

ORDINANCE 83

AN ORDINANCE ESTABLISHING ZONES FOR BUILDING AND OTHER PURPOSES IN THE CITY OF WASHBURN, McLEAN COUNTY, NORTH DAKOTA; ESTABLISHING THE BOUNDARIES AND DESIGNATIONS OF VARIOUS ZONES; PROVIDING REGULATIONS FOR CONSTRUCTION, BUILDINGS AND USES IN SAID ZONES; DEFINING CERTAIN TERMS USED IN THE ORDINANCE; SETTING FORTH HOW THE ORDINANCE IS TO OPERATE; AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WASHBURN, NORTH DAKOTA:

TABLE OF CONTENTS

		<u>Page</u>
TITLE I	INTRODUCTION	1
	1.1 Title	1
	1.2 Purpose and Intent	1
	1.3 Authority	1
	1.4 Interpretation and Application	1
	1.5 Severability	1
	1.6 Repeal	2
	1.7 Definitions	2
TITLE II	GENERAL PROVISIONS	11
	2.1 Jurisdiction	11
	2.2 Compliance and Effective Date	11
	2.3 Amendments	11
	2.4 Non-Conforming Use	12
TITLE III	DISTRICTS	14
	3.1 District Zoning Map	14
	3.2 Residential Districts	14
	3.3 Commercial District	18
	3.4 Industrial District	19
	3.5 Park and Recreation District	20
TITLE IV	SPECIAL PROVISIONS	21
	4.1 Exceptions to Maximum Height Requirements	21
	4.2 Gasoline Filling Stations and Bulk Stations; Where Prohibited	21
	4.3 Churches and Schools - Exceptions to Maximum Intensity and Setback Requirements.	21
TITLE V	ADMINISTRATION AND ENFORCEMENT	22
	5.1 City of Washburn Planning and Zoning Commission.	22
	5.2 Board of Adjustment	22
	5.3 Land Use Administrator	23
	5.4 Violations and Penalties	24

I. INTRODUCTION

1.1 Title

This Ordinance and the Zoning District Map shall be known as the Zoning Ordinance for the City of Washburn, North Dakota.

1.2 Purpose and Intent

The zoning regulations and districts, as herein set forth, are designated to promote the health, safety, and welfare of the people of the City of Washburn and are established for the purpose of promoting the sound and desirable use of land.

1.3 Authority

Code reference is Chapter 40-47 and Section 40-05-02 (13) of the North Dakota Century Code.

1.4 Interpretation and Application

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum for the promotion of the public health, safety, and general welfare.

It is not intended by these provisions to interfere with, abrogate, or annul rules or permits previously adopted according to the law relating to the use of buildings or premises; nor is it intended to interfere with, abrogate or annul any easements, covenants, or agreements between parties; provided, however, that where these provisions impose greater restrictions as to use or require larger open space or less height than this Ordinance, the greater shall prevail.

1.5 Severability

If any section, subsection, sentence, clause, or phrase of the above Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of said Ordinance. The City Commission of the City of Washburn, North Dakota, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases may be declared invalid or unconstitutional.

1.6 Repeal

All regulations, parts of regulations, existing ordinances, or resolutions in conflict with this Ordinance and its provisions are hereby repealed.

1.7 Definitions

1.7.1 General Terms

Words used in the present tense include the future; the singular number includes the plural and the plural shall include the singular.

The word person includes a firm, association, partnership, trust, company, or corporation as well as an individual.

The word shall is mandatory; the word may is permissive.

1.7.2 Specific Terms

Accessory Building, Structure, or Use - A portion of the main building or building, structure, or use on the same lot with, and of a nature customarily incidental and subordinate to the principle building, structure, or use.

Alley - A minor street providing vehicular service access to the back or side of two or more properties.

Board of Adjustment - The body authorized by the City Commission of Washburn to hear appeals on the enforcement of the provisions of this Ordinance and to grant variances.

Buildable Area - The portion of a lot remaining after required yards have been provided.

Building - Any structure designed, or intended, for the enclosure, shelter or protection of persons, chattels, or property.

Building Height - The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof; and to the average height between the plate and ridge of a gable, hip or gambrel roof.

Certificate of Zoning Compliance - A certificate stating compliance with zoning district regulations.

Clear Sight Triangle - An area of unobstructed vision at a street intersection defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

Commercial District - The areas designated by the City Commission of Washburn on the District Zoning Map which provides for the grouping of retail merchandising, light industry, and service activities.

Community Garage - A group of private garages located jointly on any lot or premises of two or more adjacent premises and having no shop or service in connection therewith, providing the storage space includes at least two hundred and fifty (250) square feet for each motor vehicle.

Curb Level - The level established for curb in front of a building, measured at the center of such front, and where no curb level has been established, the City Engineer shall establish such curb level or its equivalent for the purpose of this Ordinance.

District - A section or sections of the City of Washburn and the designated area for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

Dwelling - Mobile Home - A structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained herein.

Dwelling - Multi-Family - A residential building designed for and occupied exclusively by more than two families.

Dwelling - Single-Family - A detached residential living unit, other than a mobile home, designed for and occupied by one family.

Dwelling - Two-Family - A residential building designed for and occupied exclusively by two families.

Easement - A vested or acquired right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the owner who holds title to the land.

Family - One or more persons occupying the premises and living as a single housekeeping unit.

Family Hotel - A place where food and lodging are provided for compensation and having less than ten (10) sleeping rooms.

Floor Area - The gross floor area of the several floors in a building.

Frontage - See Lot, Frontage

Frontage Road - See Marginal Access Street

Garage, Private - An accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

Garage, Public - Any building or premises used for equipment, repairing, hiring, selling, or storing motor-driven vehicles, not including show rooms for the display of the cars.

Grade - The surface of the ground, court, lawn, yard, or sidewalks adjoining a building; the established grade is the grade of the street, curb lines fixed by the City of Washburn; the natural grade is the undisturbed natural surface of the ground, court, lawn, or yard after filling or grading to desired elevation or elevations around a building or structure; but where the finished grade is below the level of the adjoining street, the established grade shall be deemed the finished grade.

Home Occupations - Any occupation or profession carried on by members of the family residing on the premises, which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof.

Hotel - A building where lodging with or without meals is provided and offered to the public for compensation and which has more than ten (10) sleeping rooms. Hotels include motels and automobile courts.

Improvements - Street grading and surfacing with or without curbs, gutter, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets, and landscaping.

Industrial Districts - The areas designated by the City Commission of Washburn on the District Zoning Map which provide for the grouping of manufacturing, assembly, and heavy commercial activities.

Industrialized Housing - A detached residential dwelling unit designed for transportation after fabrication on streets or highways on its own wheels or on flatbed or other trailers, and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks, or other temporary or permanent foundations, connections to utilities or the like.

Land Use Administrator - The officer appointed by the City Commission of Washburn to administer the zoning affairs of the City of Washburn.

Living Unit - A residential unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Lot - A tract of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and open space as are herein required.

Lot, Coverage - The total area of building expressed as a percentage of the total lot, plot, or tract.

Lot, Depth of- The mean horizontal distance between the front and rear lot lines.

Lot, Frontage - the front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.

Lot, Width - The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the rear of the required front yard.

Lot of Record - A lot which is part of a subdivision, the map of which has been recorded in the office of the County Auditor and Register of Deeds of McLean County, or a parcel of land, the deed of which was recorded in the office of the Register of Deeds prior to the adoption of this Ordinance.

Mobile Home District - The areas designated by the City Commission of Washburn on the District Zoning Map for development of mobile home residential dwelling units.

Mobile Home Park - A tract of land designed and developed to accommodate mobile homes, each occupying a portion of the site of a purchase, lease, or rental basis, and each provided with the necessary utilities and other amenities so that the total development serves as a suitable environment for long-term residential occupancy.

Motor Vehicle - Any vehicle requiring a motor vehicle license by the State of North Dakota.

Non-Conforming Use - Any building or tract of land lawfully occupied by a use, at the time of the passage of this Ordinance or amendments thereto, which does not conform with the provisions of this Ordinance or amendments thereto.

Parking Space - An area for the purpose of storing one parked motor vehicle.

Permitted Use - Any use which complies with the requirements of a zoning district.

Planning Commission - See Zoning Commission

Plat - any map, plan or chart of a tract of land or subdivision indicating the location and boundaries of individual properties.

Plot - A tract of land consisting of one or more lots or portions thereof which is described by reference to a recorded plat or metes and bounds.

Public Utility - Any business which furnishes the general public telephone telegraph, electricity, natural gas, or water service; and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the State.

Residential Districts - The areas designated by the City Commission of Washburn on the District Zoning Map for development of residential dwelling units.

Right-of-Way - The area, either public or private, over which the right of passage exists. The right-of-way shall not be considered as land area when computing lot size.

Set-Back - The line within a property defining the required minimum distances between any structure or use and the adjacent right-of-way or property line of any lot.

Sight Line - See Clear Sight Triangle

Sign - Any outdoor advertising having a permanent location on the ground or attached to or painted on a building, including bulletin boards, billboards, nameplates, and poster boards.

Street - A way for vehicular traffic designated as a street, highway, boulevard, thoroughfare, parkway, throughway, avenue, road, or court on the official records and maps.

Arterial Streets and Highways - Those which are used primarily for fast or heavy traffic.

Collector Streets - Those which carry traffic from minor streets to the major system of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

Marginal Access Streets - Minor streets which are parallel to and adjacent to arterial streets and highways, and which provide access to abutting properties and protection from through traffic.

Minor Streets - Those which are used primarily for access to the abutting property.

Structural Alterations - Any change in the supporting members of a building such as bearing walls, partitions, columns, beams or girders, excepting such alterations as may be required for the safety of the building.

Structure - Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

Subdivision - The division of land into two or more lots for the purpose, immediate or future, of sale or lease for building development; however, if a new street is involved, any division of a parcel of land constitutes a subdivision, but, the division of agricultural land into lots five (5) acres or more in size, where no new street is created, does not constitute a subdivision.

Tract - A plot, piece, or parcel of land, other than a lot which is recorded in the office of the Register of Deeds of McLean County.

Use - The specific purpose for which land or a building is used.

Variance - A relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, and where the literal enforcement of the Ordinance would result in unnecessary and undue hardship.

Vehicle - See Motor Vehicle

Yard - A space on the same lot with the principle building or structure, open, unoccupied, and unobstructed by buildings or structures from the ground upward.

Yard, Front - A yard extending across the full width of the lot from side lot lines, the depth of which is the least distance between the front lot line and the front building line.

Yard, Rear - A yard extending across the full width of the lot from side lot lines, the depth of which is the least distance between the rear lot line and the rear of the principle building.

Yard, Side - A yard extending from the rear line of the required front yard to the rear lot line, the depth of which is the least distance from the sides of principle building and the side lot line.

Zoning Commission - The body appointed by the City Commission of Washburn to conduct the zoning affairs of the city.

Zoning District Map - The map showing the zoning districts of the City of Washburn officially adopted by the City Commission of the City of Washburn.

II. GENERAL PROVISIONS

2.1 Jurisdiction

This Ordinance and the Zoning District Map shall apply to the area within the corporate limits of the City of Washburn.

2.2 Compliance and Effective Date

The regulations set by the provisions of this Ordinance shall apply uniformly within each district to each class or kind of structure or land.

From this 7th day of April, 1975, each new use shall be in compliance with the provisions of this Ordinance.

2.3 Amendments

From time to time, because no area is static, the Zoning Ordinance and Zoning District Map may have to be amended, supplemented, changed or repealed. No action on an amendment can be made until a public hearing has been held.

2.3.1 Procedure for Making Amendments

- a. Applications for amendments shall be filed with the City Auditor.
- b. The City Auditor shall present said application to the City Planning and Zoning Commission at its next regular scheduled meeting.

2.3.2 Notice of Amendment Hearings

- a. At least fifteen (15) days notice of the time and place of the hearing shall be published in the official newspaper of the City of Washburn.
- b. The City Auditor shall notify applicant of the time and place of said hearing.
- c. The Land Use Administrator shall post notice of time and place of said hearing on the affected site.

2.3.3 Public Hearings by Planning and Zoning Commission and City Commission

- a. Following a public hearing conducted by the Planning and Zoning Commission, said Commission shall submit its recommendations concerning the proposed amendment to the City Commission.

- b. Upon receipt of the Planning and Zoning Commission's recommendations, the City Commission shall set a final hearing date for the proposed amendment.
- c. Procedure for the notice of the final hearing shall follow that of the hearing conducted by the Planning and Zoning Commission.
- d. Following the final hearing, the City Commission shall approve or disapprove the proposed amendment.

2.3.4 Protests to Amendments

- a. If a protest against an amendment is signed by the owners of twenty (20) percent or more:
 - 1. of the area of the lots included in such proposed change; or
 - 2. of the area adjacent, extending one hundred and fifty (150) feet from the area to be changed, excluding the width of streets, the amendment shall not become effective except by the favorable vote of three-fourths (3/4) of all the members of the City Commission of Washburn.
- b. A public hearing shall be held on all protests to amendments.
- c. At least fifteen (15) days' notice of the time and place of the hearing shall be published in the official newspaper of the City of Washburn.
- d. All protests to amendments shall be filed in writing with the City Auditor within ten (10) days following approval of the amendment.

2.3.5 Appeals

Any person aggrieved by the decision of the City Commission may appeal to the Board of Adjustment as provided for in Section 40-47-08 of the North Dakota Century Code.

2.4 Non-Conforming Use

- a. Any use which is lawful at the time of adoption of this Ordinance, but would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendments, shall be known as Non-Conforming Uses.
- b. Non-Conforming Uses shall not be enlarged upon, expanded, or extended.

- c. A building in which a non-conforming use is located may be repaired or reconstructed without structural alteration, to the extent not greater than fifty (50) percent of the assessed value of the building exclusive of foundations; however, the combined cost of alterations and repairs in any ten (10) year period shall not exceed the assessed valuation of the building at the time the last allowable building permit was applied for.
- d. If a non-conforming use is discontinued for a period of twelve (12) consecutive months, any future use of such building or premises shall conform to the provisions of this Ordinance.
- e. If a building housing a non-conforming use is destroyed of its assessed value, said use shall be discontinued.

III. DISTRICTS

3.1 District Zoning Map

The City of Washburn is hereby divided into zones, or districts, as shown on the District Zoning Map, which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance. A copy of said map is on file in the office of the City Auditor.

Where uncertainty exists with respect to the boundaries of the various districts hereby established and as shown on the District Zoning Map, the following rules shall apply:

- a. The district boundaries are the center lines of streets or alleys, unless otherwise shown.
- b. Where the district boundaries are not center lines of streets or alleys and where the land has been or may hereafter be divided into lots or blocks and lots, the district boundaries shall be construed to be lot lines.
- c. Where land has not been subdivided into lots or blocks and lots, the district boundary lines on the District Zoning Map shall be determined by the use of the scale of measurement shown on said map.
- d. Where uncertainty may exist as to the exact boundary line of a district, the same shall be determined by the Board of Adjustment and a record kept thereof.

3.2 Residential Districts

3.2.1 (R-1) Residential District (A)

It is the intent of these district regulations to provide for low density residential use.

Permitted Uses --

1. Single-Family Dwellings
2. Two-Family Dwellings
3. Churches
4. Schools
5. One Private Garage Per Dwelling

6. Accessory Use
7. Park and Recreation Facilities

District Regulations --

1. Minimum lot size:
 - a. Minimum width - fifty (50) feet
 - b. Minimum area - 6,250 square feet
2. Maximum Intensity
 - a. The principle building and all accessories shall not cover more than thirty (30) percent of an inside lot, nor more than thirty-five (35) percent of a corner lot
3. Setback Requirements
 - a. Front yard - Minimum depth of twenty-five (25) feet
 - b. Rear yard - Minimum depth of twenty (20) feet, exclusive of a ten (10) foot alley easement
 - c. Side yard - Minimum width of ten (10) feet
4. Maximum Height Requirements
No building shall exceed forty (40) feet or three (3) stories in height.
5. Fences
None in Sight Line
6. Motor Vehicle Parking
Adequate off-street motor vehicle parking shall be provided. Motor vehicle parking shall be allowed on yards and setbacks.

(R-2) Residential District

Permitted Uses --

1. Single-Family Dwellings
2. Parks

District Regulations --

1. Minimum lot size:
 - a. Minimum width - eighty (80) feet
 - b. Minimum area - seven thousand (7,000) square feet
2. Maximum Intensity
 - a. The principle building and all accessories shall not cover more than thirty (30) percent of an inside lot, nor more than thirty-five (35) percent of a corner lot

3. Setback Requirements

- a. Front yard - Minimum depth of twenty-five (25) feet
- b. Rear yard - Minimum depth of twenty-five (25) feet, exclusive of a ten (10) foot alley easement
- c. Side yard - Minimum width of ten (10) feet

4. Maximum Height Requirements

No building shall exceed forty (40) feet or three (3) stories in height.

5. Fences

None in Sight Line

6. Motor Vehicle Parking

Adequate off-street motor vehicle parking shall be provided. Motor vehicle parking shall be allowed on yards and setbacks.

3.2.2 (R-3) Residential District

It is the intent of these district regulations to provide for high intensity residential use.

Permitted Uses --

1. All permitted uses in R-1
2. Multi-Family Dwellings
3. Community Garages
4. Industrialized Homes
5. Parks

District Regulations --

1. Minimum lot size:

- a. Minimum width -one hundred (100) feet
- b. Minimum area - ten thousand (10,000) square feet

2. Maximum Intensity

The principle building and all accessories shall not cover more than fifty (50) percent of an inside lot, nor more than fifty (50) percent of a corner lot.

3. Setback Requirements

- a. Front yard - Minimum depth of twenty-five (25) feet
- b. Rear Yard - Minimum depth of twenty-five (25) feet, exclusive of a ten (10) foot alley easement
- c. Side yards - Minimum width of ten (10) feet

4. Maximum Height Requirements

No building shall exceed forty (40) feet or three (3) stories in height.

5. Fences

None in Sight Line

6. Motor Vehicle Parking

Adequate off-street motor vehicle parking shall be provided. Motor vehicle parking shall be allowed on yards and setbacks.

3.2.3 (MH-1) Mobile Home District

It is the intent of these district regulations to provide for an area of mobile home and industrialized housing development.

Permitted Uses --

1. Mobile Homes
2. Industrialized Housing
3. Accessory Uses

District Regulations --

1. Minimum lot size:
 - a. Minimum width - seventy-five (75) feet
 - b. Minimum area - seven thousand (7,000) square feet
2. Setback Requirements
 - a. Front yard - Minimum depth of twenty-five (25) feet
 - b. Side yards - Minimum width of fifteen (15) feet
3. Fences
None in Sight Line
4. Motor Vehicle Parking
Adequate off-street motor vehicle parking shall be provided. Motor vehicle parking shall be allowed on yards and setbacks.

3.2.4 (MH-2) Mobile Home Park

It is the intent of these district regulations to provide for an area for a mobile home park to be developed for long-term residential use.

Permitted Uses --

1. Mobile Homes
2. Industrialized Housing
3. Accessory Uses

District Regulations---

1. Mobil home parks shall be a minimum of five (5) contiguous acres and a maximum of seven (7) homes per gross acre.
2. A minimum of twelve (12) percent of the gross site area shall be devoted to open space or recreational facilities.
3. Underground utility hookups shall be provided for each lot. These utilities shall include water, sewer, gas, electricity, and telephone.
4. Minimum lot size:
 - a. Minimum width - fifty (50) feet.
 - b. Minimum area - five thousand (5,000) square feet
5. Setback Requirements
 - a. Front yard - Minimum depth of twenty-five (25) feet
 - b. Side yard - Minimum width between structures fifteen (15) feet
6. Fences
None in Sight Line
7. Motor Vehicle Parking
Adequate off-street motor vehicle parking shall be provided. Motor vehicle parking shall be allowed on yards and setbacks.

3.3 (C-1) Commercial District

It is the intent of these district regulations to provide for the grouping of retail merchandising, light industry, and service activities into a central area.

Permitted Uses---

1. All permitted uses in R-1 and R-2
2. Educational, philanthropic, or charitable institutions
3. Clubs and lodges
4. Family hotels and hotels
5. Retail and wholesale establishments
6. Dry cleaning, pressing, tailor shops, and laundries
7. Offices and Halls
8. Gasoline Stations for retail, garages, and repair shops

District Regulations --

1. Maximum Height Requirements

No building shall exceed seventy (70) feet or four (4) stories in height.

2. All buildings located within the fire limits of the city, so defined by ordinance, shall conform to the construction as prescribed in said ordinance.

3.4 (I) Industrial District

It is the intent of these district regulations to provide for the best location of heavy commercial and industrial uses which would be incompatible with other uses.

Permitted Uses -- such as

1. Bottling Plant
2. Farm Equipment Sales
3. Gasoline Station
4. Grain and Feed Elevator or Mill
5. Heavy Equipment Sales, Service, or Repair
6. Lumber Yard
7. Sewage Disposal Plant
8. Solid Waste Landfill and Transfer Stations
9. Trucking or Freight Terminal
10. Vocational Training Schools
11. Warehouses
12. Welding Shops

District Regulations --

1. Maximum Height Requirements

No building shall exceed seventy (70) feet or four (4) stories in height.

2. All buildings located within the fire limits of the city, as defined by ordinance, shall conform to the construction as prescribed in said ordinance.

3. Motor Vehicle Parking

Adequate motor vehicle parking shall be provided off street for all rolling equipment at a ratio of one-to-one employee; for visitors and customers at a ratio of one-per-management employee. Motor vehicle parking shall be allowed on yards and setbacks.

4. Outdoor Storage of Material

Outdoor storage of material for process or sale shall not be permitted on any front yard or in any sight line.

3.5 Park and Recreation District 1 (Rec 1)

It is the intent of these district regulations to provide for areas for general recreational activities and public open space.

Permitted Uses --

1. Recreational Activities
2. Commercial retail establishments operated only in conjunction with the recreational uses in the district and for the convenience thereof

IV. SPECIAL PROVISIONS

Purpose - These provisions shall apply to all districts unless otherwise stated in the district regulations.

This Ordinance recognizes that certain activities, conditions, and uses may affect all districts and may be detrimental in certain districts unless proper safeguards are taken. Therefore, the following regulations have been made to protect the welfare of the people of the City of Washburn.

4.1 Exceptions to Maximum Height Requirements

4.1.1 The following shall be exempt from maximum height requirements in all district regulations:

Antennas, belfries, chimneys, cupolas, flag poles, ventilators, water tanks, or other appurtenances usually required to be placed above roof level and not intended for human occupancy.

4.1.2 Towers may be erected to any height provided the same shall not exceed in area one-quarter ($\frac{1}{4}$) the area of the lot upon which the principle building is located, and shall not exceed two thousand five hundred (2,500) square feet in area, and shall be a minimum of twenty-five (25) feet at every point from any adjoining property line.

4.2 Gasoline Filling Stations and Bulk Stations; Where Prohibited

Any retail gasoline filling station, bulk oil or gasoline station shall not be located within three hundred (300) feet of any block whereon there is located a public or parochial school.

4.3 Churches and Schools - Exceptions to Maximum Intensity and Setback Requirements

Churches and schools shall be permitted to occupy seventy-five (75) percent of corner lots and sixty-five (65) percent of inside lots.

Rear yards shall be a minimum depth of six (6) feet.

Side yards shall be a minimum width of eight (8) feet.

V. ADMINISTRATION AND ENFORCEMENT

5.1 City of Washburn Planning and Zoning Commission

5.1.1 Authority

Authority found in Section 40-47-06 of the North Dakota Century Code.

5.1.2 Duties

2. The Board shall grant variances from the terms of this Ordinance when the literal enforcement of the provisions of this Ordinance would result in unnecessary hardship and said variance would not be contrary to the public interest. Application for a variance shall show:
 - a. The special conditions and circumstances which are peculiar to the land or structure and not applicable to other land or structures in the same district
 - b. The special conditions and circumstances do not result from the actions of the applicant
 - c. The literal interpretation of the Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the district
 - d. The granting of the variance shall not confer any special privilege on the applicant that is denied by the Ordinance to others in the same district.

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

5.3 Land Use Administrator

5.3.1 Authority

The City Commission shall appoint a Land Use Administrator to carry out the directives and duties as assigned by said Commission. The Administrator shall be directly responsible to the City Commission.

5.3.2 Duties

1. Shall attend all hearings
2. Shall maintain updated copies of this Ordinance and the District Zoning Map
3. Shall keep copies of all records
4. Shall post notice of amendment hearings on affected site
5. Shall make inspection of land and/or structures to determine compliance with the provisions of this Ordinance
6. Shall carry out any other duties assigned by the City Commission

5.4 Violations and Penalties

5.4.1 Action to Correct Violations

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or if any building, structure or land is used in violation of this chapter, the proper county authorities or any affected citizen or property owner, in addition to other remedies, may institute any appropriate action or proceedings:

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

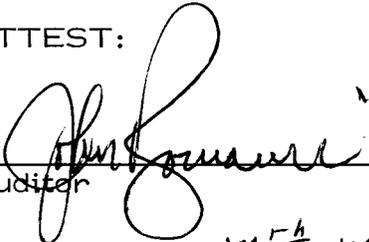
(North Dakota Century Code, Section 40-47-12)

5.4.2 Penalty

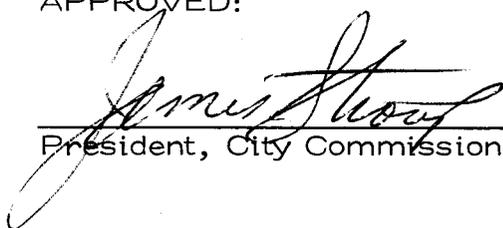
Any person, firm, or corporation violating any of the provisions of this Ordinance shall, upon conviction thereof, be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment in the City Jail for not more than ninety (90) days, or by both fine and imprisonment. Each and every day that a violation of this Ordinance shall be continued shall constitute and be considered a separate offense.

APPROVED:

ATTEST:



Auditor



President, City Commission

First reading 17th March, 1975

Second reading 7th April, 1975

Final passage 7th April, 1975