricultural District shall be subject to the provisions of Section 4-0501.
4. Residential lots abutting major streets, including Cass County Highway 15, shall have extra depth of at least twenty (20) feet to allow for proper setbacks.
5. All lots shall front a public street.
6. Residential corner lots shall have an extra width of ten (10) feet to permit adequate building setbacks from the side streets.
7. Lot lines shall follow the city corporate limits.
8. Double frontage lots shall be avoided except where essential to provide separation of development from arterial and limited access streets such as Cass County Highway 15.
9. 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.

4-0805. **STREET NAMES.**

1. The Planning Commission may disapprove the name of any street shown on the plat which 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.

4-0806. **UTILITY EASEMENTS.**

1. Easements across lots or along rear or side lot lines shall be provided for utilities where necessary and 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 City Council 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.

4-0807. **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.

4-0808. **DRAINAGE WAY EASEMENT.** Where a subdivision is traversed by a water course 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.

4-0809. **LANDSCAPING.**

1. The planting of trees and shrubs of an appropriate species and at appropriate locations are required in all new plats of subdivisions.
2. For residential subdivisions abutting major streets including Cass County Highway 15, there shall be a buffer area for planting of trees and shrubs to provide a sense of esthetic as well as protection against noise and vibration caused by the moving traffic.
3. For non-residential uses abutting the major streets and County 15, the City Council requires submission of a

landscaping plan for each lot as a prerequisite for issuing a building permit.

Source: Ord. 2013-47, Sec. 10 (2013)

4-0810. **STREET LIGHTS.** Street lights and their location shall be in accordance with the minimum standards established by the City Council.

4-0811. **DEDICATION OF LAND FOR PARKS AND PLAYGROUNDS.** All preliminary and final plats shall designate area(s) for parks and playgrounds for no less than 10% of the area being platted. The parcel(s) to be dedicated shall be usable and accessible to the adjoining properties. Unusable land located in the drainage ways and land difficult to use for park and playground purposes shall not be accepted. The City of Kindred may waive the requirements for dedication of land for parks and playgrounds if it finds that the proposed site would be too small or unsuitable for meeting the needs of the new development. In lieu of dedication, the City may require cash payment for the value of the land to be dedicated. Such funds shall only be used for park and playground land acquisitions or improvements.

Source: Ord. 2006-10, Sec. 1 (2006)

CHAPTER 4-09

REQUIRED IMPROVEMENTS

SECTIONS:

- 4-0901. Completion Assurance.
- 4-0902. Survey Monuments.
- 4-0903. Public Water.
- 4-0904. Sanitary Sewer.
- 4-0905. Storm Sewer.
- 4-0906. Grading and Surfacing.
- 4-0907. Curbs, Gutters and Sidewalks.
- 4-0908. Installation of Improvements.

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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.

4-0901. **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.

4-0902. **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.

4-0903. **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 Cass County and State of North Dakota.

4-0904. **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.

4-0905. **STORM SEWER.** The storm sewer drainage facilities shall be installed in accordance with the plans and specifications approved by the City Council.

4-0906. **GRADING AND SURFACING.** The full width of all rights-of-way shall be graded in accordance with the City of Kindred street standards.

4-0907. **CURBS, GUTTERS AND SIDEWALKS.** Concrete curbs and gutters, where appropriate, may be installed in all subdivisions in accordance with the City of Kindred standards. Where the city requires construction of a sidewalk, it shall be in accordance with the design standards established by the City Council.

4-0908. **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.

CHAPTER 4-10

ADMINISTRATION AND ENFORCEMENT

SECTIONS:

- 4-1001. Organization.
- 4-1002. Code Administrator.
- 4-1003. Planning Commission.
- 4-1004. Board of Adjustment.
- 4-1005. City Council.

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4-1001. **ORGANIZATION** To administer this Code the following bodies are hereby vested with authority to act in behalf of City of Kindred.

The Code Administrator

The Planning Commission

The Zoning Board of Adjustment

The City Council

4-1002. **CODE ADMINISTRATOR.** The Code Administrator is a duly appointed city official 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 this Code. The Code Administrator shall consult with the City Engineer on all design and construction matters under this Code.

1. **Duties:**

- a. Issue all zoning certificates, permits and maintain records thereof.
- b. Issue all building and repair permits.
- c. Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.
- d. Receive, file and forward in behalf of the City Council to the Planning Commission all applications for zoning amendments, site approvals and conditional uses.
- e. Prepare and publish notices and notify adjoining property owners.



- f. 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.
  - g. Receive, file and forward to the Planning Commission and the City Engineer all applications for preliminary and final plats and the supporting documents.
  - h. Receive, file and forward all requests for variances to the Board of Adjustment.
  - i. Report all zoning and land subdivision violations to the City Council.
2. **Interpretation of Regulations.** All questions of interpretation of this Code shall be presented to the Board of Adjustment.
3. **Building Permit Applications.** Any person or persons intending to construct or reconstruct or relocate a building or make alteration, shall, before proceeding with the work, or commencing any excavation in connection with it, obtain a permit from the Code Administrator. These provisions shall also apply to manufactured homes.
- a. 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.
  - b. 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.
4. **Building Permits.** The Code Administrator shall issue a building permit if the proposed building or structure conforms to zoning and building provision of this Code. If the Code Administrator denies a permit because of nonconformance with this Code, he/she shall inform the applicant of his/her right to appeal to the Board of Adjustment.
5. **Fees.** The Code Administrator shall charge and collect a fee for zoning applications, conditional use permits, variances, and preliminary and final plats in accordance with the fee schedule established by the City Council.

6. **Certificate of Occupancy or Use.** The Code Administrator shall inspect the completed building, including placement of manufactured homes and assurance that all provisions and conditions set forth under this Code are met. In the event the Code Administrator finds 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.
7. **Conditional Use and Site Approval Permits.** The Code Administrator shall issue a conditional use or site approval permit upon approval of the application by the City Council subject to the provisions of Chapter 4-11.
8. **Variances.** The Code Administrator shall issue a permit if the Board of Adjustment approves the variance. The terms of the variance shall be stipulated in the permit, subject to the provisions of Chapter 4-11. The applicant may appeal to the City Council, if he/she is in disagreement with the action of the Board of Adjustment.
9. **The Final Plat.** The City Mayor shall sign the final plat, if the City Council has approved the final plat subject to the provisions of Chapters 4-07, 4-08 and 4-09 of this Code.

4-1003. **PLANNING COMMISSION.** The Planning Commission shall consist of at least five members appointed by the City Council.

1. **Duties:**

- a. To hear and act on all applications for amendments to zoning districts, plats of subdivisions and take action for recommending approval, denial or approval with modification to the City Council.
- b. To hear and act on all applications for conditionally permitted uses and site approvals in the manner prescribed in this Code and make recommendations to the City Council.
- c. The action of the Planning Commission is advisory to the City Council and all final decisions rest with the City Council.

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 preliminary and final plats applications and other matters before it, give public notice thereof 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 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 Code Administrator.

3. 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.

4-1004. **BOARD OF ADJUSTMENT.** The Zoning Board of Adjustment shall consist of five members appointed by the City Council. The City Council may act as the Zoning Board of Adjustment.

1. **Duties.** Hear and decide petition(s) for variance from the terms of this Code that shall not be contrary to the public interest, plans and policies of the City of Kindred.
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 Code Administrator.

4-1005. **CITY COUNCIL.** The City Council maintains the authority for review, approval, modification and denial of recommendations of the Code Administrator, City Engineer and the Planning Commission.

1. **Duties:**
  - a. The City Council is responsible for approval, modification or denial of amendments to the text of this Code.
  - b. The City Council is responsible for approval, modification or denial of amendments to change the zoning district(s) boundaries.
  - c. The City Council is responsible for granting conditional use permits, preliminary and final plat approval and establishing a fee schedule for all permits issued by the Code Administrator.

- d. The City Council may hear the appeals from the action of the Board of Adjustment.
2. **Notice of Hearing.** The City Council may hold hearing(s) as required by this Code and the laws of the State of North Dakota.

CHAPTER 4-11

PROCEDURES FOR AMENDMENTS, CONDITIONAL USES,  
VARIANCES AND PLATS OF SUBDIVISION

SECTIONS:

- 4-1101. Zoning District Amendments.
- 4-1102. Conditional Use Permits.
- 4-1103. Variances.
- 4-1104. Plat Approval.

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4-1101. **ZONING DISTRICT AMENDMENTS.**

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 city. The notice of hearing shall include: (a) the time and place of hearing for the Planning Commission and the City Council; (b) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (c) the proposed use, requested zoning district change; (d) time and place for public inspection of the documents submitted by the applicant before the hearing; and (e) notification to all property owners within 150 feet of the property in question.
2. **Public Hearings.** 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.
3. **Data Submission Requirements.** Petitions for zoning district change, conditional uses and site approval shall be submitted to the Code Administrator with the following information:
  - a. Legal description of the area proposed to be rezoned.
  - b. A site plan showing buildings and uses in the zoning district proposed to be changed and the requested zoning district classification.
  - c. A fee shall be paid in accordance with the schedule established by the City Council.

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.

4-1102. **CONDITIONAL USE PERMITS.**

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.
2. **Public Hearing Notice.** Shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 4-1101(1).
3. **Public Hearings.** Shall be the same as the provisions set forth for public hearing for zoning district amendment in Section 4-1101(2).
4. **Data Submission Requirements.** Shall be the same as the provisions set forth for data submission requirements for zoning district amendment in Section 4-1101(3).
5. **Deliberation and Decision.** Shall be the same as the provisions set forth for deliberation and decision for zoning district amendment in Section 4-1101(4).
6. **Standards.** No application for conditional use shall be approved unless the City Council finds that all of the following conditions are present.
  - a. 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.
  - b. 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.

- c. 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.
- d. That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- e. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic impact on the area.
- f. That the conditional use shall conform to all applicable regulations of the district in which it is located.

7. **Conditions and Guarantees.**

- a. 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 4-1102(6).
- b. No alteration of conditionally permitted uses shall be permitted unless approved by the City Council.

4-1103. **VARIANCES.** Variance from the dimensional standards of this Code may be granted provided that the applicant establishes proof of practical difficulty or undue hardship. Use variances shall be prohibited.

- 1. **Public Hearing Notice.** The Board of Adjustment shall hold a public hearing, which shall be published at least once a week for two weeks prior to the hearing in the official newspaper of the city. The notice of hearing shall include: (a) the time and place of hearing; (b) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (c) the proposed use and zoning district in which the property is located; (d) time and place for public inspection of the documents before the hearing.
- 2. **Public Hearings.** Shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 4-1101(1).

3. **Data Submission Requirements.** Petitions for variances shall be submitted with the following information.
  - a. Legal description of the property.
  - b. A map showing the existing land uses and zoning district classification of the area.
  - c. The reason for the variance request.
  - d. A proof of whether the hardship is unique to the applicant's property.
  - e. Any other information that the Board of Adjustment deems necessary.
4. **Deliberation and Decision.** In making its finding, the Board of Adjustment shall ascertain that the requests for variance is consistent with the Kindred Plan 2020 and meets all requirements of this Code and other regulations of the City of Kindred.
5. **Standards.** No application for variance shall be approved unless the Board of Adjustment finds that all of the following are present.
  - a. 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.
  - b. That literal interpretation of this Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.
  - c. That the special conditions and circumstances have not resulted from actions of the applicant.
  - d. That granting the variance requested will not confer upon the applicant any special privileges that are denied by this Code to other premises.
6. **Justification.**
  - a. That the reasons set forth in the application justify the granting of the variance.
  - b. The variance is the minimum which would make possible a reasonable use of the premises.
  - c. 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 Kindred Plan 2020 and the purposes of this Code.

d. That there is practical difficulty or unnecessary hardship in use of the premises if the strict application of the regulations are to be carried out.

7. **Appeal.** The decision of the Board of Adjustment may be appealed to the City Council. The City Council after a public hearing subject to the provision of Section 4-1101 shall determine to confirm or reject the decision of the Board of Adjustment. The decision of the City Council may be appealed to Cass County District Court under the laws of North Dakota.

4-1104. **PLAT APPROVAL.** The procedure for approval of the preliminary and final plats shall be the same as the zoning amendment procedure under Chapter 4-11 requiring a public hearing before the Planning Commission and the City Council.

CHAPTER 4-12

CITIZENS PROTEST

SECTIONS:

4-1201. Citizens Protest.

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4-1201. **CITIZENS PROTEST.** If a protest to code amendments (rezoning), conditional use permits, and subdivision plats is signed by owners of 20% or more of the area of the lots included in such proposed change, or of the area adjacent, extending one hundred and fifty (150) feet 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.

CHAPTER 4-13

VIOLATIONS AND PENALTIES

SECTIONS:

4-1301. Violations and Penalties.

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4-1301. **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. Each day that a violation continues shall constitute a separate offense.