ORDINANCE NO. 320

AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF LAKE NORDEN, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS 11-4 AND 11-6, 1967 SDCL, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

WHEREAS, Chapters 11-4 and 11-6, 1967 SDCL, empower the City of Lake Norden, hereinafter referred to as the City, to enact a zoning ordinance for all land within the corporate limits of the City and to provide for its administration, enforcement, and amendment, and

WHEREAS, the Lake Norden City Council, hereinafter referred to as the City Council, deems it necessary for the purpose of promoting the health, safety, morals, and general welfare of the City to enact such an ordinance, and

WHEREAS, the City Council has appointed a Planning Commission to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and

WHEREAS, the Planning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and in such a manner as to lessen congestion in the streets, to secure safety from fire, panic, and other dangers; to promote the health and the general welfare; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning Commission has given reasonable consideration among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings, and encouraging the most appropriate uses of land throughout the municipality, and

WHEREAS, the Planning Commission has made a preliminary report and held public hearings thereon, and submitted its final report to the City Council, and

WHEREAS, the City Council has given due public notice of hearings relating to zoning districts, regulations, and restrictions; and has held such public hearing, and

WHEREAS, all requirements of Chapters 11-4 and 11-6, 1967 SDCL, and amendments thereto, with regard to the preparation of the report of the Planning Commission and subsequent action of the City Council have been met;

NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF LAKE NORDEN:

MAYOR DATE	ATTEST DATE FINANCE OFFICER

ARTICLE I
GENERAL PROVISIONS

CHAPTER 1.01 TITLE AND APPLICATION.

Section 1.01.01 Title.

This ordinance shall be known and referred to as "The Zoning Ordinance of the City of Lake Norden, South Dakota."

Section 1.01.02 Jurisdiction.

The provisions of this Ordinance shall apply to all territory within the boundaries of the City of Lake Norden, South Dakota, as established on the Official Zoning Map of the City of Lake Norden.

Section 1.01.03 Purpose.

The Zoning Ordinance is enacted for the purpose set forth and provided for in South Dakota Compiled Laws and Amendments, Chapters 11-4 and 11-6, that is, among other things to promote health, safety, morals, and general welfare of the community.

This ordinance has been prepared in accordance with the Comprehensive Land Use Plan for the City and is designed to coordinate physical development of the community with needs for public services and facilities. More specifically, the Zoning Ordinance is adopted in order to achieve the following objectives:

1. To assist in the implementation of the City of Lake Norden's Comprehensive Land Use Plan which in its entirety represents the foundation upon which this Ordinance is based.

2. To foster a harmonious, convenient, workable relationship among land uses.

3. To promote the stability of existing land uses that conform with the Comprehensive Land Use Plan and to protect them from inharmonious influences and harmful intrusions.

4. To insure that public and private lands ultimately are used for the purposes which are most appropriate and most beneficial from the standpoint of the community as a whole.

5. To prevent excessive population densities and overcrowding of the land with structures.

6. To foster the provision of adequate off-street parking and off-street truck loading facilities

7. To facilitate the appropriate location of community facilities and institutions.

8. To protect and enhance real estate values.

9. To safeguard and enhance the appearance of the community, including natural amenities.

10. To place the power and responsibility of the use of land in the hands of the property owner contingent upon the compatibility of surrounding uses and the comprehensive land use plan.

11. To regulate and restrict the height, number of stories, and bulk of building and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; and the location and use of other purposes.

12. To regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of building, structures, and land.

CHAPTER 1.02 ORDINANCE PROVISIONS

Section 1.02.01 Provisions of Ordinance Declared to Be Minimum Requirements.

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants; the most restrictive or that imposing the higher standards shall govern.

Section 1.02.02 Violations/Penalties for Violation.

1. Violations of the ordinance shall be treated in the manner specified below.

    a. Any person who starts work for which a permit (building, conditional use, variance, rezoning) is required by this zoning ordinance, without first securing such permit and paying the prescribed fee, shall be charged according to the provisions of this section. All administrative fees assessed there under shall be rounded to the nearest whole dollar.

        i. Upon finding such violation, the Administrative Official shall notify the owner of property involved verbally or by sending a written notification of the requirement that a permit be obtained to the owner of the property involved by certified mail with return receipt requested. If application for said permit is filed within seven (7) working days from the verbal notification or date of receipt of the letter, an administrative fee shall be assessed in the amount of one hundred percent (100%) of the fee for the Building/Use Permit plus the cost of the postage for mailing the aforementioned notice. In no case shall this administrative fee be less than five dollars ($5.00), including the postage costs.

        ii. If application for said permit is filed after the deadline of seven (7) working days following the verbal notice or receipt of the notification of the requirement therefore, there shall be imposed an administrative fee in the amount of two (2) times the normal fee for the associated Building/Use Permit, conditional use permit, variance, and/or rezoning plus the cost of the postage for mailing the aforementioned notice. The payment of the administrative fee shall not relieve such person from the provisions of paragraph (b) below.

        iii. Any administrative fee or penalty imposed under the provisions of this zoning ordinance shall be in addition to any other fees or charges required under this zoning ordinance.

b. It is declared unlawful for any the owner or agent of a building or premises in or upon which a violation of any provision of these regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist, or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building or premises in or upon which such violation shall exist to violate any of the terms and provisions of these regulations or other official control adopted by the City Council pursuant thereto. Any person who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any provision of this zoning ordinance may be subject to a civil or criminal penalty. The penalty for violation of this zoning ordinance shall be five hundred dollars ($500.00) or imprisonment for not more than thirty (30) days, or both, and in addition the violator shall pay all costs and expenses involved in the case. Each and every day that such violation continues after notification may constitute a separate offense. All fines for violation shall be paid to the Finance Officer and shall be credited to the General Fund of the City.

c. In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building or structure or land is used in violation of this ordinance or other regulation, the Administrative Official, or the City of Lake Norden, as a corporation or any interested person, in addition to other remedies, may institute injunction, mandamus or any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use of land, to restrain, correct or abate such violation, to prevent the occupancy of said building or land or to prevent any illegal act, conduct, business, or use in and to and of such premises.

d. Any taxpayer of the City may institute mandamus proceedings in Circuit Court to compel specific performance by the proper official or officials of any duty required by these regulations.

Section 1.02.03 Separability Clause.

Should any article, chapter, section, or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part other than the part so declared to be unconstitutional or invalid.

Section 1.02.04 Repeal of Conflicting Ordinances.

This ordinance is intended to replace and repeal Ordinance Number 241 and all amendments thereto. All ordinances or part of ordinances in conflict with this Ordinance or inconsistent with the provisions of this Ordinance are repealed entirely.

Section 1.02.05 Effective Date.

This Ordinance shall take effect and be in force from and after its passage and publication according to South Dakota Codified law.

CHAPTER 1.03 OFFICIAL ZONING MAP

Section 1.03.01 Official Zoning Map.

The City is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor of the City attested by the City Finance Officer under the following words: "This is to certify that this is the Official Zoning Map referred to in Chapter 1.03 of Ordinance Number 320 of the City of Lake Norden, State of South Dakota," together with the date of the adoption of this Ordinance. The Official Zoning Map shall be on file at the office of the City Finance Officer.

If, in accordance with the provisions of this Ordinance and Chapter 11-4, as amended, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall not become effective until after said changes have been made on the Official Zoning Map by the City Finance Officer or in his/her absence a person designated by the City Council. Any unauthorized change by any person or persons shall be considered a violation of this Ordinance and punishable as provided under Chapter 1.02, Section1.02.02.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, which shall be located in the City Offices, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City.

Section 1.03.02 Rules Where Map Designation Uncertain.

Where uncertainty exists with respect to the various zoning districts as shown on the Official Zoning Map, the following rules shall apply:

1. The district boundaries are streets or alleys, highways, rights-of-way, railroad rights-of-way, waterways, lot lines, property lines, quarter section lines, half section lines, or full section lines, unless otherwise shown.

2. Where the designation on the Official Zoning Map indicates the various districts are approximately bounded by lot lines, the lot lines shall be the boundaries of such districts unless boundaries are otherwise indicated on the map.

3. In unsubdivided property, the zoning district boundary line on the Official Zoning Map may be determined by use of the scale contained on the map.

Section 1.03.03 Annexation.

Subsequent of the effective date of these regulations, any land annexed into the municipal boundaries of the City of Lake Norden shall be automatically placed into the "A" Agricultural zoning district, unless and until such time as the area is rezoned by amendment of these regulations by ordinance, as provided for in Chapter 3.04, Section 3.04.05 of these regulations.

Section 1.03.04 Changes and/or Replacement of Official Zoning Map

In the event that the Official Zoning Map becomes damaged, destroyed, or, the City Council may by ordinance adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Finance Officer, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Lake Norden, State of South Dakota."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining shall be preserved together with all available records pertaining to its adoption or amendment.

In the event that the Official Zoning Map becomes difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may by resolution adopt a new Official Zoning Map, which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof.

Changes to the Official Zoning Map shall require amendment of this regulation by ordinance, as provided for in Chapter 3.04, Section 3.04.05 of these regulations

ARTICLE II
DISTRICT REGULATIONS

CHAPTER 2.01 APPLICATION OF DISTRICT REGULATIONS

Section 2.01.01 Applicability of Regulations.

The regulations set forth by this Ordinance within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

Section 2.01.02 Compliance; Generally.

No building, or any part thereof shall hereafter be used or occupied, and no building or any part thereof shall be erected, constructed, reconstructed, converted, altered, enlarged, extended, raised, moved or used, and no premises shall be used for any purpose other than a purpose permitted in the Zoning District in which said building or premise is located, except as hereinafter provided.

Section 2.01.03 Structures & Lots; Construction or Alteration; Limitations of.

1. No building or other structure shall hereafter be erected or altered:

    a. To exceed the height or bulk;

    b. To accommodate or house a greater number of families;

    c. To occupy a greater percentage of lot area;

    d. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this Ordinance.

2. No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or below the minimum requirements set forth herein. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

CHAPTER 2.02 NON-CONFORMING USES

Section 2.02.01 Intent.

Within the districts established by this Ordinance or amendments that may later be adopted there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these non-conformities to continue until they are removed, but not to encourage their survival.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the zoning districts involved. A non-conforming use of a structure, a non-conforming use of land or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this Ordinance by the addition of other uses, or a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Ordinance.

And upon which construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 2.02.02 Repairs and Maintenance.

On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing to an extent not exceeding ten (10) percent of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Section 2.02.03 Uses and Structures.

A lawful use or structure existing at the time this Ordinance is adopted or amended may continue even though such use does not conform to the district regulations subject to the following provisions:

1. Whenever, a nonconforming use or structure has been changed to a conforming use, it shall not be changed back to a nonconforming use.

2. If any nonconforming building is destroyed or damaged by any casualty, such building may be repaired or replaced and use continued providing said reconstruction shall not add to the non-conformity or add to the cubic contents of said building as the same existed at the time of such casualty; and provided further that such repair or reconstruction of such building shall begin within six months after such casualty and completed within a reasonable time thereafter. However, if the damage caused by such casualty is such as to cause a loss in value exceeding fifty (50) percent of the replacement value immediately prior to such casualty then it cannot be rebuilt for a non-conforming use. The loss in value shall be computed as the difference between the actual cash value of the structure immediately before and after the casualty. Cash value shall be the same as that used for insurance purposes as approved by the State of South Dakota Insurance Code.

3. When a nonconforming use or structure is discontinued for a period of one (1) year, it shall not be continued unless in conformance with the requirements of this Ordinance and SDCL 11-6-39.

4. Any nonconforming use may be extended throughout any part of a structure, which was arranged or designed for such use previous to the adoption of this Ordinance, but shall not be extended outside each structure.

5. No existing nonconforming use or structure shall be enlarged, moved, or structurally altered except to change to a permitted use. This is not to include normal repairs and maintenance, which do not enlarge, move or structurally alter a nonconforming use.

6. Type I and Type II Manufactured Homes located upon any lot or lots of record at the time of the adoption of this Ordinance may be replaced by Type I and/or Type II Manufactured Homes of like dimensions and said replacement shall not be deemed to have changed the use thereof from a nonconforming to a conforming use. If a replacement Type I and/or Type II Manufactured Home is of larger dimension than the existing Type I and/or Type II Manufactured Home, then application must first be made to the City Planning Commission for conditional use permit.

7. "Non-Conforming Land Use" shall be deemed to in include non-conforming manufactured home courts existing at the time of the adoption of this Ordinance, and the substitution or replacement of Type I and Type II Manufactured Homes to said manufactured home court shall not be deemed to have changed the use thereof from a non-conforming to a conforming use.

8. Nothing contained in this section shall be so construed as to abridge or curtail the powers of the City Planning Commission and/or Board of Adjustment as set forth elsewhere in this Ordinance.

9. Nonstandard uses existing immediately prior to the effective date of this ordinance may be continued, although such uses do not conform to the provisions hereof. Nonstandard buildings or structures may be enlarged or extended, converted, reconstructed, or structurally altered as follows:

    a. Enlargements, extensions, conversions, or structural alterations may be made as required by law or ordinance.

    b. Structural alteration of buildings or structures may otherwise be made if such changes do not further encroach into an existing front yard, side yard, or rear yard which is less than the minimum required yards for the district in which they are located. Exception: The Board of Adjustment may allow buildings with side yard setbacks less than required herein to have additions erected in line with the existing building and provided further that said additions will be erected no closer to the lot line than the existing building and the addition shall further conform to all ordinance requirements.

    c. Enlargement, extension, conversion of buildings or structures may otherwise be made if such changes comply with the minimum required yards, lot area, height, landscaping, parking, and density for the district in which they are located.

Section 2.02.04 Uses Under, Conditional Uses Provisions Not Non-Conforming Uses.

Any use which is permitted as a conditional use in a district under the terms of this Ordinance (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

Section 2.02.05 Non-conforming Lots of Record.

In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record after the effective date of adoption or amendment of this Ordinance, notwithstanding limitations imposed by other provisions of this Ordinance. Such lots must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such a lot fails to meet the requirements of area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations of the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Adjustment.

If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Ordinance, and all or part of the lots do not meet the requirements established for lot width and area, the land involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements in this Ordinance.

CHAPTER 2.03 DISTRICT REGULATIONS

Section 2.03.01 Generally.

The district regulations included in this Chapter may be qualified or supplemented by additional regulations appearing elsewhere in this Ordinance.

Any use or uses not expressly permitted in a particular district shall be prohibited, unless such uses exist at the effective date of these regulations and qualify as nonconforming uses. Deviation from zoning district lot, yard, and related requirements, and deviation from city-wide zoning regulations, shall be prohibited, unless a Variance is granted as provided for in Chapter 3.04, Section 3.04.04 of these regulations.

The Board of Adjustment may establish additional requirements and standards for uses and structures permitted by Conditional Use Permit as conditions to said Conditional Use Permit.

Section 2.03.02 Zoning Districts.

The following zone and use districts are hereby established for the purposes of administration and enforcement of this Ordinance.

1. "A" Agricultural District

   The intent of the "A" Agricultural District is to protect agricultural land and uses from incompatible land uses and to prevent premature urban development of certain lands which eventually may be appropriate for urban uses, until the installation of drainage works, streets, utilities and community facilities and until objective projections of appropriate land uses are possible.

2. "C1" Central Commercial District

   The purpose of the "C1" Central Commercial District is to provide commercial areas oriented to the pedestrian shopper.

3. "FP" Flood Plain District

   The intent of the "FP" Flood Plain District is to protect from encroachment watershed areas subject to flooding, backwater spreading, and floodwater or overflow of streams or rivers.

4. "HC" Highway Commercial District

   The purpose of the "HC" Highway Commercial District is to

   a. To serve the needs of the highway user and the automobile, and in so doing to establish appropriate locations along major streets and highways for highway and automobile-related retail and service establishments in locations which will not cause undue traffic congestion.

   b. To permit development of highway service centers in the appropriate locations shown in the Comprehensive Land Use Plan.

5. "I" Industrial District

   The purpose of the "I" Industrial District is:

   a. To establish and maintain high standards of site planning, architecture, and landscape design that will create an environment attractive to the most discriminating industries and research and development establishments.

   b. To provide and ensure the continuity of locations for industries that can operate on small sites with minimum mutual adverse impact.

   c. The provisions of this section shall be administered and enforced in a manner to clearly support objectives of the, community organizations and civic groups to locate industrial development in the City of Lake Norden.

   d. To reserve appropriately located areas for industrial and related activities.

e. To protect areas appropriate for industrial uses from intrusion by inharmonious uses.

f. To protect residential and commercial properties and to protect nuisance-free, non-hazardous industrial uses from noise, odor, insect nuisance, dust, dirt, smoke, vibration, heat and cold, glare, truck and rail traffic, and noxious fumes, radiation and other hazards incident to certain industrial uses.

g. To provide opportunities for certain types of industrial uses to concentrate in mutually beneficial relationships to each other.

h. To provide adequate space to meet the needs of industrial development, including off-street parking and truck loading areas and landscaping.

i. To provide sufficient open space around industrial structures to protect them from the hazard of fire and to minimize the impact of industrial plants on nearby uses.

j. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of building of excessive size in relation to the amount of land around them.

5. "R1" Single-Family Residential District

The purpose of the "R1" Single-Family Residential District is to provide locations for low-density site-built, single-family residential dwellings. Restrictions and requirements are intended to preserve and protect the residential character by preventing incompatible land uses. Other types of single family residential dwellings and compatible uses may be permitted based upon complying with site review and adjacent landowner concerns.

6. "R2" General Residential District

The purpose of the "R2" General Residential District is to provide a stable environment for the development of two-family and multiple-Family dwelling units free from incompatible land uses. Other types of residential dwellings may be permitted based upon complying with site review and adjacent landowner concerns.

7. Purpose of Residential Districts, Generally

a. To reserve appropriately located areas for single-family living at reasonable population densities consistent with sound standards of public health and safety with sanitary sewers.

b. To insure adequate light, air, privacy and open space for each dwelling.

c. To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excess size in relation to the land around them.

d. To protect residential properties from noise, elimination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, and other objectionable influence.

CHAPTER 2.04 "A" - AGRICULTURAL DISTRICT

Section 2.04.01 Permitted Uses.

The following uses and structures shall be permitted in the "A" Agricultural District:

1. Any form of agriculture activity and related farm buildings, but excluding feed lots and sales or auctions yards or barns;

2. Site-built single-family dwellings;

3. Modular homes;

4. Public parks and recreation areas;

5. On-premise sign.

Section 2.04.02 Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "A" Agricultural District:

1. Accessory uses and structures customarily incidental to permitted uses and structures when established within the space limits of this district.

2. Roadside stands for sales of agricultural products grown or produced on the premises.

Section 2.04.03 Conditional Uses.

The following uses may be permitted, as a Conditional Use in the "A" Agricultural District by the Board of Adjustment subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety, and general welfare.

1. Airports;

2. Cemeteries;

3. Commercial or private recreation areas not normally accommodated in commercial areas such as golf courses, campgrounds, drive in theatres, riding stables, race tracks, swimming pools, etc.;

4. Private clubs;

5. Private Stables;

6. Type I manufactured home;

7. Type I manufactured home without permanent perimeter foundation;

8. Public buildings or facilities erected or established and operated by any governmental agency;

9. Telecommunication facilities;

10. Home occupations;

11. Utility substations;

12. Veterinarian offices and animal hospitals;

13. Nurseries and greenhouses.

14. Horticulture services;

15. Public utilities facilities;

16. Sanitary Sewer Systems (Ordinance #351 July 1, 2019)

Section 2.04.04 Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "A" Agricultural District.

Section 2.04.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the following tables:

Table 2.04.05.1

	Minimum Lot Area	**Minimum Lot Width**	**Maximum Height**
Permitted Use	43,560 square feet	150'	35'
Towers or Steeples			75'
Principal Building associated with a tower or steeple			45'
Other Conditional Uses	To be determined by the Board of Adjustment		

Table 2.04.05.2

	Minimum Front Yard	**Minimum Rear Yard**	**Minimum Side Yard**	**Maximum Lot Coverage**
Permitted Uses	75'	50'	30'	10%
Conditional Uses	To be determined by the Board of Adjustment			10%

CHAPTER 2.05 "R1" SINGLE-FAMILY RESIDENTIAL DISTRICT

Section 2.05.01 Permitted Uses.

The following uses and structures shall be permitted in the "R1" Single-Family Residential District:

1. Site-built single-family dwellings;

2. Modular homes;

3. Public park and recreation areas.

Section 2.05.02 Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "R1" Single-Family Residential District:

1. Accessory uses and structures customarily incidental to permitted uses, except stables and the raising of poultry.

Section 2.05.03 Conditional Uses.

The following uses may be permitted as a conditional use in the "R1" Single-Family Residential District by the Board of Adjustment, subject to such requirements as Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Bed and breakfast establishments;

2. Type I manufactured homes

3. Two-family dwellings;

4. Home occupations;

5. Public buildings or facilities established and operated by any governmental agency;

6. Hospitals, nursing homes, and homes for the aged. Any building approved for such use shall be set back not less than fifty (50) feet from the street on which it fronts and shall have side and rear setbacks of not less than thirty (30) feet and shall meet other requirements of this Ordinance;

7. Licensed commercial day care facilities;

8. Public utilities and governmental buildings, including substations, regulator substations, pumping stations, radio and television transmitter or tower, transmission lines, water filtration plant and storage reservoir, or other similar public service uses;

9. Commercial storage buildings used exclusively for storage and not for performance of any other services. Commercial storage buildings will use building, siding and roofing materials of

a character comparable to other residential structures within the “R1” Single-Family Residential District”.

10. Churches and parish houses;

11. Public and private schools

Section 2.05.04 Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “R1” Single-Family Residential District”.

Section 2.05.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the Tables 2.05.05.1 and 2.05.05.2 and Figure 2.05.05.1.

Table 2.05.05.1

	Minimum Lot Area	**Minimum Lot Width**	**Maximum Height**	**Maximum Percent Lot Coverage**
Single Family Residence	9,000 square feet	75'	35'	30%
Two Family Residence	6,000 per unit	140’	35'	30%
Conditional Uses	To be determined by the Board of Adjustment			

**Maximum height for steeples and towers shall be seventy-five (75) feet*
*** All lots shall front on and have ingress and egress by means of a public right-of-way.*

Figure 2.05.05.1

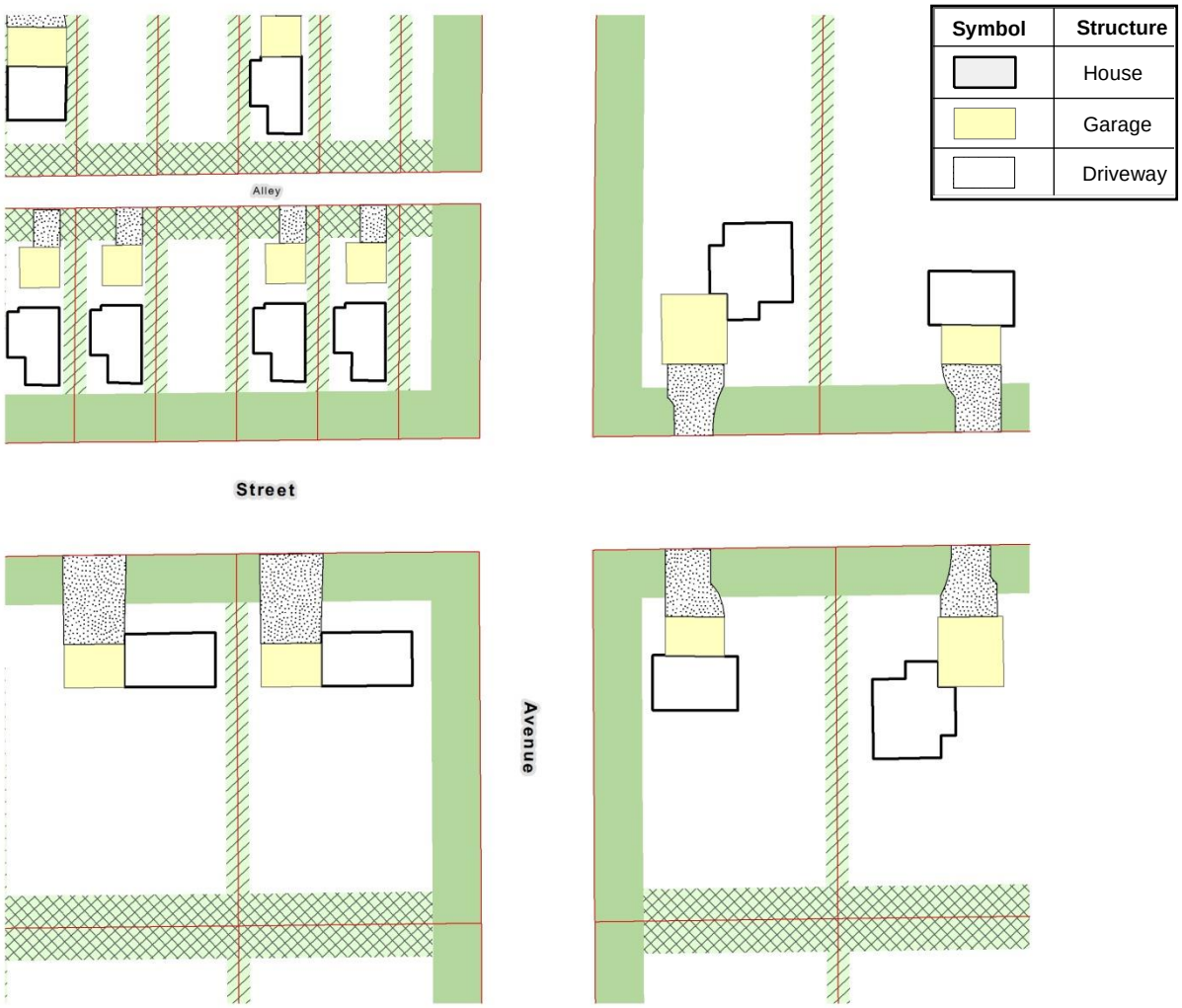


Table 2.05.05.2

	Minimum Front Yard*	Minimum Rear Yard	Minimum Side Yard
SYMBOL			
Permitted Uses	25'	20'	7'
Conditional Uses	To be determined by the Board of Adjustment		

*Accessory structures may be placed within fifteen (15) feet of an alley

Section 2.05.06 Exception to Minimum Side Yard Requirement.

The Board of Adjustment may allow side yards to be less than required in the “R1” District, provided an appropriate easement is recorded at the Hamlin County Register of Deeds ensuring that no structures shall hereafter be constructed within a distance two (2) times the minimum required side yard (fourteen (14) feet) on the affected adjacent property.

CHAPTER 2.06 “R2” GENERAL RESIDENTIAL DISTRICT

Section 2.06.01 Permitted Uses.

The following uses and structures shall be permitted in the “R2” General Residential District:

1. Any permitted use in the “R1” District;

2. Two-family dwellings;

3. Multiple-family dwellings

4. Type I manufactured homes.

Section 2.06.02 Permitted Accessory Uses.

1. Accessory uses and structures customarily incidental to permitted uses, except stables and the raising of poultry.

Section 2.06.03 Conditional Uses.

The following uses may be permitted as a conditional use in the “R2” General Residential District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect adjacent property, prevent objectionable or offensive conditions and promote the health, safety and general welfare.

1. Any conditional use permitted in the “R1” District; except two-family dwellings and Type I Manufactured homes which are a permitted uses in this district;

2. Manufactured Home parks

3. Type II manufactured homes located within manufactured home parks

4. Type I manufactured homes without a permanent foundation;

5. In-home nursing or convalescent homes with up to four (4) additional residents other than immediate family;

6. Group home;

Section 2.06.04 Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the"R2” General Residential District.

Section 2.06.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the Tables 2.06.05.1 and 2.06.05.2 and Figure 2.06.05.1.

Table 2.06.06.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Single Family Residential	7,000 square feet	50'	35'	30%
Two Family Residence	6,000 per unit	140’	35'	30%
Multiple Family Three - Four Dwelling Units	6,000 Square feet for first unite plus 2,400 square feet per additional dwelling unit	140’	35'	40%
Multiple Family More than Four Dwelling Units	13,200 square feet for first four units plus 1,815 square feet per additional dwelling unit	140’	35'	40%
Assisted Living, Nursing and Rest Homes, etc.	1,815 square feet/dwelling unit	140’	35'	40%
Churches, synagogues, chapels and other similar places of worship	87,120 square feet (2 acres)	200’	35'*	30%
Conditional Uses	To be determined by the Board of Adjustment			

**Maximum height for steeples and towers shall be seventy-five (75) feet*

Figure 2.06.06.1

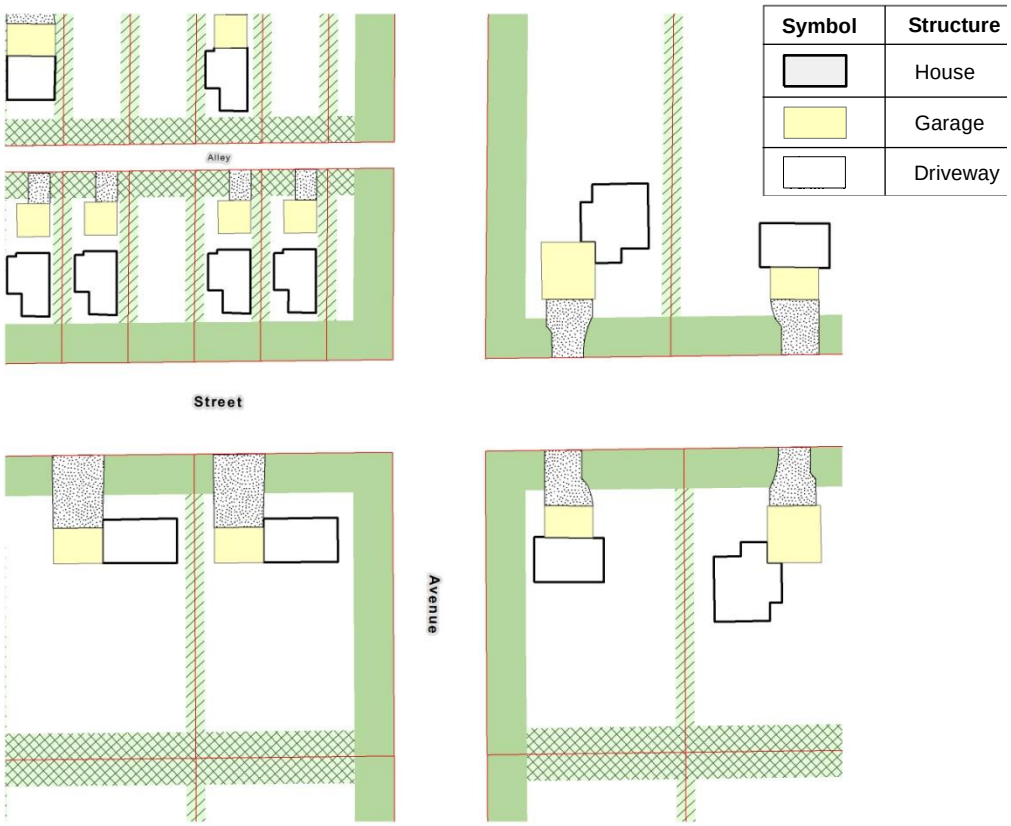


Table 2.06.06.2

	Minimum Front Yard	Minimum Rear Yard	Minimum Side Yard	
			Party Wall Side	Non-Party Wall Side
SYMBOL				
Single Family Residential	25'	20'	0'	5'
Two Dwelling Units	20'	10'	0'	5'
Three or More Dwelling Units	20'	20'	0'	7'
Assisted Living, Nursing and Rest Homes, etc.	50'	30'	0'	30'
Conditional Uses	To be determined by the Board of Adjustment			

*Accessory structures may be placed within fifteen (15) feet of an alley

Section 2.06.06 Exception to Minimum Side Yard Requirement.

The Board of Adjustment may allow side yards to be less than required in the "R" District, provided an appropriate easement is recorded at the Hamlin County Register of Deeds ensuring that no structures shall hereafter be constructed within a distance two times the minimum required side yard on the affected adjacent property.

Section 2.06.07 Manufactured Home Park Minimum Standards.

Manufactured home parks shall meet the following minimum standards:

1. **Streets.**

   Each manufactured home shall abut or face a public private roadway or street, such roadway or street having an all-weather surface of at least thirty (30) feet in width where parking is permitted on both sides, and twenty-six (26) feet in width where parking is restricted to one side only. Where private streets are proposed, they shall have a minimum right-of-way of forty (40) feet.

2. **Open Space or Buffer Zone.**

   A landscape buffer area of ten (10) feet in width shall be provided and maintained around the perimeter of the park, except where walks and drives penetrate the buffer.

3. **Lot Area.**

   Each lot provided for the occupancy of a single manufactured home unit shall not be less than fifty (50) feet in width and have an area of not less than five thousand five hundred (5,500) square feet, and the same shall be defined by markers at each corner.

4. Density.

No park shall be permitted an average net density of manufactured home lots of more than seven (7) units per acre and each park shall provide an area of not less than two (2) acres.

5. Spacing and Yard Requirements.

All manufactured housing units will be positioned on the manufactured home space in compliance and accordance with the zoning requirements at the time of establishment of the manufactured home Park. Manufactured home parks established after the effective date of this Ordinance, will comply with the following:

a. **Front Yard**.

All manufactured homes shall be located at least twenty (20) feet from any road or street. The distance will be measured from the wall of the structure to the street or roadway at the closest point.

b. Side and Rear Yards.

All manufactured homes shall have minimum side yards of seven (7) feet and a minimum rear yard of ten (10) feet.

c. Exceptions to minimum yard requirements.

A garage, canopy, or carport may project into a required side or rear yard provided it is located no closer than ten (10) feet to another manufactured home garage, canopy, carport, or addition thereto, and provided further that the maximum depth be twenty-four (24) feet.

A deck may project into a required side or rear yard provided it is located no closer than four feet to any other structure.
An enclosed vestibule containing not more than forty (40) square feet in area may project into a required yard for a distance not to exceed four (4) feet, but in no event closer than ten (10) feet to another manufactured home, garage, canopy, carport, or addition thereto.

Detached accessory buildings with a projected room area of not more than one hundred and twenty (120) square feet may project into a required side or rear yard provided it is located no closer than four (4) feet to another structure or public right-of-way.

d. Maximum Lot Coverage:

No manufactured home shall occupy more than twenty-five (25%) of the area of the lot on which it is situated.

6. Parking

Two (2) off-street automobile parking spaces shall be provided for each manufactured home. Such off-street parking spaces shall be set-aside in a location convenient to the occupants of the trailer or camping units and shall have ingress and egress by means of a public way. Where parking areas are provided adjacent to a public street, ingress and egress thereto shall be made accessible only through driveways or openings not exceeding twenty-five (25) feet in width in the curb line of said street.

7. Refuse Collection

In the event that there is no individual garbage collection, the City shall require the developer of the manufactured home park to place a refuse collection station for that said purpose. The refuse collection station shall be a minimum of one (1) two-yard dumpster situated on concrete, screened on four sides, for each twelve (12) families or fractions thereof, conveniently located to serve tenants not more than one hundred fifty (50) feet from any trailer unit served, and to be conveniently located for collection.

8. Recreation Area

The City Council may require the developer of the manufactured home park to dedicate no less than eight (8) percent of the gross site area shall to recreational facilities appropriate to the needs of the occupants. The Planning Commission shall approve the designated recreation area.

9. On-Site management

Each manufactured home park may provide on-site management, by the owner or his/her representative. This requirement may be waived if a point of contact is established to ensure that the management, repairs, maintenance and janitorial work connected with the manufactured home park and all provisions of this Chapter are complied with.

10. Water Supply and Distribution System and Sewage Disposal:

Each manufactured home shall be connected to the City sanitary sewer and water system.

11. Tie Down Requirements

All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation approved by the Administrative Official, shall be anchored to the ground, in accordance with the manufacturer's specifications or as prescribed by the TR-75, issued June 1972, by the U.S. Department of Defense.

12. Maximum Age Limitation:

No manufactured home placed within a manufactured home park within the City limits of Lake Norden may exceed ten years from the date of manufacture.

13. Expansion.

Existing manufactured home parks may be extended provided the area of expansion is at least one (1) acre and complies with all other regulations herein set forth.

14. Building/Moved-in Building Permit Required

Whenever a manufactured home is moved into a manufactured home park, a permit from the Administrative Official shall be required.

15. Skirting

All manufactured homes, regardless of location, unless such manufactured homes are securely anchored to a permanent foundation, approved by the administrative Official, shall be skirted within thirty (30) days of placement.

Section 2.06.08 Application Procedure.

Each application for a Manufactured Home Park shall be accompanied by a development plan incorporating the regulations established herein. The plan shall be drawn to scale and indicate the following:

1. Location and topography of the proposed manufactured home park, including adjacent property owners and proximity to Federal and State highways, and County, Township, and City roads/streets;

2. Property lines and square footage of the proposed park;

3. Location and dimensions of all easements and right-of ways;

4. Proposed general lay-out, including parking and recreation areas;

5. General street and pedestrian walkway plan;

6. General utility, water, and sewer plan.

Upon approval of the application, the plan becomes part of the permanent record and it shall serve as the basis for the final site plan submission.

Section 2.06.09 Manufactured Housing Subdivisions.

Nothing in this Ordinance shall be construed to prohibit subdividing an approved manufactured home park development into individual owner occupied lots. However, any such development shall be required to meet the subdivision regulations of the City of Lake Norden.

CHAPTER 2.07 “C1” CENTRAL COMMERCIAL DISTRICT

Section 2.07.01 Permitted Uses.

The following uses and structures shall be permitted in the “C1” Central Commercial District:

1. Retail and wholesale sales;
2. Finance, insurance and real estate services;
3. Business services excluding any warehousing and storage services;
4. Churches, welfare and charitable services; business associations, professional membership organizations, labor unions, and similar labor organizations, and civic, social and fraternal associations;
5. Eating establishments;
6. Communication and utility uses;
7. Public buildings and grounds;
8. Personal service establishments;
9. Professional, governmental and education services;
10. Bar or tavern;
11. On/Off sale liquor establishments;
12. Printing and publishing establishments;
13. Offices;
14. Parking lot and/or parking garages;
15. Bed and breakfast;
16. Hotels and motels;
17. Theaters, bowling alleys, and pool halls;
18. Museum
19. On-premise sign.

Section 2.07.02 Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the “C1” Central Commercial District.

1. Accessory buildings and uses customarily incidental to permitted uses.

Section 2.07.03 Conditional Uses.

The Board of Adjustment, subject to such requirements, may permit the following uses as a conditional use in the “C1” Central Commercial District as the Board deems necessary to protect and promote the health, safety, and general welfare:

1. Adult uses;

2. Licensed day care centers;

3. Retail sale of lumber, all-terrain vehicles, snowmobiles, motorized scooters and other similar sized vehicles for recreational purposes;

4. Garages, Automobile repair shops, and service stations, Automobile filling station;

5. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided.

6. Second floor apartments;

7. Commercial Storage Buildings;

8. Manufacture or assembly of products and goods (light manufacturing);

9. Establishments manufacturing a product to be sold at retail on premises to the ultimate consumer;

10. Strip malls and shopping centers within a multi-unit commercial/retail structure.

Section 2.07.04 Prohibited Uses.

1. All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the “C1” Central Commercial District.

Section 2.07.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with Tables 2.07.05.1 and 2.07.05.2. and Figure 2.07.05.1.

Table 2.07.05.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	3,500 square feet	25’	35'	75%
Conditional Uses	To be determined by the Board of Adjustment			

Figure 2.07.05.1

Table 2.07.05.2

	Minimum Front Yard	Minimum Rear Yard		Minimum Side Yard	
		Adjacent to Industrial, Ag, or Commercial Districts	**Adjacent to Residential Districts**	**Adjacent to Industrial, Ag, or Commercial Districts**	**Adjacent to Residential Districts**
Symbol					
Permitted Uses	25'	20'	40'	10'	40'
Conditional Uses	To be determined by the Board of Adjustment				

***** No side or front yard requirements for buildings on either side of Main Avenue and between Dakota Street and Harvest Street.

2. All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.'

3. Screening - Where any use in the "C1" Central Commercial District is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with Chapter 4.01.

CHAPTER 2.08 "HC" HIGHWAY COMMERCIAL DISTRICT

Section 2.08.01 Permitted Uses.

The following uses and structures shall be permitted in the "HC" Highway Commercial District:

1. Horticulture and the raising of field crops;

2. Automobile filling station, Garages, repair shops, and automobile service stations;

3. On- premise signs;

4. Utility substations;

5. Wholesale or retail sales of: lumber and other building materials, farm equipment, motor vehicles, marine crafts, manufactured homes, trailers, farm and garden supplies, fuel and ice; motor vehicles and automobile equipment; drugs, chemicals, all allied products; dry goods and apparel; groceries, and related products; electrical goods, hardware, plumbing, heating and equipment and supplies; machinery, equipment and supplies; beer, wine, and distilled alcoholic beverages; paper and paper products; furniture and home furnishings; lumber and construction materials;

6. General farm products (other than animals), household goods, and equipment maintenance;

7. Mortuaries;

8. Contract construction services;

9. Off-premise signs;

10. Truck or bus terminal;

11. Wholesale merchandising or storage warehouse;

12. Hotel/motel;

13. Car washes provided that their operative machinery is within an enclosed structure and adequate drainage is provided;

14. Public buildings and grounds;

15. Convenience store;

16. Restaurant;

17. Offices and Financial Institutions;

18. Commercial storage units;

19. Nursery/Greenhouse

Section 2.09.02 Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "HC" Highway Commercial District.

1. Accessory buildings and uses customarily incidental to permitted uses except outdoor storage which is listed as a conditional use;

Section 2.08.03 Conditional Uses.

The following uses may be permitted as conditional uses in the "HC" Highway Commercial District by the City Board of Adjustment subject to such requirements, as the Board deems necessary to protect and promote the health, safety and general welfare.

1. Food lockers, provided that any slaughtering, killing, eviscerating, skinning, or plucking be done indoors;

2. Welding shops;

3. Automotive body repair and glass;

4. Light manufacturing

Section 2.08.04 Prohibited Uses.

All users and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "HC" District.

Section 2.08.05 Area/Construction Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with Tables 2.08.05.1and 2.08.05.2 and Figure 2.08.05.1.

2. All commercial buildings/structures shall be constructed on-site. Off-site constructed or moved-in structures may be allowed only as a Conditional Use.

3. Screening - Where any use in the "HC" Highway Commercial District is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with Chapter 4.01.

Table 2.08.05.1

	Minimum Lot Area	**Minimum Lot Width**	**Maximum Height**	**Maximum Percent Lot Coverage**
Permitted Uses	20,000 square feet	100'	45'	75%
Conditional Uses	To be determined by the Board of Adjustment			

Figure 2.08.05.1

Table 2.08.05.2

	Minimum Front Yard	Minimum Rear Yard		Minimum Side Yard	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts
Symbol					
Permitted Uses	25'	20'	40'	10'	40'
Conditional Uses	To be determined by the Board of Adjustment				

CHAPTER 2.09 "I" – INDUSTRIAL DISTRICT

Section 2.09.01 Permitted Uses.

The following uses and structures shall be permitted in the "I" Industrial District:

1. Horticulture and the raising of field crops;
2. On- premise signs;
3. Utility substations;
4. Motor freight terminals, garaging and equipment maintenance;
5. Contract construction services;
6. Storage plants, lumber yards, distributing stations and warehouses;
7. (Light Manufacturing).
8. Woodworking shops or plants.
9. Food manufacturing plants.
10. Grain elevators;
11. Automotive body repair;
12. Any industrial use, other than those permitted by conditional use, which can meet the performance standards listed in section 2.09.06.
13. Commercial storage units;
14. Wholesale distribution and warehousing;

Section 2.09.02 Permitted Accessory Uses.

The following accessory uses and structures shall be permitted in the "I" Industrial District:

1. Caretaker and watchman quarters;
2. Buildings and structures customarily incidental to permitted uses.
3. Accessory buildings and uses customarily incidental to permitted uses.

Section 2.09.03 Conditional Uses.

The following uses may be permitted as a conditional use in the "I" Industrial District by the Board of Adjustment, subject to such requirements as the Board deems necessary to protect and promote the health, safety and general welfare:

1. Junk or salvage yards, provided that the area is enclosed or screened from public view as required by the Board of Adjustment;

2. Slaughterhouse;

3. Explosive manufacture or storage;

4. Fertilizer manufacture;

5. Incineration or reduction of garbage, dead animals, fat, or refuse;

6. Livestock sales or auction barns and yards;

7. Sanitary sewer treatment facilities.

8. Crematorium

9. Adult Uses

Section 2.09.04 Prohibited Uses.

All uses and structures not specifically permitted or not permitted by conditional use shall be prohibited in the "I" District.

Section 2.09.05 Area Regulations.

1. Minimum lot area, maximum building height, maximum lot coverage and minimum yard requirements shall be regulated in accordance with the Tables 2.09.05.1 and 2.09.05.2. and Figure 2.09.05.1.

2. Outdoor storage and display – All outdoor storage within five hundred (500) feet of a Residential District must be completely enclosed in a building or by a solid walled fence at least two (2) feet above the highest point of the stock pile which fence shall be maintained in safe and good repair;

   Storage yards for junk shall be set back a minimum of one hundred (100) feet from any adjoining street line and thirty-five (35) feet from any other property line, and shall be screened by a solid wall at least two (2) feet above the highest stock pile and maintained in a state of good repair. Further provided, that no storage yard for junk shall be allowed on any lot in an "I" Industrial Zone that is within five hundred (500) feet of a residential zone.

3. Construction Requirements – All industrial buildings/structures shall be constructed on-site. Off-site constructed structures or moved-in structures may be allowed only with a Conditional Use Permit.

4. Screening - Where any use in the “I” Light Industrial District is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where plantings and/or fencing may be in conflict with Chapter 4.01.

Table 2.09.05.1

	Minimum Lot Area	Minimum Lot Width	Maximum Height	Maximum Percent Lot Coverage
Permitted Uses	30,000 square feet	150'	45'	50%
Conditional Uses	To be determined by the Board of Adjustment			

Figure 2.09.05.1

Table 2.09.05.2

	Minimum Front Yard	Minimum Rear Yard		Minimum Side Yard	
		Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts	Adjacent to Industrial, Ag, or Commercial Districts	Adjacent to Residential Districts
Symbol					
Permitted Uses	50'	25'	35'	10'	**50'**
Conditional Uses	To be determined by the Board of Adjustment				

<u>Section 2.09.06 Performance Standards.</u>

1. **Noise.** All noise shall be muffled so as not to be objectionable due to intermittence, beat frequency or shrillness.

2. **Air Pollution.** State emission standards shall be met by all possible sources of air pollution. In any case, there shall not be discharged from any sources whatsoever such quantities of air contaminants, smoke or detriment, nuisance or annoyance to any considerable number of persons or to the public in general to endanger the comfort, health or safety of any such considerable number of persons or have a natural tendency to cause injury or damage to business, vegetation, or property.

3. **Odor.** The emission of odorous matter in such quantities as to be readily detectable at any point along lot lines or to produce a public nuisance or hazard beyond lot lines is prohibited.

4. **Glare, Heat or Radiation.** Every use shall be so operated that there is no emission or heat, glare, or radiation visible or discernible beyond the property line.

5. **Vibration.** Every use shall be so operated that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on the property line.

6. **Sewage and Liquid Wastes.** No operation shall be carried on which involves the discharge into a sewer, watercourse, river or the ground of liquid wastes of any radio-active nature, or liquid wastes of chemical nature, which are detrimental to normal sewage plant operations or corrosive or damaging to sewer pipes and installations.

7. **Fire Hazard.** All flammable substances involved in any activity or use, shall be handled in conformance with the standard of the National Board of Fire Underwriters and any additional regulations that may from time to time be adopted by the City Council.

8. **Physical Appearance.** All operations shall be carried on within an enclosed building except that new or operable equipment and waste materials stored in enclosed containers, not readily visible from the street, may be displayed or stored in the open.

Chapter 2.10 FP FLOOD PLAIN DISTRICT

Section 2.10.01 Statutory Authorization, Findings of Fact, Purpose and Methods of Reducing Flood Losses.

1. Statutory Authorization

The Legislature of the State of South Dakota has in SDCL Chapter 11-2 delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the City Council of Lake Norden, South Dakota, ordains as follows:

2. Findings of Fact

a. The flood hazard areas of the City of Lake Norden are subject to periodic inundation which results in loss of life and 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, all of which adversely affect the public health, safety, and general welfare.

b. These flood losses are caused by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

3. Statement of Purpose

It is the purpose of these regulations to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:

a. To protect human life and health;

b. To minimize expenditure of public money for costly flood control projects;

c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

d. To minimize prolonged business interruptions;

e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;

f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

g. To ensure that potential buyers are notified that property is in an area of special flood hazard; and

h. To ensure that those who occupy the areas of special flood hazards assume responsibility for their actions.

4. Methods of Reducing Flood Losses

In order to accomplish its purposes, these regulations include methods and provisions for:

a. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

b. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

c. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

d. Controlling filling, grading, dredging, and other development which may increase flood damage; and

e. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

<u>Section 2.10.02 General Provisions.</u>

1. Lands to which this Ordinance Applies

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of City of Lake Norden.

2. Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Department of Housing and Urban Development Federal Insurance Administration Flood Hazard Boundary Map (Map) dated September 19, 1975, is adopted by reference and declared to be a part of this ordinance. The Map is on file at the Lake Norden City Office.

3. Compliance

No structure or land shall hereafter be constructed, located, extended, or altered without full compliance with the terms of these regulations and other applicable regulations.

4. Abrogation and Greater Restrictions

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

5. Interpretation

In the interpretation of these regulations, all provisions shall be:

a. Considered as minimum requirements;

b. Liberally construed in favor of the governing body; and

c. Deemed neither to limit nor repeal any other powers granted under State statutes.

d. Warning and Disclaimer of Liability

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of City of Lake Norden, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on these regulations or any administrative decision lawfully made there under.

Section 2.10.03. Administration.

1. Establishment of Development Permit

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 2.10.02 (2) (BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD). A property receiving a Letter of Map Amendment or Letter of Map Revision based upon fill must also obtain a development permit.

Application for a development permit shall be made on forms furnished by the Administrative Official or Finance Officer and may include, but not be limited to: Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in questions; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;

b. Elevation in relation to mean sea level to which any structure has been floodproofed;

c. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in 2.10.04 (2) (c) (Non-residential Construction); and

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

2. Designation of the Administrative Official

   The Administrative Official for the Zoning Ordinance for the City of Lake Norden as established in Chapter 3.02 administer and implement the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

3. Duties and Responsibilities of the Administrative Official

   Duties of the Administrative Official shall include but not be limited to:

   a. Permit Review

      i. Review of all development permits to determine that the permit requirements of these regulations have been satisfied.

      ii. Review all development permit to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

      iii. Review all development permits to determine if the proposed development adversely affects the flood carrying capacity of the area of special flood hazard. For the purposes of these regulations, “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.

      iv. 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 consideration.

      v. If it is determined that there is an adverse effect, then technical justification (i.e., a registered professional engineer’s certification) for the proposed development shall be required.

      vi. If the proposed development is a building, then the provisions of these regulations shall apply.

   b. Uses of Other Base Flood Data

      When base flood elevation data has not been provided in accordance with Section 2.10.02 (2) BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the zoning Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with 2.10.04 (2), SPECIFIC STANDARDS.

4. Information to be Obtained and Maintained

   a. 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.

b. For all new or substantially improved floodproofed structures:

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

   ii. Maintain the floodproofing certification required in Section 2.10.03 (1) (c).

5. Alteration of Watercourses

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

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

6. Interpretation of FIRM Boundaries

   Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretations provided in Section 2.10.03.7.

7. Variance Procedures

   a. The Board of Adjustment as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.

   b. The Board of Adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

   c. Those aggrieved by the decision of the Board of Adjustment, or any taxpayer, may appeal such decision to the courts of competent jurisdiction, as provided in State Statute.

   d. In passing upon such applications, the Appeal Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

      i. The danger that materials may be swept onto other lands to be injury of others;

      ii. The danger to life and property due to flooding or erosion damage;

      iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;

      iv. The importance of the service provided by the proposed facility to the community;

      v. The necessity to the facility of a waterfront location, where applicable;

vi. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

vii. The compatibility of the proposed use with the existing and anticipated development;

viii. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

ix. The safety of access to the property in times of flood for ordinary and emergency vehicles;

x. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and

xi. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.

e. The Floodplain Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency and the SD Office of Emergency Management.

8. Conditions for Granting Variances:

a. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i-xi) in Section 2.10.03.7.d have been fully considered. As the lot size increases beyond the one-half acre, the technical justifications required for issuing the variance increases.

b. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.

c. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

d. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

e. Variances shall only be issued upon:

i. A showing of good and sufficient cause;

ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Section 2.10.03.7.d or conflict with existing local laws or ordinances.

f. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

Section 2.10.04. Provisions for Flood Hazard Reduction

1. GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

a. Anchoring

i. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting hydrostatic and hydrodynamic loads.

ii. All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:

a) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side.

b) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

c) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and

d) Any additions to the manufactured home be similarly anchored.

b. Construction Materials and Methods

i. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

ii. All new construction and substantial improvements shall be constructing using methods and practices that minimize flood damage.

iii. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

c. Utilities

i. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

ii. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

iii. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

d. Subdivision Proposals

i. All subdivision proposals shall be consistent with the need to minimize flood damage;

ii. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

iii. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and

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

e. Encroachments - Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited in any floodway unless a technical evaluation demonstrates that the encroachments will not result in any increase in flood levels during the occurrence of the base flood discharge.

2. SPECIFIC STANDARDS

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 2.10.03.3.b, Use of Other Base Flood Data, the following standards are required:

a. Residential Construction
New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated one foot about 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 elevation the structure is watertight with walls substantially impermeable to the passage of water;

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 2.10.03.4.b.

d. Properties that have received a Letter of Map Amendment or Letter of Map Revision based upon fill must still have their lowest floor elevated or floodproofed to one foot above the base flood elevation.

Section 2.10.05 Penalties for Noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than $200.00 or imprisoned for not more than 30 days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City of Lake Norden from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE III
ADMINISTRATION

CHAPTER 3.01 GENERAL

Section 3.01.01 Permits Required.

No building or other structure shall be erected, moved, added to, or structurally altered without a permit issued by the Administrative Official. The Administrative Official except in conformity with the provisions of this Ordinance shall issue no permit, unless he received a written order from the Board of Adjustment in the form of an administrative review, under conditional use, or variance as provided by this Ordinance.

Section 3.01.02 Applications.

All applications for permits shall be accompanied by a site plan drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of the buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Administrative Official, including legal description, existing or proposed buildings or alterations; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformity with, and provide for the enforcement of, this Ordinance. Such plans and data accompanying the permit shall be final and conclusive, and a deviation therefrom shall require a new permit.

Section 3.01.03 Fee Schedule.

The City Council shall by resolution establish a schedule of fees, charges, and expense and a collection procedure for building permits, conditional use permits, variances, amendments, appeals, and other matters pertaining to this Ordinance. The schedule of fees may be altered or amended only by the City Council.

The current fee schedule shall be available from the Administrative Official. All fees shall be the property of the City and shall be paid over to the City Finance Officer for credit to the General Fund of the City, which under no condition shall be refunded. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 3.01.04 Issuance of Permits.

Permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and other use, arrangement, or construction at variance with that authorized shall be deemed violation of this Ordinance, and punishable as provided by Section 1.02.02 of this Ordinance.

Section 3.01.05 Expiration of Use Permit.

Unless otherwise specified by the Board of Adjustments, if the work desired in any use permit has not begun within ninety six (6) months from the date of issuance thereof, said permit shall expire; it shall be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected.

If the work described in any variance, building/use or conditional use permit has not been substantially completed within one (1) year of the date of issuance thereof, said permit shall expire and be canceled by the Administrative Official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new variance, building/use or conditional use permit has been obtained.

Section 3.01.06 Building Permit Process.

No new development, change of use, moving in/moving out of structures, demolition, or other action which may be regulated by the provisions of this Ordinance including use, height, number of occupants, lot area, off street parking or yard requirements, shall occur without a building/use permit issued by the Administrative Official. Building/Use permits issued on the basis of plans and applications approved by the Administrative Official authorize only the use, arrangement, or construction set forth in such approved plans and specifications. Any use, arrangement, or construction at variance without authorization shall be deemed a violation of this regulation and shall be punishable as provided by this regulation. The failure to obtain the necessary building permit shall be punishable under this regulation.

1. The landowner requesting the Building/Use Permit shall complete an application for a building permit, accompanied with the appropriate fee, available from the Administration Official. Completed applications shall be returned to the Administrative Official for review. To be considered complete, the application form shall be accompanied by the following additional items:

    A. Applications for a site shall accompany building permits plan drawn to scale with the following information indicated in order to determine compliance with this Ordinance.

        i. A site plan, drawn to scale, showing the exact size, shape, and dimensions of the lot to be built upon, the exact size and location on the lot of all existing buildings and structures, and the exact size and location on the lot of the structure or building proposed to be repaired, altered, erected, or moved, and the size, arrangement, number of parking stalls, movement of vehicles and ingress and egress drives for all off-street parking and loading facilities.

        ii. The location of the said lot with respect to existing rights-of-way and adjacent lots.

        iii. A letter of certification stating that the lot to be built upon has been accurately surveyed. The Administrative Official may waive this requirement in the event lot markers (pins) have been located.

        iv. Any other information which the Administrative Official may deem necessary for consideration in enforcing the provisions of this Ordinance.

v. The Administrative Official in cases of permits to alter the interior of any existing structure may waive any of the above requirements.

2. One copy of the application shall be returned to the applicant, after the Administrative Official has marked such copy as either approved or disapproved, and attested to the same by signing said copy of the plans. Then Administrative Official for city records shall retain one copy of the application, similarly marked.

3. The Administrative Official shall then, if the applicant is approved, issue a signed building permit. If the Administrative Official determines the proposed action would not be in compliance with the provisions of these regulations, a building permit may not be issued, and the applicant may then appeal the action of the Administrative Official to the Board of Adjustment.

4. Building permits shall be posted in a conspicuous place upon the premises and visible from a public right-of-way at all times from the beginning until completion of such construction, alteration, or repair.

5. With application for a building permit, the site must be clearly staked out and/or the Administrative Official will examine plans that clearly indicate the structure to be erected or remodeled, or alterations of the exiting structure.

6. The Administrative Official will again examine the site after the completion of the foundation and rafters of the structure and will grant permission to proceed if complied with application.

CHAPTER 3.02 ADMINSTRATIVE OFFICIAL

Section 3.02.01 Establishment and Purpose.

The position of Administrative Official is hereby established for the City of Lake Norden. The Administrative Official may be employed by the City or other entity in another position. The City Council shall appoint the Administrative Official. Further, he/she may be provided with the assistance of such other persons as the City Council may direct. The Administration Official shall administer and enforce this Ordinance. It is the intent of this Ordinance that questions of interpretation and enforcement shall be first presented to the Administrative Official and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

Section 3.02.02 Duties.

The powers and duties of the Administrative Official shall be as follows:

1. Issue all building/use permits and make and maintain records thereof.

2. Conduct inspections of buildings, structures, and the use of land to determine compliance with this Ordinance.

3. Notify in writing persons responsible for violations, indicating the nature of the violation and ordering action necessary to correct.

4. Order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions; alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

5. Revoke any permit, which was unlawfully issued, or any permit wherein defective work has been performed, and when such work has not been corrected within ninety (90) days of notification.

6. Maintain permanent and current records of this regulation, including, but not limited to, all maps, amendments, variances, appeals, and applications.

7. Provide public information relative to all matters arising out of this Ordinance.

8. Forward to the Planning Commission all applications for amendments to this Ordinance.

9. Forward to the Board of Adjustment, applications for appeals, variances, or other matters on which the Board of Adjustment is required to pass under this Ordinance.

10. Initiate, direct, and review, from time to time, a study of the provisions of this Ordinance, and to make such reports available to the Planning Commission. The Administrative Official shall receive applications for Building Permits, Conditional Uses, Variances, and Zoning Amendments.

    a. For building permits, the Administrative Official shall approve the application only in accordance with the provisions of this Ordinance.

    b. For Conditional Uses and Variances, the Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or approve said application.

    c. For Zoning Amendments, the Administrative Official shall review the application, and shall make comments regarding said application to the Planning Commission and City Council.

3.02.03 Powers.

If the Administrative official shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it.

He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

Section 3.02.04 Right of Entry.

Whenever necessary to make an inspection to enforce any of the provisions of this regulation, or whenever the Administrative Official or an authorized representative has reasonable cause to believe that there exists in any building or upon any premises a regulation violation, the Administrative Official or an authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Administrative Official by this ordinance, provided that if such building or premises be occupied, they shall first present proper credentials and request entry; and if such building or premises be unoccupied, they shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the Administrative Official or an authorized representative shall have recourse to every remedy provided by law to secure entry.

When the Administrative Official or an authorized representative shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Administrative Official or an authorized representative for the purpose of inspection and examination pursuant to this regulation.

Section 3.02.05 Stop Order.

Whenever any work is being done contrary to the provisions of this ordinance, the Administrative Official may order the work stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and any such persons shall forthwith stop such work until authorized by the Administrative Official to proceed with the work.

Section 3.02.06 Occupancy Violation.

Whenever any building or structure regulated by this ordinance is being used contrary to the provisions of this ordinance, the Administrative Official may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such persons shall discontinue the use within the time prescribed after receipt of such notice to make the structure, or portion thereof, comply with the requirements of this ordinance.

CHAPTER 3.03 BOARD OF ADJUSTMENT

3.03.01 Establishment.

A Board of Adjustment is hereby established, which shall consist of the Mayor and members of the City Council, as provided for in the provisions of Chapter 11-4, South Dakota Codified Laws and Amendments.

The City Council shall appoint two (2) alternates for the Board of Adjustment. If a City Council Member or Mayor acting as a Board of Adjustment member is unable to attend a meeting, the first alternate, or second alternate in turn, shall serve in the member's place. Alternates may be appointed for a term of three (3) years.

Section 3.03.02 Procedures for Meetings.

The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this Ordinance. Meetings shall be held at the call of the chairman and at such other times as the Board of Adjustment may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The Board of Adjustment shall keep minutes of its meetings and proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official action, all of which shall be filed in the office of the City Finance Officer of the City of Lake Norden, South Dakota and shall be a public record.

Section 3.03.03 Powers and Duties of Board of Adjustment.

The Board of Adjustment shall have the following powers and duties:

1. Administrative Review:

    a. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administration Official in the enforcement of this Ordinance.

    b. To hear and decide appeals to decisions made by the Administrative Official regarding Building/Use Permits.

        i. Conditional Uses:

            To hear and decide only such conditional uses as the Board of Adjustment is specifically authorized to pass on by the terms of this Ordinance; to decide such questions as are involved in determining whether conditional uses should be granted; and to grant conditional uses with such conditions and safeguards as are appropriate under this Ordinance, or to deny conditional uses when not in harmony with the purpose and intent of this Ordinance.

        ii. Variances:

            To hear requests for variances from this Ordinance in instances where strict enforcement would cause unnecessary hardship, and to authorize upon appeal in specific cases such variance from the terms of this Ordinance as which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.

Section 3.03.04 Hearings; Appeals; Notice.

Appeals to the Board of Adjustment concerning interpretation or administration of this Ordinance may be taken by any person aggrieved or by any officer of the governing body of the city affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time, not to exceed sixty (60) days of such lesser period as may be provided by the rules of the Board, by filing with the Administrative Official and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board of Adjustment shall hear and decide, on not less than ten (10) days public notice prior to an affixed time and place for hearing appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the Administrative Official or other administrative officers in carrying out the enforcement of any provision of this Ordinance, and for interpretation of the Official Zoning Map. At the hearing, any party may appear in person or by agent or attorney.

Section 3.03.05 Stay of Proceedings.

An appeal stays all proceedings in furtherance of the action appealed from unless the Administrative Official from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause an imminent peril to life and property. In such case proceedings shall not be stayed other than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Administrative Official from whom the appeal is taken and on due cause shown.

CHAPTER 3.04 PROCEDURES FOR CONDITIONAL USES VARIANCES AND ZONING AMENDMENTS

Section 3.04.01 Conditional Uses.

Special Exceptions are allowed for certain uses in some zoning districts. Uses not listed within the individual zoning districts as eligible for a Conditional Use Permit shall not, in any circumstances, be granted a Conditional Use Permit.

The following procedure for requesting a Conditional Use Permit shall be followed:

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A Conditional Use Permit shall not be granted by the Board of Adjustment unless and until:

    a. The landowner requesting the Conditional Use Permit shall complete an application for a Conditional Use Permit, available from the Administrative Official. Any required attachments and fees as in Section 3.01.03 shall further accompany the application. The written application for a Conditional Use shall indicate the section of this Ordinance under which the Conditional Use is sought and stating the grounds on which it is requested; Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit

application, the revised, update or corrected information shall accompany the application for a Conditional Use Permit.

b. The Administrative Official shall review the application, and shall make a recommendation to the Board of Adjustment to either approve or not approve said application. The Administrative Official's recommendation shall include a summary of the application, and reasons and justification for either approval of or disapproval of the application.

c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the adjacent landowners (excluding streets and alley) by mail at the expense of the applicant, at least one (1) week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, not less than ten (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed Conditional Use Permit.

d. A public hearing shall be held. Any party may appear in person, or by agent or attorney;

e. The Board of Adjustment shall rule that it is empowered under the section of this ordinance described in the application to grant the Conditional Use, and that the granting of the Conditional Use Permit will not adversely affect the public interest; and

f. Before any Conditional Use shall be issued, the Board of Adjustment shall make a written finding certifying compliance with the specific rules governing individual conditional uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

    i. Utilities, refuse, and service areas, with reference to locations, availability, and compatibility;

    ii. Screening and buffering with reference to type, dimensions, and character;

    iii. Required yards and other open space; and

    iv. General compatibility with adjacent properties and other property in the district.

    v. Entrance and exit to property and proposed and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

    vi. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties.

    vii. Off-street parking and loading areas where required, with particular attention on effects of the conditional use on adjoining properties and properties generally within the district.

2. In order to preserve the intent of this Ordinance and to protect the public interest, the Board of Adjustment may attach conditions to a Conditional Use Permit. A Conditional Use Permit shall remain valid only as long as terms and conditions of the Conditional Use Permit, as attached by the Board of Adjustment are complied with. Violation of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation and punishable under the terms of this Ordinance.

3. Approval of any application for a Conditional Use Permit shall be by a two-thirds (2/3) majority of the present and voting Board of Adjustment members.

4. The Board of Adjustment may, after notice and hearing, revoke a conditional use permit in the event of a violation of any of the conditions upon which such permit was issued. In addition, the conditional use permit may not be transferred during any violation.

Section 3.04.02 Variances.

Variances are designed to allow some flexibility in the Ordinance, in cases where the exceptional shape of a parcel of land, in cases where use of a property is overwhelmingly effected by exceptional topographic conditions, or any other extraordinary situation or condition of such a parcel of land. Variances are to be approved only when a property owner demonstrates that the provisions of all or part of this Ordinance present an undue hardship on such property owner's use of such parcel land. A variance shall include a description of the specific regulatory item or items in this Ordinance which are found to produce, said undue hardship. Variances shall only be granted when the Board of Adjustments finds that such relief from this Ordinance will be neither detrimental to the public good nor in conflict with the intent of this Ordinance.

The following procedure for requesting a Variance shall be followed:

1. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until:

    a. An application for Variance, available from the Administrative Official, shall be completed by the landowner requesting the variance and shall be accompanied by any required attachments and fees as in Section 3.01.03. The written application for a variance shall indicate the section of this Ordinance under which the variance is sought and stating the grounds for which it is requested. Completed applications shall be returned to the Administrative Official for review. To be considered by the Board of Adjustment, the application form shall be completed. If any of the information required by Section 3.04.01 has changed since the original Building Permit application, the revised, updated or corrected information shall accompany the application for a variance.

    b. The Administrative Official shall review the application, and shall prepare a summary of the application and recommended reasons for either approval or disapproval of the application.

c. The Administrative Official shall set the date, time and place for a public hearing to be held by the Board of Adjustment. The Administrative Official shall notify the adjacent landowners (excluding streets and alleys) by mail at the expense of the applicant, at least one (1) week before the public hearing. The Administrative Official shall publish notice of the public hearing, with all costs to be paid by the applicant, no less than (10) days prior to the public hearing in a newspaper of general circulation in the area affected by the proposed variance.

d. A public hearing shall be held. Any party may appear in person, or by agent or attorney;

e. The Board of Adjustment shall follow the following procedure in considering the recommendation of the Administrative Official. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustments unless and until:

   i. A written application for a variance is submitted demonstrating:

   ii. That special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other land, structures, or buildings in the same district;

   iii. That literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance;

   iv. That the special conditions and circumstance do not result from the actions of the applicant;

   v. Financial disadvantage of the property owner shall not constitute conclusive proof of unnecessary hardship within the purposes of zoning.

   vi. That granting the variance request will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.

   vii. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

f. The Board of Adjustment shall make findings that the requirements of Section 3.04.02.1.e above have been met by the applicant for a variance;

g. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure; and

h. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

i. Approval of any variance shall be by a two-thirds (2/3) majority (5 votes) of all members of the Board of Adjustment.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Ordinance and punishable under Chapter 1.02, Section 1.02.02 of this Ordinance.

Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

Section 3.04.03 Board has Powers of Administrative Official on Appeals; Reversing Decision of Administrative Official:

1. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the Administrative Official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Administrative Official.

2. In exercising the above-mentioned powers, the Board of Adjustment may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the Administrative Official from whom the appeal is taken.

3. The concurring vote of two-thirds (2/3) of the present and voting members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in the application of this Ordinance.

Section 3.04.04 Appeals:

Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment may seek review by may present to a court of record a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Finance Officer.

Section 3.04.05 Zoning Amendments.

Whenever the public necessity, safety, and general welfare or good zoning practices justifies such action, and after consideration and recommendation by the City Planning Commission, as provided herein, the City Council may change zoning district boundaries, use groups, or the regulations established by this Ordinance. A proposed change of zoning district boundaries or regulations may be initiated by the City Planning Commission, City Council, or by application of one or more of the owners of property within the area requested to be changed. The City Council may not consider said ordinance until the Planning Commission has delivered a recommendation to either approve or not approve said ordinance.

The following procedure for requesting a Zoning Amendment shall be followed:

1. The landowner or other person(s) requesting the Amendment shall complete an application for Amendment, available from the Administrative Official. Completed applications shall be returned to the Administrative Official for review. To be considered by the Planning Commission and City Council, the application form shall be completed and shall be accompanied by the following items:

    a. Any required attachments and fees, including Registered or Certified Mail costs in Section 3.01.03; and

    b. Any additional information, as requested by the Administrative Official, as lawfully may be required to determine conformance with and provide for enforcement of this Ordinance.

    c. The Administrative Official shall review the application, and shall forward a summary of the application, and his/her comments regarding said application, to the Planning Commission for their review.

    d. The Administrative Official shall set the date, time, and place for a joint public hearing to be held by the Planning Commission and City Council. The Administrative Official shall publish notice of the public hearing in a newspaper of general circulation in the area affected by the proposed amendment; such notice shall be published not less than ten (10) days prior to the public hearing. If the proposed amendment will change the boundaries of a zoning district, the Administrative Official shall notify all owners of property within two hundred fifty (250) feet of the proposed boundary change, by Registered or Certified Mail at the expense of the applicant, at least one (1) week before the public hearing.

    e. The public hearing shall be held. Any person may appear in person, or by agent or attorney. Minutes of the public hearing shall be recorded and kept in the records of the Planning Commission.

    f. The Planning Commission shall either recommend or not recommend approval of the amendment to the city council.

    g. The City Council shall either approve or not approve the ordinance describing the proposed changes to this Ordinance, in accordance with standard procedures for reading, approval, publication, and effective date.

    h. When the City Council approves a proposed amendment affecting the zoning classification of property, affected property owners may file a written protest to stop such an amendment from taking effect. If the protest meets the following standard, such amendment shall not become effective unless the amendment is approved by two-thirds of the City Council.

        i. Protest Standard: The protest shall be signed by at least forty (40) percent of the owners of equity in the parcels in the area affected by the amendment, and the parcels or parts of parcels within two hundred fifty (250) feet of the area affected by the amendment.

Section 3.05.07 Reapplication.

No application requesting a variance, conditional use, or zoning ordinance amendment or district classification change on any property whose application includes any such property either entirely or substantially the same as that which has been denied by the Board, shall again be considered by the Planning Commission, Board of Adjustment or City Council before the expiration of one (1) year from the date of the final action of the Planning Commission, Board of Adjustment or City Council.

ARTICLE IV
SUPPLEMENTAL REGULATIONS

CHAPTER 4.01 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.

On a corner lot in any residential district, no planting or obstruction to vision between the range of three (3) feet and eight (8) feet in height measured from the center line of the road shall be placed or maintained within the triangular area formed by the intersection road right-of-way lines and a straight line connecting points on said road right-of-way line, each of which is fifty (50) feet distance from the point of intersection (Clear View Triangle).

CHAPTER 4.02 FENCES.

Section 4.02.01 Construction Limitations

1. Fences, walls, and hedges which are more than thirty (30) percent solid shall abide by Chapter 4.01.

2. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the City of Lake Norden any fences of any character or material, without first securing permission from the Administrative Official.

3. Fences that are adjacent to alleys shall be set back ten (10) feet from the street/boulevard right-of-way.

4. Prior to the issuance of a permit for a fence, abutting property owners shall be notified.

5. That side of the fence considered being the face (facing as applied to fence post) should face abutting property.

6. Notwithstanding other provisions of this ordinance, fences, walls, and hedges with a maximum height of not more than seven (7) feet high, may be erected on any part of a lot other than in the required front yard, which shall be limited to a height of four (4) feet.

7. Hedges or other plantings which create a fence effect are subject to the same regulations as fences.

8. No person shall hereafter construct, erect, or maintain or cause to be constructed, erected, or maintained, in the City of Lake Norden corporate limits any fences of any character or material closer than one (1) foot to the sidewalk line or property line. Exception: A fence/wall/hedge may be placed on the property line provided the fence/wall/hedge is shared between property owners and agreement providing for the maintenance of said fence/wall/hedge is recorded at the Register of Deeds.

9. Approved fencing materials include stone, brick, wood, vinyl, and chain link. The City further requires fencing materials to be “new” – used for first time installation. Individuals wishing to utilize “used” – not first time installation fencing materials shall require Board of Adjustment approval. No barbed wire or above ground electric fence shall be used in the construction of any fences within the “R1” Single-Family Residential District, “R2” General Family Residential

District, “C-1” Central Commercial District, “HC” Highway Commercial District or on the property lines separating commercial or industrial zoned property with residentially zoned property. Except that barbed wire may be used in connection with a security fence when the barbed wire is at least six **(6)** feet from the ground.

CHAPTER 4.03 ACCESSORY BUILDINGS

1. Only specifically authorized accessory uses allowed; accessory uses must be subordinate to principal use.

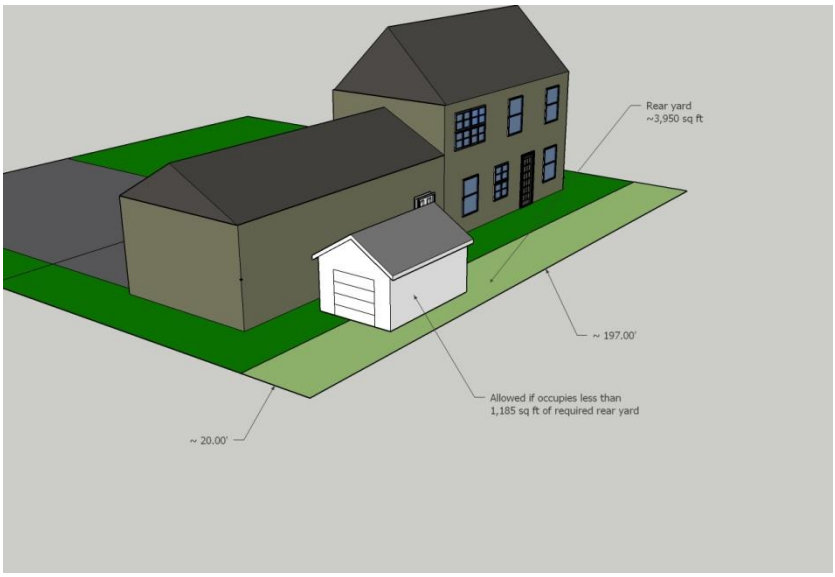
2. No accessory use shall be permitted in any district unless such use is specifically authorized by this Ordinance. No accessory use shall be deemed to be authorized by this Ordinance unless such use is in fact subordinate to and on the same zoning lot with the principal use in conjunction with which it is maintained.

3. No accessory building which is attached to or within ten (10) feet of a principal structure shall be erected in any required yard, and no separate accessory building shall be erected within five (5) feet of any other building.

4. No accessory building may be used for residential dwelling purposes at any time.

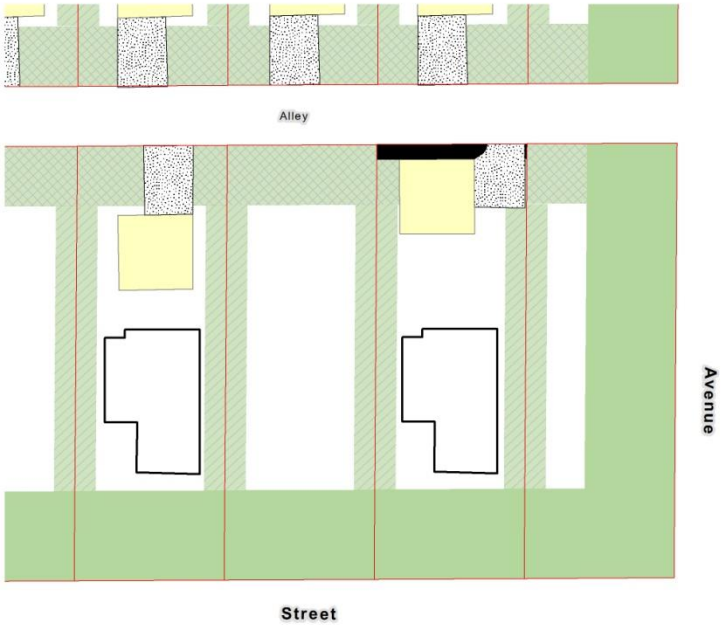
5. Accessory buildings may be located in a rear yard, but may not occupy more than thirty percent (30%) of a rear yard, and shall not be used for dwelling purposes. (See Figure 4.03.5)

Figure 4.03.05



6. No separate accessory building shall be erected within five (5) feet of any side or rear lot line, except that when a garage is entered directly from an alley it shall not be located closer than twenty (20) feet to the alley line. (See Figure 4.03.6)

Figure 4.03.06



Symbol	Structure
	House
	Garage
	Driveway

Symbol	Required Yard	Setback*
	Front Yard	25'
	Rear Yard	20'
	Side Yard	7'
	Parallel Accessory Building	5'

7. Residential Districts.

   Accessory uses shall be permitted for the principal permitted uses and conditional uses of the residential districts only in accordance with the provisions of Table 4.03.1 hereby adopted by reference and declared to be part of this Ordinance.

8. Commercial and Industrial Districts.

   In any commercial district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

9. Agricultural District.

   In the Agricultural district, any accessory use customarily incident to the principal permitted use or conditional use shall be permitted, except those uses specifically prohibited in the district.

Table 4.03.1

Permitted Uses:

Principal Use	**Permitted Accessory Uses**
Single-family dwellings; duplexes; townhouses and multiple-family dwellings; nursery schools and Day care centers	1. Private garages. a. Attached garages shall be limited to maximum dimensions of thirty (30) feet by forty-eight (48) feet and conform to the design of the house. b. Unattached garages shall be limited to maximum sidewalls of twelve (12) feet; maximum dimensions of thirty (30) feet by forty-eight (48) feet; and a maximum of 4/12 roof pitch or to conform to the design of the house. c. Unattached Garages shall have siding material of a type customarily used on site-constructed residences and be comparable to the existing dwelling with the color coordinated to the existing dwelling. 2. Buildings or structures for customary residential storage purposes not over twelve (12) feet in height and not exceeding two hundred (200) square feet in gross floor area. 3. Readily moveable sports, recreation, or outdoor cooking equipment. 4. Permanent sports or recreational structures or facilities, such as tennis courts, swimming pools (with an approved security fence), barbeque pits, and similar improvements provided a site plan for such facility is approved. 5. Home occupations but only as defined herein. 6. Non-commercial greenhouses provided that greenhouses over 100 square feet in floor area must have an approved site plan. 7. Off-street parking and storage of vehicles, but only as provided in Chapter 4.05 of this Ordinance.
Churches, Convents and Monasteries	1. All customarily incidental uses reasonably necessary to allow the free exercise of religion, but not to include commercial use.
All Conditional Uses	1. All customarily incidental uses reasonably necessary to promote the primary purposes of the principal use, provided that such use must be specifically authorized by the Board of Adjustment for the principal use
All other items	1. No accessory uses permitted.

CHAPTER 4.04 SIGNS AND OUTDOOR ADVERTISING.

Section 4.04.01 On-Premise and Off-Premise Signs:

1. No private sign shall be erected or maintained which:

    a. Creates a hazard due to collapse, fire, collision, decay, or abandonment; or

b. Creates traffic hazards, by either:

1) Confusing or distracting motorists; or

2) Impairing the driver's ability to see pedestrians, obstacles or other vehicles, or

3) Impairing the driver's ability to see and interpret any official traffic sign, signal or device; or

4) Creates a nuisance to persons using a public right-of-way; or

5) Constitutes a nuisance to occupancy of adjacent and contiguous property by its brightness, size, height, or movement

2. Signs shall be permitted in all zoning districts, subject to the following provisions:

a. Wall signs may be located anywhere on the wall of a building.

b. Freestanding signs shall not project over public property.

c. Freestanding signs shall not be erected adjacent to a corner of two intersecting streets, unless such signs are constructed to not obstruct the view of said intersection.

d. Each sign in the incorporated limits of Lake Norden shall at least meet the standards established by the South Dakota Department of Transportation.

e. Other than utility fixtures or holiday decorations, no signs, awnings, or display shall be suspended, hanged, or placed so that the same shall hang over any part of a street or sidewalk, used for vehicular or pedestrian travel unless a written application for a permit is made to the Administrative Official and the said Official grants a permit therefor.

3. The Administrative Official shall take into consideration factors that would make the proposed structure likely to endanger the property or personal safety of passerby traveling the streets or sidewalks in question, and whether or not such structure complies with National Building Code relating to outdoor advertising.

4. On-premise Signs: Each sign erected as an on-premise sign in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:

a. Unless otherwise specified herein, each sign erected as an on-site sign in those districts where permitted shall have a maximum surface area of eighty (80) square feet and shall observe all yard and height requirements of the district in which it is located Each sign shall meet clear view triangle standards identified in Chapter 4.01. The maximum cumulative amount of all on-site signage allowed shall not exceed eighty (80) square feet.

b. No on-premise sign may be converted to an off-premise sign.

5. Off-premise Signs: Off-premise signs erected in those zoning districts where permitted shall, unless specified elsewhere in this ordinance, conform to the following requirements:

a. Each sign shall have a maximum surface area of three hundred (300) square feet.

b. The sign structure or sign shall have a maximum height of thirty (30) feet. Height of sign is the vertical distance from the top of the sign or sign structure, whichever is greater, to the ground in a straight line directly below, measured from a point equidistant from the sides or edges of the sign.

c. Stacked signs (two or more signs stacked vertically on a single sign structure are prohibited.

d. Each sign shall not be closer than three hundred (300) feet from any street intersection and five hundred (500) feet from another permitted Off-premise sign on the same side of the street or road.

e. Each sign shall not be closer than ten (10) feet from any street right-of-way.

f. Each sign shall not be closer than two hundred fifty (250) feet from adjoining property lines.

CHAPTER 4.05 PARKING

Section 4.05.01 Parking, Storage, or Use of Major Recreation Equipment.

For purposes of these regulations, major recreational equipment is defined as including boats and boat trailers, travel trailers, pick-up campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

No off-street parking of motor vehicles, major recreational equipment, watercraft or trailers should be permitted in the required front yard of any residence except as follows:

1. Upon a driveway providing direct access to the garage or rear yard;

2. Upon any other driveway provided that it is no wider than twenty-two (22) feet;

3. Upon the yard area between the driveway and the nearest side lot line.

No such equipment shall be used for living, sleeping, or housekeeping purposes when parked or stored on a residential lot, or in any location not approved for such use.

Section 4.05.02 Parking and Storage of Certain Vehicles:

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any commercially, industrially or residentially zoned property other than in completely enclosed buildings.

Section 4.05.03 Off-Street Parking Requirements:

Except in the C1 Central Commercial District, off-street motor vehicle parking and loading spaces shall hereafter be provided on the same lot as, and in the number stated, for each use set forth in the Schedule of Minimum Off-street Parking and Loading Requirements below (Table 4.05.03.01). In the event the minimum number of spaces specified cannot be reasonably provided on the same lot as the principal use for which the spaces are required, the Planning Commission may permit such spaces to be provided on other off-street property within four hundred (400) feet of the entrance to such principal use.

Table 4.05.03.1
Schedule of Minimum Off-street Parking and Loading Requirements

USE OR STRUCTURE	MINIMUM OFF-STREET PARKING REQUIREMENTS	MINIMUM OFF-STREET LOADING REQUIREMENTS
Bed & Breakfast	One (1) space for each guest room	None
Bowling Alleys	Four (4) spaces per alley	One (1) space per establishment
Churches	One (1) space for each four (4) seats in the main seating area	None
Eating & Drinking Places	One (1) space for each three (3) customer seating spaces	One (1) space per establishment
Hospitals	One (1) space for each three (3) beds	Three (3) spaces per establishment
Hotels/Motels	One (1) space for each guest room	One (1) space per establishment
Industrial Uses	One (1) space for each two (2) employees on the maximum working shift	Two (2) spaces per establishment
Libraries	One (1) space for each five hundred- (500) square feet of floor area	One (1) space per establishment
Manufactured Home Parks	Two (2) spaces for each manufactured home	None
Medical or dental clinics	One (1) space for each examining or operating room plus one (1) space for each doctor and employee	None
Mortuaries & funeral homes	Five (5) spaces for each reposing room	Two (2) spaces per establishment
Multiple family dwellings Nursing, Convalescent & Rest Homes	Two (2) spaces for each dwelling unit exclusive or required yards	None
Private Clubs, Lodges, Social or Fraternal Organizations	One (1) space for each one hundred (100) square feet or one (1) space for each three (3) seats at bars or dining tables, whichever is greater	None
Schools	One (1) space for each twenty-five students	One (1) space per school
Service Establishments	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Retail sales establishments, and	One (1) space for each three hundred (300) square feet of floor area	One (1) space per establishment
Single family dwellings	Two (2) spaces for each dwelling unit exclusive of required yards;	None
Theatres, auditoriums, & places of public assembly	One (1) space for each four (4) seats of design capacity	One (1) space per establishment
Wholesale & distribution	One (1) space for each two (2) employees on the maximum working shift	Two (2) spaces per establishment

CHAPTER 4.06 STRUCTURES TO HAVE ACCESS

Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to private streets approved by the Board of Adjustment, and all structures shall be so located on lots as to provide safe and convenient access for services, fire protection and required off-street parking.

CHAPTER 4.07 YARDS

No part of a yard or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

Section 4.07.01 Yards, Reduction in Size.

No yard or lot existing at the time of passage of this Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards and lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance.

Section 4.07.02 Additional Yard Requirements.

The following yard requirements must be observed in addition to the yard requirements of the various districts:

1. Except in the, “A”, and “C1” Districts, a corner lot must have a front yard on both streets

2. On lots in any residentially zoned block fronting on one side of the street between two streets where one or more residences already exist, no building shall hereafter be erected and no existing building shall be reconstructed or altered in such a way that any portion thereof shall be closer to the street line than the average improved building front on that street in that block, but in no case shall the set-back line be less than twelve (12) feet from the front lot line. Provided, however, that on lots in any block fronting one side of a street between two intersecting streets in the above districts, the set-back line may be increased, providing that the owners of three-fourths (3/4) of the front footing on said side of the street in said block shall petition the Planning Commission to establish the set-back line at a certain distance named in the petition. If the Planning Commission shall approve of establishing the set-back line as petitioned, it may be so established.

3. On through lots and reversed frontage lots, a front yard must be provided on both streets.

4. Required front yards shall be devoted entirely to landscaped area except for the necessary paving or driveways and sidewalks to reach parking or loading areas in the side or rear yard.

Section 4.07.03 Exceptions to Yard Requirements

The following exceptions may be made to the yard requirements:

1. Air conditioning units, sills, chimneys, cornices, and ornamental features may project into a required yard a distance not to exceed twenty-four (24) inches.

2. In commercial and industrial districts, filling station pumps and pump islands may occupy required yards, provided, however, that they are not less than fifteen (15) feet from all lot lines.

3. Filling station pumps and pump islands may occupy required yards provided, however, that they are not less than fifteen (15) feet from all lot lines.

4. An accessory building may be located in a rear yard but not occupy more than 30 percent of a rear yard.

5. Any accessory buildings closer than ten (10) feet to a main building shall be considered as part of the main building and shall be provided with the same side and rear yard requirements as the main building.

CHAPTER 4.08 ERECTION OF MORE THAN ONE PRINCIPAL STRUCTURE ON A LOT.

In any district, only one (1) structure housing a permitted or permissible principal use may be erected on single lot, provided that yard and other requirements are met.

CHAPTER 4.09 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in Chapter 2.03 do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

CHAPTER 4.10 MANUFACTURED HOME PROVISIONS.

Section 4.10.01 Modular Homes.

1. Modular homes shall meet the following regulations.

    a. Modular homes shall meet or exceed Uniform Building Codes.

    b. Modular homes will include all off-site constructed homes, which may be transported to the site in one or more sections.

    c. Modular homes shall have more than one thousand (1,000) square feet in ranch style and eight hundred fifty (850) square feet split and be placed on a permanent foundation.

    d. Modular homes shall not have attached running gear and a trailer hitch or the capacity to have attached running gear and trailer hitch.

    e. Modular homes shall have a minimum of a 4/12-roof pitch.

    f. Have siding material of a type customarily used on site-constructed residences.

    g. Have roofing material of a type customarily used on site-constructed residences.

Section 4.10.02 Type I and Type II Manufactured Homes.

1. For the purpose of this Ordinance, manufactured homes will be regulated by type. Two (2) types of homes are defined under these regulations.

   a. Type I manufactured home shall:

      i. Have more than 1,100 square feet of occupied space in a double section or larger multi section unit.

      ii. The running gear and hitch have been removed.

      iii. Has been anchored to a foundation and permanent footing.

      iv. The foundation shall be (a) an approved wood basement constructed of 2 x 6 framework and treated with water resistant materials; or (b) a foundation shall be constructed with eight inches poured concrete or concrete block.

      v. The footing to be a minimum of eight (8) inches thick by sixteen (16) inches wide poured concrete with top of footing to be sixteen (16) inches below grade.

      vi. Prior to placement of a home on the foundation, it must be inspected and approved by the Administrative Official.

      vii. Have a gabled roof with a pitch of at least 3/12 feet.

      viii. Have siding material of a type customarily used on site-constructed residences.

      ix. Have roofing material of a type customarily used on site-constructed residences.

      x. The age of the manufactured house may not exceed ten (10) years from the date of manufacture.

   b. Type II manufactured home shall:

      i. Have more than 700 square feet of occupied space in a single, double, expando or multi-section unit.

      ii. Utilize a permanent perimeter enclosure in accordance with approved installation standards, as specified in 4.10.02.B.2.

      iii. Be anchored to the ground, in accordance with manufacturer's specifications, or as prescribed by the Defense Civil Preparedness Agency TR-75, issued June 1972, by the U.S. Department of Defense or by the NFPA 225 Model Manufactured Home Installation Standards.

      iv. Have siding material of a type customarily used on site-constructed residences.

      v. Have roofing material of a type customarily used on site-constructed residences.

      vi. Have a gabled roof with a pitch of at least 3/12 feet.

vii. The age of the manufactured house may not exceed ten (10) years from the date of manufacture.

viii. Be place onto a support system. In accordance with approved installation standards, as specified in Section 4.10.02.2.

2. Installation standards

a. Permanent Perimeter Enclosure as required for Type I Manufactured Homes. Those manufactured homes designated in this Ordinance (Type I), as requiring a permanent perimeter enclosure must have footings and crawl space or basement walls. The space between the floor joints of the home shall be completely enclosed with the permanent perimeter enclosure (except for required openings).

b. Foundation Siding/Skirting

All manufactured homes without a permanent perimeter enclosure (Type II) shall have an approved foundation siding/skirting enclosing the entire perimeter of the home.

c. Support System

i. All HUD-Code manufactured homes of the Type I classification shall be installed with load bearing foundations in conformance with the manufacturer's installation specifications.

ii. Type II manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or with the support systems regulations in the ANTI/NFPA 501A 1977 installation standards.

i. Type II manufactured homes not placed on a permanent foundation shall be installed on a support system in conformance with the manufacturer's installation specifications or by the NFPA 225 Model Manufactured Home installation standards.

3. Nonconforming Homes.

A manufactured home placed and maintained on a tract of land and deemed to be a legal nonconforming use prior to the adoption of this Ordinance shall continue to be a legal nonconforming use. If the nonconforming use is discontinued for a period of one year, the land thereafter must be used in conformity with all provisions of this Ordinance.

4. Replacement of Nonconforming Homes. See 2.02.03.6

5. Structural Alteration.

Due to its integral design, the Administrative Official after it is placed on the site must approve any structural alteration or modification of a manufactured home.

6. Variance from Maximum Age Requirement

   Type I and Type II manufactured homes may receive a variance from the maximum age requirement (Chapter 4.09). The Board of Adjustment may grant a variance if the applicant requesting the placement of the manufactured home meets the following requirements:

   a. The applicant shall provide a photograph of the manufactured home's exterior and interior.

   b. That it shall have been shown to the satisfaction of the Board of Adjustment that the said manufactured home complies with the gas, plumbing, electrical, and construction requirements of the City of Lake Norden.

   c. That the applicant shall obtain, and present to the Board of Adjustment, the written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of sixty-six (66) percent of the property owners within 150 feet (excluding streets and alleys) of said proposed location.

CHAPTER 4.11 PERMANENT FOUNDATIONS REQUIRED FOR DWELLINGS

No dwelling shall be constructed, installed, or moved into the area under the jurisdiction of these regulations, unless said dwelling is constructed upon, installed on or moved onto a permanent foundation, as defined in these regulations. Exempted from this requirement are manufactured homes in an approved manufactured home park, provided said manufactured homes are anchored with tie downs to prevent the manufactured home from dangerous motion during high wind or other weather related events.

CHAPTER 4.12 PRIVATE WASTEWATER TREATMENT SYSTEMS (SEPTIC TANKS)

All existing septic tanks shall be considered Non-conforming Uses. All structures used for human habitation, commercial and industrial use must be connected to the city's sanitary sewer system. All structures within four hundred (400) feet of the city's sanitary sewer system shall be connected to the city's sanitary sewer system at the landowner cost in accordance with Chapter 15 of Lake Norden City Ordinances.

CHAPTER 4.13 MOVED IN BUILDINGS

1. It shall be unlawful to move any house or other building onto any lot or to any new location within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.

   a. The fee for said permit as prescribed in Section 3.01.03, shall have been paid.

   b. That it shall have been shown to the satisfaction of the Administrative Official that the said house or other building complies with the gas, plumbing, electrical, and construction requirements of the City of Lake Norden.

   c. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.

d. The applicant may also be required to file with the City Finance Officer a sufficient bond conditioned so that the applicant will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds. No building shall be moved other than during the period from daylight to sundown. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the city, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

e. Any building, which is not newly constructed to be used for first occupancy, shall also meet the following minimum requirements to obtain a permit.

    1. The written consent of all property owners owning property immediately adjacent (excluding streets and alleys) to the proposed building site and the consent of more than fifty (50) percent of the number of owners of property within 150 feet (excluding streets and alleys) of said proposed location has been received.

f. That applicant shall file with the Administrative Official the route to be taken in so moving/removing the building and length of time which may be consumed in the work.

g. Nothing in the permit shall be construed as authorizing the holder thereof or his agents to break, injure or move any light or telephone poles or wires, or in any way injure shade trees or other property without the permission of the owner or owners thereof.

CHAPTER 4.14 SCREENING

Where any “C1”, “HC”, and “I” use is adjacent to any Residential Zone, that use (building, parking or storage) shall be appropriately screened from the Residential Use District by plantings or fencing, except where planting or fencing may be in conflict with Chapter 4.01 or Chapter 4.02.

CHAPTER 4.15 REFUSE

In all Zoning Districts, refuse (rubbish, garbage, trash, waste or debris) shall be kept within a complete enclosed building or specially designed closed container made for such purpose. Owners of vacant lots shall be responsible for keeping their property free of trash.

CHAPTER 4.16 UNLICENSED VEHICLES

Vehicles not in use and without a current license may not be kept in any uncovered area other than designated junk or salvage yard.

CHAPTER 4.17 ADULT USES.

In the development and execution of these regulations, it is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area.

Section 4.17.01 Setbacks.

1. None of the following uses may be established, operated or maintained within five hundred (500) feet of a residence, a church, a school meeting all the requirements of the Compulsory Education Laws of the State of South Dakota, or a public park.

    a. Adult bookstore.

    b. Adult motion picture theater.

    c. Adult photo studio.

    d. Adult Entertainment Facility.

    e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.

    f. Any use intended to provide adult amusement or entertainment.

2. Not more than two of the following uses may be established, operated or maintained within three hundred fifty (350) feet of each other:

    a. Adult bookstore.

    b. Adult motion picture theater.

    c. Adult photo studio.

    d. Adult entertainment facility.

    e. Any use which has as a part of its operation an adult use component including, but not limited to, a restaurant or eating place, a bar, lounge or tavern.

    f. Any use intended to provide adult amusement or entertainment.

    g. A bar.

    h. A liquor store.

3. The 350-foot restriction provided for in 4.17.01.2 above may be waived and a conditional use permit issued upon proper application if the Board of Adjustment finds:

    a. That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of these regulations will be observed.

    b. That the proposed use will not enlarge or encourage the development of a 'skid row' area.

    c. That all applicable regulations will be observed.

Section 4.17.02 Required License.

It shall be unlawful for any person to engage in the business of operating an adult use in the City of Lake Norden without first having obtained a license from the City Council.

Section 4.17.03 Application; Standards for Issuance.

1. Application for an adult use license shall be made in writing and shall state the following:

    a. The name, address, telephone number and age of the applicant and the registered agent of the applicant if the applicant is a corporation.

    b. The location of the adult use business.

    c. The exact nature of the adult use to be conducted and of the proposed place of business and the facilities related thereto.

    d. A statement by the applicant that he is familiar with the provisions of this article and is in compliance with them.

    e. A statement of whether the business will be conducted by a manager and, if so, the name, address, telephone number, and age of each such manager.

    f. A statement that no manager or principal operating the business has been convicted of any offense of prostitution, soliciting for prostitution, or obscenity or public indecency as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use in any other community revoked within the last two (2) years.

2. Within fifteen (15) days after receipt of an application for an adult use license, the City Council shall investigate the information contained in the application and shall determine the following:

    a. That the premises designated by the applicant as the location of the business are in full compliance with all applicable ordinances of the City, including zoning ordinances.

    b. That the premises and each manager and employee comply with the provisions of Section 4.17.03.1 as such provisions apply to them.

    c. That the applicant, each manager and each employee are over twenty-one (21) years of age.

d. That no manager or principal operator of the business has been convicted of any offense of prostitution, solicitation for prostitution, or obscenity or public indecency, as defined in the South Dakota Compiled Statutes within the last two (2) years, and that the applicant has not had any license for an adult use revoked within the last two (2) years.

3. If the investigation shows the compliance of the applicant for an adult use license, the premises upon which the business is to be conducted and each manager and employee, if applicable, with each of the requirements established in subsections (1) and (2) of this section, and with the conditions and regulations set forth in Section 4.17.03 within fifteen (15) days after completion of such investigation, the City Council shall issue a license, and upon payment by the applicant of the license fee required under this article, the license shall be issued.

4. If the investigation shows that the applicant for an adult use license, the premises on which the business is to be conducted, or the managers and employees, if applicable, do not comply with each of the requirements established in subsection (1) of this section, and with the conditions and regulations set forth in Section 4.17.04 within fifteen (15) days after completion of such investigation, the City Council shall notify the applicant in writing that the license has been denied. Such denial shall be the final administrative action of the City with respect to the license application, and shall be subject to the immediate appeal by the applicant to the circuit court.

Section 4.17.04 Conditions & Regulations Governing Operation; Violation; Penalty.

1. The following regulations shall govern and control the business of operating an adult use in the City of Lake Norden:

   a. No person under twenty-one (21) years of age shall be allowed on the licensed premises.

   b. At all times during the hours of operation there shall be present a manager or other employee of the licensee who shall be not less than twenty-one (21) years of age.

   c. Upon a change of any manager conducting business for the licensee, the licensee shall, within ten regular business days, give the City Council written notice of such change by actual delivery or by registered or certified mail. The licensee shall, thereafter, as promptly as practicable, but in any event within five (5) regular business days, provide the information concerning the new manager which is required in Section 4.17.03.

   d. No adult use shall be located on premises for which a license to sell alcoholic liquor has been issued, and no alcoholic liquor shall be permitted on such premises.

   e. No adult use shall be permitted unless the premise on which such business is located complies with the requirements of the zoning ordinance.

   f. No licensee or manager under the provisions of this article shall knowingly permit any person to remain in or upon licensed premises who commits any act of public indecency or obscenity as defined in the South Dakota Compiled Statutes.

   g. No licensee or manager under the provisions of this article shall permit any act of prostitution, solicitation for prostitution or patronization of a prostitute on the licensed premises.

h. No sign shall be posted on the licensed premises which depicts, displays or refers to specified anatomical areas or specified sexual activities, as defined in this article.

2. In addition to the requirements established in Section 4.17.04.1, the following regulations shall govern and control the operation of an adult bookstore which offers any films or videotapes for viewing on premises by use of motion picture devices or other such operations means:

   a. All viewing areas, which shall be defined as the area where a patron or customer would ordinarily be positioned while watching a film or viewing device, shall be visible from a continuous main aisle or public room and shall not be obscured by any curtain, door, wall or other enclosure.

   b. There shall be no aperture whatsoever in any wall or partition between viewing areas.

   c. Each viewing area shall be lighted at a minimum level of ten (10) foot candles in all parts thereof.

3. In addition to the requirements established in Section (1) of this section, the following regulations shall govern and control the operation of an adult entertainment facility:

   a. All performers shall be at least twenty-one (21) years of age.

   b. All performances, exhibitions or displays shall take place on a platform raised at least two feet from the level of the floor, and located at least ten (10) feet from any patron.

   c. No performer shall fondle or caress any patron or other performer and no patron shall fondle or caress any performer.

   d. No patron shall be permitted to pay or give any gratuity to any performer, and no performer shall solicit any pay or gratuity from any patron.

4. It shall be unlawful for any person licensed to engage in the business of operating an adult use within the City to fail to comply with the conditions and regulations set forth in subsections 4.17.03 and 4.17.04 of this section as they are applicable to the licensed business, or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises. In this regard, any act or omission of an employee shall be deemed the act or omission of the owner if such act or omission occurred either with the authorization, knowledge or approval of the owner or as a result of the owner's negligent failure to supervise the employee's conduct. All conduct occurring while on the premises shall be presumed to be the responsibility of the owner.

5. Any person convicted of a violation of this section shall be subject to a fine pursuant to Section 1.02.02 of this Ordinance.

Section 4.17.05 Suspension or Revocation.

Nothing in the terms of this article shall preclude the right of the City Council to suspend or revoke the license of the licensee, as follows:

1. The City Council may temporarily suspend any license issued under the terms of this article when he has reason to believe that the continued operation of a particular licensed premises will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the licensed premises closed for not more than seven (7) days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven (7)-day period, and further provided that if such licensee shall also be engaged in the conduct of other business on the licensed premises, such order shall not be applicable to such other businesses.

2. The City Council may suspend or revoke any license issued under the terms of this article upon ten (10) days notice to the licensee of the time and place of a public hearing, and a public hearing at which the licensee may appear and present evidence, if the City Council determines upon such hearing that the licensee has failed or refused to comply with the terms of this article, has failed or refused to comply with other law applicable to the business of operating an adult use, has knowingly permitted the failure of any manager or employee on the premises to comply with the terms of this article or with other law applicable to the business of operating an adult use, has knowingly furnished false or misleading information on any application required for any license under this section or has suffered or caused another to furnish or withhold such information on his behalf, or has been convicted by a court of competent jurisdiction of a violation of any provision of this section.

CHAPTER 4.18 HOME OCCUPATION.

A home occupation is a business conducted in a dwelling unit, provided that the occupation is clearly secondary to the main use of the premises as a dwelling and does not change the character thereof or have any exterior evidence of such secondary use. For the purposes of minimizing conflicts with neighboring residentially used property, the City of Lake Norden has established minimum performance standards for home Occupations.

Section 4.18.01 Performance Standards.

1. No person other than members of the family residing on the premises shall be engaged in such occupation;

2. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinated to its use for residential purposes by its occupants, and not more than 25 percent (25%) of the floor area of the dwelling unit shall be used in the conduct of the home occupation. Exception: in-home day cares providing care for less than 12 children in a 24-hour period may utilize more than twenty-five percent (25%) of the floor area of the dwelling unit;

3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two (2) square-foot in area, non-illuminated, and mounted flat against the wall of the principle building; and

4. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street.

6. Not withstanding the preceding standards, any operation that provides care for more than 12 children in a 24-hour period shall not be considered a home occupation.

CHAPTER 4.19 MOVED OUT BUILDINGS

It shall be unlawful to move any house or other building off of any lot within the City unless and until a permit to do so has been obtained from the Administrative Official. No permit shall be issued until the following requirements are met.

1. The fee for said permit as prescribed in Section 3.01.03, shall have been paid.

2. That the work is to be completed within twelve (12) months after the permit has been issued by the Administrative Official.

3. That applicant shall file with the Administrative Official the route to be taken in so moving/removing the building and length of time which may be consumed in the work.

4. The applicant shall also file with the Finance Officer a sufficient bond so that will indemnify the City and any public utility for any damage done to any property, street, alley or public grounds, and to guarantee that the building will be placed on an adequate foundation, will be attached to the City's electrical, water and sewer service where available, that the property on which said building is to be located will be properly landscaped and seeded in accordance with requirements of the Administrative Official, said bond to be in a minimum of five hundred dollars ($500).

5. No building shall be moved other than during the period from daylight to sundown.

6. Before any permit is granted under this section, the applicant must furnish proof that all taxes legally assessed against the property have been paid. If a building or structure is to be moved onto any lot within the City, the Administrative Official shall have the power to deny the granting of a moving permit on the grounds that the intended use of the structure or location thereof is contrary to the provisions of this chapter.

7. No building or part of any building shall be allowed to stand still in any public street or public ground in the City for more than twenty-four (24) hours consecutively.

8. Nothing in the permit shall be construed as authorizing the holder thereof or his agents to break, injure or move any light or telephone poles or wires, or in any way injure shade trees or other property without the permission of the owner or owners thereof.

9. When no replacement structure is to be moved in or constructed, the applicant shall agree to restore the lot to a buildable condition. This may include but is not limited to concrete basement removal, collapsing of the basement walls, earthwork, landscaping and/or reseeding

CHAPTER 4.20 BED AND BREAKFAST.

The regulations regarding Bed and Breakfast Establishments (hereafter referred to as B & B's) shall be as follows:

1. B & B's shall be limited to residential structures with an overall minimum of one thousand eight hundred (1,800) square feet of floor. Preference will be given to structures with historic or other unique qualities.

2. They shall be in compliance with applicable state laws including registration with the South Dakota Department of Health, maintaining a guest list, and providing a smoke detector in each sleeping room.

3. Accessory use signs shall be based on similar requirements for a home occupation permit and shall not be more than one (1) square foot in area.

4. Such uses shall be an incidental use with an owner occupied principal dwelling structure provided that not more than four bedrooms in such dwelling structure shall be used for such purpose.

5. Off-street parking requirements shall be one space per guestroom and shall be in addition to parking requirements for the principal use. Off-street parking shall not be located in a required front or side yard and screening shall be required when adjacent to residentially used property.

6. The length of stay shall not exceed fourteen (14) days during any one hundred twenty-- (120) day consecutive period.

7. Meals shall be limited to breakfast, which is prepared in a common facility (household kitchen). Meals may be served only to overnight registered guests and cooking is not permitted in the sleeping rooms.

8. The building shall meet all building codes and zoning requirements. A site plan showing the location of guest parking spaces and floor plan showing a location of the sleeping rooms, lavatories, and bathing facilities, and kitchen shall be submitted with application.

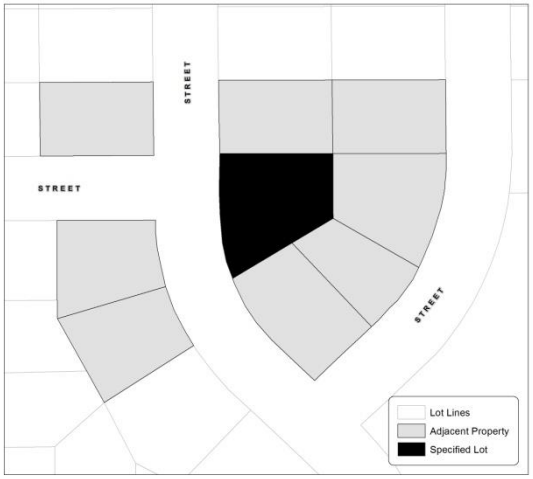
ARTICLE V
DEFINITIONS

CHAPTER 5.01 GENERAL TERMS

For the purpose of this Ordinance, certain terms or words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural; and the plural the singular; the word "building" shall include the word "structure," and the word "shall" is mandatory and not discretionary: the word "may" is permissive; the word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the word "lot" includes the words plat or parcel and the words "used" or "occupied" include the words intended, designed, or arranged to be used or occupied. Any word not herein defined shall be as defined in any recognized Standard English Dictionary.

Accessory Use or Structure: A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Adjacent Property: Any lot, parcel, or property bordering by means of adjoining, abutting, or intersecting a specified lot boundary, and those lots immediately across a public right-of-way from a specified lot. See Figures Below:



Adult Bookstores: An establishment having, as a substantial portion of its stock in trade, books, magazines, films or videotapes for sale or viewing on the premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished by their emphasis on matter depicting, describing or relating to specified Sexual Activities or Specified Anatomical Areas as such terms are defined in this section, or an establishment with a segment or section devoted to the sale or display of such material. Adult bookstores may alternatively or in conjunction with the above stock in trade sell undergarments and other clothing designed for the display of Specified Anatomical Areas or for the enhancement of Specified Sexual Activities. Further, an adult bookstore may alternatively or in conjunction with the above stock in trade sell prosthetic devices, dolls, candles, vibrators and other objects for sexual gratification which take the form of Specified Anatomical Areas and for the purpose of enhancing Specified Sexual Activities.

Adult Entertainment Facility: Means an establishment offering to its patrons, as entertainment, any exhibition or display or any theatrical or other live performances which include topless or go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers, or any persons singing, reading, posing, modeling, or serving food or beverages, where the exhibition, performance, display or dance is intended to sexually arouse the entertainer or the patrons, or where the attire of persons involved is such as to expose specified anatomical areas, as defined in this section.

Adult Motion Picture Theater: An enclosed building, regardless of its seating capacity which is used to present for public view on the premises, films, movies, previews, trailers or advertisements which are distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined in this section.

Adult Photo Studio: An establishment which, on payment of a fee, provides photographic equipment and/or models for the purpose of photographing "specified anatomical areas", as herein defined.

Adult Use: The term "adult use" shall include adult entertainment facility, adult bookstores, adult motion picture theaters, and adult photo studios as defined in this section.

Airport: A place where aircraft can land and takeoff, usually equipped with hangers, facilities for refueling and repair, and various accommodations for passengers, including heliports.

Alley: A minor way, dedicated to public use, which is used primarily for vehicular access to the back or side of properties otherwise abutting on a street.

Agriculture: The cultivation of the soil and all activities incident thereto, except that said term shall not include the raising and feeding of hogs, sheep, goats, cattle, poultry or fur bearing animals.

Animal unit: One animal unit is equivalent to 1.0 beef cow, steer, feeder or fat beef animal, 0.5 horse; 0.7 dairy cow; 1.7 swine; 6.7 sheep/goats; 55 turkeys; 5 ducks/geese; 33 hens, cockerels, capons, broilers.

Apartment House: An apartment house is a detached dwelling designed for, or occupied by, four or more family units.

Automobile Service Station: Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail. This definition does not include storage, body repair or auto salvage operations.

Bar/lounge: An establishment that is licensed to sell alcoholic beverages by the drink.

Basement : A basement is any floor level below the first story in a building, except that a floor level in a building having only one (1) floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

Bed and Breakfast (B & B's): A private single-family residence, which is used to provide, limited meals and temporary accommodations for a charge to the public. Such establishments should be located where there will be minimal impact on surrounding residential properties

Block: An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river, lake or rail line.

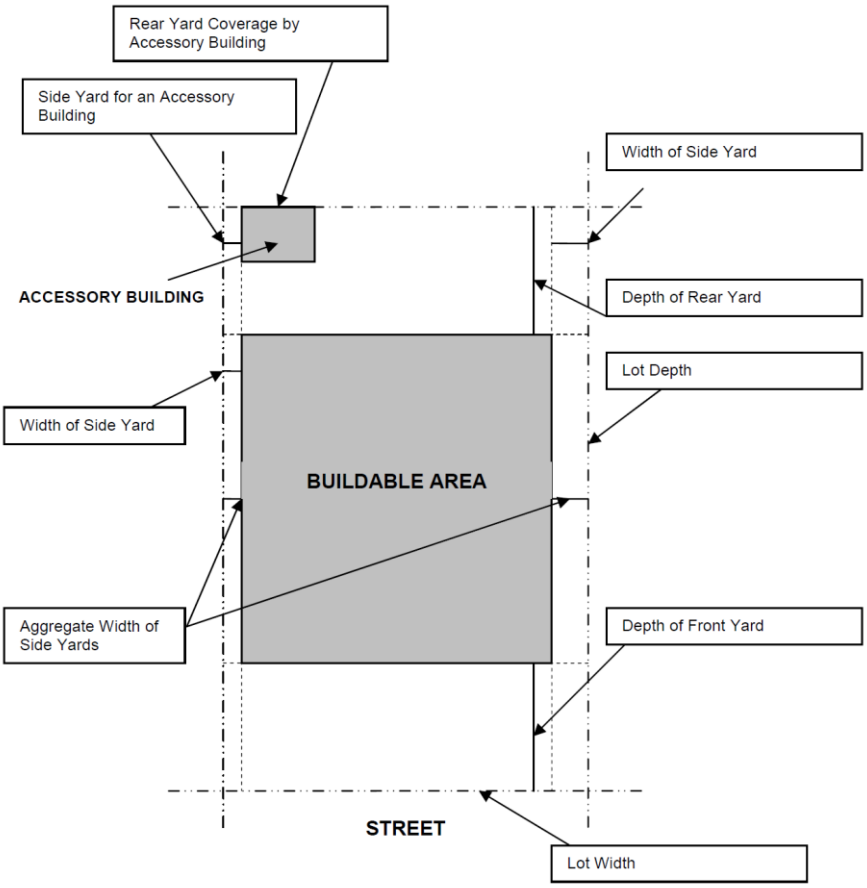
Boarding House: A building other than a motel, hotel or restaurant, where lodging and meals are provided for three (3) or more persons, but not exceeding ten (10) persons, and not open to public or transients.

Building: The word "building" includes the word "structure" and is a structure which is entirely separated from any other structure by space or by walls in which there are no communicating doors or windows or similar openings.

Buffer: The use of land, topography, space, fences, or landscape planting to partially screen a use or activity from another property and thus reduce undesirable views or influences.

Buildable Area: That portion of the lot that can be occupied by the principal use, thus excluding the front, rear and side yards. The diagram below illustrates the buildable area of a hypothetical lot. This diagram is for reference only. Setbacks and other requirements vary from district to district. (See illustration below).

Buildable Area Illustration



Building Height: The vertical distance from the established average sidewalk grade or street grade, or finished grade at the building line, whichever is the highest, to the highest point of the building.

Building Line: Is a line on the lot running parallel to the required horizontal distance from the nearest property line.

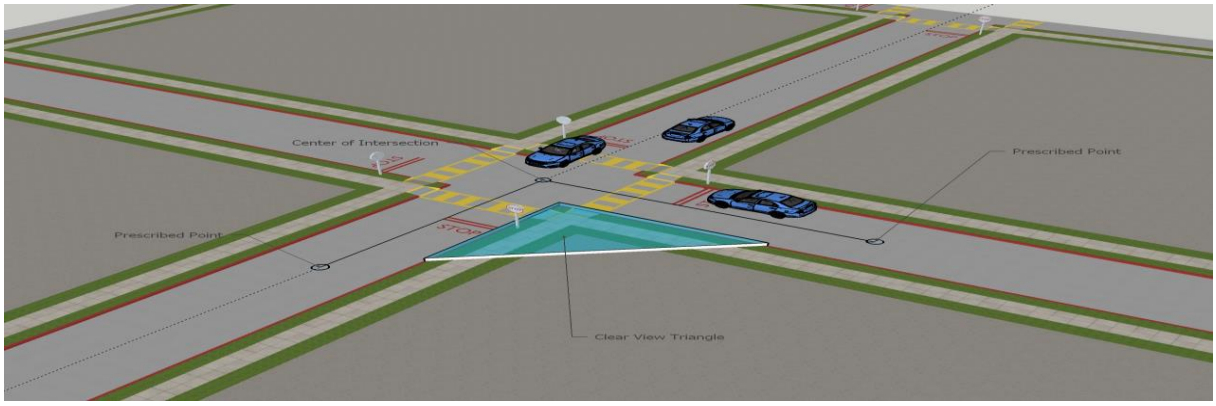
Campground: Shall mean a plot of ground for public use upon which two or more campsites are located, established, maintained, advertised, or held out to the public, to be a place where camping units can be located and occupied as temporary living quarters. Campgrounds for tent trailers and recreational vehicles shall be sited with consideration for access to the property. The campground shall be designed to minimize the impact from adjacent major thoroughfares.

Car Wash: A facility used to clean the exterior, and sometimes the interior, of automobiles.

Caretaker's Residence/Watchman's Quarters: A Dwelling unit which is occupied by one who is employed by a business located on the same premises or within the same structure as said dwelling unit.

Church: A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose.

Clear View Triangle: A triangular-shaped portion of land established at street intersections and ingress/egress points in which there are restrictions on things erected, placed or planted which would limit or obstruct the sight distance of motorists entering or leaving the intersection (see illustration below).



Commercial Storage, Mini-Storage Facilities: Individual locker storage facilities (frequently with some accessory outdoor vehicle/boat storage) primarily for the benefit of residential or small business users in which are kept household items, business records, vehicles, recreational equipment, etc.

Comprehensive Plan: The adopted long-range plan intended to guide the growth and development of The City of Lake Norden.

Conditional Use: A use that would not be appropriate generally or without restriction throughout the zoning district by which if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted by the Board of Adjustment when specific provision is made in this ordinance. Conditional uses are subject to evaluation and approval by the Board of Adjustment and are administrative in nature.

Condominium: The ownership of single units in a multi-unit residential structure with common elements. (With the property subject to the condominium regime established pursuant to SDCL 43-15A).

Construction: Any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route but does not include changes needed for temporary use of sites or routes for non-utility purposes, or uses in securing survey or geological data, including necessary borings to ascertain foundation conditions.

Contractor Shops and Storage Yards: Those facilities to include structures and land areas where the outdoor storage of equipment and supplies used for various types of off-site construction are stored. Examples of equipment and supplies include but are not limited to the following – road construction, building construction, gravel operations, and general contracting services.

Convenience Store: Any retail establishment offering for sale pre-packaged food products, household items, and other goods commonly associated with the same, at which a customer typically purchases only a few items during a short visit.

Court: An open unoccupied space bounded on two or more sides by the exterior walls of a building or buildings on the same lot.

Density: The number of families, individuals, dwelling units, or housing structures per unit of land.

Development: The carrying out of any surface or structure construction, reconstruction or alteration of land use or intensity of use.

Dwelling: Any building or part thereof which is designed or used exclusively for residential purposes by one or more human beings either permanently or transiently.

Dwelling, Farm: Any dwelling located on a farming operation, which is used or intended for use as a residence by the farm's owner, relative of the owner, or a person employed on the premises.

Dwelling, Multiple-Family: A residential building designed for or occupied by three (3) or more families, with the number of families in residence not exceeding the number of dwelling units provided.

Dwelling, Single-Family: A detached residential dwelling building, other than a manufactured home but to include modular homes, designed for and occupied by one (1) family only.

Dwelling, Two Family: A residential building containing two household units, designed for occupancy by not more than two (2) families.

Dwelling Unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may in the same structure, and containing independent cooking and sleeping facilities.

Electronic Message Sign: A sign whose message may be changed at intervals by electronic process or remote control and whose only movement is the periodic changing of information having a constant light level.

Engineer: Means any engineer licensed by the State of South Dakota.

Evergreen or coniferous tree: For the purposes of this ordinance is defined as any cone bearing shrub or tree and any plant that retains its foliage throughout the year which is a minimum height of four feet measured above immediate ground level.

Family: One or more individuals living, sleeping, cooking or eating on the premises as a single housekeeping unit; but it shall not include a group or more than five individuals not related by blood or marriage.

Farm: An area of ten (10) acres or more on which a bonafide business with the purpose or producing agriculture products and the incidental uses of horses, dogs, or other animals and other similar operations; but specifically excluding greenhouses, horticultural nurseries, and kennels and other similar commercial operations. For purposes of this Ordinance, all land in like ownership being operated as a single economic unit shall be considered to be part of a single farm unit.

Feedlot: A feedlot is a lot, yard, corral, building or other area where animals in excess of ten (10) animal units per acre or in excess of animal units per parcel of land have been, are, or will be stabled or confined for a total of 45 days or more during any twelve-month period, and where crops, vegetation, forage growth, or post harvest residues are not sustained over any portion of the lot or facility.

Fence: A structure used as a boundary, screen, separation, means of privacy, protection or confinement, and is constructed of wood, plastic, metal, wire mesh, masonry or other similar material and is used as a barrier of some sort.

Filling Station: Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, but where the following activities are not carried out as a normal part of doing business:

1. Major mechanical work, involving removal of the head or crankcase;

2. Auto body work, including straightening of auto body parts;

3. Painting or welding of any automobile parts;

4. Storage of automobiles not in operating condition; and

5. Any other automobile work which involves noise, glare, fumes, smoke, or other characteristics not normally found at places which sell gasoline at retail.

Flammable Liquids: Any liquid which gives off flammable vapors, as determined by the flash point from an open-cup tester as used for test of burning oils, at or below a temperature of eighty (80) degrees Fahrenheit, is flammable.

Game Lodge: A building or group of two (2) or more detached, or semi-detached, or attached buildings occupied or used as a temporary abiding place of sportsmen, hunters and fishermen, who are lodged with or without meals, and in which there are sleeping quarters.

Garage, Private: An accessory building used for the storage of not more than four (4) vehicles owned and used by the occupant of the building to which it is necessary. Vehicles include cars, pickups, and boats, but not commercial vehicles.

Garage, Public: A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The term repairing shall not include an automobile body repair shop nor the rebuilding, dismantling, or storage of wrecked or junked vehicles.

Garage, Storage: Any building or premises, used for housing only motor-driven vehicles, other than trucks and commercial vehicles.

Governmental Agency: An organized entity which, in addition to having governmental character, has sufficient discretion in the management of its own affairs to distinguish it as separate from the administrative structure of any other governmental unit. This definition shall be deemed to include, but is not limited to The City of Lake Norden, Hamlin County, the State of South Dakota, and any school district serving the City of Lake Norden.

Grade: The finished grade of premises improved by a building or structure is the average natural elevation or slope of the surface of the ground within fifty (50) feet of the building or structure.

Greenhouse: A building whose roof and sides are made largely of glass regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Gross floor area: The total area of all floors of a building, including intermediately floored tiers, mezzanine, basements, etc., as measured from exterior surfaces of the outside walls of the building.

Group Home: A supervised living or counseling arrangement in a family home context providing for the twenty-four (24) hour care of children or adults.

High Voltage Transmission Line: A conductor of electric energy and associated facilities.

Home Occupation: See Chapter 4.18

Hotel or Motel: A building designed for occupancy as the more or less temporary abiding place of individuals who are lodged with or without meals, in which there are four (4) or more guest rooms, and which is open to the public and transients.

Household Unit: One room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or

longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

Junk Yard: The use of more than fifty (50) square feet of any land, building, or structure, whether for private or commercial purposes, or both, where waste discarded or salvaged materials such as scrap metals, used building materials, used lumber, used glass, discarded vehicles, paper, rags, rubber, cordage, barrels, machinery, etc., or parts thereof with or without the dismantling, processing, salvage, sale or other use or disposition of the same.

Kennel: Any place where more than one (1) dog or cat over four (4) months of age are owned, boarded, raised, bred or offered for sale.

Licensed Day Care Center: Any operation, which provides childcare services. To be considered a Day Care Center under these regulations, the State of South Dakota must license such operation.

Light Manufacturing: Those manufacturing processes which are not obnoxious due to dust, odor, noise, vibration, pollution, smoke, heat or glare. These commercial and industrial uses are characterized by generally having all aspects of the process carried on within the building itself.

Loading Space, Off street: Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as of-street parking space in computation of required off-street parking space.

Lot: A lot is any plot or parcel of land having specific boundaries of sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. A lot have its principal frontage upon a road or other approved access.

Lot Coverage: The percentage determined by dividing the area of a lot covered by the total (in square feet of: (A) the footprint of the primary structure; and (B) the footprint(s) of all accessory structures by the total lot area. (See formula and figure below):

Formula: $\frac{(A + \sum B)}{C}$ = Lot Coverage

Symbol	Feature	Label	Included in Calculation?
	House	A	Yes
	Garage	B	Yes
	Driveway/ Other paved surface	C	No
	Lot line	D	Yes

Manufactured Home: See Chapter 4.16

Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage. Minimum frontage for lots located on cul-de-sacs shall be determined as the average of the widest and narrowest width of the lot.

Lot Measurements:

1. Depth: The average mean horizontal distance between the front and rear lot lines.

2. Width: The width of a lot at the front yard line.

3. Area: The lot area is the area of a horizontal plane in square feet or acres within the lot line.

Lot of Record: A lot which is part of a subdivision recorded in the office of the Codington County Register of Deeds, prior to the adoption of this ordinance.

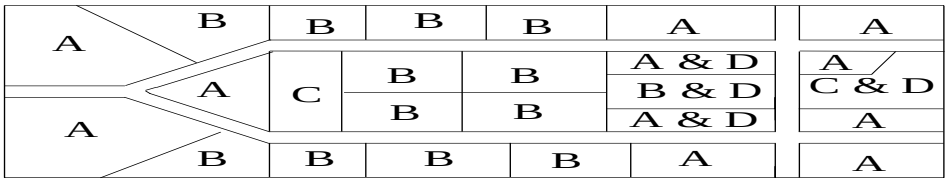
Lot Types: See figure below:

Corner lot: defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. (Lot A and Lot A & D)

Interior Lot: Defined as a lot other than a corner lot with only one frontage on a street. (Lot B)

Through Lot: defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots. (Lot C and Lot C & D).

Reversed Frontage Lot: defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (Lot A & D in the diagram below), an interior lot (Lot B & D in the diagram below) or through lot (Lot C & D in the diagram below)



Manufactured Home: See Section 4.10.02

Manufactured Home Park: See section 2.07.05

Manufactured Housing Definitions

1. Anchoring System – An approved system of straps, cables, turnbuckles, chains, ties, or other approved materials used to secure a manufactured or mobile home.

2. ANSI/NFPA 501A Standards for Installation of (Manufactured) Mobile Homes – Model national standards (including all authorized successor documents) for installation of manufactured and mobile homes, as adopted and copyrighted by the National Fire Protection Association and Manufactured Housing Institute.

3. Expando Unit – An expandable manufactured housing unit.

4. Foundation Siding/Skirting – A type of wainscoting constructed of fire and weather resistant material, such as aluminum, asbestos board, treated pressed wood or other approved materials, enclosing the entire undercarriage of the manufactured.

5. Permanent Perimeter Enclosure – A permanent structural system completely enclosing the space between the floor joists of the home and the ground.

6. Permanent Foundation – Any structural system for transporting loads from a structure to the earth at a depth below the established frost line without exceeding the same bearing capacity of the supporting soil.

7. Section – A unit of a manufactured home at least ten (10) body feet in width and thirty (30) feet in length.

8. Support System – A pad or combination of footings, piers, caps, plates, and shims, which, when properly installed, support the manufactured or mobile home.

Mining: The excavation of earth materials for the purpose of sale.

Modular Home: See Section 4.10.01

Moved-In Building: A building that previously existed on a lot of different location relocated for use as a residence, out-building, commercial, industrial or any building used in relation to these uses shall be recognized as a moved-in building.

Nonconforming Use: Any building or structure, or land lawfully occupied by a use at the time of passage of this ordinance or amendment which does not conform after the passage of this Ordinance or amendment with the use regulation of the district in which it is situated.

Non-standard Use: The category of nonconformance consisting of lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this ordinance which fail to comply with any of the following: minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located, even though the use of the premises conforms to the permitted uses within the district as set out in the provisions of this ordinance.

Outdoor Advertising Business: Provisions of outdoor displays or display space on a lease or rental basis only.

Outdoor Display: An outdoor arrangement of objects, items, products, or other materials, typically not in a fixed position and capable of rearrangement, designed and used for the purpose of advertising or identifying a business, product, or service. This definition excludes new and used sale, lease, or rental of automobiles, trucks, motorcycles, recreational vehicles, boats, or watercraft.

Outside Storage: Outside storage is the keeping of commodities, goods, raw materials, equipment, vehicles, heavy vehicles, or merchandise not within an enclosed building, including incidental maintenance and repair of the material which is being stored. This definition excludes new and used sale, lease, or rental of automobiles, trucks, motorcycles, recreational vehicles, boats, or watercraft. Parking of company owned automobiles that are currently registered, licensed, and operable will be excluded. Materials and equipment that are transferred from an enclosed building for an outdoor sales display are not considered outside storage.

Parcel: A single tract of land, located within a single block, which at the time of filing for a Building/Use Permit, is designated by the owner or developer as a tract to be used, developed, or built upon as a unit, under single or unified ownership or control, and assigned to the particular use, building or structure, for which the Building/Use Permit are issued and including such area of land as may be required by the provisions of this Ordinance for such use, building or structure.

Parking Space: A space for parking of automobiles which has a minimum width of nine (9) feet and a minimum length of nineteen (19) feet.

Parking Space, Off-street: An off-street parking space shall consist of a space adequate for parking an automobile with room for opening doors on both sides, together with related access to a public street or alley, and maneuvering room. For purposes of rough computation, an off-street parking space may be estimated at three hundred (300) square feet.

Permit: A permit required by these regulations unless stated otherwise.

Permitted Use: Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

Person: In addition to an individual, includes the following terms: “firm”, “association”, “organization”, “partnership”, “trust” “company”, or “corporation” ”joint venture”, “public service company”, “cooperative”, “political subdivision”, “municipal corporation”, “government agency”, “public utility district”, or any other entity, public or private, however organized.

Personal Services: These establishments offer a wide range of personal services (laundry, hair care, etc.).

Planning Commission: The members of the City Council serving in an advisory capacity on planning and zoning matters.

Principal Use: The primary use to which the premises are devoted.

Plat: The map, drawing or chart on which the subdivider’s plan of subdivision is legally recorded.

Recreational Vehicle: A motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational or emergency occupancy. A recreational vehicle does not include manufactured homes.

Religious Institution: Any building used for non-profit purposes by an established religious organization holding either tax exempt status under Section 501(c)(3) of the Internal Revenue Code or under the state property tax law, where such building is primarily intended to be used as a place of worship. The term includes, but is not necessarily limited to: church, temple, synagogue, and mosque.

Route: The location of a High Voltage Transmission Line between two end points. The route may have a variable width of up to 1.25 miles.

Sanitary Landfills: Method of waste disposal involving the dumping and daily covering of waste material all in compliance with State regulations.

Sale or Auction Yard/barn: A place or building where the normal activity is to sell or exchange livestock. Livestock normally in yard or farm for one day during sale or auction.

Screening: Earthforms, walls, fences, plant material or other structures or devices intended to partially obscure, conceal or protect from off-site view.

Setback: The setback of a building is the minimum horizontal distance between the front line or street line and the nearest edge of any building or any projection thereof, except cornices and unenclosed porches, and entrances vestibules and window bays projecting not more than three and one-half (31/2) feet from the building and not more than fifty (50) square feet in area, and which do not extend above the first story of the building.

Service Station, Automobile: Any building or premise which provides for the retail sale of gasoline, oil, tires, batteries, and accessories for motor vehicles and for certain motor vehicle services, including washings, tire changing, repair service, battery service, radiator service, lubrication, brake service, wheel service, and testing or adjusting of automotive parts. Automobile repair work may be done at a service station provided that no rebuilding of engines, spray paint operations, or body or fender repair is permitted. Gasoline pumps and gasoline pump islands shall be located more than twelve (12) feet from the nearest property line.

Sheet Siding: Any siding material customarily installed as a sheet and composed of galvanized, painted or bonded metal, and customarily installed in a vertical manner but also capable of being installed horizontally.

Shopping Center: Retail buildings of greater than 100,000 square feet and designed for more than one tenant.

Sign: Any device or structure, permanent or temporary, which directs attention to business, commodity, service or entertainment but excluding any flag, badge or insignia of any government agency, or any civic, charitable, religious, patriotic or similar organizations.

Sign, Abandoned. A sign or sign structure which contains no sign copy, contains obliterated or obsolete sign copy, or is maintained in an unsafe or unsightly condition for a period of three (3) months shall be considered an abandoned sign.

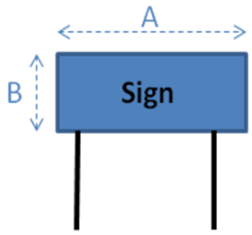
Sign. Off-premises. Any sign identifying or advertising a business, person, activity, goods, products or services at a location other than where such sign has been erected.

Sign, On-premises. Any sign identifying or advertising a business, person, activity, goods, products or services located on the premises where the sign has been erected.

Sign Structure. Any structure which supports, has supported, or is capable of supporting a sign, including decorative cover.

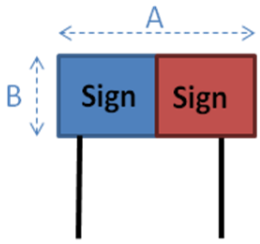
Sign Area: The total area or areas of all signs within the outer edges of the sign or advertising message. Sign area may be calculated in the following manners:

A. A single message on a single sign face.



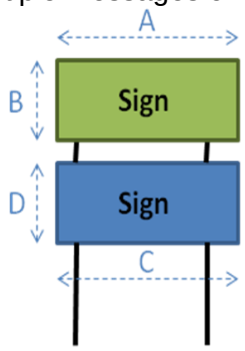
Area = A x B

B. Multiple messages on a single sign face:



Area = A x B

C. Multiple messages on stacked signs:



Area = (A x B) + (C x D)

Sleeping Quarters: A room or an area contained within a dwelling unit utilized for the purpose of sleep.

Specified Anatomical Areas means:

1. Less than completely and opaquely covered human or animal genitals, pubic region, or pubic hair, buttocks; and female breasts below a point immediately above the top of the areola; and

2. Genitals of humans or animals in a discernible turgid state, even if completely opaquely covered.

Specified Sexual Activities means:

1. Human or animal genitals in the state of sexual stimulation or arousal.

2. Acts or representations of acts of human or animal masturbation, sexual intercourse or sodomy, bestiality, oral copulation or flagellation.

3. Fondling or erotic touching of human or animal genitals, pubic region, buttock or female breast.

4. Excretory functions as part of or in connection with any activities set forth in an Adult Bookstore or “Adult Entertainment Facility”.

Stable: A building for the shelter and feeding of domestic animals, especially horses and cattle.

Stable, Commercial: A building for the shelter and feeding of domestic animals, especially horses and cattle where such domestic animals are raised, trained, boarded, harbored, or kept for remuneration. Veterinary clinics, animal hospitals and animal shelters are specifically excluded.

Stand, roadside: A structure for the display and sale of products with no space for customers within the structure itself.

Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under-floor space is more than six (6) feet above grade for more than 50 percent of the total perimeter or is more than twelve (12) feet above grade at any point, such basement or unused under-floor space shall be considered as a story.

Story, first: The lowest story in a building which qualifies as a story, except that a floor level in a building having only one floor level shall be classified as a first story, provided such floor level is not more than four (4) feet below grade for more than 50 percent of the total perimeter, or more than eight (8) feet below grade at any point.

Street Line: A right-of-way line of a street.

Street: A public right-of-way which affords the principal means of access to abutting property. Also may be referred to as road or highway. The term street shall include and apply to any public way except alleys.

1. Arterial Street. A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Lake Norden.

2. Collector Street. A street designated as such upon the Major Street Plan of the Comprehensive Land Use Plan of the City of Lake Norden.

3. Local Street. Any street which is not an arterial street or collector street.

Strip Malls: Retail buildings of less than 100,000 square feet and designed for more than one tenant.

Structure: Anything constructed or erected with affixed location on the ground, or attached to something having fixed location on the ground. Among other things, structures include, but are not limited to, buildings, manufactured homes, walls, fences, billboards, swimming pools, and signs.

Structure, Temporary: Anything constructed or erected, or placed, the use of which requires temporary location on the ground or attached to something having a temporary location on the ground.

Subdivision: The division of a parcel of land into two or more lots or parcels for the purpose of transfer of ownership or building developments (whether immediate or future). This term includes resubdivision and, when appropriate to the context, is related to the process of subdividing or to the land subdivided.

Substantially Completed: This term refers to the amount of work required to be completed in association with a Building/Use Permit issued by the City. In order to be substantially complete, seventy-five (75) percent of the project for which a Building/Use Permit has been issued is required to be finished.

Trailer: Means any of the following:

1. Travel Trailer. A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses. The trailer shall be permanently identified "travel trailer" by the manufacturer of the trailer and, when factory equipped for the road, it shall have a body width not exceeding eight (8) feet, and a body length not exceeding thirty (30) feet.

2. Pick-up Coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation and vacation.

3. Motor-Home. A portable, temporary dwelling to be used for travel, recreation and vacation, constructed as an integral part of a self-propelled vehicle.

4. Camper Trailer. A canvas, folding structure, mounted on wheels and designed for travel, recreation and vacation use.

Twin Homes. A two-family dwelling which has a common wall and is platted into two (2) separate lots.

Use: The purpose for which land or premises or a building thereof is designated, arranged or intended, or for which it is or may be occupied or maintained.

Utility: Any entity engaged in this state in the generation, transmission or distribution of electric energy including, but not limited to, a private investor owned utility, cooperatively owned utility, and a public or municipal utility.

Variance: A variance is a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conforming in the zoning district or uses in an adjoining zoning district.

Veterinary Clinic: A commercial activity catering to the medical needs of animals and having no outside runs.

Wholesale Merchandising/Trade: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wetlands: Any area where ground water is at or near the surface at least six (6) months of the year; the boundary of which shall be defined as that area where the emergent aquatic vegetation ceases and the surrounding upland vegetation begins.

Yard: An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line.

Yard, Front: A yard extending between the side lot lines across the front of a lot adjoining a public right-of-way.

Depth of required front yards shall be measured at right angles to a straight line adjoining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern, and a second front yard of half the depth required generally for front yards in the districts shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the Administrative Official shall determine the front yard requirements, subject to the following limitations: (1) at least one front yard shall be provided having the full depth required generally in the district; and (2) no other front yard on such lot shall have less than half the full depth required generally.

Yard Line. See Lot Line:

Yard, Rear: A yard across the whole width of the lot, extending from the rear line of the building to the rear line of the lot. In the case of through lots and corner lots, where will be no rear yards, but only front and side yards.

Yard, required: That portion of a side, front, or rear yard nearest the designated lot line and having the width or depth required in the district in which located.

Yard, Side: A yard between the building and the adjacent sideline of the lot, which separates it from another lot, extending from the front lot line to the rear yard. In the case of through lots and corner lots, side yards remaining after the full and half-depth front yards have been established shall be considered side yards.

Wetlands: Any area where ground water is at or near the surface at least six (6) months of the year; the boundary of which shall be defined as that area where the emergent aquatic vegetation ceases and the surrounding upland vegetation begins.

Zero Lot Line: The location of a building on a lot in such a manner that the side of a building rests on a lot line**.**

Zoning district: A section of the city for which the regulations governing the use of land, the construction and use of buildings and the occupancy of premises are hereby made.

ORDINANCE # 331

ORDINANCE 331, AN ORDINANCE AMENDING ORDINANCE 320, AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP AND AN ORDINANCE AMENDING ORDINANCE 241, AN ORDINANCE ESTABLISHING ZONING REGULATIONS FOR THE CITY OF LAKE NORDEN, SOUTH DAKOTA, AND PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT, AND AMENDMENT THEREOF, IN ACCORDANCE WITH THE PROVISIONS OF CHAPTERS 11-4 AND 11-6, 1967 SDCL, AND AMENDMENTS THEREOF, AND FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH.

Notice is hereby given that Ordinance No. 331, an ordinance amending ordinance 320, an ordinance amending the official zoning map and an ordinance amending ordinance 241, an ordinance establishing zoning regulations for the City of Lake Norden, South Dakota and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of chapters 11-4 and 11-6, 1967 SDCL, and amendments thereof, and for the repeal of all ordinances in conflict herewith, was duly adopted by the City Council on the 7th day of March, 2016 and will become effective twenty days following the publication of this notice.

BE IT ORDAINED by the City Council of the Lake Norden, South Dakota:

That Chapter 2.09, Section 2.09.05 "Area Regulations" – Table 2.09.05.2 of the Zoning Ordinance of the City of Lake Norden as amended, on July 26, 2015, be amended to read as follows:

Chapter 2.09, Section 2.09.05 "Area Regulations" – Table 2.09.05.2

Change Minimum Rear Yard Adjacent to Industrial, Ag, or Commercial Districts from 10 feet to 25 feet

Change Minimum Side Rear Yard Adjacent to Industrial, Ag, or Commercial Districts from 25 feet to 10 feet

NOTICE IS FURTHER GIVEN, that the Ordinance #331 will be made available for public inspection at the Lake Norden City Hall, 508 Main Avenue, Lake Norden, South Dakota during regular business hours.

Dated March 9, 2016

Delores Kangas
Finance Officer

Published once at an approximate cost of _____+

Ordinance #335

AN ORDINANCE ENTITLED, an ordinance to amend Section 1.03.01 Official Zoning Map, adopted An Ordinance Establishing Zoning Regulations For The City Of Lake Norden, South Dakota, And Providing For The Administration, Enforcement, And Amendment Thereof, In Accordance With The Provisions Of Chapters 11-4 And 11-6, 1967 SDCL, And Amendments Thereof, And For The Repeal Of All Ordinances In Conflict Herewith.

Be it ordained by the City Council of the City of Lake Norden, South Dakota:

1. That Section 1.03.01 adopted by Ordinance 320, July 6, 2015 as amended, of the Zoning Ordinance of the City of Lake Norden be amended to classify the following property: Lot 1 in Outlot O & Block 2, Steffensen 2nd Addition to the City of Lake Norden, Hamlin County, SD 57248. Which physical address is 724 Burlington Street.

   To "I" Industrial District from "HC" Highway Commercial

Passed and adopted this 3 day October 2016.

CITY OF LAKE NORDEN
Jason Aho, Mayor

ATTEST:
Delores Kangas, Finance Officer

Ordinance #342

AN ORDINANCE ENTITLED, an ordinance to amend Section 1.03.01 Official Zoning Map, adopted An Ordinance Establishing Zoning Regulations For The City Of Lake Norden, South Dakota, And Providing For The Administration, Enforcement, And Amendment Thereof, In Accordance With The Provisions Of Chapters 11-4 And 11-6, 1967 SDCL, And Amendments Thereof, And For The Repeal Of All Ordinances In Conflict Herewith.

Be it ordained by the City Council of the City of Lake Norden, South Dakota:

2. That Section 1.03.01 adopted by Ordinance 320, July 6, 2015 as amended, of the Zoning Ordinance of the City of Lake Norden be amended to classify the following property:
   a. (400 1st Avenue South) Lot 15 & 16 except the East 22 feet of said Lot 16, in Block 5, of the Original Plat of the City of Lake Norden, Hamlin County, South Dakota, according to the recorded plat thereof.
   b. (410 Park Street) West 20 feet of lot 10, all of Lots 11 and 12, Block 5, of the Original Plat of the City of Lake Norden; and a tract of land, 50 Feet east and West, by 140 Feet North and south and originally known as Lots 13 & 14, Block 5, of the Original Plat of the Town (now City) of Lake Norden, Hamlin County, State of South Dakota. (Also, the property located directly east of the above legal description of 410 Park Street which is described as East 5 Feet of Lot 10, Block 5, of the Original Plat of the Town (now City) of Lake Norden, Hamlin County, South Dakota, according to the recorded plat thereof.

   To "I" Industrial District from "R2" General Residential District

Passed and adopted this 4th day December 2017.

CITY OF LAKE NORDEN
Jason Aho, Mayor

ATTEST:
Delores Kangas, Finance Officer

Passed First Reading November 17, 2017

Passed Second Reading December 4, 2017
Published December 13, 2017

Published once at a cost of: _____

Ordinance #343

AN ORDINANCE ENTITLED, an ordinance to amend Section 1.03.01 Official Zoning Map, adopted An Ordinance Establishing Zoning Regulations For The City Of Lake Norden, South Dakota, And Providing For The Administration, Enforcement, And Amendment Thereof, In Accordance With The Provisions Of Chapters 11-4 And 11-6, 1967 SDCL, And Amendments Thereof, And For The Repeal Of All Ordinances In Conflict Herewith.

Be it ordained by the City Council of the City of Lake Norden, South Dakota:

3. That Section 1.03.01 adopted by Ordinance 320, July 6, 2015 as amended, of the Zoning Ordinance of the City of Lake Norden be amended to classify the following property: St. John First Addition to the City of Lake Norden located in the SW Quarter of Section 21-T113-R53W, Hamlin County, SD which physical address is 19372 450th Avenue, Lake Norden, SD 57248

   To "I" Industrial District from "A" Agricultural District.

Passed and adopted this 7th day May, 2018.

CITY OF LAKE NORDEN
Jason Aho, Mayor

ATTEST:
Delores Kangas, Finance Officer

Passed First Reading 4/20/2018
Passed Second Reading 5/07/2018
Published 5/16/2018

Published once at a cost of: _____

Ordinance #345

AN ORDINANCE ENTITLED, an ordinance to amend Section 1.03.01 Official Zoning Map, adopted An Ordinance Establishing Zoning Regulations For The City Of Lake Norden, South Dakota, And Providing For The Administration, Enforcement, And Amendment Thereof, In Accordance With The Provisions Of Chapters 11-4 And 11-6, 1967 SDCL, And Amendments Thereof, And For The Repeal Of All Ordinances In Conflict Herewith.

Be it ordained by the City Council of the City of Lake Norden, South Dakota:
That Section 1.03.01 adopted by Ordinance 320, July 6, 2015 as amended, of the Zoning Ordinance of the City of Lake Norden be amended to classify the following property:

The South Six Hundred (S 600) feet of the North One Thousand Five Hundred Forty Six (N 1546) feet, of East Five Hundred Seventy-three (E 573) feet, of the Northwest One-fourth (NW¼) of Section Twenty (20), Township One Hundred Thirteen (113) North, Range Fifty-three (53) West of the 5th P.M., County of Hamlin, State of South Dakota.

To "R1" Single-Family Residential District from "A" Agricultural District.

Passed and adopted this 6 day August, 2018.

CITY OF LAKE NORDEN

Jason Aho, Mayor

ATTEST:
Delores Kangas, Finance Officer