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## CHAPTER SIX

### ZONING - LAND USE PLANNING

#### ARTICLE 1 - Planning and Zoning Commission

##### 6.0101 Zoning Commission

There is hereby created a zoning commission consisting of the City Council of the City of Glenburn, which shall recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings before making its final report. Such commission shall also hold hearings and make reports and recommendations as to the supplements and changes in boundaries and regulations. (Source: North Dakota Century Code Section 40-47-06)

#### ARTICLE 2 - Definitions

##### 6.0201 Definitions

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

1. "Accessory Use or Building" is a subordinate use or building 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 tents, lunch wagons, dining cars, camp cars, trailers and other roofed structure on wheels or other supports used for residential, business, mercantile, storage, commercial, industrial, institutional, assembly, educational or recreational purposes. For the purposes of this definition "roof" shall include an awning or other similar covering, whether or not permanent in nature.
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 intersection 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 designed for an 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 dwelling or group of dwellings on one plot containing separate living units for three or more families, but which have joint services or facilities for both.

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 used 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.
20. "Alley Line" is the centerline of a twenty (20) foot alley.

### ARTICLE 3 - Establishment of Districts

#### 6.0301 Use and Area Districts Established

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

#### 6.0302 Maps and Boundaries

The boundaries of these districts are hereby established as shown on a map entitled "The Zoning Map of the City of Glenburn" which is on file in the office of the city auditor. This map, with all explanatory matter thereon, is hereby made a part of this chapter.

6.0303 Annexed Property

Property which has not been included within a district and which has become a part of the City by annexation shall automatically be classified as lying and being in the R-1 residential district until such classification has been changed by an amendment to the zoning ordinances as prescribed by law.

ARTICLE 4 - Application of Regulations

6.0401 Application of Regulations

Except as provided in this chapter:

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

6.0501 Use Districts

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

- R-1 Residential Districts, Single-Family
- R-2 Residential Districts, Two-Family
- R-3 Residential Districts, Multi-Family
- C Commercial Districts
- I Industrial Districts

6.0502 R-1 - Residential Districts - Single Family

In a single-family district, the following buildings and uses are permitted:

1. Dwelling houses occupied by not more than one family.
2. Publicly owned and operated buildings.
3. Churches and parish houses.
4. Nursing and Rest Homes.
5. Homes for the Aged.
6. Playgrounds and Parks.

6.0503 R-2 - Residential Districts - Two-Family

In a two-family district, the following buildings and uses are permitted:

1. Dwelling houses each occupied by not more than two families. Each family shall not be allowed more than two roomers or boarders per family.
2. All other uses permitted in a one-family district.

6.0504 R-3 - Residential Districts - Multi-Family

In a multi-family district the following buildings and uses are permitted:

1. All uses permitted and as regulated in a two-family district.
2. Multi-family dwellings.
3. Private clubs.
4. Lodges or social buildings.
5. Hotels, motels, tourist camps.

6.0505 Accessory Uses in Residential Districts

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

1. Professional office for a physician, clergyman, architect, engineer, attorney or similar professional person residing in such main building.
2. Home Occupation. 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, poultry enclosures, beehives.
4. Private garages.
5. Any other accessory use customarily incident to a use authorized in a residential district.

6.0506 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.
7. Amusements and recreation.
8. Wholesale businesses.
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.

6.0507 I - Industrial

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

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

- a. Uses permitted. All uses permitted in a C - Commercial District.
- b. Uses prohibited. No dwelling or dwelling unit.

ARTICLE 6 - Area Districts

6.0601 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 10,000 sq. ft.
2. Two-family - not less than 5,000 sq. ft.
3. Multi-family - not less than 3,000 sq. ft.

and the following minimum lot widths:

One-family, two family, and multi-family - not less than 75 feet of lot width measured along the front building line.

ARTICLE 7 - Yard Regulations

6.0701 Yard Regulations

In **one-family, two-family, and multi-family** districts there shall be:

1. A front yard of not less than 25 feet.
2. A side yard on each side of not less than 3 feet for garage side and 10 feet on house side.
3. A rear yard of not less than 25 feet.

60702 – Front Yards

In a residential district no fence, structure, or planting higher than three and one-half feet above the established street grades, which obstructs vision of the intersection, shall be maintained within 20 feet of any street intersection. No fence shall be constructed outside of the property line. (See Chapter 15 on fence policy)

60703 – Side Yards

Where a lot of record at the time of the effective date of this resolution is less than 50 feet in width the required side yard may be reduced to 10 percent of the width of the lot, provided, however, that no side yard shall be less than three feet.

60704 - Rear Yards

- A. Where a lot abuts upon an alley, one-half the alley width may be considered as part of the required rear yard.
- B. Where the accessory building is a garage and entry to the garage is from the alley at the rear, the garage must then be a minimum of 20 feet from the alley line.

ARTICLE 8 – Parking Regulations

In all districts there shall be provided at the time any building or structure is erected or altered, adequate off street parking. All parking spaces required herein shall be located on the same lot with the building or use served.



ARTICLE 9 – Airports

An airport or heliport may be permitted in the agricultural district as a special use provided that the area shall be sufficient to meet the State and Federal Aviation Agency requirements for the class of airport proposed.

ARTICLE 10 – Temporary Uses

- A. For a carnival or circus in areas approved by the City Council for a period not to exceed 21 days.
- B. For a religious meeting in a tent or other temporary structure.
- C. Contractor’s office and equipment sheds in any district.

ARTICLE 11 – Taverns, Saloons, ETC..

Taverns, saloons, or other places where alcoholic beverages, as defined by law, are sold or consumed shall be in the Central Business District only and after approval by the City Council.

ARTICLE 12– Roadside Stands

Roadside stands for the sale of agricultural products shall be located in areas only approved by the City Council.

ARTICLE 13 – Land Subdivision Regulations

It shall be unlawful for any person being the owner, or agent of a person having any land within the City to subdivide or lay out such land in lots unless by a plat, in accordance with NDCC 40-48 entitled, “Municipal Master Plans and Planning Commissions”. No plat shall be recorded and no lots shall be sold from such plat unless and until approved as herein provided.

ARTICLE 14 – Mobile Homes, Mobile Home Parks, and Campgrounds

No person shall establish, maintain, or enlarge a mobile home park, trailer park, or campground unless he has met the requirements of NDCC 23-10 entitled, “Mobile Home Parks, Trailer Parks, and Campgrounds”; and also NDCC 33-33-01 and 33-33-02 governing the aforementioned rules.

No mobile home less than twenty feet in width shall be permitted in any use district. Said structure must be placed on a permanent foundation.

ARTICLE 15- Enforcement

6.1501 Administrative Official

- 1. Administrative Official. Except as otherwise provided herein the council administrator shall administer and enforce the provisions of this chapter, including the receiving of applications, the inspection of premises and the issuing of building permits. No building permit or certificate of occupancy shall be issued except where the provisions of this chapter have been complied with.
- 2. Building Permit Required. No building or structure shall be erected, added to or structurally altered until a permit therefore has been issued by the City Council. All applications for such permits shall be in accordance with the requirements herein and, unless upon written order of the Board of Adjustment, no such building permit or certificate of occupancy, shall be issued for any building where said construction, addition or alteration or use thereof would be in violation of any of the provisions of this chapter.

- a. Matter Accompanying Application. There shall be submitted with all applications for building permits two copies of a layout or plot drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this ordinance.
- b. Payment of Fee. One copy of such layout or plot plan shall be returned when approved by the zoning administrator together with such permit to the applicant upon the payment of a fee of \$5.00.

ARTICLE 16 – City Council

6.1601 City Council

- 1. Creation, Appointment and Organization. The Council shall prescribe rules for the conduct of its affairs. (Source: North Dakota Century Code Section 40-47-07)
- 2. Powers and Duties. The Council shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:
  - a. 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.
  - b. 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:
    - 1) That there are special circumstances or conditions, fully described in the findings, applying to the land or building for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
    - 2) That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the board is the minimum variance that will accomplish this purpose.
    - 3) That the granting of this variance will be in harmony with the general purpose and intent of this chapter 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.

3. Procedure. The Council shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Council shall be in writing, on forms prescribed by the Council. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Council shall be by resolution, each of which shall contain a full record of the findings of the Council in the particular case. Each such resolution shall be filed in the office of the city auditor.
4. Notice and Hearing. No action of the Council shall be taken on any case until after due notice has been given to the parties and public hearing has been held.

6.1602 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 Council upon its own motion, or upon receipt of a request from any interested person or persons or their agents.

1. The Council 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 ninety (90) days after the time of referral of the proposed amendments unless the governing body is agreeable to an extension of time.
2. Action by City Council - Public Hearing. After the receipt of the required final report, the Council shall hold a public hearing, after which the proposed amendment may be passed. Not less than fifteen (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 twenty percent (20%) 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-fourth (3/4) of all the members of the governing body.

6.1603 Enforcement

The erection, construction, reconstruction, alteration, repair, conversion or maintenance of any building or structure or the use of any building, structure or land in violation of this article or of any regulation, order, requirement, decision or determination made under authority conferred by this article, shall constitute the maintenance of a public nuisance and any appropriate action or proceeding may be instituted by the City, through any administrative officials, department, board of bureau charged with the enforcement of this article:

1. To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
2. To restrain, correct or abate such violation;
3. To present the occupancy of the building, structure or land; or
4. To prevent any illegal act, conduct, business or use in or about such premises.

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