

TITLE IV

**MAPLETON
LAND DEVELOPMENT
ORDINANCE**

MAPLETON, NORTH DAKOTA

**Mort L. Mazaheri, AICP
Fargo, ND**

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By Action of Mapleton City Council

LAND DEVELOPMENT ORDINANCE
Mapleton, North Dakota

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Adopted January 8, 2001 Revised November 12, 2001
Revised October 27, 2004, Revised October 3, 2005

163.1 INTRODUCTION

163.1.1 Title

This chapter shall be known as the “Mapleton Land Development Ordinance” for the City of Mapleton, North Dakota.

163.1.2 Authority

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

163.1.3 Purpose

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

163.1.4 Intent

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

- (1) To promote orderly development of Mapleton and to prevent conflict among land uses and structures.
- (2) To secure safety from fire, panic, noxious fumes, and other dangers.
- (3) To facilitate development of water, sewerage, transportation and other customary municipal services cost effectively.
- (4) To regulate the use and division of land within the city limits and within the extra territorial jurisdiction, as authorized by North Dakota laws.
- (5) To regulate the proper arrangement of streets, alleys and roads for convenient and efficient access to the adjoining properties.
- (6) To protect the value of land and buildings and maintain harmony and consistency among land uses.
- (7) To protect the existing properties against nuisances that interfere with the use and enjoyment of property, endanger personal health or safety or is offensive to the senses, as provided under the City of Mapleton ordinances.

163.1.5 Jurisdiction

These regulations shall apply to all lands within the corporate limits of the City of Mapleton, North Dakota and its extra territorial planning area authorized by the North Dakota Laws.

163.1.6 Interpretation

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

163.1.7 Severability

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

163.1.8 Exceptions

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

163.1.9 Repeal

The existing City Zoning ordinance together with any amendment thereto are hereby repealed.

163.1.10 Effective Date

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

163.2 RULES AND DEFINITIONS

163.2.1 Compliance

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

163.2.2 Word Use

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

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

163.2.3 Definitions

(1) **“Accessory Building and Uses”** means a subordinate building or portion of the main building the use of which is clearly incidental to and serves exclusively the principal building or principal use and shall be located on the same zoning lot. Accessory buildings, including detached garages, shall not exceed 15 (fifteen) feet in height or the height of the principal building, whichever is smaller, and shall not be larger than fifty percent (50%) of the principal building. Accessory building typically includes: (a) children’s play house, green house; (b) a garage, carport; and (c) shed for storage incidental to the primary use. In case of detached garages, a separate storage for garden tools is permitted. (Adopted 2006)

(2) **“Agriculture”** means the process of producing food and fiber customary to the family farming operation with a minimum of 40 acres in area, excluding feed lots, processing and manufacturing of the farm-based products.

(3) **“Alley”** means a minor street providing access to the back or side of two or more parcels or lots.

(4) **“Animal Hospital or Kennel”** means a building or premises set up for treatment and boarding of domestic animals including veterinary facilities.

(5) **“Basement”** means a story, partly underground with more than one-half of its height below grade.

(6) **“Building”** means any structure designed or intended for shelter, housing, business, office, and accommodation of persons, animals, chattels or property.

(7) **“Building Area”** means that portion of the zoning lot that can be occupied by the principal and accessory uses.

(8) **“Building Height”** means vertical distance from the grade to the highest point of the roof.

(9) **“Building Line”** means a line establishing the minimum distance that structures may be placed from the lot lines or street right-of-way. For the purposes of this ordinance the building line is the same as setback line. Roof overhangs, basement window wells and steps leading to a five foot or less wide landing area by the front area by the front door, back door or side are permitted within the setback areas.

(10) **“Building, Principal”** means a building, the main use of which is single family and multi-family dwellings, offices, shops, stores and other uses permitted in the appropriate zoning district.

(11) **“Channel”** means a natural or man-made water course for conducting the flow of water.

(12) **“City”, “City Council”** means the governing body of the City of Mapleton, North Dakota.

(13) **“Club or Lodge”** means a private club or lodge which is a nonprofit association of persons for the purpose of gatherings and entertaining members including consumption of food and beverages.

(14) **“Comprehensive Plan” or “Mapleton 2025 Plan”** means a guide for management of the resources and development of the City of Mapleton and its extraterritorial planning area. (Adopted 2006)

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

(16) “Conforming Building or Structure” means a building or structure which complies with all requirements of this ordinance and other regulations adopted by the City of Mapleton.

(17) “Developer” means the owner, or agent of land to be subdivided for a specific use.

(18) “Development” means any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings, structures or accessory structures, the construction of additions or alternations to buildings or structures, ditching, lagooning, dredging, filling, grading, paving, excavation and drilling operations.

(19) “Development Plan” means a document including maps and data for physical development of an area as provided by this ordinance or may be required by the City of Mapleton.

(20) “District Zoning” means a section or sections of Mapleton for which regulations governing the use of building and premises, the building heights, size of yards, lot area, lot width and the use are uniform.

(21) “Dwelling” means any building or portion thereof, used exclusively for human habitation including single family and multiple family units but not including hotels or motels, or vehicles designed for camping and other temporary occupancy such as recreational purposes.

(22) “Dwelling, Multiple Family” means a single building or portion thereof, containing two (2) or more dwelling units which share common entry and hallway(s).

(23) “Dwelling, Single Family Detached” means a building containing one dwelling unit only.

(24) “Easement” means a right to the use of land for a specific purpose, such right being held by someone other than the owner who holds the title to the land.

(25) “Encroachment” means any fill, building, structure or use including accessory uses projecting into the required yard areas of public and private property.

(26) “Establishment” means a place of business for processing, production, assembly, sales, service of goods and materials.

(27) “Extraterritorial Area” means areas surrounding the City of Mapleton within one mile of the city corporate limits in all directions, where the city has zoning and platting jurisdiction under the provisions of the North Dakota Century Code. All provisions of this code, as well as other related regulations of the City of Mapleton, shall apply to the lands in the extraterritorial area. (Adopted 2006)

(28) “Feed lot” means a parcel of land which contains a commercial operation for feeding or raising of fifty (50) or more animals which is operated as a separate activity and not incidental to farming.

(29) “Final Plat” means the map, plan, or record of a subdivision and any accompanying material prepared in conformance with this ordinance.

(30) “Flood” means a temporary rise in stream flow or stage that results in water overtopping its banks and inundating areas adjacent to the channel. (Adopted 2006)

(31) “Flood Fringe” means that portion of the flood plain outside the floodway which is covered by flood waters during a regional flood. (Adopted 2006)

(32) “Flood Plain” means the land adjacent to a body of water which has been or may be covered by flood water, which includes floodway and flood fringe. (Adopted 2006)

(33) “Floodproofing” means a combination of structural provisions, changes or adjustments to properties and structures subject to flooding, in order to reduce or eliminate flood damage to properties, structures and their contents. (Adopted 2006)

(34) “Flood Protection Elevation” means a point two feet of freeboard above the water surface profile of the regional flood as recommended by the city engineer. (Adopted 2006)

(35) “Floodway” means the channel of a stream and those parts of the flood plain adjoining the channel that carries and discharges the flood waters. (Adopted 2006)

(36) “Floor Area” means the floor area of a building or structure, including the gross horizontal areas of several floors measured from the interior faces of interior walls. Basement floor area is counted in the floor area calculation, provided that at least half of the basement height is above the finished lot grade. (Adopted 2006)

(37) “Frontage” means the front part of a lot abutting a public right-of-way, or road or highway.

(38) **“Grade, Building”** means the land elevation at the horizontal intersection of the ground and the building.

(39) **“Home Occupation”** means any occupation which: (a) is carried on in a dwelling unit by members of the family; (b) is clearly secondary to the use of residential dwelling units; (c) does not create excessive noise, traffic or conflict with adjoining uses; (d) occupation is conducted within the dwelling units and/or in an accessory building; (e) does not occupy more than twenty-five percent (25%) of the total dwelling unit; and (f) that such occupation shall not require internal or external alterations, or involve construction not customary in a dwelling unit.
(Adopted 2006)

(40) **“Hotel or Motel”** means a building in which lodging accommodations, with or without meals, are provided for compensation, including bed and breakfast operations. (Adopted 2006)

(41) **“Improvements”** means street grading, surfacing, installations of sidewalks, curb, gutter, water, sanitary and storm sewer systems, culverts, bridges, trees, street lights as may be required by the City of Mapleton.

(42) **“Junk or Salvage Yard”** means an open area where waste or scrap material, including parts of used motor vehicles, appliances and farm implements are bought, sold, exchanged, stored, baled, parked, disassembled or handled.

(43) **“Kennel, Animal”** means any premises where dogs, cats and other domesticated pets, but not including wild animals, are boarded, bred and maintained for compensation.

(44) **“Lot”** means a piece, parcel, or area of land established by survey, plat or deed, that meets the yard requirements of this ordinance and fronts on a public street.

(45) **“Lot, Corner”** means a lot abutting two (2) or more public streets at their intersection.

(46) **“Lot Coverage”** means building area, the total surface area of a lot which is covered by any type of structure, excluding the yard areas.

(47) **“Lot Depth”** means the average horizontal distance between the front lot line and rear lot line.

(48) **“Lot Lines”** means the property lines bounding the lot.

(49) **“Lot of Record”** means a lot, which is a part of a subdivision or a parcel of land which has been recorded in the office of the Cass County Register of Deeds, prior to adoption of this ordinance.

(50) **“Lot Width”** means the horizontal distance between the side lot lines of a lot, measured at the front building setback line.

(51) **“Lot, Zoning”** means a single lot, parcel, or tract of land within a zoning district.

(52) **“Manufactured and Modular Homes”** means factory built dwelling units, transportable in one or more sections, with at least 900 square feet of living space, which are designed as year-round dwelling units and shall be placed on a permanent foundation or basement. The manufactured dwelling units shall bear a label certifying that such units were built in compliance with the latest Manufactured Home Safety Construction and Safety Standards adopted by the U.S. Dept. of Housing and Urban Development for manufactured homes. The Uniform Building Code shall apply to modular homes.

(53) **“Manufactured Home Park”** means a parcel of land for which a detailed plan indicating the location of lots, blocks, streets, facilities and utilities, is prepared subject to the requirements of this ordinance.

(54) **“Mobile Home”** means manufactured dwelling unit.

(55) **“Nonconforming Building”** means any building or structure which does not conform with any or all of this ordinance but existed at the time of adoption of the ordinance.

(56) **“Nonconforming Use”** means any principal use of land or building which does not conform with any or all parts of this ordinance but existed at the time of adoption of the ordinance.

(57) **“Non-residential Plat”** means a plat whose intended use is other than residential such as commercial or industrial uses.

(58) **“Nursing, Elderly Care Facility”** means a residential facility for the aged or infirm in which unrelated persons are accommodated for compensation.

(59) **“Parking Lot”** means an off-street area designated for parking of automobiles accessible from a public street or alley where each parking space shall be no less than nine (9) feet by twenty (20) feet.

(60) **“Permanent Foundation”** means an extension of the outer walls of a building or structure made of solid materials such as concrete or treated wood and extended below the ground surface through the frost zone, or other depths as required by the city. Pilings shall not be accepted as permanent foundation.

(61) **“Permitted Uses”** means those uses, buildings or structures which comply with the provisions of specific zoning districts because of the similarities in nature and relationship to each other. Permitted uses are distinct from conditional uses that are authorized only if certain requirements of this ordinance are met.

(62) **“Person”** means any individual, firm, corporation, partnership or legal entity.

(63) **“Planned Development”** means a plan for grouping of buildings and structures on a site of five (5) or more acres in single ownership which is based on a detailed layout plan and recorded in the Office of Cass County Register of Deeds upon approval by the City of Mapleton.

(64) **“Planning Commission”** means a citizen group appointed by the City Council under the authority of North Dakota Laws, as an advisory group only. The City Council may act as the Planning Commission.

(65) **“Plat”** means a map of a subdivision of land including lot splits and replats prepared according to the provisions of this ordinance.

(66) **“Preliminary Plat”** means the preliminary plan of a subdivision and any accompanying material prepared in accordance with the requirements of this ordinance.

(67) **“Public Way”** means any dedicated and recorded right-of-way including alleys, bikeways, sidewalks, streets, roads or highways.

(68) **“Regional Flood”** means a flood determined by the State and Federal Emergency Management Agency and is representative of large floods known to have occurred in Cass County, North Dakota.

(69) **“Replat”** means a change in an approved or recorded plat requiring changes in street layout, lot lines, or blocks.

(70) **“Right-of-Way”** means a strip of land designated or dedicated for streets, sidewalks, railroads, electric transmission line, telephone and telegraph lines, oil or gas pipelines, sanitary, storm or water systems.

(71) **“Service Station”** means any building or premises where automotive fuels, automotive related services, lubricants, parts, and supplies are made available to the motorist.

(72) **“Setback”** means the minimum horizontal distance between the building line and the related front, side, or rear property line. Roof overhangs, basement window wells and steps leading to a five foot or less wide landing area by the front door, back door, side door are permitted within the setback area. Uncovered decks no more than five (5) feet wide are permitted in the front yard within the setback areas. Uncovered decks of no more than three (3) feet are permitted in the side yard within the setback area. If the setback area is larger than the requirements stipulated in these regulations, the width of uncovered deck may be increased up to the difference between the actual setback and the minimum required setback. There shall be no restriction for construction uncovered decks in the rear yards.

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

(74) **“Site Plan”** means a detailed plan for making improvements to parcel(s) of land for the purpose of building and development as provided in this ordinance.

(75) **“Street”** means a dedicated public way which affords traffic circulation and is a principal means of access to abutting properties.

(76) **“Street, Line”** means the outer boundary of a public way.

(77) **“Street, Local”** means a public way intended for a low volume of traffic which provides access to individual properties.

(78) **“Street, Major”** means a public way, arterial or collector streets, used for carrying a large volume of traffic, as defined by AASHTO.

(79) **“Structural Alterations”** means any change in the supporting elements of a building or structure including bearing elements, partitions, columns, beams, girders, roofs, exterior walls and embankment.

(80) **“Structure”** means anything, built, constructed above or below ground, the use of which requires permanent location on or below the ground, including advertising signs, billboards, power lines and transmission lines, tunnels and pipelines.

(81) “Subdivider” means any person, group, corporation, entity or agency dividing or proposing to divide land so as to create a subdivision.

(82) “Subdivision” means the division of a tract or parcel of land into lots for the purpose of sale or of building development including lot splits and replats.

(83) “Variance” means the relaxation of the terms of the zoning ordinance in relationship to building height, size of the front, rear and side yards, where the literal enforcement of this ordinance would create an undue hardship, but it is not contrary to the purposes of the Mapleton 2025 Plan and this Ordinance. The variance shall not be contrary to the public interest.

(84) “Yard” means an open space on a lot which is unoccupied or unobstructed by any portion of a structure from the ground upward.

(85) “Yard, Front” means a yard that extends across the full width of the lot as the least distance between the front lot line and the front building line.

(86) “Yard, Rear” means a yard that extends across the full width of the lot, as the least distance between the rear lot line and the rear building line.

(87) “Yard, Side” means a yard between the front and rear yards, as the least distance between the side of the principal building and the side lot line.

163.3 GENERAL PROVISIONS

163.3.1 Comprehensive Plan, Mapleton 2025 Plan

This ordinance is administered and enforced to implement the Mapleton 2025 Plan of the City of Mapleton, a document adopted by the City Council as a policy guide to protect the city’s resources and accommodate the type of development deemed appropriate including but not limited to the following:

(1) To preserve and enhance the taxable value of land and buildings, and to avoid land uses which pose negative impacts on one another.

(2) To encourage the most appropriate use of land in the city.

(3) To regulate and restrict the location and intensity of use of buildings and lands.

(4) To separate and control unavoidable nuisance producing uses to minimize the adverse impacts on the surrounding areas or uses.

- (5) To facilitate traffic movement and promote development of compatible uses.

163.3.2 Non-conforming Uses

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

163.3.3 Land Suitability

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

163.3.4 Conditionally Permitted Uses

Where a use is classified as a conditional use under this ordinance and exists at the date of adoption of this ordinance, it shall be considered a permitted use. Where a use is not allowed as a conditional use or permitted use, under this ordinance, and exists at the date of adoption of this ordinance, it shall be considered non-conforming and shall be subject to the non-conforming buildings and use provisions under Section 163.11.2.

163.3.5 Dedication of Land for Streets

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

163.3.6 Residential Development

No lot shall contain more than one principal single family residential building, and no dwelling unit shall be built on a lot which does not abut a dedicated public street.

Accessory buildings shall not exceed fifteen (15) feet in height and be located at least five (5) feet from side and rear lot lines.

163.3.7 Public Water and Sewer System

To protect the public health, to control water pollution and to reduce nuisance and odor, all new development within the City of Mapleton shall be connected to the city water and sewer system. Construction and use of septic tanks shall not be permitted within the city corporate limits of the City of Mapleton.

163.4 ZONING DISTRICT BOUNDARIES AND MAP

163.4.1 Zoning Districts

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

- (1) A Agricultural District**
- (2) R-1 Large Lot Residential District**
- (3) R-2 Low Density Residential District**
- (4) R-3 Medium Density Residential District**
- (5) R-4 Multi-family Residential District**
- (6) C-1 General Commercial District**
- (7) C-2 Highway Commercial District**
- (8) I Industrial District**
- (9) PD Planned Development District**
- (10) FP Floodplain Management District**

163.4.2 Zoning District Map

- (1) Zoning District Map**

The location and boundaries of the zoning districts are hereby established as shown on the “Zoning District Map” on file in the Office of the City of Mapleton City Auditor. The zoning district maps, together with all information shown thereon and all amendments thereto, shall be an integral part of this ordinance.

(2) Public Streets as Boundary

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

(3) Lot Line as Boundary

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

(4) District Description for Unsubdivided Lands

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

(5) Vacated Areas

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

(6) Zoning District Boundary Interpretation

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

(7) Certification

The official zoning map shall bear a certificate with the signatures of the Mayor, the Planning Commission Chairperson, the City Auditor and the date of adoption of the zoning map as an integral part of this ordinance.

163.5 ZONING DISTRICT REGULATIONS

163.5.1 A Agricultural District

(1) Purpose

The purpose of this district is to provide for preservation and protection of agricultural uses while in existence, and provide an interim classification for land that may be rezoned for other uses in accordance with the provisions of Mapleton Comprehensive Plan, in the City and its extraterritorial planning area. (Adopted 2006)

(2) Permitted Uses

- (a) All types of farming and ranching operations including dairying, but excluding feed lots, poultry, fish and fur farming.
- (b) Accessory buildings and structures.
- (c) Churches and cemeteries
- (d) Golf courses, parks and play fields.
- (e) Home occupations.
- (f) Public and private schools, public buildings and facilities.
- (g) Single Family Residential Units including manufactured homes and modular homes.
- (h) Construction and maintenance of drainage systems to manage the water run-off and water reservoirs.
- (i) General utility lines and pipe lines including substations for transformers, pumping stations and lift stations.

(3) Conditionally Permitted Uses

The following uses shall be subject to the provisions of Section 163.11.2 and also Section 163.6 where appropriate.

- (a) Feed lots, poultry, fish and fur farming subject to provisions of Section 163.6.4 and regulations of the State of North Dakota. (Adopted 2006)

- (b) High voltage transmission lines and accessory structures.
- (c) Manufacturing and processing of agricultural products produced in the area.
- (d) Radio, TV stations and towers and microwave and cellular phone towers and related communication facilities.
- (e) Sale and services of agricultural equipment and machinery.
- (f) Salvage and junk yards, subject to provisions of Section 163.6.3.
- (g) Sewage lagoons and waste water treatment facilities.
- (h) Skeet, trap and rifle ranges.
- (i) Storage of farm related chemicals.
- (j) Veterinary clinics, animal hospitals and domestic animal kennels.
- (k) Sanitary land fills, subject to the provisions of Section 163.6.6.
- (l) Mining of sand and gravel, subject to the provisions of Section 163.6.5.

(4) Lot Area and Lot Width

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

(5) Yard Requirements

- (a) The minimum front yard, measured from the front property line shall not be less than fifty(50) feet.

(b) The minimum rear yard, measured from the rear lot line shall not be less than fifty (50) feet.

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

(6) Building Height

(a) The building height for residential buildings shall not exceed two and one half stories (2 1/2) or thirty five (35) feet.

(b) The building heights for manufacturing of agricultural products, radio, TV, microwave and cellular phone towers, shall be determined by the City Council, based on accepted standards used in the area.

(c) The building height, excepting the radio and TV, microwave and cellular phone towers and church steeples, for all other uses shall not exceed sixty (60) feet.

(7) Parking Requirements

Parking requirements shall be subject to the provisions of Section 163.6.1.

(8) Sign Requirements

Sign requirements shall be subject to the provisions of Section 163.6.2.

163.5.2 R-1 Large Lot Residential District

(1) Purpose

The R-1 large lot residential district is primarily established to promote a suitable residential environment and to accommodate low density detached single family residential units uninterrupted by conflicting uses and incompatible activities.

(2) Permitted Uses

(a) Single family detached residential uses with a minimum of 1,500 square feet of living space.

(b) Churches, schools and public facilities including libraries, parks, schools and golf courses.

(c) Accessory buildings and structures.

Adopted January 8, 2001 Revised November 12, 2001
Revised October 27, 2004, Revised October 3, 2005

(d) Home occupation.

(3) Conditionally Permitted Uses

The following uses shall be subject to the provision of Section 163.11.2.

(a) Day care facilities.

(b) Manufactured homes

(c) Municipal offices including city, county and state offices

(4) Lot Area, Lot Width and Coverage

(a) The minimum lot area for single family units shall be twelve thousand (12,000) square feet.

(b) The minimum lot width shall be no less than one hundred (100) feet. Maximum lot coverage shall be fifty per cent (50%).

(5) Yard Requirements

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

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

(c) The minimum side yard, measured from the side lot line, shall not be less than twelve (12) feet on each side of a lot.

(6) Building Height

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

(7) Parking Requirements

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

(b) Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 163.6.1.

- (c) All driveways shall be constructed in accordance with the requirements of Chapter 2-01 of the City of Mapleton Municipal Ordinances.

(8) Sign Requirements

(a) There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) square feet in area. The sign may be wall, pedestal, ground or projecting type but it shall not project into the public right-of-way or public property.

(b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.

(c) Signs for non-residential uses shall be subject to the provisions of Section 163.6.2.

163.5.3 R-2 Low Density Residential District

(1) Purpose

The R-2 low density residential district is primarily established to promote a suitable residential environment and to accommodate low density detached single family residential units uninterrupted by conflicting uses and incompatible activities.

(2) Permitted Uses

(a) Single family detached residential uses with a minimum of 1,500 square feet of living space.

(b) Churches, schools and public facilities including libraries, parks, schools and golf courses.

(c) Accessory buildings and structures.

(d) Home occupation.

(3) Conditionally Permitted Uses

The following uses shall be subject to the provision of Section 163.11.2.

(a) Day care facilities.

- (b) Manufactured Homes
- (c) Municipal offices including city, county and state offices

(4) Lot Area, Lot Width and Coverage

- (a) The minimum lot area for single family units shall be seven thousand (7,000) square feet.
- (b) For duplexes, the minimum lot area shall be four thousand (4,000) square feet per unit.
- (c) The minimum lot width shall be no less than sixty (60) feet, and the maximum lot coverage shall be fifty percent (50%).

Source: Ord. 198-07, Sec. 1 (2008)

(5) Yard Requirements

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

Source: Ord. 217-13, Sec. 1 (2014)

(6) Building Height

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

(7) Parking Requirements

- (a) There shall be a minimum of two (2) surfaced off-street parking spaces for each residential dwelling unit.
- (b) Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 163.6.1.
- (c) All driveways shall be constructed in accordance with the requirements of Chapter 2-01 of the City of Mapleton Municipal Ordinances.

Adopted January 8, 2001 Revised November 12, 2001
Revised October 27, 2004, Revised October 3, 2005

(8) Sign Requirements

- (a)** There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) square feet in area. The sign may be wall, pedestal, ground or projecting type but it shall not project into the public right-of-way or public property.
- (b)** Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- (c)** Signs for non-residential uses shall be subject to the provisions of Section 163.6.2.

163.5.4 R-3 Medium Density Residential District

(1) Purpose

The R-3 medium density residential district is primarily established to promote a suitable residential environment to accommodate single family and duplex residential dwelling units on smaller lots.

(2) Permitted Uses

- (a)** Single family detached dwelling units including manufactured homes and modular homes placed on a permanent foundation or basement. In addition, all housing units shall meet the following requirements: (a) the main entrance shall face the street; (b) the roof pitch shall not be less than (four/twelve) 4/12 ratio; (c) each unit shall have space for at least a single stall attached garage; (d) modular homes and site built homes shall meet the requirements of Uniform Building Code; (e) manufactured homes shall meet the latest HUD standards; (f) each unit shall have at least nine hundred (900) square feet of living space; and (g) each unit shall have appearance comparable to conventional site built homes in the vicinity.
- (b)** Two family dwelling units.
- (c)** Manufactured or modular homes, provided that they : (a) are placed on a permanent foundation or basement; (b) have no less than nine hundred (900) square feet of living space on each floor; (c) have roof pitch of no less than (four/twelve) 4/12 ratio; (d) have main entrance facing the public street; (e) have siding similar to the surrounding dwelling units.

- (d) Churches, schools and day care facilities.
- (e) Home Occupation.
- (f) Accessory buildings and structures.
- (g) Parks, playgrounds and recreational open spaces.

(3) Conditionally Permitted Uses

The following uses shall be subject to the provisions of Section 163.11.2.

- (a) Bed and breakfast establishments.
- (b) Manufactured home parks, where public water and sewer are available, with the following requirements:
 - (i) A site plan showing location of streets, utilities, off-street parking, driveways walkways blocks, lots, playground and park area.
 - (ii) The manufactured housing park shall contain a minimum of three (3) acres of land.
 - (iii) Each manufactured home shall be placed on a lot at least sixty (60) feet wide with a minimum lot area of seven thousand (7,000) square feet.
 - (iv) Each unit shall be placed on a permanent foundation or basement.
 - (v) Each unit shall have a minimum frontyard setback of twenty five (25) feet within the private park and thirty (30) feet from the public streets.
 - (vi) Each unit shall have a minimum side yard of eight (8) feet and a rear yard of twenty (20) feet.
 - (vii) The design and construction of the private streets within the park shall conform to the design standards of Cass County and the City of Mapleton.
 - (viii) All units shall be served by underground utilities unless waived by the City Council.

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

(c) Hospitals, medical clinics, short or long term care homes.

(d) Multi family dwelling units of three to four per structure.

(e) Public and private utilities and structures.

(4) Lot Area, Lot Width and Coverage

(a) For duplexes, town houses and small apartment buildings, the minimum lot area shall be four thousand (4,000) square feet per unit.

(b) The minimum lot width shall be fifty (50) feet per unit for two attached units and forty (40) feet per unit for three to four dwelling units for town houses built on one floor, and the maximum lot coverage shall be fifty percent (50%).

Source: Ord. 198-07, Sec. 2 (2008)

(5) Yard Requirements

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

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

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

(6) Building Height

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

(7) Parking Requirements

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

(b) Parking for the conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 163.6.1.

- (c) All driveways shall be constructed in accordance with the requirements of Chapter 2-01 of the City of Mapleton Municipal Ordinances.

(8) Sign Requirements

- (a) There shall be no more than one identification sign per residential dwelling structure not exceeding six (6) square feet in area. The sign may be wall, pedestal, ground or projecting type but it shall not project into the public right-of-way or public property.
- (b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- (c) Non-residential uses shall be subject to the provisions of Section 163.6.2.

163.5.5 R-4 Town House and Small Apartment Residential District

(1) Purpose

The R-4 medium density residential district is primarily established to promote a suitable residential environment to accommodate duplexes, town houses and small apartment buildings with two to four units.

(2) Permitted Uses

- (a) Two to four family dwelling units, including duplexes town houses, garden apartments not exceeding four units per building.
- (b) Home occupation.
- (c) Accessory buildings and structures.
- (d) Parks and play grounds, golf courses and outdoor sport facilities.
- (e) Churches and related buildings
- (f) Day care facilities.

(3) Conditionally Permitted Uses

The following uses are subject to the provisions of Section 163.11.2.

- (a) Bed and breakfast establishments.
- (b) Hospitals, medical clinics, short or long-term care homes.
- (c) Public and private utilities and structures.

(4) Lot Area, Lot Width and Lot Coverage

- (a) For duplexes, town houses and small apartment buildings, the minimum lot area shall be four thousand (4,000) square feet per unit.
- (b) The minimum lot width shall be fifty (50) feet per unit for two attached units and forty (40) feet per unit for three to four dwelling units for town houses build on one floor

(5) Yard Requirements

- (a) The minimum front yard, measured from the front lot line, shall be twenty five (25) feet.
- (b) The minimum rear yard, measured from the rear lot line, shall be twenty five (25) feet.
- (c) The minimum side yard, measured from the side lot line, shall be eight (8) feet on each side of the lot.

(6) Building Height

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

(7) Parking Requirements

- (a) There shall be two (2) surfaced off-street parking spaces for each residential dwelling unit.
- (b) Parking for conditionally permitted uses and non-residential uses shall be subject to the provisions of Section 163.6.1.
- (c) All driveways shall be constructed in accordance with the requirements of Chapter 2-01 of the City of Mapleton Municipal Ordinances.

(8) Sign Requirements

- (a) There shall be no more than one identification sign per residential dwelling structure not exceeding twelve (12) square feet in area. The sign may be wall, pedestal, ground or projecting type but it shall not project into the public right-of-way or public property.
- (b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.
- (c) Signs for Non-residential uses shall be subject to the provisions of Section 163.6.2.

163.5.6 R-5 Multiple Family Residential District

(1) Purpose

The R-5 multiple-family residential district is primarily established to promote a suitable residential environment and to accommodate higher density residential development to meet the needs of various income and age groups in the City of Mapleton.

(2) Permitted Uses

- (a) Two to four family dwelling units, including duplexes, town houses, garden apartments not exceeding four units per building.
- (b) Multiple-family dwelling units.
- (c) Home occupation.
- (d) Accessory buildings and structures.
- (e) Parks and play grounds, golf courses and outdoor sport facilities.
- (f) Parking lots for residential uses.
- (g) Municipal facilities such as city hall, fire station, police station, library, and museum.
- (h) Churches and related buildings
- (i) Day care facilities.

(3) Conditionally Permitted Uses

The following uses are subject to the provisions of Section 163.11.2.

- (a) Bed and breakfast establishments.
- (b) Cemeteries, crematoriums and the related facilities.
- (c) Nursing homes.
- (d) Public and private schools.
- (e) Group homes, group quarters, lodging houses and rooming houses.
- (f) Professional offices.
- (g) Private clubs and fraternal organizations.

(4) Lot Area, Lot Width and Lot Coverage

- (a) The minimum lot area for each dwelling unit in a multiple family structure of more than four (4) units in the city shall be three thousand (3,000) square feet. For two to four dwelling units the minimum lot area shall be four thousand (4,000) square feet per unit.
- (b) The minimum lot area for multiple family structures shall be nine thousand (9,000) square feet.
- (c) The minimum lot width in the R-5 multiple family residential district for two to four family units shall be forty (40) feet per unit. The minimum lot width in the R-5 multiple-family residential district for five or more units shall be seventy five (75) feet, provided that all setbacks and yard requirements are met.
- (d) The maximum lot coverage shall be fifty percent (50%).

Source: Ord. 198-07, Sec, 3 (2008)

(5) Yard Requirements

- (a) The minimum front yard, measured from the front lot line, shall be twenty five (25) feet.

- (b) The minimum rear yard, measured from the rear lot line, shall be twenty five (25) feet.
- (c) The minimum side yard, measured from the side lot line, for two to four units, shall be eight (8) feet and for five and more residential units it shall be ten (10) feet.

6) Building Height

- (a) No residential building shall be more than two and one half (2 1/2) stories high for buildings with less than five dwelling units and three (3) stories or forty five (45) feet high for buildings with five (5) or more units. or forty five (45) feet high.
- (b) Non-residential buildings shall be no more than two and one half (2 1/2) stories or thirty five (35) feet high excepting church steeples and similar structural elements.

(7) Parking Requirements

- (a) There shall be two (2) surfaced off-street parking spaces for each residential dwelling unit. For efficiency apartments there shall be at least one space per dwelling unit.
- (b) There shall be no less than one off-street parking space for each ten (10) beds in the nursing homes and group homes.
- (c) Non-residential uses shall be subject to the provisions of Section 163.6.1.
- (d) All driveways shall be constructed in accordance with the requirements of Chapter 2-01 of the City of Mapleton Municipal Ordinances.

(8) Sign Requirements

- (a) There shall be no more than one identification sign per residential dwelling structure not exceeding twelve (12) square feet in area. The sign may be wall, pedestal, ground or projecting type but it shall not project into the public right-of-way or public property.
- (b) Temporary signs including political campaign signs, greeting signs and realty signs are permitted for a period of 30 days. Signs for rent and signs for sale may be permitted without a time limitation.

- (c) Signs for Non-residential uses shall be subject to the provisions of Section 163.6.2.

163.5.7 C-1 General Commercial District

(1) Purpose

The C-1 general commercial district is primarily established to accommodate the concentration of commercial and related uses. Commercial uses must be compatible with adjoining uses and shall not negatively affect the adjoining properties.

(2) Permitted Uses

- (a) Accessory buildings and uses.
- (b) Advertising signs and billboards.
- (c) Amusement places including bowling alleys, athletic clubs, pool halls and similar indoor facilities.
- (d) Banks and financial institutions.
- (e) Bed and breakfast establishments.
- (f) Boarding and rooming houses.
- (g) Fraternal and philanthropic organizations.
- (h) Hotels and motels.
- (i) Multiple family dwelling units and residential units above commercial businesses.
- (j) Professional offices for businesses and services without limitation.
- (k) Public buildings and facilities
- (l) Restaurants including all types of eating and drinking establishments.
- (m) Retail stores of all types including but not limited to food, drug, clothing, parts, materials and the like

(3) Conditionally Permitted Uses

The following uses are subject to the provisions of Section 163.11.2.

- (a) Contractor's yards and operations.
- (b) Processing and packaging of materials.
- (c) Radio, television, microwave, cellular telephones, relay and other communication towers and structures.
- (d) Storage spaces for rent
- (e) Warehouses and wholesale distributorships.

(4) Lot Area and Lot Width

- (a) The minimum lot area for commercial use shall be ten thousand (10,000) square feet.
- (b) The minimum lot width for commercial district shall be seventy five (75) feet, excluding the lots of record.
- (c) The maximum lot coverage shall be 70%.

(5) Yard Requirements

- (a) The minimum front building line, measured from the front lot line, shall be thirty (30) feet.
- (b) The minimum rear building line, measured from the rear lot line, shall be twenty (20) feet.
- (c) The minimum side building line, measured from the interior side of the lot shall be ten (10) feet.

(6) Building Height

The building height requirements in the general commercial district shall not be more than sixty (60) feet excepting farm related buildings and communication towers.

(7) Parking Requirements

- (a) For commercial uses, the rear yard spaces may be used for parking.

- (b) For commercial uses, parking shall be subject to the provisions of Section 163 6.1.
- (c) For residential uses, there shall be two (2) off-street parking spaces for each dwelling unit.
- (c) All driveways shall be constructed in accordance with the requirements of Chapter 2-01 of the City of Mapleton Municipal Ordinances.

(8) Sign Requirements

For uses in commercial district, the provisions of Section 163.6.2 shall apply.

163.5.8 C-2 Highway Commercial District

(1) Purpose

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

(2) Permitted Uses

- (a) Accessory uses.
- (b) Advertising signs and billboards, subject to Section 163.6.2.
- (c) Amusement places such as bowling alleys, athletic clubs, pool halls, theaters, miniature golf courses and similar outdoor or indoor facilities.
- (d) Animal hospitals and kennels including outdoor dog runs or exercise pens when located not less than two hundred (200) feet from any residential district.
- (e) Bakeries and confectioneries.
- (f) Banks and financial institutions.
- (g) Battery and tire service establishments.
- (h) Building material and supply establishments.

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

- (ae) Plumbing shops and yards.
- (af) Radio, television, and electronic equipment sales and service.
- (ag) Recreational vehicles sales and service
- (ah) Restaurants including all types of eating and drinking establishments.
- (ai) Shopping malls including the retail services customarily accommodated therein.
- (aj) Sporting goods stores and bait shops.
- (ak) Taverns and liquor stores.
- (al) Watchman and caretaker living areas.

(3) Conditionally Permitted Uses

Conditional uses shall not be located less than two hundred (200) feet from a residential district and shall be subject to the provisions of Section 163.11.2.

- (a) Contractors yard, provided that the storage area is fenced and not visible from the street.
- (b) Machine shops and fabrication of metal products.
- (c) Processing and packing of non-toxic and non-odorous material.

(4) Lot Area, Lot Width and Lot Coverage

- (a) The minimum lot area for C-2 commercial district shall be twenty thousand (20,000) square feet.
- (b) The minimum lot width for C-2 commercial district shall be one hundred (100) feet.
- (c) The maximum lot coverage shall be 70%.

(5) Yard Requirements

- (a) The minimum front building line, measured from the front lot line, shall be fifty (50) feet for all properties fronting I-94, Cass County

Highways 10 and 11. For properties fronting on other streets the minimum building line shall be twenty (20) feet.

- (b) The minimum rear building line for properties abutting I-94 and Cass County Highways 10 and 11 shall be fifty (50) feet and for other streets the minimum shall be twenty (20) feet.
- (c) The minimum side building line, measured from I-94 and Cass County Highways 10 and 11 rights-of-way shall be twenty-five (25) feet. The minimum side yard for interior side of the lot shall be ten (10) feet. The minimum side building line measured from other rights-of-way shall be ten (10) feet.

(6) Building Height

The building height requirement in C-2 highway commercial district shall be subject to the provisions of the North Dakota State Aeronautic Commission and city regulations.

(7) Parking Requirements

- (a) The front yard, beyond the setback line may be used for parking.
- (b) Parking in C-2 highway commercial district, shall be subject to the provisions of Section 163.6.1.
- (c) All driveways shall be constructed in accordance with the requirements of Chapter 2-01 of the City of Mapleton Municipal Ordinances.

(8) Sign Requirements

For signs in C-2 highway commercial district shall be subject to the provisions of Section 163.6.2.

163.5.9 I Industrial District

(1) Purpose

The I industrial district is primarily established to accommodate industrial uses and facilities appropriate to the City of Mapleton. It is planned to encourage grouping of related industrial uses for preventing intrusion on other uses

specifically residential areas and to maintain an orderly, functional and efficient industrial land use system.

(2) Permitted Uses

- (a) Accessory uses.
- (b) Agricultural chemical production and storage.
- (c) Any industrial or manufacturing operation provided that: (a) dust, fumes, odors, smoke, vapor, noise, lights and vibration producing operations shall be enclosed within the premises, and: (b) outdoor storage, equipment and materials areas shall be concealed from abutting street or highway rights-of-way.
- (d) Any production, processing and treatment of products such as battery and tire service, concrete and asphalt products, dairy processing, bottling works, ice and cold storage plants, machine and sheet metal shops provided that all operations be conducted entirely in enclosed buildings.
- (e) Building material and supply establishments.
- (f) Contractors yards and construction shops.
- (g) Electric power production and substations.
- (h) Fuel sales establishment including bottle gas.
- (g) Public utility buildings including water and waste water facilities and accessories.
- (h) Radio, Television, microwave, cellular phone towers and related facilities

(3) Conditionally Permitted Uses

The following uses shall be subject to the provisions of Section 163.11.2.

- (a) Local and regional sanitary landfills, compost sites and incinerators.
- (b) Salvage or junk yards.

- (c) Storage and sale of chemicals, explosives and the like.
- (d) Conditional uses shall not be located nearer than five hundred (500) feet from any residential area.

(4) Lot Area and Lot Width

- (a) The minimum lot area for industrial district shall be one acre.
- (b) The minimum lot width for industrial district shall be one hundred (100) feet.

(5) Yard Requirements

- (a) The minimum setback from I-94, Cass County Highways 10 and 11 shall be fifty (50) feet and for any streets shall be twenty five (25) feet.
- (b) The minimum rear building line, measured from the rear lot line, for I-94 and Cass County Highways 10 and 11 shall be fifty (50) feet and for other streets shall be twenty (20) feet.
- (c) The minimum side building line, measured from the side lot line, shall be twenty (20) feet.
- (d) No building or structure shall be located within one hundred (100) feet from the boundary of a residential area.

(6) Building Height

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

(7) Parking Requirements

- (a) Parking in the industrial district, shall be subject to the provisions of Section 163.6.1.
- (b) All driveways shall be constructed in accordance with the requirements of Chapter 2-01 of the City of Mapleton Municipal Ordinances.

(8) Sign Requirements

Signs in the industrial district shall be subject to the provisions of Section 163.6.2.

163.5.10 PD Planned Development District

(1) Purpose

The PD Planned Development Overlay District, as an overlay district, is primarily designed to encourage and promote environmental quality of the City of Mapleton by allowing for greater freedom, imagination and flexibility in the development of land while complying with the intent and purpose of this ordinance, other related municipal ordinances and the Mapleton 2025 Comprehensive Plan. It is further the purpose of the PD District to encourage more rational, efficient and cost-effective development with relationship to public services, energy conservation and preservation, compatibility and harmony with surrounding uses, higher standard of site and building design and conservation of natural feature with relationship to public services while enhancing and improving the environmental quality of the area.

A planned development may be overlaid on any of the zoning districts as established by this ordinance. A PD District is distinguished from the traditional and separate process of zoning and land subdivision and approaches a site holistically. The density, bulk, height, minimum lot size and use may be altered by agreement between the developer and the City of Mapleton. To finalize an agreement, the developer must demonstrate that the proposal is unique to the site, the area, and the City of Mapleton, and meets the standards set forth by this ordinance, other ordinances of the City and the Mapleton 2025 Comprehensive Plan. The benefits of the PD District must be significant to warrant any modifications of standards required under any district regulations by the City of Mapleton.

Planned Development District is not intended as a shortcut in the approval process, nor shall it be construed as a means of relaxing or circumventing regulations without ample justification and benefit to the City of Mapleton.

(2) Permitted Uses

All principal uses in PD District shall be connected to the public water and sewer system.

- (a) Any group of permitted uses in any zoning district in these regulations, provided that there is distinct compatibility and harmony among the uses, with no adverse effects on the adjoining uses.
- (b) No use shall be permitted in the PD District except in conformity with Mapleton 2025 Comprehensive Plan and the detailed development plan prepared to meet the requirement of this district.
- (c) In a PD District the uses and their intensity, appearance and arrangement shall be of such visual and operational character which: (1) are compatible with the physical nature of the site or area; (2) would not adversely affect the provisions for public services; and (3) would not create a traffic or parking demand incompatible with the existing or proposed facilities.
- (d) The PD District shall not adversely affect the economic prosperity of the City of Mapleton or its extraterritorial planning area.
- (e) The PD District shall include assurances that the proposed plan would be completed in a manner that would not adversely affect the city or the area as a result of termination. The terms of the assurances shall address financial and development considerations in sufficient detail as may be required by the city as a part of the Developer's Agreement.

(3) Restrictions

A PD District shall not be considered if it provides for intensity, appearance and arrangement for use of space(s) that:

- (a) Is incompatible with the existing physical nature of the site or area;
- (b) Is a burden on existing City of Mapleton services and utilities;
- (c) Creates traffic or parking demands incompatible with the existing or proposed facilities;
- (d) Would be a financial burden or development burden on the City of Mapleton should the developer's proposal for a PD District fail to be fully implemented;

- (e) Makes no distinct difference if a proposal is carried out through standard rezoning, conditional use permit, or land subdivision process.

(4) Site Requirements

- (a) There shall be no predetermined requirements for lot area, lot width, building height and yards, but such requirements are made a part of an approved, recorded, and detailed development plan.
- (b) The minimum land parcel for PD District shall be five (5) acres.
- (c) In a PD District the location, number and configuration of parking spaces for mixed uses, commercial and industrial PD spaces shall be a part of the detailed development plan.
- (d) In a PD District the location, type and size of signs shall be a part of the detailed development plan.
- (e) All driveways and parking areas shall be constructed in accordance with the requirements of the City of Mapleton Municipal Ordinances and shall be of concrete or asphalt.

(5) Development Plan

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

- (a) Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
- (b) Detailed layout of proposed streets and location of blocks for designated uses, including the right-of-way width and street names.
- (c) Location of open spaces and facilities for public uses.
- (d) Existing drainage pattern based on the current topographic information and the location of land to be dedicated for park and playgrounds and open spaces. A detailed drainage plan drawn on contour maps of no less than one (1) foot contour interval and delineates water retention area(s) is required.
- (e) The development plan shall be drawn at a scale of one inch equalling two hundred 200 feet or less.

- (f) Three-dimensional drawings showing location, height and bulk of buildings based on the buildings' footprints.
- (g) Other engineering or financial information required by the city, including a developer's agreement.

(6) Data Submission Requirements

- (a) Legal description of the proposed PD District, together with a general map of the area showing existing land use, zoning, street pattern and traffic data.
- (b) A statement describing the detailed character of the intended development and why a PD District is proposed.
- (c) Detailed development plan as described above.
- (d) Proof of financial capability of the owner(s)/developer(s) to carry out the project.
- (e) Analysis of economic impacts on the city and the adjoining areas for a five (5) year period.
- (f) An outline of the anticipated schedule and sequence of development if to be carried out in phases for the total PD District.
- (g) A description of all anticipated municipal services and utilities together with a description of easement or access rights necessary to provide municipal services and utilities.
- (h) A preliminary subdivision plat meeting the requirements of this ordinance for traditional platted subdivisions.
- (i) Agreements, by-laws, provisions and covenants which insure the timely and satisfactory completion of the project without posing a burden on the city or adjoining properties.

(7) Review and Approval Procedure

- (a) A pre-application consultation meeting with the Code Administrator and Planning Commission shall be held to allow developers to discuss ideas and alternatives for a PD District to determine if the preliminary proposal, ideas meet with the

requirements of the City of Mapleton and financial support by the developer is realistic.

- (b)** On receipt of the completed application for a PD District, the Code Administrator shall determine if the application contains all prerequisites necessary for a PD District. If acceptable, the application shall be referred to the Planning Commission and its staff for study to determine which current requirements of the City of Mapleton need to be changed should the proposed plan for a PD District be approved. After identification of areas of conflict, the Planning Commission will review the developer's proposal and may give preliminary agreement to the concept of a PD District. The Planning Commission may require additional information from the developer, and shall have the right to make modifications to the proposed plan for the PD District before making its recommendations to the Mapleton City Council.
- (c)** The Planning Commission shall then hold a public hearing on the proposed plan for the PD District where all alternatives, comments, suggestions and objections with respect to the proposed plan for a PD District will be received and examined by the Planning Commission.
- (d)** After the public hearing, the Planning Commission may act upon the proposed plan for a PD District setting forth all areas of agreement with the developer's plan, as modified during the process of investigation and inquiry, and identifying the position(s) of the Planning Commission on those areas of disagreement with the developer's plan for the PD District, as modified. The Planning Commission shall then make its recommendations regarding the proposed plan for the PD District to the Mapleton City Council.
- (e)** The Mapleton City Council, after receiving the recommendations of the Planning Commission, shall hold a public hearing on the proposed plan for the PD District. Following the public hearing the City Council may hold an additional public hearing, after which it may approve, deny or further modify the development plan. The Developer shall be responsible for all costs associated with advertising the public hearings and technical advice required by the Mapleton City Council and Planning Commission.
- (f)** Upon approval by the Mapleton City Council and delivery of all signed documents, a final plan meeting the requirements of this ordinance identifying the PD District shall be recorded with the

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Cass County Recorder, the proof of which, including the original copy of the Plan(s), shall be submitted to the Code Administrator. Thereafter, building permits will be issued only if the application for building permit complies with the terms and conditions allowable for the PD District.

- (g) If the developer fails to develop the PD District as planned, the PD District shall automatically terminate two (2) years after the approval of the PD District by the Mapleton City Council, unless (1) renewed for another two (2) years by affirmative vote of the Mapleton City Council, and (2) developer's payment of an additional application fee. No building permits may be granted after termination of the PD District.

Source: Ord. 198-07, Sec. 4 (2008)

163.5.11 F FLOOD PLAIN DISTRICT

The F Flood Plain District consists of the lands which have been or may be covered by flood water as delineated on the maps for the City of Mapleton and Cass County, and is prepared by the Federal Emergency Management Agency for administration of the National Flood Insurance Program or other maps and information provided by the State of North Dakota. This district is an overlay district and its provisions apply to all flood prone lands and lands with serious drainage problems, as determined by the Mapleton City Engineer, regardless of location within the city and its extraterritorial areas.

(1) Purpose

The F Flood Plain District is primarily established to designate those areas which need to accommodate the run-off water and to protect the public and private property from the adverse effects of flooding by prohibiting development on the lands prone to flooding. It is the intention of this district to prevent financial liability to the City of Mapleton from unapproved development that may cause flooding due to poorly installed drainage or accumulation of water run off.

(2) Permitted Uses

- (a) Agricultural uses including general farming, pasture, grazing and related uses provided that the buildings and structures for human habitation are flood proofed.
- (b) Non-structural uses including ponding of run-off water and treated wastewater.

- (c) Public utilities including railroads, streets, bridges, channels, and pipelines.
- (d) Outdoor recreational uses including golf courses, bicycle trails, picnic areas and boat launching ramps.
- (e) No permanent residential or commercial uses shall be permitted in the Flood Plain District.

(3) Conditionally Permitted Uses

Temporary buildings and structures not related to flood control and farming such as stands, fences, shelters, temporary signs and temporary parking. These uses shall be subject to the provisions of Section 163.11.2.

(4) Building Height

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

(5) Sign Requirements

Temporary signs shall be no larger than thirty (30) square feet in area and shall be removed sixty (60) days from the date of installation.

(6) Relationship to Drainage System

All proposals for the use of flood plain area or areas suspected of poor drainage shall require a detailed drainage plan and water run-off impoundment. A soil analysis will be required if the Planning Commission determines it to be in the best interest of the City before it makes its recommendations to the City Council.

Source: Ord. 198-07, Sec. 5 (2008)

163.6 SPECIAL PROVISIONS

162.5.1 Off-Street Parking

(1) Purpose

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

(2) General Requirements

- (a)** An off-street automobile parking space shall be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives.
- (b)** All open off-street parking areas with four (4) or more spaces and all loading berths shall be: (a) improved with all weather surface to provide a durable and dust free surface such as asphalt or concrete; and graded to dispose of all surface water run-off but not be diverted to adjoining properties.
- (c)** Parking of recreational vehicles as living spaces in residential districts shall be limited to two (2) weeks. All recreational vehicles shall be parked on surfaced parking spaces.
- (d)** All driveways shall be constructed in accordance with the requirements of Chapter 2-01 of the City of Mapleton Municipal Ordinances.

(3) Special Requirements

- (a)** No structure shall be erected or enlarged without meeting the following parking requirements:
 - (i)** For retail businesses and services, offices, studio, bank, medical or dental clinics, one (1) parking space for each one hundred (100) square feet of floor area.
 - (ii)** For private club or lodge; two parking spaces for each one hundred (100) square feet of service area.
 - (iii)** For restaurant, eating and drinking establishment; one parking space for each one hundred (100) square feet of floor area.
 - (iv)** For industrial uses there shall be one off street parking space for every two (2) employees.

163.6.2 Sign Requirements

(1) Purpose

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

(2) General Requirements

- (a)** Directory signs shall not be larger than twenty (20) square feet in area for permitted uses.
- (b)** Directory signs for conditional uses shall not be larger than forty (40) square feet.
- (c)** General advertising signs shall not be larger than ninety six (96) square feet.
- (d)** Billboards and large advertising signs shall be subject to the requirements of Section 163.11.2.

(3) Special Requirements

- (a)** Signs in the residential districts shall be limited to: (i) One sign per dwelling structure not exceeding twelve (12) square feet in area which may be wall, pedestal, ground or projecting type; (ii) One temporary sign such as “For Sale”, “For Rent”, not exceeding twenty (20) square feet in area.
- (b)** Signs in the commercial and industrial districts shall be limited to: (i) One general identification sign per business not exceeding fifty (50) square feet in area which may be wall, pedestal, ground or projecting type. (ii) Temporary signs including “For Sale”, “For Rent”; political campaign signs, greeting signs and rally signs not exceeding fifty (50) square feet in area; (iii) Directory and advertising signs in agricultural, commercial and industrial districts shall not be larger than ninety six (96) square feet and not placed nearer than six hundred (600) feet apart.

163.6.3 Junk or Salvage Yards

(1) Purpose

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

(2) Site Approval Requirements

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

(3) Locational Standards

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

163.6.4 Feed Lots

(1) Purpose

These regulations are designed to allow feed lots for feeding of livestock, fur bearers and poultry at the same time protect the adjoining uses against odor, run off and other incompatible characteristics associated with feed lots.

(2) General Requirement

- (a)** All feed lots as defined by this ordinance are only permitted as conditional uses subject to the provisions of this ordinance and the requirements of the North Dakota State Health Department.
- (b)** All feed lots shall be designed and constructed with all reasonable preventive measures to avoid surface run-off including construction of sealed collection and retention ponds.

- (c) Where appropriate, there shall be sufficient drainage to avoid pollution of the ground water from the standing effluents.
- (d) Feed lots shall not be placed in the floodplains.
- (e) The applicant, as a part of site approval application, shall submit a plan for removal and disposal of the liquid and solid waste generated by the feed lot.
- (f) No feed lot shall be located nearer than five hundred (500) feet from a residential development in the extra territorial area or corporate limits of the City of Mapleton

163.6.5 Sand and Gravel Operations

(1) Purpose

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

(2) Site Approval Requirements

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

(3) Data Submission Requirements

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

(4) Proximity to Existing Uses

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

(5) Permit Requirements

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

163.6.6 Sanitary Landfills and Solid Waste Sites

(1) Compliance with State Laws and Rules

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

(2) City Ordinance and Procedures

The City of Mapleton hereby adopts solid waste provisions, subject to the Provisions of NDCC 11-33-20, to assure meeting the purposes of this ordinance and the Mapleton 2025 Plan.

(3) Purpose

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

(4) Site Approval Requirements

All solid waste sites require approval by the City Council.

(5) Locational Standards

- (a)** No landfill or incinerator shall be located within one thousand (1,000) feet of residential uses, and five hundred (500) feet of commercial buildings and structures.
- (b)** No landfill shall be located in areas which due to high water table, flooding, or soil conditions may affect the quality of surface and ground water.

- (c) No landfill operation shall be located nearer than two hundred (200) feet of all road and highway rights-of-way.

(6) Data Submission Requirements

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

(7) Statement of Findings

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

163.6.7 Public Nuisances

Public nuisances including but not limited to noxious weeds, smoke, gases, radio interference, noise, accumulation of junk, trash, rubbish, automobiles, dead or diseased trees shall not be permitted and shall be subject to violation and penalties of Section 163.13 of this ordinance.

163.6.8 Fences and Hedges

Fences are structures constructed of any material including wood, metal and plastics for the purpose of providing privacy, safety and protection of a property. Metal fences are limited to chain link type and ornamental wrought iron. Use of barbed wire, chicken coop meshes and the like are not permitted in any district, except Agricultural District. Plastic fences are limited to the solid or open panels manufactured for this purpose. Snow fences made of wood or plastic are only permitted in the Agricultural District, but may be used in other zoning districts between November 1 and April 1 of each year if needed to control the drifting snow. (Adopted 2006)

- (1) In residential districts, fences may be erected directly on the property line with the consent of the adjoining property owner. Hedges shall be placed three (3) feet inside the property lines. (Adopted 2006)
 - (a) For the front yards, the height of the fences or hedges shall not exceed three (3) feet.
 - (b) For the side and rear yards, the height of the fences and hedges shall not exceed six (6) feet. Taller hedges may be permitted if there will be no negative impact on the adjoining properties such as blocking the sunlight or obstructing a natural view. (Adopted 2006)
- (3) In commercial and industrial districts, the height of the fence shall not exceed eight (8) feet, and that such a fence shall not obstruct the view of the motorist within fifty (50) feet of an intersection. Fences may be installed on the property line
- (4) All fences require a permit from thje Code Administrator of the City of Mapleton, except temporary fences for construction. There shall be no fee for obtaining such permits.
- (5) The finished side of fences that are installed must face the outside of the property of which the fence is installed.

163.6.9 Site Plan Requirement

A site plan is a physical development plan for a specific area of land consisting of map(s) and written material describing the nature of the proposed project. All proposed uses in the R-4, R-5, C-1, C-2, Industrial Districts, and conditional use permit applications require that the applicant submit a site plan and any other documents as required by the zoning administrator. Applications for permits for communication towers and facilities, feedlots, fences and hedges, junk and salvage yards, sand and gravel operations, sanitary landfills, and any regulated signs require site plans.

(1) Purpose

The purpose of a site plan is to provide a detailed study of the site proposed for rezoning and development of a parcel(s) of land to assist the Planning Commission and the City Council in the decision-making process.

(2) General Requirements

All multi-family uses, commercial and industrial uses for rezoning, and conditional use applications require a site plan to accompany the documents submitted to the Code Administrator at least two (2) weeks before the public hearing before the Planning Commission. The Code Administrator has the authority to withhold submission of the application to the Planning and Zoning Commission until all required documents, including the site plan, are submitted.

(3) Data Submission Requirements

The map(s) shall be drawn to a scale of one inch equaling two hundred (200) feet or smaller and shall include the following:

- (a) Location of all property lines, street, and railroad rights-of-way for a distance of three hundred (300) feet.
- (b) A footprint of the building(s), location of parking areas and landscaping areas.
- (c) A drainage plan, including the location of water retention and discharge areas.
- (d) Designating areas to be dedicated as public street right-of-ways, parks and open spaces, and drainage and utility easements.
- (e) Designation of private drives, streets and common areas to be managed privately.
- (f) A statement guaranteeing that the development shall be carried out in a timely fashion unless there are financial difficulties or market influences delaying the development.
- (g) Application fee of \$250 to cover the cost of notices and staff time, unless another application fee is required.

(4) Review and Approval Procedure

After an applicant has submitted a site plan and any other documents as required by the Code Administrator the Planning Commission shall hold a public hearing, the notices of which shall be published in the official newspaper of the City of Mapleton. The Planning Commission shall receive comments from members of the public in attendance and review any written comments submitted to the Code Administrator.

- (a) If the Planning Commission determines that all requirements of the Land Development Code have been satisfied and the proposed site plan is consistent with the purpose of this ordinance, it shall recommend approval to the City Council.
- (b) If the Planning Commission determines that the proposed site plan is inconsistent with the purpose and intent of this ordinance and the Mapleton 2025 Comprehensive Plan, but that inconsistencies are neither material nor substantial, it may recommend conditional approval based upon satisfactory evidence that the inconsistencies will be addressed. The Planning Commission has the authority to require other information before it makes its recommendation.
- (c) If the Planning Commission determines that the proposed site plan does not meet the purpose and intent of this ordinances, plans and policies of the City of Mapleton, and does not serve public interest, it shall recommend denial of the application to the City Council.
- (d) The City Council, after holding a public hearing, may approve or deny the application.
- (e) The City of Mapleton retains the right to withdraw the permit if the project does not begin in two (2) years from the date of approval.
- (f) The Code Administrator shall be responsible for the initial interpretation of this section. Upon written request, the Code Administrator shall provide a written interpretation of this section to any individual. Any individual adversely affected by the decision of the Code Administrator may appeal such decision to the Mapleton City Council.

Source: Ord. 198-07, Sec. 6 (2008)

163.7 LAND SUBDIVISION

163.7.1 Purpose

- (1) To insure the orderly development of the City of Mapleton
- (2) To provide for proper arrangement of streets in relation to other existing and planned streets.
- (3) To provide for adequate and convenient open spaces for traffic, utilities, fire fighting, recreation, light and air.

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- (4) To facilitate adequate provisions for access, placement of water and sewer systems, schools, and public open spaces.
- (5) To avoid development of unsuitable areas because of soil, drainage and other physical limitations.
- (6) To facilitate subdivision of larger parcels into smaller parcels and lots.
- (7) To implement the Mapleton 2025 Plan.

163.7.2 Preliminary Plat

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

(1) Pre-Application Consultation

Prior to the submission of a preliminary plat, the subdivider shall consult the City Auditor/Code Administrator for assistance regarding the requirement of the City of Mapleton's Plans, Ordinances and Policies for subdividing any parcel of land. This step is intended to inform the subdivider of the importance of the plans, ordinances and policies to assist him/her in meeting the land subdivision requirements of the City of Mapleton.

(2) Preliminary Plat Content

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

- (a) The preliminary plat shall be drawn at a scale of one inch representing one hundred (100) feet.
- (b) Name and location of the subdivision.
- (c) Date, graphic scale and north point.

- (d) Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.
- (e) Location, right-of-way, width and names of any existing or proposed streets, alleys, public ways, easement, railroad, utility rights-of-way, parks and other public open spaces and corporate boundaries and section lines within or adjacent to the subdivision.
- (f) Location of existing property lines, buildings, drives, streams, water courses, wooded areas and drainage ways.
- (g) Boundary line of adjacent tracts of land or lots showing owners' name.
- (h) Contour at vertical intervals of not more than two (2) feet.
- (i) Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.
- (j) Layout of the proposed streets, alleys, cross walks and easements, showing widths and street names.
- (k) Lay out, number and dimensions of all lots and blocks.
- (l) Parcels of land intended to be dedicated or reserved for public use or set aside for the use of property owners within the subdivision.
- (m) Building setback lines, showing dimensions.

(2) Preliminary Plat Submission Requirements

- (a) The subdivider shall apply on appropriate forms provided by the City Auditor to the Planning Commission at least one week prior to its regularly scheduled meeting.
- (b) The subdivider shall submit two (2) prints of the preliminary plat to the City Auditor at the time the application is made. The plat shall comply with the provisions of this ordinance.
- (c) The subdivider may submit any instrument and covenant whereby he/she proposes to restrict land use in the subdivision for protecting the proposed development.

(d) The subdivider shall provide other data related to drainage, soil suitability, financing of improvement and other related information which the City Council requests.

(3) Development Plan

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

- (a) Location of existing property lines, buildings, drives, streams, wooded areas and other significant natural features.
- (b) General layout of proposed streets and location of blocks and intended uses.
- (c) Location of open spaces and facilities for public uses.
- (d) Existing drainage pattern.
- (e) The development plan shall be drawn at a scale of not smaller than one inch representing four hundred (400) feet.
- (f) Soil and flood plain data
- (g) The Planning Commission may require other information as a part of the development plan.

(4) Preliminary Plat Review Process

- (a) The Planning Commission, after a public hearing, shall review the preliminary plat and recommend to the City Council for approval, approval with conditions or denial of the preliminary plat. The Planning Commission may require additional information before it takes action.
- (b) The conditional approval of a preliminary plat shall clearly state the nature and extent of the conditions which shall be met before a final plat is submitted for review and approval. Tentative approval of a preliminary plat by the City Council is not an acceptance of a subdivision plat, but is an expression of approval of a general plat as a guide to preparation of a subdivision for final plat review and approval.
- (c) The City Council may require the subdivider to submit a revised preliminary plat before the subdivider proceeds with the preparation of the final plat.

(d) Approval of the preliminary plat shall be effective for a period of two (2) years within which a final plat shall be prepared. If the final plat is not submitted within this time period, the City Council may require the subdivider to resubmit the preliminary plat for review and approval, unless the developer had provided a detailed time table for the preparation of the final plat(s).

163.7.3 Final Plat

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

(1) Final Plat Content

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

- (a) The preliminary plat shall be drawn at a scale of one inch representing one hundred (100) feet.
- (b) Name and location of the subdivision.
- (c) Date, graphic scale and north point.
- (d) Boundary line of the proposed subdivision indicated by a solid heavy line, accurately drawn to scale and showing distances and bearings.
- (e) Location, right-of-way, width and names of any existing or proposed streets, alleys, public ways, easement, railroad, utility rights-of-way, parks and other public open spaces and corporate boundaries and section lines within or adjacent to the subdivision.
- (f) Location of existing property lines, buildings, drives, streams, water courses, wooded areas and drainage ways.
- (g) Boundary line of adjacent tracts of land or lots showing owners' name.
- (h) Contour at vertical intervals of not more than two (2) feet.
- (i) Location and dimension of any site to be reserved or dedicated for public uses including drainage ways, parks and open spaces.

- (j) Layout of the proposed streets, alleys, cross walks and easements, showing widths and street names.
- (k) Lay out, number and dimensions of all lots and blocks.
- (l) Parcels of land intended to be dedicated or reserved for public use or set aside for the use of property owners within the subdivision.
- (m) Building setback lines, showing dimensions.
- (n) Where required, detailed engineering drawings, cross-sections or profiles of streets, utility lines, catch basins or other installations of improvements as installed.
- (o) Certification by registered surveyor to the effect that the plat represents a survey made by him, and that the monuments shown thereon exist as located and that all dimensional and geodetic details are correct.
- (p) Notarized certification by the owners of the land of the adoption of the plat and the dedication of sewers, water distribution lines and other improvements and of streets and other public areas.
- (q) Appropriate place for signature by the property owner, city officials and Cass County officials.

(2) Final Plat Submission Requirements

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

- (a) The subdivider shall submit the final plat to the Planning Commission at least one week before the regularly scheduled meeting of the Planning Commission.
- (b) The final plat shall comply with all provisions of this ordinance and conditions and requirements set forth by the City Council as a part of review and approval of the preliminary plat. All filing fees shall be paid to the city at the time of filing the final plat for approval.
- (c) The Planning Commission may require the subdivider to submit detailed drawings for grading of the lots, blocks, streets, detailed drawings for pavement, curb, gutter and sidewalk, drawings for installation of water, sanitary and storm sewer facilities.

(3) Final Plat Review Process

- (a)** If the Planning Commission, after a public hearing, finds the final plat in conformance with the requirements stipulated for approval of the preliminary plat, it shall recommend to the City Council for approval after a public hearing.
- (b)** For subdivisions outside of the city corporate limits, a print of the final plat shall be submitted to the Cass County Commission. The approval of the County Commission is necessary for all plats outside of the city.
- (c)** The subdivider shall prepare an estimate of the cost of providing the required improvements based on the city design standards for street, curb, gutter, sidewalk, sanitary sewer, storm sewer and water lines.
- (d)** If all conditions and requirements have been met, the Planning Commission shall recommend approval of the final plat to the City Council.
- (e)** The City Council, after a public hearing, may approve, deny or modify the final plat.

163.7.4 Lot Splits

A lot split may be exempt from the platting requirements of this ordinance if the following conditions are met:

(1) Conditions

- (a)** That the lot split does not contain more than two lots.
- (b)** That the two lots conform to the requirement of the respective zoning district for width and area coverage of each lot.
- (c)** That any lot may be split only once under these provisions.
- (d)** That the lot split is not part of a continuing practice of lot splitting for a particular area to circumvent platting or replatting requirements of this ordinance.
- (e)** That the lot split does not violate any provisions of city ordinances, plans, or any other state and local ordinances.

(2) Procedure

An application for lot split shall be submitted to the City Auditor/Code Administrator. If the City auditor/Code Administrator determines that conditions are met, he/she shall schedule a review/approval before a board represented by the Chair of Planning Commission, the City Mayor, and the City auditor. Written notice if application shall be sent to all property owners within 150 feet of the proposed lot, excluding street rights-of-way and publicly owned properties before the meeting. The board may approve, modify or deny the application for lot split.

(3) Application

A fee similar to application for rezoning requests shall be required for each application. If the request for lot split is denied, the fee shall be refunded.

(4) Transfer of Lots

No owner, or agent of owner, shall transfer, sell or agree to sell any land before the lot split, replat, or plat is approved as provided under the requirements of this ordinance.

163.7.5 Amendment of Mapleton 2025 Plan

Upon final approval of a subdivision involving the creation of new streets, the widening, decreasing or vacation of existing streets or alleys, or the creation, enlargement or decrease of other lands devoted to public use, the City Council shall, at the same time, and without further public hearing, approve such change in streets, alleys or public lands as an amendment to the Mapleton 2025 Plan, if it finds appropriate. In the case of streets, alleys and public lands outside of the city corporate limits, notice of action of the City Council and appropriate recommendations shall be forwarded to the Cass County Commission.

163.7.6 Filing of Subdivision Plat

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

163.8 DESIGN STANDARDS

163.8.1 Conformance

The subdivider shall prepare the preliminary and final plat in conformance with the standard set forth in this ordinance and the current AASHTO standards..

163.8.2 Street Design

- (1)** The arrangement, character, classification, extent, width, grade, and location of all streets shall be designed in relation to existing and planned streets, topographic conditions, existing natural features, flood plain, public convenience and safety and the proposed uses of land served by such streets and to the most advantageous development of adjoining uses.
- (2)** Where it is not shown on the Mapleton 2025 Plan, the arrangement of streets in a subdivision shall either provide for the continuation or appropriate projection of existing streets in surrounding areas or conform to a plan approved by the Planning Commission to meet a particular situation.
- (3)** Where a subdivision abuts or contains an existing or proposed major street or highway, the Planning Commission may require: (a) service streets, reverse frontage street with screen planting in a reservation strip along the rear property line; (b) deep lots with rear service alleys abutting the major street; and (c) highway, or such other treatment as may be necessary for adequate protection of residential properties and for separation of through and local traffic.
- (4)** Where a subdivision borders on or contains a railroad right-of-way, I-94, a limited access highway right-of-way or other arterial highways, the Planning Commission may require a street approximately parallel to and on each side of the right-of-way, at a distance suitable for the appropriate use of the intervening land. Such distances shall be determined with due regard for the requirements of approach grades and future grade separations.
- (5)** Reserve strips in private ownership controlling access to streets are prohibited.
- (6)** Street jogs with centerline offsets of less than one hundred fifty (150) feet shall be avoided.
- (7)** A tangent at least one hundred (100) feet long shall be introduced between reverse curves on major streets.
- (8)** Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than eighty (80) degrees.
- (9)** Curb radii on all block corners shall be at least ten (10) feet and a five (5) foot radius shall be used at intersections of streets and alleys.
- (10)** Street rights-of-way shall be not less than the following:

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- (a) Major arterial streets, one hundred (100) feet;
- (b) Minor arterials and collector streets, eighty (80) feet;
- (c) Local streets, seventy (70) feet; except for short streets and cul-de-sacs that are no longer than six hundred (600) feet, the street width may be sixty (60) feet.
- (d) Cul-de-sac, one hundred (100) feet in diameter for a suitable turnaround;
- (e) Alleys, residential district, twenty (20) feet;
- (f) Sidewalks, four (4) feet;

(11) Half streets are prohibited except where essential to the reasonable development of the subdivision and in conformity with the other requirements of this ordinance and where the City Council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever an existing half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

(12) Cul-de-sacs shall not be longer than five hundred (500) feet.

(13) Intersections of more than two (2) streets at a point shall not be permitted.

(14) Dead-end streets without a suitable turnaround are prohibited.

163.8.3 Block Design

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

(1) Residential block length shall not exceed nine hundred (900) feet. The length of blocks is considered to be the distance from one street centerline to opposite street centerline and is measured through adjacent back lot lines or through the center of the block.

(2) Pedestrian crosswalks not less than ten (10) feet wide may be required in blocks longer than six hundred (600) feet where the crosswalks are deemed by the City Council to be essential to provide circulation, or access to schools, playgrounds or other community facilities.

(3) The width of blocks shall generally be sufficient to allow two (2) tiers of lots and shall be at least two hundred and fifty (250) feet wide.

(4) Blocks intended for commercial and industrial use shall be specifically designated for such purposes with adequate space set aside for off-street parking and delivery facilities. The City Council may require service drives or frontage roads along major streets for business and industry.

163.8.4 Lot Design

(1) The shape, size, and orientation of the lots shall be appropriate for the location of the subdivision. For residential low density a north-south lot orientation is encouraged. Residential lot dimensions within the city corporate limits shall be subject to the provisions of the appropriate zoning districts under Sections 163.5.1 through 163.5.4.

(2) Non-residential lots shall be subject to the provisions of commercial and industrial zoning districts stipulated in Sections 163.5.5 through 163.5.7.

(3) Residential lot dimensions within the extra territorial planning area in Agricultural District shall be subject to the provisions of Section 163.5.1.

(4) Residential lots abutting major streets shall have extra depth of at least twenty (20) feet to allow for proper setbacks. Residential lots abutting I-94 shall have extra depth of fifty (50) feet to provide for adequate buffer against noise and vibration.

(5) All lots shall front a public street.

(6) Residential corner lots shall have an extra width of ten (10) feet to permit adequate building setbacks from the side streets.

(7) Lot lines shall follow the city corporate limits.

(8) Double frontage lots shall be avoided except where essential to provide separation of development from arterial and controlled access streets.

(9) Depth and width of lots reserved or laid out for commercial or industrial uses shall be adequate to provide for off-street parking and service facilities required by the type of use and development and the provisions of the appropriate zoning district.

163.8.5 Street Names

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(1) The Planning Commission may disapprove the name of any street shown on the plat which has already been used elsewhere in the area, or because of similarity that may cause confusion.

(2) Where a street maintains the same general direction, except for curvilinear changes for a short distance, the same name shall continue for the entire length of the street.

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

163.8.6 Utility Easements

(1) Easements across lots or along rear or side lot lines shall be provided for utilities where necessary and shall be at least five (5) feet wide on each side of the lot line and shall be designated as “utility easement”.

(2) All lots shall be served by underground electric, cable television and telephone lines unless waived by the City Council due to topographic conditions or excessive costs.

(3) All utility lines for electric power, cable television and telephone service carried overhead shall be placed in utility easement.

(4) Utility lines installed in the utility easement shall not be closer than one foot to the property line or three (3) feet to any monument.

163.8.7 Drainage Way Easement

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

163.8.8 Landscaping

The intent of this section is to contribute to the equality of urban environment in Mapleton. (Adopted 2006)

The planting of trees and shrubs of an appropriate species and at appropriate locations are required in all new plats of subdivisions.

(1) Street trees shall be planted along public and private streets for every thirty-five linear feet of street frontage. The distance from the curb or pavement edge shall not be less than five (5) feet unless the planting of the tree conflicts with the location of the utility pipes and wires. The height of the hedges in the front setbacks shall not exceed three (3) feet. (Adopted 2006)

(2) Landscaping in residential areas is encouraged to improve the physical appearances of the uses. Hedges and plants in the setback lines shall not be placed less than three (3) feet from the property line and shall not be higher than six (6) feet in the rear and side yards. (Adopted 2006)

(3) All new commercial and industrial subdivisions are required to accompany a landscaping plan to be approved at the time of approval of the final plat. The city may require planting of suitable hedging material as a condition of plat approval. (Adopted 2006)

(4) All setback areas in the residential subdivisions shall be planted in turf or other acceptable living ground cover material. Use of natural and draught resistant ground coverage and vegetations are encouraged. (Adopted 2006)

(5) Maintenance of the trees in the rights-of-way and public property shall be the responsibility of the City of Mapleton. Owners of the public properties, such as Park Board or School Board, are responsible for maintenance of trees on their lands. (Adopted 2006)

(6) Maintenance of trees, hedges and plants on the private properties shall be the responsibility of the owners. (Adopted 2006)

163.8.9 Street lights

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

163.8.10 Dedication of Land for Parks, Playgrounds and Recreation

All preliminary and final plats shall designate area(s) for park, playground, and recreational facilities. The parcel(s) to be dedicated shall be usable and accessible to the adjoining properties.

(1) The area of land required for dedication to the city shall be:

(a) Ten percent (10%) of the gross area of the residential final plat for single family and multi-family uses.

(b) Ten percent (10%) of the gross area of the planned development.

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- (c) Five percent (5%) of the gross area of the commercial or industrial final plats.
- (4) Unusable land located in the drainage way and flood plain, wetlands and land(s) difficult to use for park, playground and recreational uses shall not be accepted.
- (5) The City of Mapleton may waive the requirement for land dedication if it finds that the proposed site is too small or unsuitable for developing park, open space, playground or recreational facilities. In lieu of land dedication, the city shall require cash payment per lot for the final plat, the amount of which shall be set by the City Council. The fees collected shall be used in residential development from which the fees are derived.
- (6) The City of Mapleton may require a combined cash and land as a part of land dedication requirements, where the percentage of land dedicated shall reduce the required cash by equal amount.
- (7) The subdivider shall make the payment to the City of Mapleton upon approval of the final plat as a part of the developer's agreement. Funds received by the city shall be placed in a public improvement fund at the discretion of the City Council. These funds shall be only used for acquisition and development of parks, open space, playgrounds and community recreational facilities.
- (8) Where private space for park, open space, playground and recreational facilities is provided in a proposed subdivision, such areas may be used, at the discretion of the City Council, for credit to meet the requirement of land dedication as stated above. The City Council must find this alternative suitable to meet the public interest and the needs of the City of Mapleton. In such cases, the City of Mapleton shall require an irreversible covenant to assure the existence of the facility in perpetuity.

162.7.11 Excavation

All excavations shall be conducted in accordance with the requirements of Chapter 2-03 of the City of Mpaeton Municipal Ordinances.

163.8.12 Street Trees

Street trees shall be installed in accordance with the requirements of Chapter 3-03 of the City of Mapleton Municipal Ordinances.

163.8.13 Sidewalks

Sidewalks are required in any new residential or commercial development and construction within the city limits of the City of Mapleton as of the effective date of this ordinance. Areas that are zoned industrial or agricultural are not required to install side walks. The purpose of sidewalks is to accommodate pedestrian traffic and protect the safety and security of the public against vehicular traffic.

(1) All plats, including residential, commercial and industrial plats, are required to submit a sidewalk plan as a part of the final plat approval process. All sidewalk requirements shall be subject to the requirements of Chapter 2-01 “Sidewalks and Driveways” of the City of Mapleton Ordinances, and shall be constructed at the same time that other infrastructure improvements, including curb, gutter, storm and sanitary sewer, and pavement, are installed in commercial and residential developments.

Source: Ord. 198-07, Sec. 7 (2008)

163.9 REQUIRED IMPROVEMENTS

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

163.9.1 Completion Assurance

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

163.9.2 Survey Monuments

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

163.9.3 Public Water

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

163.9.4 Sanitary Sewer

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

163.9.5 Storm Sewer

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

163.9.6 Grading and Drainage

- (1) The Subdividere shall provide a detailed grading and drainage plan showing the grades of streets and drainage improvements. The subdivider shall provide suitable drainage facilities for any surface run-off affecting the subdivision. The drainage facilities shall be located in street right-of-way or in drainage easements. The ddrainage shall not discharge into any sanitary sewer facility.
- (2) The ddrainage shall not discharge into any sanitary sewer facility, as required by Chapter 9-01 of the City of Mapleton Municipal Ordinances.
- (3) The grading and drainage system shall be approved by the City Engineer in accordance with the plans and policies of the City of Mapleton.
- (4) Grading established in any subdivision shall not be changed without approval of the City Engineer and the City Council.
- (5) Street grades, wherever feasible, shall not exceed the following, unless approved by the City Council.
 - (a) Arterial streets (primary and secondary), four percent (4%).
 - (b) Collector streets, five percent (5%).
 - (c) Local streets, six percent (6%).
- (6) Flat grades shall extend fifty (50) feet from an intersection, but in no case shall grades exceed four percent (4%) for a distance of at least fifty (50) feet from an intersection.

163.9.7 Curbs, Gutters and Driveways (Adopted 2006)

- (1) Concrete curbs and gutters shall be installed in all subdivisions in accordance with the requirements of Chapter 2-02 of the City of Mapleton Municipal Ordinances.
- (2) All driveways shall be constructed according to the requirements of Chapter 2-01 of the Mapleton Municipal Ordinances.

163.9.8 Installation of Improvements

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

163.10 ADMINISTRATION AND ENFORCEMENT

163.10.1 Organization

To administer this ordinance the following bodies are hereby vested with authority to act in behalf of City of Mapleton.

The City Auditor/Mayor / Code Administrator

The Planning Commission

The Zoning Board of Adjustment

The City Council

162.9.2 City Auditor/Code Administrator

The City Auditor/Code Administrator are duly appointed city officials authorized by the City Council and is responsible to administer this ordinance, to assist the Planning Commission, and the City Council on any matter related to this ordinance. The Code Administrator shall consult with the City Engineer on all design and construction matters under this ordinance.

(1) Duties

- (a) Issue all zoning certificates, permits and maintain records thereof.
- (b) Issue all building and repair permits.
- (c) Maintain zoning related records and zoning district map including records of all amendments, conditional uses and variances.

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- (d) Receive, file and forward in behalf of the City Council to the Planning Commission all applications for zoning amendments, site approvals and conditional uses.
- (e) Prepare and publish notices and notify adjoining property owners. For all applications pertaining to zoning district changes, conditionally permitted uses and variances, a written notice shall be mailed to all property owners within 150 feet of the subject land. This distance shall not include the public lands such as parkland; street right-of-way and any land owned by the city, county, state and federal government.
- (f) Notify, in writing, the property owner or user upon finding violation of this ordinance and cite the nature of violation clearly, require compliance and a report of the findings to the City Council.
- (g) Receive, file and forward to the Planning Commission and the City Engineer all applications for preliminary and final plats and the supporting documents.
- (h) Receive, file and forward all requests for variances to the City Council, which may act as a Board of Adjustment, .
- (i) Report all zoning and land subdivision violations to the City Council.
- (j) All data and information required in application for zoning changes, conditional use permits, variances, preliminary and final plats shall be submitted to the City Auditor/Code Administrator before the notice of the public hearing is published. Failure to submit the required data and information at least 15 days before the public hearing or regular meetings to be held by the Planning Commission or the City Council, shall result in delaying the action of the Planning Commission or the City Council.
- (k) The City Auditor/Code Administrator shall require appropriate data and information from the applicant requested by the City Engineer, other city agencies, the Planning Commission and the City Council.
- (l) The City Auditor/Code Administrator may develop a timetable for processing of each application for consideration by the Planning Commission and the City Council.

(2) Interpretation of Regulations

All questions of interpretation of this ordinance shall be presented to the Board of Adjustment.

(3) Building Permit Applications

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

(a) Each application for a building permit shall be accompanied by a legal description and a map showing the actual dimension of the lot to be built upon, the size, shape and location of the building for observing the yard requirements of this ordinance.

(b) The application shall specify the type of the building, structure, material of which it is composed, the part or portion of the lot to be occupied by the principal building and accessory buildings and the building cost.

(4) Building Permits

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

(5) Fees

The City Auditor/Code Administrator shall charge and collect a fee for zoning applications, conditional use permits, variances, and preliminary and final plats in accordance with the fee schedule established by the City Council.

(6) Certificate of Occupancy or Use

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

(7) Conditional Use and Site Approval Permits

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Revised October 27, 2004, Revised October 3, 2005

The City Auditor/Code Administrator shall issue a conditional use or site approval permit upon approval of the application by the City Council subject to the provisions of Section 163.11.

(8) Variances

The City Auditor/Code Administrator shall issue a permit if the City Council approves the variance. The terms of the variance shall be stipulated in the permit, subject to the provisions of Section 163.11.

(9) The Final Plat

The City Mayor shall sign the final plat, if the City Council has approved the final plat subject to the provisions of Sections 163.7, 163.8 and 163.9 of this ordinance.

163.10.3 Planning Commission

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

(1) Duties

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

(2) Notice of Hearings

The Planning Commission shall fix a reasonable date for hearing of applications for zoning district amendments, conditional use permits, site approval and plat applications and other matters before it, give public notice thereof in the official newspaper of the city at least once a week for two consecutive weeks prior to the hearing. The notices shall give time and place of hearing and shall state the purpose of the hearing and that the applications and supporting documents for zoning district amendments and conditional use permits shall be available for public inspection by the City Auditor/Code Administrator.

(3) Meetings

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

163.10.4 Board of Adjustment

The Zoning Board of Adjustment shall consist of five members appointed by the City Council. The City Council may act as the Zoning Board of Adjustment.

(1) Duties

Hear and decide petition(s) variance from the terms of this ordinance that shall not be contrary to the public interest.

(2) Notice of Hearing

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

163.10.5 City Council

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

(1) Duties

(a) The City Council is responsible for approval, modification or denial of amendments to the text of this ordinance.

(b) The City Council is responsible for approval, modification or denial of amendments to change the zoning district(s) boundaries.

(c) The City Council is responsible for granting conditional use permits, preliminary and final plat approval and establishing a fee schedule for all permits issued by the City Auditor/Code Administrator.

(d) The City Council may act as the Zoning Board of Adjustment

(2) Notice of Hearing

The City Council may hold hearing(s) as required by this ordinance and the laws of the State of North Dakota.

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

163.11.1 Zoning District Amendments

(1) Public Hearing Notice

The Planning Commission shall hold a public hearing, a notice of which shall be published at least once a week for two weeks prior to the hearing in the official newspaper of the city. The notice of hearing shall include: (a) the time and place of hearing for the Planning Commission and the City Council (b) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (c) the proposed use, requested zoning district change; (d) time and place for public inspection of the documents submitted by the applicant before the hearing; and (e) notification to all property owners within 150 feet of the property in question.

(2) Public Hearings

The Planning Commission at the hearing shall listen to all persons who may speak in support of or in opposition to the proposal. Upon the completion of its review, the Planning Commission shall make recommendation to the City Council. The Planning Commission may require additional information before it completes its findings and making its recommendations.

(3) Data Submission Requirements

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

- (a) Legal description of the area proposed to be rezoned.
- (b) A site plan showing buildings and uses in the zoning district proposed to be changed and the requested zoning district classification.

- (c) A fee shall be paid in accordance with the schedule established by the City Council.

(4) Deliberation and Decision

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

163.11.2 Conditional Use Permits

(1) Purpose

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

(2) Public Hearing Notice

Shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 163.11.1(1).

(3) Public Hearings

Shall be the same as the provisions set forth for public hearing for zoning district amendment in Section 163.11.1(2).

(4) Data Submission Requirements

Shall be the same as the provisions set forth for data submission requirements for zoning district amendment in Section 163.11.1(3).

(5) Deliberation and Decision

Shall be the same as the provisions set forth for deliberation and decision for zoning district amendment in Section 163.11.1(4).

(6) Standards

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

- (a) That the establishment, maintenance or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
- (b) That the uses, values and enjoyment of other property in the area for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
- (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding properties for uses permitted in the district.
- (d) That adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided.
- (e) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic impact on the area.
- (f) That the conditional use shall conform to all applicable regulations of the district in which it is located.

(7) Conditions and Guarantees

- (a) Prior to the decision on any conditional use, the Planning Commission may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary to promote the public health, safety and general welfare of the city and to secure compliance with the standards and requirements specified in Section 163.11.2(6).
- (b) No alteration of conditionally permitted uses shall be permitted unless approved by the City Council

163.11.3 Variances

Variance from the dimensional standards of this ordinance may be granted provided that the applicant establishes proof of practical difficulty or undue hardship. Use variances shall be prohibited.

(1) Public Hearing Notice

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The Zoning Board of Adjustment shall hold a public hearing, which shall be published at least once a week for two weeks prior to the hearing in the official newspaper of the city. The notice of hearing shall include: (a) the time and place of hearing; (b) description of the property by street address for platted lands and clearly identifiable location for the unplatted lands; (c) the proposed use and zoning district in which the property is located; (d) time and place for public inspection of the documents before the hearing.

(2) Public Hearings

Shall be the same as the provisions set forth for public hearing notice for zoning district amendment in Section 163.11.1(1).

(3) Data Submission Requirements

Petitions for variances shall be submitted with the following information.

- (a) Legal description of the property.
- (b) A map showing the existing land uses and zoning district classification of the area.
- (c) The reason for the variance request .
- (d) A proof of whether the hardship is unique to the applicant's property.
- (e) Any other information that the Board of Adjustment deems necessary.

(4) Deliberation and Decision

In making its finding, the Board of Adjustment shall ascertain that the requests for variance is consistent with the Mapleton 2025 Plan and meets all requirements of this ordinance and other regulations of the City of Mapleton.

(5) Standards

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

(a) That special conditions and circumstances exist which are peculiar to the premises and which are not applicable to other premises in the same zoning district.

(b) That literal interpretation of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.

(c) That the special conditions and circumstances have not resulted from actions of the applicant.

(d) That granting the variance requested will not confer upon the applicant any special privileges that are denied by this ordinance to other premises

(6) Justification

(a) That the reasons set forth in the application justify the granting of the variance.

(b) The variance is the minimum which would make possible a reasonable use of the premises.

(c) That the granting of variance will be in harmony with the general purpose of this ordinance and will not be injurious to the surrounding premises, neighborhood or the city and will not be contrary to the Mapleton 2025 Plan and the purposes of this ordinance.

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

(7) Appeal

The decision of the Board of Adjustment may be appealed to the City Council. The City Council after a public hearing subject to the provision of Section 163.11.1 shall determine to confirm or reject the decision of the Board of Adjustment. The decision of the City Council may be appealed to Cass county District Court under the laws of North Dakota.

163.11.4 Plat Approval

The procedure for approval of the preliminary and final plats shall be the same as the zoning amendment procedure under Section 163.11.

163.12 CITIZENS PROTEST

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

163.13 VIOLATIONS AND PENALTIES Anyone who violates the provisions of this ordinance or fails to comply with any of its requirements, upon conviction, shall be punished by a fine of no more than \$500.00 per day. Each day that a violation continues shall constitute a separate offense.

163.14 ENACTMENT

In order that all development, buildings and structures within the City of Mapleton and its extra territorial planning and zoning area, be properly guided in accordance with the requirements set forth herein, this Land Development Ordinance is hereby adopted.

Eric Grindberg, Mayor
City of Mapleton

Date of Adoption

Kate Olsen, City Auditor
City of Mapleton

Effective Date October 27, 2004

(Original Signatures maintained on file in Official Ordinance Book)