

CHAPTER XVII.

ZONING - PLANNING

Article 1.

Planning and Zoning Commission

17.0101 Planning Commission Created.

There is hereby created a planning and zoning commission consisting of the governing body of the City of Columbus which shall recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall hold hearings and make reports and recommendations as to supplements and changes in boundaries and regulations.

17.0102 Terms, Compensation, Meetings.

The terms of the members, their compensation, and meetings shall be as provided by Chapter 40-48 N.D.C.C.

Article 2.

Definitions

17. 0201 Definitions.

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

1. "Accessory Use or Building" is a sub-ordinate use or building customarily incident to and located on the same lot with the main use or building.

2. "Alteration" as applied to a building or structure, is a change or rearrangement in the structural parts or in the exit facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

3. "Building" is a structure designed, built, or occupied as a shelter or roofed enclosure for persons, animals, or property, including tenst, lunch wagons, dining cars, camp cars, trailers, and other roofed structure on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational, or recreational purposes. For the purposes of this definition "roof" shall include an awning or other similar covering, whether or not permanent in nature.

4. "Building Line", is the line between which and the street line or lot line no building or other structure or portion thereof, except as provided in this Code, may be erected above the grade level. The building line is considered a vertical surface intersecting the ground on such line.

5. "Dwelling" is a building designed or used as the living quarters for one or more families.

6. "Dwelling House" is a detached house desinged for and occupied exclusively as the residence of not more than two families each living as an independent housekeeping unit.

7. "Dwelling Unit" is one or more rooms providing complete living facilities for one family, including equipment for cooking, or provisions for the same, and including room or rooms for living, sleeping and eating.

8. "Dwelling, Multi-Family", is a

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- dwelling or group of dwellings on one plot containing separate living units for three or more families, but which may have joint services or facilities for both.
9. "Family" is a single individual, doing his own cooking, and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit in a domestic relationship based upon birth, marriage, or other domestic bond as distinguished from a group occupying a board house, lodging house, club, fraternity or hotel.
 10. "Garage, Private," is a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
 11. "Lot" is a parcel of land occupied or capable of being occupied by one building, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this chapter.
 12. "Non-conforming Use" is a building, structure or use of land existing at the time of the enactment of this chapter, and which does not conform to the regulations of the district in which it is located.
 13. "Setback Building Line" is a building line back of the street line.
 14. "Structure" is anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls as fences.
 15. "Use" is the purpose for which land or a building is arranged, designed or intended, or for which either land or a building is or may be occupied or maintained.
 16. "Yard" is an open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, except as otherwise provided in this chapter.
 17. "Yard, Front," is an open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the street line and the front line of the building projected to the side lines of the lot.
 18. "Yard, Rear," is an open unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.
 19. "Yard, Side," is an open unoccupied space on the same lot with the building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a lot line.

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Article 3.

Establishment of Districts

17.0301 Use and Area Districts Established.

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

17.0302 Maps and Boundaries.

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of Columbus" which is on file in the office of the city auditor which map with all explanatory matter thereon shall be deemed to accompany, be, and is hereby made a part of this Chapter.

17.0303 Annexed Property.

Property which has not been included within a district and which has become a part of the City by annexation shall automatically be classified as lying and being in the residential district until such classification has been changed by an amendment to the Zoning Ordinances as prescribed by law.

Article 4.

Application of Regulations

17.0401 Application of Regulations.

Except as provided in this Chapter:

1. Conformity of Buildings and Land. No building, structure, or premises shall be used or occupied, and no building or part thereof or other structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged, or altered except in conformity with the regulations herein

specified for the district as shown on the official map, in which it is located.

2. Conformity of Buildings. No building, structure or premises shall be erected, altered or used so as to produce smaller yards or less unoccupied area; and no building shall be occupied by more families than prescribed for such building, structure or premises for the district in which it is located.
3. Conformity of Open Spaces. No yard, court or open space, or part thereof, shall be included as a part of the yard, court or open space similarly required for any other building, structure or dwelling under this chapter.

Article 5.

Non-Conforming Uses

17.0501 Non-Conforming Uses.

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

1. Alterations. A non-conforming building or structure may be altered, improved or reconstructed provided such work is not to an extent exceeding in aggregate cost 25 percent of the assessed value of the building or structure, unless the building or structure is changed to a conforming use.
2. Changes. No non-conforming building, structure or use shall be changed to another non-conforming use.

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3. Abandonment. A non-conforming use of a building or premises which has been abandoned shall not thereafter be returned to such non-conforming use.

4. District Changes. Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any non-conforming uses existing therein.

Article 6.

Use Districts

17.0601 Use Districts.

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

R Residential Districts

C Commercial Districts

I Industrial Districts

17.0602 R - Residential District -

In a residential district the following buildings and uses are permitted:

1. Dwelling houses occupied by not more than one family.
2. Multi-family dwelling houses.
3. Publicly owned and operated buildings.
4. Churches and parish houses.
5. Hospitals.
6. Nursing and Rest Homes.

7. Homes for the Aged.

8. Playgrounds and Parks.

9. Cemeteries.

17.0602 Accessory Uses in Residential Districts.

The following accessory uses and building are permitted in residential districts.

1. Professional office for a physician, clergyman, architect, engineer, attorney, or similar professional person residing in such main building.
2. Home Occupation. Customary home occupation for gain carried on in the main building or a building accessory thereto requiring only home equipment and employing no non-resident help, and no trading in merchandise is carried on.
3. Agricultural uses, gardens.
4. Private garages.
5. Any other accessory use customarily incident to a use authorized in a residential district.

17.0603 Commercial District.

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

1. Retail stores and shops.
2. Service establishments.
3. Business and professional offices.
4. Eating establishments.
5. Funeral homes and mortuaries.
6. Transportation services.

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7. Amusements and recreation.
8. Wholesale business.
9. Storage buildings and warehouses.
10. Any other building or use similar to the uses herein listed in the type of services or goods sold.
11. Any accessory use customarily incident to a use herein listed.

17.0604 I - Industrial.

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

The compoundig, assembly, treatment, manufacture, processing and packing of articles or materials shall be permitted in the industrial district.

- a. Use permitted. All uses permitted in a C - Commercial District.
- b. Uses prohibited. No dwelling or dwelling unit.
- c. No anhudrous ammonia shall be stored, loaded or unloaded within the City limits or extra-territorial limits.

Article 7.

Area Districts

17.0701 Area Regulations - Residential Districts.

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

1. One-family...not less than 4,000 sq. ft.
2. Two-family...not less than 8,000 sq. ft.

3. Multi-family, not less than 6,000 sq. ft. and the following minimum lot widths:

1. One-family - not less than 50 feet of lotwidth measured along the front building line.
2. Two-family - not less than 50 feet of lot width measured along the front building line.
3. Multi-family - not less than none feet of lot width measured along the front building line.

Article 8.

Yard Regulations

17.0801 Yard Regualtions.

In Residential District - districts there shall:

1. A front yard of not less than 25 feet.
2. A side yard on each side of not less than 5 feet.
3. A rear yard of not less than 20 feet.

17.0802 Assesories.

Acessory structures may be built in the required rear yard set back but said accessory shall not be nearer than (5) five feet to any side or rear lot line.

Article 9.

Columbus Floodplain

17.0901 Statutory Authorization.

The Legislature of the State of North Dakota has in North Dakota Century

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Chapters 40-47, 11-13 and 58-30 delegated with the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

17.0902 Description.

- 1) The flood hazard area of Columbus, North Dakota are subject to periodic inundation which results in loss of property, health and safety hazards, disruption of commerce and governmental services. Extraordinary public expenditures for flood protection and relief, and impairment of the tax base.
- 2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

17.0903 Methods of Reducing Flood Losses.

In order to limit flood damaged in Columbus, North Dakota, this ordinance has provisions for restricting, prohibiting, or guiding development activities that are subject to flood damage.

17.0904 Disclaimer.

This ordinance shall not create liability on the part of Columbus, N.D. any officer or employee thereof, or the Federal Emergency Management Agency for any flood damage that results from reliance on this ordinance or any administrative decision lawfully made thereunder.

17.0905 Definitions.

1. "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

2. "Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

3. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

4. "Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) The overflow of inland or tidal waters and/or
- 2) The unusual and rapid accumulation or runoff of surface waters from any source.

5. "Flood Hazard Boundary Map" means the official map issued by the Federal Emergency Management Agency where areas of special flood hazard are designated as Zone A.

6. "Lowest Floor" means the lowest floor of a structure including the basement.

7. "Mobile home" means a structure that is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles to travel trailers.

8. "New construction" means structure for which the "start of construction" commenced on or after the effective date of this ordinance.

9. "Structure" means a walled and roofed building, including mobile homes and gas or liquid storage tanks above ground.

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10. "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- A. before the improvement or repair is started or
- B. if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- A. any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or
- B. any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

17.0906 Lands to Which This Ordinance Applies.

This ordinance shall apply to all areas of special flood hazard within the jurisdiction of Columbus, North Dakota as identified by the Federal Emergency Management Agency in its Flood Hazard Boundary Map (FHBM), #380015A, dated August 19, 1986, this map is adopted by reference and declared to be a part of this ordinance. It is on file at the Columbus Fire Hall.

17.0907 Permits.

Before construction or development begins within any area of special flood hazard, a permit shall be obtained from the City Auditor herein-after referred to as the responsible person. The permit shall specifically include:

- 1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all proposed structures;
- 2) Elevation in relation to mean sea level to which any structure will be floodproofed;
- 3) Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in Section 3.2(2)c; and;
- 4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

17.0908 Permit Review.

All permit applications shall be reviewed (using the best available base flood elevation data from any Federal, State, or local source) to:

- a) assure sites are reasonably safe from flooding;
- b) determine that all necessary permits have been obtained from those Federal, State, or local agencies from which prior approval is required; and
- c) to determine if the proposed development adversely affects the flood carrying capacity of a flood-prone area.

For the purposes of this ordinance, "adversely affects" means damage to adjacent properties because of rises in flood stages attributed to physical changes of the channel and the adjacent overbank areas.

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- 1) If it is determined that there is no adverse effect and the development is not a building, then the permit shall be granted without further considerations.
- 2) If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer) for the proposed development shall be required.
- 3) If the proposed development is a building, then the following provisions of this ordinance shall apply.
 - (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobile homes less than 50 feet long requiring four additional ties per side;
 - (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and,
 - (iv) any additions to the mobile home be similarly anchored.
 - (v) alternative anchoring techniques that are equally effective in resisting flood loads.

17.0909 General Standards.

In all areas of special flood hazards, the following standards are required:

1) Anchoring

- a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- b) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. These requirements may include;
 - i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, with mobile homes less than 50 feet long requiring one additional tie per side;

2) Construction Materials and Methods

All new construction and substantial improvements shall be constructed using methods and with materials and utility equipment that resist or minimize flood damage.

3) Utilities

- a) All new and replacement water supply systems and sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- b) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4) Subdivision Proposals

- a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

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

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

17.0910 Specific Standards

Where base flood elevation data has been provided, the following provisions are required:

1) Residential Construction

a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

b) Mobile homes shall be placed so that the lowest floor is at or above the base flood elevation.

2) Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basements, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities shall:

a) be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

b) have structural components capable of resisting hydrostatic and hydronamic loads and effects of buoyancy;

c) be certified by a registered professional engineer or architect that the standards of this subsection are satisfied. Such certification shall be provided to the official as set forth in Section 17.0911.

17.0911 Information To Be Obtained and Maintained.

The responsible person shall:

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

2) For all new or substantially improved floodproofed structures:

a) obtain and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.

b) maintain the floodproofing certifications required in Section 3.2(2)c.

3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

17.0912 Alteration of Watercourses.

The responsible person shall:

1) Notify adjacent communities and the N.D. State Engineer prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

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

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ARTICLE 10.

Enforcement

17.1001 Administration

The administration and enforcement of this ordinance is hereby vested in the Columbus City Council or its appointed representative and the City Auditor.

1. The duty of the city council or its appointed representative is to investigate the provisions of this ordinance.
2. If the City Council or its representative finds a violation of this ordinance they shall order in writing the correction of the said violation.
3. The City Council may institute appropriate action or proceedings for the purpose of;
 - A. Prosecuting any violation
 - B. Restraining, correcting such violation
 - C. Prevent the occupancy of any building, structure or any land in violation of this ordinance.
 - D. Prevent any illegal act, conduct, business, or use in or about any building, structure or land in violation of this ordinance.

17.1004 Zoning Ordinance and Map.

The City Auditor shall have on file a copy of the zoning ordinance and the zoning map. the City Auditor shall make amendments to the ordinance and the zoning map after the City Council makes amendments in accordance with this ordinance.

17.1005 Building Permits Required.

No building, mobile home or other structure shall be erected moved, added to, or structurally altered without first making application for a building permit therefor from the City Auditor.

A. Matter accompanying application.

There shall be submitted with all applications for building permits a layout or plot drawn, showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and, or accessory buildings to be erected, and such other information as may be necessary to determine and provide for the enforcement of this ordinance.

17.1006 Permits Issued.

No building shall be erected, altered or extended until it has been determined that the application meets the requirements of this ordinance and the application has been approved and issued by the city council.

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

Article 11.

Board of Adjustment

17.1101 Creation, Appointment, and Organization.

- A. Upon appeal from a decision by an administration official or the city council, a board of adjustment shall be appointed by the Mayor. The board of adjustment shall consist of three uninterested parties and shall elect a chairman from its

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membership and shall appoint a secretary and shall prescribe rules for the conduct of its affairs.

B. Powers and Duties. The Board of Adjustment shall have all the powers and duties prescribed by law and by this Chapter, which are more particularly specified as follows:

1. Interpretation. Upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

2. Variances. To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. In granting any variance, the Board of Adjustment shall prescribe any conditions that it deems to be necessary or desirable. However, no variance in the strict application of any provision of this chapter shall be granted by the Board of Adjustment unless it finds:

a. That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought,

which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.

b. That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.

c. That the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering the character and use of adjoining buildings and those in the vicinity, the Board, in determining its finding, shall take into account the number of persons residing or working in such buildings or upon such land and traffic conditions in the vicinity.

C. Procedure. The Board of Adjustment shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the

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interpretation that is claimed, the use of which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Adjustment shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the city auditor.

- D. Notice and Hearing. No action of the Board shall be taken on any case until after due notice has been given to the parties and public hearing has been held.

17.1002 Amendments.

The governing board may, from time to time, amend this article by supplementing, changing, modifying, or repealing any of the regulations, restrictions or other provisions thereof, or of the district map, or the districts on said map, or of the boundaries of such district. A proposed amendment may be initiated by the said Board upon its own motion, or upon receipt of a request therefor from the city zoning commission, or upon receipt of a petition therefor from any interested person or persons or their agents.

1. Report by City Zoning Commission - Public Hearing. The governing body shall require a report from the city zoning commission on a proposed amendment before taking final action thereon. The city zoning commission shall thereupon make a tentative report and hold a public hearing thereon with notice the same required for a public hearing by the

governing body, before submitting its final report. Such final report shall be submitted within 90 days after the time of referral of the proposed amendments to the city zoning commission unless the governing body is agreeable to an extension of time.

2. Action by governing body - Public Hearing. After the receipt of the required final report on any amendment from the city zoning commission, or in the event of the failure of the city zoning commission to so report within 90 days following the time of referral of the proposed amendment to the city zoning commission, the governing body shall hold a public hearing, after which the proposed amendment may be passed. Not less than 15 days' notice of the time and place of holding such public hearing shall first be published in the official newspaper. A hearing shall be granted to any person interested, and the time and place specified.
3. Vote After Protest. If a protest against a change, supplement, modification, amendment or repeal is filed and signed by owners of 20 percent or more:
 - a. Of the area of the lots included in such proposed change; or
 - b. Of those immediately adjacent in the rear thereof extending 150 feet therefrom; or
 - c. Of those directly opposite thereto extending 150 feet from the street frontage of such opposite lots.

The amendment shall not become effective except by the favorable vote of three-fourths of all the members of the governing body.